

BUILDING MATERIAL DRIVERS LOCAL 436 PENSION TRUST FUND



AMENDED AND RESTATED PLAN

JANUARY 1, 2014

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INTRODUCTION

By resolution of December 26, 1961, the Trustees of Building Material Drivers Local 436 Pension Trust Fund adopted a Retirement Plan in accordance with an Agreement and Declaration of Trust dated as of December 26, 1961 ("Plan") and executed in accordance with collective bargaining agreements between Excavating Building Material, Construction Drivers and Race Track Employees Local Union No. 436 and the following: (1) Excavating and Paving Contractors Association, (2) Building Material Dealers of Greater Cleveland, (3) United Truckers Association, (4) The Lumber and Millwork Industry Labor Committee of Cuyahoga County, and (5) The Cleveland Wholesale Glass Group of Greater Cleveland.

The Trustees amended the Plan several times, and effective January 1, 1976, amended and restated the Plan to incorporate prior amendments and to comply with the Employee Retirement Income Security Act of 1974. The 1976 restated Plan was amended several times, and the Trustees amended and restated the Plan to incorporate all prior amendments and to comply with the requirements of the Tax Equity and Fiscal Responsibility Act of 1982, the Deficit Reduction Act of 1984 and the Retirement Equity Act of 1984.

Effective January 1, 1989, the Trustees amended and restated the Plan to incorporate prior amendments and make such other amendments to satisfy the requirements of The Tax Reform Act of 1986, The Omnibus Budget Reconciliation Act of 1986, The Omnibus Budget Reconciliation Act of 1987, The Technical and Miscellaneous Revenue Act of 1988 in order to qualify the Plan under Sections 401 and 501 of the Code.

Effective January 1, 2001, the Trustees amended and restated the Plan to incorporate prior amendments and to amend and restate the Plan to incorporate those changes which have been made by prior amendments, those which are now required to be made to qualify the Plan under Sections 401 and 501 of the Code, in accordance with the Uruguay Round Agreement Act of 1994, the Uniformed Services Employment & Reemployment Rights Act of 1994, the Small Business Job Protection Act of 1996, the Taxpayer Relief act of 1997, the Internal Revenue Service Restructuring and Reform Act of 1998, the Community Renewal Tax Relief Act of 2000 and other miscellaneous changes.

Effective January 1, 2002, the Trustees shall and hereby do amend and restate the Plan to incorporate changes that have been made by prior amendments, and those changes that are required to be made to conform the Plan to the requirements of recent pension legislation and Internal Revenue Service guidelines, including but not limited to the Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA") effective for Plan Years beginning after December 31, 2001. In addition, the Plan has been amended to incorporate changes from the Pension Funding Equity Act of 2004 (PFEA), American Job Creation Act of 2004 (AJCAA), Pension Protection Act of 2006 (PPA '06).

Effective January 1, 2014, the Plan has been further amended and restated by the Trustees to incorporate changes that have been made by prior amendments, and those changes that are required to be made to conform the Plan to the requirements imposed by the Heroes Earnings Assistance and Relief Tax Act of 2008 (HEART), and the Workers Retirees, and Employers Recovery Act of 2008 ("WRERA").

Except as otherwise specifically provided, this restatement shall not be applicable to any person with respect to whom contributions to the Pension Fund are not made after December 31, 2000, and any such person shall continue to be covered under the terms and provisions of the Retirement Plan in effect prior to January 1, 2001.

Please be advised that the terms of the restated Plan are subject to a Rehabilitation Plan, which the Trustees are required to review on an annual basis pursuant to certain provisions of the Pension Protection Act of 2006, as amended. In accordance with the Trustees' annual review of the Rehabilitation Plan, the Trustees may update the applicable Rehabilitation Plan. In the event of a conflict between the terms or benefits outlined in this restated Plan and those set forth in the applicable Rehabilitation Plan, the terms of the Rehabilitation Plan will control. An appendix summarizing certain terms of the current Rehabilitation Plan is attached to the restated Plan. A copy of the applicable Rehabilitation Plan can be obtained through the Pension Fund Office. The restated Plan, effective January 1, 2014, is as follows:

Article 1 Definitions and Construction

1.1 Definitions.

(a) **Accrued Benefit.** The Normal Retirement Benefit that a Participant would receive under Section 6.1 at the Participant's Normal Retirement Date. In the event a Participant terminates Employment prior to his Normal Retirement Date, his Accrued Benefit shall be equal to his Normal Retirement Benefit determined as of his date of termination of Employment based on his Credited Service as of that date.

(b) **Actuarial Equivalent.** The Actuarial Equivalent means a benefit of equivalent value when computed on the basis of:

(i) An interest rate of seven and one-half percent (7½ %) compounded annually, and the UP-84 Mortality Table with the Participant's actual age set forward one (1) year prior to the factor determination, and with a four (4) year age setback for the beneficiary or contingent annuitant, if any.

(ii) For Plan Years beginning after December 31, 1999, the following interest and mortality assumptions will apply:

(I) Except as provided in the following paragraph, actuarial equivalence will be determined on the basis of the interest rate and mortality table specified in Article 1, Section 1.1(b)(i).

(II) For purposes of determining the amount of any distribution, in a form other than an annual benefit that is non-decreasing for the life of the Participant or, in the case of a qualified pre-retirement survivor, the life of the Participant's spouse; or that decreases during the life of the Participant merely because of the death of the surviving annuitant (but only if the reduction is to a level not below 50% of the annual benefit payable before the death of the surviving annuitant) or merely because of the cessation or reduction of Social Security supplements or qualified disability payments, actuarial equivalence will be determined on the basis of the Applicable Mortality Table and Applicable Interest Rate under Code Section 417(e)(3)(B), if it produces a benefit greater than that determined under Section 1.1(b)(i). The preceding two paragraphs will not apply to the extent they would cause the plan to fail to satisfy Accrual Limitations.

(III) The Applicable Interest Rate is the rate of interest on 30-year Treasury securities as specified by the Commissioner for the month preceding the first day of Plan Year that contains the annuity starting date, i.e. the month of December preceding the Plan Year in which a distribution is made.

A plan amendment that changes the date for determining the Applicable Interest Rate (including an indirect change as a result of a change in plan year), shall not be given effect with respect to any distribution during the period commencing one year after the later of the amendment's

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effective date or adoption date, if, during such period and as a result of such amendment, the Participant's distribution would be reduced.

(IV) The Applicable Mortality Table is the mortality table based on the prevailing Commissioner's standard table used to determine reserves for group annuity contracts. The Applicable Mortality Table is presently set forth in Rev. Rul. 95-6, 1995-1 C.B. 80. For Plan Years beginning on or after January 1, 2003, the Applicable Mortality Table is the mortality table based on the prevailing Commission's standard table used to determine reserves for group annuity contracts. The Applicable Mortality Table is presently set forth in Rev. Rul. 2001-62.

(1) In the case of the actual termination of the Plan, the Actuarial Equivalent shall be determined using either the foregoing factors or such actuarial principles and assumptions as may then be prescribed by the Pension Benefit Guaranty Corporation for use in allocating assets under Title IV, Section 4044 of ERISA and/or, to the extent permitted by law, such actuarial principles and assumptions as may be used by any insurance company providing single premium qualified annuity contracts.

(2) For Plan Years beginning after December 31, 2007, the following interest and mortality assumptions will apply:

(I) The Applicable Interest Rate shall mean the adjusted first, second and third segment rates applied under rules similar to the rules of Section 430(h)(2)(C) of the Code for the month before the date of the distribution or such other time as the Secretary of the Treasury may by regulations prescribe. For this purpose, the adjusted first, second and third segment rates are the first, second and third segment rates which would be determined under Section 430(h)(2)(C) of the Code if:

- (a) Section 430(h)(2)(D) of the Code were applied by substituting the average yields for the month described in Section 430(h)(2)(C) of the Code for the average yields for the 24-month period described in such section;
- (b) Section 430(h)(2)(G)(i)(II) were applied by substituting "Section 417(e)(3)(A)(ii)(II) for Section 412(b)(5)(B)(ii)(II); and
- (c) The applicable percentage under Section 430(h)(2)(G) of the Code were determined in accordance with the following table:

In the case of Plan Years
beginning in:

The Applicable Percentage is:

2008	20%
2009	40%
2010	60%
2011	80%

(II) The Applicable Mortality Table means a mortality table modified as appropriate by the Secretary, based on the mortality table specified for the Plan Year under Code Section

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417(e)(3)(B) . There is no phase in or transition rule for the “Applicable Mortality Table” as defined under this Subsection.

(c) **Administrator.** The Board of Trustees, which controls and manages the operation and administration the Plan, is the named fiduciary and the Administrator of the Plan.

(d) **Affiliated Employer.** Any Employer and any corporation that is a member of a controlled group of corporations (as defined in Code Section 414(b)), which includes the Employer; any trade or business (whether or not incorporated) that is under common control (as defined in Code Section 414(c)) with the Employer; and organization (whether or not incorporated) that is a member of an affiliated service group (as defined in Code Section 414(m)) that includes the Employer; and any other entity required to be aggregated with the Employer pursuant to regulations under Code Section 414(o).

(e) **Annuity Starting Date.** The first day of the first period for which an amount is paid as an annuity or any other form.

The annuity starting date for disability benefits is the date such benefits commence if the disability benefit is not an auxiliary benefit. An auxiliary benefit is a disability benefit that does not reduce the benefit payable at Normal Retirement Age.

(f) **Applicable Interest Rate.** Applicable Interest Rate is the interest rate described in Article 1, Section 1.1(b)(ii)(III) or Section 1.1(b)(iv)(I) of the Plan.

(g) **Applicable Mortality Table.** Applicable Mortality Table is the mortality table described in Article 1, Section 1.1(b)(ii)(IV) of the Plan.

(h) **Beneficiary.** Any person, estate or trust who by operation of law, or under the terms of the Plan, or otherwise, is entitled to receive any Accrued Benefit of a Participant under the Plan. A Designated Beneficiary is any individual designated or determined in accordance with Section 1.1(m).

(i) **Code.** The Internal Revenue Code of 1986, as amended from time to time, and as interpreted by applicable regulations and rulings issued thereunder.

(j) **Compensation.**

(i) An Employee’s total direct remuneration for services to the Employer received during the Plan Year, excluding expense reimbursements, contributions to pension and welfare programs, and other forms of allowances (without regard to any rules pursuant to Code section 3401(a) that treat the remuneration included in wages based on familial relationships or the nature or location of employment or services performed).

(ii) For plan years beginning on or after January 1, 1989 and before January 1, 1994, the annual compensation of each Participant taken into account for determining all benefits provided under the Plan for any plan year cannot exceed Two Hundred Thousand Dollars (\$200,000.00). This limitation shall be adjusted by the Secretary at the same time and in the same manner as under Code

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Section 415(d), except that the dollar increase in effect January 1 of any calendar year is effective for plan years beginning in such calendar year and the first adjustment to the Two Hundred Thousand Dollar (\$200,000.00) limitation is effective January 1, 1990.

In addition to other applicable limitations set forth in the Agreement, and notwithstanding any other provision of the Agreement to the contrary, for plan years beginning on or after January 1, 1994, the annual compensation of each employee taken into account under the Agreement cannot exceed the OBRA '93 annual compensation limit. The OBRA '93 annual compensation limit is \$150,000, as adjusted by the Commissioner for increases in the cost of living in accordance with Code Section 401(a)(17)(B). The cost-of-living adjustment in effect for a calendar year applies to any period, not exceeding twelve (12) months, over which compensation is determined (determination period) beginning in such calendar year. If a determination period consists of fewer than twelve (12) months, the OBRA '93 annual compensation limit will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is twelve (12).

For plan years beginning on or after January 1, 1994, any reference in the Agreement to the limitation under Code Section 401(a)(17) means the OBRA '93 annual compensation limit set forth in this provision.

If compensation for any prior determination period is taken into account in determining an employee's benefits accruing in the current plan year, the compensation for that prior determination period is subject to the OBRA '93 annual compensation limit in effect for that prior determination period. For this purpose, for determination periods beginning before the first day of the first plan year beginning on or after January 1, 1994, the OBRA '93 annual compensation limit is \$150,000.00.

(iii) Compensation includes elective contributions made by the Employer on behalf of the Employee that are not includable in income under a cafeteria plan (pursuant to Code section 125), a Code section 401(k) arrangement (pursuant to Code section 402(a)(8)), a simplified employee pension (pursuant to Code section 401(h)), or a tax-sheltered annuity or account (pursuant to Code section 403(b)); compensation deferred under an eligible deferred compensation plan of a state or local government or tax-exempt organization within the meaning of Code section 457(b); Employee contributions under governmental plans described in Code section 414(h)(2); any amount for a qualified transportation fringe which is contributed or deferred by an Employer at the election of an Employee and which is not includable in the gross income of the Employee pursuant to Code section 132(f)(4).

(iv) For Plan Years beginning after December 31, 2001, the annual compensation of each Participant taken into account for determining all benefits provided under the Plan for a Plan Year shall not exceed Two Hundred Thousand Dollars (\$200,000). The \$200,000 limit on annual compensation shall be adjusted for cost-of-living increases in accordance with section 401(a)(17)(B) of the Code. 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. For purposes of determining benefit accruals in a Plan Year beginning after December 31, 2001, compensation for any prior determination period shall be limited as provided above. For Plan Years beginning on or after January 1, 2007, in determining Compensation, Compensation shall not include Compensation paid to a Former Employee after such Employee's severance date.

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(k) **Covered Service.** Service by an Employee for which an Employer is required, by virtue of executing a collective bargaining agreement with the Union, to contribute to the Pension Fund on behalf of an Employee for actual hours for which an Employee is paid or entitled to payment.

(l) **Deferred Retirement Date.** The first day of any month following a Participant's Normal Retirement Age in which the Participant elects to retire.

(m) **Designated Beneficiary.** For purposes of Article 9.2, the person the Participant designated on a form prescribed by the by the Administrator and accepted by the Administrator to receive his post retirement death benefit.

For other purposes, any person designated by the Participant to receive the Participant's vested Accrued Benefit in the event of the Participant's death on a form prescribed by the Administrator. If the Participant dies without having designated a Beneficiary, the Administrator will distribute such benefits in the following order of priority to the deceased Participant's: (i) spouse, (ii) lineal descendants, (iii) parents, or (iv) estate.

However, in the event of the death of a married Participant, the surviving spouse must be the sole Beneficiary, unless: (i) the surviving spouse has consented, in writing, to a different election; (ii) has acknowledged the effect of such election; and (iii) the consent and acknowledgment are witnessed by the Administrator or a notary public. The consent of spouse is not necessary if: (i) it is established to the satisfaction of the Administrator that there is no spouse; (ii) the spouse cannot reasonably be located; or (iii) for such other reasons as the regulations may prescribe. The consent of a spouse as reasons for not requiring such consent is applicable only to that spouse. If the spouse of a Participant becomes locatable or if a Participant remarries, it shall be the duty of the Participant to bring that fact to the attention of the Administrator. If the Participant so notifies the Administrator, the Administrator shall then, if applicable, proceed to make available to such spouse the consent of spouse procedures described in this subsection.

(n) **Disability Retirement Benefit.** Disability Retirement Benefit means that benefit described in Article 6, Section 6.4 of the Plan.

(o) **Disability Retirement Date.** The first day of the month following the later of (i) six months of Permanent and Total Disability of the Employee; or (ii) three months after receipt by the Trustees of due proof of Employee's Permanent and Total Disability.

(p) **Early Retirement Age.** The date a Participant attains age 57 and has completed fifteen (15) Years of Credited Service.

(q) **Early Retirement Benefit.** Early Retirement Benefit means that benefit described in Article 6, Section 6.2 of the Plan.

(r) **Early Retirement Date.** The first day of any month coincident with or next following the date the Employee attains his Early Retirement Age, but before the Employee attains his Normal Retirement Age in which the Employee elects to retire.

(s) **Effective Date.** The Effective Date of the Plan means May 1, 1961.

(t) **Employee.** “Employee” means any employee of an Employer who, on or after January 1, 1976, is:

(i) Employed by an Employer under the terms and conditions of a collective bargaining agreement entered into between an Employer or its representative and the Union and on whose behalf payments are made to the Pension Fund by the Employer; or

(ii) A member of the Auto Transportation, New Trailer and Armored Car Drivers, Garage Men, Gas Station and Parking Lot Operations Union Local No. 964 (hereinafter referred to as “Local 964”) and who is employed by an Employer under the terms and conditions of a collective bargaining agreement entered into between an Employer or its representative and Local 964 and on whose behalf payments are made to the Pension Fund by the Employer; and as to such personnel employment by an Employer will be considered employment in the industry in Covered Service; or

(iii) Employed by the Union who is bound by a Participation Agreement, upon being proposed by the Union and after acceptance by the Trustees; and as to such Union personnel, the Union will be considered an Employer and will, on behalf of such personnel, make payments to the Trust Fund at the time and at the rate of payment equal to that made by any other Employer who is a party to the Trust Fund; and as to such Union personnel, employment by the Union will be considered employment in the industry and under a collective bargaining agreement; or

(iv) Employed by the Welfare Fund upon acceptance by the Trustees; and as to such Welfare Fund personnel, the Trustees will be considered an Employer and will, on behalf of such personnel, make payments to the Welfare Fund at the time and at the rate of payment equal to that made by any other Employer who is a party to the Pension Fund; and as to such Welfare Fund personnel, employment by the Welfare Fund will be considered employment in the industry and under a collective bargaining agreement.

(v) The term Employee does not include any leased employee deemed to be an Employee of any employer described in the previous paragraph as provided in Code Sections 414(n) or (o).

The term “leased employee” means any person (other than an employee of the recipient) who, pursuant to an agreement with the recipient 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, and such services are performed under primary direction or control by the recipient. Contributions or benefits provided 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.

A leased employee will not be considered an Employee of the recipient if: (i) such employee is covered by a money purchase pension plan providing: (1) a non-integrated employer

contribution rate of at least ten percent (10%) 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 Section 125, Section 402(e)(3), Section 402(h), or Section 403(b); (2) immediate participation; and (3) full and immediate vesting; and (ii) leased employees do not constitute more than twenty percent (20%) of the recipient's non-highly compensated workforce.

(u) **Employer.** Any association or employer that has duly executed a collective bargaining agreement or who has executed a Participation Agreement with the Union requiring a contribution to the Pension Fund which satisfies the requirements for participation as established by the Trustees.

(v) **ERISA.** The Employee Retirement Income Security Act of 1974, as from time to time amended.

(w) **Hour of Service.** An Hour of Service is counted for the purposes of determining a Year of Eligibility Service, a Year of Credited Service, a One-Year Break in Service and employment commencement date (or reemployment commencement date). An Hour of Service is defined as follows:

(i) The Plan will credit an Hour of Service with respect to each hour of Covered Service and for each hour of Non-covered Service for which the Employer is not obligated to contribute to the Pension Fund, but only for Non-covered Service when the Employee moves from Covered Service to contiguous Non-covered Service, as described at 29 C.F.R. § 2530.210, for the same Employer, provided that the Employer remains in continuous contractual relationship with the Union and is obligated to make contributions to the Pension Fund;

(ii) An hour of service is each hour for which an Employee is paid, or entitled to payment, for the performance of duties for the Employer. These hours will be credited to the Employee for the computation period in which the duties are performed; and

(iii) Each hour for which an Employee is paid, or entitled to payment by the Employer on account of a period of time during which no duties are performed (regardless of whether the employment relationship has terminated) due to vacation, holiday, illness, incapacity (including Disability), layoff, jury duty, military duty, or leave of absence. Notwithstanding the preceding sentence, no more than 501 Hours of Service will be credited for any single continuous period (whether or not such period occurs in a single Plan Year or other continuous period). Hours under this paragraph will be calculated and credited pursuant to section 2530.200b-2 of the Department of Labor Regulations, which is incorporated herein by this reference; and

(iv) An hour of service is each hour for which back pay, regardless of any mitigation of damages, is either awarded or agreed to by the Employer. The same Hours of Service will not be credited pursuant to both paragraph (1) or paragraph (2), as the case may be, and under this paragraph (3). Hour of Service will be credited for any individual considered an employee for purposes of this Plan under 26 USC § 414(n) or 26 USC § 414(o).

Solely for purposes of determining whether a One-Year Break in Service for participation and vesting purposes has occurred in a computation period, an Employee who is absent from work for

maternity or paternity reasons will receive credit for the Hours of Service that would otherwise have been credited to such Employee, but for such absence, or, in any case that such hours cannot be determined, eight (8) hours of service per day of such absence. For purposes of this paragraph, an absence from work for maternity or paternity reasons means an absence: (i) by reason of the pregnancy of the Employee; (ii) by reason of the birth of a child of the Employee; (iii) by reason of the placement of a child with the Employee for adoption by the Employee; or (iv) for purposes of caring for such child immediately after birth or placement for adoption by the Employee. The Plan will credit Hours of Service pursuant to this paragraph first to the Plan Year in which the absence begins to the extent necessary to prevent a Break in Service in that Plan Year, then to the Plan Year following the Plan Year in which the absence begins. No more than 501 hours will be credited under this paragraph. If the hours which would have been credited, but for an absence due to maternity or paternity reasons cannot be determined, the Plan will credit eight (8) Hours of Service for each day of the absence. The Plan will not award Hours of Service pursuant to this paragraph unless the Employee involved provides the Administrator such information as the Administrator reasonably requires to establish the purpose of the absence as consistent with this paragraph and to establish the number of days in the absence.

The Plan will credit an Hour of Service to the Plan Year or other computation period to which a payment, agreement or award relates, rather than the year or period in which the payment, agreement or award occurs. Except for purposes of benefit accrual pursuant to Article 6, Hours of Service shall be credited for employment with other members of an affiliated service group (under Code Section 414(m)), a controlled group of corporations (under Code Section 414(b)), a group of trades or businesses under common control (under Code Section 414(c)) of which the Employer is a member, any other entity required to be aggregated with the Employer pursuant to Code Section 414 (o).

(x) **Noncovered Service.** Service by an Employee for an Employer that is not Covered Service.

(y) **Normal Retirement Age.** For each Participant, the Normal Retirement Age is the earlier of:

(i) for benefits earned in Plan Years beginning before January 1, 2007, the later of: (i) his attainment of age 62; or (ii) his completion of ten (10) Years of Credited Service and for benefits earned in Plan Years beginning after December 31, 2006, the later of: (i) his attainment of age 65; or (ii) his completion of ten (10) Years of Credited Service; or

(ii) the later of: (i) his attainment of age 65; or (ii) the 5th anniversary of his becoming a Participant.

(z) **Normal Retirement Benefit.** Normal Retirement Benefit means that benefit described in Article 6, Section 6.1 of the Plan.

