

CEMENT AND CONCRETE WORKERS
DISTRICT COUNCIL
PENSION FUND

SUMMARY PLAN DESCRIPTION

Plan as of January 1, 2002

As Amended and Restated as of January 1, 2005

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To All Participants:

We are pleased to present you with this updated booklet of the Benefits provided by the Cement and Concrete Workers District Council Pension Fund. The Pension Fund and Plan is funded through a Collective Bargaining Agreement based upon contributions from obligated Employers for per hour of Covered Employment work. You can obtain a copy of the Collective Bargaining Agreement from the Fund or Union. A list of obligated Employers under the Collective Bargaining Agreement is also available from the Fund. The Fund was established as a Trust by the Cement and Concrete Workers District Council and the Cement League.

This booklet describes the main features of the Plan and is called a Summary Plan Description (“SPD”). Details of the Plan are provided in the Plan documents, which govern the Plan and how it is administered. If there is a difference between this summary and what is written in the Plan documents, the Plan documents will govern. The Summary Plan includes referenced provisions of the Plan that are incorporated into this Summary Plan. As you read through this booklet, you will learn how you become a Participant, what the Benefits are and how to claim them. Be sure to share this booklet with your family, since the Benefits may affect them also.

To make this information as clear as possible, this booklet has been written in everyday, straightforward language. Please read this booklet carefully and keep it in a safe place for easy reference. If you have any question about any of the material contained in this booklet, please call the Fund Office at (718) 762-6133 during regular business hours. The Funds are open Monday through Friday from 8:00 AM to 3:30 PM.

Sincerely,

THE BOARD OF TRUSTEES

IMPORTANT TO REMEMBER

- Save this booklet. Put it in a safe place. If you lose your copy, you can ask the Fund Office for another (you may be required to cover reasonable replacement costs).
- **A person must be eligible under this Plan to receive a benefit. If a person is not eligible, including having lost eligibility, no benefits are available under this Plan.**
- If you have worked in employment covered by the Plan for five years or more and you are leaving without definite plans to return in the near future, you may be entitled to a pension, payable when you have reached retirement age. You will be furnished with a statement of your benefit rights under the Plan after you have been out of the industry for two years. In this case, the Fund will also file a notice with the government so that the Social Security Administration can remind you at a future time of your Pension rights.
- If you are eligible, this Plan provides for Husband-and-Wife Pension Coverage. If you do not want this protection, you and your Spouse, married for more than one year, must reject it in writing. The Fund suggests that you request from the Fund office and file with the Fund office the appropriate form designating your Beneficiary(ies) and alternate Beneficiary(ies).
- If a change occurs in your marital status or dependent status (for example: birth, adoption of child), please notify the Fund Office immediately.
- At least annually, the Fund Office will provide you with a statement indicating your total hours worked for the year. You have a period of three months to protest the correctness of this report, otherwise it will be considered your final permanent record for your hours worked in Covered Employment for the year. If you do not receive this annual statement notify the Fund Office. You will only receive this statement if the Fund Office has received a contribution on your behalf for the year.
- Be sure to ascertain that any Employer for whom you are working as a Cement and Concrete Worker is a signed, contributing Employer and does not become delinquent in the submission of your Benefit contributions.
- Benefits provided under this Plan are in no event assignable to another person, except as specifically provided by law.
- If you request, the Fund Office will, not more than once a year, provide you with a statement indicating, on the basis of the latest available information -
 - (1) the total benefits you have accrued, and
 - (2) the non-forfeitable pension benefits, if any, which have accrued, or the earliest dated on which benefits will become non-forfeitable.

- Be aware, if you are a Retiree collecting pension benefits and return to work, you face possible suspension of your benefits. Before returning to work, you must notify the Fund Office.
- Be aware, if you incur a break-in-service before achieving vested pension status, you run the risk of losing your accumulated pension and Vesting Credits if the break-in-service becomes a Permanent Break-in-Service.
- If you claim a benefit or any right under the Plan, you must submit a written application to the Fund, on an approved form obtained from Fund, for the benefit. If your claim is denied, you have a right to appeal the denial to the Trustees in strict compliance with the Plan. For further details, please see the claim appeal provisions. If you do not understand something in this Summary Plan, which includes provisions of the Plan – as included - that are made part of this Summary Plan, you can request an explanation in writing from the Trustees. The Trustees will reply to you.
- The masculine pronoun whenever used shall include the feminine gender, the singular number whenever used shall include the plural, and the plural the singular unless the context clearly indicates a different meaning.
- The Trustees reserve the right to interpret this Plan, and to amend, change, modify, eliminate or terminate its provisions from time to time, at their discretion, in accordance with law.
- This Summary Plan is effective January 1, 2002, unless otherwise noted. The rights of any Participant or other person claiming rights under this Plan who has died, retired, terminated employment or suffered a Break in Service under a prior version of the Plan will be determined under the applicable provisions of the Plan as in effect at the time of such Participant's or other person's death, retirement, termination or Break in Service. Regardless of the provisions of this Plan or of a Plan previously in effect, if a Participant or Beneficiary was a member of the class certified by the Court in the action entitled LaFata v. Cement and Concrete Workers District Council Pension Plan (99 Civ. 8506 (NGG), United States District Court, Eastern District of New York , the provisions of the settlement agreement, release and final judgment entered in that action shall determine such Participant's rights regarding his benefits.
- You are entitled solely to one pension based upon your Hours of Service, or if you are not the participant, based on the Hours of Service of the Participant for whom you are the beneficiary, pursuant to the provisions of the Plan.

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INTRODUCTION

This Pension Plan was established as the result of the collective bargaining agreements between the Employers and the Union. These agreements require the employers to contribute to the Plan on behalf of their employees. Employees do not contribute to the Plan.

The Pension Plan is administered by a Board of Trustees consisting of an equal number of representatives of the Union and of representatives of the Employers. The Pension Fund is a separate Trust Fund established for the purpose of paying the benefits provided under the Plan. The Plan has been submitted to the Internal Revenue Service for qualification.

You may be a Participant in the Pension Plan if you are an Employee working under a collective bargaining agreement between an Employer and the Union providing for contributions on your behalf to this Pension Fund. When this booklet refers to "you", it assumes that you are an Employee covered by this Plan.

DEFINITIONS

You may wish to immediately review the types of pension benefits available in the next heading; however, it is important that you understand the terms that are used. Certain terms are defined here. **When a defined term is used in the Plan or Summary Plan, the term usually has its first letter capitalized.** For these definitions adopted from the Plan definitions, the word "you" generally refers to the Employee. It may, at times, also include a surviving spouse or beneficiary who is entitled to a benefit, based upon your service, under the Plan.

"Accrued Pension" means, as of any date, the amount of your retirement benefit, determined in accordance with the Pension Eligibility and Amounts Article (Article 4) of the Plan and payable in the form of a Single Life Pension beginning on your Normal Retirement Date (or when you leave work, if later). Except as otherwise permitted by applicable law, a Participant's Accrued Pension shall not be reduced.

"Actuarial Equivalent" means an amount or benefit whose present value is actuarially equivalent to that of another benefit based upon interest rates and mortality assumptions stated in the Plan.

"Average Monthly Earnings" means:

- for each calendar year prior to January 1, 1967, the total wages of an Employee reported by Employers for Covered Employment upon which the contributions to the Pension Fund were based, divided by twelve;
- for each calendar year beginning on or after January 1, 1967, the total hours reported by the Employers for Covered Employment upon which the contributions to the Pension Fund were based, multiplied by the laborer's straight time hourly wage rate, divided by twelve. The laborer's straight time hourly wage rate shall be the rate set forth for the year in the

collective bargaining agreement between the District Council and the Cement League. If there is a change in wage rates during the calendar year, the wage rate for the year shall be the average rate for the calendar year; and

- If you are covered by the Plan based upon contributions made to the Plan under an agreement other than a collective bargaining agreement, total wages for Covered Employment as reported in the Employee's W-2, excluding the amount of any severance payments reflected in such W-2 wages, divided by twelve.

“Beneficiary” means the person designated by the Plan or you (Plan Section 6.2) to receive the benefits which are payable thereunder upon your death.

“Break in Service” means a Plan Year in which you have not completed the requisite number of Hours of Service worked in Covered Employment (Plan Section 2.3). This term is further discussed and explained in this summary plan.

“Cement League” means the Cement League of the Building Trades Employees Association of the City of New York.

“Covered Employment” means employment of you as an Employee by an Employer who is required to make contributions to the Pension Fund on your behalf.

“Disabled” means having a physical or mental condition that is a total and permanent disability that entitles you to receive Social Security disability benefits, as determined by the Social Security Administration.

“Disability Pension” means a Disability Pension payable pursuant to Plan Section 4.1(c). This term is further discussed and explained in this summary plan.

“District Council” means the Cement and Concrete Workers' District Council of New York of the Laborers International Union of North America Locals 6A, 18A and 20.

“Earliest Retirement Date” means the earliest date on which you meet the age and service requirements for retirement under the Plan [Plan Section 4.1(a) or 4.1(b)].

“Early Retirement Pension” means a pension payable to a Participant upon his early retirement prior to Normal Retirement Age, age 60, under the Plan (Plan Article 4).

“Employee” means any Employee covered by a collective bargaining agreement between an Employer and the Union; any person employed by the Union, the District Council or the Fringe Benefit Funds for whom the Union, District Council or Fringe Benefit Funds are obligated to make contributions to the Funds.

“Employer” means any Employer who is obligated under a collective bargaining agreement or other written agreement to make contributions to the Fund, including the Union, the District

Council, or the Fringe Benefit Funds and any other Employer who satisfies the requirements for participation established by the Trustees.

“**ERISA**” means the Employee Retirement Income Security Act of 1974, as may be amended from time to time.

“**Final Average Monthly Earnings**” means the average of the Average Monthly Earnings of the Participant’s Covered Employment for a period of five consecutive calendar years which gives the highest average of the Average Monthly Earnings for any five consecutive calendar year period for the Participant. For purposes of calculating a Participant’s Final Average Monthly Earnings, any years in which the Participant has no Hours of Service or a number of Hours of Service less than the minimum required Hours of Service necessary to earn a Pension Credit shall be included in such calculation when such years occur in such five consecutive calendar years which results in the highest average of the Participant’s Average Monthly Earnings. Notwithstanding the foregoing, if a Participant becomes disabled for at least six consecutive months in the first calendar year of the five-year period immediately prior to the Participant’s separation from Covered Employment, in determining the five consecutive calendar years which yields the highest Final Average Monthly Earnings, the Average Monthly Earnings for the year in which the Participant was disabled shall be equal to the Average Monthly Earnings in the calendar year immediately preceding the calendar year in which the Participant was disabled. For this purpose, a Participant shall be considered disabled in any month in which he received disability benefits from the Cement and Concrete Workers District Council Welfare Fund.

“**Fringe Benefit Funds**” means the Pension Fund, the Cement and Concrete Workers District Council Welfare Fund, the Cement and Concrete Workers Annuity Fund, the Apprenticeship and Training Fund, and any other Fund or Funds established for Employees and designated by the Trustees as a Fringe Benefit Fund for purposes of this Plan.

“**Fund**” or “**Pension Fund**” means the fund or funds provided for in the Trust and commonly called the Cement and Concrete Workers District Council Pension Fund.

“**Hours of Service**” means hours of work in Covered Employment for which you are paid, or entitled to payment, and any other hours for which you are paid or entitled to payment by an Employer which are required to be credited as Hours of Service under Section 2530.200b-2 of the Department of Labor Regulations (such as Military Service). Notwithstanding the foregoing, not more than 501 Hours of Service shall be credited to you on account of any single continuous period during which you performs no duties in Covered Employment. Crediting of Hours of Service under Section 2530.200b-2 of the Department of Labor Regulations may be solely for purposes of preventing a Break-in-Service without entitling you to Pension Credits for those hours not actually worked.

For periods prior to January 1, 1967, when contributions were based on a percentage of wages, Hours of Service are determined based on your wages reported by contributing Employers for a calendar year divided by your laborer’s straight time hourly wage rate set forth in the collective bargaining agreement for the calendar year. If there is a change in rate during the calendar year, the wage for the year shall be the average rate for such calendar year.

“Normal Retirement Age” means your 60th birthday or the fifth anniversary of the date on which you commenced participation in the Plan, whichever occurs later.

“Normal Retirement Date” means the first day of the month coincident with or next following the day on which you attain Normal Retirement Age (see definition above).

“Normal Retirement Pension” means a pension payable to a Participant upon his normal retirement pursuant to the Plan (Plan Article 4). This term is further discussed and explained in this summary plan.

“Participant” means an Employee or former Employee who satisfies the requirements for participation and has not ceased participation under the Plan (Plan Article 2), or a Surviving Spouse or Beneficiary who is receiving or is entitled to receive a pension under the Plan. This term is further discussed and explained in this summary plan.

“Pension Credits” means the credits earned by you under the Plan (Plan Section 3.1) for purposes of determining the amount of the Participant’s retirement benefit under the Plan. This term is further discussed and explained in this summary plan.

“Pension Start Date” means the first day of the month coincident with or next following the month in which you have fulfilled all of the conditions for a benefit under the Plan, including the filing of an application. Solely for purposes of the Surviving Spouse Pension waiver and notice requirements of the Plan (Plan Section 5.2), the Pension Start Date of a Participant who becomes Disabled prior to his Earliest Retirement Date shall be deemed to be the first day of the month coincident with or next following the Participant’s Earliest Retirement Date.

“Permanent Break in Service” means a Break in Service of a duration described in the Plan (Plan Section 2.4), which results in the loss of a Participant’s prior years of Pension Credits and Vesting Credits under the Plan. This term is further discussed and explained in this summary plan.

“Plan” means the Cement and Concrete Workers District Council Pension Plan as herein adopted and as it may from time to time be amended.

“Plan Year” means the calendar year.

“Retiree” means a Participant after the Participant’s Pension Start Date. These two terms have been previously defined.

“Single Life Pension” means a pension payable in the form of level monthly payments for the life of the Retiree (with no survivor benefits).

“Spouse” means, as of any date, the person to whom you are legally married on such date.

“Surviving Spouse” means your Spouse on the earlier of your death or Pension Start Date. A former Spouse shall be treated as a Surviving Spouse to the extent provided under a qualified domestic relations order.

“Surviving Spouse Pension” means a pension under which you receive level monthly payments for your life, and following your death your surviving Spouse receives level monthly payments for his or her life with the monthly payment equal to 50% of the monthly payment that you were receiving or would receive.

“Trust” or “Trust Agreement” means the Agreement and Declaration of Trust between the District Council and the Cement League with respect to the Plan, as it may be amended and restated from time to time.

“Trustees” means the Trustees of the Trust. The Trustees shall have the powers and responsibilities set forth in the Plan and the Trust Agreement.

“Union” means Locals 6A, 18A and 20 of the Laborers International Union of North America.

“Vesting Credit” means the credits earned for purposes of determining whether you are vested, that is if you have a nonforfeitable right to an Accrued Pension, if any, that you have earned under the Plan (Refer to Plan Section 3.2). You will be credited with one Vesting Credit for each Plan Year in which you have at least 1,000 Hours of Service. This term is further discussed and explained in this summary plan.

