

# **SHEET METAL WORKERS LOCAL PENSION FUND**

Amended and Restated Effective May 1, 2014\*

---

\* Except as Otherwise Stated

## TABLE OF CONTENTS

<b>ARTICLE I: DEFINITIONS</b> .....	1
1.1 Accrued Benefit .....	1
1.2 Act – ERISA .....	1
1.3 Active Participant .....	1
1.4 Actuarial Equivalent .....	1
1.5 Beneficiary .....	2
1.6 Break in Service .....	2
1.7 Computation Period for Eligibility to Participate .....	4
1.8 Contiguous Non-Covered Service .....	4
1.9 Covered Service .....	4
1.10 Domestic Relations Order .....	4
1.11 Early Retirement Age .....	5
1.12 Effective Date .....	5
1.13 Employee .....	5
1.14 Employer .....	6
1.15 Employer Contributions or Contributions .....	7
1.16 Fiduciary .....	7
1.17 Forfeited Service .....	7
1.18 Hours of Service – Hours Worked .....	8
1.19 Inactive Participant .....	8
1.20 Jurisdiction of this Fund .....	8
1.21 Military Service .....	8
1.22 Non-Covered Service .....	11
1.23 Non-Covered Sheet Metal Employment .....	11
1.24 Non-Vested Employee .....	11
1.25 Normal Retirement Age .....	11
1.26 Other Definitions .....	12
1.27 Original Plan – Prior Plan .....	12
1.28 Participant .....	12
1.29 Pension Plan – Plan .....	13
1.30 Plan Year .....	13
1.31 Qualified Domestic Relations Order .....	13
1.32 Reciprocity Hours Worked .....	14
1.33 Restatement Date .....	15
1.34 Retirement Benefit or Benefits .....	15
1.35 Service .....	15
1.36 Sheet Metal Industry .....	16
1.38 Terminated Vested Participant .....	17
1.39 Total and Permanent Disability .....	17
1.40 Trustees .....	17
1.41 Trust Agreement .....	17
1.42 Trust Fund – Fund .....	17
1.43 Union .....	18
1.44 Vested Participant .....	18

1.45	Vesting and Benefit Accrual Computation Period.....	18
<b>ARTICLE II: CLASSES OF BENEFITS .....</b>		<b>19</b>
2.1	Classes of Benefits.....	19
<b>ARTICLE III: NORMAL RETIREMENT BENEFITS.....</b>		<b>20</b>
3.1	Eligibility for Normal Retirement Benefits .....	20
3.2	Amount of Normal Retirement Benefit.....	20
3.3	When Paid .....	21
3.4	Calculation of Benefit for Terminated Vested Participants .....	22
<b>ARTICLE IV: EARLY RETIREMENT BENEFITS.....</b>		<b>23</b>
4.1	Eligibility for Early Retirement Benefits.....	23
4.2	Form of Benefit .....	23
4.3	Amount of Early Retirement Benefit .....	23
4.4	When Paid .....	23
<b>ARTICLE V: TOTAL AND PERMANENT DISABILITY BENEFITS .....</b>		<b>25</b>
<b>ARTICLE VI: QUALIFIED JOINT AND 50% or 75% SURVIVOR BENEFITS .....</b>		<b>26</b>
6.1	Manner of Payment and Right of Election .....	26
6.2	Eligibility for Qualified Joint and 50% Survivor Benefits.....	27
6.3	Description and Amount of Qualified Joint and 50% Survivor Benefits .....	28
6.4	When Paid .....	28
6.5	Alternative Joint and 75% Survivor Benefit.....	29
6.6	Eligibility for Qualified Joint and 75% Survivor Benefits.....	30
6.7	Description and Amount of Qualified Joint and 50% Survivor Benefits .....	30
6.8	When Paid .....	31
<b>ARTICLE VII: FIVE OR TEN YEAR CERTAIN AND LIFE BENEFIT – OPTIONAL BENEFIT .....</b>		<b>32</b>
7.1	Right to Elect the Five or Ten Year Certain and Life Benefit.....	32
7.2	Eligibility for the Five or Ten Year Certain and Life Benefit .....	32
7.3	Amount and Duration of the Five or Ten Year Certain and Life Benefit.....	32
7.4	When Paid .....	32
<b>ARTICLE VIII: DEATH BENEFITS.....</b>		<b>34</b>
8.1	Pre-Retirement Death Benefits .....	34
8.2	When Paid .....	34
8.3	Election to Defer Commencement of Payment .....	35
8.4	Notice Requirements .....	35
8.5	Post-Retirement Death Benefit .....	36
8.6	Designation of Beneficiary.....	36
8.7	No Beneficiary Designation.....	36
<b>ARTICLE IX: VESTING .....</b>		<b>37</b>
9.1	Vesting .....	37
9.2	When a Participant Returns to Work.....	37
9.3	Greater Benefit Prevails.....	38
<b>ARTICLE X: SUSPENSION OF RETIREMENT BENEFITS .....</b>		<b>39</b>
10.1	Suspension of Retirement Benefits .....	39
10.2	Before Normal Retirement Age .....	39
10.3	After Normal Retirement Age.....	40
10.4	Forty Hour Rule.....	40

10.5	Same Industry .....	40
10.6	Same Trade or Craft.....	40
10.7	Geographic Area.....	41
10.8	Notification and Presumption .....	41
10.9	Notification Requirement for Resumption of Benefits .....	41
10.10	Reinstatement of Retirement Benefits.....	41
10.11	Advance Determination .....	42
10.12	Recovery of Overpayments – Offset Rule.....	42
10.13	Individuals Over Age 70½ .....	43
<b>ARTICLE XI: QUALIFIED DOMESTIC RELATIONS ORDER .....</b>		<b>44</b>
11.1	Qualified Domestic Relations Order .....	44
11.2	Alternate Payee.....	45
11.3	Spendthrift Exception for Qualified Domestic Relations Order .....	45
11.4	Procedures for Notice and Determination by Plan Administrative Manager .....	45
<b>ARTICLE XII: ADMINISTRATION OF THE PLAN .....</b>		<b>46</b>
12.1	Responsibility for Administration.....	46
12.2	Fiduciary Duties.....	46
12.3	Limitation on Rights to Benefits .....	46
12.4	Benefits Limited by Pension Plan .....	46
12.5	Assignment of Benefits.....	47
12.6	Forfeitures .....	47
12.8	Incapacity.....	48
12.9	Death Benefit Payable to Minors .....	48
12.10	Information Required.....	48
12.11	No Reversion for Employees .....	48
12.12	Duplication of Benefits .....	48
12.13	Gender .....	48
12.14	Commencement of Benefits and Method of Payment .....	49
12.15	Minimum Distribution Requirements .....	50
12.16	Retroactive Annuity Starting Dates .....	50
12.17	Freezing Benefits Upon Becoming Terminated Vested Participant.....	50
12.18	Rollovers .....	50
12.19	Limitation of Benefits .....	54
12.20	Annual Statement to Participants .....	54
12.21	Modification of Top-Heavy Rules .....	54
12.22	Annual Actuarial Valuation .....	56
12.23	Consequences of Deferral .....	56
<b>ARTICLE XIII: BENEFIT APPLICATION, ELECTION AND APPEALS PROCEDURES</b>		<b>58</b>
13.1	Application for Retirement Benefits, Vested Benefits and Death Benefits .....	58
13.2	Election of Benefits .....	58
13.3	Notification of Approval or Non-approval of Application .....	58
<b>ARTICLE XIV: FUNDING OF BENEFITS .....</b>		<b>65</b>
14.1	Source of Contributions .....	65
14.2	Investment and Funding Policy.....	65
14.3	Actuarial Valuations and Plan Review.....	65
<b>ARTICLE XV: LIMITATION IMPOSED BY INTERNAL REVENUE SERVICE.....</b>		<b>66</b>

15.1	Limitation Year .....	66
15.2	Annual Benefit .....	66
15.3	Participation in Other Defined Benefit Plans.....	66
15.4	Accrued Benefit Prior to July 1, 2007.....	66
15.5	Limitations .....	66
<b>ARTICLE XVI: DISCRIMINATION AND MINIMUM COVERAGE REQUIREMENTS</b>		<b>68</b>
16.1	Compensation Defined .....	68
16.2	Highly Compensated Employee.....	68
16.3	Compliance Internal Revenue Code Section 401(a)(4) and 410(b) .....	69
16.4	Requirements of the Internal Revenue Code.....	69
<b>ARTICLE XVII: AMENDMENT AND TERMINATION OF PLAN</b>		<b>70</b>
17.1	Plan Amendments.....	70
17.2	Termination of the Plan .....	70
17.3	Procedures in Event of Termination.....	70
17.4	Manner of Distribution .....	71
17.5	Allocation of Assets.....	71
17.6	Vesting on Termination .....	72
17.7	Merger or Consolidation of the Plan .....	72

## ARTICLE I: DEFINITIONS

### 1.1 Accrued Benefit

- (A) The term "Accrued Benefit" means a monthly benefit commencing at Normal Retirement Age that has been earned by a Participant for Service according to the benefit formula described in Section 3.2.

### 1.2 Act – ERISA

- (A) The term "Act" or "ERISA" means the Employee Retirement Income Security Act of 1974, including any Amendments and pertinent Regulations.

### 1.3 Active Participant

- (A) The term "Active Participant" means a Participant who has not yet become a retired, deceased, Inactive Participant or a Terminated Vested Participant and who has not yet suffered Forfeited Service, but who has accrued at least one Year of Service during the two preceding Plan Years.

### 1.4 Actuarial Equivalent

- (A) The term "Actuarial Equivalent" means a benefit having the same value as the benefit which it replaces. Effective May 1, 1988, an Actuarial Equivalent annuity shall be based upon the Unisex Pension 1984 (UP-84) mortality table, such table set back five years for joint annuitants, and an interest rate of six and one-half percent.
- (B) The determination of the amount of a single sum cash out paid prior to May 1, 1995 shall be based upon the Unisex Pension 1984 (UP-84) mortality table and the immediate and deferred interest rates in effect at the beginning of the Plan Year as published by the PBGC for use in determining the present value of a lump sum distribution.
- (C) The determination of the amount of a single sum cash out paid on or after May 1, 1995 shall be based upon the Commissioners' Standard Table and an interest rate equal to:
  - (1) the annual rate of interest as defined in IRS Code Section 417(e)(3) and ERISA Section 205(g)(3) for the month before the date of distribution, or
  - (2) six percent,whichever produces the greater single sum value.
- (D) The term "Commissioners' Standard Table" means the prevailing commissioners'

standard mortality table described in IRS Code Section 807(d)(5)(A) used to determine reserves for group annuity contracts (without regard to any other subparagraph of Section 807(d)(5)).

- (E) Effective May 1, 2008, the applicable interest rate means the adjusted first, second, and third segment rates applied under rules similar to the rules of § 430(h)(2)(C) for the month before the date of the distribution or such other time as the Secretary may by regulations prescribe.
- (F) The adjusted first, second, and third segment rates are the first, second, and third segment rates which would be determined under § 430(h)(2)(C) if:
  - (1) § 430(h)(2)(C) were applied by substituting the average yields for the month described for the average yields for the 24-month period described in such section,
  - (2) § 430(h)(2)(G)(i)(II) were applied by substituting “§ 417(e)(3)(A)(ii)(II)” for “§ 412(b)(5)(B)(ii)(II)”, and
  - (3) the applicable percentage under § 430(h)(2)(G) 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%

- (G) The term “applicable mortality table” means a mortality table, modified as appropriate by the Secretary, based on the mortality table specified for the plan year under subparagraph (A) of § 430(h)(3) (without regard to subparagraph (C) or (D) of such section).

#### 1.5 Beneficiary

- (A) The term "Beneficiary" means a person designated by a Participant, or by the terms of the Plan created pursuant to the Trust Agreement, who is or may become entitled to a benefit. The Beneficiary of a married Participant shall be his spouse.

#### 1.6 Break in Service

- (A) The term "Break In Service" means a Plan Year beginning on and after the time an Employee becomes an eligible Participant during which the Participant fails to acquire four hundred thirty five hours worked.

- (B) It shall not be considered a Break in Service if a Participant is unable to earn one Year of Service because of an accident or illness or service in the armed forces of the United States, provided the administration office is notified of such accident, illness or service in a form satisfactory to the Trustees.
- (C) If a Vested Employee who has suffered a Break in Service returns to Covered Service with an Employer, the Vested Employee shall participate in the Plan immediately upon returning to such Covered Service.
- (D) If a Non-Vested Employee has suffered a Break in Service but has not yet Forfeited Service, as defined in Section 1.17, such Employee shall participate immediately upon returning to Covered Service with an Employer.
- (E) A Participant who has an absence from work with an Employer,
  - (1) by reason of the pregnancy of the Participant;
  - (2) by reason of the birth of a child;
  - (3) by reason of the placement of a child with the Participant in connection with the adoption of such child by the Participant (including placement with the Participant for a trial period prior to adoption);
  - (4) for purposes of caring for such child for a period beginning with such birth or placement; or
  - (5) by reason of Military Service as defined in Section 1.21;

shall be credited with Hours of Service provided that the Participant timely furnishes to the Board of Trustees such information as the Board of Trustees may reasonably require to establish that (1) the absence from work is for one of the reasons referred to above, and (2) the number of days for which there was such an absence. The Hours of Service shall be credited only to the Plan Year in which the period of absence begins if, but for such crediting, there would be a one year Break in Service in such Plan Year. In any other case, the Hours of Service shall be credited to the next following Plan Year. The Hours of Service to be credited are the Hours of Service which otherwise would normally have been credited to the Participant but for such absence. If the number of such Hours of Service cannot be determined, eight hours shall be credited per day of such absence. In no event, however, shall more than four hundred thirty-five Hours of Service be credited for such period of absence. Hours of Service under this subsection shall be credited solely for purposes of preventing the occurrence of a Break in Service.

- (F) An individual re-employed under Uniformed Services Employment and Reemployment Rights Act (USERRA) is treated under the Plan as not having incurred a Break in Service with the Employer maintaining the Plan because of



the individual's period of Qualified Military Service, i.e. any service in the uniformed service by any individual who is entitled to re-employment rights under USERRA, Code Section 414(u)(5).

- (G) Each period of Qualified Military Service by an individual is, upon reemployment under Uniformed Services Employment and Reemployment Rights Act (USERRA), considered under the Plan to be Service with the Employer maintaining the Plan for the purpose of: (1) determining the nonforfeitability of the individual's Accrued Benefits under the Plan, and (2) determining the accrual of benefits under the Plan.
- (H) Notwithstanding the foregoing, no Hours of Service shall be credited under this section unless the Employee was in the active Service of an Employer prior to such an absence due to Qualified Military Service, such absence did not exceed five years and the Employee fulfills the notice requirements set forth in Section 1.21 and as required by 38 U.S.C. Section 4312, et seq., as amended, and any regulations promulgated thereunder.

#### 1.7 Computation Period for Eligibility to Participate

- (A) The computation period used to determine the eligibility of an Employee to participate in the Plan shall be measured from the first day of the Employee's first payroll period, as long as the payroll period is no more than thirty-one days, and ending on the anniversary of the last day of such payroll period.

#### 1.8 Contiguous Non-Covered Service

- (A) The term "Contiguous Non-Covered Service" means Non-Covered Service with the same single Employer which immediately precedes or immediately follows Covered Service where no quit, discharge, lay-off or retirement occurs between such Covered Service and Non-Covered Service.

#### 1.9 Covered Service

- (A) The term "Covered Service" means service with an Employer or Employers within a job classification or class of Employees covered under the Plan that compensation is paid for, or is entitled to payment for, in accordance with the Collective Bargaining Agreement or other agreement.

#### 1.10 Domestic Relations Order

- (A) The term "Domestic Relations Order" means any judgment, decree or order (including approval of a property settlement agreement) which relates to the provision of child support, alimony payments or marital property rights to a spouse, former spouse, child or other dependent of a Participant or former Participant, and which is made pursuant to a State Domestic Relations Order (including a

community property law).

#### 1.11 Early Retirement Age

- (A) For a Participant who earns Service as a Non-Collectively Bargained Employee, Early Retirement Age means the Participant's age prior to his sixty-second birthday when he first reaches age fifty-five and has been credited with five or more Years of Service.
- (B) For those Active Participants who retire on or after January 1, 1999, "Early Retirement Age" means the age prior to the Participant's sixty-first birthday when he first reaches age fifty-five and has been credited with five or more Years of Service.

#### 1.12 Effective Date

- (A) The term "Effective Date" means the applicable date(s) the provisions of this Plan become effective. Where no effective date is specified, the effective date shall be May 1, 2014.

#### 1.13 Employee

- (A) The term "Employee" means:
  - (1) All Employees represented for the purpose of collective bargaining by the Union who perform more than fifty percent of their work as bargaining unit work for an Employer who is required to make contributions to the Trust Fund in accordance with a Collective Bargaining Agreement. These Employees shall be referred to as Collectively Bargained Employees.
  - (2) All Employees who are former Collectively Bargained Employees who are performing work for an Employer which is a party to a Collective Bargaining Agreement or is/are Employees of the Union. These Employees shall be referred to as Bargaining Unit Alumni and their participation in the Plan is permitted only if the Plan does not treat Bargaining Unit Alumni more favorably than similarly situated Bargaining Unit Employees and that no more than five percent of the Participants in the Plan are Bargaining Unit Alumni. For purposes of vesting and benefit accrual earned after May 1, 1989, these Employees shall be considered Non-Collectively Bargained Employees.
  - (3) All other Employees of the Union who are not Bargaining Unit Alumni who participate on a non-discriminatory basis and are not treated more favorably than similarly situated Collectively Bargained Employees or Bargaining Unit Alumni. These Employees shall be referred to as Non-Collectively Bargained Employees.

- (4) All Employees of an employee benefit plan related to the Union who are Bargaining Unit Alumni or Non-Collectively Bargained Employees and who participate on a non-discriminatory basis.
  - (5) An Owner-Member as defined in the collective bargaining agreement between Sheet Metal Workers Local Union No. 33, Akron District and the Akron/Canton/Mansfield Roofing and Sheet Metal Contractor's Association.
- (B) The term "Employee" shall not include partners or self-employed persons no matter how designated.
- (C) An Employee shall not be ineligible to participate in the benefits of the Plan because of his participation in a labor dispute or because of his absence from work due to such labor dispute or because of his being locked out by his Employer.

#### 1.14 Employer

- (A) The term "Employer" means:
- (1) The Akron-Canton-Mansfield Sheet Metal and Roofing Contractors Association and the Wheeling/Steubenville Area Sheet Metal and Roofing Contractors Association, which are hereinafter referred to as the "Association." Employers who are parties to a Collective Bargaining Agreement with the Union as a result of their affiliation with the Association shall be referred to as "Association Employers."
  - (2) Any other individual, firm, association, partnership or corporation who are performing work at the sheet metal trade and who are bound by a Collective Bargaining Agreement with said Union and in accordance therewith agree to participate in and contribute to the Trust Fund herein created and provided for. The participation of Employers shall be on terms which the Trustees, in their absolute discretion, shall determine. An Employer in this subsection shall be called an "Independent Employer."
  - (3) If the Trustees by resolution so provide, and if not judicially determined by a court of final jurisdiction to be a violation of any law or statute, the term "Employer" may also include the Union for its Employees who participated in the Original Plan prior to this Restatement and any Employee who becomes employed by the Union in the Union's Akron/Wheeling district, and may also include the Trustees, for their Employees, or any Employee of an employee benefit plan related to the Union for its Employees provided first any of the above organizations (1) becomes contractually obligated to make contributions on behalf of its Employees; (2) signs a copy of this agreement or in some other manner acceptable to the Trustees consents in writing to be bound by the terms of this agreement; and (3) has been

accepted for participation in the Fund by the Trustees on terms which, in their absolute discretion, the Trustees shall determine.