(aa) **Normal Retirement Date.** If an Employee's birthday is in the first ten (10) days of the month, the first day of the month in which the Employee attains his Normal Retirement Age; if an Employee's birthday is not in the first ten days of the month, the first day of the month next following the date on which the Employee attains his Normal Retirement Age.

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(bb) **One-Year Break in Service.** A 12-consecutive month period (computation period) during which a Participant does not complete at least 435 Hours of Service arising from Covered Service or 500 Hours of Service arising from Covered and/or Non-Covered Service. The computation periods for measuring breaks in service shall be the same as for measuring Years of Eligibility Service.

(cc) **Optional Form of Benefit.** A benefit described in Article 8, Section 8.1(f) of the Plan.

(dd) **Participant.** Any Employee or former Employee who has satisfied the eligibility and participation requirements of the Plan as provided in Article 2. Where appropriate, the term "Participant" also includes former Participants. A Participant ceases being a Participant in the Plan on the date that he incurs a One-Year Break in Service. Status as a former Participant continues until the date that the Plan has satisfied all liabilities with respect to the former Participant.

(ee) **Participation Agreement.** An agreement between the Trustees and Employer that evidences the commitment of the Employer signatory thereto to be bound by the provisions of the Plan and to make contributions to the Pension Fund.

(ff) **Pension Fund.** The assets of the Plan held in trust by a Trustee or the assets of the Plan established under the Agreement and Declaration of Trust dated as of December 26, 1961.

(gg) **Permanent and Total Disability.** An Employee will be considered to have incurred a Permanent and Total Disability only if the Administrator determines, in its discretion, that the Employee: (a) has incurred a permanent physical or mental impairment, disease, loss or combination thereof ("condition") that substantially precludes him from performing his normal job functions for a period of six (6) months; (b) has a condition that is not likely to improve or will continue throughout his lifetime; and (c) has provided competent medical evidence of his condition. The following conditions will presumably be a Permanent and Total Disability: (i) the entire and irrevocable loss of sight in both eyes; (ii) the severance of both hands above the wrist; (iii) the severance of both feet above the ankle; or (iv) the severance of one hand above the wrist and one foot above the ankle. Permanent and Total Disability does not include disabilities incurred by Participants no longer employed by an Employer, arising from participation in a felonious criminal act, habitual drunkenness, addiction to narcotics, an intentional self-inflicted injury, or resulting from military service for which a government disability pension is payable.

(hh) **Plan.** The Building Material Drivers Local 436 Pension Plan, as stated herein and as amended from time to time.

(ii) **Plan Year.** The twelve (12) month period beginning January 1st and ending December 31st.

(jj) **Qualified Joint and Survivor Annuity.** An immediate monthly annuity for the life of the Participant with a survivor annuity for the life of the spouse in the amount equal to fifty percent (50%) of the amount of the annuity that is payable during the joint lives of the Participant and the spouse and that is the actuarial equivalent of the normal form of benefit.

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(kk) **Qualified Optional Survivor Annuity.** An annuity: (a) for the Participant's lifetime with a survivor annuity for the spouse's lifetime that is equal to the applicable percentage [as defined herein] of the survivor annuity percentage [as defined herein]; and (b) that is the Actuarial Equivalent of a single annuity for the Participant's lifetime with sixty (60) monthly payments guaranteed. For purposes of this provision, the survivor annuity percentage is seventy-five percent (75%).

(ll) **Restatement Date.** January 1, 2014, the date as of which the restated Plan first applies to the Plan. Except as otherwise provided, the provisions of this restatement apply to any Participant who is credited with an Hour of Service upon or after the Restatement Date.

(mm) **Retirement.** Retirement refers to the complete termination of employment of a Participant, who has attained Normal Retirement Age, in work of the kind regularly performed by members of the Union.

(nn) **Social Security Retirement Age.** The age used as the retirement age under Section 216(1) of the Social Security Act, which is presently age 65 for a person born before 1938, age 66 for a person born between 1938 and 1954, and age 67 for a person born after 1954.

(oo) **Spouse (Surviving Spouse).** The person to whom the Participant is lawfully married (or to whom the Participant was lawfully married at the time of his death). Provided that a former spouse will be treated as the spouse or surviving spouse and a current spouse will not be treated as the spouse or surviving spouse to the extent provided under a qualified domestic relations order as described in Code Section 414(p).

(pp) **Termination Date.** The date that the earliest of the following events occurs: (a) a Participant's retirement; (b) a Participant's termination of employment as a result of Total and Permanent Disability; (c) a Participant's death; or (d) a Participant's termination of employment for any other reason.

(qq) **Trust.** The Agreement and Declaration of Trust dated December 26, 1961, as constituted and amended from time to time in accordance with the provisions of said Agreement and Declaration of Trust.

(rr) **Trustee.** The Trustees or Board of Trustees established under the Agreement and Declaration of Trust dated December 26, 1961, as constituted and amended from time to time in accordance with the provisions of said Agreement and Declaration of Trust.

(ss) **Union.** The Excavating, Building Material, Construction Drivers and Race Track Employees Local union No. 436, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America.

(tt) **Vested Deferred Retirement Benefit.** Vested Deferred Retirement Benefit means the benefit described in Article 6, Section 6.3 of the Plan.

(uu) **Welfare Fund.** The Excavating, Building Material and Construction Drivers Union Local 436 Welfare Fund.

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(vv) **Years of Credited Service.** The sum of the Years of Credited Past Service and Years of Credited Future Service earned by a Participant, as described in Article 4.

(ww) **Year of Eligibility Service.** Years of Eligibility Service for service with the Employers prior to January 1, 1976 are computed in the same manner as Years of Credited Service for such period are computed. After December 31, 1975, a Participant will be credited with One Year of Service for each Plan Year that he has accumulated 870 or more Hours of Service. Any Participant who has less than 870 Hours of Service in a Plan Year after 1975 for Covered Service, but who has been credited with a partial Year of Credited Service, will be credited with an equal fractional Year of Eligibility Service for such Plan Year.

For purposes of determining a Year of Eligibility Service, the initial eligibility computation period is the 12-consecutive month period beginning on the date that the Employee first performs an Hour of Service for the Employer (employment commencement date).

The succeeding 12-consecutive month periods commence with the first Plan Year that commences prior to the first anniversary of the Employee's employment commencement date, regardless of whether the Employee is entitled to be credited with 870 Hours of Service during the initial eligibility computation period. An Employee who is credited with 870 Hours of Service in both the initial eligibility computation period and the first Plan Year that commences prior to the first anniversary of the Employee's initial eligibility computation period will be credited with two (2) Years of Eligibility Service.

1.2 **Construction.** Except to the extent preempted by ERISA, the laws of the State of Ohio, as amended from time to time govern the construction and application of the Plan. Words used in the masculine gender also include the feminine, and words in the singular also include the plural, as appropriate. The words "hereof," "herein," "hereunder," and other similar compounds of the word "here," refer to the entire Plan, not to a particular Section. Any mention of "Articles," "sections" and subdivisions thereof, unless stated specifically to the contrary, refer to Articles, sections or subdivisions thereof in the Plan. All references to statutory sections include the Section so identified, as amended from time to time, or any other statute of similar import. If any provision of the Code or ERISA render any provision of this Plan unenforceable, such provision will be of no force only to the minimum extent required by such Section.

Article 2

Eligibility and Participation

2.1 **Conditions.** Every Employee automatically becomes a Participant of the Plan.

2.2 **Employees Assent to Plan - Continuance of Participation in the Plan.** Each Employee is deemed conclusively for all purposes to have assented to the terms of the Plan and is thereby bound by the same force and effect as if he had executed it as a party thereto. Participation in the Plan is deemed to continue until the earlier of: (i) his Retirement; or (ii) he has a Break in Service that results in the loss of his Eligibility Service and Credited Service.

2.3 Eligibility Termination of Covered Service. Notwithstanding anything in this Plan to the contrary, Normal, Early and Disability Retirement Benefits are payable only to active Employees in Covered Service at their Retirement. An Employee will not be considered to be an active Employee in Covered Service unless pension contributions have been made on his behalf by an Employer for work in Covered Service for at least 650 hours over a period of three (3) consecutive calendar years immediately prior to retirement. An Employee who has terminated Covered Service and is eligible for a benefit pursuant to Article 6, Section 6.3 may, if and when eligible, apply for the Deferred Vested Benefit payable under the terms thereof.

2.4 Resumption of Participation.

(a) Vested Participant.

(i) If a Vested Participant terminates Employment and subsequently resumes Employment prior to his incurring a Break in Service, the rehired employee will immediately participate in the Plan without loss of any Years of Eligibility Service.

(ii) If a Vested Participant terminates Employment and subsequently resumes Employment after a One-Year Break in Service, the rehired employee will immediately participate in the Plan without loss of any Years of Eligibility Service.

(b) Non-vested Participants.

(i) If a non-vested Participant terminates Employment and resumes Employment before any period of consecutive One-Year Breaks in Service in which the number of consecutive One-Year Breaks in Service equals or exceeds the greater of: (i) five (5) years; or (ii) the number of Years of Eligibility Service he completed prior to the Break in Service ("Break-in-Service Period"), the rehired employee will immediately participate in the Plan without loss of any Years of Eligibility Service.

(ii) If a non-vested Participant terminates Employment and subsequently resumes Employment after incurring any period of consecutive One-Year Breaks in Service in which the number of consecutive One-Year Breaks in Service equals or exceeds the greater of: (i) five (5) years; or (ii) the number of Years of Eligibility Service he completed prior to the Break-in-Service Period", the rehired Employee will be treated as a new Employee, and the Plan will not take into account the Years of Eligibility Service that he completed prior to the Break in Service Period.

(iii) For purposes of this subsection 2.4(b), the number of Years of Eligibility Service the Participant completed prior to his Break in Service Period will not include any Years of Eligibility Service disregarded pursuant to this subsection 2.4(b) by reason of prior Breaks in Service.

2.5 Covered Service Under Local 400 Plan. Notwithstanding any other Plan provision, any Employee who was a member of Local Union 436 prior to 1968, and who was engaged in Covered Service at such time, and who withdrew from Local 436 and became employed as a member of Teamsters

Local Union No. 400, under Covered Service under Local 400 Food Terminal Employees Pension Plan, and who, thereafter, returned as a member of Local Union 436 and was engaged in Covered Service for not less than five (5) years after such return to Local 436, will not be deemed to have suffered a Break in Service by reason of any period of time during which he was engaged in Covered Service under the Local 400 Pension Plan, provided that no other Break in Service is applicable to such Employee.

Article 3

Contributions

3.1 Amount of Contributions. Each Employer must contribute to the Pension Fund such amounts as are required in accordance with its collective bargaining agreement with the Union, or as required by its Participation Agreement.

3.2 Irrevocability of Contributions. Any and all contributions made by the Employer are irrevocable and will be transferred to the Trustees and held as provided in this Plan and the Pension Fund to be used in accordance with the provisions of this Plan in providing the benefits and paying the expenses of the Plan. Neither such contributions, nor any income therefrom, will be used for or diverted to purposes other than the exclusive benefit of the Participants and their Beneficiaries and for the payment of administration expenses of the Plan.

3.3 Limitation of Liability for Benefits. The pension benefits of the Plan are only such as can be provided by the assets of the Pension Fund, and there will be no liability or obligation on the part of any Employer to make any further contributions to the Trustees in event of Termination of the Plan. No liability for the payment of any benefits under the plan will be imposed upon any Employer, the Union, or the Trustees. The foregoing statements are subject to any provision of ERISA to the contrary.

3.4 Delinquent Employers. Effective January 1, 2001, if an Employer does not make contributions to the Fund as required by its collective bargaining agreement with the Union, and by the administrative procedures adopted by the Trustees, the Trustees may terminate the Employer's status as an Employer in the Plan.

Contributions to the Pension Fund are due and payable to the Pension Fund before the 15th day following the month for which such contributions are made, and an Employer is considered delinquent if such contributions are not made by the end of said month, as of the 1st day of the following month. A delinquency constitutes a breach of the agreement of the contributing employer with respect to such contributions. An Employer who is deemed delinquent is responsible to pay to the Pension Fund, interest, penalties, and any and all reasonable costs of collection, including attorneys' fees, court costs, and payroll compliance audits. Interest and penalties will be assessed and/or accrued as follows:

- (a) Once a contributing Employer is deemed to be delinquent, as set forth above, interest will accrue from the 1st business day following the original contribution due date;

(b) Interest on delinquent contributions is charged at the rate of 1-1/2% per month, or 1-1/2 times Key Bank prime rate, as of the date of delinquency, whichever is higher, and will relate back to the original payment due date;

(c) In addition to interest, a delinquent contributing Employer will be assessed a penalty on delinquent contributions in the amount of 2% of such contributions on the 1st day of the month following the month in which the account is deemed to be delinquent, and an additional 2% on the 1st day of each and every succeeding calendar month until such account is paid in full, provided, however, that the maximum penalty shall be 10%.

3.5 Termination or Modification of Obligation to Contribute. Effective January 1, 2001, the financing of benefits provided by the Plan is based on the continued contribution of Employers, as required by the collective bargaining agreement with the Union. If the Union and an Employer should enter into a collective bargaining agreement requiring contributions to the Fund, and then fail to renew such agreement, or enter into an agreement that does not require the continuation of contributions to the Fund, or requires a lesser rate of contributions, the Trustees have the authority to take such action as is necessary with respect to all of the Employees of all of the Employers in the Union's jurisdiction, including, but not limited to the following, in order to maintain the Fund on a sound actuarial basis:

(a) The Trustees have the right to terminate the Employer's status as Employers.

(b) The Trustees have the right to adjust or cancel the past Service Credit of any Employees or former Employees in order to maintain actuarially sound relationship between the contributions made on account of such Employees or former Employees and any benefits accrued by them.

3.6 Employer Bonding. The Trustees, in their sole and absolute discretion, may require an Employer to post or provide a payment bond (or other such security deemed acceptable by the Trustees) in the Fund's name, as a condition of becoming or remaining a contributing Employer in the Fund. In the event that the Trustees require such a bond or other such security from an Employer, the Trustees will also have discretion to determine the amount of the bond or security required. Any bond or other form of security required hereunder

Article 4

Crediting Service

4.1 Accrual Computation Period. The Accrual Computation Period is the 12-consecutive month period in which a Participant's period of service is calculated for purposes of benefit accrual. The Accrual Computation Period for the Plan is the Plan Year. This period will be applied equally to all Participants.

4.2 Crediting of Past Service. A Participant will be credited with Year(s) of Credited Past Services as follows:

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(a) **Service Prior to the Effective Date of the Plan.** With respect to periods prior to the Effective Date of the Plan, it is to be conclusively presumed that an Employee was engaged in creditable service throughout the period of his continuous active membership in good standing in the Union or with Local 964 during the period immediately prior to the Effective Date of the Plan, and an Employee will, therefore, receive Credited Service to the nearest 1/10 year during the last continuous period immediately prior to the Effective Date of the Plan on which he was an active member of the Union. In addition, an employee who belonged to Local 509, 422, 407, or 197 immediately prior to his being transferred to the Union, will receive Credited Service to the nearest 1/10 year for each year or portion thereof during which such Employee was a member of one of said local unions immediately prior to his transfer to the Union, provided that such an Employee was involuntarily transferred to the Union as the result of a jurisdictional order of the International Brotherhood of Teamsters Union, and provided further that only continuous active membership in good standing with one said local prior to such transfer shall be counted in determining Credited Service.

(b) **Service Prior to the Employer's Commencement of Participation in the Plan.** For Employees of Employers who have executed collective bargaining agreements that require the Employer to commence contributions to the Pension Fund effective at a date subsequent to the Effective Date of the Plan, such Employees will receive Credited Service, to the nearest 1/10 year, in the same manner as provided in Section 1(a) of this Article in the case of service prior to the Effective Date of the Plan, provided that in no event will this subsection (b) operate to credit any Employee with Credited Service for any period of employment subsequent to the execution of the collective bargaining agreement that initially required his Employer to make contributions to the Pension Fund. This paragraph will be operative if the Trustees determine, based on advice from the actuary, that granting such Credited Service will not adversely affect the actuarial soundness of the Pension Fund.

4.3 **Crediting of Future Service.** A Participant will be credited with Year(s) of Credited Future Service as follows:

(a) **Service After December 31, 2006.** For Hours of Service for Covered Service earned after December 31, 2006, each employee will receive one (1) Year of Credit Service, or part thereof, in accordance with the following:

<u>Hours of Covered Service</u>	<u>Credited Service(Years)</u>
2,080 hours or more	1.0 year
2,080 but not less than 1,000	Divide hours by 2,080 and round to the nearest hundredth
999 or less	0

An Employee who retires during this time period will receive Credited Service for the calendar year in which he retires equal to Hours of Service for Covered Service divided by 2,080 rounded to the nearest hundredth up to a maximum of one (1) Year of Credited Service.

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(b) **Service After December 31, 1991 and Prior to January 1, 2007.** For Hours of Service for Covered Service earned after December 31, 1991, and prior to January 1, 2007, each Employee will receive one (1) Year of Credited Service, or part thereof, in accordance with the following:

<u>Hours of Credited Service</u>	<u>Year</u>
1,300 hours or more	1.0 year
1,170 to 1,299	.9 year
1,040 to 1,169	.8 year
910 to 1,039	.7 year
780 to 909	.6 year
650 to 779	.5 year

An Employee who retires during this time period will receive Credited Service for the calendar year in which he retires equal to 1/10 of a Year of Credited Service for each full 130 Hours of Service for Covered Service in such year prior to his Retirement to a maximum of one (1) Year of Credited Service.

(c) **Years Before January 1, 1992.** For Hours of Service for Covered Service earned prior to January 1, 1992, each Employee will receive one (1) Year of Credited Service, or part thereof, in accordance with the following:

<u>Hours of Credited Service</u>	<u>Year</u>
1,500 hours or more	1.0 year
1,350 to 1,499	.9 year
1,200 to 1,349	.8 year
1,050 to 1,199	.7 year
900 to 1,049	.6 year
750 to 899	.5 year

(d) Employees covered by the Plan whose Covered Service is such that it is not practical and equitable to determine Future Credited Service based on the number of Credited Hours of Service for Covered Service will receive one Year of Credited Service for each calendar year in which Employer contributions are made to the Pension Fund by payment of a lump sum amount on behalf of such Employees in accordance with an effective, duly executed collective bargaining agreement as follows:

For each calendar year, divide the Employer's annual contribution for each Employee by the current hourly rate of contribution of Employer contributions to the Plan during that year pro-rating as appropriate for changes in contribution rates.

(i) For Plan years beginning before January 1, 1992:

If, as a result of such calculation, the number of hours is 1500 or more, the Employee will be credited with one (1) Year of Credited Service. Any Employee who, as the result of such calculation, has less than 1500 hours, but more than 750 hours in Covered Service during such calendar year, will receive credit for service on the basis of 1/10 of a Year of Credited Service for each full 150 hours.

(ii) For Plan years beginning after December 31, 1991, and before January 1, 2007:

If, as a result of such calculation, the number of hours is 1300 or more, the Employee will be credited with one (1) Year of Credited Service. Any Employee who, as the result of such calculation, has less than 1300 hours, but more than 650 hours in Covered Service during such calendar year, will receive credit for service on the basis of 1/10 of a Year of Credited Service for each full 130 hours.

(iii) For Plan years beginning after December 31, 2006:

If, as a result of such calculation, the number of hours is 2080 or more, the Employee will be credited with one (1) Year of Credited Service. Any Employee who, as the result of such calculation, has less than 2080 hours, but more than 1000 hours in Covered Service during such calendar year, will receive credit for service by dividing his hours of service by 2080 and rounding to the nearest one-hundredth.

(e) An Employee who commences or recommences participation in the Plan Year, who would not otherwise earn Credited Service for said Plan Year but who does have Hours of Service for Non-Covered Service may earn Credited Service as follows:

(i) For Plan years beginning before January 1, 2007:

An Employee who has less than 650 Hours of Service for Covered Service, but more than 870 Hours of Service for Non-Covered Service (including Hours in contiguous Non-covered Service) during said Plan Year, will receive a partial Year of Credited Service (to the nearest 1/10 year) equal to the ratio of the number of the Employee's actual Hours of Credited Service for Covered Service to 1,300.

(ii) For Plan years beginning after December 31, 2006:

An Employee who has less than 1000 Hours of Service for Covered Service, but more than 1,300 Hours of Service for Non-Covered Service (including Hours in contiguous Non-covered Service) during said Plan Year, will receive a partial Year of Credited Service (to the nearest 1/100 year) equal to the ratio of the number of the Employee's actual Hours of Credited Service for Covered Service to 2080.

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4.4 **Employment Not Included in Calculating Years of Credited Service.** Any period that is not included in determining an Employee's Years of Eligibility Service in accordance with the provisions of Section 2.4(b) will not be included in determining an Employee's Years of Credited Service.

Article 5

Vesting

5.1 **Vesting on Retirement.** If a Participant's employment is terminated upon a Participant attaining Normal Retirement Age, the Participant will have a non-forfeitable right to one hundred percent (100%) of his Accrued Benefit.

5.2 **Vesting on Termination.**

(a) If a Participant's employment is terminated prior to attaining Normal Retirement Age, and he is: (i) a non-bargaining unit employee; or (ii) has one (1) Hour of Service on or after January 1, 1999, the Participant will have a non-forfeitable right to one hundred percent (100%) of his Accrued Benefit upon completing five (5) Years of Eligibility Service.

(b) If a Participant's employment is terminated prior to attaining Normal Retirement Age, and he does not have one (1) Hour of Service on or after January 1, 1999, the Participant will have a non-forfeitable right to one hundred percent (100%) of his Accrued Benefit upon completing ten (10) Years of Eligibility Service.

5.3 **Vesting Computation Period.** The Vesting Computation Period is the 12-consecutive month period in which a Participant's period of service is calculated for vesting purposes. The Vesting Computation Period is the Plan Year. This period will be applied equally to all Participants.

Article 6

Eligibility for Benefits and Time of Payment

6.1 **Normal Retirement Benefit.** A Participant whose Employment terminates for any reason upon attaining his Normal Retirement Age or thereafter, will upon application therefor on form(s) prescribed by the Trustees, be eligible to receive a normal retirement benefit in an amount calculated pursuant to Article 7. Normal Retirement Benefit payments will commence as of the Participant's Normal Retirement Date or upon his retirement, as designated by the Participant in a written application for benefits filed with the Administrator and will be paid thereafter in accordance with the Participant's elected method of payment.

6.2 **Early Retirement Benefit.** A Participant whose Employment terminates for any reason on or after attaining his Early Retirement Age, but prior to his Normal Retirement Age, will upon application therefor on form(s) prescribed by the Trustees, be entitled to receive an early retirement benefit. The amount of a Participant's early retirement benefit will be calculated pursuant to Article 7. Early retirement benefit payments will commence as of the Participant's Early Retirement Date, as designated

by the Participant in a written application for benefits filed with the Administrator and will be paid thereafter in accordance with the Participant's elected method of payment.