THE PENSION, IN BRIEF

Three types of pensions are provided under the Plan:

1. A Normal Retirement Pension (generally age 60)
2. An Early Retirement Pension (generally ages 55 to 59)
3. A Disability Pension

The amount of these pensions relates to your selecting a Single Life Pension or a husband/wife Surviving Spouse Pension. Note, if you are married for one year or more, the husband/wife Surviving Spouse Pension form is automatic unless your Spouse specifically consents in proper written form (Refer to Plan Section 5.2).

If you die before retiring, benefits may be available to your Spouse or, if applicable, other Beneficiary (Refer to Plan Article 6).

BECOMING AND REMAINING A PARTICIPANT

Effective January 1, 2005, you will become a Participant in the Plan on the first day of the calendar month following the month in which you complete at least 900 Hours of Service in Covered Employment within the twelve consecutive month period beginning with the date you first perform an Hour of Service in Covered Employment. If you fail to complete at least 900 Hours of Service within your first twelve consecutive month period you will become a Participant in the Plan after completing 900 Hours of Service in a Plan Year beginning with the Plan Year that includes the first anniversary of the date of your first Hour of Service. A Participant shall become entitled to benefits under the Plan only to the extent, if any, set forth in the applicable provisions of the Plan (Refer to Plan Article 2 which covers participation).

You will remain a Participant unless you have a Permanent Break in Service. The Break in Service rules are more completely described in the next section of this SPD. If you are fully vested in your benefit, however, your participation in the Plan will not be interrupted by a Break in Service.

If you do have a Permanent Break in Service but later return to Covered Employment you must again meet the requirements above in order to resume participation in the Plan.

If your participation does not terminate due to a Permanent Break in Service, you will remain a Participant until your death, unless the Actuarial Equivalent of your Accrued Pension is \$5,000 or less and you receive a lump sum payment under the Plan rules

Example to explain becoming a Participant:

Neil Worker worked a total of 200 hours in Covered Employment during June, July and August of the year 2005. He did not work in Covered Employment previous to June, 2005. He, after August, 2005, left New York to work with his brother in Texas. He is not returning to New York.

Neil Worker is not a Participant in the Plan because he has not worked 900 hours in Covered Employment during a twelve month period.

PENSION CREDITS AND VESTING SERVICE

The length of your Covered Employment affects the amount of your pension under this Plan in two important ways. Your Pension Credits determine your eligibility for a pension and the amount of your monthly benefit. Your Vesting Credits determine when your right to receive a pension becomes nonforfeitable. This section explains how you accumulate Pension Credits and Vesting Credits and also how you can lose the Pension Credits and Vesting Credits you have already accumulated.

PENSION CREDIT

You will be credited with a maximum of one Pension Credit per year, based on your Hours of Service in Covered Employment in that year, according to the following schedule:

For Plan Years	Minimum Hours of Service Required
1967-1988	400 Hours of Service for a maximum of One Pension Credit
1989 – 1994	700 Hours of Service for a maximum of One Pension Credit
1995 - 2004	175 Hours of Service for each ¼ Pension Credit, to a maximum of one Pension Credit for 700 Hours of Service
2005 and Later	225 Hours of Service for each ¼ Pension Credit, to a maximum of one Pension Credit for 900 Hours of Service

For periods of Service prior to January 1, 1967 but after July 1, 1953, you will be credited with one Pension Credit for each Plan Year in which you earned \$2000 in Covered Employment as established by verified records acceptable to the Trustees. For periods prior to July 1, 1953, you will be credited with one pension credit for each calendar year you were actually employed and earning wages as a member of the Union within the geographic area necessary for Covered Employment as established by verified records acceptable to the Trustees.

VESTING CREDITS

You will be credited with one Vesting Credit for each Plan Year in which you earn at least 1,000 Hours of Service. You can lose Vesting Credits and Pension Credits if you have not “become vested” by having a Permanent Break in Service. This is explained in an immediately

subsequent section of this summary plan description. Once your benefits have attained Vested status, “become Vested”, you cannot lose your right to a pension from the Plan if you stop working in the industry, even if you have a Break in Service.

You attain Vested status when you meet one of the following requirements:

- If you worked, covered by a collective bargaining agreement of an Employer, at least one Hour of Service on or after January 1, 1999, you become Vested if you have, valid for your Vesting, at least five Vesting Credits.
- For Employees of the Union and Fringe Benefit Funds covered by this Plan who have worked at least one Hour of Service on or after January 1, 1989, you became Vested when you have, valid for your Vesting, at least five Vesting Credits.
- If you did not meet one of the above requirements, you became Vested when you have, valid for your Vesting, at least ten Vesting Credits.
- You can also have a nonforfeitable right to a pension (if any) on your reaching “Normal Retirement Age” while you are working in Covered Employment. Normal Retirement Age is the later of the year you reach age 60, or the fifth anniversary of the date you became a Participant in the Plan.

Credit for Military Service

If you leave Covered Employment to enter military service and return to Covered Employment within the time required by federal law, you may be credited with Pension Credits and Vesting Credits for the time you spent in military service. If you are entering the military, you should contact the Fund Office for more information on receiving credit for your period of military service.

BREAKS IN SERVICE

If you have attained Vested status, you have a nonforfeitable right to a pension benefit. However, if you don’t meet these requirements and have too many consecutive one-year breaks in service, it is possible that you may lose your Pension Credits and Vesting Credits because your absence has created a Permanent Break in Service as here explained.

ONE-YEAR BREAK IN SERVICE

For periods commencing on or after April 1, 1976, a one-year Break in Service occurs when you have fewer than the following Hours of Service in a Plan Year:

Plan Year	Break in Service if fewer than:
Plan Years 1976 through 1988	400 Hours of Service in a Plan Year
Plan Years 1989 through 1994	501 Hours of Service in a Plan Year

Plan Years 1995 through 2004	175 Hours of Service in a Plan Year
Plan Years 2005 and Later	225 Hours of Service in a Plan Year

For periods prior to April 1, 1976, a one-year Break in Service will occur if such service would have been disregarded or cancelled under the terms of the Plan in effect at the time of such Break in Service. A Break in Service also could affect early retirement before age 55 or, where applicable, non-spousal Beneficiary pre-retirement survivor benefits though no Permanent Break in Service has occurred.

GRACE PERIODS

You may qualify for a grace period for up to 501 Hours of Service solely for determining if you have incurred a Break in Service (not for increasing Pension or Vesting Credits). This grace period is to prevent you from incurring a Break in Service when your absence is due to pregnancy, the birth of your child, placement of a child or to care for your child immediately following his or her birth. These hours will be applied to the Plan Year in which the absence begins if it will prevent you from incurring a One-Year Break in Service. You will also be granted a grace period for an absence due to an approved Leave Under the Family and Medical Leave Act (“FMLA”), for Qualified Military Service and for periods in which you are receiving Worker’s Compensation benefits on account of an injury you suffered while in Covered Employment.

PERMANENT BREAK IN SERVICE

If you have not attained Vested status and have a Permanent Break in Service, you lose or forfeit all previously earned Pension Credits and Vesting Credits. This lost Pension Credit and Vesting Credit cannot be restored. The rules for incurring a Permanent Break in Service depend upon when you had a Break in Service.

For Plan Years beginning on or after January 1, 1987, if you had not attained Vested status, you will incur a Permanent Break in Service when: (i) you have five or fewer Vesting Credits, and incur five or more consecutive Breaks in Service, or (ii) you have at least five but less than ten Vesting Credits, and your consecutive Breaks in Service equal or exceed the number of Vesting Credits.

For Plan Years 1976 through 1986, if you have not attained Vested status you incurred a Permanent Break in Service when you had consecutive Breaks in Service that equal or exceed the total number of Vesting Credits with which you had been credited.

For periods prior to April 1, 1976, you incurred a Permanent Break in Service if your service would have been disregarded or cancelled under the terms of the Plan in effect at the time of such Break in Service.

Example of being vested:

Mary Worker has the following Hours of Service work history,

- 1995 - 1270 hours, This is over 1000 hours so it is one Vesting Credit.
- 1996 - 0 hours, This is less than 175 hours so it is a Break in Service
- 1997 - 1403 hours, This is over 1000 hours so it is one Vesting Credit.
- 1998 - 1317 hours, This is over 1000 hours so it is one Vesting Credit.
- 1999 - 1010 hours, This is over 1000 hours so it is one Vesting Credit.
- 2000 - 1425 hours, This is over 1000 hours so it is one Vesting Credit.

Mary did not incur a Permanent Break in Service because her total consecutive Breaks in Service years were less than 5 (i.e., she only had one Break in Service year-1996). Therefore, Mary is vested because she has five Vesting Credits and has at least one Hour of Service after January 1, 1999 before any Permanent Break in Service. Because Mary is vested, her Credits at the time of vesting and future credits are not forfeitable as a result of any future Breaks in Service.

Example of a Permanent Break in Service on or after January 1, 1987 resulting in a loss of credits:

Charlie Worker has the following Hours of Service work history,

- 1985 – 1200 hours, This is over 1000 hours so it is one Vesting Credit.
- 1986 – 476 hours, This is more than 400 hours so it is not a Break in Service.
- 1987 – 640 hours, This is more than 400 hours so it is not a Break in Service.
- 1988 – 220 hours, This is less than 400 hours so it is a Break in Service.
- 1989 – 404 hours, This is less than 501 hours so it is a Break in Service.
- 1990 – 0 hours, This is less than 501 hours so it is a Break in Service.
- 1991 – 0 hours, This is less than 501 hours so it is a Break in Service.
- 1992 – 0 hours, This is less than 501 hours so it is a Break in Service.

Charlie Worker has a Permanent Break in Service as of January 1, 1993 because he had one Vesting Credit (1985) which was followed, before he obtained five Vesting Credits, by five consecutive Break in Service years (1988, 1989, 1990, 1991 and 1992). Since Charlie Worker was not vested and because of Charlie Worker’s Permanent Break in Service, Charlie Worker has all Pension and Vesting Credits, earned prior to the Permanent Break in Service (the five consecutive Break in Service years – 1988, 1989, 1990, 1991 and 1992), cancelled and forfeited.

Example to explain determining Pension Credits and Vesting Credits.

Anthony Worker has the following Hours of Service work history:

- 1985 - 1200 Hours of Service (1 Pension Credit, which is as well a Vesting Credit, no Break in Service for the year)
- 1986 - 517 Hours of Service (1 Pension Credit, 0 Vesting Credit, no Break in Service for the year)
- 1987 - 1062 Hours of Service (1 Pension Credit, which is as well a Vesting Credit, no Break in Service for the year)
- 1988 - 337 Hours of Service (0 Pension Credit, 0 Vesting Credit, Break in Service for the year)
- 1989 - 1560 Hours of Service (1 Pension Credit as well a Vesting Credit, no Break in Service for the year)
- 1990 - 690 Hours of Service (0 Pension Credit, 0 Vesting Credit, no Break in Service for the year)
- 1991 - 0 Hours of Service (0 Pension Credit, 0 Vesting Credit, Break in Service for the year)
- 1992 - 0 Hours of Service (0 Pension Credit, 0 Vesting Credit, Break in Service for the year)
- 1993 - 1332 Hours of Service (1 Pension Credit, which is as well a Vesting Credit, no Break in Service for the year)
- 1994 - 1401 Hours of Service (1 Pension Credit, which is as well a Vesting Credit, no Break in Service for the year)
- 1995 - 1221 Hours of Service (1 Pension Credit, which is as well a Vesting Credit, no Break in Service for the year)
- 1996 - 229 Hours of Service (1/4 Pension Credit, 0 Vesting Credit, no Break in Service for the year)
- 1997 - 0 Hours of Service (0 Pension Credit, 0 Vesting Credit, Break in Service for the year)
- 1998 - 0 Hours of Service (0 Pension Credit, 0 Vesting Credit, Break in Service for the year)
- 1999 - 351 Hours of Service (1/2 Pension Credit, 0 Vesting Credit, no Break in Service for the year)

The amount of Anthony Worker's pension is determined by the number of Pension Credits earned and not forfeited. Vesting Credits are important, as has been explained, in establishing vesting so that Pension or Vesting Credits are not forfeited. A Pension Credit can also be a Vesting Credit if you have worked 1000 hours during the year. For any year, a Participant cannot earn more than 1 Pension Credit even if that Pension Credit also has enough hours to qualify as a Vesting Credit. Anthony Worker has $7\frac{3}{4}$ Pension Credits, none of which have been forfeited because of a Permanent Break in Service as explained previously. Also, Anthony Worker is vested because he has at least 5 Vesting Credits which have not been forfeited by a Permanent Break in Service as explained previously and has worked 1 hour after January 1, 1999 qualifying Anthony Worker for 5 year vesting.

Anthony did not have 5 consecutive Break in Service years to constitute a Permanent Break in Service which would result in Pension Credit and Vesting Credit forfeiture. Because Anthony Worker is vested, his Pension Credits could not be forfeited even if he does not return to work in the industry after 1999.

YOUR PENSION BENEFITS

This section of the Summary Plan Description covers eligibility for Pension benefits and the amount of those benefits. Under the Plan, if you are eligible, you must select the form of Pension you wish to receive. If you are not eligible, you are not entitled to Pension benefits. You may receive only one form of Pension. Pension Start Date as a capitalized word is defined by the Plan. Pension Start Date means the first day of the month coincident with or next following the month in which you have fulfilled all of the conditions of entitlement to a benefit under the Plan, including the filing of an application. Special Pension Start Date provisions apply to a Participant who receives a Disability Pension.

When am I eligible for a Normal Retirement Pension?

You are eligible to retire on a Normal Retirement Pension, beginning on your Pension Start Date, if you are at least age 60 and have reached the fifth anniversary of becoming a Participant in the Plan.

Normal Retirement Pension Amount

Effective January 1, 2001, the monthly amount of the Normal Retirement Pension is equal to the greater of the amount determined under A or B below, increased by the amount determined in C.

- A** 2% of Final Average Monthly Earnings multiplied by the first 25 Pension Credits earned and 1-2/3% of Final Average Monthly Earnings multiplied by the next 10 Pension Credits earned, subject to a maximum of 35 Pension Credits or 66-2/3% of Final Average Monthly Earnings; or
- B** the total sum of:
- \$20.00 a month multiplied by the number of years in which you have earned a Pension Credit attributable to service prior to April 1, 1976, plus
 - 2% of Average Monthly Earnings multiplied by your full or partial Pension Credit for each year in which you have earned Pension Credit after March 31, 1976, up to a total of 25 Pension Credits, plus 1-2/3% of Average Monthly Earnings multiplied by your full or partial Pension Credit for each additional year in which you have earned Pension Credit up to a total of 10 Pension Credits.

The total sum of the amount determined under this Section B is subject to a maximum of 35 Pension Credits or 66-2/3% of the average of Average Monthly Earnings.

- C** The greater of the amount determined under Section A or B above is increased by a one time lesser of 10% of that amount or \$50.

EXAMPLE: When John Worker retires on December 1, 2003 at age 60, he has:

- 3 Pension Credits earned before April 1, 1976 (1 Pension Credit earned in each year of Covered Employment from 1974 through 1976).
- 27 Pension Credits earned after March 31, 1976 (1 Pension Credit earned in each year of Covered Employment from 1977 through 2003).
- Final Average Monthly Earnings of \$3,000.
- \$54,000 as the sum total of the Average Monthly Earnings for each year of Pension Credit earned from 1977 through 2003. \$44,000 of this total is attributable to the first 22 years of Pension Credits earned after March 31, 1976 and \$10,000 is attributable to the remaining 5 years of Pension Credits.

