

**LOCAL**



**Annuity Trust Fund**

**Summary Plan Description  
and  
Rules and Regulations**

**2019 Edition**

# **LOCAL 282 ANNUITY TRUST FUND**

## **SUMMARY PLAN DESCRIPTION**

### **Local 282 Annuity Trust Fund**

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### CONSULTANTS AND ACTUARIES

The Segal Company

September, 2019

Dear Participant:

We are pleased to provide you with this booklet summarizing the provisions of the Local 282 Annuity Trust Fund Plan (hereinafter the "Plan"), restated effective as of March 1, 2019, and as again amended through April 23, 2019. The Plan is a defined contribution plan with individual accounts for each participant.

This booklet describes the main features of the Plan and is called a Summary Plan Description or "SPD." The SPD explains, among other things, how you become a participant in the Plan, the benefits available under the Plan, and the eligibility rules for receiving benefits and qualifying for Plan loans. Please read this SPD carefully and share it with your family so that they are aware of the benefits available to you under the Plan.

In translating from complex legal language to everyday English, we have done our best to explain everything correctly. However, please note that this SPD is not a substitute for the official Plan document and does not change or otherwise alter the terms of the Plan. If there are any inconsistencies or differences between this SPD and the Plan document, the Plan document will govern in all cases. We urge you to review the terms of this Summary Plan Description and the Plan document which is included in this booklet following the SPD for your convenience. Other official Plan documents, such as the Trust Agreement under which the Plan was established, and applicable collective bargaining agreements, are available for your review at the Fund Office, located at 2500 Marcus Avenue, Lake Success, New York 11042. If you have any questions relating to your benefits or this SPD or require any additional information please call the Fund Office during normal business hours. The Fund Office number is (516) 488-2822.

Sincerely,  
BOARD OF TRUSTEES

## SUMMARY PLAN DESCRIPTION

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*Este folleto contiene un resumen en Espanol de sus derechos y beneficios en el Plan bajo la Local 282 Annuity Trust Plan. Si usted tiene dificultad en entender alguna parte de este folleto, comuníquese con la oficina del Fundó, 2500 Marcus Avenue, Lake Success, New York 11042, (516) 488-2822, desde las 9:00 a.m. hasta las 4:30 p.m.*

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## INTRODUCTION

The Plan was established as the result of collective bargaining agreements between certain employers and Local 282 of the International Brotherhood of Teamsters ("Local 282 or the "Union"). It covers employees of employers who are obligated to make contributions to the Plan under a collective bargaining agreement with the Union, and employees of Local 282 and affiliated Local 282 employee benefit funds for whom contributions to the Plan are also required (each such contributing employer is referred to in this SPD as an "Employer"). The Plan is a defined contribution plan. Participants and beneficiaries may receive from the Plan administrator, upon written request, information as to whether a particular employer or employee organization is a sponsor of the Plan.

The Plan is administered exclusively by the Board of Trustees (the "Trustees"), which consists of Union and Employer representatives. The Union Trustees, as a group, and the Employer Trustees, as a group, have equal voting rights. The Trustees, who serve without compensation, have the sole power and discretionary authority to construe and interpret the terms of the Plan, and no other individuals have any authority to interpret the Plan (or other applicable documents) or to make any promises to you about it, including any claim for benefits.

A separate trust fund has been established for the purpose of holding and investing funds belonging to the Plan and paying benefits provided under the Plan. The Plan and Trust have been determined to be tax-qualified by the Internal Revenue Service.

## PARTICIPATION AND EMPLOYER CONTRIBUTIONS

### BECOMING A PARTICIPANT IN THE PLAN

You are eligible to participate in the Plan if you are working in a job covered by a collective bargaining agreement between your Employer and the Union that requires your Employer to contribute to the Plan on your behalf (that is, you are working in "Covered Employment"). If you are not covered by a collective bargaining agreement, you may also be eligible to participate in the Plan if your Employer has a written agreement with the Trustees to contribute to the Plan on your behalf. You may also be eligible to participate if you are an employee of Local 282 IBT or the Local 282 benefit funds and contributions are required to be made on your behalf. You become a participant in the Plan after you perform an hour of work in Covered Employment.

### EMPLOYER CONTRIBUTIONS

For each Plan Year (the period beginning each March 1st and ending each February 28th, or, if applicable, February 29th), while the collective bargaining agreement (or other agreement requiring contributions to the Plan) is in effect, your Employer is required to contribute to the Plan on your behalf. The contribution rate is specified in the collective bargaining agreement (or other agreement) and may change from time to time. You will receive a statement each year of the hours in Covered Employment reported on your behalf that year.

You are not required or permitted to make contributions to the Plan.



If you believe that you may be entitled to Employer Contributions for periods of work in Covered Employment that are not reflected in the Fund Office's records of your employment history as shown on the statement you receive from the Fund, you must provide documentation of the claimed periods of Covered Employment. Acceptable documentation includes, but is not limited to, Social Security records, pay stubs, W-2 forms, or any other proof that supports your claim. *If you do not produce documentation to support your claim for additional periods of work in Covered Employment, your Individual Account balance will be calculated only based on Covered Employment reflected in the Fund Office records.*

Starting with your annual statement showing your hours in Covered Employment reported through February 28, 2019 (the "2019 Annual Statement"), you will have a period of two (2) years from the date of the annual statement to challenge its accuracy. For example, if you believe your 2019 Annual Statement is inaccurate because it underreports your hours in Covered Employment reported to the Plan through February 28, 2019, you must make a formal appeal to the Trustees, as detailed later in this SPD on page 13 under CLAIM AND APPEAL RIGHTS within two (2) years from the date of the 2019 Annual Statement.

**In addition, you also have two years from the date of the 2019 Annual Statement to challenge the hours of Covered Employment reflected in any annual statement you received from the Fund for any year prior to 2019.**

**Once this 2-year period has lapsed from the date of your 2019 Annual Statement, you will have waived your right to challenge the reported hours of Covered Employment as it appears on the 2019 Annual Statement or any annual statement from prior to 2019.**

For annual statements for Plan Years ending after 2019, you will have a period of two (2) years from the date of the annual statement to challenge the accuracy of the Covered Employment listed in that annual statement.

However, merely submitting documentation in support of your claim for additional Covered Employment does not entitle you to any additional benefit you may seek. The Trustees have the sole discretion and authority to determine whether the documents submitted sufficiently prove that you worked in Covered Employment for periods of time that were not reported to the Fund. The determination of the Trustees is subject to the appeals procedures in the section "Claim and Appeal Rights."

## YOUR ACCOUNT INFORMATION

The Trustees will establish an individual account for each participant. As of the last day of February of each year (the "Valuation Date" established under the Plan), the amount in your Individual Account will be adjusted by adding together:

The amount in your Individual Account at the last Valuation Date

*plus*

Employer Contributions required to be paid on  
your behalf since the last Valuation Date

*plus*

Loan principal repayments made since the last Valuation Date

*plus or minus*

Your share of the investment yield on the  
Fund's assets since the last Valuation Date

*minus*

Loans made from your Individual Account  
since the last Valuation Date

*minus*

Your share of the Fund's administrative expenses

*minus*

The portion of your Individual Account awarded  
under any QDRO received by the Plan since the last Valuation Date

*minus*

any partial distribution paid to you since the last Valuation Date.

As soon as practicable after the end of each Plan Year (February 28th or 29th), you will receive a statement from the Trustees reflecting the balance of your Individual Account as of the last day of February of that Year.

If your Individual Account is withdrawn during the Plan Year it will not be charged administrative expenses nor will it be credited with investment yield for any fraction of that Plan Year. You will receive the amount in your Account as of the last Valuation Date, plus any Employer Contributions and loan repayments made since that Date until the date of your withdrawal, less any loans made since the previous Valuation Date. If you apply for benefits before the annual adjustment for the most recent Valuation Date is completed (for example, in March), you will receive the amount in your Individual Account as of the previous year's Valuation Date, plus any Employer Contributions and loan repayments made since that Valuation Date until the date of your withdrawal, less any loans made and any partial distribution paid to you since the previous Valuation Date. We will also deduct any amounts awarded under a QDRO received by the Plan since the last Valuation Date as well as a reasonable estimate of administrative expenses that will be charged to your Account as of the Valuation Date preceding your application. For example, if the Trustees reasonably

estimate that per capita administrative expenses will be \$800, then \$800 will be withheld from your account and your distribution pending final valuation of the account. Once the adjustment for the most recent Valuation Date is completed, you will receive any additional amount that may be due to you.

Note that if there is a substantial, sustained reduction in the market value of the Plan's assets—as occurred, for example, in the 2008 financial crisis—and the amount in all the Individual Accounts plus administrative expenses is more than the market value of the Fund's total net assets, the Trustees may establish a Valuation Date in addition to the last day of February, and they may proportionately reduce the amount in all Individual Accounts, based on objective standards.

## VESTING

### VESTING

You are 100% vested in your Individual Account balance under the Plan at all times. This means that you have a nonforfeitable right to all Employer Contributions obligated to be made on your behalf plus or minus any earnings/losses on these Contributions and less expenses. (The fact that you are 100% vested in your Individual Account balance does not mean, however, that you are eligible to receive a distribution prior to your retirement or severance from employment. Eligibility rules are set forth below.) The vested benefits to which you are entitled are nonforfeitable, except that they may be subject to forfeiture resulting from criminal acts committed against the Plan or under a civil judgment, in accordance with applicable law.

You should keep the Plan informed of your address if you move to make sure we can contact you after you stop working if you don't take your benefits right away.

## PLAN BENEFITS

### ELIGIBILITY FOR BENEFITS

You are eligible to receive benefits from the Plan:

1. At any time after you cease working for an Employer and no Employer contributions are made or required to be made on your behalf for a period of three (3) consecutive calendar months, as long as you are not working for an Employer at the time you apply for benefits; or
2. When you retire. The early retirement age under this Plan is age 55. The normal retirement age under this Plan is age 65 or your age on the fifth anniversary of your participation in the Plan, if the fifth anniversary date is later than the date you attain the age of 65.
3. In addition, your Qualified Spouse or other beneficiary may be eligible to receive benefits from the Plan if you die before receiving any benefits. Please contact the Fund office if you have questions regarding spousal benefits.

### BENEFIT AMOUNT

When you become eligible for your benefits, your benefit amount will be your Accumulated Share.

### PLAN BENEFITS

The way the Accumulated Share is calculated will depend on when in the Plan Year you apply for benefits. In most cases, the Accumulated Share will be your Individual Account balance as of the last Valuation Date, plus any contributions required to be made on your behalf after the last Valuation Date and any loan repayments you made since the last Valuation Date, less any loans taken since the last Valuation Date and accrued interest on those loans, the portion of your Individual Account awarded under any QDRO received by the Plan since the last Valuation Date, and any partial distribution paid to you since the last Valuation Date.

However, if you apply for benefits on or after March 1<sup>st</sup> of any Plan Year, and before the completion of the determination of the amount in your Individual Account, as described under “Your Account Information” on page 3 above, your Accumulated Share will be calculated in the same way, but using your Individual Account balance as of the Valuation Date preceding the most recent Valuation Date, and your benefit amount will initially be reduced by a reasonable estimate of the administrative expenses that will be charged to your Individual Account as of the most recent Valuation Date. If any excess remains once your share of administrative expenses is calculated, you will receive the excess amount once the determination of the amount in your Individual Account for the most recent Valuation Date is completed. If you receive more than the value of Your Accumulated Share as of the most recent Valuation Date, once that is determined, you will have to repay the excess you received to the Plan. We do not anticipate this would happen except in very rare circumstances.

Individual Accounts withdrawn after the Valuation Date will not be credited with any investment yield or charged with administrative expenses for any fraction of the Plan Year.

### **BENEFICIARY DESIGNATION**

You must notify the Fund Office, in writing, of the person you would like to designate as your beneficiary. You may designate anyone you want (and change the designation) for 50% of your benefit at any time before you begin to receive benefits. However, as described on page 8, you must be at least age 35 to name someone other than your Qualified Spouse as your beneficiary for the remaining 50% of your benefit, even with your Spouse's consent. In order for the change in beneficiary to be effective, the Fund Office must receive the new beneficiary designation form. If you are married, your spouse's written, notarized consent must be provided if you designate a beneficiary other than your spouse, as further explained below, or if you change a designated beneficiary. If you are single, you may designate anyone you wish as your beneficiary, but the designation will become invalid one year after you marry with respect to fifty percent of your account. Please contact the Fund Office to obtain a beneficiary designation form.

### **MILITARY SERVICE**

If you return after qualified military service to the same employer *within the time provided under the law, that employer will be required to contribute on your behalf for the military service period. Contact the Fund Office when you leave for military service and when you come back to make sure you receive the benefits to which you are entitled.*

### FORMS OF BENEFIT PAYMENT

Below is a description of forms of benefit payments under this Plan.

#### MARRIED PARTICIPANTS

If you are married at the time your benefits are scheduled to begin, your benefits will automatically be paid in the form of a Joint and Survivor Annuity, unless you elect, with your Qualified Spouse's written notarized consent, an optional form of benefit within the 180-day period ending on the date your benefits are scheduled to begin.

A Joint and Survivor Annuity is an annuity which provides you with equal monthly benefits during your lifetime, and upon your death, continues to pay 50% of your monthly benefit to your surviving Qualified Spouse. Your Qualified Spouse is the person to whom you are legally married throughout the 12 months immediately before your benefits are scheduled to begin, or a person who was divorced from you after being married to you for at least a year and who is required to be treated as your Qualified Spouse under a Qualified Domestic Relations Order ("QDRO").

The monthly payment under the Joint and Survivor Annuity is determined by an insurance company, which will take into account your age and life expectancy and your spouse's age and life expectancy, as well as prevailing interest rates for annuities. The Fund Office will inform you of the amount of the monthly benefits for you and your Spouse before you begin receiving benefits. The annuity will be purchased from an insurance company.

Spousal consent is required if you wish to reject the Joint and Survivor Annuity and elect an optional form of benefit under the Plan, as described below. The consent, which must be in writing and must be notarized, must acknowledge the specific beneficiary you designate, and the form of benefits. This must be within the 180-day period ending on the date your benefits are scheduled to begin. You can revoke an election to waive the Joint and Survivor Annuity at any time during the election period. Revocation must also be in writing. However, any subsequent election to waive the Joint and Survivor Annuity will again require your spouse's consent. You may change your beneficiary subsequently without your spouse's consent, if your spouse's initial consent acknowledged his or her right to limit consent to a specific beneficiary and your spouse voluntarily relinquished his or her right. Any consent by a spouse is effective only with respect to that particular spouse. The Fund Office will provide each participant with a detailed written explanation of the Joint and Survivor Annuity before the 180-day election period begins.

If you and your Qualified Spouse reject the 50% Joint and Survivor Annuity, or if you are not married when you become eligible for benefits, you can receive your Accumulated Share in any of the forms of benefit available to single participants, described below.