- (a) The Employers in this subsection shall have no vote in the selection of Employer Trustees.
- (B) Employer shall also include any individual, firm, association, partnership, or corporation who has a Collective Bargaining Agreement with the Trustees, makes contributions according to that agreement to the Trust Fund on Bargaining Unit Alumni employed by it subject to the restrictions of Section 1.13.
- (C) The Employers shall, by the making of payments to the Trust Fund pursuant to a Collective Bargaining Agreement, be conclusively deemed to have accepted and be bound by this Plan.

#### 1.15 Employer Contributions or Contributions

- (A) The term "Employer Contributions" or "Contributions" means payments to the Trust Fund by an Employer as required under applicable Collective Bargaining Agreements or other written agreements.

#### 1.16 Fiduciary

- (A) The term "Fiduciary" means a person who:
  - (1) Exercises any discretionary authority or discretionary control respecting management of this Plan or exercises any authority or control respecting management or disposition of its assets;
  - (2) Renders investment advice for a fee or other compensation, direct or indirect, with respect to any monies or other property of this Plan, or has any authority or responsibility to do so; or
  - (3) Has any discretionary authority or discretionary responsibility in the administration of this Plan.

#### 1.17 Forfeited Service

- (A) The term "Forfeited Service" means the number of Years of Service as otherwise credited to a Participant that becomes forfeited. If a Non-Vested Employee forfeits Service under this Plan and subsequently returns to employment with an Employer, he shall be treated as if he were a new Employee first beginning to work with an Employer. A Vested Employee cannot forfeit Service under this Plan.
- (B) All Service credited to a Non-Vested Employee shall be forfeited at the time such Employee suffers consecutive one year Breaks in Service equaling or exceeding the

greater of five years or the Employee's aggregate number of Years of Service preceding such Break in Service.

- (C) No Plan benefits shall be based on Hours Worked for which Years of Service were credited that later become Forfeited Service.

#### 1.18 Hours of Service – Hours Worked

- (A) The Board of Trustees has adopted the use of the alternative equivalency method of "Hours Worked" to credit Hours of Service for participation, vesting, and benefit accrual. The term "Hours Worked" or "Hours of Service" means each hour for which an Employee is paid or entitled to payment for the performance of duties for an Employer and hours for which back pay, irrespective of mitigation of damages, is awarded or agreed to by an Employer, to the extent that such award or agreement is intended to compensate an Employee for periods during which the Employee would have been engaged in the performance of duties for the Employer. For the purpose of the equivalency Department of Labor regulations 2530.200 (b)-2 (b)-3 are incorporated by reference.

#### 1.19 Inactive Participant

- (A) The term "Inactive Participant" means a Participant who has not yet become a retired, or deceased and who has not yet suffered Forfeited Service, but who has not accrued at least one Year of Service during the two preceding Plan Years.

#### 1.20 Jurisdiction of this Fund

- (A) The term "Jurisdiction of this Fund" means the industry, trade, or craft in the geographical area over which the Union has jurisdiction.

#### 1.21 Military Service

- (A) Effective December 12, 1994, the term "Military Service" means any absence from work by reason of active duty in the armed forces of the United States. An Employee shall be given full credit for benefit accrual contributions, Hours of Service, participation, vesting, years of Credited Service and years of vesting service for the time period, not to exceed five years, in which he was absent from work due to Military Service.
- (B) The five year limitation indicated above and in Section 1.6 shall not include any service:
  - (1) That is required beyond five years to complete an initial period of obligated service during which the individual was unable to obtain orders releasing him from service in the uniformed services before expiration of the five year period, and such inability was through no fault of the

individual;

- (2) Performed as required pursuant to 10 U.S.C. 10147, under 32 U.S.C. 502(a) or 503, or to fulfill additional training requirements determined and certified in writing by the Secretary of the Military Department considered to be necessary for professional development or for completion of skill training or retraining;
- (3) Performed by a member of a uniformed service who is:
  - (a) Ordered to or retained on active duty under sections 12301(a), 12301(g), 12302, 12304, 12305, or 688 of Title 10, United States Code, or under 14 U.S.C. 331, 332, 359, 360, 367, or 712;
  - (b) Ordered to or retained on active duty (other than for training) under any provision of law during a war or during a national emergency declared by the President or the Congress;
  - (c) Ordered to active duty (other than for training) in support, as determined by the Secretary of the Military Department concerned, of an operational mission for which personnel have been ordered to active duty under 10 U.S.C. 12304;
  - (d) Ordered to active duty in support, as determined by the Secretary of the Military Department concerned, of a critical mission or requirement of the uniformed services; or
  - (e) Called into Federal service as a member of the National Guard under Chapter 15 or under Section 12406 of Title 10, United States Code.
- (C) Contributions shall be made for the above leave of absences by the Fund, in compliance with 38 U.S.C. Section 4318, as amended, and any regulations promulgated thereunder. The basis for determining the contributions would be the average monthly Hours Worked by the Employee requiring contributions to the Plan immediately preceding Qualified Military Service, not to exceed a period of thirty-six months.
- (D) In order for an Employee to receive continuing benefits as outlined above and in Paragraph (B) of this Section, upon the completion of a period of service in the uniformed services, said Employee shall notify the respective Employer with advance written or verbal notice of such service. An Employee, upon the completion of such period of service in the uniformed services, shall notify the Employer, as referred to in such subsection below, of the Employee's intent to return to a position of employment with such Employer as follows:

- (1) In the case of a person whose period of service in the uniformed services was less than thirty-one days, by reporting to the Employer –
    - (a) not later than the beginning of the first full regularly scheduled work period on the first full calendar day following the completion of the period of service and the expiration of eight hours after a period allowing for the safe transportation of the Employee from the place of that service to the Employee's residence; or
    - (b) as soon as possible after the expiration of the eight hour period referred to in subsection (D)(1)(a) above, if reporting within the period referred to in such clause is impossible or unreasonable through no fault of the person.
  - (2) In the case of an Employee who is absent from a position of employment for a period of any length for the purposes of an examination to determine the Employee's fitness to perform service in the uniformed services, by reporting in the manner and time referred to in subsection (D)(1).
  - (3) In the case of an Employee whose period of service in the uniformed services was for more than thirty days but less than one hundred eighty-one days, by submitting an application for reemployment with the Employer not later than fourteen days after the completion of the period of service or if submitting such application within such period is impossible or unreasonable through no fault of the Employee, the next first full calendar day when submission of such application becomes possible.
  - (4) In the case of an Employee whose period of service in the uniformed services was for more than one hundred eighty days, by submitting an application for reemployment with the Employer not later than ninety days after the completion of the period of service.
- (E) Furthermore, in order to restore the above pension rights, the Employee must notify the Fund Office in writing, within sixty days of his discharge, of his intent to return to work.
- (F) Upon an Employee's honorable discharge from Military Service the Employee's eligibility status under the Plan will be restored to the status that existed when he entered Military Service, provided the Employee fulfills the notice and documentation requirements outlined above. In addition to said notices, the Employee shall also supply the Fund Office with copies of his discharge papers showing the date of his induction or enlistment in Military Service and the date of his discharge. Failure on the part of the Employee to file such notice and documentation with the Fund Office may be deemed an indication that the Employee does not wish to restore his eligibility status under the Plan.

- (G) A person who is hospitalized for, or convalescing from, an illness or injury incurred in, or aggravated during, the performance of service in the uniformed services shall, at the end of the period that is necessary for the person to recover from such illness or injury, report to the person's Employer (in the case of a person described in subsection (D)(1) or (D)(2) of this section) or submit an application for reemployment with such Employer (in the case of a person described in subsections (C) or (D) above). Except as provided in paragraph (H) below such period of recovery may not exceed two years.
- (H) Such two year period shall be extended by the minimum time period to accommodate the circumstances beyond such person's control which make reporting within the period specified in subsection (D)(1)(a) above impossible or unreasonable.

1.22 Non-Covered Service

- (A) The term "Non-Covered Service" means service with an employer or employers which is not Covered Service.

1.23 Non-Covered Sheet Metal Employment

- (A) Non-Covered Sheet Metal Employment means on or after September 1, 1991, self-employment in the Sheet Metal Industry within the same geographical area of the Fund as defined in Section 10.7, or employment for an employer which does not have a Collective Bargaining Agreement between the Union and the employer.

1.24 Non-Vested Employee

- (A) The term "Non-Vested Employee" means a Participant who is not vested under the Plan.

1.25 Normal Retirement Age

- (A) "Normal Retirement Age" means the earlier of:
  - (1) The time the Participant attains at least sixty-one years of age and has been credited with five or more Years of Service; or
  - (2) The later of:
    - (a) age sixty-five, or
    - (b) the fifth anniversary of the time the Participant first commenced participation in the Plan.



1.26 Other Definitions

- (A) Other definitions as required may appear in the text of other sections and/or articles of the Plan document. Wherever the masculine pronoun is used herein, it shall include the feminine and the feminine pronoun shall include the masculine.

1.27 Original Plan – Prior Plan

- (A) The term "Original Plan" or "Prior Plan" means the Plan as it was in effect prior to this Restatement.

1.28 Participant

- (A) Each Employee who was a Participant in the Original Plan as of May 1, 1987, and who did not suffer a Break in Service as that term was used in the Original Plan as of that date shall be a Participant in the Plan as of May 1, 1987.
- (B) Each person who becomes an Employee as defined in Section 1.7 on or after January 1, 1989, shall become a Participant on the beginning of the Plan Year following the total of four hundred thirty five Hours Worked within the Computation Period for Eligibility to Participate or on November 1, whichever is earlier. If an Employee does not become a Participant within the first computation period, the Employee must meet the requirements of participation within subsequent twelve month periods as if he were a new Employee first beginning to work for an Employer.
- (C) Once an Employee becomes a Participant, his eligibility for continued participation shall be measured by Service within a Plan Year beginning with the Plan Year which includes the first anniversary of the Employee's employment commencement date.
- (D) In the event a Participant suffers Forfeited Service, he shall, upon return to the status of an Employee, be required to meet the foregoing requirements before again becoming a Participant.
- (E) An Owner-Member, as defined in Section 1.13(A)(5), shall be deemed a "Participant" or an "Employee" if (1) a Contributing Employer is required to contribute to the Plan on behalf of the Owner-Member pursuant to a Collective Bargaining Agreement, or (2) the Owner-Member is employed by a Contributing Employer, is not included in a collective bargaining unit represented either by the Union but is permitted to be treated as so included pursuant to the rules set forth in Treasury Regulation Section 1.410(b)-6(d)(2)(ii), and the Owner-Member's Employer contributes to the Plan on behalf of the Owner Member in order to continue to provide benefits previously provided to the Owner-Member as a Covered Employee. If a Contributing Employer contributes to the Plan on behalf of an Owner-Member pursuant to this Section 1.28(E), the Plan Document and the

Trust Document shall be deemed to be a successor agreement to the Collective Bargaining Agreement under which such Owner-Member was most recently covered, by so-contributing the Employer agrees to be bound by the terms of the Plan Document and Trust Document, and such Owner-Member shall be deemed to continue to be covered under such Collective Bargaining Agreement, including any changes thereto, at the position the Owner-Member most recently held under such Collective Bargaining Agreement for purposes of determining the Contribution Rate and the Contribution Hours on behalf of the Owner-Member. If a Contributing Employer employing an Owner-Member fails to make contributions to the Plan with respect to any Employee, including the Owner-Member, the Owner-Member shall cease to be an Employee as of the first day of the month that follows the due date of the unpaid contribution(s). In such case, the Owner-Member shall become an Employee again when the Contributing Employer resumes making timely contributions to the Plan on behalf of all its Covered Employees, including the Owner-Member, provided, however, that the Owner-Member shall not be in Covered Employment for the one-year period commencing on the date of such resumption. Notwithstanding anything in this Section to the contrary, the term "Employee" or "Participant" shall not include any individual who is the sole proprietor of or a partner in a business organization, or an independent contractor.

1.29 Pension Plan – Plan

- (A) The term "Pension Plan" or "Plan" means the plan, program, method, rules and procedure for the payment of benefits from the Trust Fund and amendments thereto which have been established and adopted by the Trustees as herein provided.

1.30 Plan Year

- (A) The term "Plan Year" means the twelve month period beginning May 1 and ending the following April 30.

1.31 Qualified Domestic Relations Order

- (A) The term "Qualified Domestic Relations Order" means a Domestic Relations Order which creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to, receive all or a portion of the benefits payable with respect to a Participant or former Participant, which clearly specifies:
  - (1) the name and the last known mailing address (if any) of the Participant or former Participant and the name and mailing address of each alternate payee covered by the order,
  - (2) the amount or percentage of the Participant's or former Participant's benefits to be paid by the Plan to each such alternate payee, or the manner in which such amount or percentage is to be determined,

- (3) the number of payments or period to which such order applies, and
  - (4) each plan to which such order applies.
- (B) In addition, a Domestic Relations Order will be a Qualified Domestic Relations Order only if such order:
  - (1) does not require the Plan to provide any type or form of benefit, or any option, not otherwise provided under the Plan,
  - (2) does not require the Plan to provide increased benefits (determined on the basis of actuarial value), and
  - (3) does not require the payment of benefits to an alternate payee which are required to be paid to another alternate payee under another Domestic Relations Order previously determined to be a Qualified Domestic Relations Order.
- (C) A Domestic Relations Order otherwise satisfying the provisions hereof shall be a Qualified Domestic Relations Order even though such order requires payment of benefits to be made to an alternate payee on or after the date the Participant or former Participant attains (or would have attained) the earliest date on which, under the Plan, the Participant or former Participant could elect to receive Retirement Benefits, as if the Participant or former Participant had retired on the date on which such payment is to begin under such order and in any form in which such benefits may be paid under the Plan to the Participant or former Participant (other than in the form of a Qualified Joint and Survivor Annuity with respect to the alternate payee and his subsequent spouse). The prior sentence shall apply notwithstanding any provisions to the Plan requiring a termination of employment prior to eligibility for the payment of benefits.
- (D) As used in this section, an "alternate payee" means any spouse, former spouse, child or other dependent of a Participant or former Participant who is recognized by a Domestic Relations Order as having a right to receive all, or a portion of, the benefits payable under the Plan with respect to such Participant or former Participant.

#### 1.32 Reciprocity Hours Worked

- (A) For purposes of crediting Service under this Plan, if the Board of Trustees enter into money-follows-the-man reciprocity agreements, such agreements shall be a part of this Plan and all hours transferred into this Plan under such agreements shall be credited as Hours Worked for crediting Service under this Plan. All hours transferred from this Plan in accordance with such reciprocity agreements will at such time be removed from the records of this Plan and no longer will be credited towards participation, vesting, eligibility and benefit accrual.

1.33 Restatement Date

- (A) The term "Restatement Date" means May 1, 2014.

1.34 Retirement Benefit or Benefits

- (A) The term "Retirement Benefit" or "Benefits" means those classes of benefits provided by the Plan as set forth in Article II.

1.35 Service

- (A) The term "Service" means the number of years for which a Participant receives credit on the records of the Trust Fund. Service shall be equal to the number of years of Past Service plus the number of years of Future Service.
- (B) Service Prior to May 1, 1976: For a Participant as of May 1, 1976 who had been covered under the prior provisions of the Plan, the Participant's last period of continuous Service as determined under the prior provisions of the Plan shall be counted as Service. Such Service shall include:
- (1) Past Service: Past Service shall be granted to an Employee who worked in the jurisdiction of the Union on and before May 1, 1961. One Year of Past Service shall be granted to an Employee for each Plan Year that the Employee worked in the jurisdiction of the Union during the period May 1, 1946 to May 1, 1961. Any past continuous Service as otherwise granted shall be canceled upon a Non-Vested Employee suffering a Break in Service after May 1, 1961. If any Employee or a Participant, or a former Employee or Participant, at any time after August 31, 1991, performs at least one hour of Non-covered Sheet Metal Employment within the same geographical area of the Fund as defined in Section 10.7, then he shall lose all Past Service for the purpose of calculating his benefit amount; provided, however, that any such loss of Past Service credit shall not decrease the Participant's accrued Normal Retirement Benefit to an amount less than his accrued Normal Retirement Benefit as of August 31, 1991.
  - (2) Future Service: Future Service shall be granted to Employees after May 1, 1961. One Year of Future Service shall be granted to an Employee for each Plan Year during which he receives contribution credits on the records of this Fund. Any future continuous service as otherwise granted to an Employee prior to his suffering a Break in Service shall be canceled.
  - (3) Service From and After May 1, 1976: One Year of Service shall be granted an Employee, as defined in Section 1.7, who has met the requirements for initial eligibility to participate in this Plan. Subsequent Years of Service shall be earned by a Participant who has four hundred thirty five Hours Worked within a Plan Year beginning with the Plan Year which includes the

first anniversary of the Employee's employment commencement date. The total Service of the Participant shall not include any years of Break in Service nor any years of Forfeited Service.

- (C) For purposes of determining Years of Service, all Covered Service with all Employers and all Contiguous Non-Covered Service with an Employer maintaining the Plan shall be taken into account provided, however, no Contiguous Non-Covered Service shall be credited to the Fund unless the Employer or Participant notifies the Administrative Manager of the Hours Worked by the Participant in Non-Covered Service within ninety days after the date of participation or the Plan Year, whichever is later.
- (D) Also, for purposes of determining Years of Service, Reciprocity Hours Worked, if any, shall be taken into account.
- (E) Armed Services Credit: Effective for those active Participants who apply for benefits on or after May 1, 1993 through December 11, 1994, one Year of Future Service at the benefit accrual rate in effect during the period the Participant serves in the armed services shall be granted for each Plan Year during which a Participant serves in the armed services for a period of six months or more and returns to active participation in the Plan within six months following his discharge from the armed services provided, however, no Participant shall earn more than one Year of Future Service credit in a Plan Year in which service in the armed services occurred. After December 11, 1994, Section 1.21 shall apply.

#### 1.36 Sheet Metal Industry

- (A) The term "Sheet Metal Industry" means any and all types of work covered by Collective Bargaining Agreements to which the Union is a party; or under the trade jurisdiction of the Union, as that trade jurisdiction is described in the International Union's Constitution; or any other work to which a Sheet Metal Worker has been assigned, referred or can perform because of his skills and training. For the purposes of this section only, the term "Sheet Metal Industry" shall not include employment in a related building trade, provided, however, that such employment is on referral by and authorized by the Union.

#### 1.37 Spouse or Eligible Spouse

- (A) The term "Spouse" or "Eligible Spouse" means the legal Spouse of the Participant at the time a Pre-Retirement Death Benefit is first payable or the legal Spouse of the Participant at the time the Participant commences receiving Retirement Benefits provided by this Plan.
- (B) Effective June 26, 2013, the term "Spouse" or "Eligible Spouse" shall include individuals married to a person of the same sex if the individuals were lawfully married under state law in a state whose laws authorize the marriage of two

individuals of the same sex even if the married couple is domiciled in a state that does not recognize the validity of same-sex marriages.