Here's how we calculate his pension:

	(i)	(A) \$3,000 x .02 x 25 =	Pension Credits (Maximum: 25)	\$ 1,500	Pension Credits in Excess of 25
Final Average Monthly Earnings		(B) \$3,000 x .016667 x 5 =		\$ 250	Pension Credits earned before 4/1/1976
		(C) Sum of (i)(A) and (i)(B) =		\$ 1,750	
	(ii)	(A) \$20 x 3 =		\$ 60	
Sum total of Average Monthly Earnings attributable to remaining 5 years of Pension Credits		(B) \$44,000 x .02 =		\$ 880	Sum total of the Average Monthly Earnings attributable to 1 st 22 years of Pension Credits earned after 3/31/1976
		(C) \$10,000 x .016667 =		\$ 166	
		(D) Sum of (ii)(A), (ii)(B), and (ii)(C) =		\$ 1,106	
		Greater of Results from (i) and (ii) = \$1,750			
		Post Retirement Increase = LESSER of \$50 or (10% of \$1,750) = \$50			

Final Monthly Benefit = \$1,750 + \$50 = \$1,800

When am I eligible for an Early Retirement Pension?

You are eligible to retire on an Early Retirement Pension beginning on your Pension Start Date if you meet one of the following requirements:

- 1) You have earned at least 25 Pension Credits earned on or after July 1, 1953, at least one of which was earned after December 31, 1980, and you did not have two or more consecutive Break in Service during the years you earned those 25 Pension Credits, regardless of age; however, effective May 1, 2006, those first becoming participants in the Plan after April 30, 2006 are eligible to retire regardless of age only if such participant has earned 30 pension credits and has not incurred two or more consecutive Break in Service years during the years in which such 30 Pension Credits were earned; or

- 2) You are at least age 55 and have earned at least 15 Pension Credits after July 1, 1953.

If you have attained Vested status and meet the service requirements for an Early Retirement Pension but have not reached the required age by the time you leave Covered Employment, you may be eligible to retire on an Early Retirement Pension when you reach age 55. Otherwise, if you have attained Vested status but do not meet the age and service requirements for an Early Retirement Pension, your benefit cannot commence earlier than age 60, except for a disability pension.

Early Retirement Pension Amount

The amount of your Early Retirement Pension will be calculated as follows:

- If you have earned at least 25 Pension Credits and met the other requirements of either number (1) or (2) above, your Early Retirement Pension will be equal to the amount of your Normal Retirement Pension.
- If you are at least age 55 and have earned at least 15 but less than 25 Pension Credits, as referred to under number (2) above, your Early Retirement Pension will be equal to the amount of your Normal Retirement Pension as would be calculated above, reduced by $\frac{1}{2}\%$ for each month that you are younger than 60 years of age. Please note that this $\frac{1}{2}\%$ reduction will be applied to the amount determined under either Section A or Section B of the Normal Retirement Pension calculation **before** the increase in Section C of the Normal Retirement Pension calculation is applied.

EXAMPLE: When Mary Worker retires on June 1, 2003, at age 55, she has:

- 25 Pension Credits (1 Pension Credit earned in each year of Covered Employment from 1979 through 2003).
- Final Average Monthly Earnings of \$4,000.
- \$50,000 as the sum total of the Average Monthly Earnings for each year of Pension Credit earned from 1979 through 2003.
- A Normal Retirement Date of June 1, 2008 (age 60)

Final Average Monthly Earnings

Pension Credits

Sum total of the Average Monthly Earnings for each year of Pension Credit earned from 1979 through 2003

Here's how we calculate her pension:

(i) $\$4,000 \times .02 \times 25 = \$2,000$

(ii) $\$50,000 \times .02 = \$1,000$

Greater of Results from (i) and (ii) = \$2,000

Post Retirement Increase = LESSER of \$50 or (10% of \$2,000) = \$50

Final Monthly Benefit = \$2,000 + \$50 = \$2,050

In this Example, since the participant has at least 25 Pension Credits, there would be no Early Retirement reduction and the amount of the final benefit would be \$2,050 per month.

If we change the amount of Pension Credits in the above Example to 24, there would be an Early Retirement reduction and the pension would be calculated as follows:

(i) $\$4,000 \times .02 \times 24 = \$1,920$

(ii) $\$50,000 \times .02 = \$1,000$

Greater of Results from (i) and (ii) = \$1,920

Number of Months that Payments are Commencing Before Normal Retirement Date = 60 Months (from June 1, 2003 to May 31, 2008)

Early Retirement Factor

Early Retirement Reduction Factor: $1 - (60 \text{ months} \times .005) = .7000$

Monthly Benefit After Early Retirement Reduction = $\$1,920 \times .7000 = \$1,344$

Post Retirement Increase = LESSER of \$50 or (10% of \$1,344) = \$50

Final Monthly Benefit = \$1,344 + \$50 = \$1,394

When would I be eligible to retire on a Disability Pension?

If you become Disabled, you will be eligible to retire on a Disability Pension if you meet all of the following requirements:

- You have earned at least 10 Pension Credits; and
- You have been determined to be permanently and totally Disabled by the Social Security Administration; and
- If you were not employed in Covered Employment at the time of becoming disabled, you did not incur two or more consecutive Breaks in Service at the time you became Disabled.

In order to retire on a Disability Pension you must submit a completed Disability Pension application to the Fund Office and a copy of your disability determination letter from the Social Security Administration. Submission of this determination letter is a mandatory condition of your eligibility for a Disability Pension, and no Disability Pension shall be payable unless and until you have provided such evidence.

Your Disability Pension will begin on the first day of the month following the date that suitable evidence is submitted to the Plan of a determination by the Social Security Administration that you are officially permanently and totally Disabled. Your initial Disability Pension payment will include a retroactive payment for the period beginning on the first day of the month following the later of (1) the date you became Disabled as determined by the Social Security Administration, or (2) the date of your application to the Plan for a Disability Pension, and ending at the date payment of your Disability Pension commenced.

Once you have begun receiving a Disability Pension you must submit a copy of your Social Security disability check to the Plan at least annually until you reach age 60 (or such other evidence that you continue to be Disabled as the Trustees in their sole and absolute discretion shall deem acceptable). If you fail to provide evidence that you continue to be Disabled, your Disability Pension will be suspended until you submit such evidence to the Plan.

Disability Pension Amount

The amount of your Disability Pension is determined in the same manner as the Normal Retirement Pension to which you would be entitled if you were then 60 years of age. The Disability Pension amount is payable as an unreduced Single Life Pension until you reach your Earliest Retirement Date (the date you meet the age and service requirements for an Early or Normal Retirement Pension). When you reach your Earliest Retirement Date, if you are married your Disability Pension will begin to be paid in the form of Surviving Spouse Pension, and the monthly amount reduced accordingly, unless you and your spouse waive that form of payment in writing, as explained in the next section.

EXAMPLE: Eddie Worker retires at age 52 with 17 Pension Credits, and satisfies the requirements for a Disability Pension which is payable effective June 1, 2001. He is still living

when he reaches his Earliest Retirement Date on June 1, 2004 (age 55) and he elects the Surviving Spouse Pension at such time. His spouse is 2 years younger. The amount of his benefit determined as if he were age 60 on June 1, 2001 is \$550 per month. This amount includes a Post Retirement Increase of \$50 per month. His Disability Pension would be as follows:

- \$550 per month payable from June 1, 2001 through May 31, 2004 in the form of the unreduced Single Life Pension.
- \$498 per month payable to Eddie starting June 1, 2004 in the form of the Surviving Spouse Pension based on the ages of Eddie and his spouse. This amount is the Actuarial Equivalent of the benefit payable prior to June 1, 2004 and is lower than the original benefit amount, because payments are expected to be made over the joint lifetimes of both Eddie and his spouse instead of just Eddie's lifetime alone. This benefit amount would be calculated as follows:

Monthly Single Life Pension Prior to Post retirement Increase = \$500

$\$500 \times (\text{Adjustment Factor of } .904^*) = \452

Post Retirement Increase = LESSER of \$50 or (10% of \$452) = \$45.20

Final Monthly Benefit = $\$452 + \$45.20 = \$497.20$

- After Eddie's death, \$248.60 per month payable to Eddie's spouse, if she is still living.

<p>* The Adjustment Factor is determined based on the ages of the Participant and Spouse at the time of retirement. For more information on Joint and Survivor benefits, please refer to the section entitled Form of Payment of Pension</p>
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Examples Explaining Eligibility and The Pension Start Date for a Disability Pension:

Robert Worker is 52 years old and has 17 Pension Credits. Also, his work history shows that he is vested. He has not worked in Covered Employment in the 4 years previous to July, 2001. Suddenly, in June, 2001, he developed a serious breathing condition making him permanently Disabled. In June, 2001 he applied to the Social Security Administration for a Social Security Disability Pension. He also made written application to the Pension Fund for a Pension Fund Disability Pension.

Robert Worker is not eligible for a Pension Fund Disability Pension. He has sufficient Pension Credits; however, he was not working in covered employment and had incurred two or more consecutive Break in Service years at the time of his becoming permanently Disabled in June, 2001. Robert Worker will be entitled to an Early Retirement Pension when he reaches age 55 or a Normal Retirement Pension when he reaches age 60.

Eddie Worker is 52 years old and has 17 Pension Credits. He has worked in Covered Employment continuously until May, 2001. He had 403 Hours of Service in 2001 and 1214 Hours of Service in 2000. Suddenly, on May 30, 2001, he developed a serious heart condition

preventing his returning to work. On May 31, 2001, he applied to the Social Security Administration for a Social Security Disability Pension. He also made written application to the Pension Fund for a Disability Pension on May 31, 2001. In March, 2002, he received notification from the Social Security Administration that he was permanently and totally Disabled as of May 30, 2001. He submits this Social Security Administration determination to the Pension Fund in March 2002.

Eddie Worker is eligible for a Pension Fund Disability Pension. He has sufficient Pension Credits and has not incurred a two or more consecutive Break in Service years at the time of his becoming permanently and totally Disabled in June 2001. His Disability Pension will commence the first day of the month that he submits suitable evidence to the Plan of a determination by the Social Security Administration that he is officially totally Disabled. Since this Social Security submission to the Funds was in March, 2002, his initial Disability Pension payment shall be as of March 1, 2002 and include a retroactive payment commencing on the first day of the month following the later of the date he became Disabled as determined by the Social Security Administration which was May 30, 2001, or the date of his application for a Disability Pension to the Plan which was May 31, 2001. In this instance, both dates yield a Pension Start Date of June 1, 2001. The retroactive payment will be up to the date when the payment of his Disability Pension commences, thus from June 2001 through February, 2002.

When Pension Benefits Begin

In general, your pension benefits will begin when you have met the eligibility requirements for one of the pensions under the Plan, you have terminated Covered Employment, and you have submitted a completed application for benefits with the Fund Office.

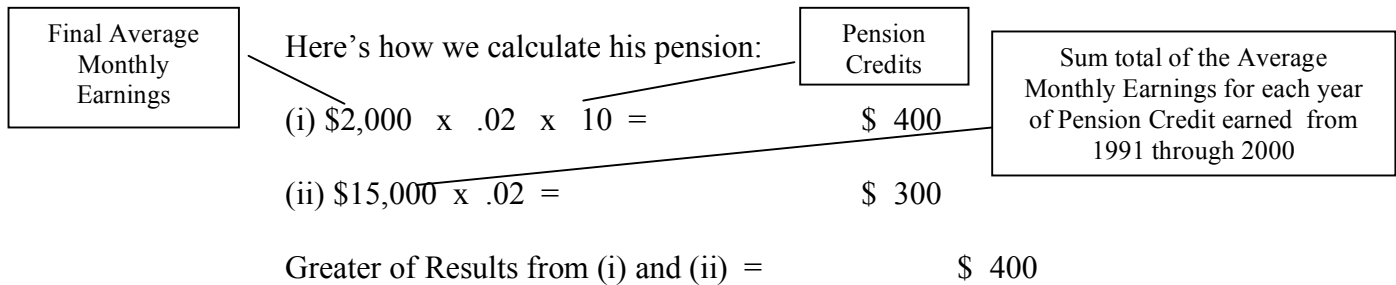
You may delay applying for benefits, however you must begin to receive benefits no later than April 1st of the calendar year following the calendar year in which you reach age 70½, even if you are still working in Covered Employment.

Actuarial Adjustment for Delayed Retirement

If your Pension Start Date is after you attain Normal Retirement Age, the amount of your monthly pension benefit beginning on your Pension Start Date will be actuarially increased to reflect the loss of monthly pension benefits you would have received between Normal Retirement Date and the Pension Start Date if the benefit had been paid beginning at your Normal Retirement Date, provided those benefits were not suspended due to work in Disqualifying Employment, as explained in the section on suspension of benefits. If you first become entitled to additional benefits after your Normal Retirement Date through a benefit increase to pensioners, the actuarial increase in those benefits will start from the date they would first have been paid rather than Normal Retirement Date. The amount of the actuarial increase in your monthly pension benefit is 1% for each month for which your benefits are not suspended during the first 60 months after your Normal Retirement Date and 1.5% month for each month for which your benefits are not suspended thereafter.

EXAMPLE: Joe Worker leaves Covered Employment on June 30, 2000, does not work again, and elects to retire on December 1, 2003 at age 61. He has:

- 10 Pension Credits (1 Pension Credit earned in each year of Covered Employment from 1991 through 2000).
- Final Average Monthly Earnings of \$2,000.
- \$15,000 as the sum total of the Average Monthly Earnings for each year of Pension Credit earned from 1991 through 2000.
- A Normal Retirement Date (NRD) of December 1, 2002 (age 60).



Number of Months that Payments are Delayed After NRD = 12 months (from December 1, 2002 to November 30, 2003)

Actuarial Increase Factor: $1 + (12 \text{ months} \times .01) = 1.12$

Monthly Benefit After Actuarial Increase = $\$400 \times 1.12 = \448

Post Retirement Increase = LESSER of \$50 or (10% of \$448) = \$44.80

Final Monthly Benefit = \$448 + \$44.80 = \$492.80

Maximum Benefit Limits

In addition to any limitations provided under the Plan, federal law imposes certain limits on the amount of wages that can be taken into account in determining your benefit and the monthly amount of your benefit. Because these limits are large, it is unlikely that your monthly benefit will be affected by the limits. However, if your benefit becomes limited under these laws, the Fund Office will advise you of the limitation amounts.

Non-alienation of Benefits

No benefit under the Plan shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance or charge, and any attempt so to anticipate, alienate, sell, transfer, assign, pledge, encumber or charge the same shall be void; nor shall any such benefit be in any manner liable for or subject to the debts, contracts, liabilities, engagements or torts of the

person entitled to such benefits; except as specifically provided in the Plan or by law. Notwithstanding the foregoing, the creation, assignment, or recognition of a right to any benefit payable with respect to a Participant pursuant to a “qualified domestic relations order” under Section 8.8 shall not be treated as an assignment or alienation prohibited by this Section.

Benefits pursuant to Settlement Agreement

Notwithstanding the provisions of this Plan or a prior version of the Plan, if a Participant or Beneficiary was a member of the class certified by the Court in the action entitled *LaFata v. Cement & Concrete Workers District Counsel Pension Plan* (99 Civ. 8506 (NGG), United States District Court, Eastern District of New York, the provisions of the settlement agreement, release and final judgment entered in that action shall determine such Participant’s and Beneficiary’s benefits under the Plan.

