

**PENSION PLAN FOR THE UTAH LABORERS' PENSION TRUST FUND**

**SUMMARY PLAN DESCRIPTION**

January 1, 2012

**PENSION PLAN FOR THE UTAH LABORERS'  
PENSION TRUST FUND**

**SUMMARY PLAN DESCRIPTION BOOKLET  
January 1, 2011**

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## **A MESSAGE FROM THE BOARD OF TRUSTEES OF THE UTAH LABORERS' PENSION TRUST FUND**

Since 1985, the Utah Laborers' Pension Trust Fund has been comprised of two separate plans: the Pension Plan, a Defined Benefit Plan, which has been in existence since 1967, and the Annuity Plan, a Defined Contribution Plan, which was adopted by the Board of Trustees on July 1, 1985. This Summary Plan Description booklet of the Fourth Restated Rules and Regulations of the Pension Plan for the Utah Laborers' Pension Trust describes the benefits available to you and your beneficiary under the provisions of the Pension Plan as of January 1, 2012. This booklet replaces and supersedes any prior booklets describing the Pension Plan. Information regarding the Annuity Plan can be found in a separate Summary Plan Description booklet distributed by the Board of Trustees.

On November 8, 2010 the Plan was determined to continue to be tax-qualified by the Internal Revenue Service. This booklet incorporates the most important features of the Pension Plan, but is only a Summary and is not intended, nor should it be viewed, as a substitute for the complete Pension Plan. The Rules and Regulations of the Pension Plan are printed in this booklet, beginning on page 39. If the terms of this Summary and the Pension Plan are found to be in conflict, the terms of the Pension Plan will govern.

Please read this booklet carefully and share it with your family. It is important that you and your family are aware of your retirement benefits. We also suggest that you keep this booklet available for future reference.

It is important for you to remember that if your pension began before January 1, 2012, or if the facts and circumstances of your particular situation occurred before January 1, 2012, then your pension, and those facts, and circumstances are determined in accordance with the applicable provisions of the pension plan rules in effect at that time. Those provisions may be different from the rules and regulations of the Pension Plan included within this booklet.

Only the Board of Trustees is authorized to interpret the Plan described in this booklet. All rights to benefits shall be determined in accordance with the plan of benefits, this booklet and other documents establishing the Plan, as interpreted by the Board of Trustees. The Board's discretionary authority to interpret the documents establishing the Plan and to decide any factual question related to Plan benefits is broad and shall be final and binding on all parties.

We would like to stress that only the Board of Trustees or someone specifically authorized by the Board of Trustees may interpret the Pension Plan, or tell you about your rights and benefits. For example, if an individual Trustee, a local union or district council official, or business representative, or an employer makes representations about your rights, you should not rely on that information. If you have questions, or if you require any additional information regarding the Pension Plan, and how it affects your Pension rights and benefits, you should contact the Administrator at the Administrative Office, in writing.

The success of this Pension Plan depends as much on your interest and commitment as it does on our administration of it. We hope that you will share our pride in this Pension Plan, which was designed to reward years of service to the construction industry up to July 1, 1985.

With our best wishes for the future.

Sincerely,

**BOARD OF TRUSTEES**

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## PENSION PLAN TERMS

The following are general definitions of some of the terms used in explaining the Pension Plan. The actual text of the Plan, which is printed in the second part of this booklet, includes these and other definitions in greater detail.

**Active Participant:** The term “Active Participant” as used in this booklet means a person who meets the requirements for participation in this Pension Plan or the Annuity Plan, and excludes a Pensioner, Beneficiary, or Vested Participant.

**Actuarial Present Value or Actuarial Equivalent:** The term “Actuarial Present Value” means the current value of a future benefit or series of payments. The term “Actuarial Equivalent” means a benefit that has the same present value as the benefit it replaces.

**Administrative Office:** The office to which you should send all communications about your pension, including questions concerning your participation, eligibility, vesting, pension benefits, and the notices you may be required to provide to the Board of Trustees. The address and telephone number of the Administrative Office is:

Board of Trustees  
Utah Laborers’ Pension Trust Fund  
CompuSys of Utah, Inc.  
2156 W. 2200 South  
Salt Lake City, Utah 84119  
(801) 973-1001  
(800) 973-6203

**Annuity Plan:** The defined contribution retirement plan created by the Board of Trustees on July 1, 1985. The Annuity Plan is in addition to the Pension Plan described in this booklet, and all Participants already in this Plan who are working for employers whose collective bargaining agreements obligate them to contribute to the Annuity Plan are eligible to participate in the Annuity Plan, in addition to this Plan. A separate booklet describing the Annuity Plan, a money purchase plan, has been printed and distributed.

**Break in Covered Employment:** If a Participant does not earn the required Hours of Covered Employment or Vesting Service in a Plan Year, the Participant may incur a Break in Covered Employment. Unless certain conditions are met, a Break in Covered Employment can cause the cancellation of a Participant’s previously earned credits. A detailed explanation of what constitutes a Break in Covered Employment and how it can become permanent is in the section entitled “Break in Covered Employment,” on page 6.

**Continuous Non-Covered Employment:** Work for a contributing Employer in a job classification not covered by this Plan that is continuous with Covered Employment. Non-Covered Employment is considered continuous only when there is no quit, discharge or other termination of employment between periods of Covered and Non-Covered Employment.

**Covered Employment:** Work under a Collective Bargaining Agreement that requires the Employer to contribute to this Pension Fund.

**Parental Leave:** A Participant's absence from work due to the Participant's pregnancy, the birth of the Participant's child (and newborn care after that birth), or placement of a child in connection with an adoption by the Participant (including a trial period). A maximum of 300 Hours of Service will be given in any calendar year (or in the following calendar year if the Participant has already worked 300 Hours) for a Participant's absence for Parental Leave.

**Pension Credits and Vesting Service Credits:** These terms are used to measure the amount of time a Participant has worked in Covered Employment. A Participant's eligibility for a pension is determined by Pension Credits or Vesting Service Credits. The actual amount of a Participant's monthly pension benefit is calculated using only Pension Credits.

**Plan Year:** The calendar year, from *January 1st* of one year to *December 31st* of the same year. The calendar year shall serve as the vesting computation period and benefit accrual computation period.

## **PARTICIPATION**

An Employee who had Hours of Service in Covered Employment before July 1, 1985 became a Participant in this plan after completing 1,000 Hours in a 12-month period. An Employee who first becomes employed by a Contributing Employer on or after July 1, 1985 is not eligible to participate in the Plan.

## PENSION CREDIT

Pension Credit is required to qualify for any type of pension provided by the Plan. Your Pension Credit is based on your years of service in Covered Employment. There are two basic types of Pension Credit — *Past Service Credit* earned for periods before January 1, 1967, and *Future Service Credit* earned for periods between January 1, 1967, and July 1, 1985.

### **Past Service Credit (Service Before January 1, 1967)**

You are entitled to receive one year of Past Service Credit (or a portion) for each calendar year before January 1, 1967, in which you worked in the geographical area covered by a Collective Bargaining Agreement in any job classification of the type now included in the Collective Bargaining Agreement, or were employed by one of the Local Unions in a position included under the Pension Plan. You are entitled to receive one year of Past Service Credit for each Calendar Year in which you were so employed for 1,200 or more hours. If you worked less than 1,200 hours during the Calendar Year, you will receive 1/12 of a credit for each 100 hours of such employment. You will be granted Past Service Credit up to a *maximum of 25 years*.

Since it may be difficult for you to establish your years of service before *January 1, 1967*, the Trustees may accept records of Union membership, W-2 forms, statements from the Social Security Administration or from the Administrator of the Utah Laborers' Health & Welfare Fund as evidence of employment.

### **Future Service Credit (Service On and After January 1, 1967, through July 1, 1985)**

Between *January 1, 1967, and January 1, 1973*, you will receive Future Service Credit based on your hours of work in Covered Employment according to the following schedule:

<b>Hours Worked In A Plan Year</b>	<b>Future Service Credit</b>
Less than 300	None
300 to 599	¼ Year
600 to 899	½ Year
900 to 1,199	¾ Year
1,200 and over	One Year

Between *January 1, 1973, and January 1, 1978*, you will receive Future Service Credit based on your hours of work in Covered Employment according to the following schedule:

<b>Hours Worked In A Plan Year</b>	<b>Future Service Credit</b>
Less than 300	None
300 to 599	¼ Year
600 to 899	½ Year
900 to 1,199	¾ Year
1,200 to 1,499	One Year
1,500 and over	1¼ Year



Between *January 1, 1978*, and *July 1, 1985*, you will receive Future Service Credit based on your hours of work in Covered Employment according to the following schedule:

<b>Hours Worked In A Plan Year</b>	<b>Future Service Credit</b>
Less than 300	None
300 to 599	3/12 Year
600 to 899	6/12 Year
900 to 999	9/12 Year
1,000 to 1,099	10/12 Year
1,100 to 1,199	11/12 Year
1,200 to 1,299	One Year
1,300 to 1,399	1-1/12 Year
1,400 to 1,499	1-2/12 Year
1,500 to 1,599	1-3/12 Year
1,600 to 1,699	1-4/12 Year
1,700 to 1,799	1-5/12 Year
1,800 and over	1-6/12 Year

In any Plan Year between January 1, 1967 and July 1, 1985, if you earned a Year of Vesting Service but had less than 300 hours of Covered Employment, for purposes of Future Service Credit you will receive a prorated year's credit in the ratio that your hours worked bear to 2,000.

Future Service Credit may be granted for non-working periods that occur after January 1, 1967 and before July 1, 1985 for:

- (1) Service in the Armed Forces in time of war, national emergency or national conscription (but not voluntary enlistment or re-enlistment), provided you notify the Board within 90 days after release from active duty, or after recovery from disability continuing after a release.
- (2) Disability during which you received Workers' Compensation benefits (including the valid waiting period), up to 26 weeks for each period of disability. You must notify the Board and submit proof as required by the Board within one (1) year after the disability occurred.

**Important: No future service credit is earned after July 1, 1985.**

## VESTING SERVICE

Vesting Service is used to determine when and if you have earned a right to a Vested Service Pension. Once you have five (5) years of Vesting Service Credit (ten (10) years if you do not have 1 Hour of Service on or after January 1, 1999), you are entitled to a Vested Service Pension as explained beginning on page 14. This also means that you can leave Covered Employment, and not have a Break In Covered Employment. *Vesting service is used to determine when you have a vested right to a pension that you cannot lose. The actual calculation of the amount of your pension is based on the Pension Credits you earned, as explained later.*

Vesting Service is also used to determine whether you had a Break in Covered Employment (which is explained later in this booklet), and whether you are entitled to certain pension benefits provided for in the Pension Plan.

Between *January 1, 1967*, and *January 1, 1985*, you earn one year of Vesting Service Credit for each Plan Year in which you completed 1,000 or more Hours of Service in Covered Employment. If you completed less than 1,000 hours in a Plan Year, you will not earn any Vesting Service Credit for that Plan Year.

Between *January 1, 1985*, and *January 1, 1986*, you earn one year of Vesting Service Credit for each Plan Year in which you completed a total of 1,000 or more Hours of Service in this Pension Plan and the Annuity Plan combined.

On and after *January 1, 1986*, you earn one year of Vesting Service Credit for each Plan Year in which you completed at least 1,000 or more Hours of Service in the Annuity Plan.

Vesting Service Credit is awarded after January 1, 1976, for Continuous Non-Covered Employment, which is explained in the section "Pension Plan Terms," and defined in the Plan on page 41. In addition, the Board may grant Vesting Service for certain non-working periods on the same basis and under the same rules as for Future Service Credit (see page 60).

## **BREAK IN COVERED EMPLOYMENT**

The Pension Plan was established for the purpose of providing a retirement benefit to those Participants who have worked most of their years as a laborer in Covered Employment. To make sure that the Pension Plan meets this purpose, certain rules have been adopted with regard to Breaks in Covered Employment.

If you become unemployed, or should leave Covered Employment before you are vested, you may have a Permanent Break in Covered Employment and lose all of your Vesting Service and Pension Credits. If this occurs, you will not be eligible for any type of pension or death benefit. Once you are vested, however, you will not lose your right to a pension.

### **Permanent Break in Covered Employment Before January 1, 1976**

Between *January 1, 1967*, and *January 1, 1976*, you had a Permanent Break in Covered Employment by not working at least 300 hours in Covered Employment in two (2) consecutive Plan Years. If this occurred, you forfeited all Pension Credits you previously accumulated. There are exceptions to this particular “break” rule, which are called “grace periods.”

### **Grace Periods Before January 1, 1976**

The following are grace periods not counted toward a One-Year Break in Covered Employment when a Participant was absent from Covered Employment prior to January 1, 1976, due to:

- (1) Disability or involuntary unemployment, up to a maximum of three (3) consecutive years;
- (2) Service in the Armed Forces.
- (3) Employment in a supervisory capacity equal to the duration of such service or employment.

**PLEASE NOTE:** There were time limits and other conditions for applying to the Board of Trustees for recognition of any of the grace periods described above. Be sure to contact the Administrative Office as soon as possible if you think you qualify for a grace period.

### **One-Year Break in Covered Employment On and After January 1, 1976**

Between *January 1, 1976*, and *January 1, 1985*, you had a One-Year Break in Covered Employment if you did not complete 300 Hours of Service in any Plan Year. Between *January 1, 1985*, and *January 1, 1986*, you had a One-Year Break in Covered Employment if you did not complete 300 Hours of Service in this Pension Plan and the Annuity Plan combined. On and after *January 1, 1986*, you have a One Year Break in Covered Employment if you do not complete 300 Hours of Service in the Annuity Plan.

### **Grace Periods On or After January 1, 1976**

The following grace periods are not counted toward a One-Year Break in Covered Employment when you are absent from Covered Employment after January 1, 1976, due to:

- (1) Service in any of the Armed Forces of the United States in time of war or national emergency or pursuant to a national conscription law, provided you make yourself

available for Covered Employment within 90 days after release from active duty or 90 days after you recover from a disability continuing after your release from active duty but excluding periods of voluntary re-enlistment not affected during a national emergency or time of war.

- (2) Disability for a period for which you receive Workers' Compensation Disability benefits or which constituted a valid waiting period for such benefits (not to exceed 26 weeks for any one such period of disability).

In order to secure credit for periods of service in any of the Armed Forces, you must notify the Administrative Office in writing of your service and your availability for Covered Employment upon discharge within certain timeframes and meet other requirements. For credit for a period of disability, you must give written notice and furnish proof of your disability. You should contact the Administrative Office for information about receiving credit for these periods of absence.

**Permanent Break in Covered Employment Between January 1, 1976, and January 1, 1987**

You have a Permanent Break in Covered Employment if you have at least two (2) consecutive One-Year Breaks in Covered Employment that equal or exceed the number of years of Vesting Service you previously accumulated.

**Example 1:** Jim earns five (5) years of Vesting Service from 1976 to 1980. He then has four (4) years from 1981 to 1984 in which he completes less than 300 Hours of Service. In 1985, Jim works 1,100 hours, which adds one more year to his five years of Vesting Service, giving him a total of six (6) years, and clearing away all of his break-in-service years. Showing this period in a chart:

YEAR	Hours Worked	Considered as...	Total
1976	1,400	Year of Vesting Service	1 year
1977	1,800	Year of Vesting Service	2 years
1978	1,100	Year of Vesting Service	3 years
1979	1,300	Year of Vesting Service	4 years
1980	1,400	Year of Vesting Service	5 years
-----			
1981	250	Break in Service	1 year
1982	250	Break in Service	2 years
1983	0	Break in Service	3 years
1984	100	Break in Service	4 years
-----			
1985	1,100	Year of Vesting Service	6 years

In this example, all break-in-service years are “wiped clean” because Jim returned to service before he had an *equal or greater number* of break years.

**Permanent Break in Covered Employment On and After January 1, 1987**

Beginning *January 1, 1987*, you have a Permanent Break in Covered Employment if you have *at least* five (5) or more consecutive One-Year Breaks in Covered Employment, and the number of One-Year Breaks equals or exceeds the number of years of Vesting Service you earned.

**Example 2:** Joe earned four (4) years of Vesting Service from 1987 to 1990. He then had five (5) years (1991 - 1995) in which he completed less than 300 Hours of Service. Joe lost his previous four years of Vesting Service as of December 31, 1995.

**Example 3:** Bob earned four (4) years of Vesting Service from 1987 to 1990. He then had four (4) years from 1991 to 1994 in which he completed less than 300 Hours of Service. In 1995, Bob worked 1,100 hours, which added one more year to his four years of Vesting Service, giving him a total of five (5) years, and clearing away all of his break-in-service years. Showing this period in a chart:

YEAR	Hours Worked	Considered as...	Total
1987	1,400	Year of Vesting Service	1 year
1988	1,800	Year of Vesting Service	2 years
1989	1,100	Year of Vesting Service	3 years
1990	1,300	Year of Vesting Service	4 years
-----			
1991	250	Break in Service	1 year
1992	250	Break in Service	2 years
1993	0	Break in Service	3 years
1994	100	Break in Service	4 years
-----			
1995	1,100	Year of Vesting Service	5 years

In this example, even though Bob’s break-in-service years equaled his previous years of Vesting Service at the end of 1994, he did not have a Permanent Break because he did not have *at least five (5)* break-in-service years. Bob’s break-in-service years also are wiped out because he returned to service before having a Permanent break.

These examples show that one-year Breaks in Covered Employment can be “cured” or repaired, as long as the Break in Covered Employment is not permanent. **Please remember that the break in covered employment rules continue to apply on and after July 1, 1985.**

The term “Hours of Service” referred to above is defined in the Pension Plan on page 42 of this booklet, and can include periods of Continuous Non-Covered Employment. Beginning **January 1, 1987**, “Hours of Service” also include certain periods of Parental Leave, which is explained in the section “Pension Plan Terms” and defined in the Pension Plan on page 63. **You must file written notice with the Board of Trustees within two (2) years following an absence due to Parental Leave, in order to receive credit for that leave.**

## **SEPARATION FROM COVERED EMPLOYMENT**

The calculation of all types of pensions under this Plan is subject to the rules for Separation from Covered Employment. The date of your Separation from Covered Employment will determine if a past benefit value for your Pension Credit must be used to figure the amount of all or a portion of your pension benefit.

### **Separation Before January 1, 1976**

Before January 1, 1976, you had a Separation from Covered Employment by not working at least 300 hours in Covered Employment in two (2) consecutive Plan Years. You were considered to be “separated” as of the end of that two-year period.

### **Separation On or After January 1, 1976**

On and after January 1, 1976, you will have a Separation from Covered Employment if you have at least two (2) consecutive One-Year Breaks in Covered Employment (see “Break in Covered Employment” on pages 6 through 8). You will be considered to be “separated” as of the end of that break period.

### **Effective of Separation from Covered Employment**

If you have a Separation from Covered Employment, your benefit amount is “frozen” at the benefit rates in effect at the end of your Separation. If you later return to work in Covered Employment and earn additional Pension Credit, your benefit for those additional credits will be figured based on the benefit rates in effect at the time of your actual retirement or a later Separation, if any.

If you have had a Separation from Employment and wish to know the benefit rates in effect for your Pension Credit before your Separation, contact the Administrative Office.

## TYPES OF PENSION

There are several types of pensions available to eligible Participants under this Plan. Eligibility requirements as to Pension Credits, age and other factors vary for the different types of pensions. The Administrative Office can advise you about your eligibility, and explain various factors that you should consider when you are ready to think about retirement.

This section describes the types of pensions and the service, age and other requirements for each type. You must retire to be eligible for a pension under the Plan. The amount of your monthly pension payment for each type will vary according to a number of factors, including when your Pension Credits were earned, when you apply for your pension, and the payment form you select. Information related to the amount of your payment will be found in the section “Provisions Affecting Beneficiaries” starting on page 16, as well as in this section.

If you qualify for more than one type of pension under this Plan, you can collect only one. You must indicate your choice in writing before your pension payments begin.

***NOTE:** If you are married, the monthly pension payable to you, regardless of the type of pension, will be reduced as explained under the Husband-and-Wife Pension, unless you and your spouse decide you want the Pension paid as a single-life pension (explained on page 16). If you are married at retirement but do not want the Husband-and-Wife Pension provision to apply, you and your spouse must reject this form of payment in writing with the Administrative Office when you apply for a pension.*

### Regular Pension

#### Eligibility for a Regular Pension

Upon application, you are eligible for a Regular Pension if you meet all of the following requirements:

- (1) You are at least 65 years of age.
- (2) You have earned 10 years of Pension Credit without a Permanent Break in Covered Employment.
- (3) You have worked at least 600 hours in Covered Employment since January 1, 1967.

#### Regular Pension Amount

Subject to the Separation from Covered Employment rules as described on page 9, the amount of the Regular Pension is \$17.41 per month for each year of Past Service Credit, plus \$26.90 per month for each year of Future Service Credit for retirements on and after January 1, 2002. The monthly pension amount is rounded to the next higher multiple of fifty (50) cents (if not already a multiple of fifty (50) cents). If you are married, the Regular Pension will be payable in the form of a Husband-and-Wife Pension as explained on page 16 of this booklet, unless you and your spouse elect in writing to have the pension paid as a single-life pension.

*For Example:* Andrew is not married when he reaches age 65 and retires on October 1, 2007 with twenty-five (25) years of Future Service Credit. Andrew’s single-life pension starting on that date is \$672.50 per month (\$26.90 x 25 years).

## **Delayed Retirement Amount**

If the effective date of your pension is on or after January 1, 1989 and is after your Normal Retirement Age (generally, age 65, but see page 35), and you do not work at least 40 hours in each month between Normal Retirement Age and your pension effective date, your benefit may be calculated differently. You will receive the benefit you would have received if you had retired at Normal Retirement Age, calculated using your Service Credit as of that date and the benefit rates then in effect, and actuarially increased for each month after your Normal Retirement Age in which you work less than 40 hours per month in prohibited employment. The actuarial increase will be 1% per month for the first 60 months after Normal Retirement Age, and 1.5% per month for each month afterward.

## **Early Retirement Pension**

### **Eligibility for the Early Retirement Pension:**

Upon application, you are eligible for an Early Retirement Pension if you meet all of the following requirements:

- (1) You are at least 55 years of age.
- (2) You have ten (10) years of Pension Credit without a Permanent Break in Covered Employment.
- (3) You have worked at least 600 hours in Covered Employment since January 1, 1967.

### **Early Retirement Pension Amount:**

Subject to the Separation from Covered Employment rules on page 9, the amount of the Early Retirement Pension is calculated in the same way as the Regular Pension, but is reduced since you are younger than 65 years of age, and you are likely to receive payments for a longer period of time.

To determine the amount of the Early Retirement Pension, you must first determine what the amount of the Regular Pension would be if you were age 65 and retiring with the same amount of pension credit you now have. Next, you calculate the percentage adjustment to the amount of your Regular Pension, based on your actual age at retirement.