- (C) The term "Spouse" or "Eligible Spouse" does not include individuals (whether of the opposite sex or the same sex) who have entered into a registered domestic partnership, civil union, or other similar formal relationship recognized under state law that is not denominated as a marriage under the laws of that state.

#### 1.38 Terminated Vested Participant

- (A) The term "Terminated Vested Participant" means a Vested Employee who has not accrued at least one Year of Service during the two preceding Plan years.

#### 1.39 Total and Permanent Disability

- (A) The term "Total and Permanent Disability" means a final determination by the United States Social Security Administration that a Participant is totally and permanently disabled and is eligible for, and receiving, total and permanent disability benefits from the Social Security Administration; or, alternatively, that a Participant has been diagnosed with a terminal illness or a terminal condition that will, to a reasonable medical certainty, cause the Participant to expire within twelve months of such diagnosis. Two separate diagnoses must be provided to the Board of Trustees, in written form, by two licensed physicians who have provided treatment to the Participant for the illness or condition.

#### 1.40 Trustees

- (A) The term "Trustees" means any natural person designated as a Trustee pursuant to Article III of the Trust Agreement or his successor or successors. The term "Trustee" shall also mean the Employer Trustees and the Union Trustees collectively, and shall include their successors when acting as Trustees. The term "Employer Trustees" means the Trustees appointed by the Association and the term "Union Trustees" means the Trustees appointed by the Union.

#### 1.41 Trust Agreement

- (A) The term "Trust Agreement" means the Amended and Restated Agreement and Declaration of Trust as originally entered into and that instrument as from time to time amended.

#### 1.42 Trust Fund – Fund

- (A) The term "Trust Fund" or "Fund" means the SHEET METAL WORKERS LOCAL PENSION FUND and the entire assets thereof including all funds received in the form of Employer contributions, together with all contracts (including dividends, interest, refunds and other sums payable to the Trustees on account of such

contracts), all investments made and held by the Trustees, all income, increments, earnings, and profits therefrom and any and all other property or funds received and held by the Trustees by reason of their acceptance of the Trust Agreement.

1.43 Union

- (A) The term "Union" means the Sheet Metal Workers Union No. 33 of Northern Ohio and West Virginia who have in effect with the Association or with other Employers, Collective Bargaining Agreements providing for the establishment of a Pension Plan and Trust Fund and for the payment of contributions to such Fund.

1.44 Vested Participant

- (A) "Vested Participant" means a Participant who earns at least one Hour of Service on or after May 1, 1997 with at least five Years of Service.

1.45 Vesting and Benefit Accrual Computation Period

- (A) The "Vesting and Benefit Accrual Computation Period" for this Plan shall be the Plan Year.

## **ARTICLE II: CLASSES OF BENEFITS**

### **2.1 Classes of Benefits**

- (A) There shall be three Classes of Benefits payable under this Plan.
  - (1) Normal Retirement Benefits
  - (2) Early Retirement Benefits
  - (3) Death Benefits
- (B) Notwithstanding any other provisions of the Pension Plan, no Participant shall be eligible for more than one Class of Benefits at the same time.



### ARTICLE III: NORMAL RETIREMENT BENEFITS

#### 3.1 Eligibility for Normal Retirement Benefits

- (A) An Active Participant who has completely retired from employment with all Employers in the jurisdiction of the Fund shall be eligible for a Normal Retirement Benefit at such time the Participant reaches his Normal Retirement Age.
- (B) In addition, in order to be eligible for Normal Retirement Benefits, the Active Participant shall have elected and applied for a Normal Retirement Benefit on a form prescribed and approved by the Trustees.

#### 3.2 Amount of Normal Retirement Benefit

- (A) The Normal Retirement Benefit shall be a monthly benefit equal to the sum of the Active Participant's Past Service Benefit, if any, and his Future Service Benefit as follows:
  - (1) Past Service Benefit: The Past Service Benefit shall be equal to the Participant's Years of Service during the period May 1, 1946 to May 1, 1961, multiplied by:
    - (a) Three Dollars and Fifty Cents, if the Participant is not eligible for pension benefits under the Sheet Metal Workers National Pension Plan.
    - (b) Two Dollars, if the Participant is eligible for pension benefits under the Sheet Metal Workers National Pension Plan.
  - (2) Future Service Benefit: For an Active Participant retiring, the Future Service Benefit shall be equal to a percentage of the Employer contributions made to the Trust Fund on his behalf subsequent to the later of May 1, 1961, or the date the Participant last suffered Forfeited Service. Such percentage to be determined from the following table:

Participant's Retirement Date	Future Service Benefit
Prior to 5-1-82	2.2% of Employer Contributions
5-1-82 thru 4-30-83	2.4% of Employer Contributions
5-1-83 thru 4-30-84	2.6% of Employer Contributions
5-1-84 thru 4-30-87	2.8% of Employer Contributions
5-1-87 thru 4-30-90	3.0% of Employer Contributions
5-1-90 thru 4-30-94	3.5% of Employer Contributions
5-1-94 thru 4-30-03	3.65% of Employer Contributions
5-1-03 thru 6-30-05	2.2% of Employer Contributions

7-1-05 thru 4-30-06	2.2% of Employer Contributions
5-1-06 thru 7-31-13	.36% of Employer Contributions
8-1-13 and after	0% of Employer Contributions

- (B) For an Active Participant who retires on or after May 1, 2006, the Future Service Benefit shall be equal to (a) 3.65% of Employer Contributions made on his/her behalf for hours worked prior to May 1, 2003; plus (b) 2.2% of Employer Contributions made on his/her behalf for hours worked between May 1, 2003 and April 30, 2006; plus (c) .36 % of Employer Contributions made on his/her behalf for hours worked between May 1, 2006 and July 31, 2013. There will be no future service benefit accrual subsequent to July 31, 2013 unless reinstated by the Trustees.
- (C) Effective May 1, 1994, any Participant who retired on or before December 31, 1985 and as of May 1, 1994 is receiving a Normal Retirement or Early Retirement Benefit shall receive no less than One Hundred Seventy Five Dollars per month.
- (D) Effective May 1, 1998, each retired Participant and Beneficiary or spouse of a deceased retired Participant, and each disabled Participant receiving retirement income on or before May 1, 1998 shall receive an increase in his monthly benefit equal to six percent of the current benefit.
- (E) Participants who retire after their Normal Retirement Date will receive a monthly benefit that is the great of the accrued benefit earned at the time of their retirement or the Actuarial Equivalent value of their accrued benefit earned at their Normal Retirement Age. However, no Actuarial Equivalent adjustment will be made regarding benefits that are properly suspended due to Participant(s) working after their Normal Retirement Age in accordance with Article X provided the Participant is notified that his benefit will be subject to suspension.

### 3.3 When Paid

- (A) Upon voluntary retirement, an Active Participant who meets the eligibility requirements as set forth in Section 3.1 shall become entitled to Normal Retirement Benefits on the first day of the month following receipt of his application for Normal Retirement Benefits, provided it is approved by the Trustees. A Participant's pension commencement date shall be no later than sixty days after the close of the Plan Year in which the Participant meets the eligibility requirements for a Normal Retirement Benefit. Normal Retirement Benefits shall continue monthly thereafter until the first day of the calendar month succeeding the death of the Participant.
- (B) If an Active Participant meets the eligibility requirements to be entitled to a Normal Retirement Benefit and has not applied for the benefits by the sixtieth day after the close of the Plan Year in which he was eligible, his benefits shall commence immediately, unless the Participant elects otherwise in writing or continues to

perform work resulting in a suspension of benefits under Article X.

3.4 Calculation of Benefit for Terminated Vested Participants

- (A) The provisions of the Plan that are in effect at the time a Participant becomes a Terminated Vested Participant shall apply to any benefit calculation at the time the Participant becomes eligible to receive a Normal or Early Retirement Benefit.
- (B) In the event a Terminated Vested Participant subsequently returns to Covered Service, the Plan provisions in effect after the Terminated Vested Participant returns to Covered Service shall apply only to Service earned after his return to Covered Service and for the purpose of calculating any benefit, the accrued benefit earned prior to the Participant becoming a Terminated Vested Participant shall be added to the accrued benefit earned after his return to Covered Service.

## **ARTICLE IV: EARLY RETIREMENT BENEFITS**

### **4.1 Eligibility for Early Retirement Benefits**

- (A) An Active Participant who has completely retired from Covered Service employment with all Employers within the jurisdiction of this Fund shall be eligible for an Early Retirement Benefit so long as the following requirements are met:
  - (1) The Participant is at least age fifty five and under age sixty one;
  - (2) The Active Participant has earned one Hour of Service after May 1, 1997 and shall have at least five Years of Service either as a Collectively or Non-Collectively Bargained Employee; and
  - (3) The Active Participant has elected and applied for an Early Retirement Benefit on a form prescribed by the Trustees and the Trustees shall have approved the application.

### **4.2 Form of Benefit**

- (A) Unless the Active Participant elects otherwise or has no surviving Spouse, the Early Retirement Benefit will be paid as a Qualified Joint and 50% Survivor Benefit as provided in Article VI.

### **4.3 Amount of Early Retirement Benefit**

- (A) Effective May 1, 1997, the Early Retirement Benefit shall be the Active Participant's Normal Retirement Benefit as provided in Section 3.2, reduced by three percent for each year or a partial year by which the Participant is under Normal Retirement Age.
- (B) Effective August 1, 2009, the Early Retirement Benefit shall be an reduced benefit which is the Actuarial Equivalent to the Active Participant's Normal Retirement Benefit as provided in Section 3.2.
- (C) Benefits earned prior to August 1, 2009 are subject to the reduction in Section 4.3(A) above for Participants who were eligible to retire on August 1, 2009, but had not yet done so. Benefits earned on or after August 1, 2009 are subject to the Actuarial Equivalent Reduction.

### **4.4 When Paid**

- (A) Upon voluntary retirement, an Active Participant who meets the eligibility requirements for Early Retirement Benefits as set forth in Section 4.1 shall receive Early Retirement Benefits as of the first day of the month following receipt of his

application for such benefits provided it is approved by the Trustees. Early Retirement Benefits shall continue monthly thereafter until the first day of the calendar month succeeding the death of the Participant.

## **ARTICLE V: TOTAL AND PERMANENT DISABILITY BENEFITS**

Effective September 1, 2013, there shall be no disability benefits provided by this Plan. This Section 5.1 shall not affect participants who are, or have been approved for, and/or are receiving a disability benefit prior to September 1, 2013.

## ARTICLE VI: QUALIFIED JOINT AND 50% or 75% SURVIVOR BENEFITS

### 6.1 Manner of Payment and Right of Election

- (A) The Normal Retirement or Early Retirement Benefits to which a Participant may otherwise be entitled, shall be payable in the form of a Qualified Joint and 50% Survivor Benefit, unless the Participant and his Spouse should elect otherwise. Under this form of payment, a Participant who meets the eligibility requirements as described in Section 6.2 shall be entitled to actuarially reduced monthly income that shall be Actuarially Equivalent to the Normal Retirement or Early Retirement Benefit to which he would have been entitled. Upon the death of the Participant, fifty percent of the monthly income he was receiving shall continue to his surviving Spouse for as long as she lives.
- (B) In lieu of the Qualified Joint and 50% Survivor Benefit, a Participant may elect the Normal Retirement or Early Retirement Benefit form of payment or the Qualified Joint and 75% Survivor Benefit and thereby waive the Qualified Joint and 50% Survivor Benefit.
- (C) In order that each Participant may have an adequate opportunity to make an election, an election period is hereby established. This period shall be no less than thirty and no more than one hundred eighty days before the Participant's pension commencement date. During the election period the Participant shall have the right to receive a written explanation of:
  - (1) The terms and conditions of the Qualified Joint and 50% Survivor Annuity and the relative value of optional forms of benefits.
  - (2) The Participant's right to make an election to waive the Qualified Joint and 50% Survivor Annuity;
  - (3) The right of the Participant's Spouse to consent to any election to waive the Qualified Joint and 50% Survivor Annuity;
  - (4) The right of the Participant to revoke such elections and the effect of such revocation; and
  - (5) Any other explanation required under Section 401(a)(11)(E) or 417(a)(3)(A) of the Internal Revenue Code and any lawful regulations thereunder.
- (D) During the election period, each Participant shall have the right to waive the Qualified Joint and 50% Survivor Benefit and elect to receive a Normal or Early Retirement Benefit or a Qualified Joint and 75% Survivor Benefit.
- (E) Any election made on or after January 1, 1985, to waive the Qualified Joint and

50% Survivor Benefit shall not take effect unless one of the following conditions is satisfied:

- (1) The Spouse of the Participant consents in writing to such election, and the Spouse's consent acknowledges the effect of such election and is witnessed by a Plan representative or a notary public.
  - (2) It is established to the satisfaction of a Plan representative that the consent required under subsection (1) above, may not be obtained because there is no Spouse, because the Spouse cannot be located, or because of such other circumstances as the Secretary of Treasury may by regulations prescribe.
- (F) Any consent by a Spouse, or establishment that the consent of a Spouse may not be obtained, shall be effective only with respect to such Spouse. A Participant may revoke any election previously made, or deemed to be made, under this Article if made prior to commencement of the payment of benefits under the Plan. An election may not be revoked after payment of benefits has commenced.
- (G) The Participant with the proper spousal consent as stated in this section, may elect to waive the thirty day notice requirement and elect to commence benefits under this Plan following more than seven days after the explanation of benefits is provided to them.
- (H) All elections and revocations shall be made on the appropriate form available from the office of the Administrative Manager of the Pension Plan and shall be effective only upon completing, signing and filing of the form with the office of the Administrative Manager. The Administrative Manager shall provide the Participant with notice of the effects of the Qualified Joint and Survivor Benefit.

## 6.2 Eligibility for Qualified Joint and 50% Survivor Benefits

- (A) A Participant who has completely retired from employment with all Employers in the jurisdiction of this Fund shall be eligible for Qualified Joint and 50% Survivor Benefits provided:
- (1) The Participant is eligible for Normal Retirement or Early Retirement Benefits;
  - (2) The Participant has a Spouse on his date of retirement; and
  - (3) The Participant and his Spouse have not waived the automatic Qualified Joint and 50% Survivor Benefit.
- (B) A Participant who satisfies the foregoing eligibility requirements for Qualified Joint and 50% Survivor Benefits but wishes to elect and apply for Normal Retirement Benefits, Early Retirement Benefits or Qualified Joint and 75% Survivor Benefits



may do so prior to the date his Qualified Joint and 50% Survivor Benefits commence. After commencement of his Qualified Joint and 50% Survivor Benefits, his right to elect Normal Retirement Benefits, Early Retirement Benefits or Qualified Joint and 75% Survivor Benefits shall cease.

### 6.3 Description and Amount of Qualified Joint and 50% Survivor Benefits

- (A) The Qualified Joint and 50% Survivor Benefit provides a reduced monthly income that shall be the Actuarial Equivalent to the Normal Retirement Benefits, Early Retirement Benefits or Qualified Joint and 75% Survivor Benefits to which the Participant is otherwise entitled.
- (B) Effective for those Participants who first commence receiving a Qualified Joint and Survivor Form of Benefit on or after May 1, 1998, and thereafter, if as a result of a divorce, a Qualified Domestic Relations Order is issued which provides for the waiver of all spousal benefits, then the amount of the Participant's benefit shall be increased to the amount of the Participant's Normal or Early Retirement Benefit as though the Participant had not previously elected the Qualified Joint and Survivor Form of Benefit. The revised benefit amount will be effective on the first day of the month following the month that the Qualified Domestic Relations Order is approved and will be payable for the Participant's remaining life.
- (C) Effective January 1, 1995, in the event the Spouse should predecease a Participant receiving benefits under this Article, the amount of the Participant's benefit will be increased to the amount of the Participant's Normal or Early Retirement Benefit as though the Participant had not previously elected the Qualified Joint and 50% Survivor Benefit. The revised benefit amount will be effective on either the first day of the month following the death of the Participant's Spouse or the date of notification to the Fund Office of such death and will be payable for the Participant's remaining lifetime. For purposes of this Article, a Participant's surviving Spouse is the person as defined in Section 1.37.
  - (1) For Retirements effective on or after August 1, 2009, the Qualified Joint and 50% Survivor Benefit will be actuarially reduced to be equivalent to a benefit that does not increase upon the death of the Participant's Spouse. Alternatively, the Participant can elect to opt out of this provision.

### 6.4 When Paid

- (A) If a Participant meets the eligibility requirements for Normal Retirement and Qualified Joint and 50% Survivor Benefits and the Participant and his Spouse have not waived the Qualified Joint and 50% Survivor Benefit form, such Participant shall become entitled to Qualified Joint and 50% Survivor Benefit no later than the sixtieth day following the end of the Plan Year in which the Participant becomes eligible for Normal Retirement Benefits.

- (B) If a Participant meets the eligibility requirements for Early Retirement and Qualified Joint and 50% Survivor Benefits and the Participant and his Spouse have not waived the Qualified Joint and 50% Survivor Benefit form, such Participant shall become entitled to a Qualified Joint and 50% Survivor Benefit as of the first day of the month next following receipt of his properly completed application by the Trustees.
- (C) All monthly benefits under this section will continue for the lifetime of the Participant until the first day of the calendar month succeeding the death of the Participant. Fifty percent of such monthly benefits will continue to be made thereafter to the eligible Spouse until the first day of the calendar month succeeding the death of the eligible Spouse.

#### 6.5 Alternative Joint and 75% Survivor Benefit

- (A) In lieu of the Qualified Joint and 50% Survivor Benefit provided for in Section 6.1, a Participant may elect to receive a normal retirement or early retirement benefit in the form of a Qualified Joint and 75% Survivor Benefit. Under this form of payment, a Participant who meets the eligibility requirements as described in Paragraph (D) of this Section shall be entitled to an actuarially reduced monthly benefit that shall be actuarially equivalent to the normal retirement or early retirement benefit to which he would have been entitled. Upon the death of the Participant, 75% of the monthly benefit he was receiving shall continue to be paid to his/her Surviving Spouse as long as the spouse lives.
- (B) In order that each Participant may have an adequate opportunity to make an election, an election period is hereby established. This period shall be no less than thirty and no more than one hundred eighty days before the Participant's pension commencement date. During the election period the Participant shall have the right to receive a written explanation of:
  - (1) The terms and conditions of the Qualified Joint and 75% Survivor Annuity and the relative value of optional forms of benefits.
  - (2) The right of the Participant to revoke such election and the effect of such revocation; and
  - (3) Any other explanation required under Section 401(a)(11)(E) or 417(a)(3)(A) of the Internal Revenue Code and any lawful regulations thereunder.
- (C) During the election period, each Participant shall have the right to waive the Qualified Joint and 75% Survivor Benefit and elect to receive a Qualified Joint and 50% Survivor Benefit or, if waived, a Normal or Early Retirement Benefit.