#### SINGLE PARTICIPANTS

If you are not married at the time your benefits are scheduled to begin, your benefits will automatically be distributed in the form of a Lifetime Annuity unless you elect a different form of payment within the 180-day period before

the date your Plan distribution is scheduled to begin. A Lifetime Annuity provides you with equal monthly benefits during your lifetime. The amount of the monthly payment is determined by an insurance company on the basis of the value of your Individual Account, your life expectancy, prevailing interest rates for annuities, and your retirement date. The Fund Office will inform you of the amount of the monthly benefit before you begin receiving benefits. The annuity will be purchased from an insurance company.

## OPTIONAL FORMS OF BENEFIT PAYMENT

In lieu of the forms of benefit described above, you may elect one of the following optional forms of benefit payments (subject to certain limitations) in writing, provided that, if you are married at the time your benefits are scheduled to begin, your spouse consents to your election as described on the previous page:

- (1) Payment of your entire Accumulated Share in one lump sum;
- (2) Payment of your Accumulated Share in substantially equal monthly installments until your entire Accumulated Share is paid, over a period not to exceed ten (10) years;
- (3) Payment of your Accumulated Share in a combination of the above;
- (4) A partial distribution, that is, a portion of your Accumulated Share. You must elect to receive at least \$10,000 and can elect to receive a partial distribution only once every 12 months.
- (5) For married participants, a Qualified Optional Survivor Annuity ("QOSA"). The QOSA is a reduced annuity for your life with a survivor annuity for the life of your surviving Qualified Spouse that is equal to 75% of the amount of the annuity you were receiving. Note that you do not need your spouse's consent to reject the Joint and Survivor Annuity and elect this QOSA instead.

If you elect to receive installment payments and die prior to receiving all of the payments, any remaining payments will be made to your designated beneficiary. If no beneficiary is designated the remaining account balance will be paid to the following persons, if then living, in the following order: 1. your spouse; 2. your child or children; 3. your parents; 4. your siblings; or 5. your estate.

If the value of your Accumulated Share as of the scheduled date of the distribution is \$1,000 or less, your benefit will be paid to you upon application as one lump sum benefit, and no spousal consent will be required.

## PRE-RETIREMENT SURVIVOR BENEFITS

If you die before receiving any benefits from the Plan, your beneficiary is entitled to a pre-retirement survivor benefit. The type of benefit paid depends on whether you are married or single when you die.

### MARRIED PARTICIPANTS

If you are married and die before your benefits under the Plan commence and both you and your Qualified Spouse have not previously rejected in writing the Joint and Survivor annuity and no other beneficiary has been selected, your

benefits will automatically be paid to your surviving Qualified Spouse in the form of a Pre-Retirement Surviving Spouse Benefit. You cannot waive the Pre-Retirement Surviving Spouse Benefit for your surviving Qualified Spouse until the Plan Year in which you reach age 35. The Fund Office will supply the required election forms to you. (If you stop working in Covered Employment before you reach age 35, you can waive the Pre-Retirement Surviving Spouse Benefit during the period that begins on the date you stopped such Employment.)

A Pre-Retirement Surviving Spouse Benefit is an annuity payable upon your death and calculated on the basis of half of the value of your Individual Account, which provides your surviving Qualified Spouse with equal monthly benefits over his or her lifetime. The monthly payment which will be provided under the Pre-Retirement Surviving Spouse Benefit is calculated by an insurance company on the basis of your Spouse's life expectancy, prevailing interest rates for annuities and your Spouse's age at the time of your death. The annuity will be purchased from an insurance company.

The Pre-Retirement Surviving Spouse Benefit may begin for your Qualified Spouse as soon as practicable after your death. However, your surviving Qualified Spouse may elect to postpone payment of this benefit to any time on or before the later of the December 31st of the calendar year in which you would have reached age 70½ or December 31st of the calendar year following the year of your death, provided your Qualified Spouse elects the payment schedule by September 30th of the calendar year in which the distribution would begin. Your Qualified Spouse may reject this payment form and elect to have his or her portion of your Individual Account balance paid either in a lump sum, or in monthly installments over a period not to exceed ten (10) years, or in a combination of both.

You may designate a beneficiary to receive any portion of the Pre-Retirement Surviving Spouse Benefit which your Qualified Spouse does not receive, but in no event shall the annuity or lump sum to be provided to your surviving Qualified Spouse have a value that is less than 50% of your Accumulated Share. If you or your spouse did not previously reject the Pre-Retirement Surviving Spouse Benefit and you designated another beneficiary, your Qualified Spouse will receive a lifetime monthly annuity that is the actuarial equivalent of one-half of your Accumulated Share. The named beneficiary may elect to have his or her portion of the Accumulated Share paid in a lump sum or in equal monthly installments over a period not to exceed the fifth anniversary of your death. The named beneficiary may also elect to have distributions begin no later than December 31 of the calendar year immediately following the calendar year in which you died.

If you die after the date distributions begin under this Plan, payments shall be made in accordance with the optional form you selected upon retirement. See page 7 above for a description of the optional forms.

### **SINGLE PARTICIPANTS**

If you are not married (or if you have been married for at least twelve (12) months, reached age 35 (or terminated Covered Employment before reaching age 35) and have waived the Pre-Retirement Surviving Spouse Benefit, with your

spouse's written notarized consent and die before your benefits under the Plan commence, your benefits will be paid to your designated beneficiary in either a lump sum payment as provided in this Plan, or, if your beneficiary chooses, in monthly payments over a period not to exceed ten (10) years until exhaustion of the Accumulated Share. Payment will commence as soon as practicable after your death.

## NO DESIGNATED BENEFICIARY

If no beneficiary has been designated, or if your designated beneficiary dies before you die, distribution of the remaining amount of your Individual Account balance will be made to the following persons, if then living, in the following order of priority (with 1 being the highest priority):

- 1) your spouse;
- 2) your children;
- 3) your parents;
- 4) your siblings; or
- 5) your estate.

## LOANS

You may apply for a loan from your Individual Account for certain limited purposes if you have maintained your account for at least five (5) years. If you are married, your spouse must provide written notarized consent to the loan application. You should contact the Fund Office to obtain a loan application. You will be required to sign a promissory note as collateral to obtain a loan.

Your loan cannot exceed the lesser of: (i) 50% of your Individual Account balance as reflected on the last statement provided to you; or (ii) \$50,000.

Loans may only be granted for the following reasons:

- Your payment of tuition, fees and/or room and board to maintain yourself, your spouse or a dependent child at an educational institution at or beyond the high school level, or a school or institution for physically or mentally handicapped children;
- Funeral expenses incurred in connection with the death of your spouse, child, parent, grandchild, grandparent, or your spouse's parent;
- Purchase of automobile to be used for your personal use. The automobile must not be purchased as a collector's item, and the party from whom you purchase the automobile must not be a member of your household;
- Purchase of a home, cooperative or condominium apartment to be used as your primary residence where you incur down payment, contract or title expenses. A loan for this purpose has a once per lifetime cap; or
- The payment of an obligation relating to a major personal emergency, as defined by the Trustees within their sole discretion, and subject to their satisfaction that the loan is absolutely necessary, and on such terms as the Trustees may, in their discretion, determine.



Only loan applications for the above-stated reasons will be considered. The above expenses must have been incurred no more than three (3) months prior to the date of your loan application, and must be supported by appropriate documentation as required by the Trustees.

With the exception of educational loans, subsequent loans may not be granted until the loan and interest due from an outstanding loan is repaid in full.

A loan will bear interest for each Plan Year the loan remains outstanding at a rate equal to the Prime Rate as published in the Wall Street Journal on March 1st of each year plus 1%.

All loans, other than loans for the purchase of a primary residence, must be repaid in full over a period of five (5) years in equal quarterly installments. Loans for a primary residence must be repaid in equal quarterly installments over a period of up to ten (10) years. Initial installment repayments are due on the first January 1st, April 1st, July 1st, or October 1st immediately following the date the loan is granted and further installments are due on a calendar quarter basis thereafter.

You are permitted to prepay your loan in full prior to the end of the payment period. Partial prepayments, however, are not allowed.

If you miss a loan payment, you will be given a "cure period," which ends on the last day of the calendar quarter following the calendar quarter in which the loan payment was due. For example, if you fail to make a loan repayment due on January 1st, you will be given until June 30th to repay the loan. If the loan remains unpaid at the end of the "cure period," the loan shall automatically go into default, a deemed distribution shall occur, and you will be issued a Form 1099R. Thus, you will be subject to income tax on the unpaid amount of the loan plus interest, and possible penalties. **You will not be eligible for any additional loans once you incur a default under any circumstance.**

If you have an outstanding loan at the time you are serving with the armed forces of the United States or other qualified entity under Internal Revenue Code Section 414(u)(4), your loan repayments will be suspended under this Plan as permitted by that Section.

You will not be eligible for a loan unless both you and, if you are married, your spouse agree in writing to post the account balance as security for the loan and acknowledge the effects of the loan on your rights under the Plan.

No loan shall be made to the extent the Plan has received a qualified domestic relations order (QDRO) the terms of which are inconsistent with the loan. (See page 12 for more information about QDROs.)

## APPLYING FOR BENEFITS

To qualify for benefits under the Plan, you have to submit a written application to the Trustees. Please contact the Fund Office for the necessary application forms when you are ready to apply for benefits.

Benefit payments will begin or be paid the first day of the month after your application is approved, subject to the rules of the following paragraphs.

If you satisfy the requirements for receiving benefits, but do not apply for benefits, you will be considered as having elected to postpone commencement of your benefits. Your Individual Account balance will be adjusted at each Valuation Date until you elect to commence benefits. However, you cannot postpone the commencement of benefits beyond April 1st of the calendar year following the calendar year in which you reach age 70½. (This is known as your Required Beginning Date). In no event shall benefit payments begin later than the 60th day after the later of the close of the Plan Year in which you reach Normal Retirement Age or terminate your Covered Employment and retire unless you elect to receive benefits first payable for a later month. Such election cannot postpone your Annuity Start Date past your Required Beginning Date regardless of whether you are still employed. Your Annuity Start Date, also called the effective date of benefits, is the first day of the first calendar month starting after you have fulfilled all of the conditions for entitlement to benefits including filing an application for benefits. The Annuity Start Date shall not begin less than 30 days after the Plan advises you of available benefit options unless you and your Qualified Spouse have consented in writing to commencement of payments before the end of the 30 day period and distribution begins more than 7 days after the written explanation was provided to you and your Qualified Spouse, or unless your benefits were previously being paid because of an election made after Normal Retirement Age, or the benefit is an automatic lump sum payment. If you are a surviving Qualified Spouse of a participant of this Plan who dies before the participant's Annuity Start Date you may apply for a Pre-retirement Surviving Spouse Benefit at any time after the death of the participant. As a surviving Qualified Spouse, you may postpone this benefit until a specified date no later than December 31, of the calendar year in which the employee would have reached age 70½ or, if later, December 31st of the calendar year following the year of the participant's death.

Benefit payments to a participant will commence no later than the Required Beginning Date regardless of whether you apply for benefits. That is why the Fund Office requests that you keep the Fund Office informed of your address.

## OTHER IMPORTANT INFORMATION

### SOCIAL SECURITY BENEFITS

In addition to Plan benefits, Social Security provides you with another source of retirement income which can begin as early as age 62. During your career, both you and your Employer contribute to the cost of providing Social Security benefits. Because these benefits are an important financial resource during retirement, you should contact your local Social Security Administration office three months before you intend to retire.

### PARTICIPATION IN THE LOCAL 282 PENSION TRUST FUND

In addition to participating in the Annuity Trust Fund, you may also be a participant in the Local 282 Pension Trust Fund. The Pension Trust Fund requires a separate benefit application.

## TAX TREATMENT OF PLAN DISTRIBUTIONS

Generally, distributions you receive from the Plan will be subject to federal income taxes. If you or your Qualified Spouse receives a benefit in a lump sum or periodic payments lasting less than 10 years (known as an “eligible Rollover Distribution”), the benefit will be subject to automatic 20% federal tax withholding, unless the benefit is directly rolled over into an IRA or other qualified retirement plan. If you receive a benefit before age 55 and do not have it rolled over, there may be a 10% penalty due except under certain circumstances. You will receive additional information regarding tax consequences of your distribution when you apply for a benefit.

**Important Note:** Neither the Trustees nor any individual at the Fund Office is qualified to advise you of the legal and tax ramifications of distributions under the Plan. For such information, please consult with a qualified tax advisor or financial planner for information about the consequences of any Plan distribution.

## ROLLOVER

You may elect, at the time and in the manner prescribed by the Plan Administrator, to have any portion of an Eligible Rollover Distribution (as described above) paid directly to an Eligible Retirement Plan specified by you in a direct rollover. You may also be able to elect, at the time and in the manner prescribed by the Plan Administrator, to have a portion of an Eligible Rollover Distribution directly paid to a Roth IRA.

## NON-ASSIGNMENT OF BENEFITS

Benefits cannot be assigned, sold, transferred, mortgaged or pledged to anyone or used as a security for a loan except for a loan to you under this Plan. Under most circumstances, Plan benefits are not subject to attachment or execution under any decree of a court or otherwise. One exception to this rule, however, is a “qualified domestic relations order” (also known as a “QDRO”), which is a court order or judgment directing the Plan to pay all or a portion of your Plan benefits to a spouse, former spouse, child, or other dependent for the purpose of providing child support, alimony or marital property rights, among other things. A copy of the Plan’s QDRO procedures is available free of charge from the Fund Office upon request. If the Plan receives a QDRO with respect to your benefits, it will notify you. Another exception to the general non-assignment of benefits is a Federal tax levy. This paragraph also will not preclude an offset of your benefits with respect to a judgment of conviction of a crime involving this Plan or civil judgment, consent order, settlement agreement with the U.S. Department of Labor or decree in an action for breach or alleged breach of fiduciary duty involving this Plan.

## INCAPACITY

If it is determined that you (or your spouse, dependent child, or beneficiary) have a mental or physical incapacity and become unable to care for your (or their) financial affairs, the Trustees may have your benefit payments redirected to a legal guardian, representative or committee. If no such individual has been designated, the Trustees in their sole discretion may apply any benefit due you to provide for you or your spouse or minor children’s welfare, maintenance or support in a manner determined by the Trustees.

## RECOVERY OF OVERPAYMENTS

If payments are made to you in excess of the amount due and payable under this Plan, the Trustees have full authority, in their sole and absolute discretion, to recover those excess payments from you, including the right to reduce benefits payable in the future to the person receiving the overpayment or surviving spouse or beneficiary, or initiate litigation to recover the overpayment.

## SCRIVENER'S ERROR

If a Plan term is inconsistent with the Board of Trustees' intent the Trustees' intent controls.

## CLAIM AND APPEAL RIGHTS

You or your beneficiary has the right to appeal any denial of an application for benefits under the Plan. If your claim for benefits is denied, in whole or in part, the Plan will provide you with a written explanation of the reasons for the denial within 90 days from the date your application is received, unless an extension is required as set forth below. If you do not receive notice of the denial, or a notice of the extension, within 90 days from the date your claim was received, the claim shall be deemed denied and you may file an appeal.