Non-Duplication of Benefits

A Participant is entitled to only one pension under this Plan. Once your pension application has been approved by the Trustees, you will not be able to apply for any other pension or to reclassify your pension to any other type of pension. However, if you are receiving a Disability Pension and then recover from your disability and return to Covered Employment, you may be entitled to a different type of pension upon your subsequent retirement. This provision does not apply to the payment of a Spousal benefit if you are also entitled to your own pension benefit under the Plan.

FORM OF PAYMENT OF PENSION

Standard Form of Pension

Single Participants.

If you are not married on your Pension Start Date, your benefit will be paid in the form of a Single Life Pension. Under this form of payment, you will receive monthly benefits for your lifetime, and payments cease upon your death. You may elect to waive this form of payment within the 90-day period before your Pension Start Date and choose one of the optional forms of payment described in the following section.

Married Participants

If you are married on your Pension Start Date, your benefit will be paid in the form of a Surviving Spouse Pension that is the Actuarial Equivalent of your Normal Retirement Pension or Early Retirement Pension payable as a Single Life Pension. Under this form of payment you will receive a reduced monthly benefit for your lifetime. The actuarially reduced monthly pension that is paid during your lifetime offsets the potential cost to the Fund of paying a benefit over the lives of two people. If your spouse at the time of your retirement is still living upon your death, and you and your spouse have been married for at least one year at the time of your death, he or she will receive monthly payments for his or her lifetime equal to 50% of the pension amount that you were receiving. The amount of the reduction depends on the difference between the ages of you and your spouse. Please note that your spouse will not be entitled to this benefit if you were not married for at least one year at the time of your death.

You may elect to waive this form of payment within the 90-day period before your Pension Start Date, and receive your benefit in the form of a Single Life Pension or one of the optional forms of payment described below, provided your spouse consents in writing to this election.

If you have earned at least 15 Pension Credit after July 1, 1953, and you and your Spouse waive the Surviving Spouse Pension and elect a Single Life Pension, your spouse will be entitled to a widow's benefit. This benefit consists of 12 monthly payments equal to the amount of your monthly benefit, beginning with the month following your death.

EXAMPLE: When Bob Worker retires on June 1, 2001 at age 58, he elects to receive his pension in the form of a Surviving Spouse Pension. His monthly benefit under the Single Life Pension form of payment is calculated to be \$1,050. This amount includes a Post Retirement Increase of \$50 per month. Bob's spouse is 8 years younger. The Surviving Spouse Pension would be calculated as follows:

Monthly Single Life Pension Prior to Post Retirement Increase = \$1,000

$\$1,000 \times (\text{Adjustment Factor of } .870^*) = \870

Post Retirement Increase = LESSER of \$50 or (10% of \$870) = \$50

Final Monthly Benefit = $\$870 + \$50 = \$920$

* The Adjustment Factor is determined based on the ages of the Participant and Spouse at the time of retirement. For more information on Joint and Survivor benefits, please refer to the section entitled Form of Payment of Pension

Bob receives a monthly benefit of \$920 starting June 1, 2001 and dies on January 15, 2004 at which time his spouse is still living. As of February 1, 2004, his surviving spouse would start receiving a monthly benefit of \$460 for her lifetime.

Waiver of Surviving Spouse Pension

Not less than 30 days before your Pension Start Date, you will be furnished with a written explanation of:

- The terms and conditions of the Surviving Spouse Pension;
- Your right to make, and the effect of, an election to waive the Surviving Spouse Pension in favor of another form of pension payment;
- The right of your Spouse to consent or not to consent to such election;
- A general description of the eligibility conditions and other material features of the optional forms of benefits under the Plan; and
- Your right to make, and the effect of, a revocation of an election to waive the Surviving Spouse Pension.

You may elect to waive the 30-day notice period, provided that distribution of your benefits will not begin more than seven days after you have been furnished with this written explanation. You may reject the Surviving Spouse Pension that otherwise would be payable, and elect a Single Life Pension or other optional form of pension payment, by filing an election with the Fund Office within the 90-day period before your Pension Start Date. This election must be in writing on a form prescribed by the Trustees for that purpose, and must include your Spouse's written consent. The election must expressly reject the Surviving Spouse Pension, designate the form in which your Accrued Pension will be paid, and designate the Beneficiary who is to receive any payments that are to be made after your death under an optional benefit payment form. The designation of the form of payment and Beneficiary cannot be changed without your Spouse's further consent, unless the change is to name your Spouse as Beneficiary. You may revoke a prior waiver before your Pension Start Date by filing the appropriate form with the Plan. The number of revocations and waivers permitted is unlimited.

The consent of your Spouse to the waiver of the Surviving Spouse Pension must be in writing acknowledging the effect of such waiver and witnessed by a notary public. The consent of your Spouse is not required if you can establish to the satisfaction of the Plan that your spouse cannot be located, that you are legally separated, or that you have been abandoned by your spouse as established by a court order. Any such consent (including such deemed consent) by your Spouse will be effective only with respect to that Spouse. Spousal consent with respect to a waiver

election is effective only for that election, and any change in that election will require a new spousal consent. A former spouse who is treated as a Surviving Spouse pursuant to a qualified domestic relations order must consent only to any election that affects benefit payments, if any, to be made to that former spouse.

Disabled Participants

If you are receiving a Disability Pension, it will be paid in the form of an unreduced Single Life Pension until your Earliest Retirement Date. If you should die before your Earliest Retirement Date, your Surviving Spouse, if any, will be entitled to a pre-retirement survivor benefit in an amount equal to the amount that he or she would be entitled to receive had you been receiving your Disability Pension in the form of a Surviving Spouse Pension that is the Actuarial Equivalent of his Normal Retirement Pension. This pre-retirement survivor benefit will begin on the first day of the month following the month of your death and will be payable for the life of your Surviving Spouse.

If you are married when you reach your Earliest Retirement Date, the Disability Pension will be changed to a Surviving Spouse Pension that is the Actuarial Equivalent of your Normal Retirement Pension (determined as if you were then 60 years of age) payable as a Single Life Pension, unless you waive this form of payment and elect a Single Life Pension or another available form of pension payment as described above.

Optional Forms of Pension

If you, in keeping with waiver of surviving spouse pension as applicable, reject the Single Life Pension or Surviving Spouse Pension, you may elect one of the following optional forms of payment, which are the Actuarial Equivalent of your Accrued Pension paid as a Single Life Pension on your Pension Start Date. An election of any optional form of benefit payment shall become effective on your Pension Start Date and may not be revoked or changed once it becomes effective.

Life with a Minimum of 60 Months

This form of payment provides monthly payments for your life, with 60 monthly payments guaranteed. If you die before having received 60 monthly benefit payments, the same monthly payments will be continued to your Beneficiary for the remainder of the 60 month period;

EXAMPLE: When Jack Worker retires on August 1, 2001 at age 59, he elects to receive his pension in the form of a Life with a Minimum of 60 Months Pension. His monthly benefit under the Single Life Pension form of payment is calculated to be \$2,050. This amount includes a Post Retirement Increase of \$50 per month. The Life with a Minimum of 60 Months Pension would be calculated as follows:

Monthly Single Life Pension Prior to Post Retirement Increase = \$2,000

$\$2,000 \times (\text{Adjustment Factor of } .985) = \$1,970$

Post Retirement Increase = LESSER of \$50 or (10% of \$1,970) = \$50

Final Monthly Benefit = \$1,970 + \$50 = \$2,020

Jack receives a monthly benefit of \$2,020 starting August 1, 2001 and dies on June 15, 2003 after receiving 23 monthly payments. As of July 1, 2003, his Beneficiary would start receiving a monthly benefit of \$2,020 **payable only for the remaining 37 months (i.e., until July 31, 2006). After July 31, 2006, no further benefits are payable.**

Joint and Survivor Pop-up Pension

Under this form of payment, you will receive reduced monthly payments for your life and if you die before your Spouse, your Spouse will receive monthly payments for his or her life in an amount equal to 50% of the amount you were receiving. However, if your Spouse dies before you, your monthly payments following the death of your Spouse will be increased to the same amount you would have received if you would have elected a Single Life Pension form of payment.

EXAMPLES:

When Ray Worker retires on January 1, 2002 at age 60, he elects to receive his pension in the form of a Joint and Survivor Pop-up Pension. His monthly benefit under the Single Life Pension form of payment is calculated to be \$650. This amount includes a Post Retirement Increase of \$50 per month. Ray's spouse is 3 years older. The Joint and Survivor Pop-up Pension would be calculated as follows:

Monthly Single Life Pension Prior to Post Retirement Increase = \$600

\$600 x (Adjustment Factor of .890*) = \$534

Post Retirement Increase = LESSER of \$50 or (10% of \$534) = \$50

Final Monthly Benefit = \$534 + \$50 = \$584

* The Adjustment Factor is determined based on the ages of the Participant and Spouse at the time of retirement. For more information on Joint and Survivor benefits, please refer to the section entitled Form of Payment of Pension

Ray receives a monthly benefit of \$584 starting January 1, 2002 and dies on April 15, 2003 at which time his spouse is still living. As of May 1, 2003, his surviving spouse would start receiving a monthly benefit of \$292 for her lifetime.

When Mat Worker retires on January 1, 2002 at age 55, he elects to receive his pension in the form of a Joint and Survivor Pop-up Pension. His monthly benefit under the Single Life Pension form of payment is calculated to be \$1,250. This amount includes a Post Retirement Increase of

\$50 per month. Mat's spouse is 3 years older. The Joint and Survivor Pop-up Pension would be calculated as follows:

Monthly Single Life Pension Prior to Post Retirement Increase = \$1,200

$\$1,200 \times (\text{Adjustment Factor of } .910^*) = \$1,092$

Post Retirement Increase = LESSER of \$50 or (10% of \$1,092) = \$50

Final Monthly Benefit = $\$1,092 + \$50 = \$1,142$

* The Adjustment Factor is determined based on the ages of the Participant and Spouse at the time of retirement. For more information on Joint and Survivor benefits, please refer to the section entitled Form of Payment of Pension

Mat receives a monthly benefit of \$1,142 starting January 1, 2002, and on April 15, 2003, his spouse dies. As of May 1, 2003, Mat would start receiving a monthly benefit of \$1,250 for his lifetime based on the Single Life Pension form. After Mat's death, no further benefits would be payable.

PRE-RETIREMENT SURVIVORS' BENEFITS

Pre-Retirement Surviving Spouse Benefit

If you are Eligible for Retirement

If you attain your Earliest Retirement Age and die before your pension payments begin, a pre-retirement survivor benefit will be paid to your Surviving Spouse in an amount equal to the amount your Surviving Spouse would be entitled to receive had you retired and elected to take a Surviving Spouse Pension on the date of your death. Benefit payments will begin on the first day of the first month following the month of your death and will be payable for the life of your Surviving Spouse.

If you are Not Eligible for Retirement

If you are vested and die before you attain your Earliest Retirement Age, a pre-retirement survivor benefit will be paid to your Surviving Spouse in an amount equal to the amount your Surviving Spouse would be entitled to receive had you terminated Covered Employment, survived until your Earliest Retirement Age, retired and elected to take a Surviving Spouse Pension, and died immediately following that retirement. Benefit payments will begin on the first day of the first month following your Earliest Retirement Age, and will be payable for the life of your Surviving Spouse, unless your Surviving Spouse elects a 60-month benefit described below. If you were receiving a Disability Pension and died prior to your Earliest Retirement Age, a pre-retirement surviving spouse benefit will be payable to your Surviving Spouse beginning the month following the month of your death.

Optional 60 Month Benefit

A Surviving Spouse who is entitled to begin receiving a pre-retirement survivor benefit as described above may elect instead to receive a monthly benefit in an amount equal to the amount that you would have received had you been eligible for retirement and elected to take a Single Life Pension on the date of your death. This benefit begins on the first day of the month following the date of your death and continues until 60 monthly payments have been made. If this benefit is less than the Actuarial Equivalent of the pre-retirement survivor benefit, then it will not be paid and you will be required to receive the pre-retirement survivor benefit as described above.

Non-Spouse Beneficiary Pre-Retirement Survivor Benefit

If you have no surviving Spouse or have designated a Beneficiary other than your Spouse, your Beneficiary may be entitled to a monthly death benefit.

Effective April, 1, 1992, if you are vested and have attained your Earliest Retirement Age and die before your retirement, a monthly benefit will be paid to your Beneficiary provided that you had not incurred two or more consecutive Breaks in Service immediately before your death. The monthly benefit amount payable to your Beneficiary will be equal to the amount you would have received if you had elected to take a Single Life Pension on the date of your death. The monthly benefit payments will begin on the first day of the first month following the date of your death and continue until 60 monthly payments have been made.

You may designate a Beneficiary on the form and in such manner as may be determined by the Trustees. Your designated Beneficiary may be one or more individuals or an estate, trust or organization (other than a corporation). If you did not designate a Beneficiary, or the Beneficiary you designated did not survive you, the death benefit described above will be paid to the following persons who survive you, in the following order of priority: (1) Spouse, (2) children, including adopted children, in equal shares, per stirpes, (3) parents, in equal shares, (4) personal representative of your estate.

If you are married, you may waive the pre-retirement Surviving Spouse benefit and designate a Beneficiary other than your Surviving Spouse, provided your Spouse consents in writing to the waiver of the Surviving Spouse benefit and to the Beneficiary you designate during the applicable election period. For this purpose, the "election period" is the period that begins on the first day of the Plan Year in which you attain age 35 and ends on the date of your death. If you separate from service before the first day of the Plan Year in which you reach age 35, the election period begins on the date of separation with respect to benefits accrued prior to separation. Any Beneficiary designation and waiver of the pre-retirement Surviving Spouse benefit may be revoked during the election period.

In no event will any benefit be paid to a Surviving Spouse who has consented to the designation of a Beneficiary other than the Surviving Spouse.

SUSPENSION OF BENEFITS FOR WORK
AFTER RETIREMENT

If you're receiving a pension from this Plan and you're thinking about going back to work, or if you've already returned to work, read this information carefully. **Your monthly pension benefits could be suspended if you return to work.** To avoid this, you should contact the Fund Office before you return to work in order to receive a determination regarding suspension of your benefits. Applicable provisions regarding the suspension of benefits as permitted by the United States Department of Labor may be found in 29 C.F.R. §2530.203-3 of the Code of Federal Regulations.

These rules won't affect you if:

- You are at least age 60 and you work less than 40 hours in any month in Disqualifying Employment, or
- You work in a job outside the industry, regardless of age, or
- You have reached your "required beginning date" which is April 1 following the year you attain age 70 ½.

In these cases, you will continue to receive your monthly pension benefit from the Plan.

Retirement Before Age 60

If you retired before age 60 and then you return to work (including in a supervisory capacity) before age 60, your pension payments will stop for any month in which you work any number of hours in Disqualifying Employment. Disqualifying Employment before age 60 is employment:

- (i) in an industry in which Employees covered by the Plan were employed and Accrued Pension Credits under the Plan as a result of such employment at the time that the payment of benefits commenced or would have commenced if you had not remained in or returned to employment, and
- (ii) in a trade or craft you worked in at any time under the Plan, and
 1. (iii) in the geographic area covered by the Plan at the time that the payment of benefits commenced or would have commenced if you had not remained in or returned to employment.

Disqualifying Employment before age 60 also includes employment in the geographic area under the jurisdiction of any pension plan with which this Plan has a reciprocal agreement.