The amount of the reduction is equal to  $\frac{1}{4}$  of 1% for each month you are younger than age 65, but not younger than age 60, and  $\frac{1}{2}$  of 1% for each month you are younger than age 60 but not younger than age 55. The following table illustrates percentage adjustments at various ages:

<b>Age on Effective Date of Pension</b>	<b>Percentage of Regular Pension Payable</b>
55 years	55%
56 years	61%
57 years	67%
58 years	73%
59 years	79%
60 years	85%
61 years	88%



62 years	91%
63 years	94%
64 years	97%

If you are not exactly one of the ages shown in the table when your Early Retirement Pension is effective, the percentage will be adjusted to reflect the number of months since your last birthday.

**For Example:** Dave is not married and is eligible for a Regular Pension of \$660.00 per month payable at age 65. Dave decides to retire at age 57. Dave's monthly payment at age 57 will be 67% of the amount otherwise payable at age 65 (see table). Multiplying \$660.00 by 67% equals \$442.20, which is then rounded to \$442.50. This is the lifetime monthly pension payment for Dave.

If you are married, the Early Retirement Pension will be paid in the form of a Husband and Wife Pension as explained on page 16 of this booklet, unless you and your spouse elect in writing to have the pension paid as a single-life pension.

## **Disability Pension**

### **Eligibility for a Disability Pension**

Upon application, you are eligible for a Disability Pension if you are totally and permanently disabled before you reach age 65, and you meet all of the following requirements:

- (1) You have earned ten (10) years of Pension Credit without a Permanent Break in Covered Employment.
- (2) You have worked at least 600 hours in Covered Employment since January 1, 1967.
- (3) You have earned (2) two quarters of Future Service Credit or 600 Hours of Service with the Annuity Plan in the two consecutive Calendar Year period before the Calendar Year in which you became disabled.

If you are receiving an Early Retirement Pension and you were totally disabled on the date you applied for an Early Retirement Pension, you are entitled to elect to convert your Early Retirement Pension to a Disability Pension if you are otherwise eligible for a Disability Pension. At the time you convert your pension, you will also have the option of reelecting whether to have your pension paid in the single life annuity form of payment (with the 36-month certain payment guarantee) or in the Husband-and-Wife form of payment. Payment of the Disability Pension will begin in accordance with the *Disability Pension Payments* section below.

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

You will be considered to be permanently and totally disabled only if the Board of Trustees in its sole and absolute judgment finds that:

- (1) On the basis of medical evidence as the Board of Trustees may require to be shown, you are totally and permanently unable, as a result of bodily injury or disease, to engage in any substantial, gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or to be of long, continued and indefinite duration; and

- (2) This bodily injury or disease is not due to your commission of or attempt to commit a felony, engaging in felonious activity, self-inflicting any injury, drunkenness or use of narcotics (other than as prescribed by a licensed physician).

### **Proof of Disability**

To prove you are totally and permanently disabled, you must furnish to the Administrative Office a photocopy of the notice you receive from the Social Security Administration of either entitlement or denial of a Social Security Disability Award.

If a Social Security Disability Award is granted, the notice must include the effective date of the Social Security disability payments. If a Social Security Disability Award is denied, then you must furnish to the Administrative Office a Disability Certification form completed by your physician describing your disability, with your physician's opinion as to whether the disability is total and permanent.

You may obtain a Disability Certification form from the Administrative Office. You should request the Disability Certification form at the time you request an application for a Disability Pension. You may also be required to have an independent medical examination performed by a physician selected by the Trustees.

On receiving the Disability Certification form along with any other medical evidence you wish to submit, the Trustees will review the Certification and other medical information (if any) and make a determination as to whether you are entitled to a Disability Pension.

Even if they have previously granted a Disability Pension under the Plan to you, the Trustees may at any time, or from time to time, require medical evidence of your continued entitlement to a Disability Pension.

### **Disability Pension Amount**

Subject to the Separation from Covered Employment Rules on page 9, the amount of your Disability Pension is equal to the monthly Regular Pension you would be entitled to receive as if you were age 65 on your Disability Pension effective date.

If you are married, your Disability Pension will be paid in the form of a Husband-and-Wife Pension as explained on page 16 of this booklet, unless you and your spouse elect in writing to have the pension paid as a single-life pension.

### **Disability Pension Payments**

Payment of your Disability Pension will start on the first day of the month after you apply for and are determined to be eligible for a pension, but not earlier than the date of entitlement to Social Security disability benefits (generally, the sixth month of disability). Payments will continue for as long as you remain totally disabled, except that when you reach age 65, the Disability Pension will be continued even if you recover from your disability.

### **Recovery While Receiving Your Disability Pension**

If you are receiving a Disability Pension and you recover from your disability and so lose your Social Security disability benefit, you will no longer be entitled to a Disability Pension under this Plan. If you go back to work in Covered Employment, you can, of course, earn additional pension benefits under this Plan.

If you are receiving a Disability Pension, have not yet reached age 65 and are no longer eligible for a Social Security disability benefit or are no longer disabled, you **must** report this to the Administrative Office. You must make this report within twenty-one (21) days after the date you receive notice of termination from the Social Security Administration, or your pension will be delayed when you retire again.

### **Auxiliary Disability Benefit**

If the Effective Date for your Disability Pension is later than the effective date of your Social Security disability payments and you filed a timely application for a Disability Pension, you will be entitled to an Auxiliary Disability Benefit.

Your application for a Disability Pension (including proof of disability) will be timely if it is received by the Administrative Office within 60 days of the mailing date of the determination by the Social Security Administration of your entitlement to a Social Security Disability award. The Plan will then begin payment of the Auxiliary Disability Benefit on the effective date of your Social Security Disability award. If your application for a Disability Pension is filed more than 60 days following the determination by the Social Security Administration of your entitlement to a Social Security Disability award, the Auxiliary Disability Benefit will not be payable. The Auxiliary Disability Benefit is not payable if you do not receive a Social Security Disability award.

The Auxiliary Disability Benefit is an amount, payable as a lump sum, that is equal to the benefit that would have been payable under your Disability Pension (in the payment form chosen for that pension) between the date of your entitlement to your Social Security Disability award and the Effective Date of your Disability Pension.

For Pension Effective Dates occurring on and after January 1, 2001, you may file your application for a disability benefit or conversion of an Early Retirement Pension to a Disability Pension at any time following the date of the determination by the Social Security Administration. Payment of the Auxiliary Disability Benefit will begin on the effective date of your Social Security Disability award, but no more than 12 months before your Pension Effective Date.

## **Vested Service Pension**

### **Eligibility for Vested Service Pension**

Upon application, you have a vested right to receive a pension benefit even if you have left Covered Employment if:

- (1) You are at least age 65 and you have earned 5 years of Vesting Service Credit (10 years of Vesting Service Credit if you did not work at least one Hour of Service in the Annuity Plan after January 1, 1999, or December 31, 1988 for non-bargained employees) without a Permanent Break in Covered Employment; or
- (2) You have reached Normal Retirement Age (see page 35).

### **Vested Service Pension Amount**

Subject to the Separation from Covered Employment rules on page 9, the amount of your Vested Service Pension is calculated in the same way as the Regular Pension. Vesting Service Credits establish your

vested right to a pension, but your pension amount will be based on your accumulated years of Pension Credit.

If you are married, your Vested Service Pension will be paid in the form of a Husband-and-Wife Pension as explained beginning on page 16 of this booklet, unless you and your spouse elect in writing to have the pension paid as a single-life pension.

### **Pro-Rata Pension**

This Plan, along with other Laborer pension plans in the United States, has adopted the Laborers' National Reciprocal Agreement to provide a Pro-Rata Pension. The agreement provides a pension for Participants who would not otherwise qualify for a pension benefit from this Plan, or whose pension benefit would be less than the full amount, because their years of employment are separated between periods covered by this Pension Plan and periods covered by other Laborer pension plans.

#### **Eligibility for a Pro-Rata Pension**

Upon application, you are eligible for a Pro-Rata Pension if you have retired and you meet all of the following requirements (as may apply):

- (1) You would be eligible for any type of pension under *each* plan if your Combined Service Credit were treated as Service Credit under each plan; and
- (2) You have under *each* plan at least one year of service credit based on actual employment for which contributions have been made; and
- (3) If you are applying for a pension based on disability, you are able to meet the definition of disability in *each* plan; and
- (4) If you are applying for a pension based on age, you satisfy the minimum age requirements in *each* plan.

#### **Pro-Rata Pension Amount**

The amount of a Pro-Rata Pension is determined in the same way as the Regular, Early Retirement, Disability or Vested Service Pension under this Pension Plan, depending on the type of Pro-Rata Pension for which you are eligible. Whichever type of pension for which you qualify, the monthly pension amount will be calculated on the basis of your Pension Credit earned under this Pension Plan. Each Related Plan under which you earned credits will pay its proportionate share of the pension payments.

If you are married, the Pro-Rata Pension will be paid in the form of a Husband-and-Wife Pension as explained beginning on page 16 of this booklet, unless you and your spouse elect in writing to have the pension paid as a single-life pension.

## PROVISIONS AFFECTING BENEFICIARIES

The monthly pension amounts discussed in the preceding section are for “single-life” protection. This means the benefit level is based on payment of benefits only for a Participant’s lifetime (as a Pensioner), with a minimum of 36 monthly payments.

With “single-life” protection, if you (as Pensioner) should die before you have received 36 monthly pension payments, the payments would be continued to your beneficiary until a total of 36 payments have been made. Otherwise, all benefit payments cease after your death.

If you are legally married, the Plan provides a payment form that makes it possible for you to make sure that your spouse will continue to receive benefits for the rest of your spouse’s lifetime, in the event you die first. This is the Husband-and-Wife Pension, which is the automatic form of payment for married Employees. If you are married and you do not want this form of payment, you may elect, *with your spouse’s consent*, either the Optional 75% Husband-and-Wife Pension or single-life protection only.

These and other provisions that may affect beneficiaries upon your death before and after retirement are explained in this section.

### **50% Husband-and-Wife Pension**

The 50% Husband-and-Wife Pension provides that after your death, your surviving spouse will receive monthly benefits for the rest of his or her lifetime equal to 50 percent of the monthly amount you were receiving. To provide this benefit to your surviving spouse, the benefit that you would have been entitled to receive as a single life benefit is reduced as explained later in this section.

If you are receiving your pension in the form of a 50% Husband-and-Wife Pension and your spouse dies before you, then the amount of your pension will be increased to the amount you would have received if your pension had been paid in the form of a single life annuity with a 36-month certain payment guarantee. The increase in benefits is effective with the month following the month in which your spouse dies if you file a copy of your spouse’s death certificate within 12 months of the date of death. If you file the death certificate later than 12 months after your spouse’s death, the increase in benefits will be effective in the month following the month in which you file the certificate.

*For example:* Art is married. Art retired and is receiving a monthly pension in the amount of \$560.00 on a Husband-and-Wife Pension. Following Art’s death, Art’s surviving spouse would receive a monthly benefit of \$280.00 for life. If Art’s wife dies first, then, provided Art files the death certificate within 12 months of his wife’s death, he will receive an increase in benefits to the amount that would have been paid as a single life annuity, effective in the month following the month in which his wife died.

### **When the 50% Husband-and-Wife Pension is Applicable**

The 50% Husband-and-Wife Pension is applicable as follows:

- (1) *At Retirement.* If you are married, you automatically receive your pension in the form of a Husband-and-Wife Pension unless you and your spouse reject that form (as explained later in this section) in favor of single-life protection. If you are married and you become disabled before reaching age 55 and receive a Disability Pension, payment also will be made in the form of a

Husband-and-Wife Pension unless properly rejected. If you are disabled and you die, payments to your surviving spouse begin only when you would have reached age 55.

- (2) *Upon Death, before Retirement.* If you are married, and you die after becoming eligible for a pension but before receiving any payment, and you have one or more Hours of Service after August 22, 1984, payment will be made to your surviving spouse in the form of a 50% Husband-and-Wife Pension. If you die after reaching age 55, the benefit is calculated as if you had retired on a Husband-and-Wife Pension on the day before your death. If you die before reaching age 55, the benefit is calculated as if you left Covered Employment on the earlier of the last day you worked in Covered Employment or the date of your death, then retired on a 50% Husband-and-Wife Pension upon reaching age 55 and died on the last day of the month in which you reached age 55.

In general, your surviving spouse will receive half of the monthly amount you would have received under a 50% Husband-and-Wife Pension. If you are under age 55 at the time of your death, benefit payments will not begin until the date when you would have reached age 55. The benefit amount will be calculated using your pension credit and your age on the date when payments begin. If you were older than 55 on your death, the payments will begin the month following the date of your death. Payments must begin no later than December 1 of the year in which you would have reached age 70-1/2, or, if later, December 1 of the year following your death. If your spouse dies before the date payments begin, there will be no payments to any other party.

If your surviving spouse's Pension Effective Date is later than the date you reached or would have reached Normal Retirement Age, then the benefit will include any actuarial adjustment to your accrued benefit that would have applied as of that date.

### **Adjustment for the 50% Husband-and-Wife Pension**

Since the 50% Husband-and-Wife Pension extends protection over two lifetimes, benefit levels are adjusted accordingly. During your lifetime, you will receive monthly benefits at a lower amount than you would have received with single-life protection; after your death, monthly benefits to your surviving spouse for life will be 50% of your reduced benefit.

The amount of the reduction in your benefit for the 50% Husband-and-Wife Pension protection depends on the difference in age between you and your spouse. If your spouse is much younger, benefits will be reduced more than if you are close in age, or if your spouse is older than you are. The reason for this reduction is that, statistically speaking, a younger spouse is likely to receive benefits for a longer period of time.

The following formulas are used for calculating the 50% Husband-and-Wife Pension:

**Non-Disability Pensions:** If you are eligible for any type of pension other than a Disability Pension, your single-life pension benefit will be reduced for the 50% Husband-and-Wife Pension by multiplying your single-life benefit by 90%, minus .4% for each year your spouse is younger than you are, or plus .4% for each year your spouse is older than you are. The maximum percentage is 99%.

**Disability Pensions:** If you are eligible for a Disability Pension, the single-life pension benefit will be reduced for the 50% Husband-and-Wife Pension by multiplying the single-life pension

benefit by 82%, minus .4% for each year your spouse is younger than you are, or plus .4% for each year your spouse is older than you are. If you are disabled and you are under age 55 on the effective date of your Disability Pension, an additional .5% will be added to the percentage for each year you are under age 55. The maximum percentage after all adjustments is 99%.

**For Example:** Tom is eligible for a monthly Regular Pension of \$560.00. Tom is 62 years old and Tom's spouse is 57 years old. To calculate the monthly amount Tom would receive under the Husband-and-Wife Pension, he first determines how many years younger or older his spouse is than he is, and multiplies that number of years by .4%. In this case, Tom's spouse is 5 years younger than Tom, so he would multiply 5 years by .4%, which equals 2%. Since Tom's spouse is younger than he is, Tom must subtract the 2% from 90%, which equals 88%. Tom's monthly Regular Pension of \$560.00 is multiplied by 88%, which equals \$492.80. This is the monthly pension Tom would receive for the rest of his life under the 50% Husband-and-Wife Pension. Following Tom's death, his surviving spouse will receive 50 percent of that amount for life, or \$246.40.

### **Optional 75% Husband-and-Wife Pension**

If you are legally married when you retire, you may elect to receive your benefit in the form of a 75% Optional Husband-and-Wife Pension. Much like the Husband-and-Wife Pension, the 75% Optional Husband-and-Wife Pension gives you monthly payments for the rest of your life. After your death, your surviving spouse will receive monthly benefits for the rest of his or her lifetime equal to 75% of the monthly amount you were receiving.

Since the 75% Optional Husband-and-Wife Pension extends protection over two lifetimes, benefit levels are adjusted accordingly. During your lifetime, you will receive monthly benefits at a lower amount than you would have received with single-life protection; after your death, monthly benefits to your surviving spouse for life will be 75% of your reduced benefit.

The amount your benefit is reduced for the 75% Optional Husband-and-Wife Pension depends on the difference in age between you and your spouse. If your spouse is younger than you, benefits will be reduced more than if you are the same age or if your spouse is older than you. The reason for this is that, statistically speaking, a younger spouse is likely to receive benefits for a longer period of time.

These are the formulas for determining the adjustment:

**Non-Disability Pensions.** If you are eligible for any type of pension other than a Disability Pension, your "single-life" pension amount will be reduced for the 75% Optional Husband-and-Wife Pension by multiplying your single-life pension amount by 84%, minus .5% for each year your spouse is younger than you, or plus .5% for each year your spouse is older than you. The maximum percentage is 100%.

**For Example:** You are eligible for a monthly Regular Pension of \$1,000.00, you are 62 years old and your spouse is 57 years old.

1. To calculate the monthly amount you would receive under the 75% Optional Husband-and-Wife Pension, you first determine how many years younger or older your spouse is than you, and multiply that number of years by .5%. In this case, your spouse is 5 years younger than you, so you would multiply 5 years by .5% which equals 2.5%.

2. Since your spouse is younger than you, you must subtract the 2.5% from 84%, which equals 81.5%. You then multiply your monthly Regular Pension of \$1,000 by 81.5%, which equals \$815.00. This is the monthly pension you would receive for the rest of your life under the 75% Optional Husband-and-Wife Pension. Following your death, your surviving spouse will receive 75% of that amount for life, or \$611.25.

**Disability Pensions.** If you are eligible for a Disability Pension, your “single-life” pension amount will be reduced for the 75% Optional Husband-and-Wife Pension by multiplying your single-life pension amount by 71%, minus .5% for each year your spouse is younger than you, or plus .5% for each year your spouse is older than you. The maximum percentage is 100%.

*If you have difficulty in figuring out the amount of your Husband-and-Wife Pension or the 75% Optional Husband-and-Wife Pension, you can write the Administrative Office. They will be happy to help you with the calculation.*

### **Electing a Husband-and-Wife Pension at Retirement**

When you file your pension application, the Administrative Office will give you a statement of what the monthly benefit will be with single-life pension or with either of the Husband-and-Wife Pensions. If you are married, your pension will be paid as a 50% Husband-and-Wife Pension unless you and your spouse notify the Administrative Office that you do not want to receive it that way. You and your spouse can make this election no less than 30 days and no more than ninety (90) days after you have received all of the information about the effect on your pension.

In accordance with federal regulations, the Plan will not honor a rejection of the 50% Husband-and-Wife Pension made less than 30 or more than 90 days before the benefits start; therefore, you may need to complete a new form if the effective date of your pension is delayed. However, you and your spouse may elect to waive the 30-day waiting period as long as you are notified of your right to take at least 30 days to consider your waiver and distribution of benefits to you and your spouse does not begin until you and your spouse have had at least a 7-day period in which to consider the form in which your benefits will be paid.

Your notice to the Administrative Office that you and your spouse do NOT want the Husband-and-Wife Pension must be signed by you and your spouse in front of a notary public. If you are married and you do not notify the Administrative Office, your payments will be made under the Husband-and-Wife form of Pension. Spousal consent may not be required to reject the Husband-and-Wife Pension, if you can prove to the Trustees’ satisfaction that you have no spouse or that your spouse cannot be located.

Once monthly benefits begin being paid to you under a Husband-and-Wife Pension, payments must continue in that form, even if your marriage is dissolved. However, if your spouse dies before you, your benefits will “pop up” or be increased to the amount that would have been paid to you under the single life pension. See Article IV, Section 8 for details.

### **Rules for Payment of a Husband-and-Wife Pension**

- (1) If you are married, you will automatically receive the 50% Husband-and-Wife Pension at retirement unless you and your spouse file a notarized statement with the Administrative Office indicating you both want the pension in another form.
- (2) A Husband-and-Wife Pension protects only the spouse to whom you are legally married when your pension payments begin.



- (3) In order for your spouse to receive benefits under either Husband-and-Wife Pension upon your death before retirement, you and your Spouse must be legally married at the time of your death and for at least one year before your death.
- (4) Once a Husband-and-Wife Pension payment begins, payments will continue at the same level even if your marriage is legally dissolved.
- (5) Payments to your surviving spouse continue for life; they do not stop even if your spouse remarries.
- (6) If your spouse dies before you, pension payments will be increased to the amount of the single life pension after you provide the Administrative Office with your spouse's death certificate and then all pension payments will stop upon your death.

### **Domestic Relations Orders/Divorce Decrees**

This Plan recognizes any Qualified Domestic Relations Order and makes payments as directed by the Order to any spouse, former spouse, child or other dependent (called an "alternate payee") of a Plan Participant specified by the Order. A Qualified Domestic Relations Order (QDRO) is a state domestic relations order such as a divorce decree, which creates or recognizes an alternate payee's right to receive all or a portion of the benefits payable to a Participant under the Plan.

Any lawful judgment, decree, order, or property settlement agreement may be a QDRO if it relates to the provision of child support, alimony payments, or marital property of a spouse, former spouse, child, or other dependent of a Plan Participant and is made pursuant to State domestic relations law.

The Trustees cannot recognize or honor a domestic relations order, such as a divorce decree that attempts to divide a pension, unless the order or decree contains certain information and otherwise complies with federal law. If you are considering a divorce or are a party to any other domestic relations action that may involve the Trust Fund, you should contact the Administrative Office for additional information before any such domestic relations order or decree is signed by the judge.

The Trustees have adopted formal procedures for the treatment of domestic relations orders received by the Plan. A copy of these procedures is available without charge from the Administrative Office.

### **DEATH BENEFITS**

Death benefits may be payable to your spouse upon your death even if your surviving spouse will not be receiving a Husband-and-Wife Pension. If you are not married, death benefits also may be payable to your Beneficiary.

#### **I. Pre-Retirement Death Benefits**

- (1) If you die before receiving a pension under this Plan, a lump-sum payment equal to the amount contributed to the Pension Fund on your behalf, up to a maximum of \$3,000, will be paid to your designated Beneficiary, provided you earned at least two quarters of Future Service Credit or a least 600 Hours of Service in the Annuity Plan in the two consecutive Calendar Year period before the Calendar Year in which you died. In determining the amount of the lump-sum payment, however, only contributions received subsequent to the last Break in Covered Employment, if any, will be counted.

- (2) If you have fulfilled the service requirements for a Regular, Early Retirement, or a Vested Pension and you die before retirement, your designated Beneficiary will receive 36 payments in a monthly pension amount equal to the monthly Pension amount you would have received had you retired at age 65. This benefit will be payable *instead of, and not in addition to*, the accumulated contribution lump sum benefit described in (1) above.

This pre-retirement death benefit is not payable if payments are to be made under the Husband-and-Wife Pension at the time of your death. If your surviving spouse is eligible for the Husband-and-Wife Pension as explained beginning on page 16, your surviving spouse may, however, elect to receive either the lump-sum or 36-month death benefit (whichever applies) instead of the Husband-and-Wife Pension.