In addition, as described on page 2 above, you have a period of two (2) years from the date of an annual statement to challenge the accuracy of the Covered Employment listed in that annual statement. If you wish to challenge the accuracy of an annual statement from prior to 2019, you must file an appeal no later than two (2) years after the date of your 2019 Annual Statement.

Any notice to you or your beneficiary that your claim has been denied shall include the following:

The specific reason(s) for the denial;

Specific reference to the Plan provisions on which the denial is based;

- If applicable, a description of any additional material or information necessary to perfect the claim and an explanation of why such material or information is necessary; and
- A description of the Plan's appeal procedures and the time limits applicable to such procedures, including a statement of your right to bring a civil action under ERISA Section 502(a) following a denial of your claim on appeal.

Special circumstances may require more than 90 days to determine your claim. In such a case, a notice of the extension will be mailed to you within 90 days from the date your claim was received. The extension notice will indicate the special circumstances which required the extension of time and the date by which the Plan expects to render the final decision. If your claim is denied, notice of the denial will be sent to you within 180 days from the date your claim was received. An additional 30-day extension is also available provided the Plan Administrator notifies you before the expiration of the first 30-day extension period. If an extension is required due to your failure to submit information necessary to decide the claim the determination period will be tolled from

the date the extension notice is sent to you until the date you respond to the request for information. You have at least 45 days to furnish this information.

You will have 60 days from the date you receive the notice of denial of your claim to file with the Trustees an appeal of the denial of benefits. The appeal must be in writing to the Trustees, and must indicate the basis of your appeal and include supporting documentation. In preparing for your appeal, you or your authorized representative may, upon request, review documents pertinent to your claim free of charge.

The Trustees (or a Sub-Committee of Trustees) will ordinarily decide the appeal by no later than the date of the meeting of the Trustees which immediately follows the Plan's receipt of the appeal, unless the appeal is filed within 30 days preceding the date of such meeting. In such a case, a decision will generally be made by no later than the date of the second meeting following the Plan's receipt of the appeal. If special circumstances require a further extension of time to consider the appeal, a decision will be made no later than the third meeting of the Trustees following the Plan's receipt of the appeal. If the extension is required due to your failure to submit information necessary to decide the appeal the period for making the determination will be tolled from the date the extension notice is sent to the date you respond to the information request. You will receive at least 45 days to provide this information.

Written notice of the extension will be furnished to you prior to the commencement of the extension. If the decision on review is not furnished within such time, the claim will be deemed denied on review.

The decision on review will be made in writing and shall include the following:

The specific reason(s) for the denial;

Specific reference to the Plan provisions on which the denial is based;

- 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 relevant to your claim for benefits;
- A statement of your right to bring a civil action under ERISA Section 502(a).

After exhausting the claims and appeals procedure herein, you may have a right to commence a civil action under Section 502(a) of the Employee Retirement Income Security Act. Any such legal action must be commenced no later than one year after the Board of Trustees' decision on appeal.

## PLAN CANCELLATION OR TERMINATION

The Trustees expect to continue the Plan indefinitely, but reserve the right to amend, modify, or terminate the Plan at any time in accordance with the Plan documents. If the Plan is terminated, you will automatically have a vested, nonforfeitable right to the accrued benefits you have earned, after providing for the expenses of the Plan. No part of the remaining assets will be returned to any Employer or the Union.

Important Note: Because this is a defined contribution benefit plan, benefits are not insured by the Pension Benefit Guaranty Corporation (“PBGC”).

ADMINISTRATIVE INFORMATION

Plan Name:	Local 282 Annuity Trust Fund
Employer Identification Number:	11-6276104
Plan Number:	001
Fiscal Year End:	February 28th (or February 29th)
Plan Year:	March 1st-February 28th (or February 29th)

The following additional information concerning your Plan is being provided to you in accordance with U.S. Department of Labor regulations:

- The Plan is a defined contribution money purchase plan. A Board of Trustees, consisting of five (5) Employer representatives and five (5) Union representatives is the “Plan Administrator” (as defined under ERISA). The Board of Trustees has been designated as the agent for the service of legal process and as the named fiduciary of the Plan. Service of legal process may be made upon any individual Plan Trustee of the Board of Trustees of Local 282 Annuity Trust Fund or on the Plan Administrator which is the Board of Trustees at 2500 Marcus Avenue, Lake Success, NY 11042.
- All contributions to the Plan are made by Employers in accordance with their collective bargaining agreements with the Union. The collective bargaining agreements require contributions to the Plan at fixed hourly rates. The Fund Office will provide you, upon written request, with information as to whether a particular Employer is contributing to the Plan on behalf of employees working under the collective bargaining agreement.
- Benefits are provided from the Plan’s assets, which are accumulated under the provisions of the collective bargaining agreement and held in a trust fund for the purpose of providing benefits to covered participants and defraying reasonable administrative expenses.
- The Plan’s assets are held by the Trustees and invested under the direction of professional investment managers.
- The Plan is administered and operated by the Plan Administrator. The Plan Administrator and any duly authorized delegate thereof, have the complete authority and discretion to administer, apply and interpret the Plan (and any related documents) and to decide all matters arising in connection with the operation or administration of the Plan. All determinations made by the Plan Administrator with respect to any matter arising under the Plan (and any other Plan document) shall be final and binding on all parties, subject to every participant’s rights under law and under the provisions of the Plan.

ADMINISTRATIVE  
INFORMATION

## YOUR RIGHTS UNDER ERISA

As a participant or beneficiary in the Plan, 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 or beneficiaries are entitled to:

- Receive information about your Plan and benefits.
- Examine, without charge, at the Fund Office and at other specified locations, such as work sites and union halls, all documents governing the Plan, including insurance contracts, 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 Pension and Welfare Benefits Administration in Washington, DC.
- Obtain copies of documents governing the operation of the Plan, including insurance contracts and copies of the latest annual report (Form 5500) and updated summary plan description upon written request to the Board of Trustees, and upon payment of a reasonable charge for the copies.
- The Plan is maintained pursuant to one or more collective bargaining agreements. A copy of any such agreement may be obtained by participants and beneficiaries upon written request to the plan administrator, and is available for examination by participants and beneficiaries.
- Receive a summary of the Plan's annual financial report. The Board of Trustees 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 benefit at normal retirement age and if so, what your benefit would be at normal retirement age if you stop working under the Plan now. 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.

In addition to creating rights for Plan participants, ERISA imposes duties upon the people who are responsible for the operation of the 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 benefit or exercising your rights under ERISA.

If your claim for a 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 you up to \$110 per 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 which 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, 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 Board of Trustees. If you have any questions about this statement or about your rights under ERISA, or if you need assistance in obtaining documents from the Plan Administrator, you should contact the nearest office of the Employee Benefits Security Administration, 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.





**LOCAL 282**  
**ANNUITY TRUST FUND**  
**RULES AND REGULATIONS**  
**2014 RESTATEMENT**

EFFECTIVE MARCH 1, 2014

## LOCAL 282 ANNUITY TRUST FUND

### RULES AND REGULATIONS

By resolution adopted by the Board of Trustees of the Local 282 Annuity Trust Fund, the following Rules and Regulations ("Annuity Plan") was adopted pursuant to the authority of the Board of Trustees granted under the Agreement and Declaration of Trust entered into as of July 1, 1978, as thereafter amended and restated.

The Annuity Plan's provisions have been amended and restated from time to time to ensure continued qualification pursuant to the applicable provisions of the Internal Revenue Code of 1986, as amended, and the Employee Retirement Income Security Act of 1974, as amended.

The Plan is hereby amended and restated in its entirety, effective March 1, 2014, to incorporate modifications required by applicable legislative and regulatory changes, including but not limited to the Pension Protection Act of 2006 ("PPA"), the Heroes Earnings Assistance and Relief Tax Act of 2008 ("HEART"), and the Worker, Retiree, and Employer Recovery Act of 2008 ("WRERA") and other applicable legislation and published Treasury and IRS guidance (collectively, the "PPA Amendments"), as well as other changes adopted by the Trustees. The amended and restated Plan constitutes an amendment, effective as of March 1, 2014, to the earlier Annuity Plan and supersedes and replaces such earlier Annuity Plan provisions. The provisions of the Annuity Plan in effect immediately prior to this restatement shall remain in effect for those Annuity Plan Participants (including Annuitants and Beneficiaries) who retired, died or permanently terminated their employment with Contributing Employers at any time prior to March 1, 2014; provided, however, that they may also be governed by certain provisions of this Annuity Plan where required by law and indicated herein.

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## ARTICLE I – DEFINITIONS

- 1.1 “Accumulated Share” shall mean the amounts of a Participant’s benefit payable by the Plan in accordance with Section 3.1.
- 1.2 “Annuitant” as used herein shall mean a Participant who Retires and receives a benefit from the Fund.
- 1.3 “Annuity Starting Date” shall mean
  - (a) The first day of the first calendar month starting after the Participant has fulfilled all of the conditions for entitlement to benefits, including filing an application for benefits.
  - (b) Notwithstanding the foregoing, the Annuity Starting Date shall not begin less than 30 days after the Plan advises the Participant of the available benefit options, unless:
    - (1) The Participant and his or her Qualified Spouse, if any, consent in writing to the commencement of payments before the end of the 30-day period and distribution of the Accumulated Share begins more than seven days after the written explanation was provided to the Participant and Qualified Spouse;
    - (2) The Participant’s benefit previously was being paid because of an election made after Normal Retirement Age; or
    - (3) The benefit is being paid out automatically as a lump sum under Section 3.2(d).
  - (c) The Annuity Starting Date also is the “Effective Date of Benefits.”
- 1.4 “Beneficiary” shall mean the person, persons or legal entity designated in writing by a Participant in the form and manner prescribed by the Trustees, to receive benefit payments, if any, following the death of a Participant.
- 1.5 “Code” means the Internal Revenue Code of 1986, as amended from time to time. All references to any specific provision of the Code shall include such provision, any regulation promulgated thereunder and any comparable provision of future legislation that amends, supplements or supersedes such provision.
- 1.6 “Collective Bargaining Agreement” means the collective bargaining agreement in effect from time to time between an Employer and the Union which is acceptable to the Trustees, requiring the Employer to make contributions to the Plan on behalf of its Employees. “Collective Bargaining Agreement” also means any Participation Agreement or other written agreement in effect from time to time between an Employer and the Trustees requiring the Employer to contribute to the Plan on behalf of its Employees.
- 1.7 “Effective Date” means March 1, 2014.
- 1.8 “Earliest Retirement Age” means the earliest date on which, under the Plan, the Participant could elect to receive annuity benefits.
- 1.9 In General: “Employee” means a person who is an Employee of an Employer and who is covered by a Collective Bargaining Agreement,

Participation Agreement, or any other written agreement requiring Employer contributions on his or her behalf. It shall also mean Employees of the Welfare Fund.

(a) Leased Employees

- (1) *In General.* Solely for purposes of testing for compliance with certain nondiscrimination requirements of the Internal Revenue Code, and not for purposes of determining eligibility to participate in the Plan, the term “Employee” also shall include leased employees of an Employer. For this purpose, the term “leased employee” means any person (other than an Employee of the recipient, as that term is used in Code section 414(n)) who pursuant to an agreement between the recipient organization and any other person (“leasing organization”) has performed services for the recipient (or for the recipient and related persons determined in accordance with Code section 414(n)(6)) on a substantially full-time basis for a period of at least one year, where such services are performed under the primary direction or control of the recipient. Contributions or benefits provided to a leased employee by the leasing organization that are attributable to services performed for the recipient Employer shall be treated as provided by the recipient Employer.
- (2) *Exception.* Notwithstanding paragraph (b)(1) above, a leased employee shall not be considered an employee of the recipient if such employee is covered by a money purchase plan providing:
  - (A) a nonintegrated employer contribution rate of at least 10 percent of compensation, as defined in Code Section 415(c)(3), but including amounts contributed pursuant to a salary reduction agreement that are excludable from the employee’s gross income under Code Sections 125, 402(e)(3), 402(h)(1)(B) or 403(b),
  - (B) immediate participation, and
  - (C) full and immediate vesting;provided that leased employees do not constitute more than 20 percent of the recipient’s non-highly compensated workforce.

- 1.10 “Employer” means an employer signatory to a Collective Bargaining Agreement with Local 282 requiring contributions to this Fund and an employer signatory to any other written agreement requiring contributions to this Fund and also shall include the Local 282 Welfare Trust Fund (the “Welfare Fund”) and Local 282.

For purposes of identifying Highly Compensated Employees and applying the rules on participation, vesting, and statutory limits on benefits under the Fund, as well as for purposes of withdrawal liability, but not for purposes of determining Covered Employment, the term “Employer” includes all corporations, trades or businesses under common control with the Employer within the meaning of Code Section 414(b) and (c), and all members of an affiliated service group with the Employer within the meaning of Code section 414(m).

- 1.11 “Employer Contribution” means the amount that an Employer is obligated to contribute to the Fund based on the formula stated in the Employer’s current written Collective Bargaining Agreement or Participation Agreement with Local 282.

Contributions to the Plan by Employers must comply with the requirements of the Uniformed Services Employment and Reemployment Rights Act of 1994, as amended (“USERRA”), and Code section 414(u) with regard to periods of an Employee’s Qualified Military Service in the armed forces of the United States. In addition, in the case of a Participant who dies while performing Qualified Military Service, survivors of the Participant shall be entitled to any additional benefits (other than benefit accruals relating to the period of Qualified Military Service) provided under the Plan had the Participant resumed and then terminated employment with the Contributing Employer on account of death.

- 1.12 “ERISA” means the Employee Retirement Income Security Act of 1974, as amended from time to time.

- 1.13 “Fund” means the Local 282 Annuity Trust Fund and its related trust.

- 1.14 “Highly Compensated Employee”

(a) *In General.* The term “Highly Compensated Employee” includes highly compensated active employees and highly compensated former employees of an Employer. Whether an individual is a Highly Compensated Employee shall be determined separately with respect to each Employer, based solely on that individual’s compensation from, or status with respect to, that Employer.

(b) A Highly Compensated Employee is any employee who:

- (1) was a “five percent owner,” as defined in Code Section 416(i)(1) at any time during the current or the prior Plan Year; or
- (2) for the preceding year had compensation from the Employer in excess of \$115,000 (as adjusted annually for increases in the cost-of-living in accordance with regulations prescribed by the Secretary of the Treasury). For purposes of determining if an employee’s compensation from an Employer exceeds \$115,000 (adjusted for the cost of living) in the preceding year and, if the Employer elects, was in the top-paid group of Employees for the preceding year, the preceding year shall be the calendar year beginning within the Plan Year immediately preceding the Plan Year for which the test is being applied.

- 1.15 “Individual Account” as used herein means the account established for each Participant pursuant to the Plan.

- 1.16 “Local 282” means Local Union No. 282 of the International Brotherhood of Teamsters.

- 1.17 “Market Value” as used herein means the value of the assets that takes into account fair market value.

- 1.18 A “Non-Bargained Employee” is an Employee whose participation is not covered by a Collective Bargaining Agreement but instead is covered by



a Participation Agreement or other written agreement, or is employed by the Welfare Fund or Local 282.