Retirement Age From Age 60 to Age 70½

If you are in retirement at or after age 60, but before age 70½, and then you return to work (including supervisory capacity) in Disqualifying Employment within the industry, your pension benefit payments will stop and you will not be entitled to any pension benefit for any month in which you work 40 hours or more in Disqualifying Employment. Disqualifying Employment from age 60 to age 70½ is employment in the industry, trade or craft, and geographic area as described in (i) through (iii) above.

Retirement Age 70½ and After:

If you are still working beyond age 70½ or go back to work after age 70½, you are required to begin receiving your pension, and these rules will not apply.

What should you do if you return to work in the Industry?

You must notify the Trustees, in writing, within 30 days after you go back to work in any employment.

How will you know that your benefits are suspended?

The Trustees will notify you in writing during the first calendar month in which your pension benefit is being withheld. The notice will tell you the reason that the payment is stopped, and provide you with an explanation of the suspension rules and a copy of the Plan provisions regarding suspension of benefits.

If you disagree with the Trustees' decision, you may request a review of their decision to stop your benefit payments by writing to the Fund Office. Your request should state the reasons for your disagreement. Your request will be processed under the Claim and Appeal Procedure of the Plan as described in this Summary Plan Description.

How much of your monthly pension will be withheld?

Your entire monthly pension benefit will be withheld.

How will pension payments start again?

First, you must notify the Fund Office that you stopped working in the industry. Your monthly pension payments should begin again no later than the first day of the third month after the month in which you stop working, unless a longer period of suspension applies. You will also receive payments dating back to the first month for which your benefits were not suspended. Your notice should include your name, Social Security number, and the date on which you stopped working.

Can payments be reduced?

Once your payments begin again they may be reduced to make up for any payments you received after you returned to work in the industry. If you die before these reduced payments (to make up for what you owe the Plan) have been completed, then pension payments to your Surviving Spouse or Beneficiary may be reduced as well.

If you disagree with the Fund's decision to suspend your monthly pension benefits or if you have a question concerning your suspension notice, you should file a claim with the Fund as described in the section on Claims and Appeals Procedures.

Because of Questions About Suspension of Benefits, Included Here Are The Actual Provisions of The Plan Article 4, Section 4.5 and Article 5, Section 5.4 Employment After Retirement or Normal Retirement Age
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4.5 Employment After Retirement or Normal Retirement Age.

(a) *Suspension of Benefits.* A Participant who continues in employment (including employment in a supervisory capacity) after Normal Retirement Age in the same industry, trade or craft, and geographic area of the Plan, as described in Section 5.4 below, or who returns to such employment after having commenced receiving retirement benefits under the Plan, shall have his retirement benefits suspended in accordance with the provisions of Section 5.4. In no event, however, shall a Participant's retirement benefits be suspended after April 1st of the calendar year following the calendar year in which the Participant attains age 70½.

(b) *Calculation of Pension Amount.* A Participant whose continued employment or reemployment under this Section 4.5 is in Covered Employment shall continue to earn Pension Credits (subject to the maximum of 35 Pension Credits) under the Plan until the Participant is no longer employed in Covered Employment. Effective January 1, 2001, such Participant shall have his monthly pension amount following such date determined pursuant to Section 4.2 of the Plan.

(c) *Commencement or Resumption of Benefit Payments.*

(i) A Participant whose retirement benefits have been suspended pursuant to this Section 4.5 and Section 5.4 shall have payment of such retirement benefits, as recomputed pursuant to Section 4.5(b), commence or resume for months following the last month for which benefits are suspended, with payments beginning no later than the third month after the last calendar month for which the Participant's benefit was suspended, provided that the Participant has complied with the notification requirements of Section 5.4(d).

(ii) In the case of a previously retired Participant, (1) such Participant's recomputed pension benefit will reflect Pension Credits, if any, earned through the end of the Plan Year preceding the date pension benefits are resumed, and (2) additional Pension Credits, if any, earned following the end of such preceding Plan Year shall be reflected in a new recomputed pension benefit beginning on the first day of the Plan Year next following the date that the

Participant returns to retired status. Such a Participant shall not be entitled to a new election as to the Surviving Spouse Pension or any other form of benefit after such return.

(iii) Overpayments attributable to payments made for any month or months for which the Participant's benefits should have been suspended pursuant to Section 5.4 shall be deducted from pension payments otherwise paid or payable subsequent to the period of suspension. A deduction from a monthly benefit for a month after the Participant attained Normal Retirement Age shall not exceed 25% of the pension amount (before deduction), except for the first pension payment made upon resumption after a suspension, which may be subject to offset without limitation. If a Participant dies before recoupment of overpayments has been completed, deduction shall be made from the benefits payable to his Surviving Spouse or Beneficiary, subject to the 25% limitation on the amount of the deduction.

(iv) Suspension of a Participant's benefits under the Plan before Normal Retirement Age in accordance with Section 5.4(b) because of employment which would not cause suspension of the Participant's benefits after Normal Retirement Age, shall not have the effect of reducing a Participant's Accrued Pension. To the extent necessary to avoid such reduction, the monthly amount of a Participant's pension shall be adjusted so as not to reduce the Participant's Accrued Pension.

5.4 Continued Employment or Reemployment and Suspension of Benefits.

(a) *Employment After Normal Retirement Age.* Pension benefits under the Plan shall be suspended for any calendar month in which a Participant who has attained Normal Retirement Age continues in employment or has retired and is reemployed (including employment in a supervisory capacity) for 40 or more Hours of Service in such month in:

(i) an industry in which Employees covered by the Plan were employed and accrued pension credits under the Plan as a result of such employment at the time that the payment of benefits commenced or would have commenced if the Participant had not remained in or returned to employment;

(ii) a trade or craft in which the Participant was employed at any time under the Plan; and

(iii) the geographic area covered by the Plan at the time that the payment of benefits commenced or would have commenced if the Participant had not remained in or returned to employment.

For purposes of this Section 5.4, the terms "industry", "trade or craft" and "geographic area" shall have the meaning ascribed to such terms in Section 2530.203-3 of the regulations under ERISA, as such regulations may be amended from time to time.

(b) *Reemployment Before Normal Retirement Age.* Pension benefits under the Plan shall be suspended for any calendar month in which a retired Participant who has not yet attained Normal Retirement Age is reemployed (including reemployment in a supervisory capacity) for

one or more Hours of Service in such month in the industry, trade or craft, and geographic area referred to in Section 5.4(a) above. For this purpose, the geographic area shall also include the area under the jurisdiction of any pension plan with which this Plan has a reciprocal agreement.

(c) *Notice of Suspension of Benefits.*

(i) Upon a Participant's attainment of Normal Retirement Age or commencement of retirement benefits under the Plan, the Plan shall notify the Participant of the rules under this Section 5.4 regarding the suspension of benefits. If benefits have been suspended under this Section 5.4 and payment resumed, new notification shall, upon such resumption, be given to the Participant, if there has been any material change in the suspension rules or the identity of the industries or area covered by the Plan.

(ii) The Plan shall inform a Participant of any suspension of his retirement benefits under the Plan by notice given by personal delivery or first class mail during the first calendar month in which his benefits are withheld. Such notice shall include a description of the specific reason for the suspension, a copy of the relevant provisions of the Plan, reference to the applicable regulations of the U.S. Department of Labor, and a statement of the procedure for securing a review of the suspension. In addition, such notice shall describe the procedure for the Participant to notify the Plan when his employment ends. If the Plan intends to recover prior overpayments for any month in which retirement benefits should have been suspended, the suspension notice shall explain the offset procedure and identify the amount expected to be recovered and the periods of employment to which they relate. A Participant shall be entitled to review of a determination suspending his benefits by written request filed with the Plan within 180 days of the notice of suspension.

(iii) The Plan shall inform all retired Participants at least once every 12 months of the employment notification requirements and the presumptions set forth in this Section 5.4.

(d) *Notice of Employment by Participant.*

(i) A Participant shall notify the Plan in writing within 30 days after starting any work of a type that may result in the suspension of benefits under this Section 5.4, without regard to the number of hours of such work. A Participant may ask the Plan whether a particular employment will be disqualifying. The Plan shall provide the Participant with its determination.

(ii) A Participant who has been employed and whose pension benefits have been suspended pursuant to this Section 5.4 shall notify the Plan when such employment terminates. The Plan shall have the right to hold back benefit payments until such notice is filed with the Plan.

(e) *Presumptions Upon Failure to Give Notice.*

(i) If a Participant has worked in employment that would result in a suspension of benefits under this Section 5.4 and has failed to give timely notice to the Plan of such employment, the Plan shall presume that the Participant worked for at least 40 hours in such month and any subsequent month before the Participant gives notice that he has ceased such

employment. The Participant shall have the right to overcome such presumption by establishing that his employment was not in fact an appropriate basis, under the Plan, for suspension of benefits.

(ii) If a Participant has become employed for any number of hours for a contractor at a building or construction site and has failed to give timely notice to the Plan of such employment, the Plan shall presume that such Participant has engaged in such work for as long as the contractor has been and remains actively engaged at such site. The Participant shall have the right to overcome such presumption by establishing that his work was not in fact an appropriate basis, under the Plan, for suspension of benefits.

(f) *Commencement or Resumption of Benefit Payments.* Commencement or resumption of payment of a Participant's retirement benefits following suspension of such benefits shall be made in accordance with the provisions of Section 4.6(c).

APPLYING FOR BENEFITS, CLAIM AND APPEAL PROCEDURE

Obtain Claim Form

Completion and Submission of Claim Form in Writing

A claim for benefit or any other claim to or right from the Fund is a written application requesting a benefit or expressing the claim filed with the Plan. For a claim or claimed benefit to be considered, the claim must be in writing and submitted on a fully completed Fund application form. The application must be accompanied by all required documentation. If you have any questions regarding the appropriate procedure, contact the Fund Office.

Filing an Application

In no case can pension benefits begin previous to the date when you are first eligible to receive benefits. Generally, you should begin receiving your pension benefit on the first day of the month following the month you submit your application. You may, however, choose to delay the start date of your benefit payments, but your benefit cannot be delayed beyond the April 1st following the calendar year in which you turn age 70 ½. Your benefit must begin by that April 1st, even though you may still be working in Covered Employment.

Applications for retirement must be filed no later than before the first of the month in which you wish benefits to be paid. You are urged to file as soon as you decide on your retirement date. Early filing will avoid delay in the processing of your application and the payment of benefits. If you have met all of the requirements for a benefit under the Pension Plan, your pension will begin the first day of the following the month in which you fulfill all of the conditions of entitlement to benefits including the filing of your application. Special provisions may apply for Disability Pensions. If you claim entitlement to a Disability Pension, you should immediately, upon becoming Disabled, contact the Fund.

The Trustees will make a decision about your application within 90 days of receiving it. Under special circumstances, you may be notified in writing by the Trustees that an additional 90 day extension may be needed to process your application and the reason needed for the extra time.

Appeals Procedures if your Application is Denied

If your application for a benefit is denied in whole or in part you will be sent a written notice explaining:

- The specific reason for the denial;
- The Plan provision(s) on which the decision is based;
- What additional material or information you need to provide to process your application, and an explanation of why the material or information is needed;
- What procedures you need to follow to get your application reviewed, and applicable time frames;
- A statement of your right to bring a civil action under Section 502(a) of ERISA following an adverse benefit determination on review;

You can appoint an authorized representative to act on your behalf in filing a claim and seeking a review of a denied claim. You must, however, notify the Fund Office in advance in writing of the name, address, and phone number of the authorized representative.

Upon request and free of charge, you or your duly authorized representative will be allowed to review relevant documents and submit issues and comments to the Fund Office in writing. A document, record or other information is “relevant” and is required to be made available to you only if it:

- was relied upon by the [Fund Administrator] in making the benefit determination;
- was submitted, considered, or generated in the course of making the benefit determination;
- demonstrates compliance with the Plan’s administrative processes and safeguards required under federal law.

You or your authorized representative have the right to request that your application be reviewed. Your request must be in writing, stating the reason you disagree with the denial and including any additional information you believe is relevant to your application. Your request must be filed with the Trustees within 60 days after receiving the notice of the denial.

The Trustees will make their decision on your request for review no later than 60 days after receipt of your request. If an extension is needed, you will be notified in writing, before the end of the 60-day period, of the special circumstances. A decision will be made no later than 120 days after receipt of your request. If an extension is needed, you will be notified in writing, before the end of the 60-day period, of the special circumstances. A decision will be made no later than 120 days after receipt of your request.

You will be notified in writing of the Trustees' decision. If such determination is favorable to you, it shall be final, binding and conclusive. If such determination is adverse to you, it shall be binding and conclusive unless you notify the Trustees within 90 days after the mailing or delivery to you by the Trustees of their determination that you intend to institute legal proceedings challenging the determination of the Trustees, and actually institute such legal proceeding within 180 days after such mailing or delivery.

The notice shall include specific reasons for the decision with references to the Plan provisions on which the decision is based. The notice will also include a statement indicating you or your authorized representative is entitled to receive, upon request and free of charge, reasonable access to and copies of all documents, records, and other information relevant to your claim for benefits and a statement explaining your right to bring a civil lawsuit under ERISA following an adverse benefit determination upon your appeal. The decision of the Trustees shall be final and binding.

Action of Trustees

The Trustees shall be the sole judges of the standard of proof required in any matter relating to the Plan, or any case or appeal relating to the Plan, and the application and interpretation of this Plan, and the decisions of the Trustees shall be determined by their discretionary powers and shall be final and binding on all parties. In keeping with their position as sole judge, but not being arbitrary or capricious, wherever in the Plan the Trustees are given discretionary powers, they shall exercise such powers in a uniform and non-discriminatory manner. The Plan shall process a claim for benefits as speedily as is feasible, consistent with the need for adequate information and proof necessary to establish the claimant's benefit rights and to commence the payment of benefits.

AMENDMENTS AND TERMINATION

Amendments to the Plan

(a) The provisions of this Plan may be amended by the Trustees at any time, providing that such amendments do not change the status of the Trust and Fund as exempt from income taxes under pertinent sections of the Code and applicable regulations thereunder.

(b) For the purposes of minimum funding standards under the Code, any amendment must be adopted no later than two years after the close of the Plan Year to which the amendment applies and if such amendment reduces the Accrued Pension of any Employee, such amendment shall not be effective unless approved by the Secretary of Labor, or unless he fails to take action disapproving such amendment within 90 days after receiving notice of it.

(c) No Plan amendment affecting the vesting rules shall be effective as to any Employee with five or more Vesting Credits, who elects to have his right to vested Accrued Pension determined under the terms of the Plan, as in effect prior to the amendment.

(d) No merger or consolidation with, or transfer of assets or liabilities to, any other plan after the date of the enactment of ERISA shall be effective unless each Participant in the Plan would (if the Plan then terminated) receive a benefit immediately after the merger, consolidation, or transfer which is equal to or greater than the benefit he would have been

entitled to receive immediately before the merger, consolidation, or transfer (if the Plan had then terminated). This paragraph shall apply only to the extent determined by the Pension Benefit Guaranty Corporation.

Termination of the Plan

(a) The Plan may be terminated by the Trustees or by the Pension Benefit Guaranty Corporation in accordance with the provisions of Title IV of ERISA.

(b) Upon termination or partial termination of the Plan, the right of all affected Participants to benefits accrued to date of termination to the extent then funded as of such date, shall be nonforfeitable.