When the Trustees receive notice of your death, they will send the surviving spouse an explanation of the amount of benefits payable under each type of death benefit available. The spouse will then have 90 days to elect the type of death benefit he or she would prefer. An election cannot be changed once payments have started.

## **II. Post-Retirement Death Benefits**

A post-retirement Death Benefit in the sum of \$1,500.00 will be paid on your behalf directly to your designated Beneficiary. This benefit is in addition to all other benefits your beneficiary may be entitled to under this Pension Plan.

### **Pensioner's 36-Month Guarantee of Benefits**

This Plan provides a 36-month guarantee feature, which means that if you are unmarried, or you are married and you and your spouse properly rejected the Husband-and Wife Pension at retirement, and you die before receiving 36 monthly payments, your monthly pension benefit will continue to be paid to your Beneficiary until a combined total of 36 monthly payments have been made to both you and your Beneficiary.

*For example:* George retires and begins to receive payments on a single-life basis in **September, 2007**, and then dies in **November, 2008**, George's Beneficiary would receive monthly pension payments from this Plan through **August, 2010**. If George should die in **October 2010**, no further monthly payments would be made to George's Beneficiary since a total of 36 payments would have already been made.

### **Naming a Beneficiary**

You may designate a Beneficiary or Beneficiaries to receive any payments due and payable but not actually paid before your death, or any other benefits described previously by forwarding the designation on a form acceptable to the Board of Trustees to the Administrative Office.

You have the right to change your designation of Beneficiary on a form prescribed by the Board of Trustees, which must bear your notarized signature and, if you are married, your spouse's signature. No change of Beneficiary will take effect or be considered binding, unless it is received by the Administrative Office before the time any payments are made to the Beneficiary whose designation is currently on file with the Administrative Office.

If you do not designate a Beneficiary, or if a designated Beneficiary dies before you, any benefits payable on your behalf will be paid to your spouse, if your spouse is then living. If you do not have a spouse, then

any benefits due will be paid to any other person who is an object of your natural bounty, or to your estate, as the Board of Trustees, in its sole discretion, may designate.

### **If your Spouse is your Beneficiary and you Become Divorced**

If your marriage is dissolved by divorce, your designation of your spouse as your Beneficiary will be voided as of your divorce date. Your ex-spouse can only be your Beneficiary if you re-designate your ex-spouse as your Beneficiary following your divorce. If a Qualified Domestic Relations Order (QDRO) has been entered by the divorce court and is accepted by the Plan, the QDRO may take precedence over your Beneficiary designation.

### **Lump Sum Payment of Monthly Pension**

If at the time a monthly benefit becomes payable to you or your Beneficiary, the Actuarial Present Value of the monthly benefit is \$5,000 or less, the Board of Trustees will pay to you or your Beneficiary the lump sum amount of that actuarial value, instead of the monthly benefit that otherwise would be payable.

### **Federal Income Tax Withholding; Rollover to Another Qualified Account**

If benefits are paid as a lump sum or in installments over a period of less than ten (10) years, federal law requires that the Plan withhold 20% for federal income tax on those payments, unless you elect to rollover those payments to another eligible tax-qualified account, such as an Individual Retirement Account (IRA).

Although you are subject to income tax on your monthly pension payments, the Plan is not required to withhold tax on those monthly payments. However, you may choose to have the Plan withhold tax on those payments to offset your tax liability when you file your income tax return. You should consult with your financial and/or tax advisor to select the best approach.

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

If the Trustees determine that a Pensioner or Beneficiary is unable to care for his or her affairs because of mental or physical incapacity, any payment due may be suspended until a guardian or conservator is appointed for the person and estate of such Pensioner or Beneficiary. Thereafter all payments, including those suspended, will be made to the duly appointed guardian or conservator.

## RETIREMENT AND SUSPENSION OF PENSION PAYMENTS

To receive monthly pension payments, you must *retire* according to the Plan's rules, meaning that you must not work in "prohibited" employment as described below. If you take work that is prohibited by Plan rules, you must notify the Plan *in writing* within 21 days after you start work. Your monthly pension will be suspended while you are working in prohibited employment and possibly longer, as explained later in this section.

### **Retirement Before Normal Retirement Age**

To be considered as *retired* before Normal Retirement Age (generally age 65, but see page 35), you must withdraw completely from and refrain from any employment for wages or profit in the same industry, in the same trade or craft, and in the same geographic area covered by this Plan. This type of employment is called "prohibited" employment for Plan purposes.

### **Suspension of Pension Payments Before Normal Retirement Age**

If you are employed in work of the type described above, your pension payments will be suspended for a period equal to the number of months during which you were so employed and for six additional months following the termination of this employment, but not beyond Normal Retirement Age.

### **Retirement After Normal Retirement Age**

To be considered as *retired* after you have reached age 65, you must refrain from employment of 40 hours or more in any calendar month in the same industry, the same trade or craft, and in the same geographic area covered by the Pension Plan.

### **Suspension of Pension Payments After Normal Retirement Age**

If you become employed in work of the type described in the preceding paragraph, your pension payments will be suspended for any calendar month in which you complete 40 or more hours of prohibited employment. Your pension will resume as of the first month following the date you end your prohibited employment.

If you have worked in prohibited employment in any month after Normal Retirement Age, and have not given timely notice to the Administrative Office (as explained below) of your employment, the Trustees will presume that you worked for at least 40 hours in that month and any following month before you give notice that you have stopped working in prohibited employment. You have the right to appeal this presumption by presenting satisfactory proof to the contrary.

### **Required Notices**

#### **Notices to the Participant/Pensioner**

The Administrative Office will notify you before your retirement of the Plan rules governing suspension of benefits. If benefits have been suspended and then payment has resumed, a new notification will be given to you when payment resumes if there has been any material change in the suspension rules.

The Administrative Office also will inform you of any suspension of your benefits by notice given by personal delivery or first-class mail during the first calendar month in which your benefits are suspended. This notice will include a description of the specific reasons for the suspension, a copy of the relevant provisions of the Pension Plan, reference to the applicable regulation of the U.S. Department of Labor, and a statement of the procedure for securing a review of the suspension. The notice also will describe the procedure for you to notify the Administrative Office when your prohibited employment ends. If the Board of Trustees intends to recover past overpayment by offset, the suspension notice will explain the offset procedure and identify the amount expected to be recovered, and the periods of employment to which they relate.

You may ask the Board of Trustees to provide a determination as to whether any potential employment will be considered prohibited employment that would cause suspension of payments.

### **Notices required from the Participant/Pensioner**

You **must** notify the Administrative Office, in writing, within 21 days after starting any work of a type that is or may be prohibited as previously explained, and without regard to the number of hours of this work.

If your pension has been suspended, you must notify the Administrative Office when prohibited employment has ended. The Board of Trustees has the right to hold back benefit payments until this notice is filed with the Administrative Office.

At least once each year, you will be required to certify on a form furnished by the Administrative Office that you are retired according to the rules of the Pension Plan. Any pension payments otherwise due will be withheld until you have adequately responded to this request.

### **Resumption of Benefit Payments Following Suspension**

If you comply with the notification requirements previously explained, benefit payments will resume for months after the last month during which your benefits were suspended. Payment of the resumed benefits will begin no later than the third month after the last calendar month during which your benefit was suspended.

Overpayment made for any month or months for which you worked in prohibited employment will be deducted from pension payments otherwise paid or payable following the period of suspension. A deduction from a monthly benefit for a month after you reach age sixty-five (65) will not exceed 25% of that monthly amount, except for the *first* pension payment made when you resume benefits after a suspension. If you die before the overpayment has been fully recouped, deductions also will be made from the benefit payable to your surviving spouse, subject to the 25% limit on the amount of deduction. This provision does not limit the right of the Board of Trustees to recover an overpayment by means other than deduction from pension payments.

### **Benefit Payments Following Suspension**

The monthly amount of pension payable following suspension will be determined according to Pension Plan rules set forth on pages 72 and 73.

### **Review of Suspension of Benefits**

You are entitled to a review of a determination suspending your benefits by filing a written request with the Administrative Office within sixty (60) days of the notice of suspension. The same right of review will apply, under the same terms, to a determination by or on behalf of the Board of Trustees that potential employment will be prohibited employment resulting in suspension of benefits.

## PENSION BENEFIT CLAIMS AND APPEALS

### How to Apply for Benefits

The first step in applying for pension benefits from the Plan is to request a pension application from the Administrative Office at the address shown on page 32. You will then need to complete, sign, and return your application to the Administrative Office. If you are eligible for a pension benefit, payments will begin on the date(s) described in the section entitled “Pension Effective Dates” on page 31.

At the same time you submit your pension application form to the Administrative Office, you also will need to provide written proof of your date of birth, your spouse’s date of birth (birth certificate, certificate of blessing or baptism, etc.), and a photocopy of your marriage certificate. The Trustees may rely on the statements you make in your application and the documentation you provide in support of your application. If your application form is not substantially complete, or if required documentation has not been furnished, the Plan will notify you as soon as reasonably possible to let you know what is necessary to complete your claim.

### Applying for a Disability Pension

If you are applying for a Disability Pension, you must also provide a photocopy of the Social Security Disability Benefit Award or Denial Letter you have received from the Social Security Administration. If you provide a photocopy of a Social Security Denial Letter, then the Administrative Office will send additional forms to you to be completed by both you and your physician(s). When you return these completed forms, the Board of Trustees will review your eligibility for a Disability Pension on the basis of the medical evidence submitted. It also may be necessary to have an independent medical examination performed by a medical doctor selected by the Board of Trustees.

### Applying for a Pro Rata Pension

If you apply for a Pro Rata Pension from this Plan, you also must apply to each Related Plan with whom Pension Credit will be combined for a Pro Rata Pension under their requirements.

### If You Are Age 65 and Do Not Apply for a Pension

According to federal law, your benefits will be suspended if you continue to work in prohibited employment (see page 23) after age 65 (or your Normal Retirement Age, if later). This means that if you do not apply for benefits when you reach age 65, pension payments will then be suspended for every month after your 65th birthday in which you work more than 40 hours. When you retire, your pension will be calculated as a delayed retirement as explained on page 11.

### Application for Death Benefits

Your surviving spouse or beneficiary must file a Death Benefit Application form with the Administrative Office for payment of the death benefit. The Death Benefit Application form can be obtained from the Administrative Office at the address shown on page 32.

**IMPORTANT:** Notification of your death should be made *as soon as possible* by your Beneficiary.

## **Authorized Representative**

The Plan will recognize any adult participants speaking on their own behalf. The Plan will also recognize a natural or adoptive parent speaking on behalf of a child who is a beneficiary under the Plan as a representative. However, a claimant may also pursue a pension benefit through an authorized representative. You should contact the Administrative Office for a form to designate such other person as an authorized representative.

## **Initial Determination on Your Pension Application (Other Than Disability Pension Applications)**

The Plan will normally approve or deny your claim (other than a claim for a Disability Pension that requires a determination of Disability) within ninety (90) days after the Plan receives your claim. If the Plan requires additional time to make a determination on your claim, the Plan will notify you in writing of the special circumstances requiring an extension of time and of the date by which the Plan expects to render the final decision, which will not be more than ninety (90) days from the end of the initial time period. The Plan will furnish you with written notice of the extension before the beginning of the extension. If additional information is required, the Plan will notify you and request that you furnish the necessary data within the 180-day time period.

## **Initial Determination on Your Disability Pension Application**

The Plan will normally approve or deny your application for a Disability Pension within 45 days after the Plan receives your claim. A Disability Pension application requires the Plan to make a medical determination of Disability. If the Plan requires additional time to make the determination due to matters beyond the control of the Plan, this period may be extended for up to 30 days (to a total of 75 days). The Plan will notify you before the expiration of the initial 45-day period of the circumstances requiring the extension of time and the date by which the Plan expects to make a determination.

If an additional extension of time is required due to matters beyond the control of the Plan, this period may be extended for an additional 30 days (to a total of 105 days). The Plan will notify you before the expiration of the first 30-day extension period of the circumstances requiring the extension of time and the date by which the Plan expects to make its determination.

If an extension of time is due to your failure to submit the information necessary to make a medical determination of Disability, the Plan will give you at least 45 days within which to provide the specified information. The period for making the determination on your application will be suspended from the date on which the notification of the extension is sent to you until the date on which you respond to the request for additional information.

If an extension is necessary to make a medical determination of Disability, the notification of the extension will specifically provide:

- (1) An explanation of the standards on which entitlement to a benefit is based;
- (2) The unresolved issues that prevent a decision on the claim; and
- (3) The additional information needed to resolve the issues.

## **Notice of Initial Determination**

If a denial or an adverse determination is made by the Fund with respect to a benefit claim/issue, the Fund is required to provide to you written notification setting forth:



- (1) The specific reason(s) for the determination;
- (2) Reference to the specific Plan provision(s) on which the determination is based;
- (3) A description of any additional material or information needed to perfect the claim and an explanation of why the additional material or information is necessary; and
- (4) A description of the Plan's review procedures and the time limits applicable to such procedures, including a statement of your right to sue under Section 502(a) of ERISA after exhaustion of the review procedures.

### **Failure to Make Determination Within Time Limits**

If the Trustees do not act on your claim within the required time limits, you may proceed to the appeal procedures.

### **Appealing the Denial of Your Pension Claim**

If your claim for benefits is denied, you may file a request for review. You must file your request for review within 60 days (within 180 days for a claim for Disability Pension benefits). Your request for reconsideration must be in writing. Your request may be informal, but must contain the following information:

- (1) Your name and Social Security number or, if the request is by a Beneficiary, the name and Social Security number of the Participant through whom the Beneficiary claims as well as the name and Social Security number of the Beneficiary.
- (2) Your address or the Beneficiary's address.
- (3) The nature of the benefit claimed.
- (4) If the claimed benefit depends on the Beneficiary's relationship to the Employee/Participant, proof of that relationship must be attached.
- (5) You must submit a concise statement of the reasons why you believe the decision is in error, together with any documents or other written evidence that you wish to have the Trustees consider.
- (6) You may request a hearing if you desire.

You may not split your claims into several requests. If you have an issue, you must set forth the full basis for the issue, together with all the relief you are requesting. You may not file separate requests for benefits for each month you are alleging that the benefits are arrears. This requirement is applicable to and includes any and every claim to benefits from the Plan that you may have, regardless of the basis asserted for the claim and regardless of when the act or omission upon which your claim is based occurred.

### **Full and Fair Review**

You will be given the opportunity to submit written comments, documents, records and other information relating to your claim. The Fund will provide you, free of charge, reasonable access to and copies of all documents, records and other information relevant to the claim. The review of the claim will take into

account all comments, documents, records and other information you submit relating to the claim, without regard to whether such information was submitted or considered in the initial benefit determination.

### **Timely Request for Review**

If you fail to file a timely request for review, you are not precluded from establishing entitlement at a later date based on additional information and evidence that was not available at the time the decision was made. However, a subsequent request may not be used as a means to reconsider and re-argue matters already reviewed, and your subsequent request may be dismissed without action if the Trustees conclude that it sets forth no newly discovered information or evidence.

### **Formal Review of Disability Claims**

You will be given the opportunity to submit written comments, documents, records and other information relating to your claim. The Fund will provide you, free of charge, reasonable access to and copies of all documents, records and other information relevant to the claim. The Trustees' review of your claim will take into account all comments, documents, records and other information you submit relating to the claim, without regard to whether such information was submitted or considered in the initial benefit determination. Any expert whose advice was obtained in connection with the initial determination will be identified, whether or not such advice was used in making the determination.

The review process will not give deference to the initial determination. The Board of Trustees conducting the review will not include the same individual who made the initial determination nor the subordinate of such individual. The Board of Trustees conducting the review will consult with a health care professional who has appropriate training and expertise with respect to any review involving a medical judgment, and such health care professional will not be an individual who was consulted with respect to the initial determination nor the subordinate of such individual.

### **Determination on Review**

The Board of Trustees will make a determination on review of your claim no later than the date of the meeting of the Board of Trustees that immediately follows receipt of your request for review by the Administrative Office, unless your request for review was filed within 30 days preceding the date of such meeting. In such a case, a benefit determination on review may be made no later than the date of the second meeting following the receipt of your request for review. If special circumstances require a further extension of time for processing, a benefit determination on review will be made not later than the third meeting of the Board of Trustees following the receipt of the request for review.

If special circumstances require such an extension, the Fund will notify you in writing of the extension, describing the special circumstances and the date on which the benefit determination on review will be made. If an extension is due to your failure to submit information necessary to decide the claim, the period for making the determination on review will be tolled from the date on which the notification or extension is sent to you until the date on which you respond to the request for additional information. Notice of the benefit determination on review will be provided to you not later than 5 days after such a determination is made.

### **Notice of Determination on Review**

The Fund will provide you with written notification of the determination on review. If the determination is a denial, the Fund is required to provide written notice to you setting forth the following information:

- (1) The specific reason(s) for the determination;

- (2) Reference to the specific plan provision(s) on which the determination is based;
- (3) A statement that you are entitled to receive, upon request and free of charge, reasonable access to and copies of all documents, records and other information related to the claim;
- (4) A statement of your right to sue under Section 502(a) of ERISA.

**Exhaustion of Remedies Under the Plan**

You may not bring a lawsuit or pursue an administrative remedy for Plan benefits unless you have exhausted the Plan's claims and appeals procedures.

## **PENSION EFFECTIVE DATES**

### **Generally**

Pensions (except for Disability Pensions) are usually effective on the first day of the month following the month the Administrative Office receives your completed pension application form. Before the Plan can pay benefits, however, the Plan must verify the Past and Future Service Credit you earned. This may take ninety (90) days or more following receipt of your pension application form. Once your pension application has been processed, including verification of your eligibility, you will receive benefits retroactive to the first day of the month following the date the Administrative Office received your pension application form.

### **After Normal Retirement Age – Required Beginning Date**

If you are eligible for pension benefits from this Plan, the Plan must begin to make payments to you no later than your Required Beginning Date. Your required beginning date is the April 1st of the calendar year that immediately follows the calendar year in which you reach age 70½, even if you are still working. Payments that are required under this rule, but that are not made timely, may be subject to a 50% federal excise tax.

### **Disability Pension**

Disability Pension payments may begin on the effective date of your Social Security Award entitlement, if you are disabled and you file your notice of entitlement to a Social Security Disability benefit not later than sixty (60) days after the date shown on the notice. Otherwise, payments will not begin until the first of the month after you file the notice or the Disability Pension application with the Administrative Office.

## CHECKLIST: THINGS FOR YOU TO DO

**Let us know where you are:** You should provide the Administrative Office with your mailing address, including any changes in your mailing address, to ensure you receive all Plan communications. The address and telephone number of the Administrative Office is:

Board of Trustees  
Utah Laborers' Pension Trust Fund  
2156 W. 2200 South  
Salt Lake City, Utah 84119-1376  
(801) 973-1001  
(800) 943-6203

**If you leave Covered Employment:** Be sure to review the Pension Plan rules regarding "Break in Covered Employment." Please remember that if you do not earn sufficient Pension Credit over a number of years, it may result in a loss of all of your previously accrued credits and benefits. **This does not apply if you have already become entitled to a Vested Service Pension (see page 14). Once you earn that right, you cannot lose your right to a Vested Service Pension even if you leave Covered Employment permanently.** If you have questions on this matter, you should direct your questions in writing to the Board of Trustees.

**If your marital status changes:** You should notify the Administrative Office, in writing, of any change.

**If you are considering retirement:** Be sure you allow sufficient time to process your pension application. Please remember you will need copies of certain documents such as birth certificates, marriage certificate, etc. The staff at the Administrative Office can advise you of the documents and information needed.

**Check your benefit options:** There may be waiting periods and deadlines in connection with the various types of pensions provided by the Pension Plan. You should periodically check your benefit options, especially whenever there is a change in your family status.

**Keep your work history records:** Your work history records, such as payroll check stubs and time sheets, are important records that may be used to verify the hours you have worked in Covered Employment. We strongly encourage you to retain all of your work history records.

**Designate a Beneficiary:** To protect the person or persons you want to receive death benefits that may be due, please be sure you have completed and filed a Beneficiary Designation card with the Administrative Office. If your Beneficiary should die before you, or if you wish to change your Beneficiary designation, you must complete and file a new Beneficiary Designation card with the Administrative Office. If you are married and you wish to designate a beneficiary other than your spouse, your spouse must consent in writing to the designation on a form available from the Administrative Office.

**Any questions?** If you have any questions, they should be directed in writing to the Board of Trustees at the address shown above.

## IMPORTANT INFORMATION ABOUT THE PLAN

The following general information about the Plan is required by the Employee Retirement Income Security Act of 1974, as amended (ERISA).

1. **Name and Type of Plan.** This Plan is known as the Pension Plan for the Utah Laborers' Pension Trust Fund. This Plan is a Defined Benefit Plan. This Plan is a collectively bargained, joint-Trusteed labor-management trust.
2. **Board of Trustees.** The Board of Trustees is responsible for the operation of this Plan, and consists of an equal number of employer and union representatives, who are selected by the employers and the unions that have entered into collective bargaining agreements establishing this Pension Plan. The Trustees of this Plan are:

Union Trustees	Employer Trustees
Mr. Georg Erichson Utah Laborers Local Union 295 2261 Redwood Road, Suite C Salt Lake City, Utah 84126	
Ms. Diane Lewis Utah Laborers Local Union 295 2261 Redwood Road, Suite C Salt Lake City, Utah 84126	Mr. Richard J. Thorn Associated General Contractors of Utah 2207 South 1070 West Salt Lake City, Utah 84119
Ms. Brandie Morris Utah Laborers Local Union 295 2261 Redwood Road, Suite C Salt Lake City, Utah 84126	Andy Anderson Ames Construction Inc. 3737 West 2100 South West Valley City, UT 84120
Mr. Ross Williams Utah Laborers Local Union 295 2261 Redwood Road, Suite C Salt Lake City, Utah 84126	

3. **Address and Telephone Number.** If you wish to contact the Board of Trustees, you may use the following address and telephone number:

Board of Trustees  
Utah Laborers' Pension Trust Fund  
2156 W. 2200 South  
Salt Lake City, Utah 84119-1376  
(801) 973-1001  
(800) 943-6203

4. **Plan Administrator and Plan Sponsor.** The Board of Trustees is the Plan Administrator and the Plan Sponsor. This means that the Board of Trustees is responsible for seeing that information regarding the Plan is reported to government agencies and disclosed to Plan Participants and Beneficiaries in accordance with the requirements of the Employee Retirement Income Security Act of 1974, as amended (ERISA). The Board of Trustees has engaged the Contract Administrator named below to provide administrative services to the Plan:

CompuSys of Utah, Inc.  
2156 W. 2200 South  
Salt Lake City, Utah 84119-1376  
(801) 973-1001  
(800) 943-6203

5. **Identification Numbers.** The Employer Identification Number assigned to the Plan and issued to the Board of Trustees is 87-6127884. The Plan Number assigned to the Plan by the Board of Trustees is 001.
6. **Agent for Service of Legal Process.** David L. Niederdeppe, Esquire, is the Plan's Agent for the service of legal process. Accordingly, when legal disputes involving the Plan arise, any legal document should be served upon:

David L. Niederdeppe  
Ryan Rapp & Underwood, PLC  
3200 N. Central Avenue, Suite 1600  
Phoenix, AZ 85012

Service of legal process may also be made on any member of the Board of Trustees at the address listed in item 4 above.