- 1.19 "Participant" shall mean an Employee who satisfies the eligibility requirements for participation in the Plan.
- 1.20 "Participation Agreement" means any written agreement entered into between an Employer, on the one hand, and the Trustees on the other, that requires contributions to be made by the Employer to the Fund on behalf of the Employer's Non-Bargained Employees.
- 1.21 "Plan" means the Rules and Regulations of the Local 282 Annuity Trust Fund, as set forth herein.
- 1.22 "Plan Administrator" shall mean the Board of Trustees.
- 1.23 "Plan Year" means the 12-month period beginning each March 1st and ending each February 28th or, if applicable, February 29th.
- 1.24 "Qualified Military Service" means the definition provided in Code section 414(u)(5).
- 1.25 "Qualified Spouse", effective June 26, 2013, means the Spouse of a Participant who (i) has been married to the Participant throughout the 12-month period ending the day before the Participant's Annuity Starting Date, or (ii) was divorced from the Participant after being married for at least one year and is required to be treated as a Qualified Spouse under a Qualified Domestic Relations Order ("QDRO") within the meaning of Code section 414(p) and ERISA Section 206(d).
- 1.26 "Retires" or "Retirement" as used herein shall mean the complete and permanent withdrawal by a Participant from employment covered by any Collective Bargaining Agreement or Participation Agreement and from any employment with an Employer in the same industry, trade or craft in the geographical area covered by the Plan. The geographical area shall be deemed to be the Greater New York Metropolitan area.
- 1.27 "Spouse" shall mean the person to whom a Participant is legally married.
- 1.28 A "Surviving Spouse" is a Participant's Spouse who has been predeceased by the Participant and who:
  - (a) would have met the criteria of Qualified Spouse as of the Participant's date of death, had the Participant not died; or
  - (b) was married to the Participant for at least one year as of the Participant's date of death.
- 1.29 "Trust Agreement" means the Agreement and Declaration of Trust establishing the Local 282 Annuity Trust Fund, effective as of September 24, 2012, and as thereafter amended.
- 1.30 "Trustees" means the Board of Trustees established by the Trust Agreement and the persons who at any time are acting in such capacity pursuant to the provisions of the Trust Agreement.
- 1.31 "Valuation Date" means the last business day of each Plan year - February 28th or, where applicable, February 29th.

## 1.32 Other Definitions

Definition	Section
Distributee .....	3.14(b)(3)
Direct Rollover .....	3.14(b)(4)
Eligible Retirement Plan .....	3.14(b)(2)
Eligible Rollover Distribution .....	3.14(b)(1)
Joint and Survivor Annuity .....	3.2(a)
Lifetime Annuity .....	3.2(b)
Normal Retirement Age .....	3.2(c)
Preretirement Surviving Spouse Benefit .....	3.6(c)(2)
Required Beginning Date .....	3.6(e)
Total and Permanent Disability .....	3.4

## ARTICLE II – INDIVIDUAL ACCOUNTS

### 2.1 Creation of Accounts

Once a year, as of each Valuation Date, an Individual Account shall be established for each Participant unless an Individual Account already has been so established.

### 2.2 Determination of Amount

As soon as practicable after the Valuation Date, the Trustees shall determine and fix the amount in each Participant's Individual Account. The amount in each Individual Account shall be the sum of the amounts set forth in (a)(1) through (a)(4), below, minus the sum of the amounts set forth in (b)(1) through (b)(3) below:

(a)

- (1) The amount in the Individual Account as of the immediately preceding Valuation Date;
- (2) The Employer Contributions obligated to be made on behalf of the Participant and received by the Fund during the Plan year, including contributions for a Participant's period of Qualified Military Service;
- (3) Loan principal repayments made by the Participant during the Plan Year; and
- (4) The Participant's portion of the Investment Yield determined by the Trustees to be applicable to Individual Accounts on a uniform basis, in accordance with Sections 2.3(a) and (b).

(b)

- (1) Loans made from the Individual Account since the immediately preceding Valuation Date;
- (2) The per-capita cost of administrative expenses (excluding investment expenses) of the Fund incurred during the Plan Year in accordance with Section 2.3(c);
- (3) The portion of the Individual Account awarded under any QDRO received by the Plan since the immediately preceding Valuation Date; and

- (4) Any partial distribution paid to the Participant during the Plan Year.

### 2.3 Annual Valuation

- (a) As soon as practicable after each Valuation Date, the Trustees shall determine the Investment Yield achieved by the Fund during the Plan Year as follows:
  - (1) Determine the Market Value of the Fund as of the immediately preceding Valuation Date, less the total of all loans made and Individual Accounts terminated since such immediately preceding Valuation Date.
  - (2) Determine the Market Value of the Fund as of the new Valuation Date, less the total of all Employer Contributions, including contributions for a Participant's period(s) of Qualified Military Service, and loan principal repayments received during the Plan Year.
  - (3) Determine the total of all administrative expenses, excluding investment expenses, incurred by the Fund during the Plan Year, as determined in accordance with Section 2.3(c).
  - (4) Add (2) and (3).
  - (5) Subtract (1) from (4). The resultant figure shall be the Fund's Investment Yield.
- (b) The Fund's Investment Yield, as determined in subsection (a) above, shall be divided by the total amount in all of the Individual Accounts as of the last previous Valuation Date excluding loans made, Individual Accounts terminated during the Plan Year, the portion of any Individual Account awarded under any QDRO received by the Plan since the immediately preceding Valuation Date, and any partial distribution paid to the Participant during the Plan Year.
- (c) In each Year, the fraction so obtained shall be multiplied by the amounts in each such Individual Account as of the last previous Valuation Date, excluding any loans made during the Plan year, and shall represent the portion of the Investment Yield to be added to each such previously established Individual Account.
- (d) The Trustees then shall deduct from each previously established Individual Account expenses incurred for the administration of the Plan, as provided in Section 2.2(b)(2). These administrative expenses shall include amounts for payments necessary to the operation of the Plan, including office space, equipment, salaries, and legal and other professional fees other than investment expenses. Delinquent Employer Contributions are not considered administrative expenses. The expenses or other amounts so deducted shall be on a per capita basis uniformly applied regardless of the amount in each Individual Account. If the charge for expenses and other deductions against the Individual Account exceeds the principal of any Individual Account(s), then after such Account(s) has been so charged and terminated, the excess of expenses and charges shall be divided among and, uniformly charged to, all other existing Account(s).

### 2.4 Annual Statement

Annually, within seven months of the close of the Plan Year, each Participant who has an Individual Account shall receive a statement reflecting the balance of his or her Individual Account as of the most recent Valuation Date.

### 2.5 Reduction of Accounts

In the event of a substantial, sustained reduction in the Market Value of the assets held by the Fund, such that the total amounts in all Individual Accounts as of the most recent Valuation Date, plus administrative expenses, exceeds the Market Value of the total net assets of the Fund, the Trustees may establish an additional Valuation Date and, based upon objective standards, proportionately reduce the amount in each Individual Account.

## ARTICLE III – BENEFITS AND ELIGIBILITY

### 3.1 Amount of Annuity Benefit

- (a) Subject to (b), below, upon submission of an application in accordance with Section 4.1, the Participant's Accumulated Share shall be determined to be
  - (1) the amount of the Participant's Individual Account as of the immediately preceding Valuation Date, or with respect to applications for distributions on or after March 1<sup>st</sup> of any Plan Year and prior to the completion of the determination of the amount in the Participant's Individual Account (as described in Article II) the Valuation Date preceding the immediately preceding Valuation Date, plus
  - (2) any additional Employer Contributions required to be made on behalf of the Participant pursuant to the Employer's Collective Bargaining Agreement that were not included in the Participant's Individual Account on the respective Valuation Date described in Section 3.1(a)(1), above, less
  - (3) any outstanding loan and accrued interest thereon, the portion of the Individual Account awarded under any QDRO received by the Plan since the immediately preceding Valuation Date, any partial distribution paid to the Participant during the Plan Year.
- (b) With respect to applications for distributions to be made on or after March 1<sup>st</sup> of any Plan Year and prior to the completion of the determination of the amount in the Participant's Individual Account (as described in Article II), distributions shall consist of the amount determined in (a), above, less
  - (1) a reasonable estimate of the administrative expenses that will be charged to the Individual Accounts as of the Valuation Date immediately preceding the receipt of the application for distribution.

- (2) For purposes of the preceding paragraph, a reasonable estimate of the administrative expenses shall be the per capita administrative expenses shown on the most recent annual statements distributed to Participants and a reasonable additional amount to be determined by the Trustees with the advice of the Fund's auditor.
- (c) Once the determination of Individual Accounts is completed for the Valuation Date immediately preceding the date of the distribution applied for, the Fund Office will distribute the excess of the amount withheld under section (b), above, over the net of the Fund's Investment Yield and actual administrative expenses for the Valuation Date immediately preceding the distribution.
- (d) An Employee who believes that he or she is entitled to Employer Contributions for Covered Employment that are not reflected in the Fund Office's records of his or her employment history, must provide documentation of the claimed periods of Covered Employment, including but not limited to, Social Security records, pay stubs, W-2 forms, or any other proof that supports his or her claim. If the Participant does not produce documentation to support his or her claim for additional periods of work in Covered Employment, his or her Accumulated Share will be calculated only based on Covered Employment reflected in the Fund Office's records. The mere submission of documentation in support of a claim of additional work in Covered Employment does not entitle a Participant to any additional Accumulated Share. The Trustees have the sole discretion and authority to determine whether the Participant has demonstrated additional work in Covered Employment, subject to the appeals procedures in Section 4.10.

Individual Accounts withdrawn during a Plan Year shall not be charged administrative expenses nor be credited with Investment Yield for any fraction of the Plan Year during which the Participant maintained an Individual Account.

### 3.2 Benefit Upon Retirement

- (a) If a married Participant Retires, he or she shall be eligible to receive his or her Accumulated Share in the form of a 50% Joint and Survivor Annuity, purchased from an insurance company in accordance with Section 3.12, unless rejected in writing by the Participant and his or her Qualified Spouse and witnessed by a notary public in accordance with Section 3.7, below. A 50% Joint and Survivor Annuity means that the Participant will receive a monthly amount for life and if the Participant dies before his or her Qualified Spouse, the Qualified Spouse will receive a monthly benefit for his or her lifetime of 50% of the Participant's monthly amount. After the death of the Participant, the Qualified Spouse may reject, in writing, the lifetime monthly benefits in favor of receipt of a lump sum benefit. The monthly benefits, if not rejected, shall be at the level payable under the annuity, purchased from the insurance company in accordance with Section 3.12, that is the actuarial equivalent of the Participant's

account balance, as of the date of distribution, determined in accordance with Section 3.11.

- (b) If an unmarried Participant Retires, such Participant shall be eligible to receive his or her Accumulated Share in the form of a straight life annuity (a "Lifetime Annuity"), unless rejected in writing by the Participant. The monthly benefit shall be at the level payable under an annuity that is the actuarial equivalent of the Participant's account balance as of the date of distribution, as determined in accordance with Section 3.11.
- (c) If the Joint and Survivor Annuity or Lifetime Annuity is rejected as noted in (a) or (b) above, an Employee may elect to receive his or her Accumulated Share in one of the following optional benefit forms:
  - (1) Qualified Optional Survivor Annuity: A married Participant may elect, in writing and, notwithstanding and without Spousal consent, to receive his or her benefit in the form of a Qualified Optional Survivor Annuity, purchased from an insurance company in accordance with Section 3.12. A Qualified Optional Survivor Annuity provides a lifetime pension for the Participant and after his or her death, a lifetime pension equal to 75% of the amount the Participant was receiving shall be paid to his or her Surviving Spouse.
  - (2) Monthly Installments: A Participant may request that the benefit be paid in equal monthly installments over a period not to exceed 10 years, which, together with a statement savings rate selected by the Trustees, shall be paid until exhaustion of the Annuitant's Accumulated Share. If the Annuitant dies before the exhaustion of his or her Accumulated Share, the remainder of the monthly installment payments, until the exhaustion of his or her Accumulated Share, shall be made to his or her designated Beneficiary or otherwise distributed on the Annuitant's behalf in accordance with Section 4.4.
  - (3) Lump Sum: A Participant may elect to receive a single lump-sum payment equal to the value of the Participant's Accumulated Share as of the date of distribution.
  - (4) Combination of Lump Sum and Monthly Installments: A Participant may request that the benefit be paid in a combination of the options in Subparagraphs (2) and (3) above.
  - (5) Partial Distribution: Effective March 1, 2015, Participants eligible for a benefit upon separation from service in accordance with Section 3.5 may elect a partial lump-sum payment of a portion of the Participant's Accumulated Share as of the date of distribution. Participants eligible for the partial distributions may elect to take such a distribution no more than once every 12 months. A partial distribution may not be less than \$10,000. In addition, the partial distribution may not be more than an amount that, when subtracted from the Participant's Accumulated Share, leaves in the Participant's Individual Account an amount equal to the

reasonable estimate of administrative expenses referred to in Section 3.1(b), plus \$3,000 if the Participant has an outstanding loan.

The date of a Participant's Retirement shall be deemed to be the first day of the month following the month in which the Trustees approve his or her application. A Participant's "Normal Retirement Age" shall be the later of (i) attainment of age 65, or (ii) the age of the Participant on the fifth anniversary of his or her participation. A Participant's early Retirement age shall be severance from employment at or after attainment of age 55. A Participant shall be informed by the Trustees of the estimated effect of payment in the form of a life annuity, and of the consequences of the Participant's failure to defer distribution until Normal Retirement Age.

- (d) If the value of the Participant's Accumulated Share as of the scheduled date of the distribution is \$1,000 or less, the Trustees shall automatically pay such amount as a lump sum benefit.

### 3.3 Benefit Upon Death-All Participants

- (a) If a married Participant dies before he or she becomes an Annuitant and both the Participant and his or her Qualified Spouse, if any, have not previously rejected, in writing, the Preretirement Surviving Spouse Benefit in accordance with Section 3.7(d), and no other Beneficiary has been designated, the Participant's Accumulated Share shall be paid to his or her Qualified Spouse, if any, as a monthly annuity purchased from an insurance company in accordance with Section 3.12, or as a lump sum, on the same terms and conditions provided in Section 3.2.

In no event shall the Annuity or lump sum to be provided to the Surviving Spouse have a value that is less than 50% of the Participant's nonforfeitable account balance.

However, if the Preretirement Surviving Spouse Benefit previously was not rejected by the Participant and his or her Qualified Spouse and another Beneficiary was designated by the Participant in accordance with Section 4.4, the Surviving Spouse will receive a lifetime monthly annuity purchased from an insurance company in accordance with Section 3.12 that is the actuarial equivalent of only 50% of the Participant's Accumulated Share, and the designated Beneficiary will receive the other half of the Participant's Accumulated Share in equal monthly installments in accordance with Section 3.2(c)(2) until exhaustion of the Accumulated Share, or as a lump sum.