## 6.6 Eligibility for Qualified Joint and 75% Survivor Benefits

(A) A Participant who has completely retired from employment with all Employers in the jurisdiction of this Fund shall be eligible for a Qualified Joint and 75% Survivor Benefit provided:

- (1) The Participant is eligible for Normal Retirement or Early Retirement Benefits;
- (2) The Participant has a Spouse on his date of retirement;

A Participant who satisfies the foregoing eligibility requirements for Qualified Joint and 75% Survivor Benefits but wishes to elect and apply for Normal Retirement or Early Retirement Benefits may do so prior to the date his Qualified Joint and 75% Survivor Benefits commences; and, provided further, that the Participant and his Spouse have waived the Qualified Joint and 50% Survivor Benefit in accordance with Section 6.1(E) After commencement of his Qualified Joint and 75% Survivor Benefits, his right to elect a Qualified Joint and 50% Survivor Benefit, Normal Retirement or an Early Retirement Benefits shall cease.

## 6.7 Description and Amount of Qualified Joint and 50% Survivor Benefits

- (A) The Qualified Joint and 75% Survivor Benefit provides a reduced monthly income that shall be the Actuarial Equivalent to the Normal Retirement or Early Retirement Benefits to which the Participant is otherwise entitled.
- (B) Effective for those Participants who first commence receiving a Qualified Joint and 75% Survivor Form of Benefit on or after May 1, 2008, and thereafter, if, as a result of a divorce, a Qualified Domestic Relations Order is issued which provides for the waiver of all spousal benefits, then the amount of the Participant's benefit shall be increased to the amount of the Participant's Normal or Early Retirement Benefit as though the Participant had not previously elected the Qualified Joint and 75% Survivor Form of Benefit. The revised benefit amount will be effective on the first day of the month following the month that the Qualified Domestic Relations Order is approved and will be payable for the Participant's remaining life.
- (C) Effective May 1, 2008, in the event the Spouse should predecease a Participant receiving benefits under this Article, the amount of the Participant's benefit will be increased to the amount of the Participant's Normal or Early Retirement Benefit as though the Participant had not previously elected the Qualified Joint and 75% Survivor Benefit. The revised benefit amount will be effective on the first day of the month following the death of the Participant's Spouse and will be payable for the Participant's remaining lifetime. For purposes of this Article, a Participant's surviving Spouse is the person as defined in Section 1.37.

- (1) For Retirements effective on or after August 1, 2009, the Qualified Joint and 50% Survivor Benefit will be actuarially reduced to be equivalent to a benefit that does not increase upon the death of the Participant's Spouse. Alternatively, the Participant can elect to opt out of this provision.

#### 6.8 When Paid

- (A) If a Participant meets the eligibility requirements for a Normal Retirement and Qualified Joint and 75% Survivor Benefits, such Participant shall become entitled to the Qualified Joint and 75% Survivor Benefit no later than the sixtieth day following the end of the Plan Year in which the Participant becomes eligible for Normal Retirement Benefits.
- (B) If a Participant meets the eligibility requirements for Early Retirement and Qualified Joint and 75% Survivor Benefits, such Participant shall become entitled to a Qualified Joint and 75% Survivor Benefit as of the first day of the month next following receipt of his properly executed application by the Trustees.
- (C) All monthly benefits under this section will continue for the lifetime of the Participant until the first day of the calendar month succeeding the death of the Participant. Seventy-five percent of such monthly benefits will continue to be made thereafter to the eligible Spouse until the first day of the calendar month succeeding the death of the eligible Spouse.

## **ARTICLE VII: FIVE OR TEN YEAR CERTAIN AND LIFE BENEFIT – OPTIONAL BENEFIT**

### **7.1 Right to Elect the Five or Ten Year Certain and Life Benefit**

- (A) In lieu of the Normal or Early Retirement Benefits otherwise provided under this Plan, a Participant, subject to the spousal consent under Section 6.1, shall have the right to elect that his Retirement Benefits shall be payable in an actuarially reduced amount for the remainder of the Participant's life, with a certain period of sixty or one hundred twenty monthly payments.

### **7.2 Eligibility for the Five or Ten Year Certain and Life Benefit**

- (A) A Participant will be eligible to have a right to elect the Five or Ten Year Certain and Life Benefit provided:
  - (1) The Participant has completely retired from employment with all Employers within the jurisdiction of this Fund;
  - (2) The Participant would be eligible for Normal or Early Retirement Benefits; and
  - (3) The Participant has elected and applied for a Five or Ten Year Certain and Life Benefit on a form prescribed by the Trustees, and the Trustees have approved the application.

### **7.3 Amount and Duration of the Five or Ten Year Certain and Life Benefit**

- (A) A Participant electing the Five or Ten Year Certain and Life Benefit shall, after retirement, be paid a reduced monthly income that shall be the Actuarial Equivalent to the Normal or Early Retirement Benefit to which the Participant is otherwise entitled.
- (B) A Participant who meets the eligibility requirements for a Five or Ten Year Certain and Life Benefit and has selected the same on an application approved by the Trustees, shall become entitled to the Five or Ten Year Certain and Life Benefits as of the first day of the month next following receipt of his application by the Trustees.

### **7.4 When Paid**

- (A) This option provides a monthly retirement income to the Participant as long as he lives. If the Participant dies after the date retirement income begins but before he has received payments for sixty or one hundred twenty months, the remaining payments for the balance of the certain period shall be paid, as due, to his named Beneficiary or, if no Beneficiary has been designated or is alive at the Participant's

death, then in accordance with Section 8.6. If a Beneficiary is receiving benefits but dies before sixty or one hundred twenty monthly payments are made, the balance of the unpaid monthly payments shall be paid to the Beneficiary's estate.

## **ARTICLE VIII: DEATH BENEFITS**

### **8.1 Pre-Retirement Death Benefits**

- (A) A Qualified Pre-Retirement Survivor Benefit shall be payable with respect to a Vested Participant who meets all of the following conditions:
  - (1) Immediately prior to his death, the Vested Participant had a nonforfeitable right to his accrued benefit derived from Employer Contributions.
  - (2) The Vested Participant died before age fifty five.
  - (3) The Vested Participant is survived by a Spouse who qualifies for a receipt of a Qualified Pre-Retirement Survivor Benefit.
- (B) The Qualified Pre-Retirement Survivor Benefit is equal to the benefit that would have been paid to such Spouse under the following circumstances:
  - (1) The Vested Participant terminated employment on the date of his death.
  - (2) The Vested Participant survived to the first day of the month after his attainment of age fifty five.
  - (3) Payments under the Qualified Joint and 50% Survivor Benefit form commenced to the Vested Participant on the first day of the month after his attainment of age 55, and he died on the next day.
- (C) Effective August 1, 2009, this Qualified Pre-Retirement Survivor Benefit commences on the date the Participant would have reached Early Retirement Age and continues for the remaining lifetime of the surviving Spouse.
- (D) An Early Survivor Benefit or a Qualified Pre-Retirement Survivor Benefit shall be provided to a Vested Participant's Spouse only if the Vested Participant has been married to that Spouse throughout the one year period ending on the date of the Vested Participant's death.

### **8.2 When Paid**

- (A) The Spouse of a deceased Vested Participant who meets the eligibility requirements under Section 8.1(A) shall have a pension commencement date of the first day of the calendar month following the Participant's Early Retirement Age. The monthly benefits will continue for the lifetime of the Spouse until the first day of the calendar month succeeding the death of the Spouse.

### 8.3 Election to Defer Commencement of Payment

- (A) Prior to the commencement of payments under Section 8.2(A), the Spouse may elect to defer the commencement of payments to the first day of any month no later than the first day of the month in which the Participant would have Normal Retirement Age. In the event of such deferral, payments shall be made only if the Spouse survives to the commencement date elected and shall then be paid in equal monthly installments for as long as the Spouse lives. The payments shall be the Actuarial Equivalent of the payments that would have been made in the absence of an election to defer. Elections under this Section shall be made on the appropriate form available from the office of the Administrative Manager and shall be effective only upon completion, execution and filing of the form with the office of the Administrative Manager.

### 8.4 Notice Requirements

- (A) In the case of a qualified preretirement survivor annuity as described above, the plan administrator shall provide each participant within the applicable period for such participant, a written explanation of the qualified preretirement survivor annuity in such terms and in such a manner as would be comparable to the explanation provided for meeting the requirements of section 6.1 applicable to a qualified joint and survivor annuity.
- (B) The applicable period for a participant is whichever of the following periods ends last:
  - (1) the period beginning with the first day of the plan year in which the participant attains age 32 and ending with the close of the plan year preceding the plan year in which the participant attains age 35;
  - (2) a reasonable period ending after the individual becomes a participant;
  - (3) a reasonable period ending after Paragraph (F), below, ceases to apply to the participant;
  - (4) a reasonable period ending after this article first applies to the participant.
- (C) Notwithstanding the foregoing, notice must be provided within a reasonable period ending after separation of service in case of a participant who separates from service before attaining age 35.
- (D) For purposes of 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.
- (E) In the case of a participant who separates from service before the plan year in



which age 35 is attained, notice shall be provided within the two year period beginning one year prior to separation and ending one year after separation. If such a participant thereafter returns to employment with the employer, the applicable period for such participant shall be redetermined.

- (F) Notwithstanding the other requirements of this section, the respective notices prescribed by this section need not be given to a participant if (1) the plan "fully subsidizes" the costs of a qualified joint and survivor annuity or qualified preretirement survivor annuity, and (2) the plan does not allow the participant to waive the qualified joint and survivor annuity or qualified preretirement survivor annuity and does not allow a married participant to designate a nonspouse beneficiary.

- (1) For purposes of this Paragraph (F), a plan fully subsidizes the costs of a benefit if under the plan no increase in cost or decrease in benefits to the participant may result from the participant's failure to elect another benefit. Prior to the time the plan allows the participant to waive the qualified preretirement 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.

#### 8.5 Post-Retirement Death Benefit

- (A) If a Vested Participant who is receiving Normal, Early, or Vested Retirement Benefits, and who has waived the Qualified Joint and 50% Survivor Benefit, dies prior to receiving a total of sixty monthly payments, then the Vested Participant's Beneficiary or Beneficiaries shall be eligible to receive a continuation of the deceased Vested Participant's Retirement Benefit for the remaining balance of the sixty months.

- (1) Effective for retirements on or after August 1, 2009, there shall be no Post-Retirement Death Benefits provided by the Plan.

- (B) In the event death benefits are being paid in accordance with this Section and the Beneficiary dies, any remaining monthly payments will be paid to the legal representative of the Beneficiary's estate.

#### 8.6 Designation of Beneficiary

- (A) The Spouse at the time of death of a married Participant is his Beneficiary.

#### 8.7 No Beneficiary Designation

- (A) When a Participant dies without designating a Beneficiary, the Death Benefit shall be paid to such Participant's legal Spouse, if any.

## ARTICLE IX: VESTING

### 9.1 Vesting

- (A) An Inactive Participant who has not attained his Normal or Early Retirement age shall be vested as follows:
- (1) As a Non-Collectively Bargained Employee, the Terminated Vested Participant has earned at least five Years of Service with at least one Hour of Service on or after May 1, 1989 and has completely retired from Covered Service employment with all Employers within the jurisdiction of this Fund.
  - (2) As a Collectively Bargained Employee, the Terminated Vested Participant has earned at least five Years of Service with at least one Hour of Service on or after May 1, 1997, and has completely retired from Covered Service employment with all Employers within the jurisdiction of this Fund.
- (B) For an Active Participant:
- (1) With at least one Hour of Service on or after May 1, 1997;
  - (2) Who attains vesting credit through Service;
  - (3) For work performed under Collective Bargaining Agreement(s); and
  - (4) Who becomes a Terminated Vested Participant after earning five or more Years of Service

shall be one hundred percent vested in his accrued benefit and will become eligible for a Normal or Early Retirement Benefit at such time as he reaches Normal or Early Retirement Age, as defined by the Plan provision in effect at the time he was first considered to be a Terminated Vested Participant. The Vested Benefit shall not extend to the Total and Permanent Disability Benefit.

- (C) In any event, any Participant who reaches his Normal Retirement Age prior to termination of employment shall be one hundred percent vested.

### 9.2 When a Participant Returns to Work

- (A) In the event a Terminated Vested Participant who is one hundred percent vested returns to Covered Employment with an Employer before benefit payments commence, then additional Service will be credited on his behalf from the date he returns to employment and Employer contributions are again made on his behalf.

### 9.3 Greater Benefit Prevails

- (A) The greater benefit prevails if a Participant under the restated Plan was a Participant as of May 1, 1988, and was entitled to a termination benefit under the Original Plan as defined therein. In the event that the amount of the benefit to which he would have been entitled under the vesting schedule and form of payment as in effect under the original Plan of May 1, 1988, would be greater than the amount to which he is entitled pursuant to the provisions of this Article, he shall be entitled to receive the greater amount.

## ARTICLE X: SUSPENSION OF RETIREMENT BENEFITS

### 10.1 Suspension of Retirement Benefits

- (A) Retirement Benefits shall be suspended for Participants receiving any of the following forms of payment at such time as all of the conditions set forth in Sections 10.2, 10.3, 10.4, and 10.5 are met:
  - (1) Normal Retirement Benefits
  - (2) Early Retirement Benefits
  - (3) Qualified Joint and 50% or 75% Survivor Benefits
  - (4) Ten Year Certain and Life Benefits
- (B) For purposes of this Article, "reemployment" shall be as defined as to include self-employment.

### 10.2 Before Normal Retirement Age

- (A) If the Participant has not attained Normal Retirement Age, his monthly benefit shall be suspended for any four or five week payroll period which falls within a calendar month in which he worked or was paid for at least forty hours in disqualifying employment. Disqualifying employment means employment or self employment that is:
  - (1) In the same industry covered by the Plan when the Participant's pension payment began, as defined under Section 10.5; and
  - (2) In the same trade or craft covered by the Plan at the time the Participant's pension payment began, as defined under Section 10.6; and
  - (3) In the same geographic area covered by the Plan when the Participant's pension payment began, as defined under Section 10.7.
- (B) Exceptions To Disqualifying Employment:
  - (1) Notwithstanding any other provision in Article X, the term "Disqualifying Employment" does not include the following:
    - (a) Working sixty hours or less per month for the Sheet Metal Workers' International Association for a Local Union affiliated with the International Association or for a joint apprenticeship training committee that is sponsored by, or affiliated with, a Local Union that is an affiliate of the International Association.

- (b) Working sixty hours or less per month for a signatory Akron District Contractor or a signatory Parkersburg District Contractor if the participant is performing supervisory and/or estimating duties. These duties must be performed primarily in an office setting and such employment must not cause the lay-off or displacement of any active journeyman and/or apprentice that is a member of a Local Union affiliated with the International Association.
- (C) The Trustees of the Sheet Metal Workers' Local Pension Fund shall have and retain authority to make any final rulings as to whether or not a participant is engaged in disqualifying re-employment. Any such ruling is subject to review in accordance with the Claims and Appeals Procedure adopted by the Trustees.

### 10.3 After Normal Retirement Age

- (A) If the Participant has attained Normal Retirement Age, his monthly benefit shall be suspended for any four or five week payroll period which falls within a calendar month in which he worked or was paid for at least forty hours in Disqualifying Employment. Disqualifying Employment means employment or self employment that is:
  - (1) In the same industry covered by the Plan when the Participant's pension payment began, as defined under Section 10.5; and
  - (2) In the same trade or craft covered by the Plan at the time the Participant's pension payment began, as defined under Section 10.6; and
  - (3) In the same geographic area covered by the Plan when the Participant's pension payment began, as defined under Section 10.7.

### 10.4 Forty Hour Rule

- (A) The retiree is reemployed for forty or more hours during any four or five-week payroll period which falls within a calendar month.

### 10.5 Same Industry

- (A) The retiree is reemployed in the "same industry," which shall be defined as returning to work in the same type of business activity (or activities) as that engaged in by any Employer who maintained the Plan at the time the retiree first received his pension benefit (or would have received a pension benefit had he not remained in or returned to employment).

### 10.6 Same Trade or Craft

- (A) The retiree is reemployed in the "same trade or craft," which shall be defined as

returning to work in a trade or craft in which he was employed at any time under the Plan and shall include any supervisory or managerial activity that is reasonably related to the underlying skills associated with the trade or craft for which the retiree was trained or in which he acquired his work experience.

#### 10.7 Geographic Area

- (A) The retiree is reemployed in the "same geographic area," which shall be defined as the States of Ohio and West Virginia and portions of those states located as a part of a Standard Metropolitan Statistical Area, as defined by the U.S. Census Bureau.

#### 10.8 Notification and Presumption

- (A) A retiree shall be required to notify the Fund Office at such time as he becomes reemployed as defined under the conditions set forth in Section 10.2 or 10.3. In the event a retiree fails to comply with the Plan's notification requirements and the Trustees discover the retiree has become reemployed as provided in Section 10.2 or 10.3, the Trustees may act on the basis of a presumption that the retiree has exceeded the hours of reemployment allowable under Section 10.2 or 10.3. Upon said discovery, the retiree's benefit shall be immediately suspended and the retiree will be notified accordingly. The Trustees shall have the right to apply the suspension retroactively to the initiation of work by the retiree's employer at the job site. The Trustees may request information from the retiree concerning his reemployment activity, including tax withholding statements in any given period related to the suspected reemployment and other reasonable information for the purpose of verifying such employment.
- (B) Upon application of the Presumption Rule, the retiree shall be given the opportunity to come forward at a Suspension Review Proceeding and demonstrate that, in fact, he did not work the minimum number of hours of relevant service for the period for which the benefits were suspended.

#### 10.9 Notification Requirement for Resumption of Benefits

- (A) A retiree shall request resumption of his benefits at such time as he no longer meets the conditions of Sections 10.2 or 10.3 of this Article by submitting his request for resumption of his benefits on an appropriate form as approved and provided by the Board of Trustees.

#### 10.10 Reinstatement of Retirement Benefits

- (A) Subject to Section 10.12, upon a retiree's termination of the employment which resulted in the suspension of his Retirement Benefits, provided the retiree gives notice as required under Section 10.9, those Retirement Benefits shall be resumed on the first day of the calendar month following the receipt of notice required under Section 10.9 as follows:

- (1) Normal Retirement Benefits:
  - (a) If a retiree was receiving Normal Retirement Benefits at the time of the suspension of his benefits, the reinstated benefit shall be in the amount the retiree was receiving prior to the suspension of benefits.
- (2) Early Retirement Benefits
  - (a) If a retiree was receiving Early Retirement Benefits at the time of the suspension of his benefits, the reinstated benefit shall be in the amount the retiree was receiving prior to the suspension of benefits, plus any amount realized for service prior to his Normal Retirement Age resulting from such reemployment.
- (3) Optional Benefit Forms
  - (a) If a retiree was receiving an optional form of benefit, the reinstated benefit shall be in the amount as determined under the applicable type of retirement benefit the retiree was receiving prior to the suspension of benefits.

#### 10.11 Advance Determination

- (A) A retiree shall have the right to request that an advance determination be made as to the effect of his reemployment on his retirement benefit. Should the retiree desire that this determination be made, he must submit his request to the Fund office on an appropriate form approved and provided by the Board of Trustees and in accordance with procedures established by the Board of Trustees.