6.3 Vested Deferred Retirement Benefit. A Participant whose Employment terminates for any reason on or after the date that the Participant is vested in accordance with Article 5, but prior to his Early or Normal Retirement Age or death, will upon application therefor on form(s) prescribed by the Trustees, be entitled to a Vested Deferred Retirement Benefit. The amount of a Participant's Vested Deferred Retirement Benefit will be calculated pursuant to Article 7. Payment of a Vested Deferred Retirement Benefit will commence as designated by the Participant in a written application form filed with the Administrator and will be paid thereafter in accordance with the Participant's elected method of payment in accordance with whichever of the following is applicable:

(a) In the case of a Participant with at least fifteen (15) Years of Credited Service at Retirement, as of the first (1st) day of the month following the later of: (i) his attainment of age 57; or (ii) proper application therefor.

(b) In the case of a Participant with less than fifteen (15) Years of Credited Service at Retirement, as of the first (1st) day of the month following his Normal Retirement Date.

6.4 Disability Retirement Benefit. A Participant who completes fifteen (15) Years of Credited Service whose Retirement occurs on account of his incurring a Permanent and Total Disability while employed by an Employer will, upon application therefor on forms prescribed by the Trustees, be eligible for a Disability Retirement Benefit. A Participant will be considered to have incurred a Permanent and Total Disability only if the Administrator determines, in its own discretion, that the Employee incurred some permanent physical or mental impairment, disease, loss, or combination thereof ("condition"), which: (a) substantially has precluded him from performing his normal job functions for a period of six (6) months; (b) is not likely to improve or will continue throughout his lifetime; and (c) is demonstrated by competent medical evidence. Only Participants who incur a Permanent and Total Disability while they are an Employee are eligible for a Disability Retirement Benefit. Participants who have had their Employment terminated, for whatever reason, are not eligible for a Disability Retirement Benefit. Permanent and Total Disability benefit payments will terminate if, in the discretion of the Administrator, the Participant recovers from his Permanent and Total Disability prior to the earlier of: (i) his death; or (ii) his attainment of age 62. The following conditions will presumably be a Permanent and Total Disability: (i) the entire and irrevocable loss of sight in both eyes; or (ii) the severance of both hands above the wrist; or (iii) the severance of both feet above the ankle; or (iv) the severance of one hand above the wrist and one foot above the ankle. Permanent and Total Disability does not include disabilities incurred by Participants who are no longer employed by an Employer, arising from participation in a felonious criminal act, habitual drunkenness, addiction to narcotics, an intentional self-inflicted injury, or resulting from military service for which a government disability pension is payable.

The Administrator may from time to time request competent medical evidence of the Participant's continued Permanent and Total Disability. Failure to produce competent medical evidence may result in the termination of Permanent and Total Disability benefit payments.

Article 7

Calculation of Pension Benefit

7.1 Determination of Benefit. A Participant's retirement benefit is based upon his Years of Credited Service under the Regular Plan, the Lower Level Plan, the 1992 Plan, the 1995 Plan, the 1997 Plan, the 1998 Plan, the 2000 Plan, or the 2001 Plans. The determination of the benefit program under which the Participant accrues a benefit is based upon his Employer's contribution level and the benefit Plan for which such contributions are accepted. Current Employer contribution rates are established by the Trustees as set forth in the applicable collective bargaining agreement between the Participant's Employer and the Union and subject to the applicable Rehabilitation Plan adopted pursuant to the Pension Protection Act, as updated from time to time by the Trustees.

7.2 Benefits Under the Regular Plan. Employees of Employers who contribute at the rate of Thirty Dollars (\$30.00) or more per week, but less than Forty Dollars (\$40.00) per week, accrue benefits under the Regular Plan. The benefits provided under the Regular Plan are:

(a) **Amount of Normal Retirement Benefit.** A Participant's monthly Normal Retirement Benefit commencing on his Normal Retirement Date shall be his Basic Benefit plus his Supplement.

(i) **Basic Benefit:** The Basic Benefit is a monthly retirement income in the amount of Sixteen Dollars and Fifty Cents (\$16.50) per month for each year of Credited Service at Retirement (to a maximum of 30 years of Credited Service computed to the nearest 1/10 year), plus an additional monthly benefit of One Dollar (\$1.00) per month for each Year of Credited Service in excess of thirty (30) Years of Credited Service; and

(ii) **Supplement:** The Supplement is a special monthly retirement income of Two Hundred Fifty Dollars (\$250).

(b) **Amount of Early Retirement Benefit.** The monthly amount of a Participant's Early Retirement Benefit shall be the Basic Benefit actuarially reduced, if benefit payments begin prior to age 62, in accordance with tables adopted by the Trustees based on his attained age at the date payments begin, plus the Supplement without reduction.

(c) **Amount of Vested Deferred Retirement Benefit.** The monthly amount of a Participant's vested deferred retirement benefit is the sum of: (1) the Basic Benefit as determined in accordance with Section 7.2(a)(i), plus (2) a special monthly supplement of \$3.00 for each Year of Credited Service to a maximum of 33 1/3 Years of Credited Service. This benefit will be actuarially reduced, if benefit payments begin prior to age 62, in accordance with tables adopted by the Trustees based on his attained age at the date payments begin.

(d) **Disability Retirement Benefit.** The Disability Retirement Benefit consists of a monthly retirement income in the amount of his Normal Retirement Benefit at Retirement (to a maximum of 30 years of Credited Service, computed to the nearest 1/10 year). Notwithstanding the foregoing, Permanent and Total Disability Benefit payments will cease if the Participant recovers from his Permanent

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and Total Disability prior to the earlier of: (i) his death; or (ii) his attainment of age 62. A disabled Participant still entitled to a Disability Retirement Benefit at age 62 will then also be entitled to a special monthly supplement equal to the sum of (i) \$3.00 per month for each year of Credited Service at his Retirement (to a maximum of 33 1/3 years of Credited Service); and (ii) \$150.00. With the approval of the Trustees, a disabled Employee may elect to commence receipt of this special monthly supplement as of his Disability Retirement Date (instead of waiting until age 62), but such payments will be actuarially reduced in accordance with tables adopted by the Trustees for payment prior to age 62, based on his attained age at the date payments begin.

7.3 Benefits Under the Lower Level Plan. Employees of Employers who contribute at the rate of less than \$30 per week accrue benefits under the Lower Level Plan. The benefits provided under the Lower Level Plan are:

(a) **Amount of Normal Retirement Benefit.** A Participant's monthly normal retirement benefit commencing on his Normal Retirement Date is a monthly retirement income in the amount of \$5.50 per month for each year of Credited Service at Retirement (to a maximum of 30 years of Credited Service computed to the nearest 1/10 year).

(b) **Amount of Early Retirement Benefit.** The monthly amount of a Participant's early retirement benefit is the Normal Retirement Benefit actuarially reduced, if benefit payments begin prior to age 62, in accordance with tables adopted by the Trustees based on his attained age at the date payments begin.

(c) **Amount of Vested Deferred Retirement Benefit.** The monthly amount of a Participant's vested deferred retirement benefit is the Normal Retirement Benefit actuarially reduced, if benefit payments begin prior to age 62, in accordance with tables adopted by the Trustees based on his attained age at the date payments begin.

(d) **Disability Retirement Benefit.** The Disability Retirement Benefit consists of a monthly retirement income in the amount of his Normal Retirement Benefit at Retirement (to a maximum of 30 years of Credited Service, computed to the nearest 1/10 year). Notwithstanding the foregoing, Permanent and Total Disability Benefit payments will cease if, in the discretion of the Administrator, the Participant recovers from his Permanent and Total Disability prior to the earlier of: (i) his death; or (ii) his attainment of age 62.

7.4 Benefits Under the 1992 Plan. Effective after December 31, 1991, Employees of Employers contributing at the rate of Forty Dollars (\$40.00) or more per week accrue benefits under the 1992 Plan. The benefits provided under the 1992 Plan are:

(a) **Amount of Normal Retirement Benefit.** A Participant's monthly normal retirement benefit commencing on his Normal Retirement Date is a monthly retirement income in the amount determined under the schedule below, (to a maximum of 32 years of Credited Service computed to the nearest 1/10 year).

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Monthly Benefit

For Each Year of Credited Service

\$27.00

less than 10 Years

\$31.00

between 10 and 20 Years

\$35.00

between 20 and 30 Years

\$36.00

between 30 and 32, including the 32nd Year

(b) **Amount of Early Retirement Benefit.** The monthly amount of a Participant's Early Retirement Benefit is the Normal Retirement Benefit actuarially reduced, if benefit payments begin prior to age 62, in accordance with tables adopted by the Trustees based on his attained age at the date payments begin.

(c) **Amount of Vested Deferred Retirement Benefit.** The monthly amount of a Participant's Vested Deferred Retirement Benefit is the Normal Retirement Benefit actuarially reduced, if benefit payments begin prior to age 62, in accordance with tables adopted by the Trustees based on his attained age at the date payments begin.

(d) **Disability Retirement Benefit.** The Disability Retirement Benefit consists of a monthly retirement income in the amount of his Normal Retirement Benefit at Retirement (to a maximum of 32 years of Credited Service, computed to the nearest 1/10 year). Notwithstanding the foregoing, Permanent and Total Disability Benefit payments will cease if, in the discretion of the Administrator, the Participant recovers from his Permanent and Total Disability prior to the earlier of: (i) his death; or (ii) his attainment of age 62.

(e) In no event will the benefit be less than the benefit accrued as of December 31, 1991 under the Regular Plan plus the benefit earned after December 31, 1991 under the 1992 Plan.

7.5 **1995 Plan.** Effective after December 31, 1994, Employees of Employers contributing at the rate of One Dollar and Fifty Cents (\$1.50) per hour, or Sixty Dollars (\$60.00) per week by December 31, 1995 will accrue benefits in the 1995 Plan. A Participant's monthly Normal Retirement Benefit commencing on his Normal Retirement Date shall be a monthly retirement income in the amount described under the schedule below to a maximum of thirty-two (32) years of Credited Service computed to the nearest one-tenth (1/10th) year:

For each Year of Credited Service

Monthly Benefit

Less than 10 Years

\$35.10

Between 10-20 Years

\$40.30

Between 20-30 Years

\$45.50

Between 30-32 Years

\$46.50

7.6 **1997 Plan.** Effective after December 31, 1996, Employees of Employers contributing at the rate of One Dollar and Ninety-Five Cents (\$1.95) per hour, or Seventy-Eight Dollars (\$78.00) per week by December 31, 1997 will accrue benefits in the 1997 Plan. A Participant's monthly Normal Retirement Benefit commencing on his Normal Retirement Date shall be a monthly retirement income in

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the amount described under the schedule below to a maximum of thirty-two (32) years of Credited Service computed to the nearest one-tenth (1/10th) year:

<u>For each Year of Credited Service</u>	<u>Monthly Benefit</u>
Less than 10 Years	\$41.10
Between 10-20 Years	\$47.20
Between 20-30 Years	\$53.30
Between 30-32 Years	\$54.50

7.7 **1998 Plan.** Effective after December 31, 1997, Employees of Employers contributing at the rate of Two Dollars and Twenty Cents (\$2.20) per hour, or Eighty-Eight Dollars (\$88.00) per week by December 31, 1998 will accrue benefits in the 1998 Plan. A Participant's monthly Normal Retirement Benefit commencing on his Normal Retirement Date is a monthly retirement income in the amount described under the schedule below to a maximum of thirty-two (32) years of Credited Service computed to the nearest one-tenth (1/10th) year:

<u>For each Year of Credited Service</u>	<u>Monthly Benefit</u>
Less than 10 Years	\$47.20
Between 10-20 Years	\$54.20
Between 20-30 Years	\$61.10
Between 30-32 Years	\$62.50

Participants who have suffered a Break In Service prior to January 1, 1998 will not be eligible for the 1998 Plan described above unless they have received Credited Service in three of the five years immediately preceding January 1, 1998.

7.8 **2000 Plan.** Effective after December 31, 1999, Employees of Employers contributing at the rate of Two Dollars and Seventy Cents (\$2.70) per hour, or One Hundred Eight Dollars (\$108.00) per week by December 31, 2000 will accrue benefits in the 2000 Plan. A Participant's monthly Normal Retirement Benefit commencing on his Normal Retirement Date is a monthly retirement income in the amount described under the schedule below to a maximum of thirty-two (32) years of Credited Service computed to the nearest one-tenth (1/10th) year:

<u>For each Year of Credited Service</u>	<u>Monthly Benefit</u>
Less than 10 Years	\$56.70
Between 10-20 Years	\$65.00
Between 20-30 Years	\$73.30
Between 30-32 Years	\$75.00

Participants who have suffered a Break in Service prior to January 1, 2000 will not be eligible for the 2000 Plan described above unless they have received Credited Service in three of the five years immediately preceding January 1, 2000.

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7.9 2001 Plan.

(a) **2001 (\$2,300) Plan.** Effective after January 1, 2001, Employees of Employers contributing at the rate of Two Dollars and Ninety-Five Cents (\$2.95) per hour or One Hundred Eighteen Dollars (\$118.00) per week by December 31, 2002 will accrue benefits under the 2001 (\$2,300) Plan. A Participant's monthly Normal Retirement Benefit commencing on his Normal Retirement Date is a monthly retirement income in the amount described under the schedule below to a maximum of 32 Years of Credited Service computed to the nearest 1/10th year:

<u>For each Year of Credited Service</u>	<u>Monthly Benefit</u>
Less than 10 years	\$62.10
Between 10 and 20 years	\$71.20
Between 20 and 30 years	\$80.30
Between 30 and 32 years, including 32 nd year	\$82.00

(b) **2001 (\$2,500) Plan.** Effective after January 1, 2001, Employees of Employers contributing at the rate of Three Dollars and Twenty Cents (\$3.20) per hour or One Hundred Twenty-Eight Dollars (\$128.00) per week by December 31, 2002 will accrue benefits under the 2001 (\$2,500) Plan. A Participant's monthly Normal Retirement Benefit commencing on his Normal Retirement Date is a monthly retirement income in the amount described under the schedule below to a maximum of 32 years of Credited Service computed to the nearest 1/10th year:

<u>For each Year of Credited Service</u>	<u>Monthly Benefit</u>
Less than 10 years	\$67.20
Between 10 and 20 years	\$77.50
Between 20 and 30 years	\$87.50
Between 30 and 32 years, including 32 nd year	\$89.00

(c) **2001 (\$2,700) Plan.** Effective after January 1, 2001, Employees of Employers contributing at the rate of Three Dollars and Forty-Five Cents (\$3.45) per hour or One Hundred Thirty-Eight Dollars (\$138.00) per week by December 31, 2002 will accrue benefits under the 2001 (\$2,700) Plan. A Participant's monthly Normal Retirement Benefit commencing on his Normal Retirement Date is a monthly retirement income in the amount described under the schedule below to a maximum of 32 years of Credited Service computed to the nearest 1/10th year:

<u>For each Year of Credited Service</u>	<u>Monthly Benefit</u>
Less than 10 years	\$72.60
Between 10 and 20 years	\$83.70
Between 20 and 30 years	\$94.50
Between 30 and 32 years, including 32 nd year	\$96.00

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(d) **Eligibility for 2001 Plans.** Participants who have suffered a Break in Service prior to January 1, 2001 will not be eligible for the 2001 Plans described above unless they have received Credited Service in three of the five years immediately preceding January 1, 2001.

(e) **Retiree Eligibility.** A Participant who retires on or after January 1, 2001, who has at least forty (40) hours of Credited Service on or after January 1, 2001, but whose Employer has not contributed at or above the rates described herein before the Participant's retirement date, will be eligible to receive a pension benefit calculated under the above schedules when his last Employer becomes obligated to contribute at those rates by December 31, 2002, provided, however, that such retiree will be entitled only to the 2001 Plan that his last Employer reaches first.

(g) **Eligibility for Disability Retirees.** A Participant who otherwise would qualify for one of the 2001 Plans, but who becomes Permanently and Totally Disabled in 2000, and whose application for a disability pension benefit has been approved with an effective date of January 1, 2001 or later, will be eligible to receive a pension benefit calculated under the applicable 2001 Plan according to one of the above schedules when his last Employer becomes obligated to contribute at those rates by December 31, 2002, provided, however, that such retiree will be entitled only to the 2001 Plan that his last Employer reaches first.

(h) **Amounts of Early, Deferred Vested and Disability Retirement Benefits.** A Participant's early, vested deferred and disability benefit amounts will be calculated under the same term and conditions as contained in Section 7.4(b)-(d) of the January 1, 2001 Restated Pension Plan Document.

7.10 **2014 Plan.**

(a) **2014 (\$318) Plan.** Effective after January 1, 2014, Employees of Employers contributing at the rate of Two Dollars and Twenty-Eight Cents (\$2.28) per hour will accrue benefits under the 2014 (\$318) Plan. A Participant's monthly Normal Retirement Benefit commencing on his Normal Retirement Date is a monthly retirement income described under the schedule below to a maximum of 32 Years of Credited Service computed to the nearest 1/100th year:

<u>For each Year of Credited Service</u>	<u>Monthly Benefit</u>
Less than 10 years	\$8.55
Between 10 and 20 years	\$9.86
Between 20 and 30 years	\$11.13
Between 30 and 32 years, including 32 nd year	\$11.31

(b) **Eligibility for 2014 Plan.** Only Participants who have not accrued credited service as of the time of their initial participation in the 2014 Plan may participate in the 2014 Plan.

7.11 **Partial Pensions - Purpose.** Partial Pensions are provided under this Plan for Employees who would otherwise lack sufficient Credited Service to be eligible for any Retirement Benefit because their years of employment were divided between different pension plans, or, if otherwise eligible, whose Retirement Benefits would be less than the full amount because of such division of employment.

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(a) **Related Plans.** By resolution duly adopted, the Trustees may recognize one or more other pension plans that have executed a Reciprocal Agreement to which this Plan is a party, as a Related Plan.

(b) **Related Service Credits.** Service credits accumulated and maintained by an Employee under a Related Plan will be recognized under this Plan as Related Service Credits. The Trustees will compute Related Service Credits on the basis that credit has been earned and credited under the Related Plan and certified by the Related Plan to this Plan.

(c) **Combined Service Credits.** The total of an Employee's Credited Service under this Plan and Related Service Credit together comprise the Employee's Combined Service Credit. Not more than one (1) year of Combined Service Credit will be counted with respect to any calendar year.

(d) **Eligibility.** An employee is eligible for a Partial Pension under this Plan if he satisfies all of the following requirements:

(i) He would be eligible for any type of Retirement Benefit under this Plan (other than a Partial Pension under this Article) if his Combined Service Credits were treated as Credited Service under this Plan; and

(ii) In addition to any other requirements necessary to be eligible under subsection (d)(i), he has, under this Plan, at least two (2) years of Credited Service based on actual employment in Covered Service after his effective date of coverage; and

(iii) He is found to be: (i) eligible for a partial pension from a Related Plan; and (ii) eligible for a partial pension from the Terminal Plan. The Terminal Plan is deemed to be the Plan at the time of, or immediately prior to, his retirement. If, at that time, the Employee was not represented by any one such local union, then the Terminal Plan is the one to which the bulk of contributions were paid on behalf of the Employee in the thirty-six (36) consecutive calendar months immediately preceding his retirement; and

(iv) A pension is not payable to him from a Related Plan independently of its provisions for a partial pension. However, an Employee who is entitled to a pension other than either a Partial Pension from this Plan or a partial pension from a Related plan, may elect to waive the other pension and qualify for the Partial Pension Under this Plan.

(e) **Breaks in Service.** In applying the break in service rules, any period in which an Employee has earned Related Service Credits will not be counted in determining whether there has been a period of no Covered or Non-covered Service sufficient to constitute a break in service.

(f) **No Duplication of Benefits.** If an Employee is eligible for a Partial Pension under this Article 7 and a Retirement Benefit under Article IV, he will elect whether he will receive such Partial Pension or such Retirement Benefit after being furnished by the Trustees with a clear explanation of the benefits provided by each.

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(g) **Partial Pension Amount.** The amount of the Partial Pension will be determined as follows:

(i) The amount of the Retirement Benefit to which the Employee would be entitled under this Plan taking into account his Combined Service Credit will be determined, then

(ii) The amount of Credited Service earned with this Plan since May 1, 1961, will be divided by the total amount of Combined Service Credit earned by the Employee since January 1, 1955, then

(iii) The fraction so determined in this subsection (g)(ii) will be multiplied by the pension amount determined in this subsection (g)(i), and the results will be the Partial Pension amount payable by this Plan.

(h) **Payment of Partial Pensions.** The payment of a Partial Pension is subject to all of the conditions contained in this Plan applicable to Retirement Benefits, including, but not limited to, the Employee's Retirement as herein defined and proper applications.

Article 8

Method And Payment of Benefits

8.1 **Form of Benefits.** The provisions of this Section 8.1 shall apply to any Participant who is credited with at least one (1) Hour of Service with an Employer on or after August 23, 1984, and such other Participants as provided in Subsection 8.1(c).

(a) **Qualified Joint and Survivor Annuity.**

(i) Unless an Optional Form of Benefit is selected pursuant to a Qualified Election within the ninety (90) day period ending on the Annuity Starting Date (180 day period, effective January 1, 2007), the vested Accrued Benefit of a Participant who is lawfully married for at least one (1) year will be paid in the form of an automatic Qualified Joint and Survivor Annuity (as defined in Section 1.1(jj)).

(ii) Effective January 1, 2008, the Participant may elect a "Qualified Optional Survivor Annuity" that will provide an annuity to the Participant's spouse that is seventy-five percent (75%) of the amount of the annuity that is payable during the life of the Participant.

(b) **Monthly Life Annuity.** Unless an Optional Form is selected pursuant to Subsection 8.1(d, an unmarried Participant's vested Accrued Benefit will be paid in the normal form of an immediate life annuity, with sixty (60) months guaranteed. The Participant may elect to have such annuity distributed upon attainment of the earliest retirement age under the Plan. For purposes of this Section 8.1, earliest retirement age means the earliest date on which, under the Plan, the Participant could elect to receive retirement benefits.

(c) **Qualified Pre-Retirement Survivor Annuity.**

(i) If a Participant dies after the earliest retirement age, the Participant's Surviving Spouse, if any, will receive the same benefit that would be payable if the Participant had retired with an immediate Qualified Joint and Survivor Annuity on the date before the Participant's date of death.

The Surviving Spouse may elect to commence payment under such annuity within a reasonable period after the Participant's death. The actuarial value of benefits that commence later than the date that payments would have been made to the Surviving Spouse under a Qualified Joint and Survivor Annuity in accordance with this provision will be adjusted to reflect the delayed payment.