- (b) If an unmarried Participant, or a married Participant, who with his or her Qualified Spouse rejected the Preretirement Surviving Spouse Benefit, dies before he or she becomes an Annuitant, the Participant's Accumulated Share shall be paid to his or her Beneficiary in equal monthly installments in accordance with Section 3.2(c)(2), until exhaustion of the Accumulated Share, or as a lump sum. For the waiver to be effective, the Qualified Spouse must give written consent, before a notary public, to the designation of a Beneficiary

or any change in the named Beneficiary in accordance with Section 4.4.

### 3.4 Benefit in Case of Total and Permanent Disability

If a Participant becomes Totally and Permanently Disabled, such Participant shall be eligible to receive his or her Accumulated Share in the form of a monthly annuity purchased from an insurance company in accordance with Section 3.12, or in equal monthly installments in accordance with Section 3.2(c)(2) until the Participant's Accumulated Share is exhausted, or in one lump sum.

A Participant shall be deemed Totally and Permanently Disabled if, on the basis of medical evidence satisfactory to the Trustees, the Participant is found to be permanently unable to engage in any work for which he or she previously was qualified. The Trustees shall judge total and permanent disability and the entitlement to benefits based upon medical information submitted. A Participant applying for disability benefits may be required to submit to an examination by a physician or physicians selected by the Trustees and may be required to submit to reexamination periodically as the Trustees may direct. Should the Participant fail or refuse such examination, the Trustees shall have the right to deny or suspend the payment of benefits. The Trustees may accept a Social Security award for disability benefits as evidence of satisfactory proof of Total and Permanent Disability..

### 3.5 Benefit Upon Separation

If a Participant ceases to work for an Employer and thereafter no contributions are required to be made to the Fund on his or her behalf for three consecutive months (before March 1, 2015, six consecutive months), such Participant shall be considered to have separated from service and shall be eligible to receive his or her benefit, provided the Participant is not working for an Employer when he applies for the benefit. Payment of the amount in the Annuitant's Individual Account shall be made in accordance with Section 3.2.

### 3.6 Commencement of Benefits

- (a) A Participant who is eligible to receive benefits under this Plan and makes application in accordance with the rules of this Plan shall be entitled upon retirement to receive benefits subject to the provisions of this Plan.
- (b) In no event, however, unless a Participant elects otherwise, shall the payment of benefits begin later than the 60th day after the later of the close of the Plan Year in which:
  - (1) the Participant attains Normal Retirement Age; or
  - (2) the Participant terminates his or her Covered Employment and Retires.

A Participant may, however, elect, in a writing filed with the Trustees, to receive benefits first payable in a later month, provided that no such election postpones the Annuity Starting Date of the Participant's benefit until after the Required Beginning Date as defined in Section



3.6(e). The Participant's Individual Account shall be paid in the form of a 50% Joint and Survivor Annuity unless rejected, in accordance with Section 3.2(a).

(c)

- (1) Subject to Sections 3.6(d) and 3.7(d), below, the Surviving Spouse of a Participant who dies before the Participant's Annuity Starting Date may apply for and receive a Preretirement Surviving Spouse Benefit at any time after the death of the Participant. Payment will begin as of the Surviving Spouse's Annuity Starting Date, determined under Section 1.3(a), substituting the term "Surviving Spouse" for "Participant" in the referenced Section.
- (2) A Preretirement Surviving Spouse Benefit is a survivor annuity for the life of the Participant's Surviving Spouse, purchased from an insurance company in accordance with Section 3.12.
- (3) The payments to the Surviving Spouse shall not be less than the amounts which would be payable as a survivor annuity under the 50% Joint and Survivor Annuity (or the actuarial equivalent thereof), determined as if—
  - (i) in the case of a Participant who dies after the date on which the Participant attained the Plan's Earliest Retirement Age, such Participant had retired with an immediate 50% Joint and Survivor Annuity on the day before the Participant's date of death, or
  - (ii) in the case of a Participant who dies on or before the date on which the Participant would have attained the Earliest Retirement Age under the Plan, such Participant had—
    - (I) separated from service on the date of death,
    - (II) survived until the Earliest Retirement Age under the Plan,
    - (III) retired with an immediate 50% Joint and Survivor Annuity at the Earliest Retirement Age, and
    - (IV) died on the day after the day on which such Participant would have attained the Earliest Retirement Age.
- (4) The earliest period for which a Surviving Spouse may receive a payment on such annuity is not later than the month in which the Participant would have attained the Earliest Retirement Age under the Plan.

In the case of an individual who separated from service before the date of the individual's death, subparagraph (c)(3)(ii)(I) will not apply.

- (d) Notwithstanding any other provisions of this Plan, a Preretirement Surviving Spouse Benefit shall not be paid in the form, manner or amount described if the Surviving Spouse elects in a writing filed with the Trustees, on whatever form they may prescribe, to defer commencement of the benefit until a specified date that is no later than December 1st of the calendar year in which the Participant

would have reached age 70½, or, if later, December 1st, of the calendar year following the year of the Participant's death.

- (e) Notwithstanding any provision of the Plan to the contrary, the Fund will begin benefit payments to each Participant by his or her "Required Beginning Date," whether or not he or she applies for benefits.

A Participant's Required Beginning Date is April 1st of the calendar year following the calendar year in which the Participant reaches age 70½, provided that, for a Participant who reaches age 70½ before 1988, other than a 5% Owner as defined in Section 7.2(c), the Required Beginning Date is April 1st of the calendar year in which the Participant ceases work in the industry if that is later.

If a Participant who is definitely located fails to file a completed application for benefits on a timely basis, the Fund will establish the Participant's benefit as of the Required Beginning Date as follows:

- (1) In the form of a 50% Joint and Survivor Annuity calculated on the assumptions that the Participant is and has been married for at least one year by the date payments start and that the husband is three years older than the wife.
- (2) The benefit payment form specified here will be irrevocable once it begins, with the sole exception that it may be changed to a Lifetime Annuity if the Participant proves that he or she did not have a Qualified Spouse (including an alternate payee under a QDRO) on the Annuity Starting Date; also, the amounts of future benefits will be adjusted based on the actual age difference between the Participant and Qualified Spouse if proven to be different from the foregoing assumptions.
- (3) Federal, state and local income tax, and any other applicable taxes, will be withheld from the benefit payments as required by law or determined by the Trustees to be appropriate for the protection of the Fund and the Participant.

- (f) Notwithstanding any other provision of the Plan, all survivor benefits shall comply with the limits of Code Section 401(a)(9) and the incidental benefit rule and the regulations prescribed thereunder.

### 3.7 Waiver of 50% Joint and Survivor Annuity and Preretirement Surviving Spouse Benefit

The 50% Joint and Survivor Annuity may be waived in favor of another form of distribution only as follows:

- (a) The Participant files the waiver in writing and in such form as the Trustees may prescribe, and the waiver includes the Participant's Qualified Spouse's acknowledgement of the effect of the waiver and written consent to it witnessed by a notary public or representative of the Plan; or
- (b) The Participant establishes to the satisfaction of the Trustees that:
  - (1) he or she is not married;

- (2) the Qualified Spouse whose consent would be required cannot be located;
- (3) the Participant and the Qualified Spouse are legally separated; or
- (4) the Participant has been abandoned by the Qualified Spouse as confirmed by court order.

If the Qualified Spouse is legally incompetent, consent under this Section may be given by his or her legal guardian, including the Participant if authorized to act as the Spouse's legal guardian.

- (c) Notwithstanding any other provisions of the Plan, a waiver of the 50% Joint and Survivor Annuity shall not be effective if given more than 180 days before the Annuity Starting Date. A Participant may revoke any election or rejection during this 180-day period, which is referred to as the applicable election period.
- (d) A Participant and his or her Qualified Spouse may waive the Preretirement Surviving Spouse Benefit on or after the first day of the Plan Year in which the Participant attains age 35, or in the event a Participant ceases employment with an Employer before attaining age 35, following the cessation of employment. Such election to waive the Preretirement Surviving Spouse Benefit may be revoked at any time and any number of times until the date of the Participant's death, provided that the Participant has not applied for his or her annuity benefit.
  - (1) In lieu of the Preretirement Surviving Spouse Benefit and the balance of the Participant's Accumulated Share remaining after payment of the Preretirement Surviving Spouse Benefit (hereinafter referred to as the "50% Balance Benefit"), the full amount of the Participant's Accumulated Share shall be payable to the Participant's designated Beneficiary in the event of the Participant's death prior to the Annuity Starting Date, if the Participant elects to waive the Preretirement Surviving Spouse Benefit with his or her Spouse's consent, or if the Participant is not married or is married but the Trustees are satisfied that he or she cannot locate his or her Spouse or that such other circumstances exist as may be prescribed by the Secretary of the Treasury. The Participant's designated Beneficiary may elect to receive any benefit payment in the same alternate forms of payment provided to the Participant under Section 3.2(c) above.
  - (2) A Participant shall designate a Beneficiary for death benefits in writing on a form provided by the Trustees and delivered to the Trustees. Prior to the first day of the Plan Year in which a married Participant attains age 35, a married Participant may designate a Beneficiary for death benefits other than the Participant's Spouse, only with respect to the 50% Balance Benefit that will be payable after payment of the Preretirement Surviving Spouse Benefit. At any time between the first day of the Plan Year in

which a married Participant attains age 35 and the Participant's death, a married Participant may designate a Beneficiary, other than his or her Spouse, to receive his or her entire Accumulated Share, provided the Participant's Spouse consents in writing to waive the Preretirement Surviving Spouse Benefit. If a married Participant's Spouse does not consent in the manner described below to the Participant's waiver of the Preretirement Surviving Spouse Benefit, the Participant may designate a Beneficiary for death benefits only with respect to the 50% Balance Benefit.

- (i) An election to waive a Preretirement Surviving Spouse Benefit shall not constitute a qualified election and shall not be effective unless: (a) the Participant's Spouse consents in writing to the election; (b) the election designates a specific Beneficiary, including any class of Beneficiaries or any contingent Beneficiaries, which may not be changed without spousal consent; (c) the Spouse's consent acknowledges the effect of the election; and (d) the Spouse's consent is witnessed by a Plan representative or notary public. No consent shall be required if it is established to the satisfaction of the Plan representative that there is no Spouse or that the Spouse cannot be located.
- (ii) Any consent by a Spouse (or establishment that the consent of a Spouse may not be obtained) shall be effective only with respect to such Spouse. A revocation of a prior waiver may be made by a Participant without the consent of the Spouse at any time during the Participant's lifetime. The number of revocations shall not be limited. No consent obtained under this provision shall be valid unless the Participant has received within the "applicable period" for such Participant, a written explanation of the Preretirement Surviving Spouse Benefit in such terms and in such manner as would be comparable to the explanation provided for meeting the requirements applicable to the 50% Joint and Survivor Annuity provisions described in Article III.
- (iii) The "applicable period" for a Participant is whichever of the following periods ends last: (I) the period beginning with the first day of the Plan Year in which the Participant attains age 32 and ending with the close of the Plan Year preceding the Plan Year in which the Participant attains age 35; (II) a reasonable period ending after the individual becomes a Participant. Notwithstanding the foregoing, notice must be provided within a reasonable period ending after separation from service in the case of a Participant who terminates employment prior to attaining age 35.
- (iv) For purposes of applying the preceding paragraph, a reasonable period ending after an event described in (II) in subparagraph (d)(2)(iii) above, is the end of the two-year period beginning one year prior to the date the applicable

event occurs, and ending one year after that date. In the case of a Participant who separates from service before the Plan Year in which he attains age 35, notice shall be provided within the two-year period beginning one year prior to separation and ending one year after separation. If such a Participant thereafter returns to employment with the Employer, the applicable period for such Participant shall be redetermined.

- (3) A Participant may change his or her designated Beneficiary at the Participant's discretion; provided, however, that if a married Participant's Spouse has consented to waive the Preretirement Surviving Spouse Benefit and to a designated Beneficiary for death benefits, the Participant may not change the designated Beneficiary for death benefits with respect to the portion of the benefit which would have been paid to the Spouse but for the waiver, without the Spouse's written consent.
- (4) A Spouse who has consented to a married Participant's waiver of the Preretirement Surviving Spouse Benefit or to a designated Beneficiary may revoke such consent only with the consent of the Participant.
- (5) If no Beneficiary has been designated, or if the designated Beneficiary predeceases the Participant, the entire Accumulate Share will be paid in accordance with Section 4.4.

### 3.8 Reemployment

A Participant who previously has received or is receiving his or her Accumulated Share and thereafter returns to work in Covered Employment will be deemed to be a new Participant for purposes of this Article.

### 3.9 No Contributions and No Application for Benefits

If no contributions have been made to an Individual Account for a period of 60 consecutive months and no application for payment has been made by the end of that period, and the Trustees have been unable, with due diligence, to locate the Participant for whom such Individual Account was established, or the Beneficiaries of the Participant are known to be deceased, by the end of that period, the Individual Account shall be applied to the expenses of the Plan, provided that if the Participant thereafter files an application and is entitled to payment of the Individual Account, such allocation shall be rescinded and full payment shall be made.

### 3.10 Loans

- (a) A Participant who has an Individual Account for five or more years may apply to the Trustees for a loan of up to 50% of the amount in his or her Individual Account, as of the last reported Valuation Date, not to exceed \$50,000. At no time shall a Participant be entitled to a second or subsequent loan until such existing outstanding loan balance plus accrued interest are fully repaid. Applications for loans will be accepted for the following:

- (1) The payment by the Participant of tuition, fees and/or room and board to maintain him or herself, his or her Spouse or a dependent child at an educational institution at or beyond the high school level, or a school or institution for physically or mentally handicapped children. Subsequent loans for this reason may be combined with outstanding loans, if outstanding loan principal plus accrued interest payments are up-to-date.
  - (2) The payment by the Participant of funeral expenses due to death of a Spouse, child, parent, grandparent, grandchild or Spouse's parent.
  - (3) The purchase by the Participant of an automobile to be used for his or her personal use, provided the automobile is not purchased as a collector's item and is not purchased from a member of the Participant's household.
  - (4) The purchase by the Participant of a home, cooperative, or condominium apartment, which will be his or her primary residence and he or she thereby has incurred a down payment, contract and title expenses, provided however, that a loan pursuant to this subparagraph shall be made to a Participant only once.
  - (5) The payment by the Participant of an obligation relating to a major personal emergency, in the event that the Participant proves to the satisfaction of the Trustees that the loan is absolutely necessary. The Trustees may, in their sole and absolute discretion, offer such loans on terms that vary from the other terms set forth in this Section 3.10, so long as such terms do not violate applicable law and are applied in a consistent and nondiscriminatory manner.
- (b) The Trustees shall judge whether these contingencies have occurred, based upon objective standards, and if they have occurred, whether they are of such a nature as to require the granting of a loan from the Fund, their judgment shall be final and binding on all parties. Such judgment, however, shall be exercised in a consistent and nondiscriminatory manner.
  - (c) The loan, when made, shall bear simple interest on the outstanding balance. Effective for loans made on or after March 1, 2015, the rate of interest shall be equal to the prime rate published in the Wall Street Journal on March 1 of each Plan Year plus 1%. For loans made prior to March 1, 2015, the rate of interest shall be the greater of (1) the prime rate as published in the Wall Street Journal on March 1 of each year for the duration of the entire Plan Year or (2) 7.5% per annum.
  - (d) No loan shall be granted for any expenses, as described in (a), above, which were incurred more than three months prior to the date of the application.
  - (e) Upon the granting of a loan to a Participant pursuant to the terms of this Section, the Participant shall execute and deliver to the Trustees

a promissory note and an assignment and financing statement of the remaining balance of his or her Individual Account as collateral to secure repayment of his or her loan and accrued interest thereon, all in a form approved by the Trustees.