#### 10.12 Recovery of Overpayments – Offset Rule

- (A) In the event benefit payments have been issued to a retiree for a period during which his benefit should have been suspended, the retiree shall be liable for the full amount of any overpayment(s). The manner and the amount of the recovery of the overpayment(s) shall be provided to the retiree in the Suspension Notice furnished to him at such time as his benefit is suspended.
- (B) The procedure for the recovery of overpayment(s) shall be in accordance with the following Offset Rule:
  - (1) The Board of Trustees may delay the resumption of payment of the retiree's full retirement benefit until the earlier of the recovery of the overpayment(s) or the first day of the third calendar month (or four or five-week payroll period) after the retiree is entitled to the resumption of his benefit.
  - (2) If the Trustees have not recovered the full amount of any overpayment(s) by

(1) above, the Trustees may deduct up to twenty-five percent of the retiree's subsequent benefit payment each month until the overpayment(s) are completely recovered.

#### 10.13 Individuals Over Age 70½

- (A) If Article X applies to an individual Participant who retires after age 70½ , the Participant's benefit shall only be suspended pursuant to Article X to the extent his/her monthly pension benefit exceeds the monthly required minimum distribution amount required pursuant to I.R.C. Code Section 401(a)(9) and regulations promulgated thereunder.



## ARTICLE XI: QUALIFIED DOMESTIC RELATIONS ORDER

### 11.1 Qualified Domestic Relations Order

- (A) A Qualified Domestic Relations Order shall include any Domestic Relations Order which creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to, receive all or a portion of the benefits payable with respect to a Participant or former Participant, which clearly specifies:
  - (1) the name and the last known mailing address and dates of birth of the Participant or former Participant, and each alternate payee covered by the Order;
  - (2) the amount or percentage of the Participant's or former Participant's benefits to be paid by the Plan to each such alternate payee, or the manner in which such amount or percentage is to be determined.
  - (3) the number of payments or period to which such order applies; and
  - (4) each Plan to which such order applies.
- (B) In addition, a Domestic Relations Order will be considered a Qualified Domestic Relations Order only if such order:
  - (1) does not require the Plan to provide any type or form of benefit, or any option, not otherwise provided under the Plan
  - (2) does not require the Plan to provide increased benefits (determined on the basis of actuarial value); and
  - (3) does not require the payment of benefits to an Alternate Payee which are required to be paid to another alternate payee under another Domestic Relations Order previously determined to be a Qualified Domestic Relations Order.
- (C) Time and Order of Issuance of Domestic Relations Orders.
  - (1) A domestic relations order otherwise meeting ERISA's requirements to be a QDRO shall not fail to be treated as a QDRO solely because the order is issued after or revises another domestic relations order or QDRO.
  - (2) A domestic relations order otherwise meeting ERISA's requirements to be a QDRO shall not fail to be treated as a QDRO solely because of the time at which it is issued.
  - (3) Any domestic relations order described in Paragraphs (A) and (B) above

shall be subject to the same requirements and protections that apply to all QDROs under Section 206(d)(3) of ERISA.

#### 11.2 Alternate Payee

- (A) An "Alternate Payee" shall include any Spouse, former Spouse, child or other dependent of a Participant or former Participant who is recognized by a Domestic Relations Order as having a right to receive all, or a portion of, the benefits payable under the Plan with respect to such Participant or former Participant.

#### 11.3 Spendthrift Exception for Qualified Domestic Relations Order

- (A) The creation, assignment or recognition of a right to any benefit payable with respect to a Participant pursuant to a Qualified Domestic Relations Order shall not be treated as an assignment or alienation prohibited by ERISA. This exception to the Spendthrift Provisions shall apply only to Qualified Domestic Relations Orders and shall not be applicable to those which have been determined not to be a Qualified Domestic Relations Order.

#### 11.4 Procedures for Notice and Determination by Plan Administrative Manager

- (A) The procedures established by the Board of Trustees for the determination of the qualified status of Domestic Relations Orders and notification to the payees shall be those set forth in the Resolution to the Plan, as adopted by the Board of Trustees on January 1, 1985. A copy of such resolution shall be provided to a Participant or Alternate Payee upon request.

## **ARTICLE XII: ADMINISTRATION OF THE PLAN**

### **12.1 Responsibility for Administration**

- (A) The Pension Plan shall be administered by the Trustees, who are Fiduciaries under this Plan, in accordance with the powers granted to them by the Trust Agreement. A named Fiduciary may employ one or more persons to render advice with regard to any responsibility such Fiduciary has under the Plan. The Trustees shall make such rules and prescribe such procedures for administration of the Plan as they shall deem necessary and responsible. The decisions of the Trustees in all matters pertaining to the administration of the Plan shall be final.
- (B) The Trustees may appoint an investment manager or managers, as defined in Section 3(38) of ERISA to control or manage any assets of the Plan.

### **12.2 Fiduciary Duties**

- (A) A Fiduciary shall discharge his duties with respect to this Pension Plan solely in the interest of the Participants and Beneficiaries for the exclusive purpose of:
  - (1) providing benefits to Participants and Beneficiaries, and
  - (2) defraying reasonable expenses of administering the Plan.
- (B) Fiduciaries shall discharge their duty with respect to the Plan with care, skill, prudence, and diligence under the circumstances prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.
- (C) The Fiduciaries shall diversify the investments of the Plan so as to minimize the risk of large losses. The Fiduciaries shall discharge their duties in accordance with the documents and instruments governing the Plan.

### **12.3 Limitation on Rights to Benefits**

- (A) No Participant, former Participant, retired Participant, Beneficiary or any person claiming by or through any such person, shall have any right, interest or title to any benefits under the Trust Agreement, the Pension Plan or the Trust Fund, except as such right, interest or title shall have been specifically granted pursuant to the terms of said Pension Plan.

### **12.4 Benefits Limited by Pension Plan**

- (A) All benefits under the Pension Plan shall be paid by the Trustees or an agent under the Trustees acting on their authority. Notwithstanding any other provisions of this Plan, no benefits will be paid except those which can be provided under the Plan

unless otherwise required by law.

#### 12.5 Assignment of Benefits

- (A) Except as otherwise expressly permitted by the Plan or required by law, including a Qualified Domestic Relations Order as defined in Section 1.31, and administered in accordance with Article XI, no money, property, equity or interest of any nature whatsoever in the Trust Fund, group annuity or other contract, or any benefits or moneys payable therefrom shall be subject to sale, transfer, assignment, encumbrance or other anticipation, nor to seizure or sale under any legal, equitable or other process. In the event that any claim or benefit shall, because of any debt incurred by or resulting from any other claim or liability against any Participant or Beneficiary, or by reason of any sale, assignment, transfer, encumbrance, anticipation or other disposition made or attempted by said Participant or Beneficiary, by reason of any seizure or sale or attempted sale under any legal, equitable or other process, or in any suit or proceeding become payable, or be liable to become payable to any person other than the Participant or Beneficiary for whom the same is intended, as provided herein, and in any pension plan established hereunder, the Trustees shall have power to withhold payment of such claim or benefit to such Participant or Beneficiary until such assignment, transfer, encumbrance, anticipation or other disposition, writ or legal process is canceled or withdrawn, and the Trustees shall have the right to use and apply the benefit as the Trustees may seem best, directly for the support and maintenance of such Participant or Beneficiary.

#### 12.6 Forfeitures

- (A) Notwithstanding any other provisions of this Plan, any amounts that might be forfeited by a Participant or former Participant shall not be used to increase the benefits of any other remaining Participants.

#### 12.7 Small Benefits

- (A) The Trustees may make arrangements for the payment of small monthly Retirement Benefits in less frequent payments of larger amounts.
- (B) Notwithstanding any other provisions of this Plan to the contrary, if the Actuarial Equivalent of any monthly benefit payable under the Plan does not exceed Five Thousand Dollars, the Actuarial Equivalent of such benefit may, at the discretion of the Board of Trustees, be distributed to the payee in a lump-sum in lieu of any other benefits provided by the Plan. However, effective March 28, 2005, any mandatory or involuntary lump-sum distributions in an amount in excess of \$1,000, but less than \$5,000, shall only be made in the form of an automatic rollover IRA, as provided for by the Plan. Lump-sum distributions of an amount less than \$1,000 may still be made in a lump-sum form made directly to the Participant. Provided further, the interest of an alternate payee pursuant to a Qualified Domestic Relations

Order shall not be considered in determining whether or not a Participant shall be eligible for a lump-sum distribution.

#### 12.8 Incapacity

- (A) In the event the Board of Trustees determines that a Participant, retired Participant or any other payee is mentally or physically unable to give a valid receipt for any benefit due him under the Plan, such payment may, unless claim shall have been made therefore by a legally appointed guardian, committee or other legal representative, be paid to any person or institution then in the judgment of the Trustees providing for the care and maintenance of such Participant, retired Participant or payee. Any such payment shall be considered a payment for the account of the Participant, retired Participant or payee and shall be a complete discharge of any liability of the Plan or the Trustees therefore.

#### 12.9 Death Benefit Payable to Minors

- (A) Any Death Benefit payable to minor children may be paid, at the discretion of the Board of Trustees, to the legally appointed guardian of the minor, or if there be no such guardian, to such adults as the Court having legal jurisdiction directs.

#### 12.10 Information Required

- (A) The Trustees shall have the right to require on forms prescribed by the Trustees, as a condition precedent to the payment of any benefit under the Plan, all information which they reasonably deem necessary, including, but not limited to, records of employment, proof of dates of birth and death, and evidence of existence and no benefit dependent in any way upon information shall be payable unless and until such information so required be furnished. Such evidence shall be furnished by the Union, Employers, Participants, retired Participant and Beneficiaries, as applicable.

#### 12.11 No Reversion for Employees

- (A) The Employers shall have no right, title or interest in the contributions made by them to the Pension Fund and no part of the Pension Fund shall revert to the Employers.

#### 12.12 Duplication of Benefits

- (A) A Participant may receive a pension benefit as a Spouse of a deceased Participant.

#### 12.13 Gender

- (A) The masculine gender as stated herein shall include the feminine gender, wherever applicable.

#### 12.14 Commencement of Benefits and Method of Payment

- (A) Effective May 1, 1997, the commencement date for pension payments shall be in accordance with the appropriate Plan provision as stated in Articles III through IX. A Participant's benefits shall be distributed to him not later than April 1<sup>st</sup> of the calendar year following the later of:
  - (1) the calendar year in which the Participant attains age seventy and one-half; or
  - (2) the calendar year in which the Participant ceases to be employed in Covered Employment where contributions are being paid to the Plan on his behalf.
- (B) However, this subsection shall not apply in the case of a Participant who is or was a five percent owner at any time during his participation in the Plan. A five percent owner shall commence his benefits under Section 12.14(A)(1) above.
- (C) Unless the mode of distribution is a single sum payment, distributions will be made each year in one of the following ways:
  - (1) over the life of the Participant,
  - (2) over the life of the Participant and a designated Beneficiary,
  - (3) over a period certain not to extend beyond the life expectancy of the Participant, or
  - (4) over a period certain not to extend beyond the joint life and last survivor expectancy of the Participant and a designated Beneficiary.
- (D) If a distribution is considered to have commenced in accordance with the Internal Revenue Service Regulations (IRS Regulations) before the Participant's death, the remaining interest will be distributed at least as rapidly as under the method of distribution being used as of the date of the Participant's death.
- (E) If the Participant dies before the time when distribution is considered to have commenced in accordance with the IRS Regulations, the following requirements shall be satisfied:
  - (1) any remaining portion of the Participant's interest that is not payable to a Beneficiary designated by the Participant will be distributed within five years after the Participant's death; and
  - (2) any portion of the Participant's interest that is payable to a beneficiary designated by the Participant will be distributed either

- (a) within five years after the Participant's death, or
  - (b) over the life of the Beneficiary or over a period certain not to extend beyond the life expectancy of the Beneficiary, commencing no later than the end of the calendar year following the calendar year in which the Participant died (or, if the designated Beneficiary is the Participant's surviving spouse, commencing no later than the end of the calendar year following the calendar year in which the Participant would have attained age 70 1/2).
- (F) All distributions required under this section will be determined and made in accordance with Section 401(a)(9) of the Internal Revenue Code, including any regulations issued thereunder.

#### 12.15 Minimum Distribution Requirements

- (A) Any benefit provided under this Plan shall be subject to the requirements of Code section 401(a)(9) and any regulations, revenue rulings, notices and other guidance either promulgated by the Secretary of the Treasury or published in the Internal Revenue Bulletins. The requirements of Section 401(a)(9) of the Internal Revenue Code of 1986 are incorporated by reference, including Code section 401(a)(9)(G) and regulation sections 1.401(a)(9)-2 to 1.401(a)(9)-9. These provisions override any distribution options in the Plan inconsistent with Code section 401(a)(9).

#### 12.16 Retroactive Annuity Starting Dates

- (A) To the extent payment of a pension benefit is commenced after the normal annuity starting date (i.e. the 1<sup>st</sup> day of the month following receipt of the Participant's complete retirement application) the Plan shall pay the retroactive monthly payments along with interest in an amount equivalent to the Actuarial Equivalent interest rate set forth in Section 1.4. Such payments shall be made in lump-sum form.

#### 12.17 Freezing Benefits Upon Becoming Terminated Vested Participant

- (A) Except as provided otherwise in this Plan, the pension benefit to which a Participant is entitled shall be determined by the terms in effect in the Plan at the time the Participant becomes a Terminated Vested Participant.

#### 12.18 Rollovers

- (A) The Plan Administrative Manager shall provide a written explanation to all recipients of distributions under the Plan considered to be eligible for rollover treatment. The explanation shall include a notice which states (1) the distribution shall not be currently taxed to the extent transferred to another qualified Plan or

individual retirement account within sixty days after the date on which the recipient receives the distribution and (2) the ten-year income averaging and capital gains provisions, if applicable.

(B) Effective January 1, 1993, the following applies to distributions involving direct rollovers:

(1) Notwithstanding any provision of the Plan to the contrary that would otherwise limit a Participant's election under this part, a Participant may elect, at the time and in the manner prescribed by the Plan Administrative Manager, to have any portion of an eligible rollover distribution that is equal to at least Five Hundred Dollars paid directly to an eligible retirement Plan specified by the Participant in a direct rollover.

(C) Eligible Rollover Distribution

(1) An eligible rollover distribution means any distribution to an Employee or spousal distribute of all or any portion of the balance to the credit of the employee in a qualified plan. Thus, any amount distributed to an Employee or spousal distribute from a qualified plan is an eligible rollover distribution, regardless of whether it is a distribution of a benefit that is protected under section 411(d)(6).

(2) However, an eligible rollover distribution does not include the following:

(a) Any distribution that is one of a series of substantially equal periodic payments made (not less frequently than annually) over any one of the following periods

(i) The life of the employee (or the joint lives of the employee and the employee's designated beneficiary);

(ii) The life expectancy of the employee (or the joint life and last survivor expectancy of the employee and the employee's designated beneficiary); or

(iii) A specified period of ten years or more;

(b) Any distribution to the extent the distribution is a required minimum distribution under section 401(a)(9);

(c) Any distribution which is made upon hardship of the employee;

(d) The portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation described in Code section 402(e)(4)). Thus, for example, an eligible rollover distribution does not include the



portion of any distribution that is excludible from gross income under Code section 72 as a return of the employee's investment in the contract (e.g., a return of the employee's after-tax contributions), but does include net unrealized appreciation.

- (i) 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. However, such portion may be transferred only to an individual retirement account or annuity described in Section 401(a) or 403(a) of the Code that agrees to separately account for amounts so transferred, including separately account for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.
- (e) Elective deferrals (as defined in Code section 402(g)(3)) and employee contributions that, pursuant to rules prescribed by the Commissioner in revenue rulings, notices, or other guidance published in the Internal Revenue Bulletin (see Treas. Reg. § 601.601(d)(2)), are returned to the employee (together with the income allocable thereto) in order to comply with the Code section 415 limitations.
- (f) Corrective distributions of excess deferrals as described in Treas. Reg. § 1.402(g)-1(e)(3), together with the income allocable to these corrective distributions.
- (g) Corrective distributions of excess contributions under a qualified cash or deferred arrangement described in Treas. Reg. § 1.401(k)-1(f)(4) and excess aggregate contributions described in Treas. Reg. § 1.401(m)-2(b)(2), together with the income allocable to these distributions.
- (h) Loans that are treated as deemed distributions pursuant to Code section 72(p).
- (i) Dividends paid on employer securities as described in Code section 404(k).
- (j) The costs of life insurance coverage (P.S. 58 costs).
- (k) Prohibited allocations that are treated as deemed distributions pursuant to Code section 409(p).

- (l) A distribution that is a permissible withdrawal from an eligible automatic contribution arrangement within the meaning of Code section 414(w).
  - (m) Any similar items designated by the Commissioner in revenue rulings, notices, and other guidance published in the Internal Revenue Bulletin. See Treas. Reg. § 601.601(d)(2)(ii)(b).
- (D) Eligible retirement plan.
  - (1) “Eligible retirement plan” means:
    - (a) an individual retirement account described in Code section 408(a);
    - (b) an individual retirement annuity described in Code section 408(b) (other than an endowment contract);
    - (c) a qualified trust described in Code section 401(a);
    - (d) an annuity plan described in Code section 403(a);
    - (e) an eligible deferred compensation plan described in Code section 457(b) which is maintained by an eligible employer described in Code section 457(e)(1)(A); and
    - (f) an annuity contract described in Code section 403(b).
  - (2) If any portion of an eligible rollover distribution is attributable to payments or distributions from a designated Roth account (as defined in Code section 402A), an eligible retirement plan with respect to such portion shall include only another designated Roth account and a Roth IRA.
  - (3) For taxable years beginning after December 31, 2006, a Participant may elect to transfer employee (after-tax) or Roth elective deferral contributions by means of a direct rollover to a qualified plan or to a 403(b) plan that agrees to account separately for amounts so transferred, including accounting separately for the portion of such distribution which is includible in gross income and the portion of such distribution which is not includible in gross income.
  - (4) For distributions after December 31, 2008, an Eligible Rollover Distribution can be made to a non-spouse Beneficiary’s individual retirement account or individual retirement annuity.
  - (5) Distributee: A distributee includes a Participant or former Participant. In addition, the Participant's or former Employee's surviving Spouse and the Participant's or former Employee's Spouse or former Spouse who is the

alternate payee under a qualified domestic relations order, as defined in section 414(p) of the Code, are distributees with regard to the interest of the Spouse or former Spouse. A non-Spouse beneficiary properly designated by a deceased Participant may establish the individual account under Code Section 408(a) or an individual retirement annuity under Code Section 408(b) known as an “inherited IRA” into all or a portion of a death benefit to which such non-Spouse designated beneficiary is entitled can be transferred in a direct Trustee to Trustee transfer (a direct Rollover).

(E) Direct rollover

- (1) A direct rollover is a payment by the Plan to the eligible retirement Plan specified by the distributee.

(F) Mandatory Withholding

- (1) Any distribution under this Plan which is an eligible rollover distribution which is not in accordance this Section shall be subject to a twenty percent mandatory withholding.

12.19 Limitation of Benefits

- (A) The limitation of benefits as imposed by the Internal Revenue Code are set forth in Article XV.

12.20 Annual Statement to Participants

- (A) The Plan Administrative Manager shall annually furnish Active Participants a statement of employer contributions provided to the Fund on their behalf.

12.21 Modification of Top-Heavy Rules

(A) Effective date

- (1) This section shall apply for purposes of determining whether the plan is a top-heavy plan under section 416(g) of the Code for plan years beginning after December 31, 2001, and whether the plan satisfies the minimum benefits requirements of section 416(c) of the Code for such years.