(ii) If a Participant dies on or before the earliest retirement age, the Participant's Surviving Spouse, if any, will receive the same benefit that would be payable if the Participant had:

(I) separated from service on the date of death (or the date of separation from service, if earlier);

(II) survived to the earliest retirement age;

(III) retired with an immediate Qualified Joint and Survivor Annuity at the earliest retirement age; and

(IV) died on the day after the earliest retirement age.

(iii) For purposes of Paragraph (c)(ii), and subject to the provisions of Articles 6 and 7 of the Plan, a Surviving Spouse will begin, with the spouse's consent, to receive payments at the earliest retirement age. Benefits commencing after the earliest retirement age will be the Actuarial Equivalent of the benefit that the surviving spouse would have been entitled if benefits had commenced at the earliest retirement age under an immediate Qualified Joint and Survivor Annuity in accordance with Paragraph (c)(ii).

(iv) **Spouse (Surviving Spouse).** The spouse or surviving spouse of the Participant, provided that a former spouse will be treated as the spouse or surviving spouse and a current spouse will not be treated as the spouse or surviving spouse to the extent provided under a qualified domestic relations order as described in Code Section 414(p).

(d) **Notice Requirements.**

(i) In the case of a Qualified Joint and Survivor Annuity and for periods after January 1, 2008, a Qualified Optional Survivor Annuity, the Plan Administrator will, no less than thirty (30) days and no more than ninety (90) days (180 days effective as of January 1, 2007) prior to the Annuity Starting Date, provide each Participant with a written explanation of: (1) the terms and conditions of a Qualified Joint and Survivor Annuity and for periods after January 1, 2008, the terms and conditions of a Qualified Optional Survivor Annuity; (2) the Participant's right to make and the effect of an election to waive the Qualified Joint and Survivor Annuity and to elect the Qualified Optional Survivor Annuity

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benefit forms; (3) the rights of a Participant's spouse; (4) the right to make, and the effect of, a revocation of a previous election to waive the Qualified Joint and Survivor Annuity or the Qualified Optional Survivor Annuity; and (5) the relative values of the various optional forms of benefit under the Plan.

The Annuity Starting Date for a distribution in a form other than a Qualified Joint and Survivor Annuity may be less than thirty (30) days after receipt of the written explanation described in the preceding paragraph provided: (a) the Participant has been provided with information that clearly indicates that the Participant had at least thirty (30) days to consider whether to waive the Qualified Joint and Survivor Annuity and elect (with spousal consent except for the QJSA) a form of distribution other than a Qualified Joint and Survivor Annuity; (b) the Participant is permitted to revoke any affirmative distribution election at least until the Annuity Starting Date or, if later, at any time prior to the expiration of the seven (7) day period that begins the date after the explanation of the Qualified Joint and Survivor Annuity is provided to the Participant; and (c) the Annuity Starting Date is a date after the date that the written explanation was provided to the Participant.

(ii) In the case of a Qualified Pre-Retirement Survivor Annuity as described in Subsection 8.1(b), the Plan Administrator will provide each Participant, within the applicable period for such Participant, a written explanation of the Qualified Pre-Retirement Survivor Annuity in such terms and in such manner as would be comparable to the explanation provided for meeting the requirements of Paragraph (c)(i) applicable to a Qualified Joint and Survivor Annuity.

The applicable period for a Participant is whichever of the following periods ends last: (1) the period beginning with the first date 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; (2) a reasonable period ending after the individual becomes a Participant; (3) a reasonable period ending after Paragraph (d)(iii) ceases to apply to the Participant; (4) a reasonable period ending after this Section 8.1 first applies to the Participant. Notwithstanding the foregoing, notice must be provided within a reasonable period ending after separation from service in the case of a Participant who separates from service before attaining age 35.

For purposes of applying the preceding paragraph, a reasonable period ending after the enumerated events described in (2), (3) and (4) 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 age 35 is attained, notice will be provided within the two-year period beginning one year prior to separation. If such a Participant thereafter returns to employment with the Employer, the applicable period for such Participant shall be recalculated.

(iii) Notwithstanding the other requirements of this Subsection (d, the respective notices prescribed by this Subsection (d need not be given to a Participant if: (1) the Plan "fully subsidizes" the costs of a Qualified Joint and Survivor Annuity or Qualified Pre-Retirement Survivor Annuity; and (2) the Plan does not allow the Participant to waive the Qualified Joint and Survivor Annuity or Qualified Pre-Retirement Survivor Annuity and does not allow a married Participant to designate a non-spouse beneficiary. For purposes of this Paragraph (d)(iii), a plan fully subsidizes the costs of a benefit if no increase in cost, or decrease in benefits to the Participant may result from the Participant's

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failure to elect another benefit. The Plan fully subsidizes the cost of the Qualified Pre-Retirement Survivor Annuity. Prior to the time the Plan allows the Participant to waive the Qualified Pre-Retirement Survivor Annuity, the Plan may not charge the Participant for the cost of such benefit by reducing the Participant's benefits under the Plan or by any other method.

(iv) For any distribution notice issued in Plan Years beginning after December 31, 2006, the description of a Participant's right, if any, to defer receipt of a distribution will also describe the effect of failing to defer receipt of the distribution; and, in this regard, the Plan Administrator may use a description that includes the financial effect of such deferral as described in Treasury Regulations Section 1.417(a)(3)-1(d)(2)(i), based solely on the normal form of benefit payment.

(e) **Transitional Rules.**

(i) Any living Participant not receiving benefits on August 23, 1984, who would otherwise not receive the benefits prescribed by the previous Subsections of this Section 8.1 must be given the opportunity to elect to have the prior provisions of this Section 8.1 apply if such Participant is credited with at least one Hour of Service under this Plan or a predecessor plan in a Plan Year beginning on or after January 1, 1976, and such Participant has at least ten (10) Years of Eligibility Service when he or she separated from service.

(ii) Any living Participant not receiving benefits on August 23, 1984 who was credited with at least one Hour of Service under this Plan or a predecessor plan on or after September 2, 1974, and who is not otherwise credited with any service in a Plan Year beginning on or after January 1, 1976, must be given the opportunity to have his or her benefits paid in accordance with Paragraph (d)(iv).

(iii) The respective opportunities to elect (as described in Paragraphs (d)(i) and (ii) above) must be afforded to the appropriate Participants during the period commencing on August 23, 1984, and ending on the date benefits would otherwise commence to said Participants.

(iv) Any Participant who has elected pursuant to Paragraph (d)(ii) and any Participant who does not elect under Paragraph (d)(i) or who meets the requirements of Paragraph (d)(i) except that such Participant does not have at least ten (10) Years of Eligibility Service when he or she separates from service, will have his or her benefits distributed in accordance with all of the following requirements if benefits would have been payable in the form of a life annuity.

(I) Automatic Joint and Survivor Annuity. If benefits in the form of a life annuity become payable to a married Participant who:

(A) begins to receive payments under the Plan on or after Normal Retirement Age; or

(B) dies on or after Normal Retirement Age while still working for Employer; or

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(C) begins to receive payments on or after the qualified early retirement age; or

(D) separates from service on or after attaining Normal Retirement Age (or the qualified early retirement age) and after satisfying the eligibility requirements for the payment of benefits under the Plan and thereafter dies before beginning to receive such benefits; then such benefits will be received under this Plan in the form of a Qualified Joint and Survivor Annuity, unless the Participant has elected otherwise during the election period. The election period must begin at least six (6) months before the Participant attains qualified early retirement age and end not more than ninety (90) days for Plan Years beginning before January 1, 2007, and one hundred eighty (180) days for Plan Years beginning after December 31, 2006, before the commencement of benefits. Any election hereunder will be in writing and may be changed by the Participant at any time.

(II) Election of early survivor annuity. A Participant, who is employed after attaining the qualified early retirement age, will be given the opportunity to elect, during the election period, to have a survivor annuity payable on death. If the Participant elects the survivor annuity, payments under such annuity must not be less than the payments that would have been made to the spouse under the Qualified Joint and Survivor Annuity if the Participant had retired on the day before his or her death. Any election under this provision will be in writing and may be changed by the Participant at any time. The election period begins on the later of: (1) the 90th day for Plan Years beginning before January 1, 2007, and one hundred eighty (180) day for Plan Years beginning after December 31, 2006 before the Participant attains the qualified early retirement age; or (2) the date on which participation begins, and ends on the date the Participant terminates employment.

(III) For purposes of this Paragraph (d)(iv), qualified early retirement age is the latest of:

(A) the earliest date, under the Plan, on which the Participant may elect to receive retirement benefits,

(B) the first day of the 120th month beginning before the Participant reaches Normal Retirement Age, or

(C) the date the Participant begins participation.

(f) **Optional Benefit Forms.** In lieu of the normal form of benefit required by Section 8.1, a Participant may, upon satisfying the requirements of Section 8.1 above, elect payment of his pension benefit as follows:

(i) **Fifty percent (50%) Contingent Pension.** Subject to the provisions of Section 8.1 above, a Participant may elect the payment of a reduced lifetime monthly pension followed by the payment to his named surviving contingent annuitant of a lifetime monthly annuity in an amount equal to 50% of the monthly annuity payable to the Employee prior to his death.

If, at the time of the Participant's death, the Option has become effective, pension payments to the contingent annuitant will commence as of the first day of the month following the month in which the Participant's death occurs, if the contingent annuitant is then living.

The last pension payment under this option, if effective, will be the monthly payment due on the first day of the month in which occurs the death of the last to survive of the Participant and his contingent annuitant.

In the event that: (i) either Participant or his contingent annuitant dies prior to the date the option becomes effective; or (ii) the monthly amount of pension payment which would become payable to the contingent annuitant is less than Ten Dollars (\$10.00); or (iii) the Participant does not, prior to the effective date of the option, whichever is earlier, furnish evidence satisfactory to the Trustees of the age of his contingent annuitant, the option will not become effective, and pension payments, if any, will be made as otherwise provided in the Plan as if the option had never been elected.

Notwithstanding the foregoing provisions of this paragraph, under no circumstances will this option result in the Actuarial Equivalent of expected benefit payments to the Employee being less than 50.1% of the total value of all expected benefit payments payable to, and with respect to, the Participant, as determined at the time benefit payments commence under this option. The Trustees have authority to make appropriate adjustments with respect to this option to reflect this restriction on payment. This restriction will not apply where the contingent annuitant under this option is the Employee's spouse.

(ii) **120-Month Certain Option.** Subject to the provisions of Section 8.1, a Participant may elect to covert his Normal Retirement Benefit or Early Retirement Benefit into an optional form of Retirement Benefit of equivalent actuarial value, payable to himself for life, but guaranteed in any event for a minimum of one hundred twenty (120) months. The election of such optional form of Retirement Benefit may not be revoked or changed by the Employee after the first pension payment has been paid under the option, but the beneficiary under the option may be changed by written notification delivered to the Trustees prior to the Participant's death. The optional retirement benefit, if effective, will be continued until the end of the guaranteed period if he dies prior to the end thereof. There will be no death benefit under this paragraph (ii) if the Employee dies before the commencement date of his optional benefit under this paragraph (ii), nor after he has received all the guaranteed payments.

(iii) For all Plan Years beginning after December 31, 2007, a Participant who elects to waive the Qualified Joint and Survivor Annuity will be entitled to elect the Qualified Optional Survivor Annuity at any time during the election period.

(g) **Qualified Election.** Any waiver of a Qualified Joint and Survivor Annuity will not be effective unless:

- (i) the participant's Spouse consents in writing to the election;

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- (ii) the election designates a specific alternate beneficiary, including any class of beneficiaries or any contingent beneficiaries, which may not be changed without spousal consent (or the Spouse expressly permits designations by the Participant without any further spousal consent);
- (iii) the Spouse's consent acknowledges the effect of the election; and
- (iv) the Spouse's consent is witnessed by a plan representative or notary public.

Additionally, a Participant's waiver of the Qualified Joint and Survivor Annuity will not be effective unless the election designates a form of benefit payment which may not be changed without spousal consent. If it is established to the satisfaction of a plan representative that such written consent may not be obtained because there is no Spouse, or the Spouse cannot be located, a wavier will be deemed a Qualified Election.

Any consent by a Spouse obtained under this provision (or establishment that the consent of a Spouse may not be obtained) will be effective only with respect to such Spouse. A consent that permits designations by the Participant, without any requirement of further consent by such Spouse, must acknowledge that the Spouse has the right to limit consent to a specific Beneficiary, and a specific form of benefit where applicable, and that the Spouse voluntarily elects to relinquish either or both of such rights. A revocation of a prior waiver may be made by a Participant without the consent of the Spouse at any time prior to the commencement of benefits. The number of revocations shall not be limited. No consent obtained under this provision will be valid unless the Participant has received notice as provided in Section 8.1(d) above.

8.2 Restrictions on Immediate Distributions. Only a Participant need consent to the commencement of a distribution in the form of a Qualified Joint and Survivor Annuity. Otherwise, if the present value of a Participant's vested Accrued Benefit exceeds Five Thousand Dollars (\$5,000.00) in Plan Years beginning after August 5, 1997 and One Thousand Dollars (\$1,000.00) in Plan Years beginning after March 28, 2005, and the accrued benefit is immediately distributable, the Participant and the Participant's spouse (or where either the Participant or the spouse has died, the survivor) must consent to any distribution of such Accrued Retirement Benefit. Consent must be obtained in writing within the ninety (90) day and one hundred eighty (180) day period for Plan Years beginning after December 31, 2006, period immediately preceding the date payments commence from the Plan. The Administrator will notify the Participant and the Participant's spouse of the right to defer any distribution until the Participant's Accrued Retirement Benefit is no longer immediately distributable. Such notice shall also comply with the requirements of Section 8.1(d). Consent will not be required to the extent that the distribution is required to satisfy Code sections 401(a)(9) or 415. An Accrued Benefit is "immediately distributable" if any part of the Accrued Benefit could be distributed to the Participant (or the Participant's surviving spouse) before the Participant attains (or would have attained if not deceased) the later of age 62 or Normal Retirement Age.

8.3 Mandatory Lump Sum Payments.

- (a) If a Participant terminates Employment, and the Actuarial Equivalent lump sum of the Participant's vested Accrued Benefit does not exceed Five Thousand Dollars (\$5,000.00) in Plan Years

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beginning after August 5, 1997, and one thousand dollars (\$1,000.00), effective March 28, 2005, the Administrator will direct payment in a single lump sum as soon as administratively feasible, following the Participant's termination of Employment. For purposes of this Section, if the present value of an Employee's vested Accrued Benefits is zero (0), the Employee will be deemed to have received a distribution of such vested Accrued Benefit.

(b) **Optional Lump Sum Payments.** Effective after March 28, 2005, if a Participant terminates Employment, and the Actuarial Equivalent lump sum of the Participant's vested Accrued Benefit is One Thousand Dollars (\$1,000.00) or greater, but does not exceed Five Thousand Dollars (\$5,000.00), the Participant may elect by written notice to receive a single payment of the lump sum as soon as administratively feasible following the Participant's termination of Employment.

8.4 **Distribution Requirements.**

(a) **Commencement Date.** A Participant who files with the Administrator a completed application for benefits from the Plan, is entitled to have his benefits commence no later than the 60th day after the close of the Plan Year in which the later of the following occurs:

- (i) The Participant attains Normal Retirement Age;
- (ii) The 10th anniversary of the year in which Participant commenced Participation in the Plan; or
- (iii) The Participant terminates Employment.

A Participant may request, in writing, to defer payment to a later date.

(b) **Required Beginning Date.** In all events, payments will commence no later than the later of April 1st following the calendar year that the Participant attains age 70½ or the calendar year that the Participant retires, except that benefit distributions to a 5% owner (within the meaning of Code Section 416(i)) at any time during the Plan Year ending with or within the calendar year that he attains age 70½ or any subsequent Plan Year, payments will commence by the April 1st following the calendar year that the Participant attains age 70½. The first sentence of this paragraph will apply only to a Participant who attains age 70½ in or after the first calendar year after December 31, 1996. If the first sentence of this Subparagraph (b) does not apply, the required beginning date of a Participant is the April 1st of the calendar year following the calendar year that the Participant attains age 70½. A Participant who satisfied the service requirements for an Early Retirement Benefit, but separated from the service (with any non-forfeitable right to an Accrued Benefit) before satisfying the age requirement for an Early Retirement Benefit, is entitled, upon satisfaction of such age requirement, to receive a benefit not less than the benefit that he would be entitled at the Normal Retirement Age, actuarially reduced under regulations prescribed by the Secretary of Treasurer.

Once distributions have begun to a five percent (5%) owner under this Subsection 8.4(b), they must continue to be distributed, even if the Participant ceases to be a five percent (5%) owner in a subsequent year.

Effective April 1, 2008, a Participant who attains age 70.5 while in covered service may irrevocably elect to begin benefit payments upon attainment of age 70.5 rather than postpone his benefit commencement date until the participant's retirement from covered service. If the participant elects to begin benefit payments while in service he will not be entitled to the actuarial increase described in section 8.4(c), below. The Trustees will offer each affected participant the opportunity to make such election once, and upon election by the participant, the election will not be changed upon the participant's retirement from covered service. Participants who do not elect to commence benefits while in service shall be entitled to the actuarial increase, if any, described in section 8.4(c) below.

(c) **Actuarial Increase.** Except with respect to a five percent (5%) owner in other plans, a Participant's Accrued Benefit is actuarially increased to take into account the period after age 70½ that the Employee does not receive any benefits under the Plan. The actuarial increase begins on the April 1st following the calendar year in which the Employee attains age 70½ (January 1, 1997 in the case of an Employee who attained age 70½ prior to 1996), and ends on the date on which benefits commence after retirement in an amount sufficient to satisfy Code Section 401(a)(9).

The amount of actuarial increase payable as of the end of the period for actuarial increases must be no less than the Actuarial Equivalent of the Employee's retirement benefits that would have been payable as of the date the actuarial increase must commence plus the Actuarial Equivalent of additional benefits accrued after that date, reduced by the actuarial equivalent of any distributions made after that date. The actuarial increase is generally the same as, and not in addition to, the actuarial increase required for that same period under Code Section 411 to reflect the delay in payments after Normal Retirement, except that the actuarial increase required under Code Section 401(a)(9)(C) must be provided even during the period during which an Employee is in ERISA Section 203(a)(3)(B) service.

For purposes of Code Section 411(b)(1)(H), the actuarial increase will be treated as an adjustment attributable to the delay in distribution of benefits after the attainment of Normal Retirement Age. Accordingly, to the extent permitted under Code Section 411(b)(1)(H), the actuarial increase required under Code Section 401(a)(9)(C)(iii) may reduce the benefit accrual otherwise required under Code Section 411(b)(1)(H)(i), except that the rules on the suspension of benefits are not applicable.

(d) **Determination of Amount to be Distributed.** Benefits may not be distributed to any Participant under a method of payment which, as of the Participant's required beginning date does not satisfy minimum distribution requirements of Code Section 401(a)(9) and applicable Treasury regulations, including the minimum distribution incidental benefit requirements of Section 401(a)(9)(6) and the Treasury Regulations, which the Plan hereby incorporates by reference. As of the first distribution calendar year, distributions, if not made in a lump-sum, may only be made over one of the following periods (or a combination thereof).

- (i) the life of the Participant,
- (ii) the life of the Participant and a Designated Beneficiary,

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(iii) a period certain not extending beyond the life expectancy of the Participant;
or

(iv) a period certain not extending beyond the joint and last survivor life expectancy of the Participant and a Designated Beneficiary.

(e) Determination of amount to be distributed each year.

(i) If the Participant's pension benefit is to be paid in the form of the annuity, payments under the annuity shall satisfy the following requirements:

(I) the annuity distributions must be paid in periodic payments made at intervals not longer than one year;

(II) the distributions period must be over a life (or lives) or over a period certain not longer than a life expectancy (or joint life and last survivor expectancy) described in Code Section 401(a)(9)(A)(ii) or Section 401(a)(9)(B)(iii), whichever is applicable;

(III) once payments have begun over a period certain, the period certain may not be lengthened even if the period certain is shorter than the maximum permitted; and

(IV) payments must either be non-increasing or increase only as follows:

(A) by an annual percentage increase that does not exceed the percentage increase in an eligible cost-of-living index for a 12-month period ending in the year during which the increase occurs or a prior year;

(B) by a percentage increase that occurs at specified times and does not exceed the cumulative total of annual percentage increases in an eligible cost-of-living index since the annuity starting date, or if later, the date of the most recent percentage increase;

(C) by a constant percentage of less than five percent (5%) per year, applied not less frequently than annually;

(V) as a result of dividend or other payments that result from actuarial gains, provided:

(A) actuarial gain is measured not less frequently than annually;

(B) the resulting dividend or other payments are either paid no later than the year following the year for which the actuarial experience is measured or paid in the same form as the payment of the annuity over the remaining period of the annuity (beginning no later than the year following the year for which the actuarial experience is measured);

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(C) the actuarial gain taken into account is limited to actuarial gain from investment experience;

(D) the assume interest rate used to calculate such actuarial gains is not less than three percent (3%); and

(E) the annuity payments are not increased by a constant percentage as described in this Section.

(VI) to the extent of the reduction in the amount of the Participant's payments to provide for a survivor benefit, but only if there is no longer a survivor benefit because the beneficiary whose life was being used to determine the distribution period described in Section 4 dies or is no longer the Participant's Beneficiary pursuant to a qualified domestic relations order within the meaning of Section 414(b) of the Code;

(VII) to provide a final payment upon the Participant's death not greater than the excess of the actuarial present value of the Participant's accrued benefit (within the meaning of Section 411(a)(7) of the Code) calculated as of the annuity starting date using the total amount of employee contributions over the total of payments before the Participant's death;

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

(IX) to pay increased benefits that result from a Plan amendment.

(X) if the annuity is a life annuity (or a life annuity with a period not exceeding twenty (20) years), the amount of that must be distributed on or before the Participant's required beginning date (or, in the case of distributions after the death of the Participant, the date distributions are required to begin pursuant to Subsection (d) above is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval, even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received (e.g., bimonthly, monthly, semi-monthly, or annually).

If the annuity is a period certain annuity without a life contingency (or is a life annuity with a period certain exceeding twenty (20) years), periodic payments for each distribution calendar year shall be combined and treated as an annual amount. The amount that must be distributed by the Participant's required beginning date (or, in the case of distributions after the death of the Participant, the date distributions are required to begin pursuant to Subsection (d) above) is the annual amount for the first distribution calendar year. The annual amount for other distribution calendar years, including the annual amount for the calendar year in which the Participant's required beginning date (or the date distributions are required to begin pursuant to Subsection (d) above) occurs, must be distributed on or before December 31st of the calendar year for which the distribution is required.