7. **Collective Bargaining Agreements.** All contributions to this Plan are made by Employers in accordance with their Collective Bargaining Agreement with the Union. A complete list of Employers and employee organizations sponsoring the Plan is available for your examination at the Administrative Office. Plan Participants and Beneficiaries may examine these Collective Bargaining Agreements and may obtain a copy of any such Agreement for a reasonable charge by writing to the Board of Trustees at the address listed in paragraph 3.
8. **Source of Financing of the Plan and Identification of Any Organization Through Which Benefits are Paid.** All contributions to the Plan were made by Employers in accordance with the Collective Bargaining Agreement. Benefits are provided directly from the Fund's assets which are accumulated under the provisions of the Trust Agreement. Currently, no contributions are being made to this Plan.

Assets are held in a Trust Fund for the purpose of providing benefits to Plan Participants and Beneficiaries and defraying reasonable administrative expenses. The Fund's assets and reserves are held by U.S. Bank, as custodial agent. NWQ Investment Management, Co. and Sierra Investment Partners, Inc. are the Investment Counselors.

9. **Recordkeeping Period and Plan Year.** The recordkeeping period and Plan Year is January 1st through December 31st of each calendar year.

10. **The Plan's Requirements Respecting Eligibility for Participation and Benefits.** The Plan's requirements respecting eligibility for Participation and benefits are described in Article II, page 45; Article III, pages 46 - 51; Article V, pages 55 - 57; and Article VI, pages 58 - 64 of this booklet.
11. **Description of Provisions for Non-Forfeitable Pension Benefits.** A Participant becomes entitled to a Vested Service Pension in accordance with the provisions of Section 12, Article III, of the Plan. See page 14 of this booklet.
12. **Normal Retirement Age.** The Normal Retirement Age under the Plan is the later of (i) age 65, or (ii) the earlier of your tenth anniversary of participation in the Plan counting all participation, or the fifth anniversary of your participation in the Plan, counting participation after January 1, 1988.
13. **Husband-and-Wife Pension.** The provisions of the Husband-and-Wife Pension, which provides a lifetime benefit for a surviving spouse, are set forth in Article IV of the Plan. See page 16 of this booklet.
14. **Description of Circumstances That May Result in Disqualification, Ineligibility, Denial, or Loss of Benefits.**
  - (a) You suffer a Permanent Break in Covered Employment. Refer to Article VI, Section 5 beginning on page 61 of this booklet for a complete description.
  - (b) You are receiving a Disability Pension and you recover from your disability or lose entitlement to your Social Security Disability award before you reach age 65. You must notify the Board of Trustees, in writing, within twenty-one (21) days of the date you recover or receive notice from the Social Security Administration. If you do not provide this notice, you may, when you retire again, not be eligible for benefits for six (6) months following the date of your retirement, plus any additional months during which you received Disability Pension payments to which you were not entitled. Refer to Article III, Section 10 beginning on page 47 of this booklet.
  - (c) You return to employment prohibited by the Plan. You must notify the Board of Trustees, in writing, within twenty-one (21) days of your return to such employment. When you retire again, you may not be eligible for benefits for six (6) months following the date of your retirement. Refer to Article VIII, Section 9 on page 71 of this booklet for a complete description.
  - (d) You are not generally eligible to receive a Pension until the first day of the month following the date on which your application for a pension is received by the Administrative Office. The procedure for filing an application for pension benefits is described on page 26 of this booklet and in Section I of Article VIII of the Pension Plan, page 66.
  - (e) In addition to the description set forth elsewhere in this Summary Plan Description, your benefits may be reduced if they exceed the maximum amount allowed by Section 415 of the Internal Revenue Code.

If the annual retirement benefit exceeds the maximum benefit permitted, the Retired Employee's benefit will be reduced to the limit then in effect. In following years, as cost of living increases raise the limits on benefits, payments may be increased.

If a Retired Employee's benefit must be reduced due to aggregation with a non-multiemployer plan, the reduction applies to the benefit from the non-multiemployer plan unless the benefit from that plan has been paid.



15. **Claims and Review Procedure.** See page 26 for a description of the Plan's claims and review procedures.
16. **Plan Amendment or Termination.** The Trustees intend that this Plan continue indefinitely. However, the Trustees reserve the right, subject to the provisions of the Trust Agreement and ERISA, to amend or cease operation of the Plan.

If the operation of the Plan is ceased, you will be notified in writing as soon as possible. You will be told the amount, if any, to which you will become entitled, with an explanation of any election that you may have to make.

17. **Termination Insurance.** Your pension benefits under this multiemployer Plan are insured by the Pension Benefit Guaranty Corporation (PBGC), a federal insurance agency. The Plan pays premiums to the Pension Benefit Guaranty Corporation for this insurance. A multiemployer plan is a collectively bargained pension arrangement involving two or more unrelated employers, usually in a common industry.

Under the multiemployer plan program, the PBGC provides financial assistance through loans to plans that are insolvent. A multiemployer plan is considered insolvent if the plan is unable to pay benefits (at least equal to the PBGC's guaranteed benefit limit) when due.

The maximum benefit that the PBGC guarantees is set by law. Under the multiemployer program, the PBGC guarantee equals a participant's years of service multiplied by (1) 100% of the first \$11 of the monthly benefit accrual rate and (2) 75% of the next \$33. The PBGC's maximum guarantee limit is \$35.75 per month times a participant's years of service. For example, the maximum annual guarantee for a retiree with 30 years of service would be \$12,870.

The PBGC guarantee generally covers: (1) Normal and early retirement benefits; (2) disability benefits if you become disabled before the Plan becomes insolvent; and (3) certain benefits for your survivors.

The PBGC guarantee generally does not cover: (1) Benefits greater than the maximum guaranteed amount set by law; (2) benefit increases and new benefits based on Plan provisions that have been in place for fewer than 5 years at the earlier of: (i) The date the Plan terminates or (ii) the time the Plan becomes insolvent; (3) benefits that are not vested because you have not worked long enough; (4) benefits for which you have not met all of the requirements at the time the Plan becomes insolvent; and (5) non-pension benefits, such as health insurance, life insurance, certain death benefits, vacation pay, and severance pay.

For more information about the PBGC and the benefits it guarantees, ask your Plan Administrator, or contact the PBGC's Technical Assistance Division, 1200 K Street, N.W., Suite 930, Washington, D.C. 20005-4026, or call 202-326-4000 (not a toll-free number). TTY/TDD users may call the federal relay service toll-free at 1-800-877-8339 and ask to be connected to 202-326-4000. Additional information about the PBGC's pension insurance program is available through the PBGC's website on the Internet at <http://www.pbgc.gov>.

18. **Trustees' Authority.** Under the Trust Agreement creating the Pension Trust Fund and the terms of the Pension Plan document, the Trustees, or persons acting for them, have sole authority to make final determinations regarding any application for benefits. The Trustees also have sole authority over the interpretation of the Pension Plan, the Trust Agreement, and any administrative rules adopted by the Trustees. Benefits under this Plan will be paid only when the Board of Trustees (or persons delegated by them) decides, in their sole discretion, that the Participant or Beneficiary is entitled to benefits under the terms of the Plan. The Trustees have been given broad discretion and their decisions in such

matters are final and binding on all persons dealing with the Pension Plan or claiming a benefit from the Plan. If a decision of the Trustees is challenged in court, it is the intention of the parties to the Trust that such decision is to be accorded judicial deference and be upheld, unless it is determined to be arbitrary or capricious.

Except as limited by federal law, the Trustees have the authority to increase, decrease, or change benefits, eligibility rules, or other provisions of the Pension Plan as they may determine in their discretion.

Only the Board of Trustees is authorized to speak for or make commitments on behalf of the Plan. No other person or party is authorized to speak for the Plan.

The Pension Plan is maintained for the exclusive benefit of the Plan's Participants and their Beneficiaries.

19. **Benefits May Not Be Assigned.** The benefits under the Plan are your own. This means that you cannot assign or transfer them to someone else, and they are exempt from execution, attachment, garnishment, pledge, or bankruptcy (subject to state laws) and all claims for alimony. However, the Trustees will honor a Qualified Domestic Relations Order or certain judgments and settlements described in Code Section 401(a)(13)(C).
20. **Plan Participation Not a Guarantee of Employment.** Your participation in the Plan is not a guarantee of future employment.
21. **Statement of ERISA Rights.** As a Participant in the Pension Plan for the Utah Laborers' Pension Trust Fund, you are entitled to certain rights and protections under the Employee Retirement Income Security Act of 1974, as amended (ERISA). ERISA provides that all Plan Participants shall be entitled to:

Receive Information About Your Plan and Benefits

Examine, without charge, at the Plan Administrator's office and at other specified locations, such as worksites and union halls, all documents governing the Plan, including insurance contracts and collective bargaining agreements, and a copy of the latest annual report (Form 5500 Series) filed by the Plan with the U.S. Department of Labor and available at the Public Disclosure Room of the Employee Benefits Security Administration (EBSA).

Obtain, upon written request to the Plan Administrator, copies of all Plan documents governing the operation of the Plan, including insurance contracts and collective bargaining agreements, and copies of the latest annual report (Form 5500 Series) and updated summary plan description. The Plan Administrator may make a reasonable charge for the copies.

Receive a summary of the Plan's annual financial report. The Plan Administrator is required by law to furnish each participant with a copy of this summary annual report.

Obtain a statement telling you whether you have a right to receive a pension at normal retirement age and, if so, what your benefits would be at normal retirement age if you stop working under the Plan now. If you do not have a right to a pension, the statement will tell you how many more years you have to work to get a right to a pension. This statement must be requested in writing and is not required to be given more than once every twelve (12) months. The Plan must provide the statement free of charge. The Plan will provide this information to the extent it is able to do so, based on available records.

### Prudent Actions by Plan Fiduciaries

In addition to creating rights for Plan participants, ERISA imposes duties upon the people who are responsible for the operation of the employee benefit Plan. The people who operate your Plan, called “fiduciaries” of the Plan, have a duty to do so prudently and in the interest of you and other Plan participants and beneficiaries. No one, including your employer, your union, or any other person, may fire you or otherwise discriminate against you in any way to prevent you from obtaining a pension benefit or exercising your rights under ERISA.

### Enforce Your Rights

If your claim for a pension benefit is denied or ignored, in whole or in part, you have a right to know why this was done, to obtain copies of documents relating to the decision without charge, and to appeal any denial, all within certain time schedules.

Under ERISA, there are steps you can take to enforce the above rights. For instance, if you request a copy of Plan documents or the latest annual report from the Plan and do not receive them within 30 days, you may file suit in a federal court. In such a case, the court may require the Plan Administrator to provide the materials and pay up to \$110 a day until you receive the materials, unless the materials were not sent because of reasons beyond the control of the Plan Administrator.

If you have a claim for benefits that is denied or ignored, in whole or in part, you may file suit in a state or federal court. In addition, if you disagree with the Plan's decision or lack thereof concerning the qualified status of a domestic relations order or a medical child support order, you may file suit in Federal court. If it should happen that Plan fiduciaries misuse the Plan's money, or if you are discriminated against for asserting your rights, you may seek assistance from the U.S. Department of Labor, or you may file suit in a federal court. The court will decide who should pay court costs and legal fees. If you are successful the court may order the person you have sued to pay these costs and fees. If you lose, the court may order you to pay these costs and fees, for example, if it finds your claim frivolous.

### Assistance with Your Questions

If you have any questions about your Plan, you should contact the Plan Administrator. If you have any questions about this statement or about your rights under ERISA, you should contact the nearest office of the Employee Benefits Security Administration (EBSA), U.S. Department of Labor, listed in your telephone directory or the Division of Technical Assistance and Inquiries, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue N.W., Washington, D.C. 20210.

You may also obtain certain publications about your rights and responsibilities under ERISA by calling the publications hotline of the Employee Benefits Security Administration. For single copies of publications, contact the EBSA Brochure Request Line at 866-444-3272 or contact the EBSA field office nearest you. You may also find answers to your Plan questions at the EBSA website at [www.dol.gov/ebsa/](http://www.dol.gov/ebsa/).

**FIFTH RESTATEMENT OF THE RULES AND REGULATIONS  
OF THE  
PENSION PLAN FOR THE  
UTAH LABORERS PENSION TRUST FUND**

This document sets forth the Fifth Restatement of the Plan, effective January 1, 2011, together with subsequent Amendments 1 through 3 thereto, which were effective on various dates and are incorporated herein. Pensions or benefits which commenced prior to January 1, 2011 are to be determined under the prior Pension Plan.

**ARTICLE I. DEFINITIONS**

Unless the context or subject matter otherwise requires, the following definitions shall govern in the Plan:

Section 1. The term “Active Participant” means an Employee who meets the requirements for participation in this Pension Plan or the Annuity Plan and excludes a Pensioner, Beneficiary or Vested Participant.

Section 2. The term “Annuity Plan” means the Annuity Plan of the Utah Laborers Pension Trust Fund.

Section 3.     Annuity Starting Date.

- (a) Subject to subsection (b), below, a Participant’s Annuity Starting Date is the first day of the first calendar month starting after the Participant has fulfilled all of the conditions for entitlement to benefits and after the later of the Participant’s submission of a completed application for benefits, or 30 days after the Plan advises the Participant of the available benefit payment options, unless
- (1) the benefit is being paid as a Husband-and-Wife Pension at or after the Participant’s Normal Retirement Age,
  - (2) the benefit is being paid out automatically as a lump sum under Article VIII, Section 7, or
  - (3) the Participant and Spouse (if any) consent in writing to the commencement of payments before the end of that 30-day period. Consent of the Participant and Spouse to the commencement of benefits before the end of the 30-day minimum notice period will be valid as long as the following conditions are satisfied:
    - (A) the Participant is informed of the right to take up to 30 days to consider whether to waive the Husband-and-Wife Pension and consent to one of the alternate forms of benefit allowed by the Plan,
    - (B) the Participant is given at least seven days to change his/her mind and cancel an election to waive the Husband-and-Wife Pension, and
    - (C) distribution of the benefits begins more than seven days after the written explanation was provided to the Participant and Spouse.
- (b) The Annuity Starting Date will not be later than the Participant’s Required Beginning Date as defined in Article VIII.

- (c) The Annuity Starting Date for a Beneficiary or alternate Payee will be determined under subsections (a) and (b), except that references to the Husband-and-Wife Pension and spousal consent do not apply.

Section 4. Applicable Interest Rate.

- (a) For Annuity Starting Dates in Plan Years beginning on or after January 1, 2008, the Applicable Interest Rate means the adjusted first, second, and third segment rates applied under rules similar to the rules of Code §430(h)(2)(C) for the month of November (as published in December) immediately preceding the calendar year (which serves as the stability period). For this purpose, the segment rates shall be subject to the conditions set forth in Code §417(e)(3)(D).
- (b) For Annuity Starting Dates on or after January 1, 2008 and before January 1, 2009, any benefit that is calculated using the Applicable Interest Rate and the Applicable Mortality Table shall be the greater of the amount calculated using (i) the Applicable Interest Rate as defined in Section 4(a) of this Article and the Applicable Mortality Table as defined in Section 5 of this Article, (ii) the Applicable Interest Rate and the Applicable Mortality Table as defined prior to January 1, 2008, or (iii) the 7% interest rate and mortality basis specified for lump sums in Article VIII, Section 7, if those factors would provide a greater benefit.

Section 5. Applicable Mortality Table.

- (a) For Annuity Starting Dates in Plan Years beginning on or after January 1, 2008, the Applicable Mortality Table means a mortality table, based on the mortality table specified for the calendar year under subparagraph (A) of Code §430(h)(3) (without regard to subparagraph (C) or (D) of such section). Until revised by guidance published by the Secretary of Treasury, the Applicable Mortality Table is set forth in Rev. Rul. 2007-67.
- (b) For Annuity Starting Dates on or after January 1, 2008 and before January 1, 2009, any benefit that is calculated using the Applicable Interest Rate and the Applicable Mortality Table shall be the greater of the amount calculated using (i) the Applicable Interest Rate as defined in Section 4 and the Applicable Mortality Table as defined in Section 5(a), (ii) the Applicable Interest Rate and the Applicable Mortality Table as defined prior to January 1, 2008, or (iii) the 7% interest rate and mortality basis specified for lump sums in Article VIII, Section 7 if those factors would provide a greater benefit.

Section 6. The term “Beneficiary” means a person (other than a Pensioner) who is:

- (a) Entitled to receive benefits under this Plan because of his or her designation for such benefits by an Active Participant, by a Vested Participant or a Pensioner; or
- (b) Entitled to and receiving benefits or is entitled to receive benefits by operation of law.

Section 7. The term “Co-Annuitant” shall mean the person or persons designated by a Participant who prior to January 1, 1984 elected a Joint-and-Survivor Option.

Section 8. Compensation. For all purposes under the Plan, compensation means remuneration as defined in Treasury Regulation § 1.415(c)-2(d)(2). Compensation shall also be subject to the following rules:

- (a) Compensation must be paid within the Limitation Year, and paid or treated as paid before Severance from Employment in accordance with the general timing rule of Treasury Regulation § 1.415(c)-2(e)(1).

- (b) Compensation must include amounts paid by the later of 2½ months after Severance from Employment or the end of the Limitation Year that includes the Severance from Employment date in accordance with Treasury Regulation §1.415(c)-2(e)(3)(i). Such post-severance compensation includes regular pay as defined in §1.415(c)-2(e)(3)(ii), but not other post-severance payments as defined in §1.415(c)-2(e)(3)(iii).
- (c) The annual compensation of each Participant taken into account in determining allocations for any Plan Year beginning after December 31, 2001, shall not exceed \$200,000, as adjusted for cost-of-living increases in accordance with IRC §401(a)(17)(B). Annual compensation for this purpose means compensation during the Plan Year or such other consecutive 12-month period over which compensation otherwise is determined under the Plan (the determination period). The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year.
- (d) Compensation Limit for Prior Determination Periods. In determining benefit accruals in Plan Years beginning after December 31, 2001, the annual compensation limit for determination periods beginning before January 1, 2002, shall be \$200,000.
- (e) Effective for years beginning after December 31, 2008, Compensation shall include military differential wage payments (as defined in section 3401(h) of the Code).

Section 9. “Continuous Non-Covered Employment” means employment for a Contributing Employer on and after July 1, 1976, in a job classification not covered by this Pension Plan which is continuous with a Participant’s Covered Employment with the same Contributing Employer. A period of Non-Covered Employment will be considered to be continuous with Covered Employment only if there is no quit, discharge, or other termination of employment between the periods of Covered and Non-Covered Employment.

Section 10. The term “Covered Employment” means employment or work covered by a Written Agreement. The term “Covered Employment” shall also mean work performed by an employee of the Union on whose behalf contributions are owed to the Trust Fund pursuant to regulations adopted by the Board of Trustees.

Section 11. The term “Employee” means:

- (a) An individual in the employment of an Employer who is a party or hereafter becomes a party to a Written Agreement and performs one or more hours of Work covered by such Written Agreement.
- (b) An employee, officer or business representative of the Union, if previously an employee within the meaning of subparagraph (a) of this Section, and if contributions are made to the Fund on substantially the same basis upon which subparagraph (a) employees participate in the Fund. Contributions must be made to the Trust Fund for and on behalf of all such Employees pursuant to regulations adopted by the Board of Trustees unless the Union is making contributions for any such Employees into another trust pursuant to a collective bargaining agreement. Participation of employees described in this subparagraph shall be limited to no more than five percent (5%) of the total number of employees participating in the Fund, and shall be subject to the execution of appropriate participation agreements.
- (c) The term “Employee” shall not include any self-employed person, whether a sole proprietor or partner of a business organization which is a Contributing Employer or any other person excluded as an Employee pursuant to the provisions of the Trust Agreement.

Section 12. The term “Employer” or “Contributing Employer” includes and shall mean any employer, whether an individual, a partnership or a corporation who is required by a Written Agreement to make contributions to the Trust Fund. The term “Employer” may also include the Union for the sole purpose of

making contributions to the Trust Fund pursuant to regulations adopted by the Board of Trustees. An employer shall not be deemed an Employer simply because he is part of a controlled group of corporations or of a trade or business under common control of which some part is a Contributing Employer.

Section 13. The term “ERISA” means the Employee Retirement Income Security Act of 1974, as amended.

Section 14. The term “Future Service Credit” means periods of employment on and after January 1, 1967, credited in accordance with Article VI of this Plan.

Section 15. The term “Hour of Service” shall mean:

- (a) Each hour for which an Employee is paid or entitled to payment, directly or indirectly, by an Employer for the performance of duties. Such hours shall be credited to the computation period in which the duties are performed.
- (b) Each hour for which an Employee is paid or entitled to payment, directly or indirectly, by an Employer for a period of time during which no duties are performed, excluding any time compensated under a worker’s compensation or unemployment compensation or disability insurance law. Such hours shall be credited to the computation period in which the period during which no duties are performed occurs. No more than 501 Hours of Service shall be credited under this Subsection (b) in any continuous period. Two periods of paid nonworking time shall be deemed to be continuous if they are compensated for the same reason and are not separated by at least 90 days.
- (c) Each hour for which back-pay, irrespective of mitigation of damages, is either awarded or agreed to by an Employer. Such hours shall be credited to the computation period to which the award or agreement pertains. In no event will hours be credited under this Subsection (c) if they are credited under Subsection (a) or Subsection (b).

Section 16. The term “Non-Bargained Employee” includes and shall mean an Employee, as defined in Article I, Section 11, whose participation is not covered by a Written Agreement.

Section 17. Effective January 1, 1988, the term Normal Retirement Age shall mean the later of:

- (a) age 65 or
- (b) the earlier of:
  - (1) the 5th anniversary of the time a Participant commenced participation in the Plan, disregarding participation before January 1, 1988, or
  - (2) the 10th anniversary of the time a Participant commenced participation in the Plan.
  - (3) Participation before a Permanent Break in Covered Employment shall be disregarded in applying this subsection.