MISCELLANEOUS

No Reversion of Fund Assets

In no event shall any of the corpus or assets of the Pension Fund revert to any Employer or be subject to any claims of any kind or nature by the Employers except for the return of an erroneous contribution within the time limits prescribed by law.

Action of Trustees

The Trustees shall be the sole judges of the standard of proof required in any matter relating to the Plan, or any case or appeal relating to the Plan, and the application and interpretation of this Plan, and the decisions of the Trustees shall be determined by their discretionary powers and shall be final and binding on all parties. In keeping with their position as sole judge, but not being arbitrary or capricious, wherever in the Plan the Trustees are given discretionary powers, they shall exercise such powers in a uniform and non-discriminatory manner. The Plan shall process a claim for benefits as speedily as is feasible, consistent with the need for adequate information and proof necessary to establish the claimant's benefit rights and to commence the payment of benefits.

Benefits Pursuant to Settlement Agreement

Notwithstanding the provisions of this Plan or a prior version of the Plan, if a Participant or Beneficiary was a member of the class certified by the Court in the action entitled LaFata v. Cement & Concrete Workers District Counsel Pension Plan (99 Civ. 8506 (NGG), United States District Court, Eastern District of New York, the provisions of the settlement agreement, release and final judgment entered in that action shall determine such Participant's and Beneficiary's benefits under the Plan.

Applicable Law

Except to the extent governed by Federal law, the Plan shall be administered and interpreted in accordance with the law of the State of New York.

PBGC INSURANCE PROTECTION STATEMENT

Your pension benefits under this multiemployer plan are insured by the Pension Benefit Guaranty Corporation (PBGC), a federal insurance agency. A multiemployer plan is a collectively bargained pension arrangement involving two or more unrelated employers, usually in a common industry.

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

The maximum benefit that the PBGC guarantees is set by law. There is a ceiling on the amount of monthly benefit that PBGC guarantees, which is adjusted periodically. In the year 2003, under the multiemployer program, the PBGC guarantee equaled a participant's years of service multiplied by (1) 100% of the first \$11 of the monthly benefit accrual rate and (2) 75% of the next \$33. The PBGC's maximum guarantee limit was \$35.75 per month times a participant's years of service. For example, the maximum annual guarantee for a retiree with 30 years of service would be \$12,870.

The PBGC guarantee generally covers: (1) Normal and early retirement benefits; (2) disability benefits if you become disabled before the plan becomes insolvent; and (3) certain benefits for your survivors. PBGC does not guarantee all types of benefits under covered plans.

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

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

ERISA INFORMATION AND RIGHTS STATEMENT

Pertaining to the Employees Retirement Income Security Act (ERISA).

PLAN NUMBER: 001

E.I.N. 13-5629824

TYPE OF PLAN: Defined Benefit Pension

PLAN ADMINISTRATOR:

BOARD OF TRUSTEES
35-30 Francis Lewis Boulevard
Flushing, NY 11358
(718) 762-6133

FISCAL YEAR

The Fund's records are kept on a calendar year basis, ending December 31st.

LEGAL PROCESS

CEMENT AND CONCRETE WORKERS DISTRICT COUNCIL PENSION FUND is authorized to receive legal process, by its Trustees listed above, at 35-30 Francis Lewis Boulevard, Flushing, NY 11358. The telephone number at this office is (718) 762-6133.

FUND FINANCED

The Fund is financed by Employer Contributions.

YOUR RIGHTS UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT (ERISA)

As a Plan Participant, you are entitled to certain rights and protections under the Employment Retirement Income Security Act of 1974 (ERISA). ERISA provides that all Plan Participants shall be entitled to:

Receive Information About Your Plan and Benefits

- Examine, without charge, at the Fund Office, and at other specified locations, such as worksites and union halls, all documents governing the plan, including insurance contracts and collective bargaining agreements, and a copy of the latest annual report (Form 5500 Series) filed by the Plan with the U.S. Department of Labor and available at the Public

Disclosure Room of the Employee Benefits Security Administration (formerly, Pension and Welfare Benefit Administration).

- Obtain, upon written request to the plan administrator, copies of documents governing the operation of the Plan, including insurance contracts and collective bargaining agreements, and copies of the latest annual report (Form 5500 Series) and updated summary plan description. The plan administrator may make a reasonable charge for the copies.
- Receive a summary of the Plan's annual financial report. The Plan Administrator is required by law to furnish each Participant with a copy of this summary annual report.
- Obtain a statement telling you whether you have a right to receive a pension at normal retirement age (**age 60**) and, if so, what your benefits would be at normal retirement age if you stop working under the Plan now. If you do not have a right to a pension, the statement will tell you how many more years you have to work to get a right to a pension. This statement must be requested in writing and is not required to be given more than once every 12 months. The Plan must provide the statement free of charge.

Prudent Actions by Plan Fiduciaries

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

Enforce Your Rights

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

No one, including your Employer, your Union, or any other person, may fire you or otherwise discriminate against you in any way to prevent you from obtaining a welfare benefit or exercising your rights under ERISA.

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

If you have a claim for benefits which is denied or ignored, in whole or in part, you may file suit in a state or federal court. In addition, if you disagree with the Plan's decision or lack thereof concerning the qualified status of a domestic relations order, you may file suit in federal court. If

it should happen that Plan fiduciaries misuse the Plan's money, or if you are discriminated against for asserting your rights, you may seek assistance from the U.S. Department of Labor, or you may file suit in a federal court. The court will decide who should pay court costs and legal fees. If you are successful, the court may order the person you have sued to pay these costs and fees. If you lose, the court may order you to pay these costs and fees, for example, if it finds your claim is frivolous.

Assistance with Your Questions

If you have any questions about the Plan, you should contact the Plan Administrator. If you have any questions about this statement or about your rights under ERISA, or if you need assistance in obtaining documents from the Plan Administrator, you should contact the nearest office of the Employee Benefits Security Administration (formerly Pension and Welfare Benefits Administration), U.S. Department of Labor, listed in your telephone directory or the Division of Technical Assistance and Inquiries, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue N.W., Washington, D.C. 20210. You may also obtain certain publications about your rights and responsibilities under ERISA by calling the Publications hotline of the Employee Benefits Security Administration (formerly Pension and Welfare Benefits Administration).

**CEMENT AND CONCRETE WORKERS
DISTRICT COUNCIL PENSION PLAN**

As Amended and Restated to January 1, 2002

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CEMENT AND CONCRETE WORKERS
DISTRICT COUNCIL PENSION PLAN

As Amended and Restated to January 1, 2002

PREAMBLE

The Cement and Concrete Workers District Council Pension Plan (the "Plan") was first established pursuant to an Agreement and Declaration of Trust dated as of July 29, 1954. The Plan, as amended and restated herein, is effective as of January 1, 2002, except as to such provisions as are specifically made effective on a different date. Except as otherwise specifically provided herein, the rights of any Participant or other person claiming rights under this Plan who has died, retired, terminated employment or suffered a break in service under a prior version of the Plan, will be determined under the applicable provisions of the Plan as in effect at the time of such Participant's or other person's death, retirement, termination or break in service.

ARTICLE 1

Definitions

1.1 "Accrued Pension" means, as of any date, the amount of retirement benefit of a Participant, determined in accordance with Article 4 and payable in the form of a Single Life Pension beginning on the Participant's Normal Retirement Date (or upon the Participant's termination of Covered Employment, if later). Except as otherwise permitted by applicable law, a Participant's Accrued Pension shall not be reduced.

1.2 "Actuarial Equivalent" means an amount or benefit of equivalent present value to another benefit based upon the following, except that for purposes of Section 7.3 the interest rate and applicable mortality table pursuant to Revenue Ruling 98-1 shall be used:

- (a) For periodic payouts:
 - (i) Mortality: the 1951 Group Annuity Table.
 - (ii) Interest: 6.5% per annum compounded annually.
- (b) For lump sum payouts pursuant to Section 7.2 prior to January 1, 2000:
 - (i) Mortality: the 1951 Group Annuity Table.
 - (ii) Interest: 6.5% or the interest rates prescribed by the Pension Benefit Guaranty Corporation pursuant to Section 417(e) of the Code in effect in January of the year of the Participant's date of distribution, whichever produces the greater benefit.
- (c) For lump sum payouts pursuant to Section 7.2 on or after January 1, 2000:
 - (i) Mortality: the mortality table prescribed by the Commissioner of Internal Revenue pursuant to Section 417(e)(3) of the Code based

on the prevailing commissioners' standard table (described in Section 807(d)(5)(A) of the Code used to determine reserves for group annuity contracts issued on the date as of which present value is being determined (without regard to any other paragraph of Section 807(d)(5) of the Code).

- (ii) Interest: the annual interest rate on 30-year Treasury securities as specified by the Commissioner of Internal Revenue pursuant to Section 417(e)(3) of the Code for the month of December immediately preceding the Plan Year in which occurs the Participant's Pension Start Date.
- (d) Notwithstanding the foregoing, the Actuarial Equivalent amount of a Participant's benefit for purposes of lump sum payouts pursuant to Section 7.2 shall be not less than the Actuarial Equivalent of the Participant's Accrued Pension as of January 1, 2001, determined pursuant to paragraphs (b) or (c) of this Section 1.2, whichever produces the greater benefit.

1.3 "Average Monthly Earnings" means:

- (a) for each calendar year prior to January 1, 1967, the total wages of an Employee reported by Employers for Covered Employment upon which the contributions to the Pension Fund were based, divided by twelve;
- (b) for each calendar year beginning on or after January 1, 1967, the total hours reported by the Employers for Covered Employment upon which the contributions to the Pension Fund were based, multiplied by the laborer's straight time hourly wage rate, divided by twelve. The laborer's straight time hourly wage rate shall be the rate set forth for the year in the collective bargaining agreement between the District Council and the Cement League. If there is a change in wage rates during the calendar year, the wage rate for the year shall be the average rate for the calendar year; and
- (c) for each calendar year with respect to Employees who are not covered by a collective bargaining agreement, total wages for Covered Employment as reported in the Employee's W-2, excluding the amount of any severance payments reflected in such W-2 wages, divided by twelve.

1.4 "Beneficiary" means the person designated as provided in Section 6.2 to receive the benefits which are payable thereunder upon the death of a Participant.

1.5 "Break in Service" means a Plan Year in which a Participant has not completed the requisite number of Hours of Service pursuant to Section 2.3.

1.6 "Cement League" means the Cement League of the Building Trades Employees Association of the City of New York.

1.7 “Code” means the Internal Revenue Code of 1986, as may be amended from time to time.

1.8 “Covered Employment” means employment of an Employee by an Employer who is required to make contributions to the Pension Fund with respect to such Employee.

1.9 “Disabled” means having a physical or mental condition that is a total and permanent disability that entitles the Participant to receive Social Security disability benefits, as determined by the Social Security Administration.

1.10 “Disability Pension” means a disability pension payable to a Participant pursuant to Section 4.1(c).

1.11 “District Council” means the Cement and Concrete Workers’ District Council of New York of the Laborers International Union of North America Locals 6A, 18A and 20.

1.12 “Earliest Retirement Date” means the earliest date on which a Participant meets the age and service requirements for retirement under Section 4.1(a) or 4.1(b) of the Plan.

1.13 “Early Retirement Pension” means a pension payable to a Participant upon his early retirement prior to Normal Retirement Age pursuant to Article 4.

1.14 “Employer” means (i) any employer who is obligated under a collective bargaining agreement or other written agreement to make contributions to the Fund, (ii) any other employer who satisfies the requirements for participation established by the Trustees and agrees to be bound by the Trust Agreement, and (iii) the Union, the District Council, or the Fringe Benefit Funds.

1.15 “Employee” means:

- (a) any employee who is embraced within the scope of a collective bargaining agreement between an Employer and the Union;
- (b) any person employed by the Union or the District Council, provided the Union or District Council is obligated to make contributions to the Fund on behalf of such person; and
- (c) any person employed by the Fringe Benefit Funds, provided the Fringe Benefit Funds are obligated to make contributions to the Fund on behalf of such person.

1.16 “ERISA” means the Employee Retirement Income Security Act of 1974, as may be amended from time to time.

1.17 “Final Average Monthly Earnings” means the average of the Average Monthly Earnings of the Participant’s Covered Employment for a period of five consecutive calendar years which gives the highest average of the Average Monthly Earnings for any five consecutive calendar year period for the Participant. For purposes of calculating a Participant’s Final Average Monthly Earnings, any years in which the Participant has no Hours of Service or a number of Hours of Service less than the minimum required Hours of Service necessary to earn a Pension Credit shall be included in such calculation when such years occur in such five consecutive calendar years which results in the highest average of the Participant’s Average Monthly Earnings. Notwithstanding the foregoing, if a

Participant becomes disabled for at least six consecutive months in the first calendar year of the five-year period immediately prior to the Participant's separation from Covered Employment, in determining the five consecutive calendar years which yields the highest Final Average Monthly Earnings, the Average Monthly Earnings for the year in which the Participant was disabled shall be equal to the Average Monthly Earnings in the calendar year immediately preceding the calendar year in which the Participant was disabled. For this purpose, a Participant shall be considered disabled in any month in which he received disability benefits from the Cement and Concrete Workers District Council Welfare Fund.

1.18 "Fringe Benefit Funds" means the Pension Fund, the Cement and Concrete Workers District Council Welfare Fund, the Cement and Concrete Workers Annuity Fund, the Apprenticeship and Training Fund, and any other fund or funds established for Employees and designated by the Trustees as a Fringe Benefit Fund for purposes of this Plan.

1.19 "Fund" or "Pension Fund" means the fund or funds provided for in the Trust and commonly called the Cement and Concrete Workers District Council Pension Fund.

1.20 "Hours of Service" means:

- (a) Hours for which an Employee is paid, or entitled to payment for the performance of duties for an Employer in Covered Employment, and any other hours for which an Employee is paid or entitled to payment by an Employer which are required to be credited as hours of service under Section 2530.200b-2 of the Department of Labor Regulations. Notwithstanding the foregoing, not more than 501 hours of service shall be credited to an Employee on account of any single continuous period during which the Employee performs no duties in Covered Employment.
- (b) For periods prior to January 1, 1967, when contributions were based on a percentage of wages, an Employee's wages reported by contributing Employers for a calendar year divided by the laborer's straight time hourly wage rate set forth in the collective bargaining agreement for the calendar year. If there is a change in rate during the calendar year, the wage for the year shall be the average rate for such calendar year.

1.21 "Normal Retirement Age" means an Employee's 60th birthday or the fifth anniversary of the date on which such Employee commenced participation in the Plan, whichever occurs later.

1.22 "Normal Retirement Date" means the first day of the month coincident with or next following the day on which a Participant attains Normal Retirement Age.

1.23 "Normal Retirement Pension" means a pension payable to a Participant upon his normal retirement pursuant to Article 4.

1.24 "Participant" means an Employee or former Employee who satisfies the requirements for participation and has not ceased participation under Article 2, or a Surviving Spouse or Beneficiary who is receiving or is entitled to receive a pension under the Plan.

1.25 "Pension Credits" means the credits earned by a Participant pursuant to Section 3.1 for purposes of determining the amount of the Participant's retirement benefit under the Plan.

1.26 “Pension Start Date” means the first day of the month coincident with or next following the month in which the Participant has fulfilled all of the conditions of entitlement to a benefit under the Plan, including the filing of an application. Solely for purposes of the Surviving Spouse Pension waiver and notice requirements of Section 5.2, the Pension Start Date of a Participant who becomes Disabled prior to his Earliest Retirement Date shall be deemed to be the first day of the month coincident with or next following the Participant’s Earliest Retirement Date.