- (f) If a Participant with an outstanding loan against his or her Individual Account serves with the armed forces of the United States, the Participant's loan repayments will be suspended under this Plan as permitted under Code section 414(u)(4).
- (g) No loan shall be made to a Participant unless, within the 90-day period before the loan is made:
  - (1) The Participant and the Participant's Spouse, if any, consent in writing to the use of the account balance as security for the loan, including the possibility that the Participant's account balance could be reduced if the Participant fails to meet all obligations with respect to his or her loan and acknowledges the effect on their rights under the Plan and that consent is witnessed by a notary public or representative of the Plan.
  - (2) The Participant consents to the use of the account balance as security and that the consent of the Participant's Qualified Spouse is not necessary because:
    - (A) the Participant is not married;
    - (B) the Qualified Spouse cannot be located despite a diligent search by the Participant deemed sufficient by the Trustees; or
    - (C) the consent of the Qualified Spouse cannot be obtained because of other extenuating circumstances, as prescribed in IRS regulations.
- (h) A consent given under subsection (g) shall be considered to be a valid consent by the Participant and his or her Qualified Spouse, if any, to the Trustees' subsequent enforcement of the terms of the loan and the pledge of security, even if the Participant has a new or different Qualified Spouse at that later time.
- (i) In any event, a loan shall not be made if it would be inconsistent with the terms of a Qualified Domestic Relations Order that has been delivered to the Trustees before the loan is approved.
- (j) Upon nonpayment of the loan, a period for cure shall be allowed, not to extend beyond the last day of the calendar quarter following the calendar quarter in which the regularly scheduled loan payment was due (or as permitted under applicable Internal Revenue Service regulations). If the loan remains unpaid at the end of the cure period, the loan shall automatically go into default. Upon default of the loan, a deemed distribution shall occur. The Trustees shall not grant any loan to any Participant who has not repaid prior loan(s) in a timely manner in accordance with the loan repayment schedule for the prior loan(s). If a defaulted loan remains unpaid, it shall be offset against the account balance at the time of distribution.

- (k) Initial installment repayments are due on the first January 1st, April 1st, July 1st or October 1st immediately following the date the loan is granted and further installments are due on a calendar quarter basis thereafter. With the exception of loans made for the purchase of a primary residence, the term of a loan may not exceed five years. Loans for the purchase of a primary residence may be for a term of up to ten years. Any loan that repays a prior loan will be considered a refinancing.

### 3.11 Actuarially Equivalent Benefits

For purposes of this Article, the following principles shall apply in determining the actuarial equivalent of a Participant's Individual Account:

- (a) The value of a Participant's Individual Account shall be deemed to be the value of the balance credited to the Individual Account as of the most recent Valuation Date preceding the date as of which the value is to be determined, increased by any amounts allocated to the account after that Valuation Date and reduced by any amounts withdrawn from the Individual Account after that Valuation Date. The value of the Account shall be adjusted in accordance with Article II as of each subsequent Valuation Date, until the amount in the Individual Account is distributed by purchase of an annuity or otherwise.
- (b) The conversion of an Individual Account balance, or part of it, to an actuarially equivalent annuity, shall be based on the actuarial assumptions and other terms prescribed by the insurance company selected by the Trustees to issue the annuity. These need not be the same factors (or the same insurance company) used to estimate the annuity benefits for purposes of informing the Participant and Qualified Spouse about the effect of receiving the benefit in annuity form.
- (c) Fees, commissions and other costs directly incurred in connection with the purchase of an annuity will be deducted from the account balance immediately before the purchase.

### 3.12 Insurance Contracts

Unless the Trustees determine otherwise, any lifetime annuities payable under this Article shall be provided by the purchase of an irrevocable annuity from an insurance company. Any administrative fees incurred in the purchase of a Participant's annuity shall be charged against the Participant's Individual Account.

### 3.13 Trustees' Reliance

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



same Participant, or for any combination of Surviving Spouse and other death benefits, with respect to the Participant, in excess of the value of the Participant's Individual Account determined as of the date scheduled for the start of payments to the Participant or, if earlier, the date of the Participant's death.

### 3.14 Rollovers

(a) 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.

#### (b) Definitions

(1) *Eligible Rollover Distribution*: An Eligible Rollover Distribution is any distribution of all or any portion of the balance to the credit of the Distributee, except that an Eligible Rollover Distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Distributee or the joint lives (or joint life expectancies) of the Distributee and the Distributee's designated Beneficiary, or for a specified period of 10 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 included in gross income. Any amount that is distributed on account of hardship shall not be an Eligible Rollover Distribution and the Distributee may not elect to have any portion of such a distribution paid directly to an Eligible Retirement Plan.

(2) *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 403(a) of the Code or a qualified trust described in Section 401(a) of the Code, that accepts the Distributee's Eligible Rollover Distribution. However, in the case of an Eligible Rollover Distribution to the Surviving Spouse, an Eligible Retirement Plan is an individual retirement account or individual retirement annuity. An "eligible retirement plan" also shall include an annuity contract described in Code Section 403(b) and an eligible plan under Code Section 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality or a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan. Participants can roll over an Eligible Rollover Distribution into a Roth IRA described in Section 408A of the Code, to the extent that the rollover is permitted under the rules of Section 408A(e) of the Code. In the case of an eligible rollover distribution to a non-Spouse Distributee (a "Non-Spouse Rollover"), 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, or a Roth IRA described in Section 408A of the Code that was established for the purpose of receiving the distribution on behalf of such non-Spouse Distributee. In order for such Eligible Retirement Plan to accept a Non-Spouse Rollover on behalf of a non-Spouse Distributee, (i) a direct trustee-to-trustee transfer must be made to such Eligible Retirement Plan and shall be treated as an eligible rollover distribution for purposes of the Code, (ii) the individual retirement plan shall be treated as an inherited individual retirement account or individual retirement annuity (within the meaning of section 408(d)(3)(C) of the Code) for purposes of the Code, and (3) Section 401(a)(9)(B) of the Code (other than clause (iv) thereof) shall apply to such plan. Any Non-Spouse Rollover shall be made in accordance with the PPA and any applicable guidance. The definition of "eligible retirement plan" also shall apply in the case of a distribution to a Surviving Spouse, or to a Spouse or former Spouse who is the alternate payee under a qualified domestic relations order as defined in Code Section 414(p).

- (3) *Distributee*: A Distributee includes a Participant or former Participant. In addition, the Participant's or former Participant's Surviving Spouse and the Participant's or former Participant's Spouse or former Spouse 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. A Distributee shall also include a non-Spouse Distributee who is a designated Beneficiary (as defined by section 401(a)(9)(E) of the Code) of the Participant or former Participant.
- (4) *Direct Rollover*: A Direct Rollover is a payment by the plan to the Eligible Retirement Plan specified by the Distributee.

## ARTICLE IV – GENERAL PROVISIONS

### 4.1 Application for Benefits

Application for all benefits and loans must be made in writing in a form and manner prescribed by the Trustees.

### 4.2 Information Required

Every Participant, Annuitant or Beneficiary shall furnish, at the request of the Trustees, any information or proof required for the administration of the Plan, or for the determination of any matter that the Trustees may have before them. Failure to furnish such information or proof promptly and in good faith shall be sufficient reason for (i) the denial of benefits to such Participant or Beneficiary, (ii) the suspension or discontinuance of benefits to such Annuitant, or (iii) the denial of any application of such Participant, Annuitant, or Beneficiary for a loan under Section 3.10. The falsity of any statement, material to an application, or the furnishing of

fraudulent information or proof shall be sufficient reason for the denial, suspension or discontinuance of benefits under this Plan and, in any such case, the Trustees shall have the right to recover any benefit payments made in reliance thereon. The falsity of any statement material to an application, or the furnishing of fraudulent information or proof shall also be sufficient reason for the denial of any application for a loan under Section 3.10.

A Participant's acceptance of payment in cash or otherwise from an employer (as defined in Article I, Section 1 of the Trust Agreement) for hours of work in employment covered by a Collective Bargaining Agreement or Participation Agreement with Local 282 that have not been reported to this Fund or to the Local 282 Welfare Trust Fund, the Local 282 Pension Trust Fund, the Local 282 Job Training Trust Fund or the Local 282 Vacation & Sick Leave Trust Fund, where the Participant knew or should have known that the hours would not be reported, shall constitute sufficient reason for the Trustees, in their discretion, to deny, discontinue, suspend, reduce, or otherwise impair the Participant's non-vested benefits and those provided to his or her Beneficiaries.

#### 4.3 Administration and Standards of Proof

The Trustees shall be responsible for the general administration of the Plan. The Board of Trustees shall have the exclusive right, power, and authority, in its sole and absolute discretion, to administer, apply and interpret the Plan and any other Plan documents and to decide all matters arising in connection with the operation or administration of the Plan, including, but not limited to, determining the standard of proof required in any case based upon objective standards. Without limiting the generality of the foregoing, the Trustees shall have the sole and absolute discretionary authority to: (1) take all actions and make all decisions with respect to the eligibility for, and the amount of, benefits payable under the Plan; (2) formulate, interpret and apply rules, regulations and policies necessary to administer the Plan in accordance with its terms; (3) decide questions, including legal or factual questions, relating to the calculation and payment of benefits under the Plan; (4) resolve and/or clarify any ambiguities, inconsistencies and omissions arising under the Plan or other Plan documents; and (5) process, and approve or deny, benefit claims and rule on any benefit exclusions and determine the standard of proof in any case. All determinations and interpretations made by the Trustees with respect to any matter arising under the Plan and any other Plan documents shall be final and binding on all parties, including Participants, Employers, Local 282, Annuitants and Beneficiaries. The Trustees may delegate any other such duties or powers as it deems necessary to carry out the administration of the Plan.

#### 4.4 Designation of Beneficiary

A Participant may designate a Beneficiary(ies) on a form provided by the Trustees and delivered to the Trustees before the Participant's death. A Participant may change his or her Beneficiary(ies) without consent of the Beneficiary(ies) in the same manner. However, to be effective with respect to more than 50% of the benefit, as provided in Section 3.7(d), the

Participant's Qualified Spouse must consent in writing, before a notary public, to the designation of a Beneficiary, or any change in Beneficiary. The Trustees shall judge the effectiveness of the designation or change thereof based upon objective standards. Successive Beneficiaries may be specifically named to receive the benefits, if the prior named Beneficiary has predeceased the Participant or is deceased before the termination of payment of the Accumulated Share. If no Beneficiary has been designated, distribution of the remaining amount of the Participant's Individual Account balance shall be made to the following persons, if then living, in the following order or priority:

- (1) Spouse of Participant or Annuitant;
- (2) Child or children of Participant or Annuitant, equally;
- (3) Estate of Participant or Annuitant.

#### 4.5 Incapacity

If it is determined that any Participant, Annuitant or Beneficiary is unable to care for his or her affairs because of mental or physical incapacity, any benefit due such Participant, Annuitant or Beneficiary, unless claim therefore has been made by his or her legal guardian, committee or legal representative, shall be applied by the Trustees, based upon objective standards, for his or her maintenance and support or the maintenance and support of the Spouse and minor children.

#### 4.6 Merger, Consolidation or Transfer

In the event of any merger or consolidation with, or transfer of assets or liabilities to any other Plan, the amount of benefit which a Participant would receive upon a termination of the Plan immediately after such merger, consolidation or transfer shall be no less than the benefit he or she would have been entitled to receive immediately before the merger, consolidation, or transfer, if the Plan had been terminated.

Upon agreement reached between Local 282 and an Employer to cease making contributions to the Fund and to allow Participants of the Employer to participate in a qualified plan maintained by such Employer, Individual Accounts of affected Participants shall be transferred in a plan-to-plan transfer to the Employer-maintained plan, subject to applicable rules and regulations governing plan-to-plan transfers.

#### 4.7 Assignment of Benefits Prohibited

- (a) Except as otherwise expressly provided herein, Participants, Annuitants and Beneficiaries shall not have any right to assign, alienate, transfer, sell, hypothecate, mortgage, encumber, pledge, commute, anticipate or impair in any manner his or her legal or beneficial interest, or any interest in assets of the Fund, or benefits under the Plan, except to the extent otherwise required by applicable law. In addition, except to the extent otherwise required by applicable law, such individuals shall not be subject to any legal process to levy execution upon, or attachment or garnishment proceedings against amounts held on their behalf for the payment of any claim against any Participant, Annuitant or Beneficiary; nor shall such payments

be subject to the jurisdiction of any bankruptcy court or insolvency proceedings. Any attempt to assign or otherwise alienate benefits in violation of the terms of this Plan shall be void and of no effect whatsoever.

(b) Paragraph (a) above, however, shall not preclude:

- (1) The payment of benefits to one or more “alternate payees” pursuant to the terms of a domestic relations order that the Plan finds to be a “Qualified Domestic Relations Order” within the meaning of Code section 414(p) and ERISA Section 206(d);
- (2) an offset of a Participant’s benefits as provided under Internal Revenue Code section 401(a)(13) with respect to:
  - (A) a judgment of conviction of a crime involving the Plan;
  - (B) a civil judgment, consent order or decree in an action for breach or alleged breach of fiduciary duty under ERISA involving the Plan; or
  - (C) a settlement agreement between the Participant and either the Secretary of Labor or the Pension Benefit Guaranty Corporation in connection with a breach of fiduciary duty under ERISA by a fiduciary or any other person, which court order, judgment, decree or agreement is issued or entered into and specifically requires the Plan to offset against a Participant’s benefits.

The court order, judgment, decree, or settlement agreement must specifically require that all or part of the amount to be paid to the Plan be offset against the Participant’s Plan benefits.

- (3) An offset under Code section 401(a)(13) against a married Participant’s benefits shall be valid only if one of the following conditions is satisfied:
  - (A) If the written consent is obtained by the Qualified Spouse;
  - (B) The Qualified Spouse is required by a judgment, order, decree or agreement to pay the Plan any amount, or
  - (C) A judgment, order, decree or agreement provides that the Qualified Spouse shall receive a survivor annuity, as required by Code section 401(a)(11), determined as if the Participant terminated employment on the offset date (with no offset to his or her benefits), to begin on or after Normal Retirement Age, and providing a 50% Joint and Survivor Annuity and a Preretirement Surviving Spouse Benefit based on the 50% Joint and Survivor Annuity.

### 4.8 Amendments

The Trustees may amend or modify the Plan at any time in accordance with the Trust Agreement and applicable law, except that no amendment or modification may reduce any benefits which have been approved for payment prior to amendment, as long as funds are available for payment of such benefits.