Section 18. The term “Participant” means:

- (a) An Active Participant,
- (b) A Pensioner,
- (c) A Beneficiary, or

(d) A Vested Participant

Section 19. The term “Past Service Credit” means periods of employment prior to January 1, 1967, to the extent credited in accordance with Article VI of this Plan.

Section 20. The terms “Plan Year” or “Calendar Year” mean the period from January 1 to the next December 31. For purposes of ERISA and ERISA regulations, the Calendar Year or Plan Year shall serve as the vesting computation period and benefit accrual computation period and after the initial period of employment or of re-employment following a Break in Covered Employment, the computation period for eligibility to participate in the Plan.

Section 21. The term “Pensioner” means a person to whom a pension under this Plan is being paid or to whom a pension would be paid but for time for administrative processing.

Section 22. The term “Pension Credit” means the years of service which are accumulated and maintained for Employees in accordance with Article VI of this Plan.

Section 23. The terms “Pension Plan” or “Plan” mean this Pension Plan and any modification, amendment, extension or renewal thereof.

Section 24. “Spouse” means the person to whom the Participant is married which said marriage is recognized as valid under the laws of the State of Utah.

Section 25. The term “Trust Agreement” means the Restated Agreement and Declaration of Trust dated August 5, 1992 and any modification, amendment, extension or renewal thereof.

Section 26. The terms “Trust Fund” or “Pension Fund” or “Fund” mean the Utah Laborers Pension Trust Fund created and established by the Trust Agreement.

Section 27. The term “Trustee” means any person designated as Trustee pursuant to the Trust Agreement.

Section 28. The terms “Trustees” or “Board of Trustees” or “Board” mean the Board of Trustees established by the Trust Agreement.

Section 29. The terms “Union” or “Unions” mean the Laborers’ Local Union No. 295 affiliated with the Laborers’ International Union of North America and with the AFL-CIO, having jurisdiction over the Work in the State of Utah and any other labor organization permitted by the Trustees to become a party to the Trust Fund and Pension Plan.

Section 30. The term “Vested Participant” means an Employee who has earned 10 years of Vesting Service, 10 years of Pension Credit or attained Normal Retirement Age. A Non-Bargained Employee shall be a Vested Employee if he meets one of the requirements of the preceding sentence or after having earned 5 years of Vesting Service including one Hour of Service in the Annuity Plan after December 31, 1988.

Section 31. The term “Vesting Service” means the years of service after January 1, 1967 credited in accordance with Article VI, Section 4 of this Plan and is used to determine if a Participant has earned a Vested Service Pension or whether a Participant has incurred a Break in Covered Employment in accordance with Section 5 of Article VI of this Plan.

Section 32. The term “Written Agreement” includes and shall mean:



- (a) Any written agreement by and between the Union, the Employer and/or the Association which specifically provides for the making of contributions to the Trust Fund.
- (b) Any written agreement by and between an Employer, whether an individual, a partnership, a corporation, or an association of individual Employers and the Union which specifically provides for the making of contributions to the Trust Fund.
- (b) Any written agreement between other labor organizations and any employer or employer associations who may be permitted by the Trustees to participate in the Trust Fund and which agreement specifically provides for the making of contributions at an appropriate rate to the Trust Fund herein established and for the adoption of all terms and provisions of the Agreement and Declaration of Trust and this Pension Plan formulated by the Trustees.
- (d) Any extension, modification or renewal of any of the Agreements described in the preceding subsections (a), (b) and (c) which specifically provides for the making of contributions to this Trust Fund.

Section 33. “Year of Participation” means a Calendar Year after December 31, 1975 during which a Participant performs 2,000 hours of work in Covered Employment.

## ARTICLE II. PARTICIPATION

Section 1. Purpose. This Article contains definitions to meet certain requirements of the Employee Retirement Income Security Act of 1974 (otherwise referred to as ERISA).

Section 2. Participation. The initial eligibility computation period for purposes of this Article II only is the 12 consecutive-month period following an Employee's initial date of employment in Covered Employment.

For purposes of this Article II only, an Employee who works in Covered Employment shall become an Active Participant in the Plan on the earliest January 1 or July 1 next following a 12 consecutive-month period during which he worked at least 1,000 Hours of Service in Covered Employment. The required hours may also be completed with any Hours of Service in other employment with an Employer if that other employment is continuous with the Employee's Covered Employment with that Employer. After the initial eligibility computation period, the Calendar Year which includes the first anniversary of an Employee's employment commencement date, shall serve as the computation period for eligibility to participate in the Plan.

Hours of Service in the Annuity Plan shall be counted in determining participation herein, except that an individual who first becomes employed by a Contributing Employer on or after July 1, 1985 shall not be eligible for participation in this Pension Plan.

Section 3. Termination of Participation. For purposes of this Article II only, an Active Participant who incurs a One Year Break in Covered Employment (defined in Article VI) shall cease to be an Active Participant as of the last day of the Calendar Year which constituted the Break, unless such individual has become a Pensioner or a Vested Participant.

Section 4. Reinstatement of Participation. For purposes of this Article II only, an individual who has lost his status as an Active Participant in accordance with Section 3 of this Article and who incurs at least five consecutive One Year Breaks in Covered Employment and the number of such consecutive One Year Breaks equals or exceeds the number of years of Vesting Service which he had previously accumulated shall again become an Active Participant by meeting the requirements of Section 2 of this Article on the basis of Service after the Calendar Year during which his participation terminated.

### ARTICLE III. PENSION ELIGIBILITY AMOUNTS

Section 1. General. This Article sets forth the eligibility conditions and amounts for the pensions provided by this Plan. The accumulation and retention of Pension Credits for eligibility are subject to the provisions of Article VI. The benefit amounts are subject to reduction on account of the Husband-and-Wife Pension (Article IV). Entitlement of an eligible Participant to receive pension benefits is subject to his retirement and application for benefits, as provided in Article VIII.

Eligibility depends on Pension Credits which are defined in Article VI and take into account creditable employment both before and after January 1, 1967, except that eligibility for Vested Pensions depends on Years of Vesting Service which are also defined in Article VI. Accumulation of Pension Credits are subject to the Break in Covered Employment rule which is defined in Article VI. Only Pension Credits or Vesting Service earned subsequent to a Permanent Break in Covered Employment, if any, will apply towards the eligibility for a pension hereunder.

Section 2. Eligibility for Regular Pension. A Participant shall be entitled to receive a Regular Pension if he meets all the following requirements:

- (a) He has attained age 65.
- (b) He has at least 10 years of Pension Credits without a Permanent Break in Covered Employment.
- (c) He has worked at least 600 hours in Covered Employment since January 1, 1967.

Section 3. Amount of Regular Pension. Subject to the provisions of Section 15, Article III, the monthly amount of the Regular Pension shall be the sum of the following:

- (a) \$17.41 for each year of Past Service Credit; plus
- (b) \$26.90 for each year of Future Service Credit.

The monthly amount shall be rounded to the next higher multiple of \$.50 if it is not already a multiple of \$.50.

Section 4. Eligibility for Early Retirement Pension. A Participant shall be entitled to receive an Early Retirement Pension if he meets all the following requirements:

- (a) He has attained age 55.
- (b) He has at least 10 years of Pension Credit without a Permanent Break in Covered Employment.
- (c) He has worked at least 600 hours in Covered Employment since January 1, 1967.

Section 5. Amount of Early Retirement Pension. Subject to the provisions of Section 15, Article III, the monthly amount of the Early Retirement Pension shall be equal to the amount of the Regular Pension to which the individual would be entitled if he were 65 years of age on the effective date of his Early Retirement Pension, reduced by  $\frac{1}{4}$  of 1% for each month that the individual is younger than 65 but not younger than 60 and  $\frac{1}{2}$  of 1% for each month that the individual is younger than 60.

If the amount so determined is not a multiple of 50¢, it shall be rounded to the next higher multiple of 50¢.

Section 6. Eligibility for a Disability Pension. A Participant shall be entitled to a Disability Pension if he is permanently and totally disabled prior to attaining age 65, provided:

- (a) He has at least 10 years of Pension Credit without a permanent Break in Covered Employment; and
- (b) He has worked at least 600 hours in Covered Employment since January 1, 1967; and
- (c) He has, as a result of work in Covered Employment, earned at least two quarters of Future Service Credit or 600 Hours of Service with the Annuity Plan in the two consecutive Calendar Year period prior to the Calendar Year in which he became disabled.

Section 7. Permanent and Total Disability Defined. A Participant shall be deemed permanently and totally disabled within the meaning of this Section only if the Board of Trustees in its sole and absolute discretion finds that:

- (a) On the basis of such medical evidence as the Board of Trustees may require to be shown, the Participant is totally and permanently unable, as a result of bodily injury or disease, to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or to be of long, continued and indefinite duration; and
- (b) Such bodily injury or disease is not due to such Participant's commission of or attempt to commit a felony or the engagement in any felonious activity or occupation or the self-infliction of any injury or as a result of habitual drunkenness or the use of narcotics unless the same were administered pursuant to the orders of a licensed physician. The application of the provision of this Subsection may be waived by the Board of Trustees upon good cause satisfactory to the Board being established.

Section 8. Proof of Disability. In order to prove he is totally and permanently disabled, a Participant must either furnish to the Administrative Office a photocopy of the notice he receives from the Social Security Administration that he is entitled to a Social Security disability award (if a Social Security award is granted, the notice must include the effective date of the Social Security disability payments), or the Participant must furnish to the Administrative Office a Disability Certification form completed by his doctor describing his disability and his doctor's opinion as to whether the Participant is totally and permanently disabled. The Participant may obtain a Disability Certification form at the time he requests an application for a Disability Pension.

The Participant may also be required to have an independent medical examination performed by a doctor selected by the Trustees.

On receipt of the Disability Certification form, together with any other medical evidence the Participant desires the Trustees to review, the Trustees, following review of the medical information received, shall then in their sole and absolute discretion make a determination as to whether or not the Participant is totally and permanently disabled and entitled to a Disability Pension.

Notwithstanding the prior granting of a Disability Pension under this Pension Plan, the Trustees may at any time, or from time to time, require medical evidence of continued entitlement to a Disability Pension.

Section 9. Amount of the Monthly Disability Pension. Subject to the provisions of Section 15, Article III, the monthly Disability Pension shall be equal to the amount of the Regular Pension the individual would receive if he were age 65 at the time he became permanently and totally disabled.

Section 10. Disability Pension Payments.

- (a) Payments Generally. Payment of the Disability Pension shall commence on the Participant's Annuity Starting Date and shall continue thereafter for so long as such disability continues, except that upon

attainment of age 65, a Disability Pensioner shall have his pension continued regardless of whether or not he remains permanently and totally disabled.

- (b) Auxiliary Disability Benefit. If the Annuity Starting Date for a Participant's Disability Pension is later than the effective date of his Social Security disability payments and he has met the filing requirements of this subsection (b), he will be entitled to an Auxiliary Disability Benefit.

If the Participant's application for Disability Pension (including proof of disability) is received by the Administrative Office within 60 days of the mailing date on the determination by the Social Security Administration of his entitlement to a Social Security Disability award, such application shall be considered timely, and payment of the Auxiliary Disability Benefit shall commence on the effective date of his Social Security Disability award. If the Participant's application for Disability Pension is filed more than 60 days following the determination by the Social Security Administration of his entitlement to a Social Security Disability award, no Auxiliary Disability Benefit shall be payable. The Auxiliary Disability Benefit is not payable if the Participant does not receive a Social Security Disability award.

The Auxiliary Disability Benefit is an amount, payable as a lump sum, equal to the benefit which would have been payable under the Participant's Disability Pension (in the payment form chosen for that pension) between the entitlement date of his Social Security Disability award and the Annuity Starting Date of the Disability Pension.

Notwithstanding the foregoing, effective for Annuity Starting Dates occurring on and after January 1, 2001, an application for a disability benefit or conversion of an Early Retirement Pension to a Disability Pension may be filed at any time following the date of the determination by the Social Security Administration. Payment of the Auxiliary Disability Benefit shall commence as of the effective date of the Social Security Disability award but no more than 12 months prior to the Annuity Starting Date.

- (c) Conversion of an Early Retirement Pension to a Disability Pension. Effective January 1, 1994, if a Pensioner receiving an Early Retirement Pension was totally disabled on the date of his application for an Early Retirement Pension, he shall be entitled, should he so elect, to convert his Early Retirement Pension to a Disability Pension provided he is eligible for a Disability Pension in accordance with Sections 6 and 7 of this Article III. Effective October 1, 1999, he shall also be entitled to have the option, at the time of the conversion, to re-elect whether the form of payment shall be a single life annuity with a 36 month certain period of a Husband and Wife Pension. This election shall be made within 90 days from the date of written notification by the administrator of the monthly benefit payable under each option.

Should an Early Retiree qualify for a Disability Pension, the effective date of his disability benefits shall be determined in accordance with (a) and (b) above. The amount of the Disability Pension or Auxiliary Disability Benefit payable under the Early Retirement Pension shall be reduced by the amount of such Early Retirement Pension.

Section 11. Recovery by a Disability Pensioner. If a Disability Pensioner should lose entitlement to a Social Security Disability Pension or recover from his disability, such fact shall be reported by him in writing to the Board of Trustees within 21 days after the date he recovers or receives notice thereof from the Social Security Administration. If such written notice is not provided by the Pensioner, he shall upon his subsequent retirement, not be eligible for benefits for a period of six months following the date of his retirement, plus the number of months in which he received a Disability Pension under this Plan after he recovered or received notice of termination of the Social Security Disability Pension. In no event will such six-month period extend beyond Normal Retirement Age.

Section 12. Eligibility for Vested Service Pension. Beginning January 1, 1976, a Participant shall be entitled to receive a Vested Service Pension if:

- (a) He has attained age 65 and has at least 10 years of Vesting Service Credit without a Permanent Break in Covered Employment; or
- (b) He has attained Normal Retirement Age as defined in Article I, Section 17.
- (c) After December 31, 1998 he is an Active Participant and has at least 5 years of Vesting Service without a Permanent Break in Covered Employment and 1 Hour of Service on or after January 1, 1999.

Exception: A Non-Bargained Employee shall have the right to a Vested Pension upon attainment of age 65, provided he has accumulated 5 years of Vesting Service including at least one Hour of Service in the Annuity Plan after December 31, 1988.

Section 13. Amount of Vested Service Pension. Subject to the provisions of Section 15, Article III, the monthly amount of the Vested Service Pension shall be equal to the amount of the Regular Pension.

Section 14. Pro Rata Pension.

- (a) Purpose. Pro Rata Pensions shall be provided under this Plan for Participants who otherwise lack sufficient Service Credit to be eligible for any pension because their years of employment were divided between different pension plans or, if eligible, whose pensions would be less than the full amount because of such division of employment.
- (b) Recognized Service Credits. Service Credits accumulated and maintained by a Participant under one of the Plans which has executed the Laborer's National Reciprocal Agreement to which this Plan is a party shall be recognized by this Plan and by the other signatory plans. Service Credits under each plan shall be based on the rules in effect in that plan at the time employment occurred or under any more liberal rule which is adopted later.
- (c) Total Service Credit. The Service Credit granted under each of the signatory plans together comprise the Participant's Total Service Credit. In no case will more than one year of Service Credit be counted for any Calendar Year.

If the Participant has in a Calendar Year worked under both plans and accumulated fractional years of Service Credit which together add up to more than one year of credit for that Calendar Year, then the Recognized Service Credit shall be limited to one year. Service Credit will first be counted under the plan which provides the higher benefit level. The other plan shall count as Service Credit the necessary fractional year which will bring the total to exactly one year of Service Credit for the Participant.

- (d) Eligibility for Benefits. A Participant shall be eligible for a Pro Rata Pension under each of the signatory plans if he satisfies all of the following requirements:
  - (1) He would be eligible for any type of pension under each plan if his total Service Credit were treated as service under each plan.
  - (2) He has under each of the signatory plans at least one year of service for which benefits have actually accrued under ERISA.

- (3) In the case of a Participant applying for a pension based on disability, he is able to meet the definition of disability in each of the signatory plans.
- (4) In the case of a Participant applying for a pension based on age, he meets the minimum age requirement in each of the signatory plans.
- (e) Election of Pension. If a Participant is eligible for more than one type of pension or optional form of benefit under the signatory plans, he shall be entitled to elect the type and form of pension he is to receive from each plan.
- (f) Pro Rata Pension Amount. The amount of the Pro Rata Pension payable by each signatory plan under which a Participant qualifies for a pension shall be the benefit amount he accrued under that plan during the period he earned Service Credit under that plan.
- (g) Payment of Pro Rata Pensions. The payment of a Pro Rata Pension by a signatory plan shall be subject to all the conditions contained in that plan's rules relating to the payment of pensions. The suspension of a Participant-Pensioner's benefits by one signatory plan due to the Participant-Pensioner's return to employment shall not entitle any other signatory plan to suspend the benefits being paid to that Participant-Pensioner pursuant to this Agreement unless such suspension by any other plan is permitted under applicable law.
- (h) Other Benefits. The obligation of each of the signatory plans is limited to pension benefits, including survivors pensions payable as a result of election of a Husband-and-Wife Pension or guaranteed period payments. Other benefits provided by the plan such as lump-sum death benefits, etc., are not covered. However, nothing shall prohibit this Plan from providing such benefits in accordance with its own rules and regulations.
- (i) Benefit Increases. If a Participant leaves the jurisdiction of this Plan and the benefit level in this Plan is later increased, nothing shall require this Plan to calculate benefits at the higher level. Benefits shall, however, be computed at no less than the benefit level in effect at the time the Participant last earned Service Credit under this Plan.
- (j) Application Procedure. The plan under which a Participant first makes application for benefits shall initiate the processing of a Pro Rata Pension with the other signatory plan. Each plan has agreed to provide the other plan with complete data, certified by an authorized Administrator or plan employee in order to process Pro Rata Pensions promptly.
- (k) Breaks in Service. In applying the rules of each signatory plan with respect to cancellation of Service Credit, any Service Credit earned for a period during which the Participant worked in the jurisdiction of another signatory plan shall be considered in determining whether the Participant has incurred a permanent break in service. Once a Participant has left the coverage of all the signatory plans, the determination as to whether he has incurred a permanent break in service under each signatory plan shall be made by each such plan based upon the total Service Credit earned by the Participant under all signatory plans by which he has been covered.
- (l) Effective Date. This Section shall be effective February 8, 1977 and shall be enforced for pension applications processed on and after February 8, 1977. Applications previously denied by either of the signatory plans shall only be reconsidered upon the approval of both plans.

Section 15. Separation from Covered Employment.

- (a) Separation from Covered Employment before January 1, 1976. Before January 1, 1976, a Participant will be deemed to have had a Separation from Covered Employment if he incurred a Break in Covered Employment as set forth in Article VI, Section 5( a).
- (b) Separation from Covered Employment after January 1, 1976. After January 1, 1976, a Participant will be deemed to have a Separation from Covered Employment if he incurs two consecutive One-Year Breaks in Service as defined in Article VI, Section 5(b).
- (c) Effect of a Separation from Covered Employment. If a Participant has a Separation from Covered Employment, it has the effect of freezing the benefit value applicable to Pension Credits earned prior to the Separation from Covered Employment at the level in effect at the end of the period which constitutes the Separation from Covered Employment.

Section 16. Ad hoc Retiree Increases.

- (a) Generally. From time to time, based on the growth and development of the Fund, the Trustees may, in their sole discretion, direct the Administrative Office to distribute supplemental pension benefits to qualifying Pensioners, Beneficiaries, and alternate payees under a QDRO.
- (b) March 1, 2007. At the Trustees' direction, Pensioners in pay status as of December 31, 2006 received a supplemental benefit in March 2007 in the same amount as each Pensioner's March 2007 monthly pension benefit. The class of eligible recipients was defined as follows. All Pensioners with an Annuity Starting Date prior to December 31, 2006, were eligible. If a QDRO was in effect, this benefit was apportioned between the Pensioner and the alternate payee in accordance with the terms under which retirement benefits were assigned by the QDRO. Surviving spouses receiving benefits under the Plan's qualified pre-retirement survivor annuity, or under the Plan's qualified joint and survivor annuity, or under one of the Plan's optional joint and survivor annuity forms of payment, were eligible provided the Annuity Starting Date was prior to December 31, 2006.



#### ARTICLE IV. HUSBAND-AND-WIFE PENSION

Section 1. Effective Date. The provisions of this Article apply only to pensions where entitlement to benefit payment commenced on or after January 1, 1976.

Section 2. Amount of Husband-and-Wife Pension. The monthly amount to be paid to the eligible surviving Spouse is one-half of the monthly amount received by the Pensioner at the time of his death or, if applicable, one-half of the amount that would have been paid to the Active Participant or Vested Participant under this Article, had his pension been effective on the day before he died as if the Husband-and-Wife Pension had been in effect on such date.

The monthly amount of the Husband-and-Wife Pension, once it has become payable, shall not be increased if the Spouse is subsequently divorced from the Pensioner or if the Spouse predeceases the Pensioner.

Section 3. Upon Retirement.

- (a) A pension shall be paid in the form of a Husband-and-Wife Pension to a married Participant and his Spouse unless the Participant and his Spouse have filed with the Trustees in writing a timely rejection of that form of Pension, subject to all the conditions of this Article.
- (b) Subject to Section 7 of this Article, a Participant and his Spouse may reject the Husband-and-Wife Pension (or revoke a previous rejection) at any time during the period not more than 90 days prior to the Participant's Annuity Starting Date or less than 30 days after he is provided a detailed explanation of the amount payable under the normal form of payment and a financial comparison of the other payment options; however, in any event, the Participant and his Spouse shall have at least 90 days after he has been advised by the Trustees of the effect of such choice on his pension.

Section 4. Death of an Eligible Participant Before Retirement. If a married Vested Participant dies before his Annuity Starting Date after earning one or more Hours of Service after August 22, 1984, his surviving Spouse shall be entitled to a Husband-and-Wife Pension as follows:

- (a) Subject to paragraph (b) below, the surviving legal Spouse of a Participant who dies before the Participant's Annuity Starting Date may apply for and receive the pre-retirement surviving spouse benefit to which he or she is entitled at any time after the death of the Participant, provided the Participant was at least age 55 on his date of death. If the Participant was younger than age 55, payments may begin on or after the date the Participant would have been age 55, had he survived.
- (b) Payment of the pre-retirement surviving spouse benefit must begin no later than December 1 of the calendar year in which the Participant would have reached 70½ or, if later, December 1 of the calendar year following the year of the Participant's death. If the Trustees confirm the identity and whereabouts of a surviving legal Spouse who has not applied for benefits by that time, payments to that surviving legal Spouse in the form of a single life annuity (subject to the provisions of Article VIII, Section 7 on small benefit cashouts) shall begin as of that date.
- (c) If a surviving legal Spouse dies before the Annuity Starting Date of the pre-retirement surviving spouse benefit, that benefit shall be forfeited and there shall be no payments to any other party.
- (d) The monthly amount payable to the surviving legal Spouse shall be determined as follows:
  - (1) If the Participant's death occurs on or after his attainment of age 55, the surviving Spouse shall be entitled to a Husband-and-Wife Pension commencing with the first of the month following the month in which the Participant died. The amount of such Husband-and-Wife Pension shall

be calculated as if the Participant had retired on a Husband-and Wife Pension on the day before he died.