8.5 Minimum Death Distribution Provisions.

(a) Death After Required Beginning Date or Commencement of Irrevocable

Annuity. If the Participant dies after distribution of his or her interest has begun, then the remaining portion of the Participant's interest will continue to be distributed over the remaining period over which distributions commenced. Where any benefits remain to be distributed following the death of the Participant, or in the case of a married Participant, following the death of both the Participant and his spouse, such benefits will be paid to the designated contingent beneficiary, and if none, to the estate of the Participant or his spouse, whichever is last to die. If the Participant's beneficiary is not a natural person, then in lieu of monthly payments, the commuted value of the monthly retirement benefit payments otherwise payable will be paid to the beneficiary. If the Participant's beneficiary is a natural person and dies after both the Participant and the Participant's spouse or contingent annuitant, as the case may be, but before a total of the minimum monthly retirement payments provided for under Section 8.2 have been paid, the commuted value of the balance of such monthly payments shall be paid to the executors or administrators of the beneficiary.

(b) **Death Prior to Required Beginning Date.** If the Participant dies before distribution of the Participant's interest begins, his entire interest will be completed by December 31st of the calendar year containing the fifth anniversary of the Participant's death, unless an election is made to receive distributions in accordance with (i) or (ii) below.

(i) If any portion of the Participant's benefit is payable to a Designated Beneficiary, distributions may be made over the life or over a period certain not greater than the life expectancy of the designated beneficiary commencing on or before December 31st of the calendar year immediately following the calendar year in which the Participant died.

(ii) If the designated beneficiary is the surviving Participant's spouse, the date distributions are required to begin in accordance with (i) above shall not be earlier than the later of: (a) December 31st of the calendar year immediately following the calendar year in which the Participant dies; or (b) December 31st of the calendar year in which the Participant would have attained age 70½.

If there is no Designated Beneficiary as of September 30 of the year following the year of the Participant's death, then the Participant's entire interest will be distributed by: (a) December 31st of the calendar year in which distributions would be required to begin under this Section; or (b) December 31st of the calendar year that contains the fifth (5th) anniversary date of death of the Participant. If the Participant has no designated beneficiary, or if the designated beneficiary fails to elect a method of distribution, distribution of the Participant's entire interest must be completed by December 31st of the calendar year containing the fifth (5th) anniversary of the Participant's death.

(iii) If the surviving spouse dies after the Participant, but before payments commence, the above provisions, with the exception of subsection (ii) above, will be applied as if the surviving spouse were the Participant.

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(iv) For purposes of this Subsection 8.5(b), any amount paid to a child of the Participant will be treated as if it had been paid to the surviving spouse if the amount becomes payable to the surviving spouse when the child reaches the age of majority.

(v) For the purposes of this Subsection (b), distribution of a Participant's interest is considered to begin on the Participant's required beginning date, or if Paragraph b(iii) above is applicable, the date distribution is required to begin to the surviving spouse pursuant to Paragraph (b)(ii) above. If distribution in the form of an annuity described in Subparagraph (b)(ii)(2) above irrevocably commences to the Participant before the required beginning date, the date distribution is considered to begin is the date distribution actually commences.

8.6 Reemployment/Suspension of Benefits. If a Participant enters employment in work of the kind regularly performed by members of the Union, benefits will be suspended for the months of such employment. A Pensioner must notify the Trustees, in writing, within fifteen (15) days after he enters upon such employment or activity. If he fails to give timely notice, the Board of Trustees may suspend his benefits for an additional period of not more than twelve (12) months, or, if earlier, until the later of: (i) his Normal Retirement Date; or (ii) his subsequent Retirement. Such suspension will not have the effect of reducing the value of the Employee's Retirement Benefit for payment at his Normal Retirement Date, and to the extent necessary to avoid reduction, the monthly amount of the Retirement Benefit will be adjusted so as not to deprive the Employee of the value of his Retirement Benefit as payable at his Normal Retirement Date. Nothing in this Plan will prevent a Pensioner who has retired for age from engaging in any employment or gainful occupation except further employment in work regularly performed by members of the Union.

(a) Retirement benefits will be suspended for each calendar month during which the Employee completes at least forty (40) Hours of Service with the Employer in ERISA Section 203(a)(3)(B) service, excepting Hours of Service credited to Employee because back pay was awarded to Employee. Consequently, the amount of benefits that are paid later than Normal Retirement Age will be computed as if the Employee had been receiving benefits since Normal Retirement Age. For purpose of this Section, ERISA Section 203(a)(3)(B) service means service as defined in 29 CFR §2530.203-3(c)(2).

Notwithstanding the foregoing, a retired Participant may return to work for an Employer so long as the President of the Fund's affiliated Union certifies that no active union members are available to fill that position, provided the following conditions are met:

- (i) Employer pays contributions in accordance with Collective Bargaining Agreement;
- (ii) Employer has no employees in bargaining unit on layoff status;
- (iii) the retired Participant retired under the Plan's provisions with either a Normal or Early benefit;
- (iv) the retired Participant has reached Normal Retirement Age;

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(v) The Welfare Fund of Teamsters Local Union No. 436 does not require monthly benefit contributions to be paid on behalf of retired Participants; and

(vi) The Employer and retired Participant execute suitable documents agreeing to comply with the provisions of the Plan and acknowledging their responsibilities with regard to this matter.

(b) **Resumption of Payment.** Subject to Section 8.6(d), if benefit payments have been suspended, payments will resume no later than the first (1st) day of the third (3rd) calendar month after the calendar month that the Employee ceases to be employed in ERISA Section 203(3)(B) service. The initial payment upon resumption will include the payment scheduled to occur in the calendar month when payments resume and any amounts withheld during the period between the cessation of ERISA Section 203(a)(3)(B) service and the resumption of payments.

(c) **Notification.** No payment will be withheld by the Plan pursuant to this section unless the Plan notifies the Employee, by personal delivery or first class mail (to the Employee's last known address of record) during the first calendar month or payroll period in which the Plan withholds payments, that his or her benefits are suspended. Such notifications will contain: (i) a description of the specific reasons why benefit payments are being suspended; (ii) a description of the Plan provision(s) relating to the suspension of payments; (iii) a copy of such plan provisions relating to the suspension of payments; and (iv) a statement to the effect that applicable Department of Labor regulations may be found in DOL regulations section 2530.203-3 of the Code of Federal Regulations.

In addition, the notice will inform the Employee of the Plan's procedures for affording a review of the suspension of benefits pursuant to the Claim Procedure in Article 12 of the Plan. If the Plan intends to offset any suspendable amounts actually paid during periods of employment in ERISA Section 203(a)(3)(b) service, the notification will also identify specifically: (i) the periods of employment; (ii) the suspendable amounts that are subject to offset; and (iii) the manner in which the Plan intends to offset such suspendable amounts.

(d) **Verification.** A Participant must notify the Plan of any employment that occurs subsequent to the commencement of payment of his Accrued Benefit. The Plan may request from a Participant access to reasonable information for the purpose of verifying such employment. As a condition to receiving future benefit payments, the Participant must certify, upon specific request by the Administrator, that he is unemployed or provide factual information sufficient to establish that any employment does not constitute ERISA Section 203(a)(3)(B) service. Once the Participant furnishes the required certification or information, the Plan will forward, at the next regularly scheduled time for payment of benefits, all payments that had been withheld, except to the extent that payments may be withheld and offset pursuant to 29 CFR §2530.203-3.

(e) **Amount Suspended.**

(i) **Life Annuity.** In the case of benefits payable periodically on a monthly basis for as long as a life (or lives) continues, such as a straight life annuity or a qualified joint and

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survivor annuity, an amount equal to the portion of a monthly benefit payment derived from Employer contributions.

(ii) **Other Benefit Forms.** In the case of a benefit payable in a form other than the form described in subsection (i) above, an amount of the Employer-provided portion of benefit payments for a calendar month in which the Employee is employed in ERISA Section 203(a)(3)(B) service, equal to the lesser of:

The amount of benefits that would have been payable to the Employee if he had been receiving monthly benefits under the Plan since actual retirement based on a straight life annuity commencing at actual retirement age; or

The actual amount paid or scheduled to be paid to the Employee for such month. Payments that are scheduled to be paid less frequently than monthly may be converted to monthly payments for purposes of the above sentence.

(f) **Top-Heavy.** This Section does not apply to the minimum benefit to which the Participant is entitled under top-heavy rules under Article 15.

(g) **Status Determination.** Any Participant may request a determination form from the Administrator as to whether specific contemplated employment will be ERISA §203(a)(3)(B) service for purposes of Plan provisions concerning suspension of benefits. Any determination will be made and rendered in a reasonable period of time.

(h) The provisions of this Section regarding the suspension of benefits will not apply to participants who have reached age 70.5 and have elected to commence benefits while in service as allowed in section 8.4(b).

8.7 Amount of Benefit Upon Reemployment. If a former Participant entitled to a pension benefit is reemployed by the Employer either before or after his benefit payments begin, the monthly amount of his retirement benefit will be determined as follows:

(a) **Break in Service Within One-Year of Reemployment.** If such a Participant, for any reason other than death, incurs a One-Year Break in Service within one (1) year of reemployment, the benefit payments that he was receiving before his reemployment will again commence as of the first (1st) day of the calendar month next following such One-Year Break in Service, in the same amount as he was receiving when reemployed, or, if he was not then receiving a retirement benefit, he will be entitled to the same benefit that he had before his reemployment. Each such Participant is entitled to receive an additional retirement benefit, and eligibility for such a benefit and the amount of such benefit will be determined under the Plan as if he had then first retired, based upon his age at the time of his termination of Employment after such reemployment and upon such reinstated Years of Service, plus the Years of Service he earns during such reemployment, but in no event will the sum of such additional retirement benefit and the retirement benefit he was receiving before his employment, exceed the amount he would be entitled to receive if his retirement benefits were calculated as set forth in (b) below.

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(b) **No Break in Service Within One Year of Reemployment.** If such a Participant does not have a One-Year Break in Service within one (1) year of such reemployment, his Years of Eligibility Service will be reinstated as of the date he completes one (1) Year of Credited Service following his reemployment. If he has a Break in Service thereafter for any reason other than death, his eligibility for a retirement benefit and the amount of such benefit will be determined as if he had then first retired, based upon his age at the time of his termination of Employment, after such reemployment and upon such reinstated Years of Credited Service he earns during such reemployment. However, in the case of a Participant who was receiving a retirement benefit prior to reemployment, such recalculated benefit will be actuarially reduced to account for any benefit payments he may have received before payments were suspended.

8.8 Direct Rollovers.

(a) This Section applies to distributions made on or after January 1, 1993. Notwithstanding any provision of the Plan to the contrary that would otherwise limit a distributee's election under this Section, a distributee may elect, at the time and in the manner prescribed by the 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) For purposes of this Section, the following definitions apply:

(i) 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 substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten (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 includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities). However, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions that are not includible in gross income, provided that such portion is paid only to an individual retirement account or annuity described in section 408(a) or (b) of the Code, or to a qualified defined contribution plan described in section 401(a) or 403(a) of the Code that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution that is includible in gross income and the portion of such distribution that is not so includible.

(ii) The term "eligible retirement plan" means: (i) an individual retirement account described in section 408(a) of the Code; (ii) an individual retirement annuity described in section 408(b) of the Code (other than an endowment contract), a qualified trust, an annuity plan described in section 403(a), (2) in addition, effective for Plan Years beginning or after January 1, 2002, an annuity contract described in section 403(b), and an eligible deferred compensation plan described in section 457(b) maintained by an eligible employer described in section 457(e)(1)(A) of the Code, which agrees to separately account for amounts transferred into such plan from this Plan; and (3) effective for distributions made after December 31, 2007, a Roth IRA as described in Section 408A(b) of the Code. The definition

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of eligible retirement plan shall also 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 Section 414(p) of the Code.

(iii) A “distributee” includes an Employee or former Employee or Designated Beneficiary. In addition, the Employee’s or former Employee’s surviving spouse and the Employee’s or former Employee’s spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Code Section 414(p), are distributees with regard to the interest of the spouse or former spouse.

(iv) A “direct rollover” is a payment by the Plan to the eligible retirement plan specified by the distributee.

(v) “Rollovers by non-spouse beneficiaries” Notwithstanding anything to the contrary in this Agreement, effective as of January 1, 2010, upon the death of the Participant a Distributee may elect to make a direct trustee-to-trustee transfer of all or any portion of a distribution payable to or on behalf of such Distributee to an individual retirement account or individual retirement annuity established for such purpose in accordance with the provisions of Code Section 402(c)(11). Such transfer will be treated as an eligible rollover distribution within the meaning of this section and the account or annuity so established will be treated as an inherited individual retirement account or individual retirement annuity within the meaning of Code Section 408(d)(3)(C) such that the amounts so transferred will not be eligible for further rollover treatment and distributions therefrom will be made in accordance with the requirements of Code Section 401(a)(9)(B) (other than clause (iv) thereof). In accordance with applicable Treasury Regulations, a trust maintained for the benefit of one or more beneficiaries will be treated in the same manner as a trust for a Distributee, such that the trustee of such trust may elect such direct transfer.

8.9 No Duplication of Benefits. In no event will an Employee be eligible to receive benefits under more than one of the above sections. If the Employee is eligible for benefits under two or more sections, he must elect the one section under which he wishes to apply after being furnished with a clear explanation of the benefits for which he is eligible.

8.10 Limitation on Effect of Change in Social Security Benefits. As to a Participant who is receiving benefits under this Plan or who has terminated employment and who has any vested Accrued Benefit, no benefit to which such Participant or Beneficiary is entitled under this Plan may be reduced on account of any increase in Social Security benefit levels payable under Title II of the Social Security Act or any increase in the wage base under Title II.

Article 9

Death Benefits

9.1 Surviving Spouse Death Benefits. In the event an Employee with at least fifteen (15) years of Credited Service dies prior to his Normal Retirement Date while in Covered Service with a legal spouse surviving him, if (and only if) such surviving legal spouse is not entitled to a Qualified Pre-Retirement Survivor Annuity under Article 8, either because such surviving spouse is not a “Surviving Spouse”, or because the Employee, with the written consent of his legal spouse, has elected not to receive

said Qualified Pre-Retirement Survivor Annuity, such surviving legal spouse will be entitled to receive monthly benefit payments in the amount of One Hundred Dollars (\$100) per month for sixty (60) months or, if earlier, until death or remarriage.

9.2 Post Retirement Death Benefit. In addition to benefits otherwise provided under the Plan, a death benefit in the amount of Five Thousand Dollars (\$5,000.00) will be paid to the designated beneficiary of a Participant receiving benefits under Article 6 upon his death. If no beneficiary has been named, this benefit will be paid to the deceased Participant or former Participant's estate.

Article 10 Benefit Restrictions

10.1 Restriction in Maximum Amount of Benefit.

(a) Anything herein to the contrary notwithstanding, the annual pension benefit payable for a Participant hereunder will not exceed the maximum amount permitted under Section 415 of the Code, as amended from time to time, the provisions of which are expressly incorporated herein by reference. Moreover, in the event Code Section 416 should be applicable for any participating group herein, no benefit exceeding the amounts permitted for any "top-heavy" group shall be provided under this Plan.

(b) **Limitations on Benefits Under Section 415.** In addition to any other limitations set forth in the Plan and notwithstanding any other provisions of the Plan, effective for Limitation Years beginning on and after July 1, 2007, benefits under the Plan shall be limited in accordance with Section 415 of the Code and the Treasury Regulations thereunder, in accordance with this Section. This Section 10.1(b) is intended to incorporate the requirements of Section 415 of the Code by reference including the final Regulations effective January 1, 2008, the Pension Funding Equity Act of 2004 effective January 1, 2004 and the Pension Protection Act of 2006 effective January 1, 2006, except as otherwise specified herein.

(c) Definitions

(1) "Limitation Year" means the Calendar Year.

(2) "Plan Benefit" means as of any date, the amount of a Participant's Benefit as determined under the applicable provisions of the Plan before application of the limits in this Section.

(3) "415 Compensation" means:

(i) Wages within the meaning of Section 3401(a) of the Codes (for purposes of income tax withholding at the source), plus amounts that would be included in wages but for an election under Sections 125(a), 132(f)(4), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b) of the Code; provided, however, that any rules that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Section 3401(a)(2) of the Code) are disregarded for purposes of this definition; and

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(ii) All other payments of compensation to an Employee by his or her Employer (in the course of the Employer's trade or business) for which the Employer is required to furnish the Employee a written statement under Sections 6041(d), 605(a)(3), and 6052 of the Code (e.g., a W-2 or a 1099);

(iii) "Severance From Employment" has occurred when a Participant is no longer an employee of an Employer maintaining the Plan.

(d) **Limit on Accrued Benefits.** For Limitation Years beginning on or after July 1, 2007, in no event shall a Participant's benefit accrued under the Plan for a Limitation Year exceed the applicable limit determined in accordance with Section 415 of the Code and the Treasury Regulations thereunder for that Limitation year. If a Participant's Plan Benefit for a Limitation Year beginning on or after July 1, 2007 would exceed the applicable limit for that Limitation Year, the accrued benefit, but not the Plan Benefit, shall be frozen or reduced so that the accrued benefit does not exceed the applicable limit for that Limitation Year.

(e) **Limits on Benefits Distributed or Paid.** For Limitation Years beginning on or after July 1, 2007, in no event shall the annual amount of benefit distributed or otherwise payable to or with respect to a Participant under the Plan in a Limitation Year exceed the applicable limit for that Limitation Year. If the benefit distributable or otherwise payable in a Limitation Year would exceed the applicable limit for that Limitation Year, the benefit shall be reduced so that the benefit distributed or otherwise payable does not exceed the applicable limit for that Limitation Year.

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

(g) **Interest Rates:**

(1) Interest Rates for Annuity Starting Dates in Plan Years Beginning On or After January 1, 2006.

(i) Effective for Annuity Starting Dates in Plan Years beginning on or after January 1, 2006, for purposes of adjusting any benefit under Section 415(b)(2)(B) of the Code for any form of benefit subject to Section 417(e)(3) of the Code, the interest rate assumption will be not less than the greater of:

(ii) the interest rate and mortality table specified in the Plan for determining the actuarial equivalence of benefits under Section 417(e) of the Code, or

(iii) 5.5 percent and the Applicable Mortality Table, or

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(iv) the interest rate and mortality table specified in the Plan for determining the actuarial equivalence of benefits under Section 417(e) of the Code that produces a benefit of not more than 105% of the benefit that would be provided using the “Applicable Interest Rate”.

(2) Interest Rates for Annuity Starting Dates in Plan Years Between January 1, 2004 and December 31, 2005.

(i) Effective for Annuity Starting Dates in Plan Years beginning on or after January 1, 2004, and ending December 31, 2005, for purposes of adjusting any benefit under Section 415(b)(2)(B) of the Code for any form of benefit subject to Section 417(e)(3) of the Code, the interest rate assumption shall be not less than the greater of:

(ii) the interest rate and mortality table specified in the Plan for determining the actuarial equivalence of benefits under Section 417(e) of the Code, or

(iii) 5.5 percent and the Applicable Mortality Table.

(h) **General.**

(i) To the extent that a Participant’s benefit is subject to provisions of Section 415 of the Code and the Treasury Regulations thereunder that have not been set forth in the Plan, such provisions are hereby incorporated by reference into this plan and for all purposes shall be deemed a part of the Plan.

(ii) This Section is intended to satisfy the requirements imposed by Section 415 of the Code and the Treasury Regulations thereunder and shall be construed in a manner that will effectuate this intent. This Section shall not be construed in a manner that would impose limitations that are more stringent than those required by Section 415 of the Code and the Treasury Regulations thereunder.

(iii) If and to the extent that the rules set forth in this Section are no longer required for qualification of the Plan under Section 401(a) and related provisions of the Code and the Treasury Regulations thereunder, they shall cease to apply without the necessity of an amendment to the Plan.

10.2 Restrictions in Event of Termination. In the event the Plan is partially or completely terminated, or an accumulated funding deficiency occurs within the first ten (10) Plan Years following its inception, or the first ten (10) Plan Years subsequent to amendments increasing benefits, the following restrictions apply to a Participant who, on the date of the Plan’s inception, or on the date of any amendment increasing benefits, was one of the twenty-five (25) highest-paid Employees of an Employer (“restricted Participant”) and whose then anticipated annual Normal Pension exceeds One Thousand Five Hundred Dollars (\$1,500.00). The restrictions applied to such restricted Participants shall apply only to that amount of his anticipated annual Normal Pension which exceeds One Thousand Five Hundred Dollars (\$1,500.00) (“restricted benefit”). Benefits payable under Article 8 shall not be restricted benefits.

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While the early termination restrictions are operative, no restricted Participant may receive a restricted benefit larger than one which can be purchased with the greater of:

(a) Twenty Thousand Dollars (\$20,000.00); or

(b) Twenty percent (20%) of the first Fifty Thousand Dollars (\$50,000.00) of the Participant's annual compensation multiplied by the number of years between the date that the ten (10) year period described above began and the date the restrictions became operative.

During the ten (10) year period described above, no restricted Participant may receive a restricted benefit in an optional form providing payments at a more rapid rate than would be provided in the form of a Monthly Income for Life.

In the event that the Participant's benefit hereunder is payable in a form other than that of a Monthly Income for Life commencing at his Normal Retirement Date, the foregoing limitations will be adjusted according to regulations prescribed by the Internal Revenue Service.

Article 11

Administration of the Plan

11.1 Administration of the Plan. The general administration of the Plan and the responsibility for carrying out its provisions will be placed in the Board of Trustees in accordance with the terms of the Plan and the Trust Agreement. The Board of Trustees is the Administrator of the Plan within the meaning of Section 3(16) of ERISA.

11.2 Administrator of the Plan. The Administrator will administer the Plan in accordance with its terms, and has all powers necessary to carry out the provisions of the Plan. The Administrator has all powers to administer the Plan, including the power to invest or reinvest the assets of the Plan. The Administrator has total and complete discretion to interpret the Plan and to determine all questions arising in the administration, interpretation and application of the Plan, including the power to construe and interpret the Plan; to decide all questions relating to an individual's eligibility to participate in the Plan and/or eligibility for benefits and the amounts thereof; to have fact finder discretionary authority to decide all facts relevant to the determination of eligibility for benefits or participation; to make such adjustments that it deems necessary or desirable to correct any arithmetical or accounting errors; to determine the amount, form and timing of any distribution to be made hereunder; to approve and enforce any loan hereunder including the repayment thereof, as well as to resolve any conflict. The Administrator has discretion to make factual determinations as well as decisions and determinations relating to the amount and manner of allocations and distribution of benefits. In making its decisions, the Administrator is entitled to, but need not rely upon, information supplied by a Participant, Beneficiary, or representative thereof. The Administrator has full and complete discretion to determine whether a domestic relations order constitutes a Qualified Domestic Relations Order and whether the putative Alternate Payee otherwise qualifies for benefits hereunder. The Administrator may correct any defect, supply any omission or reconcile any inconsistency in such manner and to such extent as it deems necessary to carry out the purposes of this Plan. The Administrator's decision in such matters is binding and conclusive as to all parties.