## 4.9 Termination

In the event of termination of the Plan, or in the event of complete discontinuance of contributions, each Participant shall have a non-forfeitable right and the assets then remaining after providing for the expenses of the Plan and for the payment of any Accumulated Share previously approved, shall be distributed among the Participants. Each Participant shall receive that part of the total remaining assets in the same ratio as his or her Accumulated Share bears to the aggregate amount of the Accumulated Shares of all Participants. No part of the assets shall be returned to any Employer or inure to the benefit of any Employer or Local 282.

In the event the liquidation value of the assets on the date of termination is less than the total of all Accumulated Shares plus expenses, the Trustees shall pay all Accumulated Shares to Participants over a period not to exceed 1 year to the extent permitted by the assets available.

## 4.10 Claims and Appeals

The following procedures shall be followed in applying for annuity benefits:

- (a) A Participant or Beneficiary (or his or her duly authorized representative) shall notify the Plan Administrator of a claim for benefits. Such notification shall be made in writing and shall set forth the basis of the claim and shall authorize the Plan Administrator to conduct such examination as may be necessary to determine the validity of the claim and to take such steps as may be necessary to facilitate the payment of benefits to which the Participant or Beneficiary may be entitled under the terms or the Plan.
- (b) If a claim (other than a claim for a benefit upon Total and Permanent Disability) is wholly or partially denied or an adverse benefit determination is otherwise made, written notice of the adverse benefit determination shall be furnished to the Participant or Beneficiary within a reasonable period of time, but not later than 90 days after the claim is received by the Plan Administrator. If the Plan Administrator determines that special circumstances require an extension of time to process the claim, the initial 90-day period may be extended for an additional 90 days. In the event an extension is required, the Participant or Beneficiary shall receive a written notice, before the initial 90-day period expires, describing the special circumstances requiring an extension of time and the date by which the Plan Administrator expects to render a decision.
- (c) In the case of a claim for benefits upon Total and Permanent Disability, written notice of the adverse benefit determination shall be furnished to the Participant within a reasonable period of time, but no later than 45 days after the claim is received by the Plan Administrator.
  - (1) This 45-day period may be extended for an additional 30 days provided that the Plan Administrator determines that an extension is necessary, due to matters beyond its control,

and the Plan Administrator notifies the Participant prior to the end of the 45-day period of the circumstances requiring the extension of time and the date by which the Plan expects to render a decision. If prior to the end of this 30-day extension period, the Plan Administrator determines that due to matters beyond its control, additional time is necessary to process the claim, the period for making a determination may be extended for up to an additional 30 days, provided the Plan Administrator notifies the Participant prior to the end of the 30-day period of the circumstances requiring the extension and the date by which the Plan expects to make a decision. Any notice of extension shall specifically explain the standards on which entitlement to benefits upon Total and Permanent Disability is based, the unresolved issues that prevent a decision on the claim, and the additional information needed to resolve those issues.

- (2) If either the first or the second extension hereunder is required due to the Participant's failure to submit information necessary to decide the claim, the period for making the determination will be tolled from the date on which the extension notice is sent to the Participant until the date on which the Participant responds to the Plan Administrator's request for information, and the Participant shall be afforded at least 45 days within which to provide any additional information so requested.
- (3) In the event a claim is denied, in whole or in part, the Participant or Beneficiary shall receive written notice describing (i) the specific reason(s) for the denial; (ii) with references to the specific Plan provisions on which the decision was based; (iii) where appropriate, an explanation of what additional material or information is needed to perfect the claim and explanation of why such material or information is needed; (iv) an explanation of the Plan's claim review procedure and the time limits applicable to such procedures; and (v) a statement of the Participant's or Beneficiary's right to bring a civil action under Section 502(a) of ERISA upon an adverse benefit determination on review.
- (4) With respect to a claim for benefits upon Total and Permanent Disability, if the denial was based on an internal rule, guideline, protocol, or other similar criterion in making a benefit determination hereunder, the Participant shall also be provided with a description of such information, or a statement that such rule, guideline, protocol or other criterion will be provided free of charge to the Participant upon request.
- (d) A Participant or Beneficiary with respect to whom the Plan Administrator has made an adverse benefit determination must file an appeal if the Participant or Beneficiary wishes to challenge the benefit determination by filing with the Trustees a request for a review. Such request must be filed with the Trustees (or duly authorized committee) no later than 60 days (or, with respect to a claim for benefit upon Total and Permanent Disability, no later

than 180 days) after receipt of a notification of an adverse benefit determination. As part of the review, a Participant or Beneficiary shall have the opportunity to submit written comments, documents, records and other information relating to the claim for benefits. Furthermore, a Participant or Beneficiary shall be provided, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant (as defined in Labor Regulations section 2560.503-1(m)(8)) to the Participant's or Beneficiary's claim for benefits.

- (1) The review shall take into account all comments, documents, records and other information submitted by the Participant or Beneficiary relating to the claim, without regard to whether such information was submitted or considered in the initial benefit determination.
- (2) For a review of a claim for benefit upon Total and Permanent Disability, the review shall not afford deference to the initial benefit determination and shall be conducted by an appropriately named Plan fiduciary who is neither the individual who made the initial decision on the claim, nor a subordinate of such individual. If the claim is based, in whole or part, on a medical judgment, the Plan fiduciary shall consult with a health care professional who has appropriate training and experience in the field of medicine involved in the medical judgment. Any health care professional consulted with on appeal shall not be the same health care professional who was consulted with on the initial decision on the claim, or a subordinate of such individual. A Participant may be provided with, upon request, the identification of any medical or vocational experts whose advice was obtained on behalf of the Plan in connection with the claim, without regard to whether the advice was relied upon in making the decision.
- (3) A final decision as to the appeal shall be made by the Trustees at its next regularly scheduled Board of Trustees meeting if the appeal is received by the Trustees at least 30 days before the meeting. If the appeal is received by the Trustees less than 30 days before the next regularly scheduled meeting, the appeal will be reviewed at the second meeting following the Trustees' receipt of the request for review.
- (4) If special circumstances require an extension of time for reviewing the appeal, the appeal will be reviewed during the third Trustees' meeting following the Trustees' receipt of the request for a review. If any such extension is required due to the Participant's or Beneficiary's failure to submit information necessary to decide the appeal, the period for making the determination will be tolled from the date on which the extension notice is sent to the Participant or Beneficiary until the date on which the Participant or Beneficiary responds to the Trustees' request for information. To the extent required



by law, the Participant or Beneficiary shall be afforded at least 45 days within which to provide any additional information so requested.

- (e) The Trustees' decision shall be in writing and sent to the Participant or Beneficiary no later than five days after such decision is made. If adverse, the notice of decision shall include: (i) the specific reason(s) for the decision; (ii) specific references to the Plan provisions on which the decision is based; (iii) a statement that the Participant or Beneficiary is entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to the Participant's or Beneficiary's claim for benefits, and (iv) a statement of the Participant's or Beneficiary's right to bring a civil action under section 502(a) of ERISA.
  - (1) With respect to a claim for benefits upon Total and Permanent Disability, such notice shall also include a description of any rule, guideline, protocol, or other similar criterion that was relied upon in making the adverse determination, or a statement that such rule, guideline, protocol or other similar criterion will be made available to the Participant free of charge upon request.
- (f) All interpretations, determinations and decisions of the Trustees with respect to any claim or any other matter relating to the Plan shall be made in their sole discretion based on the Plan documents, and shall be final, conclusive and binding on all parties affected thereby.
- (g) A Participant or Beneficiary may have a right to bring a civil action under ERISA Section 502(a) following an adverse benefit determination on review. However, a Participant or Beneficiary must exhaust the claims and appeals procedure provided in this Section 4.10 before he or she may bring legal action seeking payment of benefits under the Plan. Under no circumstances may any legal action be commenced or maintained against the Plan, the Fund, the Board of Trustees, or any employee or representative of the Plan or the Fund more than one year after the Board of Trustees' decision on appeal.

#### 4.11 Nonforfeitability

The benefits to which a Participant is entitled under this Plan are nonforfeitable, subject only to conditions as to application, and willful misrepresentation, and the effect of retroactive amendments made within the limitation of Code Section 412(c)(8). The benefits to which a Surviving Spouse is entitled likewise shall be nonforfeitable. Participants and Beneficiaries shall be entitled to any of the other benefits of this Plan subject to all of the applicable terms and conditions.

The Participant has attained "Vested Status" when he or she has established an Individual Account.

#### 4.12 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 in a manner consistent with that intent.

### 4.13 Recovery of Overpayments

If for any reason benefit payments are made to any person from the Plan in excess of the amount which is due and payable under this Plan, the Trustees shall have full authority, in their sole and absolute discretion, to recover the amount of any overpayment (plus interest and costs). That authority shall include, but shall not be limited to, (i) the right to reduce benefits payable in the future to the person who received the overpayment, (ii) the right to reduce benefits payable to a Surviving Spouse or other Beneficiary who is, or may become, entitled to receive payments under the Plan following the death of that person, and/or (iii) the right to initiate a lawsuit or take such other legal action as may be necessary to recover any overpayment (plus interest and costs) against any person who received the overpayment or the estate of any such person.

### 4.14 Scrivener's Error

In the event of a scrivener's error that renders a Plan term inconsistent with the Trustees' intent, the Trustees' intent controls, and any inconsistent Plan term is made expressly subject to this requirement. The Trustees have the authority to review objective evidence to conform the Plan term to be consistent with the Trustees' intent. Any determination made by the Trustees shall be given deference in the event it is subject to judicial review and shall be overturned only if it is arbitrary and capricious.

## ARTICLE V – MAXIMUM BENEFITS

### 5.1 Maximum Contribution

Notwithstanding anything to the contrary herein, no contributions made to the Plan and no benefits distributed by the Plan shall exceed the limitations of Code Section 415. The limitations under Code Section 415 and the Regulations thereunder shall be incorporated by reference in this Plan.

### 5.2 Limitation Year

The Limitation Year shall be the calendar year.

### 5.3 Limitation on Allocations to a Participant's Account

*Maximum Annual Addition.* The annual addition that may be contributed or allocated to a Participant's account under the Plan for any Limitation Year shall not exceed the lesser of:

- (1) As of January 1, 2010, \$49,000, as adjusted for increases in the cost-of-living under Code Section 415(d), or
- (2) 100% of the Participant's compensation, within the meaning of Code Section 415(c)(3), for the Limitation Year.

### 5.4 Definitions for Purposes of this Section

The terms "Employer" and "Compensation" and other terms used in this Article not otherwise expressly defined in the Plan, shall be defined, interpreted and applied for purposes of this Article as prescribed in Code section 415 and the regulations and rulings issued thereunder. For

purposes of applying the rules of section 415 to this Section, Compensation shall mean compensation as defined in IRS Regulation section 1.415(c)-2(b) and (c), and shall include differential wage payments, as defined in Code section 3401(h).

Notwithstanding anything in the Plan to the contrary, (i) an individual receiving a differential wage payment, as defined by section 3401(h)(2) of the Code shall be treated as a Participant, solely to the extent required by law, (ii) the differential wage payment shall be treated as compensation for purposes of the Code, solely to the extent required by law, and (iii) the Plan shall not be treated as failing to meet the requirements of any provision described in section 414(u)(1)(C) of the Code by reason of any contribution or benefit which is based on the differential wage payment.

### 5.5 Limit on Compensation Taken Into Account

The annual compensation of each Participant taken into account in determining allocations for any Plan Year shall not exceed \$200,000, as adjusted for cost-of-living increases in accordance with Code section 401(a)(17)(B). Annual compensation for this purpose means compensation during the Plan Year or such other 12-consecutive 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.

### 5.6 Aggregation of Plans

This plan shall not be aggregated with any other multiemployer plan. If an Employer sponsors a plan which is not a multiemployer plan, such plan shall be aggregated with this Plan (except for purposes of applying the limits of section 415(c)(1)(B) of the Internal Revenue Code) only to the extent that benefits provided under the Plan are provided by the Employer with respect to a Participant who participates in both plans. For purposes of applying the limitations hereunder, only contributions and benefits of the Employer employing the Participant shall be taken into account. In aggregating plans under this Section, the special rules for affiliated employers and affiliated service groups in IRS Regulation section 1.415(a)-I(f) shall apply.

### 5.7 Protection of Prior Benefits

Notwithstanding the foregoing, any higher limits, or any lower limits, provided for in the Code or the Plan, are hereby grandfathered and preserved.

## ARTICLE VI – MINIMUM DISTRIBUTION REQUIREMENTS

### 6.1 General Rules

- (a) *Effective Date.* The provisions of this Article will apply for purposes of determining required minimum distributions.
- (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 issued under section 401(a)(9) of the Code. To the extent that the Plan purchases an annuity contract to distribute benefits under the Plan, the distributions shall comply with provisions of IRS Reg. section 1.401(a)(9)-6 governing required minimum distributions under an annuity contract.
- (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 related to section 242(b)(2) of TEFRA.

## 6.2 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 as set forth in Section 3.6(e) of the Plan.
- (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 dies before distributions begin and there is a designated Beneficiary, the Participant's entire interest must be distributed to the designated Beneficiary by December 31 of the calendar year containing the fifth anniversary of the Participant's death.
  - (2) If the Participant's Surviving Spouse is the Participant's sole designated Beneficiary, then the Participant's Spouse may elect, in lieu of subparagraph (1) above, to have distributions to the Surviving Spouse 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. The election must be made no later than September 30 of the calendar year in which distribution would be required to begin under this subparagraph (2), or if earlier subparagraph (1) above.
  - (3) If the Participant's Surviving Spouse is not the Participant's sole designated Beneficiary, then the designated Beneficiary may elect, in lieu of subparagraph (1) above, to have distributions begin by December 31 of the calendar year immediately following the calendar year in which the Participant died. The election must be made no later than September 30 of the calendar year in which distribution would be required to begin under this subparagraph (3).

- (4) 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.
- (5) If the Participant's Surviving Spouse is the Participant's sole designated Beneficiary and the Surviving Spouse dies after the Participant but before distributions to the Surviving Spouse begin, this subsection (b), other than subparagraph (2), will apply as if the Surviving Spouse were the Participant.

For purposes of this subsection (b) and Section 6.4, unless subparagraph (b)(5) applies, distributions are considered to begin on the Participant's Required Beginning Date. If subparagraph (b)(5) applies, distributions are considered to begin on the date distributions are required to begin to the Surviving Spouse under Subsection (b)(2), if such election is made. If distributions under an annuity purchased from an insurance company 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 an election made under subparagraph (b)(2)), the date distributions are considered to begin is the date distributions actually commence.

- (c) *Forms of Distribution.* Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the Required Beginning Date, as of the first distribution calendar year, distributions will be made in accordance with Sections 6.3 and 6.4 of this Article. If the Participant's or designated Beneficiary's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of section 401(a)(9) of the Code and the Treasury regulations issued thereunder.