- (2) If the Participant's death occurs prior to his attainment of age 55, the surviving Spouse shall be entitled to a Husband-and-Wife Pension commencing with the first of the month following the month in which the Participant would have attained age 55 had he lived. The amount of such Husband-and-Wife Pension shall be calculated as if the Participant had left Covered Employment on the earlier of the last day he worked in Covered Employment or the date of death, then retired on a Husband-and-Wife Pension upon reaching age 55 and then died on the last day of the month in which age 55 was reached.

- (e) This Section shall also apply to an inactive Participant who has achieved vested status, had one or more Hours of Service on or after January 1, 1976 and dies after August 22, 1984.

Section 5. Disability Pension. The Husband-and-Wife Pension shall provide payment to the surviving Spouse, if any, starting on the later of the first of the month following the death of the Participant or the first of the month following the date when the Participant would have attained age 55 had he lived.

Section 6. Adjustment of Pension Amount. When a Husband-and-Wife Pension becomes effective, the amount of the Active Participant's or Vested Participant's monthly pension shall be reduced in accordance with the following:

- (a) Non-Disability Pensions. If payment of a pension, other than a Disability Pension, is to be made in the form of a Husband-and-Wife Pension, the pension amount shall be adjusted by multiplying it by the following percentage: 90% minus .4 percentage points for each year the Spouse's age is less than the Participant's age or plus .4 percentage points for each year the Spouse's age is greater than the Participant's age. In no event shall the resulting percentage be greater than 99.0%.
- (b) Disability Pensions. If payment of a Disability Pension is to be made in the form of a Husband-and-Wife Pension, the pension amount shall be adjusted by multiplying it by the following percentage: 82% minus .4 percentage points for each year the Spouse's age is less than the Participant's age or plus .4 percentage points for each year the Spouse's age is greater than the Participant's age.

If the Participant is younger than age 55 on his Annuity Starting Date, an additional .5 percentage points for each year the Participant is younger than age 55 shall be added to the percentage determined above. In no event shall the resulting percentage be greater than 99.0%.

Section 7. Additional Conditions. In order for a Husband-and-Wife Pension to be effective, the following conditions must apply:

- (a) The Participant and Spouse were lawfully married to each other on the Participant's Annuity Starting Date .
- (b) The Participant and Spouse were lawfully married to each other for a year or more before he died, if he died before a pension was payable to him.
- (c) The Trustees shall be entitled to rely on the written representation last filed by the Participant concerning his marital status, which, if false, gives the Trustees the discretionary right to recoup any excess benefits which may have been erroneously paid.
- (d) An election or revocation of a Husband-and-Wife Pension must be:

- (1) Made (or revoked) prior to the expiration of the period described in Section 3(b) of this Article; and
- (2) Made on forms furnished by the Administrative Office, which forms shall be completed and shall bear the notarized signatures of both the Participant and his Spouse; and
- (3) Filed with the Administrative Office.

Any written election, rejection or revocation (including any change of a previous choice) made under Article IV, shall not take effect unless (A) the spouse of the Participant consents in writing to such election, (B) such election designates a beneficiary (or a form of benefits) which may not be changed without spousal consent (or the consent of the spouse expressly permits designations by the Participant without any requirement of further consent by the spouse), and (C) the spouse's consent acknowledges the effect of such election and is witnessed by a plan representative or a notary public. Notwithstanding the preceding sentence, no spousal consent shall be required if it is established to the satisfaction of the Trustees that spousal consent may not be obtained because there is no spouse, because the spouse cannot be located, or because of such other circumstances as the Internal Revenue Service may by regulations prescribe.

- (e) A Husband-and-Wife Pension, once payable, may not be revoked or the Pensioner's benefits increased, by reason of the subsequent divorce of the Spouse from the Pensioner or the Spouse predeceasing the Pensioner.
- (f) The rights of a prior Spouse or other family member to any share of a Participant's pension, as set forth under a qualified domestic relations order, shall take precedence over any claims of the Participant's Spouse at the time of retirement or death.

#### Section 8. Husband-and-Wife Pension with Pop-Up.

Effective for Husband-and-Wife Pensions with an Annuity Starting Date on or after July 1, 2000, the monthly amount of a Husband-and-Wife Pension, once it has become payable, shall, if the spouse predeceases the Pensioner, be increased to the amount that would have been payable to such Pensioner if his pension had been paid in the form of a single life annuity with a 36-month certain period. Such increased pension shall be effective with the month following the month in which the spouse's death occurs, provided the Pensioner files with the Administrative Office a certified copy of the spouse's Death Certificate within twelve (12) months of the date of the spouse's death. If the Death Certificate is filed with the Administrative Office more than twelve (12) months following the spouse's date of death, the increased pension shall be effective with the month following the month in which the Death Certificate is received by the Administrative Office.

## ARTICLE V. DEATH BENEFIT

### Section 1. Eligibility for and Amount of Death Benefit.

#### (a) Death Before Retirement.

- (1) In the event a Participant dies at a time when he has, as a result of work in Covered Employment, earned at least two quarters of Future Service Credit or 600 Hours of Service in the Annuity Plan in the two-consecutive Calendar Year period prior to the Calendar Year in which he died and before a pension is payable to him, the total amount of contributions credited to his account, up to a maximum of \$3,000 shall be paid in a lump sum to his designated Beneficiary or the person or persons selected in accordance with Section 3 of this Article unless the provisions of paragraph (2) below apply.
- (2) If an Active or Vested Participant who has fulfilled the service requirements for a Regular Pension, Early Retirement Pension or Vested Pension dies prior to his Annuity Starting Date, his designated Beneficiary or the person or persons selected in accordance with Section 3 of this Article shall, upon application, be entitled to 36 monthly payments in an amount equal to the monthly pension which the deceased Participant would have received had he retired at age 65 based on his years of Pension Credit at the time of his death. The monthly payments described herein shall begin with the first month following the death of the Active or Vested Participant. This benefit shall be payable instead of, and not in addition to, the benefit described in paragraph (1) above except that if the benefit provided in paragraph (1) above is greater than the 36 monthly payments under this paragraph (2) the benefits under paragraph (1) shall be payable.

Benefits provided by this Section 1 shall not be payable if payments are due under the Husband-and-Wife Pension unless the surviving Spouse elects within 90 days after being given written notice from the Board of Trustees to receive the benefits payable under this Section 1 instead of the Husband-and-Wife Pension. If the surviving Spouse elects to receive the benefits provided by this Section 1 instead of the Husband-and-Wife Pension and if the actuarial present value of the Husband-and-Wife Pension is greater than the amount of the lump-sum payment under paragraph (1) above or the 36 monthly payments under paragraph (2) above, whichever is applicable, then the actuarial present value of the Husband-and-Wife Pension shall be payable to the surviving Spouse as follows:

If benefits are payable under paragraph (1), then the amount of the lump-sum benefit shall be increased so that the total amount of the lump-sum payment is equal to the actuarial present value of the Husband-and-Wife Pension. If benefits are payable under paragraph (2), then the monthly amount of the 36 payments shall be increased so that the total amount of the 36 monthly payments is equal to the actuarial present value of the Husband-and-Wife Pension.

The actuarial present value of the survivor annuity payable under the Husband-and-Wife Pension shall be determined on the basis of the 1971 Group Annuity Mortality Table for males set back seven (7) years. The interest assumption shall be equal to 7% per annum. However, in no event shall the actuarial present value be less than that determined using the Applicable Mortality Table and the Applicable Interest Rate.

(b) Death After Retirement.

- (1) If a Pensioner dies before receiving a total of 36 monthly pension payments from the Plan, his monthly pension payments shall be continued until a total of 36 such payments have been made to such Pensioner and his designated Beneficiary or the person or persons selected in accordance with Section 3 of this Article and shall thereupon cease.

In the event a Participant's Death Before Retirement benefit, as provided in Subsection (a), exceeds in dollar value the 36 months of payment under this Subsection (b), the monthly pension payment will continue until the payments to the Pensioner and his Beneficiary equal the amount of the Death Before Retirement benefit.

Benefits provided by this Subsection (b) will not be payable if payments are due under the Husband-and-Wife Pension or the Joint-and-Survivor Option.

- (2) Upon the death of a Pensioner on or after January 1, 1986, a Death Benefit of \$1,500 will be paid in a lump sum to his designated Beneficiary or to the person or persons selected in accordance with Section 3 of this Article. This benefit is in addition to the payments, if any, provided by Section (1) of this Subsection (b), the Husband-and-Wife Pension or the Joint-and-Survivor Option.

Section 2. Designation of Beneficiary. When a Husband-and-Wife Pension or Joint-and-Survivor Option is not in effect, a Participant may designate a Beneficiary to receive any benefits provided under this Article by filing such designation at the Trust Office on a form prescribed by the Board of Trustees.

A Participant who is unmarried shall have the right to change his designation of Beneficiary without the consent of the Beneficiary but such change shall not be effective or binding on the Board unless it is received by the Board prior to the time any payment is made to the Beneficiary whose designation is on file at the Trust Office.

Effective January 1, 2011, unless otherwise required by a "qualified domestic relations order", as that term is defined in ERISA, the Participant's designation of a spouse as beneficiary hereunder shall be revoked by the annulment or dissolution of the Participant's marriage to that spouse. A Participant may redesignate such former spouse as beneficiary subsequent to the annulment or dissolution.

Section 3. Failure to Designate Beneficiary or Death of Beneficiary. If no Beneficiary is designated by a Participant who is not subject to the Husband-and-Wife Pension or Joint-and-Survivor Option, or if a designated Beneficiary predeceases the Participant or survives him but dies prior to receipt of any benefits under this Article, the benefits provided under this Article shall be paid to the Spouse, if any, or if there is no surviving Spouse, such payments may be made to any other person who is an object of natural bounty of the Participant or Pensioner or to his estate as the Board of Trustees, in its sole discretion, may designate. Any such payment shall to the extent thereof, be a complete discharge of all liability under the Plan with respect thereto.

Section 4. Benefit Limitations. Notwithstanding any other provision of the Plan, all benefits shall comply with the following:

- (a) If the distribution of the Participant's entire interest is not made in a lump sum, the distribution will be made:
- (1) over the life of the Participant; or

- (2) over the lives of the Participant and designated beneficiary; or
- (3) over a period certain not extending beyond the life expectancy of the Participant or the life expectancy of the Participant and a designated beneficiary.

Section 5. Survivor Benefits Following Death During Qualified Military Service. If a Participant dies on or after January 1, 2007 while performing qualified military service (as defined in Code §414(u)(5)), the deceased Participant's beneficiaries shall be entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) that would have been provided under the Plan if such Participant had resumed Covered Employment and then terminated Covered Employment on account of death. In addition, the period of such Participant's qualified military service shall be treated as vesting service under the Plan.

ARTICLE VI. PENSION CREDIT AND YEARS OF VESTING SERVICE

Section 1. Years of Pension Credit for Periods Prior to January 1, 1967 (Past Service Credit).

- (a) Prior to January 1, 1967, a Participant shall be entitled to receive one year of Past Service Credit or portion thereof for each Calendar Year he worked in one or more classifications included in the Collective Bargaining Agreements in the geographical territory to which the Collective Bargaining Agreements are applicable or was employed by the Union in a position included under the Plan pursuant to regulations adopted by the Board of Trustees. A Participant shall be entitled to receive one year of Past Service Credit for each Calendar Year in which he was so employed for 1,200 or more hours. If a Participant was so employed for less than 1,200 hours, he shall receive 1/12 of a credit for each 100 hours of such employment. A Participant shall be granted Past Service Credit up to a maximum of 25 years.
  
- (b) It is recognized that for the periods prior to January 1, 1967, it may be difficult to establish the Past Service of a Participant in the type of work referred to in (a) above. In making the necessary determinations as to the Past Service Credit, the Board of Trustees may, in its absolute discretion, consider and rely upon such relevant and material evidence, including without limitation, any or all of the following:
  - (1) A statement from the Administrator of the Utah Laborers' Health and Welfare Trust Fund certifying to the receipt of Employer reports with respect to hours worked by the Participant and stating the number of hours reported for the period covered by the statement.
  - (2) A statement from an Employer certifying that the Participant performed work for such Employer entitling him to Past Service Credit during such period if such Employer was known or reputed to be operating in the construction industry in the geographical territory to which the Collective Bargaining Agreements are applicable during such period.
  - (3) A statement from the International Union or the secretary or other authorized officer of the Local Union certifying that the Participant was a member in good standing in such Union during such period or was employed by such Union during such period in a position included under the Plan pursuant to action taken by the Board.
  - (4) A W-2 Form or check stub furnished for work performed during the period for any Employer known or reputed to have been operating in the construction industry in the geographical territory to which the Collective Bargaining Agreements are applicable during such period.
  - (5) A statement from the Social Security Administration to the effect that according to its records, the Participant was employed during the period by a named Employer, which Employer was known or reputed to be operating in the construction industry in the geographical territory to which the Collective Bargaining Agreements are applicable during such period.

Section 2. Credit for Periods on and after January 1, 1967 (Future Service Credit).

- (a) Between January 1, 1967 and January 1, 1973, Future Service Credit for work in Covered Employment will be granted an Active Participant according to the following schedule:

<u>Hours Worked in a Plan Year</u>	<u>Future Service Credit</u>
Less than 300	None
300 to 599	1/4 Year
600 to 899	2/4 Year
900 to 1199	3/4 Year
1200 and Over	One Year

Between January 1, 1973 and January 1, 1978, an Employee receives Future Service Credit based on his hours of work in Covered Employment in accordance with the following schedule:

<u>Hours Worked in a Plan Year</u>	<u>Future Service Credit</u>
Less than 300	None
300 to 599	1/4 Year
600 to 899	2/4 Year
900 to 1199	3/4 Year
1200 to 1499	One Year
1500 and Over	1-1/4 Year

- (b) Between January 1, 1978, and July 1, 1985, Future Service Credit for Work in Covered Employment is granted an Active Participant according to the following schedule:

<u>Hours Worked in a Plan Year</u>	<u>Future Service Credit</u>
Less than 300	None
300 to 599	1/4 Year
600 to 899	1/2 Year
900 to 999	3/4 Year
1000 to 1099	10/12 Year
1100 to 1199	11/12 Year
1200 to 1299	One Year
1300 to 1399	1-1/12 Year
1400 to 1499	1-2/12 Year
1500 to 1599	1-3/12 Year
1600 to 1699	1-4/12 Year
1700 to 1799	1-5/12 Year
1800 and Over	1-6/12 Year

- (c) If an Active Participant earns a Year of Vesting Service in a Plan Year between January 1, 1976, and July 1, 1985, and has less than 300 hours of work in Covered Employment, he shall, for the purpose of computing his pension amount only, be credited with a prorated portion of a full Pension Credit in the ratio which his hours of work bear to 2,000.



Section 3. Credit for Non-Working Periods on and after January 1, 1967. This Section recognizes certain periods when a Participant is not performing work in Covered Employment but shall receive Pension Credit as if he were working in Covered Employment. Periods of absence from Covered Employment will be credited as if they were worked in Covered Employment at the rate of 40 hours per week for the purpose of granting additional Pension Credit in a Plan Year, if needed, to increase the Participants Pension Credit up to a full year of Pension Credit. Credit for non-working periods is granted for the following circumstances:

- (a) Service in any of the Armed Forces of the United States in time of war or national emergency or pursuant to a national conscription law, provided the Participant makes himself available for Covered Employment within 90 days after release from active duty or 90 days after recovery from a disability continuing after his release from active duty but excluding periods of voluntary re-enlistment not affected during a national emergency or time of war.

In order to secure credit for periods of service in any of the Armed Forces of the United States, the Participant must give written notice to the Board of his availability for Covered Employment and must furnish in writing such information and proof concerning such service as the Board may, in its sole discretion, determine. Unless the Board finds that there were extenuating circumstances which prevented a timely filing, the Participant must file the written notice and proof required by this Section within 90 days after release from active duty or 90 days after recovery from a disability continuing after his release from active duty.

- (b) Disability for the period for which Workers' Compensation disability benefits were paid or which constituted a valid waiting period for such benefits but in any event not to exceed 26 weeks for any one such period of disability.

In order to secure credit for the period of disability as provided in this Subsection, a Participant must give written notice of a disability to the Board and must furnish in writing such information and proof concerning such disability as the Board may, in its sole discretion, determine. Unless the Board finds that there were extenuating circumstances which prevented a timely filing, the Participant shall not be granted any credit for periods of disability which occurred more than one year prior to his filing the written notice required by this Subsection.

Section 4. Years of Vesting Service.

(a) General Rules

- (1) Between January 1, 1967 and December 31, 1984. An Active Participant shall be credited with a Year of Vesting Service for each Plan Year between January 1, 1967 and December 31, 1984 (including periods before he became an Active Participant) in which he completes at least 1,000 Hours of Service in Covered Employment in this Plan.
- (2) Between January 1, 1985 and December 31, 1985. An Active Participant shall be credited with one quarter of a year of Vesting Service for each 250 Hours of Service in Covered Employment up to a maximum of 1,000 Hours of Service in Covered Employment in this Plan and the Annuity Plan combined.
- (3) On and After January 1, 1986. An Active Participant shall be credited with one quarter of a year of Vesting Service for each 250 Hours of Service in Covered Employment up to a maximum of 1,000 Hours of Service in Covered Employment in the Annuity Plan.
- (b) Credit for Non-Working Periods on and after January 1, 1967. This Subsection recognizes certain periods when a Participant is not performing work in Covered Employment but shall receive Vesting

Service as if he were working in Covered Employment. Periods of absence from Covered Employment will be credited as if they were worked in Covered Employment at the rate of 40 hours per week if they were due to the following circumstances:

- (1) Service in any of the Armed Forces of the United States in time of war or national emergency or pursuant to a national conscription law provided the Participant makes himself available for Covered Employment within 90 days after release from active duty or 90 days after recovery from a disability continuing after his release from active duty but excluding periods of voluntary re-enlistment not affected during a national emergency or time of war.

In order to secure credit for periods of service in any of the Armed Forces of the United States, the Participant must give written notice to the Board of his availability for Covered Employment and must furnish in writing such information and proof concerning such service as the Board may, in its sole discretion, determine. Unless the Board finds that there were extenuating circumstances which prevented a timely filing, the Participant must file the written notice and proof required by this Section within 90 days after release from active duty or 90 days after recovery from a disability continuing after his release from active duty.

- (2) Disability for the period for which Workers' Compensation Disability benefits were paid or which constituted a valid waiting period for such benefits but in any event not to exceed 26 weeks for any one such period of disability.

In order to secure credit for the period of disability as provided in this subsection, a Participant must give written notice of such disability to the Board and must furnish in writing such information and proof concerning such disability as the Board may, in its sole discretion, determine. Unless the Board finds that there were extenuating circumstances which prevented a timely filing, the Participant shall not be granted any such credit for more than one year prior to his filing the written notice required by this subsection.

(c) Credit for Continuous Non-Covered Employment

- (1) Between January 1, 1976 and July 1, 1985. If a Participant is employed by a Contributing Employer in a job classification not covered by this Plan and such employment is continuous with his Covered Employment with that Contributing Employer, his Hours of Service in such continuous non-Covered Employment shall be counted toward a year of Vesting Service.
- (2) On and After July 1, 1985. If a Participant works for a Contributing Employer in the Annuity Plan in a job classification not covered by the Annuity Plan and such employment is continuous with his employment with that Contributing Employer in employment covered by the Annuity Plan, his Hours of Service in such continuous non-Covered Employment shall be counted toward a year of Vesting Service.

(d) Exceptions. No Participant shall be entitled to credit toward a year of Vesting Service for the following periods:

- (1) Years preceding a break in Covered Employment in accordance with the rules of the Pension Plan as in effect prior to January 1, 1976.
- (2) Years preceding a break in Covered Employment as defined in Section 5 of this Article.

Section 5. Breaks in Covered Employment and Cancellation of Pension Credit and Vesting Service. If a person has a Permanent Break in Covered Employment before he has become a Vested Participant, it has the effect of canceling his participation, his previous years of Credited Service and his Pension Credits.

- (a) Permanent Break in Covered Employment Before January 1, 1976. Between January 1, 1967 and January 1, 1976, a Participant shall have incurred a Permanent Break in Service and his previously accumulated Pension Credit and accrued benefits cancelled if he failed to work at least 300 hours in Covered Employment in two consecutive Calendar Years.

A Participant may be allowed grace periods under the following circumstances if he failed to work at least 300 hours in Covered Employment in any period of two consecutive Calendar Years prior to January 1, 1976:

(1) Exception on Account of Disability or Involuntary Unemployment.

- (A) A Participant shall be allowed a grace period of up to three consecutive years if his failure to earn Future Service Credit is due to disability or involuntary unemployment.
- (B) Disability and involuntary unemployment for the purposes of this Section are to be determined to the satisfaction of the Board of Trustees. In order to secure the benefits of this grace period, a Participant must give written notice to the Board and must present such written evidence and submit to such examination or examinations as the Board may, in its sole discretion, determine. A Participant shall not be granted any such grace period for periods which commence more than one year prior to his filing the written notice required by this Section, unless the Board finds that there were extenuating circumstances which prevented a timely filing.

(2) Exception on Account of Service in the Armed Forces.

- (A) A Participant whose failure to earn Future Service Credit is due to service in the Armed Forces of the United States shall be allowed a grace period for the period that he retains re-employment rights under federal law, provided he makes himself available for Covered Employment within 90 days after recovery from a disability continuing after his release from active duty.
- (B) In order to secure a grace period for service in the Armed Forces of the United States, the Participant must give written notice to the Board of his availability for Covered Employment and must furnish in writing such information and proof concerning such service as the Board may, in its sole discretion, determine. The Participant must file the written notice and proof required by this Section within 90 days after release from active duty or 90 days after recovery from a disability continuing after his release from active duty, unless the Board finds that there were extenuating circumstances which prevented a timely filing.

(3) Exception on Account of Employment in a Supervisory Capacity with a Contributing Employer.

- (A) A Participant shall be allowed a grace period for the duration of his employment in a supervisory capacity with a Contributing Employer.
- (B) Employment in a supervisory capacity with a Contributing Employer shall be determined to the satisfaction of the Board of Trustees. In order to be granted this

grace period, a Participant must give written notice to the Board of Trustees and must present such written evidence as the Board may, in its sole discretion, determine.