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11.3 Payment of Benefits Under Legal Disability. In case any benefit payments hereunder become payable to a person not adjudicated incompetent, but, by reason of mental or physical disability, is unable to administer properly such payments in the discretion of the Administrator, then such payments may be paid out by the Administrator for the benefit of such person in the following manner:

- (a) directly to any such person;
- (b) to the legally appointed guardian, conservator, or Social Security representative payee of such person, or any nursing home in which such person resides;
- (c) to any spouse, parent, brother or sister of such person for the welfare, support and maintenance of the person; and
- (d) by the Administrator using such payments directly for the support, maintenance and welfare of any person.

The Administrator has no obligation or duty to see what the Funds are used for or how they are applied. Notwithstanding, the Administrator reserves the right to cease payments upon discovering that payments are no longer used for the support, maintenance and welfare of such person, or such person ceases to reside at a nursing home or for any other reason.

11.4 Inability to Locate Participant. If any Participant fails to inform the Administrator, in writing, sent by registered mail, of a change of address, and the Administrator is unable to communicate with the Participant at the address last recorded by the Administrator, and a letter sent by registered mail to such Participant is returned, any payments due on the Participant's account will be held, without interest, until he or she makes a claim therefor or, if earlier, until any such payment escheat to any state.

11.5 No Discrimination. The Administrator will not take any action, nor direct the Trustees to take any action, that would result in benefitting one Participant or group of Participants at the expense of another, or discriminating between Participants similarly situated, or applying different rules to substantially similar set of facts.

11.6 SPD/Reports. The Administrator will furnish a summary of this Plan to all Employees, as required by applicable Federal Law. The Administrator will notify each Employee that becomes eligible as a Participant.

11.7 Records and Information. The Administrator will keep a complete record of all proceedings and all data necessary for the administration of the Plan.

11.8 Information to Participants. The Administrator will give each Participant, who so requests in writing, at least once each year, information as to his or her Accrued Benefit.

Article 12

Claims Procedure

12.1 Application for Benefits. Any person entitled to benefits must file a written claim with the claims administrator on forms provided by the claims administrator. Such application will include all information and evidence the claims administrator deems necessary to properly evaluate the merit of and to make any necessary determinations on a claim for benefits. Unless special circumstances exist, a Participant will be informed of the decision on his claim within a reasonable period of time, but no later than ninety (90) days after the claim is received (without regard to whether all the information necessary to make a benefit determination accompanies the filing). If the claims administrator determines that special circumstances require an extension of time for processing, written notice of the extension will be furnished to the claimant prior to the termination of the initial 90-day period. In no event will such extension exceed a period of ninety (90) days from the end of such initial period. The extension notice will indicate the special circumstances requiring an extension of time and the date by which the claims administrator expects to render the benefit determination.

12.2 Notice of Denied Claim for Benefits. If a claim for benefits is partially or wholly denied, the claims administrator will provide a claimant with written or electronic notice of the adverse benefit determination. Any electronic notification will comply with the standards imposed by 29 C.F.R. § 2520.104b-1(c)(1)(i)(iii) and (iv). The notification will set forth, in a manner calculated to be understood by the claimant: (a) the specific reason or reasons for the adverse benefit determination; (b) reference to the specific Plan provisions on which the determination is based; (c) a description of any additional material or information necessary for the claimant to perfect the claim and an explanation as to why such material or information is necessary; and (d) a description of the Plan's review procedures and time limits applicable to such procedures, including a statement of the claimant's right to bring a civil action under Section 502(a) of ERISA after exhausting the Plan's claims review procedures.

12.3 Review of Denied Claim. A claimant may file a written appeal of an adverse benefit determination with the Benefits Claim Committee ("Committee") within sixty (60) days after receiving notification of an adverse benefit determination, including any comments, statements or documents he may wish to provide, relating to the claim for benefits. The claimant will be provided, upon request and free of charge, reasonable access to the Plan documents relevant to a claim for benefits. For purposes of this Section, whether a document is relevant will be determined by reference to 29 CFR § 2560.503-1(m)(8). The Committee will, within a reasonable time after the submission of a written appeal by a claimant, entertain any oral presentation the claimant or his duly authorized representative wishes to make. The Committee will render a determination on the appeal of the claim in a written statement, taking into account all information submitted by claimant relating to the claim, without regard to whether such information was submitted or considered in the initial benefit determination. The Committee will make a benefit determination no later than the date of the meeting of the Board of Trustees that immediately follows the Plan's receipt of a request for review, unless the request for review is filed within thirty (30) days preceding the date of such meeting. In such case, a benefit determination may be made no later than the date of the second meeting following the Plan's receipt of the request for review. If special circumstances require a further extension of time for processing, a benefit determination will be rendered not later than the date of the third (3rd) meeting of the Committee or board following the Plan's receipt of the request for review. If such an extension of time for review is required because of special

circumstances, the Committee will provide the claimant with written notice of the extension, describing the special circumstances and the date as of which the benefit determination will be made, prior to the commencement of the extension. The Committee will notify the claimant of the benefit determination as soon as possible, but not later than five (5) days after the benefit determination is made. The notification will set forth, in a manner calculated to be understood by the claimant: (a) the specific reason or reasons for adverse determination; (b) reference to the specific Plan provisions on which the determination is based; (c) a description of any additional material or information necessary for the claimant to perfect the claim and an explanation as to why such material or information is necessary; and (d) a description of the Plan's review procedures and the time limits applicable to such procedures, including a statement of the claimant's right to bring a civil action under Section 502(a) of ERISA after exhausting the claims review procedures. The Committee's decision is final and binding, unless a majority of Plan committee members are not able to make a benefit determination. In the event of a deadlock, a claimant shall have a right to appeal to the Board of Trustees as set forth in Section 12.4 below.

12.4 Review of Committee's Decision. In the event of a deadlock as set forth in Section 12.3 above, a claimant may file a written appeal of an adverse benefit determination with the Board of Trustees ("Trustees") within sixty (60) days after receiving notification of an adverse benefit determination, including any comments, statements or documents he may wish to provide, relating to the claim for benefits. The claimant will be provided, upon request and free of charge, reasonable access to the Plan documents relevant to a claim for benefits. For purposes of this Section, whether a document is relevant will be determined by reference to 29 CFR § 2560.503-1(m)(8). The Trustees will, within a reasonable time after the submission of a written appeal by a claimant, entertain any oral presentation the claimant or his duly authorized representative wishes to make. The Trustees will render a determination on the appeal of the claim in a written statement, taking into account all information submitted by the claimant relating to his claim, without regard to whether such information was submitted or considered in the initial benefit determination. The Trustees will make a benefit determination no later than the date of the meeting of the Board of Trustees that immediately follows the Plan's receipt of a request for review, unless the request for review is filed within thirty (30) days preceding the date of such meeting. In such case, a benefit determination may be made no later than the date of the second (2nd) meeting following the Plan's receipt of the request for review. If special circumstances require a further extension of time for processing, a benefit determination will be rendered not later than the date of the third (3rd) meeting of the Trustees or board following the Plan's receipt of the request for review. If such an extension of time for review is required because of special circumstances, the Trustees will provide the claimant with written notice of the extension, describing the special circumstances and the date as of which the benefit determination will be made, prior to the commencement of the extension. The Trustees will notify the claimant of the benefit determination as soon as possible, but not later than five (5) days after the benefit determination is made. The notification will set forth, in a manner calculated to be understood by the claimant: (a) the specific reason or reasons for adverse determination; (b) reference to the specific Plan provisions on which the determination is based; (c) a description of any additional material or information necessary for the claimant to perfect the claim and an explanation as to why such material or information is necessary; and (d) a description of the Plan's review procedures and the time limits applicable to such procedures, including a statement of the claimant's right to bring a civil action under Section 502(a) of ERISA. Any determination rendered by the Trustees under this Section 12.4 is final and binding.

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12.5 **Right to Bring Civil Suit.**

(a) **Exhaustion Requirement.** A Participant or Beneficiary may not bring an action, pursuant to Section 502 of ERISA, challenging an adverse benefit determination by the Administrator, until he or she has fully exhausted the internal claims review procedure of the Plan described in Sections 12.1-12.4 above.

(b) **Time Limitation.** After exhausting the internal claims procedure, the claimant may bring an action no later than ninety (90) days after the final determination of the Plan is rendered in any federal or state court of competent jurisdiction to review the final determination.

(c) **Standard of Review.** Because the benefits under this Plan will be paid only if the Administrator or the Committee makes a determination that a claimant is entitled to them, the standard of review of any adverse benefit determination by an Administrator shall be arbitrary and capricious.

Article 13 **Amendment and Termination**

13.1 **Amendment of the Plan.**

(a) The Trustees have the right, at any time, and from time to time, without consent of any Employer, Employee, beneficiary or other interested party:

(i) To amend this Plan, both prospectively and retroactively, in such manner as it may deem necessary or advisable in order to qualify the Plan and Pension Fund under, or to satisfy any provision of, any law, regulation, ruling or order now or hereafter existing, including, but not limited to, Sections 401(a) and 501(a) of the Code and/or any provision of ERISA; and

(ii) To amend this Plan, both prospectively and retroactively, in any other manner, provided, however, that no such amendment forfeit or diminish the non-forfeitable and vested interest of any Employee in the Pension Fund, including a change in the actuarial basis for determining optional or early retirement benefits, or the elimination or reduction of an early retirement benefit or retirement-type subsidy, (except as may now or hereafter be permitted under applicable provisions of the Code and ERISA), nor will any amendment be made that will permit any part of the Pension Fund to be used for or diverted to purposes other than for the exclusive benefit of Employees or their beneficiaries.

(b) Any such amendment will comply with the applicable sections of the Code and ERISA, the contract articles creating the Fund, and the purposes set forth in the Trust Agreement and be adopted by a written, executed agreement or resolution of the Trustees, and will be binding upon all Employers, Employees, beneficiaries, and all other interested parties.

(c) Notwithstanding anything in this Article 13 to the contrary, in the event that an amendment to the Plan is adopted changing the eligibility requirements for a Deferred Vested Benefit under Article 6, each Employee with at least three (3) Years of Credited Service or Eligibility Service will then be permitted to elect to have non-forfeitable percentage of his benefit computed without regard to

such amendment. In order to be effective, any such election must be made in writing and filed with the Administrator not later than sixty (60) days following the latest of: (i) the date the amendment was adopted; (ii) the date the amendment became effective; or (iii) written notice of the amendment was issued to the Employee. Any amendment to the Plan that directly or indirectly affects the computation of an Employee's Deferred Vested Benefit, is considered a change in the Plan's eligibility requirements for a Deferred Vested Benefit under Section 3 of Article 6.

13.2 Termination.

(a) **Rights of Trustees.** It is the present intention of the Trustees to continue this Plan in full force and effect. However, in order to safeguard against any unforeseen contingencies, the Trustees reserve the right to completely or partially discontinue or terminate the Plan. In the event of the complete or partial discontinuance or termination of the Plan, the rights of all affected Employees to benefits accrued to the date thereof will become fully vested and be non-forfeitable to the extent then funded and/or guaranteed by the Pension Benefit Guaranty Corporation. No affected Employee will have any recourse toward satisfaction of his fully vested and non-forfeitable benefit from other than Pension Fund assets of the Pension Benefit Guaranty Corporation.

(b) **One Hundred Percent (100%) Vesting on Termination of Plan.** Upon termination or partial termination of the Plan, by formal action of the Trustees or for any other reason, each Participant directly affected by such action will be one hundred percent (100%) vested in his Accrued Benefit (to the extent funded as of such date).

Article 14 Duties and Authority of Trustees

14.1 **Named Fiduciaries.** The Trustees are "Named Fiduciaries," as that term is used in Section 402 of ERISA, and, except as otherwise limited by Section 405(c) of ERISA, they have full authority to allocate responsibilities among themselves and to designate others to perform their responsibilities; provided, however, that to the extent that specific responsibilities are assigned by or under this provision of the Plan to different fiduciaries, no fiduciary is liable for errors or omissions involving another fiduciary's individually assigned area of responsibility.

14.2 **Exclusive Benefits.** All contributions by the Employers will be deposited into the Pension Fund. The assets of the Pension Fund will be used exclusively to provide benefits under the Plan and to pay any and all expenses or costs that are incurred in connection with or which arise out of the operation of the Plan and Pension Fund, including, without limitation, legal, actuarial, educational, accounting and administrative expenses, fiduciary or other premiums, any and all taxes that may be assessed against the Fund, any expenses, costs, assessments or levies resulting from the prosecution, defense or settlement of any claims involving the Plan or Trust Fund, and all premiums required to be paid to the Pension Benefit Guaranty Corporation under Section 4006-07 of ERISA. It shall be, and is hereby made, impossible upon the termination of the Plan or pursuant to any amendment of the Plan or otherwise, at any time, for all or any part of the Trust Fund to be used for or diverted to any purpose other than the exclusive benefit of Employees or their beneficiaries; provided, however, nothing herein precludes payment from the Trust

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Fund of costs and expenses incurred in connection with or arising out of the operation of the Plan and Trust Fund.

14.3 Liability of Trustees. The Board of Trustees is free from liability, joint or several, for personal acts, omissions, and conduct, and for acts, omissions and conduct of duly constituted agents in the administration of this Plan, except to the extent that the effects and consequences of such personal acts, omissions or conduct result from willful misconduct; provided, however, that this Section will not operate to relieve the Board of Trustees from any responsibility or liability for any responsibility, obligation, or duty under Part 4 of Subtitle B of Title 1 of ERISA.

14.4 Receive Payments. The Trustees will receive from Employers the payments made by them on account of said Employers' required fringe benefit contributions under the Plan, which sums (plus any gains or income thereon) when received by the Trustees constitute the Pension Fund, but the Trustees have no duty to compute any amount due from the Employer or to collect the same, unless otherwise provided by applicable law. The Trustees will value the assets of the Pension Fund as of the close of the last day of each Plan Year.

14.5 Tax Returns and Reports. The Trustees will prepare or cause to have prepared and filed all tax returns, reports and related documents, except as otherwise specifically provided in this Plan.

14.6 Expenses. All brokerage costs, transfer taxes and similar expenses incurred in connection with the investment and reinvestment of the Pension Fund and all taxes of any kind whatsoever that may be levied or assessed under existing or future laws upon or in respect to the Pension Fund, and any interest that may be payable on money borrowed by the Trustees for the purpose of the Trust, will be paid from the Pension Fund, and, until paid, constitute a charge upon the Pension Fund. All other administrative expenses incurred by the Trustees in performance of its duties, including such compensation to the Trustees as may be agreed upon from time to time between the Trustees (in accordance with the Trustees' standard schedule of fees in effect from time to time during the time it administers this Trust, if applicable) and all proper charges and disbursements of the Trustees will be paid from the Pension Fund, and until paid, will constitute a charge upon the Pension Fund. However, no person who received full-time pay from any Employer or the Union may receive compensation from the Pension Fund, except for reimbursement of expenses properly and actually incurred.

The Trustees may inspect the records of any Employer whenever such inspection may be reasonably necessary in order to determine any fact pertinent to the performance of their duties as Trustees. The Trustees, however, are not required to make such inspection, but may, in good faith, rely on any statement of an Employer or any of its officers.

14.7 Appointment of Investment Manager. The Trustees may appoint an Investment Manager (as defined in ERISA section 3(38)), who will have the responsibility for investment of the Pension Fund. The Investment Manager will have the investment powers granted the Trustee in Section 11.2 except to the extent the Investment Manager's powers are specifically limited by an agreement between the Trustees and Investment Manager.

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14.8 **Decision of Trustees.** All rules and regulations adopted by the Trustees are binding upon all parties dealing with the Pension Fund and all persons claiming benefits hereunder.

14.9 **Funding.**

(a) **Actuarial Valuations and Plan Review.** This Plan has been adopted by the Trustees on the basis of an actuarial estimate that has established (to the extent possible) that the income and accruals of the Plan and Pension Fund will be fully sufficient to support this Plan on a permanent basis. However, it is recognized as possible that, in the future, the income and/or the liabilities of the Pension Fund may be substantially different from those previously anticipated. The Trustees will have prepared annual actuarial valuations of the Pension Fund. Upon the basis of all the circumstances the Trustees may from time to time amend the Plan, including any increase or decrease in benefit amounts. However, no amendment will, in any way, reduce the benefits payable to a Participant.

(b) **Funding Policy.** The Plan Administrator is responsible for developing a funding policy for the Plan, and the Employers will make contributions in accordance with such funding policy. The funding policy will be reviewed not less than annually. Such policy will be based upon the determinations of an actuary, using accepted actuarial methods, of the funding needs of the Plan, and on any other factors considered relevant by the Plan Administrator and not inconsistent with this Plan.

(c) **Minimum Funding Standard Account.** The Plan Administrator is responsible for maintaining at all times a minimum funding standard account with respect to the Plan, and, if applicable, an alternative minimum funding standard account. Such accounts will be maintained in accordance with the requirements of Code Section 412; provided, however, effective as of January 1, 2008, the minimum funding account maintained by the Plan Administrator will be maintained in accordance with the requirements of Section 431 of the Code. In addition, no alternative minimum funding account can be maintained by the Plan Administrator after December 31, 2007. Thus, for Plan Years beginning after December 31, 2007, the accumulated funding deficiency of the Plan will be determined by examining the charges and credits to the Plan's funding standard account.

(d) **Funding Rule Under PPA.** Notwithstanding anything to the contrary in this Section 14.9, effective as of January 1, 2008, the Plan will be subject to the additional funding rules imposed upon multiemployer plans under Section 432 of the Code. In accordance with Section 432 of the Code, the following rules shall apply:

(i) Not later than the ninetieth (90th) day of each Plan Year, the Plan's actuary must certify to the Board of Trustees and the IRS the funding status of the Plan in accordance with the requirements of Section 432(b)(3) of the Code. If the Plan had previously been certified as in endangered or critical status, the Plan's actuary must also certify whether or not the Plan is making the scheduled progress in meeting the requirements of either its funding improvement plan or its rehabilitation plan.

(ii) If the Plan's actuary certifies that the Plan is in endangered or critical status with respect to a Plan Year, the Administrator shall provide notice of such status within thirty (30) days to Participants, Beneficiaries, any bargaining parties, the PBGC and the Secretary of Labor as required under Section 432(b)(3)(D) of the Code.

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(iii) If the Plan is certified as in endangered status pursuant to the provisions of Section 432(b)(1) of the Code, the Board of Trustees must adopt and implement a funding improvement plan in accordance with the provisions of Section 432(c) of the Code and the Plan and the Board of Trustees will be subject to the rules and restrictions imposed upon plans in endangered status as set forth under Section 432(d) of the Code.

(iv) If the Plan is certified as in critical status pursuant to the provisions of Section 432(b)(2) of the Code, the Board of Trustees must adopt and implement a rehabilitation plan in accordance with the provisions of Section 432(e) of the Code and the Plan and the Board of Trustees will be subject to the rules and restrictions imposed upon plans in critical status as set forth under Section 432(f) of the Code. The Board of Trustees will cause the Plan to be amended to reflect the rehabilitation plan if appropriate pursuant to Section 432 of the Code.

14.10 Unauthorized Representations. The Fund shall not be bound by the representations of any person, other than the Trustees, regarding participation in and eligibility for benefits under this Plan, status of Employees or Employers or any other matter relating to the Plan or Fund.

Article 15

Top-Heavy Provisions

The provisions of this Article apply only to those groups of Participants, if any, who are not excluded from the application of Code Section 416 by reason of being represented in a collective bargaining unit or employed by the employee representatives of such Participants.

15.1 Definitions for Top-Heavy Provisions. As used in this Article, the following words and terms have the following meaning:

(a) **Accrued Benefit.** The accrued benefit in a defined benefit pension plan and the aggregate account balances in a defined contribution plan (including any simplified employee pension plan). The accrued benefit includes:

(i) All non-deductible employee contributions;

(ii) All distributions from the Plan made within the Plan Year, which includes the determination date and the preceding one-year period, except in the case of any distribution made for a reason other than separation from services, death or disability, all distributions from the Plan made within the Plan Year that includes the determination date and the preceding five-year period, provided that the term distribution shall not include a related rollover or plan-to-plan transfer, which is included in the accrued benefit in the recipient plan; and

(iii) All distributions to the Plan, except an unrelated rollover or plan-to-plan transfer made on or after January 1, 1984.

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“Related” and “unrelated” rollovers or transfers and distributions are defined and taken into account in accordance with Code Section 416. For Plans subject to the minimum funding requirements of federal law, the aggregate account balance shall include any amounts required to be allocated to Participants’ accounts to meet such minimum funding requirements, even though such amounts are not yet required to be contributed. For Plans not subject to the minimum funding requirements, the aggregate account balance shall include only amounts contributed prior to the determination date, except amounts allocated as of a date on or before the determination date, must also be included in the first Plan Year (even if contributed a year after such determination date).

(b) **Determination Date.** The last day of the preceding Plan Year, or, in the case of the first Plan Year, the last day of the Plan Year.

(c) **Key Employee.** Means any employee or former employee (including any deceased employee) who is, at any time during the plan year that includes the determination date; or

(i) is an officer of any Employer having an annual compensation greater than One Hundred Thirty Thousand Dollars (\$130,000.00) (as adjusted under Section 416(i)(1) of the Code); or

(ii) a five percent (5%) owner of the Employer; or

(iii) a one percent (1%) owner of the Employer having Annual Compensation of more than One Hundred Fifty Thousand Dollars (\$150,000.00) from all employers required to be aggregated under Code Sections 414(b), (c) and (m).

The determination of who is a Key Employee will be made in accordance with Code Section 416(i)(1) and the regulations thereunder.

(d) **Non-Key Employee.** Any employee or former employee, including such employee’s beneficiary, who is not a key employee or a former key employee.

(e) **Permissive Aggregation Group.** The required aggregation group of plans 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 Code Section 401(a)(4) and 410.

(f) **Present Value.** The accrued benefit in a defined contribution plan and the present value of the accrued benefit in a defined benefit plan, using the interest and mortality rates used to prepare the latest actuarial valuation and using an assumed benefit commencement date occurring at Normal Retirement Age or attained age, if later.

(g) **Required Aggregation Group.** A group of plans which must be aggregated because each qualified plan of the Employer either:

(i) has a key employee as a participant; or

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(ii) enables any plan described in subclause (i) to meet the requirements of Code Sections 401(a)(4) or (10).

(h) **Super Top-Heavy Plan.** For Plan Years commencing on or after January 1, 1984, a plan which:

(i) is not part of an aggregation group, and in which, on the determination date, the top-heavy ratio exceeds ninety percent (90%); or

(ii) is part of a required aggregation group which is super top heavy. Unless the context otherwise clearly requires, reference in this Article to “top heavy” shall include “super top heavy”.