1.27 “Permanent Break in Service” means a Break in Service of a duration described in Section 2.4, which results in the loss of a Participant’s prior years of Pension Credits and Vesting Credits under the Plan.

1.28 “Plan” means the Cement and Concrete Workers District Council Pension Plan as herein adopted and as it may from time to time be amended.

1.29 “Plan Year” means the calendar year.

1.30 “Retiree” means a Participant after the Participant’s Pension Start Date.

1.31 “Single Life Pension” means a pension payable in the form of level monthly payments for the life of the Participant (with no survivor benefits).

1.32 “Spouse” means, as of any date, the person to whom the Participant is legally married on such date.

1.33 “Surviving Spouse” means a Participant’s Spouse on the earlier of his death or his Pension Start Date. A former Spouse shall be treated as a Surviving Spouse to the extent provided under a qualified domestic relations order as described in Section 414(p) of the Code.

1.34 “Surviving Spouse Pension” means a pension under which (i) the Participant receives level monthly payments for the Participant’s life and (ii) following the Participant’s death the Participant’s Surviving Spouse receives level monthly payments for the Surviving Spouse’s life with the monthly payment equal to 50% of the monthly payment which would have been payable to the Participant had he lived.

1.35 “Trust” or “Trust Agreement” means the Agreement and Declaration of Trust between the District Council and the Cement League with respect to the Plan, as it may be amended and restated from time to time.

1.36 “Trustees” means the Trustees of the Trust. The Trustees shall have the powers and responsibilities set forth in the Plan and the Trust Agreement.

1.37 “Union” means Locals 6A, 18A and 20 of the Laborers International Union of North America.

1.38 “Vesting Credit” means the credits earned by an Employee pursuant to Section 3.2 for purposes of determining whether the Participant is vested in (*i.e.* has a nonforfeitable right to) the Accrued Pension, if any, he has earned under the Plan. A Participant shall receive

one Vesting Credit for each Plan Year in which the Participant has at least 1,000 Hours of Service.

ARTICLE 2

Participation and Breaks in Service

2.1 Commencement of Participation. (a) An Employee shall become a Participant in the Plan on the first day of the calendar month following the calendar month in which he completes at least 900 Hours of Service in Covered Employment in the eligibility computation period. An Employee's initial eligibility computation period shall be the twelve consecutive month period beginning with the date the Employee first performs an Hour of Service in Covered Employment. Thereafter, the eligibility computation period of an Employee who fails to complete at least 900 Hours of Service within such twelve consecutive month period shall be the Plan Year, commencing with the Plan Year that includes the first anniversary of the date of his first Hour of Service. A Participant shall become entitled to benefits under the Plan only to the extent, if any, set forth in the applicable provisions of the Plan. For Plans Years 2004 and prior, the participation requirements noted above were 700 hours.

(b) A former Employee who has incurred a Permanent Break in Service and again becomes an Employee in Covered Employment shall be treated as a new Employee and shall become a Participant upon satisfying the requirements of Section 2.1(a) following his re-employment.

2.2 Termination of Participation. A Participant shall cease to be a Participant upon the earliest to occur of (i) the Participant's death, (ii) the payment of the Participant's pension in a lump sum pursuant to Section 7.2, or (iii) the incurrence of a Permanent Break in Service. A Participant who incurs a Permanent Break in Service shall cease to be a Participant as of the last day of the year in which a Permanent Break in Service was incurred.

2.3 Break in Service. (a) For periods commencing on or after April 1, 1976, an Employee will incur a Break in Service for any Plan Year in which the Employee has fewer than the following Hours of Service in a Plan Year:

<u>Plan Year</u>	<u>Break in Service</u>
Plan Years 1976 through 1988	400 Hours of Service
Plan Years 1989 through 1994	501 Hours of Service
Plan Years 1995 through 2004	175 Hours of Service
Plan Years 2005 and Later	225 Hours of Service

(b) For periods prior to April 1, 1976, an Employee will incur a Break in Service if such service would have been disregarded or cancelled under the terms of the Plan with regard to breaks in service as in effect at the time of such break in service.

2.4 Permanent Break in Service. (a) A Participant who incurs a Permanent Break in Service shall have any Pension Credits and Vesting Credits earned prior to such break cancelled for purposes of determining the amount, if any, of the Participant's benefits under the Plan. A Participant who has become vested pursuant to Section 3.2 shall not incur a Permanent Break in Service subsequent to the date of vesting.

(b) For Plan Years commencing on or after January 1, 1987, a Participant who has not yet become vested pursuant to Section 3.2 will incur a Permanent Break in Service if (i) in the case of a Participant who is credited with five or fewer Vesting Credits, the Participant has five or more consecutive Breaks in Service, or (ii) in the case of a Participant who is credited with at least five but less than ten Vesting Credits, the Participant has consecutive Breaks in Service which equal or exceed the number of Vesting Credits with which the Participant had been credited prior to such Breaks in Service.

(c) For Plan Years 1976 through 1986, a Participant who has not yet become vested pursuant to Section 3.2 will incur a Permanent Break in Service if the Participant has consecutive Breaks in Service that equal or exceed the aggregate number of Vesting Credits with which the Participant had been credited prior to such Breaks in Service.

(d) For periods prior to April 1, 1976, a Participant will incur a Permanent Break in Service if such service would have been disregarded or cancelled under the terms of the Plan with regard to breaks in service as in effect at the time of such break in service.

2.5 Break in Service Credit for Certain Periods of Absence. Solely for purposes of determining whether an Employee has incurred a Break in Service (and not for purposes of increasing a Participant's Pension Credits or Vesting Credits), an Employee who is not working in Covered Employment for the following reasons shall be credited with a number of Hours of Service during such periods of absence in accordance with, and to the limited extent described in, the following provisions:

(a) *Maternity/Paternity Leaves.* An Employee who takes a maternity/paternity leave of absence which begins while in Covered Employment shall receive credit for up to 501 Hours of Service during such maternity/paternity absence for purposes of determining whether a Break in Service has been incurred. Such Hours of Service shall be credited in the Plan Year in which the absence begins if the crediting is necessary to prevent a Break in Service in that period, or, in all other cases, in the following Plan Year. However, in no event shall more than 501 Hours of Service be credited with respect to any such absence. A maternity/paternity absence shall mean an absence from work by reason of the pregnancy of the Employee, the birth of a child of the Employee, or the placement of a child with the Employee in connection with the adoption of such child by the Employee, or for purposes of caring for such a child for a period immediately following such birth or placement.

(b) *Military Service.*

(i) Any Reemployed Veteran (as defined in Section 3.4) who is reemployed in Covered Employment on or after December 12, 1994, shall be treated as not having incurred a

Break in Service by reason of such Reemployed Veteran's period of Qualified Military Service (as defined in Section 3.4).

(ii) An Employee who returns to Covered Employment before December 12, 1994 and following service in the armed forces of the United States, which service began while in Covered Employment, shall receive credit during such period of service for purposes of determining whether a Break in Service has been incurred, provided that the Employee returns to Covered Employment on or before the expiration of his leave or while his re-employment rights are protected by applicable federal law. If the Employee does not return to Covered Employment, the period of absence shall not be taken into account in computing Hours of Service, and his Covered Employment shall be considered terminated as of the beginning of the absence.

(c) *Worker's Compensation Benefits.* An Employee who is receiving Worker's Compensation Insurance benefits (in lieu of wage benefits) on account of an injury suffered while in Covered Employment shall receive credit during the period such benefits are received for purposes of determining whether a Break in Service has been incurred. Notwithstanding the foregoing, the period during which an Employee is receiving Worker's Compensation Insurance shall not be counted for purposes of increasing a Participant's Vesting Credits or Pension Credits.

(d) *Family and Medical Leave.* An Employee who has been granted a leave of absence (of up to 12 weeks) that qualifies under the Family and Medical Leave Act shall not be treated as having incurred a Break in Service by reason of such leave. Notwithstanding the foregoing, the period during which an Employee is on a Family and Medical Leave Act leave shall not be counted for purposes of increasing a Participant's Vesting Credits or Pension Credits.

ARTICLE 3

Pension Credits and Vesting

3.1 Pension Credits. (a) The amount of the pension payable to or on behalf of a Participant shall be determined, in accordance with Article 4, on the basis of his Pension Credits. For periods of service commencing on or after January 1, 1967, a full or partial (for Plan Years beginning in 1995 and later) Pension Credit shall be credited (subject to a maximum of one Pension Credit in each Plan Year) to a Participant who is credited with the requisite minimum number of Hours of Service in each Plan Year on the basis of his Hours of Service in Covered Employment in accordance with the following schedule:

<u>Plan Year</u>	<u>Minimum Required Hours of Service</u>
1967 through 1988	400 Hours of Service for one Pension Credit
1989 through 1994	700 Hours of Service for one Pension Credit
1995 through 2004	175 Hours of Service for each 1/4 Pension Credit, subject to maximum of one Pension Credit for 700 Hours of Service
2005 and later	225 Hours of Service for each 1/4 Pension Credit, subject to maximum of one Pension Credit for 900 Hours of Service

(b) For periods of service prior to January 1, 1967, (i) for Covered Employment on or after July 1, 1953 and prior to January 1, 1967, a Participant shall be credited with one Pension Credit for each Plan Year in which the Participant earned a minimum of \$2,000 in Covered Employment, and (ii) for periods prior to July 1, 1953, a Participant shall be credited with one Pension Credit for each calendar year the Participant was an Employee or was actually employed and earning wages as a member of the Union, provided that such employment was within the geographic areas necessary for Covered Employment.

3.2 Vesting.

(a) A Participant shall have a nonforfeitable right to his Accrued Pension under the Plan, payable on his Normal Retirement Date, upon becoming “vested” under this Section 3.2, notwithstanding the Participant’s subsequent termination of Covered Employment. A Participant shall be credited with one Vesting Credit for each Plan Year in which the Participant has at least 1,000 Hours of Service. A Participant shall become vested in accordance with the following:

(i) Effective January 1, 1999, any Participant whose employment is covered by a collective bargaining agreement and who has at least one Hour of Service on or after January 1, 1999, shall become vested upon being credited with at least five Vesting Credits. Effective January 1, 1976 and prior to January 1, 1999, any Participant whose employment is covered by a collective bargaining agreement and who has at least one Hour of Service on or after January 1, 1972, shall become vested upon being credited with at least ten Vesting Credits.

(ii) Effective January 1, 1989, any Participant whose employment is not covered by a collective bargaining agreement and who has at least one Hour of Service on or after January 1, 1989, shall become vested upon being credited with at least five Vesting Credits. Effective January 1, 1976 and prior to January 1, 1989, any Participant whose employment is not covered by a collective bargaining agreement and who has at least one Hour of Service on or after January 1, 1972, shall become vested upon being credited with at least ten Vesting Credits.

(b) A Participant who is not otherwise vested pursuant to Section 3.2(a) shall have a nonforfeitable right to his Accrued Pension (if any) under the Plan, payable in accordance with

Articles 4 and 5, if he is working in Covered Employment on or after attaining Normal Retirement Age.

(c) Effective January 1, 1976, if a Participant works for an Employer in employment that is not covered by this Plan and such employment is contiguous with his or her Covered Employment with that Employer (and no severance of employment or retirement occurs between such Covered Employment and non-Covered Employment), the Participant's period of service in such non-Covered Employment shall be counted toward Vesting Credit, provided, however, that such Vesting Credit shall not be used to increase a Participant's accrued benefit under the Plan.

3.3 Special Rules for Determining Pension Credits and Vesting Credits.

(a) Periods of employment prior to a Permanent Break in Service shall be cancelled and not taken into account for purposes of determining a Participant's Pension Credits and Vesting Credits.

(b) For purposes of determining Pension Credits or Vesting Credits for employment prior to July 1, 1953, (i) evidence of employment and earnings shall consist of verified records of employment by an Employer who has signed an agreement pertaining to the industry, by payroll receipts, Social Security records, or other evidence acceptable to the Trustees in their sole discretion, and (ii) Hours of Service shall be ascertained from the record of hours worked or hours for which payment is made or owing. Membership in the Union may be submitted for consideration by the Trustees for employment prior to July 1, 1953.

(c) To the extent (and only to the extent) provided under the terms of a reciprocal agreement to which the Pension Fund is a party, an individual covered by such reciprocal agreement shall be considered a Participant in this Plan and shall be entitled to credit for covered employment with a contributing employer to the other signatory pension fund to the reciprocal agreement, except that there shall be no duplication of benefits for the same period of service.

3.4 Special Rules Relating to Reemployed Veterans.

(a) *Credit for Military Service.* Any Plan provision to the contrary notwithstanding, the provisions of this Section 3.4 shall apply with respect to any Reemployed Veteran, as provided in USERRA and Code Section 414 (u), who is reemployed in Covered Employment on or after December 12, 1994. A Reemployed Veteran's Qualified Military Service shall be deemed to constitute service with an Employer for purposes of determining the Reemployed Veteran's Pension Credits and Vesting Credits under this Article 3. The Reemployed Veteran's Average Monthly Earnings and, to the extent applicable, Final Average Earnings, shall be computed on the basis of the Reemployed Veteran's Projected Wages during such period of Qualified Military Service.

(b) *Employer Notice Requirement.* An Employer who reemploys a person who is entitled to credit for Qualified Military Service under this Section 3.4 shall notify the Plan in writing within 30 days following the date of such reemployment.

(c) *Liability for Military Service Credit.* Any liability incurred by the Plan in connection with the credit for Qualified Military Service pursuant to this Section 3.4 shall be borne by the Plan and shall not be allocated to any individual Employer.

(d) *Definitions.* For purposes of this Section 3.4:

(i) “Projected Wages” shall mean (1) the wages the Reemployed Veteran would have received during his Qualified Military Service if he were employed by an Employer during such period determined based on the rate of wages he would have had with the Employer but for the absence during the period of Qualified Military Service, and (2) if the rate of Wages the Reemployed Veteran would have had during such period is not reasonably certain, the Reemployed Veteran’s average wages from Covered Employment during the 12-month period immediately preceding the Qualified Military Service (or, if shorter, the period of employment immediately preceding the Qualified Military Service.)

(ii) “Qualified Military Service” shall mean a Reemployed Veteran’s “service in the uniformed services” (as defined in USERRA Section 4303), if the Reemployed Veteran is entitled to reemployment rights under USERRA with respect to such service.

(iii) “Reemployed Veteran” shall mean an Employee who is reemployed by an Employer pursuant to such Employee’s reemployment rights under USERRA Section 4312 after a period of Qualified Military Service, and whose rights under the Plan are subject to the provisions of USERRA Section 4318.

(iv) “USERRA” shall mean the Uniformed Services Employment and Reemployment Rights Act of 1994, as amended from time to time, and any successor statute. Reference to a specific provision of USERRA shall include such provision and any regulations promulgated thereunder.

ARTICLE 4

Pension Eligibility and Amounts

4.1 Eligibility for Retirement.

(a) *Normal Retirement.* A Participant may retire on a Normal Retirement Pension, commencing on the Pension Start Date, in an amount determined in accordance with Section 4.2, upon attaining Normal Retirement Age (as defined in Section 1.21).