Written notice must be filed within a period of one year following the date a Participant is first employed in a supervisory capacity by a Contributing Employer, unless the Board finds that there were extenuating circumstances which prevented a timely filing.

The grace periods referred to in these subsections are not intended to add to the Pension Credit of the Participant. Rather, they are periods which are to be disregarded in determining whether there has been a period of two consecutive Calendar Years during which the Participant has failed to earn any Pension Credit whatsoever.

The Board of Trustees may from time to time grant “grace periods” for conditions other than those described in this Section and suspend the operation of the break in employment rule if they deem such a suspension to be necessary or desirable. Any granting of additional grace periods or suspension in break rule, however, is to be applied in a nondiscriminatory manner to all Participants.

(b) One-Year Break in Covered Employment on and after January 1, 1976.

(1) General Rules

(A) Between January 1, 1976 and December 31, 1984. An Active Participant has a One-Year Break in Covered Employment in any Calendar Year between January 1, 1976 and December 31, 1984 in which he fails to complete at least 300 Hours of Service in this Plan.

(B) Between January 1, 1985 and December 31, 1985. An Active Participant has a One-Year Break in Covered Employment in Calendar Year 1985 if he fails to complete at least 300 Hours of Service in this Plan and the Annuity Plan combined.

(C) On and After January 1, 1986. An Active Participant has a One-Year Break in Covered Employment in any Calendar Year after January 1, 1986 in which fails to complete at least 300 Hours of Service in the Annuity Plan.

(2) Non-Covered Employment. Employment with a Contributing Employer in Continuous non-Covered employment, if creditable under Section 4(c) of this Article, shall be counted in determining whether a One-Year Break in Covered Employment has been incurred.

(3) Parental Leave. For Calendar Years on or after January 1, 1987, Hours of Service for purposes of this Section 5(a) only, shall include hours during which the Participant was absent from Covered Employment on account of parental leave up to a maximum of 300 hours in the Calendar Year of such absence. If the Participant already has 300 or more Hours of Service in the Calendar Year of the absence, the credit will be given for the immediately following Calendar Year. For purposes of this paragraph (3), a Participant shall be deemed to be on parental leave if the Participant is absent from Covered Employment by reason of the pregnancy of the Participant, by reason of the birth of a child of the Participant, by reason of the placement of a child in connection with the adoption of a child by the Participant or for the purposes of caring for the child of the Participant during the period immediately following the birth or placement for adoption, including time involved for a trial period prior to adoption. Written notice satisfactory to the Trustees must be filed within a period of two years following

the Calendar Year of a Participant's absence due to parental leave in order to receive credit for such leave, unless the Board of Trustees finds that there were extenuating circumstances which prevented a timely filing.

- (4) Curing a One-Year Break in Covered Employment. A One-Year Break in Covered Employment shall be cured and its effects eliminated if, before he incurs a Permanent Break in Covered Employment, the Participant subsequently earns a Year of Vesting Service (1,000 Hours of Service in a Calendar Year).
- (c) Permanent Break in Covered Employment on and after January 1, 1976.
- (1) Between January 1, 1976 and January 1, 1987. An Active Participant has a Permanent Break in Covered Employment between January 1, 1976 and January 1, 1987 if he has at least two consecutive One-Year Breaks in Covered Employment and the number of such consecutive One-Year Breaks equals or exceeds the number of years of Vesting Service which he had previously accumulated.
  - (2) On or after January 1, 1987. An Active Participant has a Permanent Break in Covered Employment on or after January 1, 1987 if he has at least five consecutive One-Year Breaks in Covered Employment and the number of such consecutive One-Year Breaks equals or exceeds the number of years of Vesting Service which he had previously accumulated.
- (d) Effect of a Permanent Break in Covered Employment. If an Active Participant is not a Vested Participant and has a Permanent Break in Covered Employment, his Pension Credit and Vesting Service and his status as an Active Participant are cancelled.

Renewal participation of an individual who experiences a Permanent Break in Covered Employment is subject to the provisions of Article II.

EXCEPTION: Anything in the foregoing subsections notwithstanding, a Participant who has accumulated ten or more years of Past Service Credit shall have until January 1, 1973, to meet the vesting requirements.

## ARTICLE VII. OPTIONAL FORM OF PENSION

Section 1. Joint-and-Survivor Option. Effective January 1, 1984, the Joint-and-Survivor Option is no longer available, except that elections made on or before December 31, 1983, shall be valid, and payment under such elections shall be made in the form of the Joint-and-Survivor Option and in accordance with the Joint-and-Survivor Option Pension Plan rules then in effect.

Section 2. Optional 75% Husband-and-Wife Pension. Notwithstanding Section 1 of this Article, a married Participant whose Annuity Starting Date is on or after January 1, 2009 may elect, with spousal consent, to receive the Optional 75% Husband-and-Wife Pension instead of the Husband-and-Wife Pension provided by Article IV.

- (a) The monthly amount to be paid to the eligible surviving Spouse is 75% of the monthly amount received by the Pensioner at the time of his death.
- (b) The monthly amount of the Optional 75% Husband-and-Wife Pension provides a Pop-Up to the Pensioner if the Spouse predeceases the Pensioner. If the Spouse predeceases the Pensioner, the monthly amount payable to the Pensioner will be increased so as to equal the monthly pension which would have been payable had the Pensioner's benefit been paid in the form of a single-life annuity with 36 months guaranteed. Such increased monthly amount shall be payable for the lifetime of the Pensioner, and shall cease upon the Pensioner's death.
- (c) When an Optional 75% Husband-and-Wife Pension becomes effective, the amount of the Participant's Pension otherwise payable will be reduced in accordance with the following:
  - (i) Non-Disability Pensions. The Pension amount otherwise payable shall be adjusted by multiplying it by the following percentage: 83 percent minus .5 percentage points for each year the spouse's age is less than the Participant's age or plus .5 percentage points for each year the spouse's age is greater than the Participant's age; provided, however, that in no event shall the resulting percentage be greater than 99.0 percent.
  - (ii) Disability Pensions. The Pension amount otherwise payable shall be adjusted by multiplying it by the following percentage: 68.0 percent minus .5 percentage points for each year the spouse's age is less than the Participant's age or plus .5 percentage points for each year the spouse's age is greater than the Participant's age; provided, however, that in no event shall the resulting percentage be greater than 99.0 percent.

ARTICLE VIII. APPLICATION, BENEFIT PAYMENTS AND RETIREMENT

Section 1. Application.

- (a) A pension must be applied for on an application form prescribed by the Board of Trustees. The application form must be completed, signed and returned to the Administrative Office. If the form is not substantially complete, or if required documentation has not been furnished, the claimant will be notified as soon as reasonably possible what is necessary to complete the claim. Except as provided in Section 5 of this Article, a pension shall be effective the first month after the month in which the application was filed. An application for a death benefit shall be made as soon as possible on the Death Benefit application form prescribed by the Board of Trustees.

Claimants may pursue benefit claims through authorized representatives. An adult participant or beneficiary may speak on his or her own behalf. A parent (natural or adoptive) may speak on behalf of a child – beneficiary.

- (b) Initial Benefit Determination (Other Than Claims for Disability). Approval or denial of the claim (other than a claim for distribution due to a Disability that requires a determination of Disability under Article III, Section 7) will normally be made within ninety (90) days after the claim has been received by the Plan. If additional time is required in special cases, the claimant will be notified in writing of the special circumstances requiring an extension of time and of the date by which the Plan expects to render the final decision, which will be not more than ninety (90) days from the end of the initial time period. Written notice of the extension shall be furnished to the claimant prior to the commencement of the extension. If additional information is required, the claimant will be notified and requested to furnish the necessary data within the 180-day time period specified by this provision.
- (c) Initial Benefit Determination on a Claim for Distribution Due to Disability. Approval or denial of a claim for distribution due to Disability that requires a determination of Disability under Section 7 of Article III, will normally be made within 45 days after the claim has been received by the Plan. If additional time is required due to matters beyond the control of the Plan, this period may be extended for up to 30 days (to a total of 75 days). The claimant will be notified prior to the expiration of the initial 45-day period of the circumstances requiring the extension of time and the date by which the Plan expects to render a decision.

If an additional extension of time is required due to matters beyond the control of the Plan, this period may be extended for an additional 30 days (to a total of 105 days). The claimant will be notified prior to the expiration of the first 30-day extension period of the circumstances requiring the extension of time and the date by which the Plan expects to render a decision.

If an extension of time is due to the claimant's failure to submit the information necessary to make a determination of Disability under Article III, Section 7, the claimant will be afforded at least 45 days within which to provide the specified information. The period for making the benefit determination will be tolled from the date on which the notification of the extension is sent to the claimant until the date on which the claimant responds to the request for additional information.

If an extension is necessary to make a determination of Disability under Article III, Section 7, the notification of the extension will specifically provide:

- (1) An explanation of the standards on which entitlement to a benefit is based;
- (2) The unresolved issues that prevent a decision on the claim; and

- (3) The additional information needed to resolve the issues.
- (d) Failure to Make Determination Within Time Limits. If a claim is not acted upon by the Trustees within the time limits provided by this Section, the claimant may proceed to the appeal procedures.
- (e) Notice of Denial. If the claim is wholly or partially denied, written notice will be mailed to the claimant citing the specific reason or reasons for the denial; specific reference to the pertinent Plan provisions on which the denial is based; a description of the additional material or information necessary for the claimant to perfect his claim; an explanation of why such material or information is necessary; an explanation of the Plan's review procedure; and a statement of the claimant's right to sue under Section 502(a) of ERISA after exhaustion of the review procedures.

Section 2. Information and Proof. Every Participant shall furnish at the request of the Trustees any information or proof reasonably required to determine his benefit rights. If a person willfully makes a false statement material to an application or furnishes fraudulent information or proof or fails to provide the notifications required, benefits under this Plan may be denied, suspended or discontinued. The Trustees shall have the right to recover (by recoupment, offset or other lawful means) any benefit payments made in reliance on any false or fraudulent statement, information or proof submitted by a Participant or Pensioner prior to the receipt of the required modifications.

Section 3. Action of Trustees. The Trustees shall, when exercising discretionary powers, exercise such powers in a uniform and nondiscriminatory manner and be the sole judges of the standard of proof required in any case and the application and interpretation of this Plan and decisions of the Trustees shall be final and binding on all parties, subject to the right of a Participant or Beneficiary to pursue such remedies provided under the IRC, if any, and the right to file a civil action under Section 502(c) of ERISA.

Section 4. Right of Appeal. Each Participant or Beneficiary whose claim for benefits under the Plan has been denied shall be provided adequate notice in writing setting forth the specific reasons for such denial, written in a manner calculated to be understood by the Participant/Beneficiary. A Participant/Beneficiary aggrieved by such decision may request review. The Trustees shall establish and make available to Participants and Beneficiaries rules and procedures for the review of denied claims. Such rules and procedures shall comply with ERISA and regulations promulgated thereunder.

The request for reconsideration shall be in writing and may be informal but in any event shall contain the following information:

- (a) The Participants name and Social Security number or if the request is by a Beneficiary, the name and Social Security number of the Participant through whom the Beneficiary claims as well as the name and Social Security number of the Beneficiary.
- (b) The Participants or Beneficiary's address.
- (c) The nature of the benefit claimed.
- (d) If the claimed benefit depends on the Beneficiary's relationship to the Participant, attach proof of such relationship.
- (e) A concise statement of the reasons wherein the Participant or Beneficiary believes the decision is in error, together with any documents or other written evidence which the Participant or Beneficiary wishes to be considered.



- (f) If desired by the Participant or Beneficiary, a request for a hearing.

Claims may not be split and filed under several requests. If the Participant or Beneficiary has an issue, the full basis for such issue, together with all the relief requested, shall be set forth in the request. A Participant or Beneficiary may not file separate requests for benefits each month the benefits are alleged to be in arrears. This section applies to and includes any and every claim to benefits from the Plan regardless of the basis asserted for the claim and regardless of when the act or omission upon which the claim is based occurred.

A failure to file timely a request for review shall not preclude the Participant or Beneficiary from establishing entitlement at a later date based on additional information and evidence which was not available at the time the decision was made; provided, however, a subsequent request is not a means to reconsider and re-argue matters already reviewed, and such subsequent request may be dismissed without action if the Trustees conclude that it sets forth no newly discovered information or evidence.

#### Section 5. Benefit Payments Generally.

- (a) Commencement of Benefits. A Participant who is eligible to receive benefits under this Plan and makes application in accordance with the rules of this Pension Plan shall be entitled upon retirement to receive the monthly benefits provided for the remainder of his life, subject to the provisions of this Plan. Benefit payments shall be payable commencing with the first day of the month following the month in which the Participant has fulfilled all the conditions of entitlement to benefits, including the filing of an application.

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

- (1) The Active Participant or Vested Participant attains Normal Retirement Age; or
- (2) The Participant terminates his Covered Employment and retires, as that term is defined in Section 8 of this Article;

provided that no such election filed on or after January 1, 1990 may postpone the commencement of benefits to a date later than the Participant's Required Beginning Date.

- (b) Required Beginning Date. A Participant's Required Beginning Date is April 1 of the Calendar Year following the year the Participant reaches 70½, provided that, for a Participant who reaches 70½ before 1988 other than a 5% owner, the Required Beginning Date is April 1 of the Calendar Year in which the Participant ceases work in Covered Employment if that is later.

- (c) Delayed Retirement. If the Annuity Starting Date is after the Participant's Normal Retirement Age, the monthly benefit shall, subject to the provisions of Article III, Section 15, be the greater of:

- (1) the total years of Pension Credit accrued at his Annuity Starting Date multiplied by the applicable amount in Section 3 of Article III; or
- (2) the accrued benefit at Normal Retirement Age actuarially increased for each complete calendar month between Normal Retirement Age and the Annuity Starting Date for which benefits were not suspended;

converted as of the Annuity Starting Date to the benefit payment form elected in the pension application or to the automatic form of Husband-and-Wife Pension if no other form is elected.

The actuarial increase described in paragraph (2) shall be 1% per month for the first 60 months after Normal Retirement Age and 1.5% per month for each month thereafter.

(d) Payment of Benefits Accrued After Retirement.

- (1) In the event the Plan is amended to grant Pension Credit, any additional benefits earned by a Pensioner in Covered Employment after Retirement will be determined at the end of each Plan Year and will be payable as of January 1 following the end of the Plan Year in which it accrued, provided payment of benefits at that time is not suspended pursuant to Section 8 of this Article.
  - (2) In the case of a Participant who retired at or after Normal Retirement Age who is reemployed and earns additional benefits, the original Annuity Starting Date and the benefit payment elections made at that time will apply when benefit payments begin again at a later date.
  - (3) A Participant who retired at any age and had benefit payments suspended on account of work in covered or covered-type employment, the original Annuity Starting Date and the benefit payment election made at that time will apply to benefits accrued prior to the original Annuity Starting Date when benefit payments begin again at a later date.
  - (4) In the case of a Participant who retired before Normal Retirement Age who is reemployed and earns additional benefits, a new Annuity Starting Date will be established for payment of those new benefit accruals (but only for additional benefits due solely to the Participant's renewed employment after early retirement) when the Participant again retires. The benefits earned during that period of reemployment will be paid as a Husband-and-Wife Pension, if applicable as of the new Annuity Starting Date, or, if that is properly rejected, any other payment form available to the Participant under the Plan.
- (e) If the present value of an Employee's vested accrued benefit derived from Employer and Employee contributions exceeds \$5,000, and the accrued benefit is immediately distributable, the Employee and the Employee's spouse (or where either the Participant or the spouse has died, the survivor) must consent to any distribution of such accrued benefit.
- (f) Termination of Benefits. Pension payments shall end with the payment for the month in which the death of the Pensioner occurs except as provided in accordance with a Husband-and-Wife Pension, the Joint-and-Survivor Option or, if applicable, upon completion of the guaranteed payments provided for in Article V.

In any distribution option other than a Husband-and-Wife Pension, the present value of the payments to be made to the Participant must be more than 50% of the present value of the total payments to be made to the Participant and his Beneficiaries.

(g) Notice to Participants

Within a period of no more than 90 days and no less than 30 days before the "Annuity Starting Date" (and consistent with Treasury regulations), the Trustees shall provide the Participant and his Spouse, if any, with a written explanation of:

- (1) the terms and conditions of the Husband-and-Wife Pension and the Optional 75% Husband-and-Wife Pension;

- (2) the Participant's right to make and the effect of an election to waive the Husband-and-Wife Pension;
- (3) the right of the Participant's Spouse to consent to any election to waive the Husband-and-Wife Pension;
- (4) the right of the Participant to revoke such election during the 90-day election period that ends on the Annuity Starting Date, and the effect of such revocation;
- (5) the relative values of the various optional forms of benefit under the Plan; and
- (6) the right to defer any distribution and the consequences of failing to defer distribution of benefits including a description of how much larger benefits will be if the commencement of distributions is deferred.

Section 6. Duplication of Pensions. A Pensioner shall not be entitled to the payment under this Plan of more than one type of pension at any one time.

Section 7. Lump-Sum Payment in Lieu of Monthly Pensions. If at the time a monthly pension is payable to a Participant, the actuarial value of his lifetime pension is \$5,000 or less, the Trustees shall pay him the lump-sum amount of such actuarial value instead of the monthly pension otherwise due him.

The amount of the lump-sum payment under this Section shall be determined on the basis of the 1971 Group Annuity Mortality Table for males for Employees and the 1971 Group Annuity Mortality Table for males set back seven (7) years for Beneficiaries. The interest assumption shall be equal to 7% per annum. However, in no event shall the actuarial present value be less than that determined using the Applicable Mortality Table and the Applicable Interest Rate.

Exception: Notwithstanding the foregoing, if a Pensioner has started to receive payments in the form of the Husband-and-Wife Pension, the surviving Spouse shall receive monthly payments after the Pensioner's death unless the surviving Spouse consents, in writing, in a form prescribed by the Trustees, to a lump-sum payment.

When a lump sum has been paid by the Fund, the Fund shall have no liability for the payment of any additional benefit to the Participant or his Beneficiary with respect to the Pension Credit for which the lump sum was made.

#### Section 8. Retirement

- (a) Before Normal Retirement Age. To be considered retired and entitled to a pension under this Plan before he has attained Normal Retirement Age, a Participant must withdraw completely and refrain from any employment for wages or profit in the same industry, in the same trade or craft and in the same geographic area covered by this Plan or the Annuity Plan.
- (b) After Normal Retirement Age. To be considered retired and entitled to a pension under this Plan after he has attained Normal Retirement Age, a Participant must withdraw and refrain from employment for wages or profit in excess of 40 hours in a calendar month, including hours paid but not worked, in the same industry, in the same trade or craft and in the same geographic area covered by this Plan or the Annuity Plan.
- (c) For purposes of Subsections (a) and (b) of this Section 8:

- (1) The “same industry” means any business activity of any employer, including self-employment, that includes any employment which was covered by the Plan when the Participants pension payments commenced.
  - (2) The “same trade or craft” means an occupation in which the Participant was employed at any time under the coverage of the Plan, any occupation utilizing the same skill(s) and any self-employment or supervisory employment related to the same skill(s) as were involved in such occupation(s).
  - (3) The “same geographic area” means the State of Utah and such other areas as may from time to time be within the jurisdiction of the Written Agreement.
- (d) No suspension After the Required Beginning Date. No benefits shall be suspended under this Article for months starting on and after an Employee’s Required Beginning Date, as defined in Section 5(b) of this Article.

Section 9. Suspension of Benefits

- (a) Except as provided herein, if a Pensioner who is younger than Normal Retirement Age subsequently becomes employed in work of the type described in Section 8(a) of this Article, his pension payments shall be suspended for any calendar month in which he is so employed and for six additional months after ceasing such employment but not beyond Normal Retirement Age. After that period, his pension shall again become payable subject to Section 8(b) of this Article.
- (b) If a Participant who has attained Normal Retirement Age subsequently becomes employed in work of the type and for the duration described in Section 8(b) of this Article, his pension payments shall be suspended for any calendar month in which he is so employed. After that period, his pension shall again become payable.
- (c) If a Participant becomes employed in work of the type described in Section 8(a) or (b) of this Article, he must notify the Trustees in writing within 21 days following commencement of such employment. If he fails to give such written notice within such 21-day period and he has attained Normal Retirement Age and the Trustees become aware that he may be employed in work of the type described in Section 8(b) of this Article, it will be presumed, unless and until the Pensioner provides evidence to the contrary that:
  - (1) He was employed in excess of 40 hours for that month; and
  - (2) If such employment is at a construction site, he was employed for as long as the Employer for whom he is employed has been engaged at that site.
- (d) A Participant shall provide the Trustees with such information as they may request in order to establish the nature and extent of any employment by the Participant. In addition, at least once each year, a Pensioner shall be required to certify on a form acceptable to the Trustees that he is retired within the meaning of the Plan. Any pension payments otherwise due shall be withheld pending adequate response by the Pensioner to such request.
- (e) A Participant whose pension has been suspended shall advise the Trustees in writing when disqualifying employment has ended. Benefit payments shall not resume until such notice is filed with the Trustees.

- (f) A Participant may, in writing, request of the Trustees a determination whether contemplated employment will be disqualifying and the Trustees shall provide the Participant with their determination.
- (g) Notice of Suspension. The Trustees shall inform a Participant of any suspension of benefits by notice given by personal delivery or first class mail during the first calendar month in which his benefits are withheld. Such notice shall include a description of the specific reasons for the suspension, a description and a copy of the relevant plan provisions, reference of the applicable regulations of the U.S. Department of Labor, a statement of the procedure for securing a review of the suspension and a description of the procedures with any necessary forms that must be filed before benefits can be resumed.
- (h) Review. A Participant shall be entitled to a review of a determination suspending his benefits by written request filed with the Trustees within 60 days of the notice of suspension of benefits. A petition for review shall be filed in the manner and be subject to the provisions of Section 4 of this Article VIII.

The same right of review shall apply, under the same terms, to a determination by or on behalf of the Trustees that contemplated employment will be disqualifying.

#### Section 10. Pension Payment Following Suspension.

- (a) Pension payments to a Pensioner who has terminated his disqualifying employment shall be resumed beginning no later than the third month after the last calendar month for which his benefit was suspended provided the Participant has complied with the notification requirements of this Plan.
- (b) A Pensioner who returns to Covered Employment after Normal Retirement Age shall not be entitled to a higher pension amount on his subsequent retirement.

Notwithstanding the foregoing, a Non-Bargained Employee who has earned an Hour of Service in the Annuity Plan on and after January 1, 1988 or a Pensioner who has earned an Hour of Service in the Annuity Plan on or after January 1, 1989 and who returns to Covered Employment after Normal Retirement Age shall be entitled to an increased pension amount on his subsequent retirement based upon the Pension Credit accumulated during his subsequent period(s) of work in Covered Employment.