(i) **Top-Heavy Plan.** For Plan Years commencing on or after January 1, 1984, this Plan is top heavy if any of the following conditions exist:

(i) the top-heavy ratio exceeds sixty percent (60%), and this Plan is not part of any Required Aggregation Group or Permissive Aggregation Group of plans;

(ii) if this Plan is part of a Required Aggregation Group of plans, but not part of a Permissive Aggregation Group, and the top-heavy ratio for the group of plans exceeds sixty percent (60%);

(iii) if this Plan is part of a Required Aggregation Group and part of a Permissive Aggregation Group of plans, and the top-heavy ratio for the permissive aggregation group exceeds sixty percent (60%).

(j) **Top-Heavy Ratio.**

(i) If an Employer maintains one or more defined benefit plans, and an Employer has not maintained any defined contribution plans (including any Simplified Employee Pension Plan), which during the five (5) year period ending on the determination date(s) has or has had account balances, 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 present value of accrued benefits of all key employees as of the determination date(s) (including any part of any accrued benefit distributed in the five (5) year period ending on the determination date(s)), and the denominator of which is the sum of the present value of accrued benefits (including any part of any accrued benefit distributed in the five (5) year period ending on the determination date(s)), determined in accordance with Code Section 416 and the regulations thereunder.

(ii) If the Employer maintains one or more defined benefit plans, and the Employer maintains or has maintained one or more defined contribution plans (including any Simplified Employee Pension Plan), which during the five (5) year period ending on the determination date(s), has or has had any account balances, the top-heavy ratio for any Required or Permissive Aggregation Group, as appropriate, is a fraction, the numerator of which is the sum of the present value of accrued benefits under the aggregate defined benefit plan or plans for all key employees, determined in accordance with (1)

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above, and the sum of account balances under the aggregated defined contribution plan or plans for all key employees as of the determination date(s), and the denominator of which is the sum of the present values of accrued benefits under the aggregated defined benefit plan or plans, determined in accordance with (1) above, and the account balances under the aggregated defined contribution plan or plans for all Participants as of the determination date(s), all determined in accordance with Code Section 416 and the regulations thereunder. The account balances under a defined contribution plan in both the numerator and denominator of the top-heavy ratio are adjusted for any distribution of an account balance made in the five (5) year period ending on the Determination Date.

(iii) 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 twelve (12) month period ending on the determination date, except as provided in Code Section 416 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 (a) who is not a key employee, but who was a key employee in a prior year, or (b) who has not been credited with at least one (1) hour of Service with any Employer maintaining the Plan at any time during the one (1) year period ending on the determination date will be disregarded. The calculation of the top-heavy ratio, and the extent to which distributions, rollovers, and transfers are taken into account, will be made in accordance with Code Section 416 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. The present values of accrued benefits and the amounts of account balances of an employee as of the determination date shall be increased by the distributions made with respect to the employee under the Plan and any plan aggregated with the Plan under Section 416(g)(2) of the Code during the 1-year period ending on the determination date. The preceding sentence shall also apply to distributions under a terminated plan which, had it not been terminated, would have been aggregated with the Plan under Section 416(g)(2)(A)(i) of the Code. In the case of a distribution made for a reason other than separation from service, death, or disability, this provision shall be applied by substituting "5-year period" for "1-year period."

(iv) For purposes of determining whether the Plan is top-heavy, a participant's accrued benefit will be determined under a uniform accrual method, which applies in all defined benefit plans maintained by the employer, or where there is no such method, as if such benefit accrued no more rapidly than the slowest rate of accrual permitted under the fractional rule of Code Section 411(b)(1)(c).

The Accrued Benefit of a Participant, other than a Key Employee, shall be determined under (a) the method, if any, that uniformly applies for accrual purposes under all defined benefit plans maintained by any Employer which, when considered as a group with the Required Aggregation Group, would continue to satisfy the requirements of Code Sections 401(a)(4) and 410.

(k) **Valuation Date.** For each defined benefit plan sponsored by the Employer, the valuation date is the most recent date within the 12-month period ending on the determination date used for computing plan costs for minimum funding for such plan. For each defined contribution plan sponsored by the Employer, the valuation date is the most recent date within the 12-month period ending on the determination date used for annual valuation of account balances for such plan.

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15.2 Top-Heavy Plan Requirements. The Administrator, on each determination date, shall determine whether the Plan is a top-heavy or a super top-heavy plan. For any year in which the Plan is top-heavy or super top-heavy, the provisions of this Article will supersede any conflicting provision of the Plan and the following requirements shall be met:

- (a) The vesting requirements of Section 14.3; and
- (b) The minimum accrued benefit requirements of Section 14.4.

15.3 Top-Heavy Vesting Requirements.

(a) In lieu of the vesting requirements of Section 4.4, a Participant's vested interest during any top-heavy Plan Year shall be a percentage of the Participant's accrued benefit determined pursuant to the following table:

<u>Years of Service</u>	<u>Vested Interest</u>
Less than 2	0%
2	20%
3	40%
4	60%
5	100%

(b) If the Plan changes to non-top-heavy status in any subsequent year, each Participant's vested interest shall thereafter (during non-top-heavy years) be determined pursuant to Section 4.4, except that a Participant's vested percentage shall not be reduced. Any Participant who has at least three (3) or more Years of Service at the time the plan becomes non-top-heavy, shall have the right to select the vesting schedule under which their vested Accrued Benefit will be determined. The "election period" shall commence on the first day of the Plan Year in which the Plan reverts to non-top-heavy status, and shall end sixty (60) days after the latest of:

- (i) The date the election period commences; or
- (ii) The date the Participant receives written notice that the Plan is no longer top-heavy.

(c) The minimum vesting schedule under this Section shall apply to all benefits within the meaning of Code Section 411(a)(7), except those attributable to employee contributions, including benefits accrued before the effective date of Code Section 416 and benefits accrued before the Plan became top heavy. This Section shall not apply to the accrued benefit of any employee who does not have an Hour of Service after the Plan has initially become top heavy, and such Employee's vested accrued benefit attributable to Employer contributions will be determined without regard to this Section.

15.4 **Top-Heavy Minimum Accrued Benefit.**

For any Plan Year in which this Plan is determined to be a top-heavy plan, a minimum non-integrated benefit shall be accrued pursuant to this Plan by each non-key employee. A Participant's Accrued Benefit as otherwise determined under the provisions of Article 7 shall not be less at any point in time than the minimum non-integrated benefit which the Participant may accrue under the provisions of this Section 15.4.

For the purposes of this Section 15.4 and subject to the prior paragraph, the minimum non-integrated benefit provided by the Employer to each non-key employee Participant (except those who have less than a Year of Credited Service for the Plan Year) is an amount, which when expressed as an annual retirement benefit, shall be no less than two percent (2%) of such non-key employee's average annual compensation for his five (5) highest consecutive Years of Service, multiplied by the Employee's Years of Eligibility Service with the Employer, not to exceed ten (10) years. For the purposes of the preceding sentence, Years of Eligibility Service with the Employer shall not include Years of Eligibility Service completed during any Plan Year which begins before January 1, 1984, or Years of Eligibility Service completed during a Plan Year for which the Plan is not a top-heavy plan or when the plan benefits (within the meaning of section 410(b) of the Code) no key employee or former key employee.

The minimum accrual applies even though, under the Plan provisions, the Participant would not otherwise be entitled to receive an accrual, or would have received a lesser accrual for the year because (i) the non-key employee fails to make mandatory contributions to the Plan; (ii) the non-key employee's compensation is less than a stated amount; (iii) the non-key employee is not employed on the last day of the accrual computation period; or (iv) the Plan is integrated with social security. All accruals of Employer derived benefit, whether or not attributable to years for which the Plan is top heavy, may be used in computing whether the minimum accrual requirements of this Section are satisfied.

The minimum accrual applies even though, under the Plan provisions, the Participant would not otherwise be entitled to receive an accrual, or would have received a lesser accrual for the year because (i) the non-key employee fails to make mandatory contributions to the Plan; (ii) the non-key employee's compensation is less than a stated amount; (iii) the non-key employee is not employed on the last day of the accrual computation period; or (iv) the Plan is integrated with social security. All accruals of Employer derived benefit, whether or not attributable to years for which the Plan is top heavy, may be used in computing whether the minimum accrual requirements of this Section are satisfied.

(a) For purposes of continuing the minimum accrued benefit, compensation shall include all compensation, as that term is defined for Code Section 415 purposes; provided, however, compensation shall not include compensation paid in any Plan Year after the Plan Year in which the Plan was last top heavy.

(b) No additional benefit accruals shall be provided pursuant to subsection (a) above to the extent that the total accruals on behalf of the Participant, attributable to the Employer contributions, will provide a benefit expressed as a life annuity commencing at Normal Retirement Age that equals or exceeds twenty percent (20%) of the Participant's highest average compensation for the five (5) consecutive years for which the Participant had the highest compensation.

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(c) The minimum accrued benefit required (to the extent required to be non-forfeitable under Code Section 416(b)) may not be suspended or forfeited under Code Section 411(a)(3)(B) or (D).

(d) If the form of benefit is other than a single life annuity, the employee must receive an amount that is the Actuarial Equivalent of the minimum single life annuity benefit. If the benefit commences at a date other than at Normal Retirement Age, the employee must receive at least an amount that is the Actuarial Equivalent of the minimum single life annuity benefit commencing at Normal Retirement Age.

Article 16

Employer Withdrawal Liability

16.1 In General.

(a) An Employer that withdraws from the Plan after April 28, 1980, in either a complete or partial withdrawal, shall owe and pay withdrawal liability to the Plan, as determined under this Article and the Employee Retirement Income Security Act of 1974, as amended by the Multiemployer Pension Plan Amendments Act of 1980 ("ERISA").

(b) For purposes of this Article, all corporations, trades or businesses that are under common control, as defined in regulations of the Pension Benefit Guaranty Corporation ("PBGC"), are considered a single Employer, and the entity resulting from a change in business form described in Section 4218(1) of ERISA is considered to be the original Employer.

16.2 Withdrawal Liability. In the event that a contributing Employer completely or partially withdraws from the Plan (within the meaning of Section 4203 and 4205 of ERISA, respectively), the Trustees, in accordance with the Plan's established policy and procedures regarding employer withdrawal liability, which are hereby incorporated by reference, will notify the former contributing Employer of the amount of its withdrawal liability and all of its obligations and responsibilities resulting from its withdrawal. The date of the complete withdrawal of an Employer is the date the Employer's obligation to contribute ceased, or the date its covered operations ceased, whichever is earlier. A partial withdrawal of and Employer occurs on the last day of the Plan Year in which the Employer's work-mix within the craft and area jurisdiction of the Collective Bargaining Agreement under which it is obligated to contribute to the Plan shifts, with the result that no more than an insubstantial portion of such work remains covered under the Plan. For purposes of this Section, a withdrawal is not considered to occur solely because the Employer temporarily suspends contributions during a labor dispute involving its Employees. In the case of a sale of an Employer, whether a withdrawal occurs, shall be determined consistent with the applicable provisions of the ERISA.

16.3 Unfunded Vested Liability.

(a) For purposes of this Article, the term "vested benefit" means a benefit for which a Participant has satisfied the conditions for entitlement under this Plan (other than submission of a formal application, retirement, or completion of a required waiting period), whether or not the benefit may

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subsequently be reduced or suspended by a Plan amendment, an occurrence of any condition, or operation of law, and whether or not the benefit is considered “vested” or “non-forfeitable” for any other purpose under the Plan.

(b) The Plan’s liability for vested benefits as of a particular date is the actuarial value of the vested benefits under this Plan, as of that date.

(c) The unfunded vested liability is the amount, not less than zero, determined by subtracting the market value of the Plan’s assets from the Plan’s liability for vested benefits.

16.4 DeMinimus Rule. The amount of the unfunded vested liability, allocable under Section 4211 of the Multiemployer Pension Plan Amendments Act of 1980 to an Employer that withdraws from the Plan, will be reduced by the lesser of:

(a) Fifty Thousand Dollars (\$50,0000.00) reduced dollar for dollar for which the Employer’s share of the Plan’s unfunded vested liability exceed One Hundred Thousand Dollars (\$100,000.00); or

(b) Three-fourths (3/4) of one percent (1%) of the Plan’s unfunded vested liability (determined as of the end of the plan year ending before the date of withdrawal), reduced dollar for dollar by which the Employer’s share of the Plan’s unfunded vested liability exceeds One Hundred Thousand Dollars (\$100,000.00).

16.5 Method of Computing Amount of Liability. The amount of the unfunded vested liability allocated to an Employer that withdraws from the Plan is to be determined under Section 4211(b) of the Act. This method is known as the Statutory Formula or Presumptive Rule with liabilities based on the Employer’s proportional share of unamortized unfunded vested liabilities at the end of the Plan Year ending before April 29, 1980, plus a share of change in unamortized unfunded vested liabilities for each year of participation after April 28, 1980. (Proportional share is based on Employer share of Plan contributions for five (5) Plan Years preceding the Plan Year in which liability arose.)

16.6 Payment of Withdrawal Liability.

(a) For Plan Years ending on or after January 1, 1986, the amount of each annual payment of a withdrawing Employer to the Fund will be determined in accordance with ERISA Section 4219(c)(1)(C), as amended by the Act.

(b) In the case of a partial withdrawal, as defined in the Act, the amount computed under this Section shall be multiplied by the fraction determined under Section 4206(a) of ERISA, as amended.

16.7 Notice and Collection of Withdrawal Liability.

(a) **General.** Notice of withdrawal liability, reconsideration, determination of amortization period, and the maximum years of payment, will be as provided in Section 4219 of ERISA.

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(b) **Arbitration.** Any arbitration under ERISA Section 4221 will proceed in accordance with the Multiemployer Pension Plan Arbitration rules for Withdrawal Liability Disputes of the American Arbitration Association. No issue concerning the computation of withdrawal liability may be submitted for arbitration unless the matter has been reviewed by the Plan in accordance with Section 4218(b)(2) of ERISA and any Plan rules adopted thereunder.

(c) **Mass Withdrawal.** Notwithstanding any other provision of this Article, if all or substantially all contributing Employers withdraw from the Plan pursuant to an agreement or arrangement, as determined under ERISA Sections 4209 and 4219(c)(1)(D), the withdrawal liability of each such Employer shall be adjusted in accordance with ERISA.

16.8 **Notice to Employers.**

Any notice that must be given to an Employer under this Article, or under Subtitle E to Title IV of ERISA, will be effective if given to the specific member of a commonly controlled group that has or has had the obligation to contribute under the Plan.

Notice will also be given to any other member of the controlled group that the Employer identifies and designates to receive notices hereunder, in accordance with a procedure adopted by the Trustees.

Article 17 **Miscellaneous**

17.1 **Jurisdiction, Construction and Validity.** The Trust Agreement and the Retirement Plan are created and accepted in the State of Ohio. All questions pertaining to the validity or construction of the Trust Agreement and the Pension Plan and the accounts and transactions of the parties will be determined in accordance with the laws of the State of Ohio. Should any provision contained in the Trust Agreement or the Retirement Plan or in any collective bargaining agreement pursuant to which the Trust Agreement is created be held unlawful, such provision will be of no force and effect, and the Trust Agreement, the Retirement Plan or any collective bargaining agreement will be treated as if such portion had not been contained herein.

17.2 **IRS Approval.** This Plan is and will be subject to obtaining the necessary approval from the Internal Revenue Service of the Plan and the deductibility of contributions to the Fund. In the event the Plan or Trust Agreement at any time requires amendment in order for the contributions to the Fund to be deductible, and the Plan to be qualified under the applicable provisions of the Internal Revenue Code, then the Board of Trustees will immediately make such amendment as necessary to accomplish such purposes. The administration of the Plan will be such as to maintain continued qualification on the Plan under the applicable provisions of the Internal Revenue Code.

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17.3 Uniformed Services Employment and Reemployment Rights Act of 1994 (“USERRA”):

Effective Plan Years beginning after December 31, 1994, notwithstanding any provision of this Plan to the contrary, contributions, benefits and service credits with respect to qualified military service will be provided in accordance with Section 414(u) of the Code.

A person reemployed under USERRA will be treated as not having incurred a break in service with the Employer or Employers maintaining the Plan by reason of such person’s period or periods of service in the uniformed services. Each period served by a person in the uniformed services will, upon reemployment under USERRA, be deemed to constitute service with any Employer for the purpose of determining the non-forfeitability of the person’s accrued benefits and for the purpose of determining the accrual of benefits under the Plan.

An Employer reemploying a person under USERRA will, with respect to a period of service as described in this Section 17.3, be liable to the Pension Fund for funding any obligation of the Plan to provide the benefits described in Section 17.3(b), and will allocate the amount of any Employer contribution for the person in the same manner and to the same extent the allocation occurs for other employees during the period of service. For purposes of determining the amount of such liability and any obligation of the Plan, earnings and forfeitures will not be included. For purposes of determining the amount of such liability and for purposes of section 515 of ERISA, service in the uniformed services that is deemed to be service with the Employer will be deemed to be service with the Employer under the terms of the Plan or any applicable collective bargaining agreement. Liability of the Plan described in this paragraph will be allocated by the Plan in such manner as the Administrator provides; or if the Administrator does not provide, to the last Employer employing the person before the period serviced by the person in the uniformed services, or if such last Employer is no longer functional, to the Plan.

For purposes of computing an Employer’s liability, the Employee’s compensation during the period of service described in Section 17.3(b) shall be computed at the rate the Employee would have received but for the period of service described in Section 17.3(b). In the case that the determination of such rate is not reasonably certain, then the Employer’s liability will be computed on the basis of the Employee’s average rate of compensation during the 12-month period immediately preceding such period (or, if shorter, the period of employment immediately preceding such period).

Any Employer who reemploys a person under USERRA and who is an Employer contributing to a multiemployer plan, as defined in Section 3(37) of ERISA, under which benefits are or may be payable to such person by reason of the obligations set forth above, shall, within thirty (30) days after the date of such reemployment, provide information, in writing, of such reemployment to the Administrator.

In the case of a death or disability occurring on or after January 1, 2007, if a Participant dies while performing qualified military service (as defined in Section 414(u) of the Code), the survivors of the Participant are entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the Plan as if the Participant had resumed and then terminated employment on account of death.

17.4 Laws of Ohio to Apply. This Plan shall be constructed according to the laws of Ohio, to the extent Federal laws do not control. Any suit brought against the Board of Trustees or the Administrator of the Plan must be brought in either the United States Federal District Court for the Northern District of Ohio, Eastern Division, or before the Cuyahoga County, Ohio Court of Common Pleas (to the extent that such suit is not preempted by federal law).

17.5 Participant Cannot Transfer or Assign Benefits. None of the benefits, payments, proceeds, claims or rights of any Participant hereunder are subject to any claim of any creditor of the Participant, nor does any Participant have any right to transfer, assign, encumber, or otherwise alienate, any of the benefits or proceeds that he may expect to receive, contingently or otherwise, under this Plan, except as allowed under Code Section 401(a)(13) and ERISA Section 206(d).

17.6 Qualified Domestic Relations Order. Notwithstanding any restrictions on the time of distribution that would otherwise apply under this Plan, distributions with respect to a Qualified Domestic Relations Order may be made at any time required by the order.

17.7 Administrator Agent for Service of Process. The Administrator is designated agent to receive service of legal process on behalf of the Plan.

Most recent plan document and p an amendments adopted since that restatement (Checklist Item #37)

IN WITNESS WHEREOF, the undersigned, constituting the Board of Trustees of the Building Material Drivers Local 436 Pension Trust Fund have executed this Amendment and Restatement of the Agreement and Declaration of Trust, effective January 1, 2014, regardless of the date set forth herein

**BUILDING MATERIAL DRIVERS
LOCAL 436 PENSION FUND**

Gary M. Tiboni, Chairman

Brock P. Walls, Trustee

John Fortesque, Trustee

Jeffrey E. Nock, Trustee

Nicholas Magistrelli, Trustee

John E. Sarrouh, Trustee

Sal Alioto, Trustee

Jeffrey E. Nock, Trustee

John G. Golish, Trustee

John W. Ziss, Jr., Trustee

Dennis M. Kashi, Sr., Trustee

APPENDIX

The following appendix represents a summary of the benefits provided by the Fund under its Rehabilitation Plan, which was adopted effective November 16, 2009. The Fund's Rehabilitation Plan was adopted in accordance with the Employee Retirement Income Security Act of 1974 ("ERISA"), as amended by the Pension Protection Act of 2006 ("PPA"). In the event of a conflict between this appendix and the Fund's Rehabilitation Plan, the terms of the Rehabilitation Plan will govern. A copy of the Fund's Rehabilitation Plan can be obtained through the Fund Office. This appendix is subject to modification based on updates made by the Trustees to the Fund's Rehabilitation Plan.