(B) Determination of top-heavy status

(a) Key employee.

- (i) Key employee means any employee or former employee (including any deceased employee) who at any time during the plan year that includes the determination date was an

officer of the employer having annual compensation greater than \$130,000 (as adjusted under section 416(i)(1) of the Code for plan years beginning after December 31, 2002), a 5-percent owner of the employer, or a 1-percent owner of the employer having annual compensation of more than \$150,000. For this purpose, annual compensation means compensation within the meaning of section 415(c)(3) of the Code. The determination of who is a key employee will be made in accordance with section 416(i)(1) of the Code and the applicable regulations and other guidance of general applicability issued thereunder.

(C) Determination of present values and amounts. This Section shall apply for purposes of determining the present values of accrued benefits and the amounts of account balances of employees as of the determination date.

(1) Distributions during year ending on the determination date. 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 severance from service, death, or disability, this provision shall be applied by substituting "5-year period" for "1-year period."

(2) Employees not performing services during year ending on the determination date. The accrued benefits and accounts of any individual who has not performed services for the employer during the 1-year period ending on the determination date shall not be taken into account.

(D) Minimum benefits

(1) For purposes of satisfying the minimum benefit requirements of section 416(c)(1) of the Code and the plan, in determining years of service with the employer, any service with the employer shall be disregarded to the extent that such service occurs during a plan year when the plan benefits (within the meaning of section 410(b) of the Code) no key employee or former key employee.

(E) Contributions under other plans. If both this Plan and a defined contribution plan maintained by the same Plan sponsor are top-heavy, the Participant will receive the defined benefit minimum.

## 12.22 Annual Actuarial Valuation

- (A) Effective May 1, 2008, pursuant to the Pension Protection Act of 2006 ("PPA"), this Plan will undergo a full actuarial evaluation each Plan Year. If the Plan is in Endangered Status, as defined by the PPA, the Plan will follow the PPA procedures for adopting a Funding Improvement Plan, as defined by the PPA. If the Plan is in Critical Status, as defined by the PPA, the Plan will follow the PPA procedures for adopting a Rehabilitation Plan, as defined by the PPA.

## 12.23 Consequences of Deferral

- (A) Effective May 1, 2007, notices/forms that relate to distributions will include a description of a Participant's right (if any) to defer receipt of a distribution and will describe the consequences of failing to defer receipt of the distribution, pursuant to the Regulations and other guidance provided by the Treasury and/or Labor.

## 12.24 HEART Act Provisions

### (A) Differential Wage Payments

- (1) For Plan Years beginning on or after January 1, 2009, (i) an individual receiving a differential wage payment shall be treated as an employee of the employer making the payment; (ii) the differential wage payment shall be treated as compensation; and (iii) the plan shall not be treated as failing to meet the requirements of any provision described in Code Section 414(u)(1)(C) by reason of any contribution or benefit which is based on the differential wage payment.
- (2) This provision shall be applicable only if all employees of an employer are entitled to receive differential wage payments on reasonably equivalent terms and, if eligible to participate in a retirement plan maintained by the employer, and are so permitted by the plan, to make contributions based on the payments on reasonably equivalent terms.
- (3) Differential Wage Payment means any payment which (i) is made by an employer to an individual with respect to any period during which the individual is performing service in the uniformed services, as defined in chapter 43 of title 38, United States Code, while on active duty for a period of more than 30 days, and (ii) represents all or a portion of the wages the individual would have received from the employer if the individual were performing service for the employer.

### (B) Special Rule for Distributions

- (1) For Plan Years beginning on or after January 1, 2009, for purposes of

Code Sections 401(k)(2)(B)(i)(I), 403(b)(7)(A)(ii), 403(b)(11)(A), or 457(d)(1)(A)(ii), an individual shall be treated as having been severed from employment during any period the individual is performing service in the uniformed services described in Code Section 3401(h)(2)(A).

(C) Death Benefits

- (1) With respect to deaths and disabilities occurring on or after January 1, 2007, in the case of a participant who dies while performing qualified military service, as defined in Code Section 414(u), the survivors of the participant are entitled to any additional benefits, other than benefit accruals relating to the period of qualified military service, provided under the plan had the participant resumed and then terminated employment on account of death.

12.25 Normal Form of Benefit

- (A) The Normal Form of Benefit is a single life annuity.

## **ARTICLE XIII: BENEFIT APPLICATION, ELECTION AND APPEALS PROCEDURES**

### **13.1 Application for Retirement Benefits, Vested Benefits and Death Benefits**

- (A) All applications for benefits under this Plan, whether on account of retirement, vesting or death, and all elections and designations made by Participants and Beneficiaries under this Plan shall be made in writing to the Board of Trustees in the form and manner prescribed by the Trustees.
- (B) The Trustees shall have the right to require submission of all necessary information before any benefit is paid, including records of employment, proofs of date of birth, marriage and death. No benefit dependent in any way upon such information shall be payable unless and until the required information has been furnished. Upon receipt of such information, the Trustees shall determine the eligibility of the applicant for such benefit, and shall notify the applicant of their determination and the amount of any benefit payable. The Trustees shall have full discretionary authority to determine eligibility for benefits or to construe the terms of the Plan and may adopt rules and regulations thereto.
- (C) Timely Submission of Applications for Benefits
  - (1) Participants, Beneficiaries and surviving Spouses shall be able to apply for benefits under the Plan at any time after the date of two years preceding the date such applicant would first become eligible for the benefit, or as otherwise specifically set forth in this Plan. The office of the Administrative Manager of the Plan will send the applicant all proper application forms within thirty days of the receipt of the request to apply for benefits.

### **13.2 Election of Benefits**

- (A) All necessary questions concerning the applicant's election of any particular benefit under the Plan shall be explained in a written explanation provided to the applicant with the application forms including the effect of electing a Qualified Joint and 50% Survivor Benefit and the effect of not so electing.
- (B) All elections and revocations shall be made on the appropriate form available from the office of the Plan and shall be effective only upon completing, signing and filing of the form with the Plan Administrative Manager.

### **13.3 Notification of Approval or Non-approval of Application**

- (A) The Board of Trustees shall make all determinations regarding the validity of the claim. Upon any partial or total adverse benefit determination, the Fund shall deliver or mail a Notice of Denial to the claimant within ninety days of the filing of the claim, except in the case of a disability retirement benefit claim. In the case of a claim for disability retirement benefits, the Administrative Manager shall

notify the claimant of the Plan's adverse benefit determination within a reasonable period of time, but not later than forty-five days after receipt of the claim by the Plan. This forty-five day period may be extended by the Plan for up to thirty days, provided that the Administrative Manager both determines that such an extension is necessary due to matters beyond the control of the Plan and notifies the claimant, prior to the expiration of the initial 45-day period, of the circumstances requiring the extension of time and the date by which the Plan expects to render a decision. If, prior to the end of the first 30-day extension period, the Administrative Manager determines that, due to matters beyond the control of the Plan, a decision cannot be rendered within that extension period, the period for making the determination may be extended for up to an additional thirty days, provided that the Administrative Manager notifies the claimant, prior to the expiration of the first 30-day extension period, of the circumstances requiring the extension and the date as of which the Plan expects to render a decision. In the case of any extension under this paragraph, the notice of extension shall specifically explain the standards on which entitlement to a benefit is based, the unresolved issues that prevent a decision on the claim, and the additional information needed to resolve those issues, and the claimant shall be afforded at least forty-five days within which to provide the specified information.

- (B) The period of time within which a benefit determination is required to be made will begin at the time the claim is filed in accordance with the reasonable procedures of the Plan, without regard to whether all information necessary to make a benefit determination accompanies the filing. If additional information is necessary to make a benefit determination, the period of time for making the benefit determination shall be tolled from the date the notification for additional information is requested until the claimant responds to the request for additional information.
- (C) The notice shall be written in a manner calculated to be understood by the claimant, and shall contain:
  - (1) the specific reason or reasons for the adverse determination;
  - (2) specific reference to pertinent plan provisions on which the determination was based;
  - (3) a description of any additional material or information necessary for the claimant to perfect his claim and an explanation of why such material or information is necessary;
  - (4) 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 following an adverse benefit determination on review;



- (5) in the case of an adverse benefit determination by the Plan regarding disability retirement benefits,
  - (a) If an internal rule, guideline, protocol, or other similar criterion was relied upon in making the adverse determination, either the specific rule, guideline, protocol, or other similar criterion; or a statement that such a rule, guideline, protocol, or other similar criterion was relied upon in making the adverse determination and that a copy of such rule, guideline, protocol, or other criterion will be provided free of charge to the claimant upon request; or
  - (b) If the adverse benefit determination is based on a medical necessity or experimental treatment or similar exclusion or limit, either an explanation of the scientific or clinical judgment for the determination, applying the terms of the Plan to the claimant's medical circumstances, or a statement that such explanation will be provided free to the claimant upon request.
- (D) Except in the case of a disability retirement benefit claim, the claimant or his authorized representative may appeal the decision of the Fund by written notice received by the Board of Trustees within sixty days of the mailing of the notice of an adverse benefit determination. In the case of a disability retirement benefit claim the claimant may appeal the decision within one hundred eighty days of the mailing of the notice of an adverse benefit determination. The written notice only needs to state the claimant's name, address, and the fact that the claimant is appealing from the decision of the Board of Trustees, giving the date of the decision appealed from. The appeal shall be addressed as follows:

Sheet Metal Workers Local Pension Fund  
P.O. Box 368  
Troy, MI 48099-0368
- (E) The Plan shall
  - (1) provide claimants the opportunity to submit written comments, documents, records, and other information relating to the claim for benefits;
  - (2) provide that a claimant shall be provided, upon request and free of charge, reasonable access to, and copies of, all documents, records and other information relevant to his claim for benefits; and
  - (3) provide for a review that takes into account all comments, documents, records, and other information submitted by the claimant relating to the claim, without regard to whether such information was submitted or considered in the initial benefit determination.

- (F) In the case of a disability retirement benefit claim, the Plan shall:
- (1) provide for a review that does not afford deference to the initial adverse benefit determination and that is conducted by an appropriate named fiduciary of the Plan who is neither the individual who made the adverse benefit determination that is the subject of the appeal, nor the subordinate of such individual;
  - (2) provide that, in deciding any appeal of an adverse benefit determination that is based in whole or in part on a medical judgment, including determinations with regard to whether a particular treatment, drug, or other item is experimental, investigational, or not medically necessary or appropriate, the appropriate named fiduciary shall consult with a health care professional who has appropriate training experience in the field of medicine involved in the medical judgment;
  - (3) provide for the identification of medical or vocational experts whose advice was obtained on behalf of the Plan in connection with a claimant's adverse benefit determination, without regard to whether the advice was relied upon in making the benefit determination; and
  - (4) provide that the health care professional engaged for purposes of a consultation under paragraph (F)(2) of this Section shall be an individual who is neither an individual who was consulted in connection with the adverse benefit determination that is the subject of the appeal, nor the subordinate of any such individual.
- (G) Prior to a determination on the appeal, the claimant or his authorized representative may have an opportunity to review necessary and pertinent documents upon which the denial in whole or in part is based and may submit written issues and comments pertinent to the appeal.
- (H) Except in the case of a disability retirement benefit claim, the Board of Trustees shall consider the claimant's appeal of an adverse benefit determination no later than its regular quarterly meeting which immediately follows the receipt of the notice of appeal, unless such notice was filed within thirty days preceding the date of such meeting. If the notice of appeal was received within thirty days prior to the next regular quarterly meeting, the Board of Trustees may consider the appeal at the second regular quarterly meeting following the receipt of the notice of appeal. In the case of a disability retirement benefit claim the Board of Trustees shall consider such an appeal within forty-five days following receipt of the appeal.
- (I) If special circumstances exist regarding a benefit claim, the Board of Trustees may take an extension of time to the next regularly scheduled meeting, to review the claim, provided that the claimant or his representative are given a notice

describing the special circumstances prior to the expiration of the original review period.

- (J) After consideration of the appeal as above, the Board of Trustees shall advise the claimant or his representative of its decision, in writing, within five days following the meeting at which the appeal was considered. The decision of the Board of Trustees shall set forth specific reasons for their conclusions and shall be written in a manner calculated to be understood by the claimant and shall make references to the pertinent Plan provision(s) upon which the decision is based. The decision shall be final and binding upon the claimant unless further appealed as provided in Section (K) below. Notification of an adverse benefit determination, upon appeal, shall contain:

- (1) the specific reasons or reasons for the adverse benefit determination;
- (2) reference to specific Plan provisions on which the determination is based;
- (3) a statement that the claimant is entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records and other information relevant to his claim for benefits;
- (4) a description of the Plan's procedures regarding a hearing before the Board of Trustees and the time limits applicable to such procedures, including a statement of the claimant's right to bring civil action under ERISA Section 502(a) following an adverse benefit determination from the Board of Trustees; and
- (5) the following statement "You and your plan may have other voluntary alternative dispute resolution options, such as mediation. One way to find out what may be available is to contact your local U.S. Department of Labor Office and your state insurance regulatory agency."

- (K) A full hearing before the Board of Trustees shall be held when:

- (1) The Board of Trustees determines, prior to making a decision on appeal, that a hearing is necessary. In such event, the Board of Trustees shall notify, by regular mail, the claimant or his representative of the date, time, and place set for a full hearing on the claimant's appeal. The notification shall be addressed to the claimant as shown on the notice of appeal.
- (2) The claimant or his representative requests a full hearing before the Board of Trustees by written notice within fifteen days after receipt of the Board of Trustees' decision on appeal. The written notice needs to state only the claimant's name, address, and the fact that the claimant is requesting a full hearing before the Board of Trustees, giving the date of the decision of the Board of Trustees.

- (3) In no case shall the date for the hearing set forth in (K)(1) or (K)(2), be set for a time later than the third regular meeting of the Board of Trustees following the receipt of the original notice of appeal. The claimant who had a hearing under (K)(1) shall not be entitled to a hearing under (K)(2).

(L) The Hearing:

- (a) A full written report shall be kept of the proceedings of the hearing.
- (b) In conducting the hearing, the Board of Trustees shall not be bound by the usual common law or statutory rules of evidence.
- (c) The claimant or his attorney shall have the right to review the written record of the hearing, make a copy of it and file objections to it.
- (d) There shall be copies made of all documents and records introduced at the hearing, attached to the record of the hearing, and made a part of it.
- (e) All information upon which the Board of Trustees based its original decision shall be disclosed to the claimant or his representative at the hearing.
- (f) In the event that additional evidence is introduced by the Board of Trustees which was not made available to the claimant prior to the hearing, the claimant shall be granted a continuance of as much time as the claimant desires, not to exceed thirty days.
- (g) The claimant shall be afforded the opportunity of presenting any evidence on his behalf. If you offer new evidence, the hearing may be adjourned for a period of not more than thirty days so the Board of Trustees may, if they wish, investigate the accuracy of the claimant's new evidence or determine whether additional evidence should be introduced.

- (M) After consideration of the appeal after a hearing, the Board of Trustees shall advise the claimant or his representative of its decision in writing within five days following the hearing at which the appeal was considered. The decision of the Board of Trustees shall set forth specific reasons for their conclusion, shall be written in a manner calculated to be understood by the claimant and shall make reference to the pertinent Plan provisions upon which the decision is based. This decision shall be final and binding upon the claimant.

- (N) Effective July 28, 2014, no legal action regarding an applicant's benefit may be commenced or filed against the Board of Trustees or the Plan more than 1 year after the mailing of the Board of Trustees' decision on appeal as specified in Sections 13.3(J) or (M), whichever is later.

## **ARTICLE XIV: FUNDING OF BENEFITS**

### **14.1 Source of Contributions**

- (A) Contributions to the Pension Fund shall be made only by Employers on behalf of Participants. Neither contributions by a Participant nor contributions by an Employer on his own behalf shall be permitted under this Plan.

### **14.2 Investment and Funding Policy**

- (A) An investment policy shall be established with a goal of maintaining sufficient liquidity to assure the timely payments of benefits and the selection of investments, which will produce a long-term rate of return assumed by the Actuary in making his determination of funding requirements. The Board of Trustees may appoint an Investment Manager(s) to provide investment counsel.

### **14.3 Actuarial Valuations and Plan Review**

- (A) The rules, regulations, and benefits provided under the Plan have been adopted by the Board of Trustees on the basis of actuarial estimates which have been established to the extent sufficient to support the Plan on a permanent basis. However, it is recognized that in the future, the income and/or liabilities of the Pension Fund may be substantially different than those previously anticipated. Therefore, at least annually, the Board of Trustees shall have an actuarial valuation of the Pension Fund prepared. Upon the basis of all facts and circumstances, the Board of Trustees may from time to time amend these rules, regulations and benefits provided for thereby, including any increase or decrease in benefit amounts. No such decrease may operate to reduce any accrued vested benefits. Notwithstanding any other Section of the Plan, if the Plan is certified to be in Endangered or Critical status, as those terms are used in Code Section 432, the Plan will be administered according to the requirements of Code Section 432.

## **ARTICLE XV: LIMITATION IMPOSED BY INTERNAL REVENUE SERVICE**

### **15.1 Limitation Year**

- (A) The limitations of this article shall apply in limitation years beginning May 1, 2007, except as otherwise provided herein.

### **15.2 Annual Benefit**

- (A) The Annual Benefit otherwise payable to a participant under the plan at any time shall not exceed the Maximum Permissible Benefit. If the benefit the participant would otherwise accrue in a Limitation Year would produce an Annual Benefit in excess of the Maximum Permissible Benefit, the benefit shall be limited (or the rate of accrual reduced) to a benefit that does not exceed the Maximum Permissible Benefit.

### **15.3 Participation in Other Defined Benefit Plans**

- (A) If the participant is, or has ever been, a participant in another qualified defined benefit plan (without regard to whether the plan has been terminated) maintained by the employer or a predecessor employer, the sum of the participant's Annual Benefits from all such plans may not exceed the Maximum Permissible Benefit. Where the participant's employer-provided benefits under all such defined benefit plans (determined as of the same age) would exceed the Maximum Permissible Benefit applicable at that age.

### **15.4 Accrued Benefit Prior to July 1, 2007**

- (A) The application of the provisions of this article shall not cause the Maximum Permissible Benefit for any participant to be less than the participant's accrued benefit under all the defined benefit plans of the employer or a predecessor employer as of the end of the last Limitation Year beginning before July 1, 2007 under provisions of the plans that were both adopted and in effect before April 5, 2007. The preceding sentence applies only if the provisions of such defined benefit plans that were both adopted and in effect before April 5, 2007 satisfied the applicable requirements of statutory provisions, regulations, and other published guidance relating to § 415 of the Internal Revenue Code in effect as of the end of the last Limitation Year beginning before July 1, 2007, as described in § 1.415(a)-1(g)(4) of the Income Tax Regulations.

### **15.5 Limitations**

- (A) The limits imposed by Code Section 415 are incorporated by reference. There may be no accruals or benefit distributions in excess of the Code Section 415 limitations. No annual benefit exceeding the Code Section 415(b) limitation will be accrued or payable in any optional form of benefit payable under the Plan, including the normal form of benefit. Employer discretion is also precluded.