- (c) A Pensioner who returns to Covered Employment before Normal Retirement Age shall upon his subsequent retirement be entitled to receive an adjusted pension based upon his age and Pension Credit accumulated during his subsequent period(s) of work in Covered Employment except that the pension payable upon his subsequent retirement(s) shall be reduced by the product of 1.0% and the total of any Early Retirement Pension payments he received during his previous period(s) of retirement and prior to the Normal Retirement Age except that in no event shall the monthly amount be less than the amount paid to him at the time he returned to Covered Employment.
- (d) Suspension before Normal Retirement Age in accordance with Section 9(a) of this Article because of employment of a type or of a duration for which benefits could not be suspended after Normal Retirement Age shall not have the effect of reducing the value of the Participant's pension for payment at his Normal Retirement Age and to the extent necessary to avoid such reduction, the monthly amount of the pension shall be adjusted so as not to deprive the Pensioner of the value of his benefits which became payable following his Normal Retirement Age.

- (e) If a Participant received pension payments to which he was not entitled in accordance with Section 9 of this Article, the Trustees may recover the amount of such payments by deducting the amount of the overpayments from the Participant's future monthly payments until such overpayment is fully recovered. If a Participant has attained Normal Retirement Age, the amount of such offset shall be limited to 100% of the amount due to the Participant for the first payment upon resumption of benefits and 25% of the monthly pension benefit amount thereafter, until all overpayments are fully recovered.

This provision shall not limit the right of the Trustees to recover an overpayment by means other than deduction from the pension.

- (f) A Disability Pensioner who recovers from his total disability and returns to Covered Employment shall be entitled, upon subsequent retirement, to a pension in an amount calculated at the amount payable under the applicable provision of Article III at the time of his subsequent retirement, including any additional Pension Credit earned during his period of subsequent employment.

Section 11. Nonforfeitability and Vested Status. A pension benefit to which an Active Participant or Vested Participant is entitled under this Plan upon his attainment of Normal Retirement Age is nonforfeitable, subject however, to retroactive amendment within the limitations of Section 411(a)(3)(c) of the Internal Revenue Code and Section 302(c)(8) of ERISA. The benefits to which a surviving legal Spouse is entitled shall likewise be nonforfeitable. Participants and Beneficiaries shall be entitled to any of this Plan subject to all of the applicable terms and conditions.

An Active Participant attains status as a Vested Participant when he has fulfilled service requirements for receipt after his attainment of Normal Retirement Age and retirement of a nonforfeitable pension.

The term "vested" or "vested status" does not have the same meaning as "nonforfeitable" as that term is defined in ERISA.

Section 12. Incompetence or Incapacity of a Pensioner or Beneficiary. In the event it is determined to the satisfaction of the Trustees that a Pensioner or Beneficiary is unable to care for his affairs because of mental or physical incapacity, any payment due may be suspended until a guardian or conservator is appointed for the person and estate of such Pensioner or Beneficiary and thereafter all payments, including those suspended, shall be made to the duly appointed guardian or conservator.

Section 13. Nonassignment of Benefits. No Employee or Participant entitled to any benefits under this Pension Plan shall have the right to assign, alienate, transfer, encumber, pledge, mortgage, hypothecate, anticipate or impair in any manner his legal or beneficial interest or any interest in assets of the Pension Trust or benefits of this Pension Plan. Neither the Pension Trust nor any of the assets thereof shall be liable for the debts of any Participant entitled to any benefits under this Plan nor be subject to attachment or execution or process in any court of action or proceeding.

Notwithstanding the foregoing, benefits shall be paid in accordance with the applicable requirements of any "qualified domestic relations order" as defined in Section 206(d)(3) of ERISA.

Section 14. No Right to Assets. No person other than the Trustees of the Pension Trust shall have any right, title or interest in any of the income or property of any funds received or held by or for the account of the Pension Trust and no person shall have any vested right to benefits provided by the Pension Plan except as expressly provided herein.

Section 15. Limitations on Benefits Under Section 415.

In addition to any other limitations set forth in the Plan and notwithstanding any other provisions of the Plan, effective for Limitation Years beginning on and after January 1, 2008, benefits under the Plan shall be limited in accordance with section 415 of the Code and the Treasury Regulations thereunder, in accordance with this Section. This Section 15 is intended to incorporate the requirements of section 415 of the Code by reference except as otherwise specified herein.

(a) Definitions. For purposes of this Section 15, the following terms shall have the following meanings.

(1) 415 Compensation.

“415 Compensation” has the same meaning as “Compensation” in Article I, Section 8.

(2) Limitation Year.

“Limitation Year” means the calendar year.

(3) Plan Benefit.

“Plan Benefit” means, as of any date, the amount of a Participant’s benefit as determined under the applicable provisions of the Plan before the application of the limits in Section 15.

(4) Severance From Employment.

“Severance From Employment” has occurred when a Participant is no longer an employee of any Employer maintaining the Plan.

(b) Limit on Accrued Benefits.

For Limitation Years beginning on or after January 1, 2008, in no event shall a Participant’s benefit accrued under the Plan for a Limitation Year exceed the annual dollar limit determined in accordance with section 415 of the Code and the Treasury Regulations thereunder (the “annual dollar limit”) for that Limitation year. If a Participant’s Plan Benefit for a Limitation Year beginning on or after January 1, 2008 would exceed the annual dollar limit for that Limitation Year, the accrued benefit, but not the Plan Benefit, shall be frozen or reduced so that the accrued benefit does not exceed the annual dollar limit for that Limitation Year.

(c) Limits on Benefits Distributed or Paid.

For Limitation Years beginning on or after January 1, 2008, in no event shall the annual amount of benefit distributed or otherwise payable to or with respect to a Participant under the Plan in a Limitation Year exceed the annual dollar limit for that Limitation Year. If the benefit distributable or otherwise payable in a Limitation Year would exceed the annual dollar limit for that Limitation Year, the benefit shall be reduced so that the benefit distributed or otherwise payable does not exceed the annual dollar limit for that Limitation Year.

(d) Protection of Prior Benefits.

(1) For any year before 1983, the limitations prescribed by Internal Revenue Code Section 415 as in effect before enactment of the Tax Equity and Fiscal Responsibility Act of 1982 shall

apply, and no benefit earned under this Plan shall be reduced on account of the provisions of this Section 15. if it would have satisfied those limitations under the prior law.

- (2) For any year before 1992, the limitations prescribed by Internal Revenue Code Section 415 as in effect before enactment of the Tax Reform Act of 1986 shall apply, and no benefit earned under this Plan as of the close of the last Limitation Year beginning before January 1, 1987 shall be reduced on account of the provisions of this Section 15. if it would have satisfied those limitations under the prior law.

(e) Aggregation of Plans.

- (1) In the event that the aggregate benefit accrued in any Plan Year by a Participant exceeds the limits under section 415 of the Code and the Treasury Regulations thereunder as a result of the mandatory aggregation of the benefits under this Plan with the benefits under another plan maintained by the Employer, the benefits of such other plan shall be reduced to the extent necessary to comply with section 415 of the Code and the Treasury Regulations thereunder. If necessary to observe these limits, benefits under any other defined benefit plans will be reduced before benefits under this plan, but benefits under this plan will be reduced to the extent necessary if benefit under the other plans cannot be reduced.

(f) General.

- (1) To the extent that a Participant's benefit is subject to provisions of section 415 of the Code and the Treasury Regulations thereunder that have not been set forth in the Plan, such provisions are hereby incorporated by reference into this plan and for all purposes shall be deemed a part of the Plan.
- (2) This Section 15 is intended to satisfy the requirements imposed by section 415 of the Code and the Treasury Regulations thereunder and shall be construed in a manner that will effectuate this intent. This Section 15 shall not be construed in a manner that would impose limitations that are more stringent than those required by section 415 of the Code and the Treasury Regulations thereunder.
- (3) If and to the extent that the rules set forth in this Section 15 are no longer required for qualification of the Plan under section 401(a) and related provisions of the Code and the Treasury Regulations thereunder, they shall cease to apply without the necessity of an amendment to the Plan.

(g) Interpretation or Definition of Other Terms

The terms used in this Section 15 that are not otherwise expressly defined for this Section, shall be defined as provided in the Plan, or if not defined in the Plan, shall be defined interpreted and applied for purposes of this Section 15 as prescribed in section 415 of the Code and the Treasury Regulations thereunder.



## ARTICLE IX. MISCELLANEOUS

Section 1. Nonreversion. It is expressly understood that in no event shall any of the corpus or assets of the Pension Trust revert to the Employers, Employer Trustor or the Union nor cause or result in the diversion of any portion of the Fund to any purpose other than the exclusive benefit of Employees and Participants under the Plan and the payment of the administrative expenses of the Fund and the Plan, nor be subject to any claims of any kind or nature by Employers, Employer Trustor or the Union except for the return of contributions to the extent and in the manner permitted by applicable law.

Section 2. Gender. Wherever any words are used in this Pension Plan in the masculine gender, they should be construed as though they were also used in the feminine gender in all situations where they would so apply. Wherever any words are used in this Pension Plan in the singular form, they should be construed as though they were also in the plural form in all situations where they would so apply and vice versa.

Section 3. Limitation of Liability. This Pension Plan has been adopted on the basis of an actuarial calculation which has established, to the extent possible, that the contributions will, if continued, be sufficient to maintain the Plan on a permanent basis fulfilling the funding requirements of ERISA. Except for liabilities which may result from provisions of ERISA, nothing in this Plan shall be construed to impose any obligation to contribute beyond the obligation of the Employer to make contributions as stipulated in its Collective Bargaining Agreement with the Union.

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

Section 4. New Employers. If an Employer is sold, merged or otherwise undergoes a change of company identity, the successor company shall participate as to its Employees theretofore covered in the Pension Plan just as if it were the original company, provided it remains an Employer as defined in Section 12 of Article I.

Section 5. Merger. The Trustees shall not consent to or be a party to any merger or consolidation with another plan or to a transfer of assets or liabilities to another plan unless immediately after the merger, consolidation or transfer, the surviving plan provides each Participant a benefit equal to or greater than the benefit each Participant would have received had the Plan terminated immediately before the merger or consolidation or transfer, subject to modification, depending on final regulations issued by the Pension Benefit Guaranty Corporation as they relate to multiemployer plans.

Section 6. Direct Rollovers. This Section applies to distributions made on or after January 1, 1993. Notwithstanding any provision of the Plan to the contrary that would otherwise limit a distributee's election under this Section, a distributee may elect, at the time and in the manner prescribed by the plan administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

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

- (b) Eligible Retirement Plan. An Eligible Retirement Plan is an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, an annuity plan described in Section 403(a) of the Code, or a qualified defined contribution plan described in Section 401(a) of the Code, that accepts the Distributee's Eligible Rollover Distribution. Effective for distributions made after December 31, 2001, an Eligible Retirement Plan also includes an annuity contract described in Section 403(b) of the Code and an eligible plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan. Effective for distributions made after December 31, 2007, an Eligible Retirement Plan shall also include a Roth IRA described in Code § 408A, subject to the restrictions that currently apply to rollovers from a traditional IRA into a Roth IRA.
- (c) Distributee. A Distributee includes any Participant or former Participant. In addition, the surviving spouse of a Participant or former Participant and a former spouse of a Participant or former Participant who is the alternate payee under a Qualified Domestic Relations Order, as defined in Section 414(p) of the Code, are distributees with regard to the interest of the spouse or former spouse. Effective for distributions after December 31, 2008, a Distributee also includes the Participant's nonspouse designated beneficiary under Article V, Section 2. In the case of a nonspouse beneficiary, the direct rollover may be made only to an individual retirement account or annuity described in Code § 408(a) or § 408(b) ("IRA") that is established on behalf of the designated beneficiary and that will be treated as an inherited IRA pursuant to the provisions of Code § 402(c)(11).
- (d) Direct rollover: A direct rollover is a payment by the plan to the eligible retirement plan specified by the distributee.

Section 7. Laws Applicable. This Plan is intended to comply with ERISA and with the requirements for tax qualification under the Code and all regulations thereunder, and is to be interpreted and applied consistent with that intent.

## ARTICLE X. AMENDMENT AND TERMINATION

Section 1. Amendment. This Plan may be amended at any time by the Trustees consistent with the provisions of the Trust Agreement. However, no amendment may decrease the accrued benefit of any Participant except:

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

Section 2. Termination of Participation by an Employer. If an Employer terminates its participation in the Trust with respect to a bargaining unit, the Trustees are empowered to reduce or cancel that part of any pension for which a Participant was made eligible because of employment in such bargaining unit prior to January 1, 1967 with respect to that unit. Neither shall the Trustees, the Employers who remain as Contributing Employers or the Union be obligated to make such payments.

Section 3. Termination of Plan.

- (a) Right to Terminate. The Trustees shall have the right to discontinue or terminate this Plan in whole or in part. The rights of all affected Participants to benefits accrued to the date of the termination, partial termination or discontinuance to the extent funded as of such date shall be nonforfeitable.
- (b) Procedure on Termination. In the event of a termination or partial termination of this Plan the rights of all affected Participants to benefits then accrued, to the extent then funded, shall thereupon become one hundred percent (100%) vested and nonforfeitable. Upon a termination of the Plan, the Trustees shall take such steps as they deem necessary or desirable to comply with Sections 4041A and 4281 of ERISA.

## ARTICLE XI. DISTRIBUTION OF ASSETS

Section 1. Calculation of Excess Assets. A calculation of excess assets in the Plan will be made on December 31, 1985 and on December 31 of each succeeding Calendar Year. Excess assets shall be calculated by measuring the present value of accrued benefits in this Plan against the value of the assets in this Plan. The excess assets in this Plan will be equal to the lesser of the actuarial value or the market value of assets minus 110% of the present value of accrued benefits.

Section 2. Distribution of Excess Assets. Excess assets, if any, as determined in Section 1 above, will be distributed on behalf of all Participants, including Active Participants whether or not vested, inactive Participants whether or not vested, Pensioners and Beneficiaries in the form of a benefit increase. The initial distribution of this margin, if any, will be determined by the Trustees when the cost for the increase in Past Service Credit and Future Service Credit, as well as providing a nonreduced pension at age 62 are reviewed by them. In subsequent years, the excess margin, if any, will be distributed on a pro rata basis relative to each Participant's Future Service Credit to this Plan's total Future Service Credit since the effective date of this Plan. The Trustees agree that the distribution date in years after 1986 shall be no later than June 15th of each year for which a distribution is made.

Section 3. Suspension of Distribution of Excess Assets. The Board of Trustees may, in their discretion and for good cause and only by vote of the Trustees in accordance with the Agreement and Declaration of Trust, suspend any distribution as outlined above.

## ARTICLE XII. MINIMUM DISTRIBUTION REQUIREMENTS

### Section 1. General Rules.

- (a) Effective Date. The provisions of this Article will apply for purposes of determining required minimum distributions for calendar years beginning after December 31, 2005. For purposes of determining minimum required distributions for calendar years 2003, 2004, and 2005, a good faith interpretation of the requirements of Section 401(a)(9) of the Code shall apply.
- (b) Precedence.
  - (1) The requirements of this Article will take precedence over any inconsistent provisions of the Plan.
  - (2) Except to the extent inconsistent with this Article, all distribution options provided under the Plan are preserved.
  - (3) This Article does not authorize any distribution options not otherwise provided under the Plan.
- (c) Requirements of Treasury Regulations Incorporated. All distributions required under this Article will be determined and made in accordance with the Treasury regulations under Section 401(a)(9) of the Internal Revenue Code.
- (d) TEFRA Section 242(b)(2) Elections. Notwithstanding the other provisions of this Article, distributions may be made under a designation made before January 1, 1984, in accordance with Section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act (TEFRA) and the provisions of the Plan that relate to Section 242(b)(2) of TEFRA.

### Section 2. Time and Manner of Distribution.

- (a) Required Beginning Date. The Participant's entire interest will be distributed, or begin to be distributed, to the Participant no later than the Participant's Required Beginning Date.
- (b) Death of Participant Before Distributions Begin. If the Participant dies before distributions begin, the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows:
  - (1) If the Participant's surviving Spouse is the Participant's sole Designated Beneficiary, then the surviving Spouse may elect to have distributions begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70½, if later.
  - (2) If the Participant's surviving Spouse is not the Participant's sole Designated Beneficiary, distributions to the Designated Beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.
  - (3) If there is no Designated Beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.
  - (4) If the Participant's surviving Spouse is the Participant's sole Designated Beneficiary and the surviving Spouse dies after the Participant but before distributions to the surviving Spouse

begin, this Article XII, Section 2(b), other than Article XII, Section 2(b)(1), will apply as if the surviving Spouse were the Participant.

For purposes of this Article XII, Section 2(b) and Article XII, Section 5, distributions are considered to begin on the Participant's Required Beginning Date (or, if Article XII, Section 2(b)(4) applies, the date distributions are required to begin to the surviving Spouse under Article XII, Section 2(b)(1)). If annuity payments irrevocably commence to the Participant before the Participant's Required Beginning Date (or to the Participant's surviving Spouse before the date distributions are required to begin to the surviving Spouse under Article XII, Section 2(b)(1)), the date distributions are considered to begin is the date distributions actually commence.

- (c) Form of Distribution. Unless the Participant's interest is distributed in a single sum on or before the Participant's Required Beginning Date, as of the first Distribution Calendar Year distributions will be made in accordance with Article XII, Sections 3, 4 and 5.

Section 3. Determination of Amount to be Distributed Each Year.

- (a) General Annuity Requirements. If the Participant's interest is paid in the form of annuity distributions under the Plan, payments under the annuity will satisfy the following requirements:

- (1) the annuity distributions will be paid in periodic payments made at intervals not longer than one year;
- (2) the distribution period will be over a life (or lives) or over a period certain not longer than the period described in Article XII, Sections 4 or 5;
- (3) once payments have begun over a period certain, the period certain will not be changed even if the period certain is shorter than the maximum permitted;
- (4) payments will either be nonincreasing or increase only as follows:
  - (A) by an annual percentage increase that does not exceed the annual percentage increase in a cost-of-living index that is based on prices of all items and issued by the Bureau of Labor Statistics;
  - (B) to the extent of the reduction in the amount of the Participant's payments to provide for a survivor benefit upon death, but only if the Designated Beneficiary whose life was being used to determine the distribution period described in Article XII, Section 4 dies or is no longer the Participant's Designated Beneficiary pursuant to a qualified domestic relations order within the meaning of Section 414(p) of the Internal Revenue Code;
  - (C) to provide cash refunds of Employee contributions upon the Participant's death; or
  - (D) to pay increased benefits that result from a Plan amendment.

- (b) Amount Required to be Distributed by Required Beginning Date. The amount that must be distributed on or before the Participant's Required Beginning Date (or, if the Participant dies before distributions begin, the date distributions are required to begin under Article XII, Section 2(b)(1) or (2)) is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received, e.g., bi-monthly, monthly, semi-annually, or

annually. All of the Participant's benefit accruals as of the last day of the first Distribution Calendar Year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the Participant's Required Beginning Date.

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

#### Section 4. Requirements for Annuity Distributions that Commence During Participant's Lifetime.

- (a) **Joint Life Annuities Where the Beneficiary is Not the Participant's Spouse.** If the Participant's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the Participant and non-spouse Designated Beneficiary, annuity payments to be made on or after the Participant's Required Beginning Date to the Designated Beneficiary after the Participant's death must not at any time exceed the applicable percentage of the annuity payment for such period that would have been payable to the Participant using the table set forth in Q&A-2 of Section 1.401(a)(9)-6 of the Treasury regulations as adjusted in the manner set forth in Q&A-2(c) of that regulation. If the form of distribution combines a joint and survivor annuity for the joint lives of the Participant and a non-spouse and a period certain annuity, the requirement in the preceding sentence apply to annuity payments to be made to the Designated Beneficiary after the expiration of the period certain.
- (b) **Period Certain Annuities.** Unless the Participant's Spouse is the sole Designated Beneficiary and the form of distribution is a period certain and no life annuity, the period certain for an annuity distribution commencing during the Participant's lifetime may not exceed the applicable distribution period for the Participant under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations for the calendar year that contains the Annuity Starting Date. If the Annuity Starting Date precedes the year in which the Participant reaches age 70, the applicable distribution period for the Participant is the distribution period for age 70 under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations plus the excess of 70 over the age of the Participant as of the Participant's birthday in the year that contains the Annuity Starting Date. If the Participant's Spouse is the Participant's sole Designated Beneficiary and the form of distribution is a period certain and no life annuity, the period certain may not exceed the longer of the Participant's applicable distribution period, as determined under this Article XII, Section 4(b) or the joint life and last survivor expectancy of the Participant and the Participant's Spouse as determined under the Joint and Last Survivor Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations, using the Participant's and Spouse's attained ages as of the Participant's and Spouse's birthdays in the calendar year that contains the Annuity Starting Date.

#### Section 5. Requirements For Minimum Distributions Where Participant Dies Before Date Distributions Begin.

- (a) **Participant Survived by Designated Beneficiary.** If the Participant dies before the date distribution of his or her interest begins and there is a Designated Beneficiary, the Participant's entire interest will be distributed beginning no later than the time described in Article XII, Section 2(b)(1) or (2), over the life of the Designated Beneficiary or over a period certain not exceeding:
  - (1) unless the Annuity Starting Date is before the first Distribution Calendar Year, the Life Expectancy of the Designated Beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year immediately following the calendar year of the Participant's death; or

- (2) if the Annuity Starting Date is before the first Distribution Calendar Year, the Life Expectancy of the Designated Beneficiary determined using the Beneficiary's age as of the Beneficiary's birthday in the calendar year that contains the Annuity Starting Date.
- (b) No Designated Beneficiary. If the Participant dies before the date distributions begin and there is no Designated Beneficiary as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.
- (c) Death of Surviving Spouse Before Distributions to Surviving Spouse Begin. If the Participant dies before the date distribution of his or her interest begins, the Participant's surviving Spouse is the participant's sole Designated Beneficiary, and the surviving Spouse dies before distributions to the surviving Spouse begin, this Article XII, Section 5 will apply as if the surviving Spouse were the Participant, except that the time by which distributions must begin will be determined without regard to Article XII, Section 2(b)(1).

#### Section 6. Definitions.

For purposes of this Article XII, the following definitions shall apply:

- (a) Designated Beneficiary. The individual who is designated as the beneficiary under Section 401(a)(9) of the Internal Revenue Code and Section 1.401(a)(9)-4 of the Treasury regulations.
- (b) Distribution Calendar Year. A calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Participant's Required Beginning Date. For distributions beginning after the Participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin pursuant to Article XII, Section 2(b).
- (c) Life expectancy. Life expectancy as computed by use of the Single Life Table in Section 1.401(a)(9)-9 of the Treasury regulations.
- (d) Required Beginning Date. The date specified in Article VIII, Section 5(b) of the Plan.