Pursuant to the Fund's Rehabilitation Plan, the following adjustable benefits have been eliminated and are no longer available under the Plan:

<p style="text-align: center;">Adjustable Benefits That Have Been Eliminated Under The Fund's Rehabilitation Plan</p>
<p>Sixty (60) month minimum guarantee of benefit payments. Now, benefits will only be paid while the participant is alive.</p>
<p>Disability benefits. However, this elimination will not impact participants who qualified for disability benefits prior to the effective date of the Fund's Rehabilitation Plan, or participants who qualified prior to the acceptance of a new collective bargaining agreement.</p>
<p>\$5,000 lump sum death benefit for deaths occurring after the participant has retired.</p>
<p>Early retirement before age 62. Early retirement is only permitted for participants who have attained age 62.</p>

<p style="text-align: center;">Additional Changes Implemented Under The Fund's Rehabilitation Plan</p>
<p>For current bargaining unit members, benefit accrual rates and employer contributions rates (including the 5%/10% surcharge) will remain unchanged and no adjustable benefits will be removed until a new collective bargaining agreement that reflects the requirements of the Fund's Rehabilitation Plan is adopted and accepted by the Trustees, or the Rehabilitation Plan's Default Option becomes operative.</p>
<p>The Fund's adjustable benefits (as set forth above) are eliminated from benefit options A, B, and C, which comprise the Fund's Rehabilitation Plan. The benefit options (A,B, and C) differ only in the level of future benefit accruals that will be earned under each option relative to the benefit accrual that was in place before the Rehabilitation Plan was implemented. The benefit options are as follows:</p> <p><u>Option A</u> provides 100% of the future benefit accruals available before the Rehabilitation Plan was adopted.</p> <p><u>Option B</u> provides 50% of the future benefit accruals available before the Rehabilitation Plan was adopted.</p> <p><u>Option C</u> provides 0% of the future benefit accruals available before the Rehabilitation Plan was adopted (i.e., benefits are frozen under this option).</p> <p><u>Default Option</u> removes all adjusted benefits mentioned above. In addition, the PPA requires any monthly benefit accrual that exceeds 1% of annual contributions to be reduced to that level.</p>
<p>For participants who are not part of the bargaining unit (i.e., vested terminated participants and participants receiving normal retirement or disability retirement benefits) adjustable benefits will be removed after the Fund has provided the required notice. The particular adjustable benefits that will be eliminated depend on the participant's status in the Plan as follows:</p> <p><u>Vested Terminated Participant</u> - \$5,000 Death Benefit eliminated, Sixty (60) month guaranteed benefit payment eliminated, and certain restrictions have been placed on early retirement.</p> <p><u>Non-Disability Retirees</u> - \$5,000 Death Benefit eliminated.</p> <p><u>Disability Retirees</u> - \$5,000 Death Benefit eliminated.</p>

A copy of the Fund's 2014 Rehabilitation Plan Schedules follows:

Most recent plan document and plan amendments adopted since that restatement (Checklist Item #37)

BUILDING MATERIAL DRIVERS LOCAL 436 PENSION TRUST FUND (REHABILITATION PLAN SCHEDULES)

	DESCRIPTION OF BENEFITS		FUTURE HOURLY CONTRIBUTION RATES										FACTOR TO APPLY TO CURRENT RATE ³
	FUTURE ACCRUAL RATE ¹	ADJUSTABLE BENEFITS REMOVED											
		FULL SERVICE(32 Years) MONTHLY BENEFIT		\$2,700	\$2,500	\$2,300	\$2,100	\$1,750	\$1,525	\$1,302	\$1,002	\$318	
OPTION A and DEFAULT	100%	-60 Month Guarantee -Disability Benefit -\$5,000 Death Benefit -Early Retirement -1% of contribution accrual if current accrual is larger ²	Current	\$5.55	\$5.30	\$5.05	\$4.80	\$4.30	\$4.05	\$3.60	\$3.10	\$1.96	1.0000
			First Rate	\$6.45	\$6.16	\$5.87	\$5.58	\$5.00	\$4.71	\$4.18	\$3.60	\$2.28	1.1622
			Second Rate	\$7.35	\$7.02	\$6.69	\$6.36	\$5.70	\$5.37	\$4.76	\$4.10	\$2.60	1.3243
			Third Rate	\$8.25	\$7.88	\$7.51	\$7.14	\$6.40	\$6.03	\$5.34	\$4.60	\$2.92	1.4865
			Fourth Rate	\$9.15	\$8.74	\$8.33	\$7.92	\$7.10	\$6.69	\$5.92	\$5.10	\$3.24	1.6486
			Fifth Rate	\$10.05	\$9.60	\$9.15	\$8.70	\$7.80	\$7.35	\$6.50	\$5.60	\$3.56	1.8108
			ANNUAL INCREASE	\$0.90	\$0.86	\$0.82	\$0.78	\$0.70	\$0.66	\$0.58	\$0.50	\$0.32	
			%Annual Increase	16.22%	16.22%	16.22%	16.22%	16.22%	16.22%	16.22%	16.22%	16.22%	16.22%

	DESCRIPTION OF BENEFITS		Most recent plan document and plan amendments adopted since that restatement (Checklist Item #37)										FACTOR TO APPLY TO CURRENT RATE ³
	FUTURE ACCRUAL RATE ¹	ADJUSTABLE BENEFITS REMOVED	FUTURE HOURLY CONTRIBUTION RATES										
		FULL SERVICE(32 Years) MONTHLY BENEFIT		\$2,700	\$2,500	\$2,300	\$2,100	\$1,750	\$1,525	\$1,302	\$1,002	\$318	
OPTION B	50%	-60 Month Guarantee	Current	\$5.55	\$5.30	\$5.05	\$4.80	\$4.30	\$4.05	\$3.60	\$3.10		1.0000
		-Disability Benefit	First Rate	\$6.25	\$5.97	\$5.69	\$5.41	\$4.84	\$4.56	\$4.05	\$3.49		1.1261
		-\$5,000 Death Benefit	Second Rate	\$6.95	\$6.64	\$6.33	\$6.02	\$5.38	\$5.07	\$4.50	\$3.88		1.2523
		-Early Retirement	Third Rate	\$7.65	\$7.31	\$6.97	\$6.63	\$5.92	\$5.58	\$4.95	\$4.27		1.3784
			Fourth Rate	\$8.35	\$7.98	\$7.61	\$7.24	\$6.46	\$6.09	\$5.40	\$4.66		1.5045
			Fifth Rate	\$9.05	\$8.65	\$8.25	\$7.85	\$7.00	\$6.60	\$5.85	\$5.05		1.6306
			ANNUAL INCREASE	\$0.70	\$0.67	\$0.64	\$0.61	\$0.54	\$0.51	\$0.45	\$0.39		
			% ANNUAL INCREASE	12.61%	12.61%	12.61%	12.61%	12.61%	12.61%	12.61%	12.61%		12.61%
OPTION C	0% (FREEZE)	-60 Month Guarantee	Current	\$5.55	\$5.30	\$5.05	\$4.80	\$4.30	\$4.05	\$3.60	\$3.10		1.0000
		-Disability Benefit	First Rate	\$6.05	\$5.78	\$5.50	\$5.23	\$4.69	\$4.41	\$3.92	\$3.38		1.0901
		-\$5,000 Death Benefit	Second Rate	\$6.55	\$6.26	\$5.95	\$5.66	\$5.08	\$4.77	\$4.24	\$3.66		1.1802
		-Early Retirement	Third Rate	\$7.05	\$6.74	\$6.40	\$6.09	\$5.47	\$5.13	\$4.56	\$3.94		1.2703
			Fourth Rate	\$7.55	\$7.22	\$6.85	\$6.52	\$5.86	\$5.49	\$4.88	\$4.22		1.3604
			Fifth Rate	\$8.05	\$7.70	\$7.30	\$6.95	\$6.25	\$5.85	\$5.20	\$4.50		1.4505
			ANNUAL INCREASE	\$0.50	\$0.48	\$0.45	\$0.43	\$0.39	\$0.36	\$0.32	\$0.28		
			% ANNUAL INCREASE	9.01%	9.01%	9.01%	9.01%	9.01%	9.01%	9.01%	9.01%		9.01%

¹ As a % of January 1, 2009 accrual rate.
² The reduction to 1% of contributions only applies to the Default Option and only if the monthly accrual rate is larger than 1% of annual contributions.
³ If a contribution rate is not shown in this table, multiply that current contribution rate by the factors shown in this column.

BUILDING MATERIAL DRIVERS LOCAL 436 PENSION PLAN**(As Amended and Restated Effective January 1, 2014)****TECHNICAL AMENDMENT**

WHEREAS, the Board of Trustees ("Trustees") of the Building Material Drivers Local 436 Pension Plan (the "Plan") previously adopted an Agreement and Declaration of Trust ("Trust"), as amended from time to time, and currently administers and maintains the Plan for the sole and exclusive benefit of those Participants and Beneficiaries covered thereunder;

WHEREAS, the Trustees previously approved the adoption of an amendment and restatement of the Plan that was effective as of January 1, 2014, and reserved the right under Article 13.1 of the Plan, as well as in the adopting resolution, to further amend the provisions of Plan with respect to any lawful modifications requested by the Internal Revenue Service as a result of the determination letter application filed with the IRS regarding the amended and restated Plan; and

WHEREAS, the Trustees hereby adopt this Technical Amendment to the Plan in order to implement certain modifications required by the Internal Revenue Service ("IRS") in its information request of July 23, 2015.

NOW THEREFORE, BE IT RESOLVED BY THE TRUSTEES, that the Plan (and Summary Plan Description) shall be amended as follows:

I. Amendment To Plan Article 1.1(s) Effective Date

The provision set forth in Article 1.1(s) of the amended and restated Plan effective January 1, 2014 are hereby deleted in their entirety and replaced with the following:

(s) Effective Date. The Effective Date of the Plan means December 26, 1961, the date on which the Trustees adopted the plan of benefits.

II. Amendment To Plan Article 15.2 Top Heavy Plan Requirements

The provisions set forth in Article 15.2 of the amended and restated Plan effective January 1, 2014 are hereby deleted in their entirety and replaced with the following:

15.2 Top-Heavy Plan Requirements. The Administrator, on each determination date, shall determine whether the Plan is a top-heavy or a super top-heavy plan. For any year in which the Plan is top-heavy or super top-heavy, the provisions of this Article will supersede any conflicting provision of the Plan and the following requirements shall be met:

(a) The vesting requirements of Section 15.3

(b) The minimum accrued benefit requirements of Section 15.4

III. Amendment To Plan Article 15.4(a)

The provisions set forth in Article 15.4(a) of the amended and restated Plan effective January 1, 2014 are hereby deleted in their entirety and replaced with the following:

(a) For purposes of continuing the minimum accrued benefit, compensation shall include all compensation, as that term is defined for Code Section 415 purposes; provided, however, compensation shall not include compensation paid in any Plan Year after the Plan Year in which the Plan was last top heavy. Notwithstanding anything to the contrary stated within this Section 4.10(e), in accordance with the Heroes Earnings Assistance and Relief Tax Act of 2008 ("HEART Act"), which added IRC section 414(u)(12) to require the inclusion of differential wage payments, "415 Compensation" shall include "differential wage payment" as that term is defined by IRC section 3401(h)(2). This shall be effective for remuneration paid after December 31, 2008.

BE IT FURTHER RESOLVED BY THE TRUSTEES, that the foregoing amendment shall be communicated to all Plan Participants and Beneficiaries as required by applicable law.

BE IT FINALLY RESOLVED BY THE TRUSTEES, that this amendment may be executed in any number of counterparts by the Trustees, all of which, however, shall constitute but one and the same all-inclusive document.

This Amendment has been executed this 21st day of August, 2015.

BOARD OF TRUSTEES

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BUILDING MATERIAL DRIVERS UNION LOCAL 436 PENSION FUND

RESOLUTION ADOPTING AMENDED AND RESTATED PLAN

WHEREAS, the Board of Trustees ("Trustees") of the Building Material Drivers Union Local 436 Pension Fund and its resulting Plan ("Plan") previously adopted an Agreement and Declaration of Trust ("Trust"), as amended and restated from time to time, and currently administers and maintains the Plan for the sole and exclusive benefit of those Participants and Beneficiaries covered thereunder; and

WHEREAS, in accordance with those documents, the Plan may be amended from time to time by the Trustees; and

NOW THEREFORE, BE IT RESOLVED BY THE TRUSTEES, that the Plan, as amended and restated effective January 1, 2014 is hereby adopted by the Trustees.

BE IT RESOLVED, that this amended and restated Plan has been adopted to comply with all requirements including the Pension Protection Act of 2006 ("PPA '06"), the Heroes Earnings Assistance and Relief Tax Act of 2008 ("HEART Act"), the Worker, Retiree, and Employer Recovery Act of 2008 ("WRERA"), and the Pension Relief Act of 2010 ("PRA 2010"), and all other applicable legislation and regulation passed since the prior restatement.

BE IT RESOLVED, that the changes incorporated in this amended Plan represent an interrelated whole. In the event that acceptance by the Internal Revenue Service requires any change in this amended Plan, the Trustees reserve the right to change the Plan in any lawful respect whatsoever.

BE IT RESOLVED, that in adopting this amended Plan, the Trustees have taken into consideration the fact that the regulations, rulings, and interpretations under PPA '06, HEART Act, WRERA and PRA 2010 and other applicable legislation and regulations may change before this Amendment becomes effective. The Trustees therefore reserve the right to change this Plan in any lawful respect to comply with, adjust to, or take into account any changes in regulations, rulings, and interpretations.

BE IT RESOLVED, that the Trustees further recognize that benefit payments under this Plan should not be delayed because of the interval between the date when the Plan is accepted as qualified by the Internal Revenue Service (hereinafter called the "interim period"). Therefore, for the duration of the interim period, benefit payments shall be made under the terms of this amended Plan.

BE IT FURTHER RESOLVED BY THE TRUSTEES, that this amended and restated Plan shall be file with the Internal Revenue Service for a determination as to the Plan's continued tax-qualified status, and to do such other acts as may be necessary and proper for the continuance of the amended and restated Plan and its related trust.



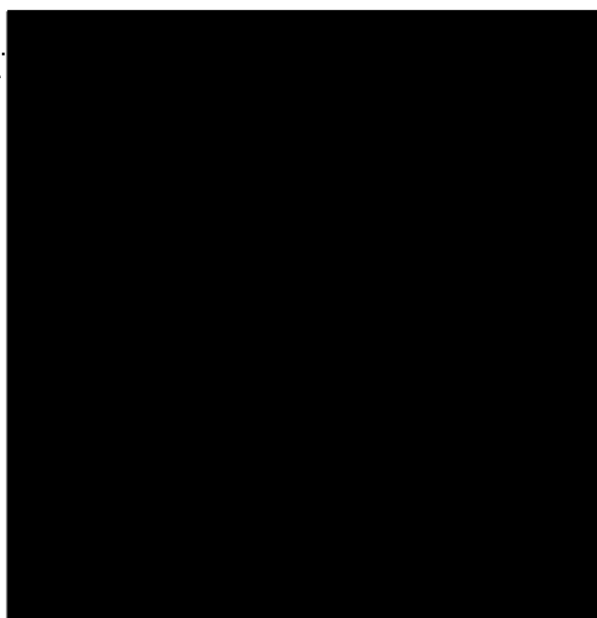
Most recent plan document and plan amendments adopted since that restatement (Checklist Item #37)

BE IT FINALLY RESOLVED BY THE TRUSTEES, the foregoing Resolution shall be communicated to all Plan Participants and Beneficiaries as required by applicable law;

BE IT FINALLY RESOLVED BY THE TRUSTEES, that this Resolution may be executed in any number of counterparts by the Trustees, all of which, however, shall constitute but one and the same all-inclusive document.

This Resolution is hereby adopted this ____ day January, 2015, and effective as written above.

BOARD OF TRUSTEES

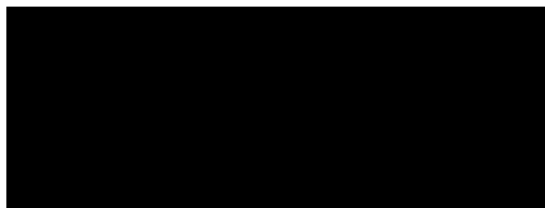


BE IT FINALLY RESOLVED BY THE TRUSTEES, the foregoing Resolution shall be communicated to all Plan Participants and Beneficiaries as required by applicable law;

BE IT FINALLY RESOLVED BY THE TRUSTEES, that this Resolution may be executed in any number of counterparts by the Trustees, all of which, however, shall constitute but one and the same all-inclusive document.

This Resolution is hereby adopted this ____ day January, 2015, and effective as written above.

BOARD OF TRUSTEES



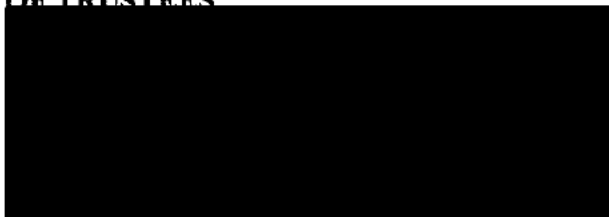
Most recent plan document and p an amendments adopted since that restatement (Checklist Item #37)

BE IT FINALLY RESOLVED BY THE TRUSTEES, the foregoing Resolution shall be communicated to all Plan Participants and Beneficiaries as required by applicable law;

BE IT FINALLY RESOLVED BY THE TRUSTEES, that this Resolution may be executed in any number of counterparts by the Trustees, all of which, however, shall constitute but one and the same all-inclusive document.

This Resolution is hereby adopted this ____ day January, 2015, and effective as written above.

BOARD OF TRUSTEES



BE IT FINALLY RESOLVED BY THE TRUSTEES, the foregoing Resolution shall be communicated to all Plan Participants and Beneficiaries as required by applicable law;

BE IT FINALLY RESOLVED BY THE TRUSTEES, that this Resolution may be executed in any number of counterparts by the Trustees, all of which, however, shall constitute but one and the same all-inclusive document.

This Resolution is hereby adopted this ____ day January, 2015, and effective as written above.

BOARD OF TRUSTEES



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**PLAN AMENDMENT
TO ELIMINATE SURVIVING SPOUSE DEATH BENEFIT AND POST-RETIREMENT
DEATH BENEFIT PROVISIONS UNDER THE BUILDING MATERIAL DRIVERS
LOCAL 436 PENSION PLAN**

WHEREAS, the Board of Trustees ("Trustees") of the Building Material Drivers Local 436 Pension Plan (the "Plan") previously adopted an Agreement and Declaration of Trust ("Trust"), as amended from time to time, and currently administers and maintains the Plan for the sole and exclusive benefit of those Participants and Beneficiaries covered thereunder;

WHEREAS, in accordance with those documents, the Plan may be amended from time to time by the Trustees; and

WHEREAS, the Trustees desire to amend the Plan to eliminate all death benefits provided for in Article 9 of the Plan document, as such benefits are considered "adjustable benefits" under the Pension Protection Act of 2006 and the Multiemployer Pension Reform Act of 2014;

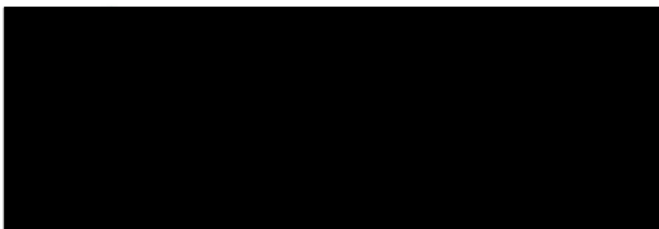
NOW THEREFORE, BE IT RESOLVED BY THE TRUSTEES, that Article 9 (Death Benefits) of the Plan (and Summary Plan Description) shall be amended effective this date, by eliminating in its entirety: (i) the Surviving Spouse Death Benefit set forth in Section 9.1 of the Plan, and (ii) the Post-Retirement Death Benefit set forth in Section 9.2 of the Plan.

BE IT FURTHER RESOLVED BY THE TRUSTEES, that the foregoing amendment shall be communicated to all Plan Participants and Beneficiaries as required by applicable law.

BE IT FINALLY RESOLVED BY THE TRUSTEES, that this amendment may be executed in any number of counterparts by the Trustees, all of which, however, shall constitute but one and the same all-inclusive document.

This amendment, consisting of two (2) pages, is hereby adopted this 22nd day of May, 2020, and effective as written above.

UNION TRUSTEES



EMPLOYER TRUSTEES

Most recent plan document and p an amendments adopted since that restatement (Checklist Item #37)

UNION TRUSTEES

EMPLOYER TRUSTEES



**PLAN AMENDMENT
TO THE BUILDING MATERIAL DRIVERS LOCAL 436 PENSION PLAN TO
COMPLY WITH ERISA SECTIONS 432(E)(9)(E) AND 432(E)(9)(H)(VI)**

WHEREAS, the Board of Trustees (“Trustees”) of the Building Material Drivers Local 436 Pension Plan (the “Plan”) previously adopted an Agreement and Declaration of Trust (“Trust”), as amended from time to time, and currently administers and maintains the Plan for the sole and exclusive benefit of those Participants and Beneficiaries covered thereunder;

WHEREAS, in accordance with those documents, the Plan may be amended from time to time by the Trustees; and

WHEREAS, the Trustees will, within the next thirty (30) days, submit an application to the United States Department of Treasury (“Treasury”) for approval of a benefit suspension under the Multiemployer Pension Reform Act of 2014, and as described in ERISA Section 432(e)(9)(H)(vi); and

WHEREAS, if the Plan receives final authorization from Treasury to implement the benefit suspension as described in ERISA Section 432(e)(9)(H)(vi), and the Trustees choose to implement the authorized suspension, then the Plan shall be considered amended in Article 10, and will not be modified at any time hereafter before the suspension of benefits expire, in the following manner:

Section 10.2. Benefit Suspension.

In accordance with ERISA Section 432(e)(9)(c)(ii), any authorized benefits suspension will cease as of the first day of the first plan year following the plan year in which the plan sponsor fails to maintain a written record of its determination that both:

- a. All reasonable measures to avoid insolvency of the Plan continue to be taken during the period of the suspension of benefits; and
- b. The Plan would be projected to avoid insolvency if no suspension of benefits were applied under the Plan.

Section 10.3. Benefit Improvements.

Any future benefit improvements must satisfy the requirements of ERISA Section 432(e)(9)(E).

NOW THEREFORE, BE IT RESOLVED BY THE TRUSTEES, that if the Plan receives final authorization from Treasury to implement a suspension of benefits, as described in ERISA Section 432(e)(9)(H)(vi), and the Trustees choose to implement the authorized suspension, then

the Plan shall be considered amended in Article 10, and will not be modified at any time hereafter before the suspension of benefits expire, in the following manner:

Section 10.2. Benefits Suspension.

In accordance with ERISA Section 432(e)(9)(c)(ii), any authorized benefits suspension will cease as of the first day of the first plan year following the plan year in which the plan sponsor fails to maintain a written record of its determination that both:

- c. All reasonable measures to avoid insolvency of the Plan continue to be taken during the period of the suspension of benefits; and
- d. The Plan would not be projected to avoid insolvency if no suspension of benefits were applied under the Plan.

Section 10.3. Benefit Improvements.

Any future benefit improvements must satisfy the requirements of ERISA Section 432(e)(9)(E).

BE IT FURTHER RESOLVED BY THE TRUSTEES, that the foregoing amendment shall be communicated to all Plan Participants and Beneficiaries as required by applicable law.

BE IT FINALLY RESOLVED BY THE TRUSTEES, that this amendment may be executed in any number of counterparts by the Trustees, all of which, however, shall constitute but one and the same all-inclusive document.

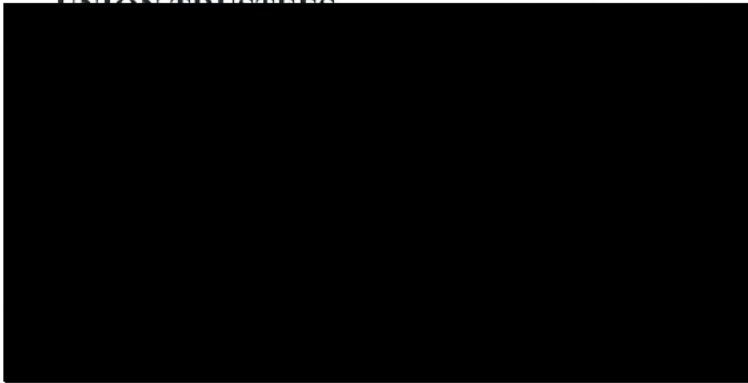
This amendment, consisting of two (2) pages, is hereby adopted this 22nd day of May, 2020, and effective as written above.

UNION TRUSTEES

EMPLOYER TRUSTEES

Most recent plan document and p an amendments adopted since that restatement (Checklist Item #37)

EMPLOYER TRUSTEES



EMPLOYER TRUSTEES