- (B) Annual adjustments to the Code Section 415 limitations made pursuant to Code Section 415(d) are incorporated by reference.
- (C) The combination and/or aggregation of plans as provided in Code Section 415(f)(1) and 415(g) shall not apply to this Plan in determining the limitations under Code Section 415(b) inasmuch as this Plan is a multi-employer plan as defined in Code Section 414(f).
- (D) For this purpose, annual compensation means compensation within the meaning of section 415(c)(3) of the Code.



## ARTICLE XVI: DISCRIMINATION AND MINIMUM COVERAGE REQUIREMENTS

### 16.1 Compensation Defined

- (A) The term "compensation" means the compensation for the year of the Participant from the Employer reduced by all of the following items (even if includible in gross income); reimbursements or other expense allowances, fringe benefits (cash and noncash), moving expenses, deferred compensation, and welfare benefits.
- (B) For 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 shall not exceed Two Hundred Thousand Dollars. This limitation shall be adjusted by the Secretary at the same time and in the same manner as under Section 415(d) of the Internal Revenue Code, except that the dollar increase in effect on January 1 of any calendar year and the first adjustment to the Two Hundred Thousand Dollars limitation is effective on January 1, 1990.
- (C) For years beginning on or after January 1, 1994, the annual compensation limit of each Participant taken into account for determining all benefits provided under the Plan for any determination period shall not exceed One Hundred Fifty Thousand Dollars, as adjusted for the cost-of-living in accordance with Section 401(a)(17)(B) of the Internal Revenue Code. The cost-of-living adjustment in effect for a calendar year applies to any determination period beginning in such calendar year.
- (D) The Annual Compensation of each Participant taken into account in determining benefit accrual in any Plan Year beginning after December 31, 2001, shall not exceed Two Hundred Thousand Dollars. Annual Compensation means Compensation during the Plan Year or such other consecutive twelve month period over which Compensation is otherwise determined under the Plan (the determination period). The Two Hundred Thousand Dollar 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. In determining benefit accruals in Plan Years beginning after December 31, 2001, the annual Compensation limit, for determination periods beginning before January 1, 2002, shall be Two Hundred Thousand Dollars.

### 16.2 Highly Compensated Employee

- (A) Effective May 1, 1997, the term "Highly Compensated Employee" includes highly compensated active Employees and highly compensated former employees. A Highly Compensated Employee includes any Employee who performs service for the Employer during the determination year and during the look back year who:

- (1) received compensation from the Employer in excess of Eighty Thousand Dollars (as adjusted pursuant to Section 415 (d) of the Internal Revenue Code); and
  - (2) who during the determination year or look back year was a five percent owner at any time during either year.
- (B) If no officer has satisfied the compensation requirement above during either a determination year or look-back-year, the highest paid officer for such year shall be treated as a Highly Compensated Employee.
- (C) For this purpose, the determination year shall be the Plan Year. The look-back-year shall be the twelve-month period immediately preceding the determination year.

16.3 Compliance Internal Revenue Code Section 401(a)(4) and 410(b)

- (A) Only employees identified in Section 1.13, are permitted to participate in this Plan.

16.4 Requirements of the Internal Revenue Code

- (A) This Article is solely for the purpose of complying with the requirements of the Internal Revenue Code and Regulations issued thereunder and shall not be applied except to the extent necessary to comply with such requirements.

## ARTICLE XVII: AMENDMENT AND TERMINATION OF PLAN

### 17.1 Plan Amendments

- (A) Any amendment to this Plan may be made retroactively by the majority action of the Board of Trustees present and voting in order to bring this Plan in compliance with ERISA and any subsequent amendments thereto. It is the desire of the Trustees to maintain this Plan as a qualified Plan and Trust under Sections 401(d) and 501(a) of the United States Internal Revenue Code of 1954, as amended by ERISA and to the extent it is necessary to maintain said qualification the Trustees may amend this Plan retroactively.
- (B) The Trustees who are present and voting may amend this Plan by majority action as evidenced by an instrument in writing executed by the Trustees provided, however:
  - (1) No amendment shall deprive any Participant, retired Participant, former Participant or any Beneficiary of any vested rights to which he is entitled under this Plan;
  - (2) No amendment shall provide for the use of the Trust Fund for any purpose other than for the benefit of the Participants and their Beneficiaries; and
  - (3) No amendment shall cause any funds contributed to this Plan or any assets of the Trust Fund to revert to or be made available to an Employer.

### 17.2 Termination of the Plan

- (A) The Trustees may terminate this Plan at any time as evidenced by an instrument in writing executed by a majority of the Trustees present and voting.

### 17.3 Procedures in Event of Termination

- (A) Standard Termination Procedure
  - (1) The Administrative Manager shall first notify all "affected parties" (as defined in Act Section 4001(a)(21)) of the intention to terminate the Plan and the proposed date of termination. Such termination notice must be provided at least sixty days prior to the proposed termination date. However, in the case of a standard termination, it shall not be necessary to provide such notice to the Pension Benefit Guaranty Corporation (PBGC). As soon as practicable after the termination notice is given, the Administrative Manager shall provide a follow-up notice to the PBGC setting forth the following:
    - (a) a certification of an enrolled actuary of the projected amount of the assets of the plan as of the proposed date of final distribution of

assets, the actuarial present value of the "benefit liabilities" (as defined in Act Section 4001(a)(16)) under the Plan as of the proposed termination date, and confirmation that the Plan is projected to be sufficient for such "benefit liabilities" as of the proposed date of final distribution;

- (b) a certification by the Administrative Manager that the information provided to the PBGC and upon which the enrolled actuary based his certification is accurate and complete; and
  - (c) such other information as the PBGC may prescribe by regulation.
- (2) The certification of the enrolled actuary and of the Administrative Manager shall not be applicable in the case of a Plan funded exclusively by individual insurance contracts.
  - (3) No later than the date on which the follow-up notice is sent to the PBGC, the Administrative Manager shall provide all Participants and Beneficiaries under the Plan with an explanatory statement specifying each such persons' "benefit liabilities," the benefit form on the basis of which such amount is determined, and any additional information used in determining "benefit liabilities" that may be required pursuant to regulations promulgated by the PBGC.
  - (4) A standard termination may only take place if at the time the final distribution of assets occurs, the Plan is sufficient to meet all "benefit liabilities" determined as of the termination date.

#### 17.4 Manner of Distribution

- (A) Subject to the foregoing provisions of this Article, all distributions after termination of the plan shall normally be made by the Trustees in the form of annuity purchases in accordance with annuity purchase rate assumptions selected by the Trustees in accordance with such governmental regulations as may apply. Alternatively, the Trustees may, in their discretion, make distributions, in whole or in part, in cash or in securities of other assets in kind, to the extent that no discrimination in value results and such distributions are not inconsistent with ERISA.

#### 17.5 Allocation of Assets

- (A) Upon termination of this Plan, the assets then remaining in the Trust Fund shall be allocated and distributed to participants in a manner substantially similar to Section 4044 of the Employee Retirement Income Security Act of 1974, as amended.
- (B) The assets so allocated to each such participant shall be distributed in the form of a retirement benefit commencing on such date on or after the date of termination of

this Plan, but in any event not later than his normal retirement date, as the Administrative Manager shall select. Such distribution shall be accomplished through either (A) continuance of the Trust Fund or a new trust fund or (B) purchase of annuity contracts; provided, however, that the Trustees may direct that the Trust Fund be continued with respect to some of the participants and that annuity contracts be purchased with respect to the other participants. Effective May 1, 1998, if any allocation produces a retirement benefit which has a lump sum actuarial equivalent of less than Five Thousand Dollars, the Trustees, in their sole discretion, may direct payment of the lump sum actuarial equivalent in lieu of such retirement benefit.

- (C) Any sums remaining in the Trust Fund, after satisfaction of or provision for all liabilities with respect to all persons entitled to benefits under this Plan and all expenses of the Trust Fund, shall be allocated proportionately among the Participants. Each Participant shall be allocated that portion of the remaining assets which bears the same relationship to the total remaining assets as such Participant's present value of his monthly accrued pension bears to the aggregate present values to the aggregate present value of all participants' monthly accrued pensions.

#### 17.6 Vesting on Termination

- (A) Notwithstanding anything to the contrary contained in this Article XVII and for the sole purpose of complying with the provisions of Section 411(d)(3) of the Internal Revenue Code, in the event of termination or partial termination of this Plan, the interests in this Plan, of all participants affected by such termination or partial termination shall be fully vested and nonforfeitable to the extent funded as of the date of such termination or partial termination. For purposes of this Section, no event shall be deemed to be a "partial termination" unless: (A) the Trustees have so designated such event in a writing delivered to the participating Employers; or (B) such event has been finally and expressly determined to be a partial termination within the meaning of Section 411(d) of the Internal Revenue Code of 1954, as amended, in an administrative or judicial proceeding to which both the Trustee and the Commissioner of Internal Revenue or his delegate were parties.

#### 17.7 Merger or Consolidation of the Plan

- (A) In the event of the merger or consolidation with, or transfer of assets or liabilities to, any other deferred compensation plan and trust, no accrued benefit of a Participant or Beneficiary shall be lower immediately after the effective date of the merger or transfer than the accrued benefit immediately before the effective date of merger or transfer.
- (B) The Trustees will agree to pursue merger discussions with other multi-employer pension fund(s) only under the following conditions:
  - (1) The other pension fund(s) provides this Fund with all requested

information this Fund deems necessary to enable it to fully study and understand the other funds:

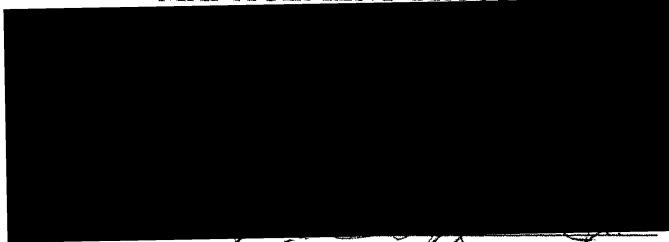
- (a) eligibility requirements and benefit provisions and formulas;
  - (b) prior benefit improvements and implementation dates;
  - (c) investment statement policy and prior investment experience;
  - (d) prior and current funding status and the actuarial methods and assumptions under which such status was determined.
  - (e) other fund(s) agrees:
    - (i) that there will be no Unfunded Vested Benefit (potential employer withdrawal liability) immediately after the date of merger and agrees that it is desirable in the long term to maintain a “no Unfunded Vested Benefit” status;
    - (ii) with this Fund on appropriate actuarial methods and assumptions that would be used to determine the initial funding status of the merged plan;
    - (iii) with this Fund on the manner of making future benefit changes as it would effect the three major classes of Participants - actives, terminated vesteds, and retirees.
- (2) The Normal Retirement Benefit formula of the merged plan will, immediately after the date of merger, provided:
- (a) that Participants of the merged fund will receive benefit credit for each hour worked for contributing Employers during future Plan Years;
  - (b) that current Active Participants of this Fund (immediately prior to the date of merger) will earn at least as much benefit credit for years worked after the date of merger as would have been earned under the provisions of this Fund, for the same number of Hours Worked and the same Employer contribution rate.
- (3) The Normal Retirement Age, Early Retirement Age and early retirement reduction factors of the merged Plan would be at least as favorable to Participants of this Fund as such provisions exist in this Fund immediately prior to the date of merger.
- (4) All provisions of federal law and regulations concerning plan mergers are

followed.

**SIGNATURE PAGE**

IN WITNESS WHEREOF, the Trustees of the Sheet Metal Workers Local Pension Fund have adopted the Plan in restated form on this 8<sup>th</sup> day of January, 2015.

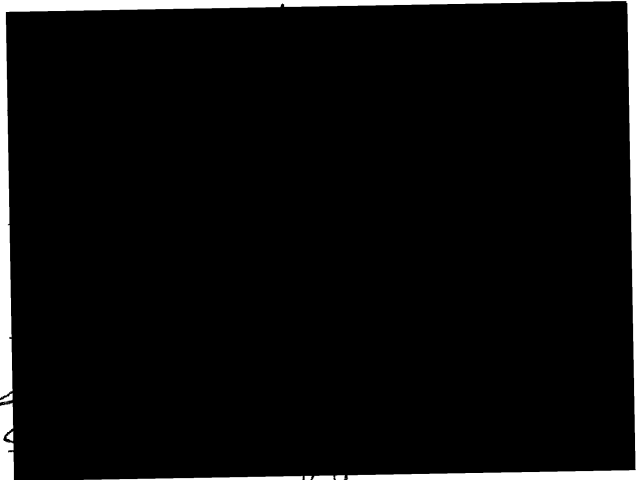
**MANAGEMENT TRUSTEES**



*[Handwritten signatures]*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**UNION TRUSTEES**



*[Handwritten signature]*



AMENDMENT NO. 1  
TO THE AMENDED AND RESTATED  
SHEET METAL WORKERS LOCAL PENSION PLAN

WHEREAS, the Sheet Metal Workers Local Pension Plan was restated effective May 1, 2002; and

WHEREAS, Article XVII, Section 1, permits the Trustees to amend or modify this Plan at any time by majority vote, retroactively if necessary, to meet the foregoing qualification and exemption requirements of the Code or to meet any of the requirements of the Act or corresponding provisions of any subsequent or amendatory federal legislation which is applicable;

NOW, THEREFORE, the BOARD OF TRUSTEES, having declared and agreed by resolution duly made, seconded and approved that, effective as of the dates herein provided, the PLAN be amended in the following respects, said amendments being hereby incorporated into the PLAN:

A. *Effective August 1, 2010, Article XI, Section 1 shall be amended by adding a new Section 1(C) which shall read as follows:*

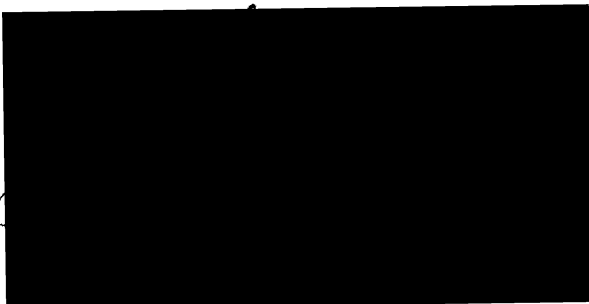
C. Time and Order of Issuance of Domestic Relations Orders.

1. A domestic relations order otherwise meeting ERISA's requirements to be a QDRO shall not fail to be treated as a QDRO solely because the order is issued after or revises another domestic relations order or QDRO.
2. A domestic relations order otherwise meeting ERISA's requirements to be a QDRO shall not fail to be treated as a QDRO solely because of the time at which it is issued.
3. Any domestic relations order described in Paragraphs A and B above shall be subject to the same requirements and protections that apply to all QDROs under Section 206(d)(3) of ERISA.


Except as expressly amended or modified herein, all of the terms of the Plan are hereby affirmed.

IN WITNESS WHEREOF, this Amendment has been executed by the Trustees on the 6<sup>th</sup> day of January, 2011.

MANAGEMENT TRUSTEES



UNION TRUSTEES



---

---

**AMENDMENT NO. 2  
TO THE AMENDED AND RESTATED  
SHEET METAL WORKERS LOCAL PENSION PLAN**

WHEREAS, the Sheet Metal Workers Local Pension Plan was restated effective May 1, 2002; and

WHEREAS, Article XVII, Section 1, permits the Trustees to amend or modify this Plan at any time by majority vote, retroactively if necessary, to meet the foregoing qualification and exemption requirements of the Code or to meet any of the requirements of the Act or corresponding provisions of any subsequent or amendatory federal legislation which is applicable;

NOW, THEREFORE, the BOARD OF TRUSTEES, having declared and agreed by resolution duly made, seconded and approved that, effective as of the dates herein provided, the PLAN be amended in the following respects, said amendments being hereby incorporated into the PLAN:

***A. Effective June 1, 2011, Article I, Section 1.13 shall be amended by including a new Section 1.13 (A)(5), which shall read as follows:***

(5) An Owner-Member as defined in the collective bargaining agreement between Sheet Metal Workers Local Union No. 33, Akron District and the Akron/Canton/Mansfield Roofing and Sheet Metal Contractors' Association.

***B. Effective June 1, 2011, Article I, Section 1.28 shall be amended by adding a new Section 1.28 (E), which shall read as follows:***

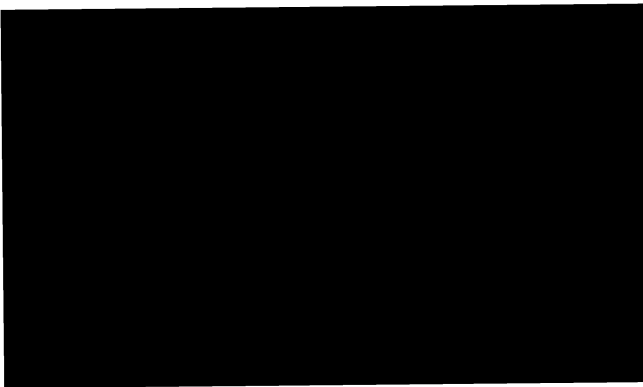
(E) An Owner-Member, as defined in Section 1.13(A)(5), shall be deemed a "Participant" or an "Employee" if (1) a Contributing Employer is required to contribute to the Plan on behalf of the Owner-Member pursuant to a Collective Bargaining Agreement, or (2) the Owner-Member is employed by a Contributing Employer, is not included in a collective bargaining unit represented either by the Union but is permitted to be treated as so included pursuant to the rules set forth in Treasury Regulation Section 1.410(b)-6(d)(2)(ii), and the Owner-Member's Employer contributes to the Plan on behalf of the Owner Member in order to continue to provide benefits previously provided to the Owner-Member as a Covered Employee. If a Contributing Employer contributes to the Plan on behalf of an Owner-Member pursuant to this Section 1.28(E), the Plan Document and the Trust Document shall be deemed to be a successor agreement to the Collective Bargaining Agreement under which such Owner-Member was most recently covered, by so-contributing the Employer agrees to be bound by the terms of the Plan Document and Trust Document, and such Owner-Member shall be deemed to continue to be covered under such Collective Bargaining Agreement, including any changes thereto, at the position the Owner-Member most recently held under such Collective Bargaining Agreement for purposes of determining the Contribution Rate and the Contribution Hours on behalf of the Owner-Member. If a Contributing Employer employing

an Owner-Member fails to make contributions to the Plan with respect to any Employee, including the Owner-Member, the Owner-Member shall cease to be an Employee as of the first day of the month that follows the due date of the unpaid contribution(s). In such case, the Owner-Member shall become an Employee again when the Contributing Employer resumes making timely contributions to the Plan on behalf of all its Covered Employees, including the Owner-Member, provided, however, that the Owner-Member shall not be in Covered Employment for the one-year period commencing on the date of such resumption. Notwithstanding anything in this Section to the contrary, the term "Employee" or "Participant" shall not include any individual who is the sole proprietor of or a partner in a business organization, or an independent contractor

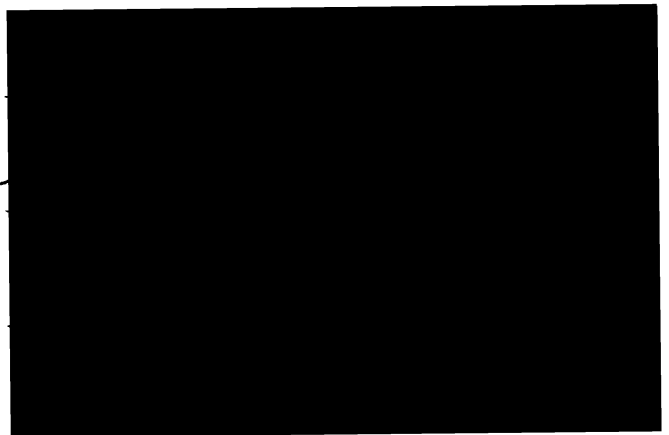
Except as expressly amended or modified herein, all of the terms of the Plan are hereby affirmed.