## 6.3 Required Minimum Distributions During Participant's Lifetime

- (a) *Amount of Required Minimum Distribution for Each Distribution Calendar Year.* During the Participant's lifetime, the minimum amount that will be distributed for each distribution calendar year is the lesser of:
  - (1) the quotient obtained by dividing the Participant's account balance by the distribution period in the Uniform Lifetime Table set forth in section 1.401(a)(9)-9 of the Treasury regulations, using the Participant's age as of the Participant's birthday in the distribution calendar year; or
  - (2) if the Participant's sole designated Beneficiary for the distribution calendar year is the Participant's Spouse, the quotient obtained by dividing the Participant's account balance by the number in 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 distribution calendar year.

- (b) *Lifetime Required Minimum Distributions Continue Through Year of Participant's Death.* Required minimum distributions will be determined under this Section 6.3 beginning with the first distribution calendar year and up to and including the distribution calendar year that includes the Participant's date of death.

### 6.4 Required Minimum Distributions After Participant's Death

#### (a) Death On or After Date Distributions Begin

- (1) *Participant Survived by Designated Beneficiary.* If the Participant dies on or after the date distributions begin and there is a designated Beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the longer of the remaining life expectancy of the Participant or the remaining life expectancy of the Participant's designated Beneficiary, determined as follows:
  - (A) The Participant's remaining life expectancy is calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.
  - (B) If the Participant's Surviving Spouse is the Participant's sole designated Beneficiary, the remaining life expectancy of the Surviving Spouse is calculated for each distribution calendar year after the year of the Participant's death using the Surviving Spouse's age as of the Spouse's birthday in that year. For distribution calendar years after the year of the Surviving Spouse's death, the remaining life expectancy of the Surviving Spouse is calculated using the age of the Surviving Spouse as of the Spouse's birthday in the calendar year of the Spouse's death, reduced by one for each subsequent calendar year.
  - (C) If the Participant's Surviving Spouse is not the Participant's sole designated Beneficiary, the designated Beneficiary's remaining life expectancy is calculated using the age of the Beneficiary in the year following the year of the Participant's death, reduced by one for each subsequent year.
- (2) *No Designated Beneficiary.* If the Participant dies on or after the date distributions begin and there is no designated Beneficiary as of September 30 of the year after the year of the Participant's death, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the Participant's remaining life expectancy calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.

#### (b) Death Before Date Distributions Begin

- (1) *Participant Survived by Designated Beneficiary.* If the Participant dies before the date distributions begin and there is a designated

Beneficiary, if the designated Beneficiary has made an election under section 6.2(b)(2) or (3), the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the remaining life expectancy of the Participant's designated Beneficiary, determined as provided in subsection 6.4(a).

- (2) *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.
- (3) *Death of Surviving Spouse Before Distributions to Surviving Spouse Are Required to Begin.* If the Participant dies before the date distributions begin, the Participant's Surviving Spouse is the Participant's sole designated Beneficiary, and the Surviving Spouse dies before distributions are required to begin to the Surviving Spouse after having made an election under Section 6.2(b)(2), this Section 6.4(b) will apply as if the Surviving Spouse were the Participant.

## 6.5 Definitions

- (a) *Designated Beneficiary.* The individual who is designated as the Beneficiary under Section 4.4 of the Plan and is the designated Beneficiary under section 401(a)(9) of the Code and Section 1.401(a)(9)-4, Q&A-1, 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 under subsection 6.2(b). The required minimum distribution for the Participant's first distribution calendar year will be made on or before the Participant's Required Beginning Date. The required minimum distribution for other distribution calendar years, including the required minimum distribution for the distribution calendar year in which the Participant's Required Beginning Date occurs, will be made on or before December 31 of that distribution calendar year.
- (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) *Participant's account balance.* The account balance as of the last Valuation Date in the calendar year immediately preceding the distribution calendar year (valuation calendar year) increased by the amount of any contributions made and allocated or forfeitures allocated to the account balance as of dates in the valuation calendar

year after the Valuation Date and decreased by distributions made in the valuation calendar year after the Valuation Date. The account balance for the valuation calendar year includes any amounts rolled over or transferred to the Plan either in the valuation calendar year or in the distribution calendar year if distributed or transferred in the valuation calendar year.

### 6.6 Temporary Waiver of Required Minimum Distribution

Notwithstanding any other provision in this Article VI, a Participant or Beneficiary who would have been required to receive required minimum distributions for 2009 but for the enactment of Code section 401(a)(9)(H) ("2009 RMDs"), and who would have satisfied that requirement by receiving distributions that are (1) equal to the 2009 RMDs or (2) one or more payments in a series of substantially equal distributions (that include the 2009 RMDs) made at least annually and expected to last for the life (or life expectancy) of the Participant, the joint lives (or joint life expectancy) of the Participant and the Participant's designated Beneficiary, or for a period of at least ten (10) years ("Extended 2009 RMDs"), will receive those distributions for 2009 unless the Participant or Beneficiary chooses not to receive such distributions. Participants and Beneficiaries described in the preceding sentence will be given the opportunity to elect to stop receiving the distributions described in the preceding sentence. In addition, notwithstanding Article VI, and solely for purposes of applying the direct rollover provisions of Section 3.14, any distribution that meets the definition of an Eligible Rollover Distribution, as defined in Section 3.14(b) and without regard to Code section 401(a)(9)(H), will be treated as an Eligible Rollover Distribution.

### 6.7 Missing Participants

- (a) Notwithstanding anything herein to the contrary, if at the time of a Participant's Required Beginning Date, the Participant cannot be located and the Trustees or their delegate deems the Participant missing, the Fund may establish an interest bearing account in the name of and for the benefit of such Participant and deposit his or her Required Minimum Distributions into such account ("Missing Participant Account").
- (b) The Trustees or their delegate shall deem a Participant missing, if the Participant cannot be located following a search for such Participant using search methods, including, using certified mail, checking related Fund records for alternate addresses, checking with designated Plan Beneficiaries or any other search method, as determined to be reasonable, by the Trustees or their delegate.

## ARTICLE VII – TOP HEAVY RULES

### 7.1 Applicability

The provisions of this Section shall apply to any non-collectively bargained participants for any Plan Year if, as of the applicable Determination Date, the Plan constitutes a Top-Heavy Plan.



## 7.2 Definitions

The following definitions apply to this Section and, unless otherwise specifically stated in another Section hereof, do not apply to any other Section of this Plan.

- (a) *Determination Date*: With respect to each Plan Year, the Determination Date shall be the final day of the immediately preceding Plan Year; provided, however, that with regard to the Plan's initial Plan Year the "Determination Date" shall be the last day of the first Plan Year.
- (b) *Key Employees*. Any Employee or former Employee (including any deceased Employees) of a Contributing Employer who at any time during the Plan Year that includes the Determination Date, with respect to a Contributing Employer is or was:
  - (1) an officer having annual compensation greater than \$130,000 (as adjusted under Code section 416(i)(1)),
  - (2) a 5% Owner, or
  - (3) a 1% owner whose aggregate annual compensation from a Contributing Employer is in excess of \$150,000.
- (c) *"5% Owner"* means any person who owns (or is considered as owning within the meaning of section 318 of the Code) more than:
  - (1) Five percent (5%) of a corporation's outstanding stock,
  - (2) Five percent (5%) of the total combined voting power of a corporation's stock, or
  - (3) Five percent (5 %) of the capital or profit interest in a non-incorporated Employer.
- (d) *"One% Owner"* means any person who owns (or is considered as owning within the meaning of section 318 of the Code) more than:
  - (1) One percent (1 %) of a corporation's outstanding stock,
  - (2) One percent (1 %) of the total combined voting power of a corporation's stock, or
  - (3) One percent (1 %) of the capital or profit interest in a non-incorporated Employer.
- (e) *"Officer"* means an Employee who holds an office of trust, authority or command as designated by the Employer. For purposes of this Article, the number of Officers shall be limited to the lesser of:
  - (1) Fifty (50) Employees, or
  - (2) The greater of:
    - (A) Three (3) Employees, or
    - (B) Ten percent (10%) of the Employees of an Employer.

For this purpose, annual compensation means compensation within the meaning of section 415(c)(3) of the Code, but shall not exceed the limits of section 401(a)(17) of the Code.

The determination of who is a Key Employee shall be made in accordance with Code section 416(i)(1) and the applicable regulations and other guidance of general applicability issued thereunder.

- (f) *Non-Key Employee*. Any Employee who is not a Key Employee.
- (g) *"Required Aggregation Group"* means (1) each qualified plan of the Employer in which at least one Key Employee participates, and (2) any other qualified plan of the Employer which enables a plan described in (1) to meet the requirements of Sections 401(a)(4) or 410 of the Code.
- (h) *"Permissive Aggregation Group"* means the Required Aggregation Group plus any other plan or plans of the Employer which, when considered as a group with the Required Aggregation Group, would continue to satisfy the requirements of Sections 401(a)(4) and 410 of the Code.
- (i) *"Top-Heavy Plan"* means that for any Plan Year, this Plan is Top-Heavy if any of the following conditions exists:
  - (1) If the Top-Heavy Ratio for this Plan exceeds 60 percent and this Plan is not part of any Required Aggregation Group or Permissive Aggregation Group of plans.
  - (2) If this Plan is a part of a Required Aggregation Group of plans but not part of a Permissive Aggregation Group of plans and the Top Heavy Ratio for the group of plans exceeds 60 percent.
  - (3) If this Plan is a part of a Required Aggregation Group and a part of a Permissive Aggregation Group of plans and the Top-Heavy Ratio for the Permissive Aggregation Group exceeds 60%.
- (j) *"Top-Heavy Ratio"* means:
  - (1) If the Employer maintains one or more defined contribution plans (including any Simplified Employee Pension Plan) and the Employer has not maintained any defined benefit plan which during the 5-year period ending on the Determination Date(s) has or has had accrued benefits, the Top-Heavy Ratio for this Plan alone or for the Required or Permissive Aggregation Group as appropriate is a fraction, the numerator of which is the sum of the account balances of all Key Employees as of the Determination Date(s) (including any part of any account balance distributed in the 5-year period ending on the Determination Date(s)), and the denominator of which is the sum of all account balances (including any part of any account balance distributed in the 5-year period ending on the Determination Date(s)), both computed in accordance with section 416 of the Code and the regulations thereunder. Both the numerator and denominator of the TopHeavy Ratio are adjusted to reflect any contribution not actually made as of the Determination Date, but which is required to be taken into account on that date under section 416 of the Code and the regulations thereunder.

- (2) If the Employer maintains one or more defined contribution plans (including any Simplified Employee Pension Plan) and the Employer maintains or has maintained one or more defined benefit plans which during the 5-year period ending on the Determination Date(s) has or has had accrued benefits, the Top-Heavy Ratio for this Plan alone or for the Required or Permissive Aggregation Group as appropriate is a fraction, the numerator of which is the sum of the account balances under the aggregated defined contribution plan or plans for all Key Employees, determined in accordance with (i) above, and the present value of accrued benefits under the aggregated defined benefit plan or plans for all Key Employees as of the Determination Date(s), and the denominator of which is the sum of all account balances under the aggregated defined contribution plan or plans for all participants, determined in accordance with (i) above, and the present value of accrued benefits under the defined benefit plan or plans for all participants as of the Determination Date(s), all determined in accordance with section 416 of the Code and the regulations thereunder. The accrued benefits under a defined benefit plan in both the numerator and denominator of the top-heavy ratio are adjusted for any distribution of an accrued benefit made in the five-year period ending on the Determination Date.
- (3) For purposes of (1) and (2) above, the value of account balances and the present value of accrued benefits will be determined as of the most recent Valuation Date that falls within or ends with the 12-month period ending on the Determination Date, except as provided in section 416 of the Code and the regulations thereunder for the first and second plan years of a defined benefit plan. The account balances and accrued benefits of a participant (1) who is not a Key Employee but who was a Key Employee in a prior year, or (2) who has not received any compensation from any employer maintaining the plan at any time during the 5-year period ending on the Determination Date will be disregarded. The calculation of the Top-Heavy Ratio, and the extent to which contributions, distributions, rollovers, and transfers are taken into account will be made in accordance with section 416 of the Code and the regulations thereunder. Deductible employee contributions will not be taken into account for purposes of computing the Top-Heavy Ratio. When aggregating plans the value of account balances and accrued benefits will be calculated with reference to the Determination Dates that fall within the same calendar year.
- (k) The present value of accrued benefits for all plans, including defined benefit and defined contribution plans in any Required Aggregation Group or Permissive Aggregation Group including this Plan, shall be determined in accordance with section 416 of the Code and the

regulations promulgated thereunder, and, to the extent applicable, shall use the following assumptions:

- (1) The accrued benefit for each current Employee shall be computed as if the Employee voluntarily terminated service as of the Determination Date.
- (2) The interest rate to be used shall be five percent (5%) and post-retirement mortality shall be determined based on the 1971 Group Mortality Table for Males. There shall be no assumption as to pre-retirement mortality or future increases in cost of living.
- (3) A qualified joint and survivor annuity within the meaning of Code section 401(a)(11) is the normal form of benefit. For purposes of determining the present value of the accrued benefit, the Qualified Spouse of the Participant or former Participant shall be assumed to be the same age as the Participant or former Participant.
- (4) For purposes of determining whether a Plan is top-heavy, a Participant's accrued benefit in a defined benefit plan will be determined under a uniform accrual method which applies in all defined benefit plans maintained by a Contributing Employer or, where there is no such method, under the fractional rule.

### 7.3 Minimum Benefit

- (a) For any Plan Year in which this Plan is considered a Top-Heavy Plan, notwithstanding the allocation procedures outlined in Article II, any Participant who is not a Key Employee shall have allocated to his or her Account an amount not less than three percent (3%) of his or her Compensation, which shall include base pay or salary, overtime, bonus, commissions and any other form of remuneration included in section 1.415(c)-2 of the Income Tax Regulations. However, provided that this Plan is not part of a Required Aggregation Group for a defined benefit plan maintained by the Employer, if the highest amount allocated to a Key Employee during a Plan Year is less than three percent (3%) of the Key Employee's Compensation (not in excess of the limit in Code section 401(a)(17)), the required allocation percentage for any Participant who is not a Key Employee shall be the percentage of Compensation which is the highest for any Key Employee for that Plan Year.
- (b) In any Plan Year in which the Plan is considered Top Heavy, all Non Key Employees are entitled to the allocation described in (a) regardless of whether such Non Key Employees have met any minimum service requirements for participation in the Plan or made any mandatory contributions to the Plan.

## 7.4 Required Vesting

Notwithstanding anything herein to the contrary, if the Plan is a Top-Heavy Plan for any Plan Year, then Participants' accounts shall vest in accordance with the following schedule:

Completed Years of Service	Vested Percentage
less than 2 years . . . . .	0%
2 years but less than 3 years . . . . .	20%
3 years but less than 4 years . . . . .	40%
4 years but less than 5 years . . . . .	60%
5 years or more . . . . .	100%

If for any Plan Year the Plan ceases to be a Top-Heavy Plan, a Participant's benefit shall not be determined as set forth in this Section, but shall instead be determined as set forth in the Plan's non-Top Heavy provisions.

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