IN WITNESS WHEREOF, this Amendment has been executed by the Trustees on the 14<sup>th</sup> day of April, 2011.

**MANAGEMENT TRUSTEES**



**UNION TRUSTEES**



**AMENDMENT NO. 3  
TO THE AMENDED AND RESTATED  
SHEET METAL WORKERS LOCAL PENSION PLAN**

WHEREAS, the Sheet Metal Workers Local Pension Plan was restated effective May 1, 2010; and

WHEREAS, Article XVII, Section 1, permits the Trustees to amend or modify this Plan at any time by majority vote, retroactively if necessary, to meet the foregoing qualification and exemption requirements of the Code or to meet any of the requirements of the Act or corresponding provisions of any subsequent or amendatory federal legislation which is applicable;

NOW, THEREFORE, the BOARD OF TRUSTEES, having declared and agreed by resolution duly made, seconded and approved that, effective as of the dates herein provided, the PLAN be amended in the following respects, said amendments being hereby incorporated into the PLAN, pursuant to an IRS information request dated August 9, 2012:

**A. Effective May 1, 2008, Section 6.1(C) shall be amended in its entirety to read as follows:**

- (C) Effective May 1, 2008, in order that each Participant may have an adequate opportunity to make an election, an election period is hereby established. This period shall be no less than thirty (30) and no more than one hundred eighty (180) days before the Participant's pension commencement date. During the election period the Participant shall have the right to receive a written explanation of:
- (1) The terms and conditions of the Qualified Joint and 50% Survivor Annuity and the relative value of optional forms of benefits.
  - (2) The Participant's right to make an election to waive the Qualified Joint and 50% Survivor Annuity;
  - (3) The right of the Participant's Spouse to consent to any election to waive the Qualified Joint and 50% Survivor Annuity;
  - (4) The right of the Participant to revoke such elections and the effect of such revocation; and
  - (5) Any other explanation required under Section 401(a)(11)(E) or 417(a)(3)(A) of the Internal Revenue Code and any lawful regulations thereunder.

**B. Effective May 1, 2008, Section 6.5(B) shall be amended in its entirety to read as follows:**

(B) Effective May 1, 2008, in order that each Participant may have an adequate opportunity to make an election, an election period is hereby established. This period shall be no less than thirty (30) and no more than one hundred eighty (180) days before the Participant's pension commencement date. During the election period the Participant shall have the right to receive a written explanation of:

- (1) The terms and conditions of the Qualified Joint and 75% Survivor Annuity and the relative value of optional forms of benefits.
- (2) The right of the Participant to revoke such election and the effect of such revocation; and
- (3) Any other explanation required under Section 401(a)(11)(E) or 417(a)(3)(A) of the Internal Revenue Code and any lawful regulations thereunder.

**C. Effective March 28, 2005, Section 12.7 shall be amended to read as follows:**

**12.7 Small Benefits**

- (A) The Trustees may make arrangements for the payment of small monthly Retirement Benefits in less frequent payments of larger amounts.
- (B) Effective May 1, 1998, notwithstanding any other provisions of this Plan to the contrary, if the Actuarial Equivalent of any monthly benefit payable under the Plan does not exceed Five Thousand Dollars (\$5,000.00), the Actuarial Equivalent of such benefit may, at the discretion of the Board of Trustees, be distributed to the payee in a lump-sum in lieu of any other benefits provided by the Plan. However, effective March 28, 2005, any mandatory or involuntary lump-sum distributions in an amount in excess of \$1,000, but less than \$5,000, shall only be made in the form of an automatic rollover IRA, as provided for by the Plan. Lump-sum distributions of an amount less than \$1,000 may still be made in a lump-sum form made directly to the Participant. Provided further, the interest of an alternate payee pursuant to a Qualified Domestic Relations Order shall not be considered in determining whether or not a Participant shall be eligible for a lump-sum distribution.

**D. Effective May 1, 2002, Section 12.21(C)(1) shall be amended to read as follows:**

- (1) Distributions during year ending on the determination date. 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 severance from service, death, or disability, this provision shall be applied by substituting "5-year period" for "1-year period."

Except as expressly amended or modified herein, all of the terms of the Plan are hereby affirmed.

IN WITNESS WHEREOF, this Amendment has been executed by the Trustees on the 18<sup>th</sup> day of April, 2013.

**MANAGEMENT TRUSTEES**



**UNION TRUSTEES**



**AMENDMENT NO. 4  
TO THE AMENDED AND RESTATED  
SHEET METAL WORKERS LOCAL PENSION PLAN**

WHEREAS, the Sheet Metal Workers Local Pension Plan was restated effective May 1, 2010; and

WHEREAS, Article XVII, Section 1, permits the Trustees to amend or modify this Plan at any time by majority vote, retroactively if necessary, to meet the foregoing qualification and exemption requirements of the Code or to meet any of the requirements of the Act or corresponding provisions of any subsequent or amendatory federal legislation which is applicable;

NOW, THEREFORE, the BOARD OF TRUSTEES, having declared and agreed by resolution duly made, seconded and approved that, effective as of the dates herein provided, the PLAN be amended in the following respects, said amendments being hereby incorporated into the PLAN:

- A. **Effective January 1, 2009, Section 12.24 shall be added to the Plan and shall read as follows:**

12.24 HEART Act Provisions

(A) Differential Wage Payments

- (1) For Plan Years beginning on or after January 1, 2009, (i) an individual receiving a differential wage payment shall be treated as an employee of the employer making the payment; (ii) the differential wage payment shall be treated as compensation; and (iii) the plan shall not be treated as failing to meet the requirements of any provision described in Code Section 414(u)(1)(C) by reason of any contribution or benefit which is based on the differential wage payment.
- (2) This provision shall be applicable only if all employees of an employer are entitled to receive differential wage payments on reasonably equivalent terms and, if eligible to participate in a retirement plan maintained by the employer, and are so permitted by the plan, to make contributions based on the payments on reasonably equivalent terms.
- (3) Differential Wage Payment shall mean any payment which (i) is made by an employer to an individual with respect to any period during which the individual is performing service in the uniformed services, as defined in chapter 43 of title 38, United States Code, while on active duty for a period of more than 30 days, and (ii) represents all or a portion of the wages the individual would have received from the employer if the



individual were performing service for the employer.

(B) Special Rule for Distributions

- (1) For Plan Years beginning on or after January 1, 2009, for purposes of Code Sections 401(k)(2)(B)(i)(I), 403(b)(7)(A)(ii), 403(b)(11)(A), or 457(d)(1)(A)(ii), an individual shall be treated as having been severed from employment during any period the individual is performing service in the uniformed services described in Code Section 3401(h)(2)(A).

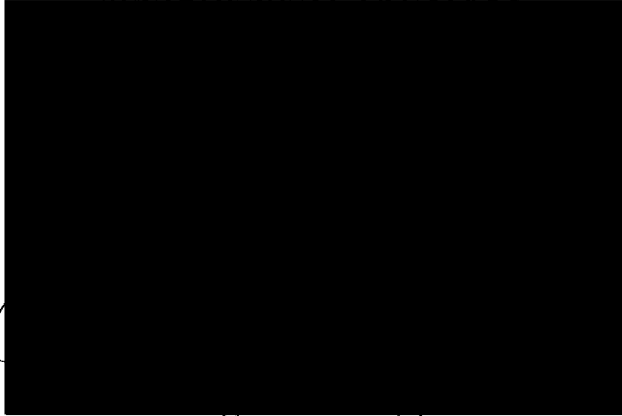
(C) Death Benefits

- (1) With respect to deaths and disabilities occurring on or after January 1, 2007, in the case of a participant who dies while performing qualified military service, as defined in Code Section 414(u), the survivors of the participant are entitled to any additional benefits, other than benefit accruals relating to the period of qualified military service, provided under the plan had the participant resumed and then terminated employment on account of death.

Except as expressly amended or modified herein, all of the terms of the Plan are hereby affirmed.

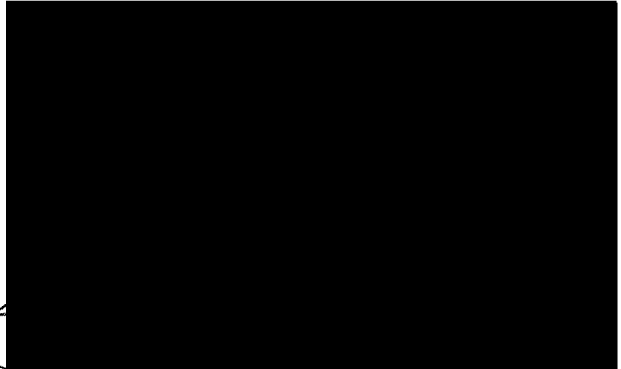
IN WITNESS WHEREOF, this Amendment has been executed by the Trustees on the 23<sup>rd</sup> day of September, 2013.

MANAGEMENT TRUSTEES



---

UNION TRUSTEES



---

## AMENDMENT NO. 5

### TO THE AMENDED AND RESTATED SHEET METAL WORKERS LOCAL PENSION PLAN

WHEREAS, the Sheet Metal Workers Local Pension Plan was restated effective May 1, 2010; and

WHEREAS, Article XVII, Section 1, permits the Trustees to amend or modify this Plan at any time by majority vote, retroactively if necessary, to meet the foregoing qualification and exemption requirements of the Code or to meet any of the requirements of the Act or corresponding provisions of any subsequent or amendatory federal legislation which is applicable;

NOW, THEREFORE, the BOARD OF TRUSTEES, having declared and agreed by resolution duly made, seconded and approved that, effective as of the dates herein provided, the PLAN be amended in the following respects, said amendments being hereby incorporated into the PLAN:

- A. **Effective August 1, 2013, Article III, Section 3.2(A)(2) shall be amended by adding the following language:**

8-1-13 and After

0% of Employer Contributions

- B. **Effective August 1, 2013, Article III, Section 3.2(B) shall be amended as follows:**

For an Active Participant who retires on or after May 1, 2006, the Future Service Benefit shall be equal to (a) 3.65% of Employer Contributions made on his/her behalf for hours worked prior to May 1, 2003; plus (b) 2.2% of Employer Contributions (except for the non-accrual limitations set forth above) made on his/her behalf for hours worked between May 1, 2003 and April 30, 2006; plus (c) .36 % of Employer Contributions made on his/her behalf for hours worked between May 1, 2006 and July 31, 2013. There will be no future service benefit accrual subsequent to July 31, 2013 unless reinstated by the Trustees.

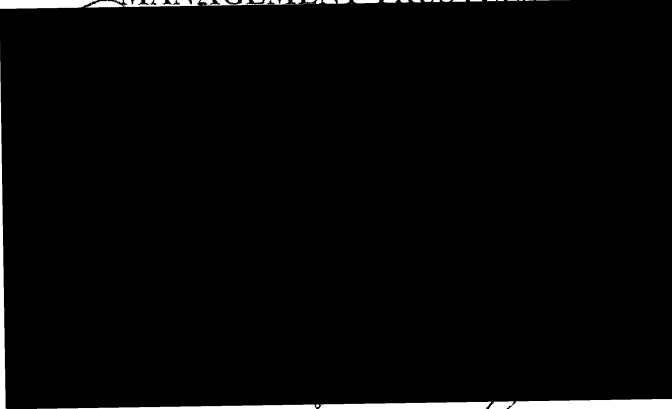
- C. **Effective September 1, 2013, Article V, entitled "Total and Permanent Disability Benefits", shall be amended by adding the following new Section 5.6:**

5.6 The Disability Benefit provided for herein shall be eliminated on and after September 1, 2013. This Section 5.6 shall not affect participants who are, or have been approved for, and/or are receiving a disability benefit prior to September 1, 2013.

D. Except as expressly amended or modified herein, all of the terms of the Plan are hereby affirmed.

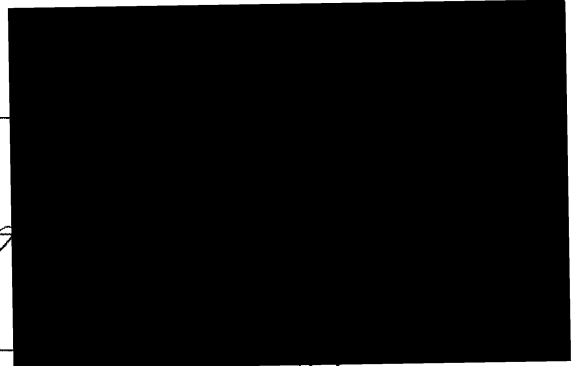
IN WITNESS WHEREOF, this Amendment has been executed by the Trustees on the 23<sup>rd</sup> day of September, 2013.

MANAGEMENT TRUSTEES

A large black rectangular redaction box covering the signature area for the Management Trustees.

---

UNION TRUSTEES

A large black rectangular redaction box covering the signature area for the Union Trustees.

---

AMENDMENT NO. ~~5~~ <sup>6</sup>

TO THE AMENDED AND RESTATED  
SHEET METAL WORKERS LOCAL PENSION PLAN

WHEREAS, the Sheet Metal Workers Local Pension Plan was restated effective May 1, 2010; and

WHEREAS, Article XVII, Section 1, permits the Trustees to amend or modify this Plan at any time by majority vote, retroactively if necessary, to meet the foregoing qualification and exemption requirements of the Code or to meet any of the requirements of the Act or corresponding provisions of any subsequent or amendatory federal legislation which is applicable;

NOW, THEREFORE, the BOARD OF TRUSTEES, having declared and agreed by resolution duly made, seconded and approved that, effective as of the dates herein provided, the PLAN be amended in the following respects, said amendments being hereby incorporated into the PLAN:

*A. Effective September 16, 2013, the Plan shall be amended, pursuant to IRS Revenue Ruling 2013-17 and to the decision of the United States Supreme Court in United States v. Windsor, so as to provide that the Plan term "Spouse" shall include a spouse who is a same-sex individual. Therefore, the Plan shall provide as follows:*

1.37 Spouse or Eligible Spouse

The term "Spouse" or "Eligible Spouse" shall mean the legal Spouse of the Participant at the time a Pre-Retirement Death Benefit is first payable or the legal Spouse of the Participant at the time the Participant commences receiving Retirement Benefits provided by this Plan. In addition to the foregoing, the term "spouse" includes any individuals who are lawfully married under any state law, including any individuals married to a person of the same gender who were legally married in a state that recognizes such marriages, but who are domiciled in a state that does not recognize such marriages. The term "marriage" as used in the preceding sentence, includes a same-gender marriage that is legally recognized as a marriage under any state law. Provided, however, the terms "spouse" and "marriage" do not include individuals in a formal relationship recognized by a state where that relationship is not designated a marriage under state law, such as a domestic partnership or a civil union, regardless of whether the spouses are same-gender or opposite-gender.

- B. Except as expressly amended or modified herein, all of the terms of the Plan are hereby affirmed.

IN WITNESS WHEREOF, this Amendment has been executed by the Trustees on the 30<sup>th</sup> day of October, 2013.

MANAGEMENT TRUSTEES



UNION TRUSTEES



## AMENDMENT NO. 7

### TO THE AMENDED AND RESTATED SHEET METAL WORKERS LOCAL PENSION PLAN

WHEREAS, the Sheet Metal Workers Local Pension Plan was restated effective May 1, 2010; and

WHEREAS, Article XVII, Section 1, permits the Trustees to amend or modify this Plan at any time by majority vote, retroactively if necessary, to meet the foregoing qualification and exemption requirements of the Code or to meet any of the requirements of the Act or corresponding provisions of any subsequent or amendatory federal legislation which is applicable;

NOW, THEREFORE, the BOARD OF TRUSTEES, having declared and agreed by resolution duly made, seconded and approved that, effective as of the dates herein provided, the PLAN be amended in the following respects, said amendments being hereby incorporated into the PLAN:

- A. **Effective June 26, 2013, the Plan shall be amended, pursuant to IRS Notice 2014-19, so as to provide that the Plan term "Spouse" shall include a spouse who is a same-sex individual. Therefore, Section 1.37, previously amended by Amendment No. 6, shall be amended to read as follows:**

1.37 Spouse or Eligible Spouse

- (A) The term "Spouse" or "Eligible Spouse" shall mean the legal Spouse of the Participant at the time a Pre-Retirement Death Benefit is first payable or the legal Spouse of the Participant at the time the Participant commences receiving Retirement Benefits provided by this Plan.
- (B) Effective June 26, 2013, the term "Spouse" or "Eligible Spouse" shall include individuals married to a person of the same sex if the individuals were lawfully married under state law in a state whose laws authorize the marriage of two individuals of the same sex even if the married couple is domiciled in a state that does not recognize the validity of same-sex marriages.
- (C) The term "Spouse" or "Eligible Spouse" does not include individuals (whether of the opposite sex or the same sex) who have entered into a registered domestic partnership, civil union, or other similar formal relationship recognized under state law that is not denominated as a marriage under the laws of that state.

B. Except as expressly amended or modified herein, all of the terms of the Plan are hereby affirmed.

IN WITNESS WHEREOF, this Amendment has been executed by the Trustees on the 28<sup>th</sup> day of July, 2014.

MANAGEMENT TRUSTEES

A large black rectangular redaction box covers the signature area for the Management Trustees. There are some handwritten scribbles to the left of the box.

UNION TRUSTEES

A large black rectangular redaction box covers the signature area for the Union Trustees. There are some handwritten scribbles to the left of the box.



## AMENDMENT NO. 8

### TO THE AMENDED AND RESTATED SHEET METAL WORKERS LOCAL PENSION PLAN

WHEREAS, the Sheet Metal Workers Local Pension Plan was restated effective May 1, 2010; and

WHEREAS, Article XVII, Section 1, permits the Trustees to amend or modify this Plan at any time by majority vote, retroactively if necessary, to meet the foregoing qualification and exemption requirements of the Code or to meet any of the requirements of the Act or corresponding provisions of any subsequent or amendatory federal legislation which is applicable;

NOW, THEREFORE, the BOARD OF TRUSTEES, having declared and agreed by resolution duly made, seconded and approved that, effective as of the dates herein provided, the PLAN be amended in the following respects, said amendments being hereby incorporated into the PLAN:

A. **Effective July 28, 2014, the Plan shall be amended, pursuant to the ruling by the United States Supreme Court in *Heimeshoff v. Hartford Life & Accident Insurance Co.*, new Section 13.4(N) shall be added to read as follows:**

- (N) Effective July 28, 2014, no legal action regarding an applicant's benefit may be commenced or filed against the Board of Trustees or the Plan more than 1 year after the mailing of the Board of Trustees' decision on appeal as specified in Sections 13.4(J) or (M), whichever is later.

B. Except as expressly amended or modified herein, all of the terms of the Plan are hereby affirmed.

IN WITNESS WHEREOF, this Amendment has been executed by the Trustees on the 28<sup>th</sup> day of July, 2014.

MANAGEMENT TRUSTEES

UNION TRUSTEES