(b) *Early Retirement.* A Participant may retire on an Early Retirement Pension, commencing on the Pension Start Date, in an amount determined in accordance with Section 4.3, if the Participant has:

(i) At least 25 Pension Credits earned on or after July 1, 1953, at least one of which was earned after December 31, 1980, and you did not have two or more consecutive Break in Service during the years you earned those 25 Pension Credits, regardless of age; however, effective May 1, 2006, those first becoming participants in the Plan after April 30, 2006 are eligible to retire regardless of age only if such participant has earned 30 pension credits and has not incurred two or more consecutive Break in Service years during the years in which such 30 Pension Credits were earned; or

(ii) Attained age 55 and has at least 25 Pension Credits, at least 15 of which were earned after July 1, 1953; or

(iii) Attained age 55 and has at least 15 Pension Credits earned after July 1, 1953.

A Participant who is vested in his Accrued Pension pursuant to Section 3.2 and leaves Covered Employment prior to age 55 with at least 15 Pension Credits may retire on an Early Retirement Pension upon attaining age 55, in an amount determined in accordance with Section 4.3

(c) *Disability Retirement.*

(i) A Participant who has at least 10 Pension Credits and who becomes Disabled may retire on a Disability Pension, commencing as provided in paragraph (iii) of this Section 4.1(c), in an amount determined under Section 4.4, and which shall be in such form as provided in Section 5.1(c), upon determination by the Social Security Administration that the Participant is Disabled. A Participant who is not employed in Covered Employment at the time of becoming Disabled and who has incurred two or more consecutive Break in Service years at the time of becoming Disabled shall not be eligible for a Disability Pension under the Plan.

(ii) A Participant who elects to retire on a Disability Pension shall submit to the Plan an application for such a Disability Pension on such form as may be provided by the Plan. In connection with such application, the Participant shall submit to the Plan evidence that he is Disabled in the form of a determination letter from the Social Security Administration or such other evidence from the Social Security Administration as the Trustees in their sole and absolute discretion shall require. Submission of such evidence shall be a condition of the Participant's eligibility for a Disability Pension and no such Disability Pension shall be payable unless and until the Participant shall have provided such evidence.

(iii) A Participant's Disability Pension shall commence on the first day of the month following the date that evidence is submitted to the Plan of a determination by the Social Security Administration that the Participant is Disabled as provided in paragraph (ii) of this Section 4.1(c). A Participant's initial Disability Pension payment shall include a retroactive payment for the period commencing on the first day of the month following the later of (1) the date the Participant became Disabled, or (2) the date of the Participant's application to the Plan for a Disability Pension, and ending at the date payment of the Participant's Disability Pension commenced.

(iv) A Participant who has begun receiving a Disability Pension shall, prior to his Normal Retirement Age, submit at least annually to the Plan a copy of his Social Security disability check, or such other evidence that he continues to be Disabled as the Trustees in their sole and absolute discretion shall require. A Participant who fails to provide such evidence that he continues to be Disabled shall have his Disability Pension suspended until he submits such evidence to the Plan.

4.2 Normal Retirement Pension Amount.

(a) Effective January 1, 2001, a Participant who retires under the Plan shall be entitled to a monthly Normal Retirement Pension equal to the greater of the following:

(i) 2% of Final Average Monthly Earnings multiplied by the first 25 Pension Credits earned and 1-2/3% of Final Average Monthly Earnings multiplied by the next 10 Pension Credits earned, subject to a maximum of 35 Pension Credits or 66-2/3% of Final Average Monthly Earnings; or

(ii) the total sum of (A) \$20.00 a month multiplied by the number of years in which the Participant has earned a Pension Credit attributable to service prior to April 1, 1976, plus (B) 2% of Average Monthly Earnings multiplied by the Participant's full or partial Pension Credit for each year in which the Participant has earned Pension Credit after March 31, 1976, up to a total of 25 Pension Credits, plus (C) 1-2/3% of Average Monthly Earnings multiplied by the Participant's full or partial Pension Credit for each additional year in which the Participant has earned Pension Credit up to a total of 10 Pension Credits. The total sum of the foregoing clauses (A), (B) and (C) are subject to a maximum of 35 Pension Credits or 66-2/3% of the average of all Average Monthly Earnings.

(b) The pension amount payable, after any reductions for early retirement or form of benefit payment, to a retired Participant or his Beneficiary who was eligible to receive a monthly benefit on January 1, 1997, or who becomes eligible to receive a pension benefit after January 1, 1997, shall be increased by the lesser of 10% of such benefit or \$50.00, except that the Beneficiary of a Participant whose pension amount has already been increased under this Section 4.2(b) shall not be entitled to a further benefit increase under this Section 4.2(b).

4.3 Early Retirement Pension Amount. The amount of a Participant's Early Retirement Pension shall be as follows:

(a) If the Participant retires pursuant to Section 4.1(b)(i) or (ii), his Early Retirement Pension shall be equal to the amount of such Participant's Normal Retirement Pension.

(b) If the Participant retires pursuant to Section 4.1(b)(iii), his Early Retirement Pension shall be equal to the amount of such Participant's Normal Retirement Pension pursuant to Section 4.2, reduced by 1/2% for each month that the Participant retires prior to attaining 60 years of age.

4.4 Disability Pension Amount. The amount of a Participant's Disability Pension shall be determined in the same manner as a Normal Retirement Pension to which the Participant would be entitled if he were then 60 years of age. The Disability Pension of a married Participant shall be payable as an unreduced Single Life Pension prior to the Participant's Earliest Retirement Date (if the Participant were not Disabled) and, commencing at the Participant's Earliest Retirement Date, shall be paid in accordance with Section 5.1(c)(ii).

4.5 Employment After Retirement or Normal Retirement Age.

(a) *Suspension of Benefits.* A Participant who continues in employment (including employment in a supervisory capacity) after Normal Retirement Age in the same industry, trade or craft, and geographic area of the Plan, as described in Section 5.4 below, or who returns to such employment after having commenced receiving retirement benefits under the Plan, shall have his retirement benefits suspended in accordance with the provisions of Section 5.4. In no event, however, shall a Participant's retirement benefits be suspended after April 1st of the calendar year following the calendar year in which the Participant attains age 70½.

(b) *Calculation of Pension Amount.* A Participant whose continued employment or reemployment under this Section 4.5 is in Covered Employment shall continue to earn Pension Credits (subject to the maximum of 35 Pension Credits) under the Plan until the Participant is no longer employed in Covered Employment. Effective January 1, 2001, such Participant shall have his monthly pension amount following such date determined pursuant to Section 4.2 of the Plan.

(c) *Commencement or Resumption of Benefit Payments.*

(i) A Participant whose retirement benefits have been suspended pursuant to this Section 4.5 and Section 5.4 shall have payment of such retirement benefits, as recomputed pursuant to Section 4.5(b), commence or resume for months following the last month for which benefits are suspended, with payments beginning no later than the third month after the last calendar month for which the Participant's benefit was suspended, provided that the Participant has complied with the notification requirements of Section 5.4(d).

(ii) In the case of a previously retired Participant, (1) such Participant's recomputed pension benefit will reflect Pension Credits, if any, earned through the end of the Plan Year preceding the date pension benefits are resumed, and (2) additional Pension Credits, if any, earned following the end of such preceding Plan Year shall be reflected in a new recomputed pension benefit beginning on the first day of the Plan Year next following the date that the Participant returns to retired status. Such a Participant shall not be entitled to a new election as to the Surviving Spouse Pension or any other form of benefit after such return.

(iii) Overpayments attributable to payments made for any month or months for which the Participant's benefits should have been suspended pursuant to Section 5.4 shall be deducted from pension payments otherwise paid or payable subsequent to the period of suspension. A deduction from a monthly benefit for a month after the Participant attained Normal Retirement Age shall not exceed 25% of the pension amount (before deduction), except for the first pension payment made upon resumption after a suspension, which may be subject to offset without limitation. If a Participant dies before recoupment of overpayments has been completed, deduction shall be made from the benefits payable to his Surviving Spouse or Beneficiary, subject to the 25% limitation on the amount of the deduction.

(iv) Suspension of a Participant's benefits under the Plan before Normal Retirement Age in accordance with Section 5.4(b) because of employment which would not cause suspension of the Participant's benefits after Normal Retirement Age, shall not have the effect of

reducing a Participant's Accrued Pension. To the extent necessary to avoid such reduction, the monthly amount of a Participant's pension shall be adjusted so as not to reduce the Participant's Accrued Pension.

4.6 Actuarial Adjustment for Delayed Retirement.

If a Participant's Pension Start Date is after the Participant attains his or her Normal Retirement Date, the amount of the Participant's monthly pension benefit commencing on the Participant's Pension Start Date shall be the amount of the Participant's monthly pension benefit that would have been payable as of the Pension Start Date if the benefit had commenced at his Normal Retirement Date, actuarially increased to reflect the loss of monthly pension benefits the Participant would have received between Normal Retirement Date and the Pension Start Date if the benefit had commenced at Normal Retirement Date; provided, however, that no such actuarial increase shall be made for the loss of any monthly pension benefits that were suspended due to the Participant's employment in disqualifying employment pursuant to Section 5.4. If a Participant first becomes entitled to additional benefits after his Normal Retirement Date through a benefit increase to pensioners, the actuarial increase in those benefits will start from the date they would first have been paid rather than Normal Retirement Date. For purposes of this Section 4.6, the actuarial increase in a Participant's monthly pension benefit shall be 1% per month for the first 60 months after his Normal Retirement Date and 1.5% per month for each month thereafter; provided, however, that no month during which the Participant's monthly pension benefit is suspended pursuant to Section 5.4 shall be included in the calculation of such actuarial increase.

4.7 Benefits pursuant to Settlement Agreement.

Notwithstanding the provisions of this Plan or a prior version of the Plan, if a Participant or Beneficiary was a member of the class certified by the Court in the action entitled *LaFata v. Cement & Concrete Workers District Counsel Pension Plan* (99 Civ. 8506 (NGG), United States District Court, Eastern District of New York, the provisions of the settlement agreement, release and final judgment entered in that action shall determine such Participant's and Beneficiary's benefits under the Plan.

4.8 Non-Duplication of Benefits.

A Participant shall be entitled to only one pension under this Plan. Once a pension application has been approved by the Trustees, the Participant shall not be able to apply for any other pension or to reclassify his or her pension to any other type of pension; provided, however, that a Participant who is receiving a Disability Pension and who returns to Covered Employment may be entitled to a different type of pension upon his or her subsequent retirement. This Section 4.8 shall not apply to the payment of a Spousal benefit hereunder with respect to a Participant who is also entitled to his or her own pension benefit under the Plan.

ARTICLE 5

Form of Payment of Pensions and Suspension of Payments

5.1 Standard Form of Pension.

(a) *Single Participants.* If a Participant does not have a Surviving Spouse on his Pension Start Date, the retirement pension payable to such Participant pursuant to Article 4 shall be in the form of a Single Life Pension, unless the Participant elects, on such form as may be provided by the Trustees, an optional form of benefit under Section 5.3 during the 90-day period before his Pension Start Date.

(b) *Married Participants.* (i) If a Participant has a Surviving Spouse on his Pension Start Date, the retirement pension payable to such Participant pursuant to Article 4 shall be a Surviving Spouse Pension that is the Actuarial Equivalent of his Normal Retirement Pension or Early Retirement Pension, as the case may be, payable as a Single Life Pension, unless the Participant (with spousal consent) has waived this form of payment and has elected a Single Life Pension or another optional form of pension payment pursuant to Section 5.2.

(ii) The Surviving Spouse of a Participant who has elected (with spousal consent) a Single Life Pension and who has earned at least 15 Pension Credits after July 1, 1953 shall be entitled to a widow's benefit under this Section 5.1(b)(ii). Such widow's benefit shall consist of twelve (12) monthly payments equal to the amount of the Participant's monthly benefit and shall commence on the first day of the month following the Participant's death.

(c) *Disabled Participants.*

(i) A Participant's Disability Pension shall be paid in the form of an unreduced Single Life Pension prior to the Participant's Earliest Retirement Date. In the event of the death of a Participant who is receiving a Disability Pension prior to his Earliest Retirement Date, the Participant's Surviving Spouse, if any, shall be entitled to a pre-retirement survivor benefit in an amount equal to the amount the Surviving Spouse would be entitled to receive had the Participant on the date of his death been receiving his Disability Pension in the form of a Surviving Spouse Pension that is the Actuarial Equivalent of his Normal Retirement Pension. Such pre-retirement survivor benefit shall commence on the first day of the month following the month of the Participant's death and shall be payable for the life of the Surviving Spouse.

(ii) Commencing on a Participant's Earliest Retirement Date, the Disability Pension payable to a married Participant shall be a Surviving Spouse Pension that is the Actuarial Equivalent of the Participant's Normal Retirement Pension (determined as if the Participant were then 60 years of age) payable as a Single Life Pension, unless the Participant (with spousal consent) has waived this form of payment and elected a Single Life Pension or another form of pension payment pursuant to Section 5.2.

5.2 Waiver of Surviving Spouse Pension.

(a) A Participant may reject the Surviving Spouse Pension that otherwise would be payable, and elect a Single Life Pension or other optional form of pension payment under

Section 5.3 below, by filing an election during the period commencing ninety (90) days before the Participant's Pension Start Date that (i) expressly rejects such Surviving Spouse Pension, (ii) designates the form in which the Participant's Accrued Pension shall be paid (which designation may not be changed without spousal consent, unless the change is to elect the Surviving Spouse Pension); (iii) designates the Beneficiary who is to receive any payments that are to be made after the death of the Participant under an optional benefit payment form (which designation cannot be changed without spousal consent, unless the change is to name the Surviving Spouse as Beneficiary), (iv) is in writing on a form prescribed by the Trustees for such purpose, and (v) contains spousal consent in accordance with this Section 5.2. Revocation of a prior waiver under this Section 5.2 may be made by a Participant before the Participant's Pension Start Date by filing the appropriate form with the Plan. The number of revocations and waivers permitted under this Section 5.2 is unlimited.

(b) The consent of a Spouse to the waiver of the Surviving Spouse Pension under this Section 5.2 must be an irrevocable written consent that (i) acknowledges the effect of such waiver and (ii) is witnessed by a notary public. A Surviving Spouse shall be deemed to have given such consent if it is established to the satisfaction of the Plan that actual written consent to an election cannot be obtained because there is no Surviving Spouse or because the Surviving Spouse cannot be located or because of such other circumstances as may be prescribed in accordance with Treasury Regulation Section 1.401(a)-20, Q&A-27. Any such consent (including such deemed consent) by a Surviving Spouse shall be effective only with respect to such Surviving Spouse. Spousal consent with respect to a waiver election shall be effective only for such election, and any change in such election shall require a new spousal consent, except as otherwise provided under Section 5.2(a). A former spouse who is treated as a Surviving Spouse pursuant to a qualified domestic relations order described in Section 414(p) of the Code must consent only to any election that affects benefit payments, if any, to be made to such former spouse.

(c) Not more than ninety (90) days, and not less than (30) days before a married Participant's Pension Start Date, such Participant shall be furnished a written explanation of:

- (i) the terms and conditions of the Surviving Spouse Pension;
- (ii) the right of the Participant to make, and the effect of, an election to waive the Surviving Spouse Pension in favor of another form of pension payment;
- (iii) the right of the Participant's Surviving Spouse to consent or not to consent to such election;
- (iv) a general description of the eligibility conditions and other material features of the optional forms of benefits under the Plan; and
- (v) the right of the Participant to make, and the effect of, a revocation of a election to waive the Surviving Spouse Pension.

A Participant may elect to waive the 30-day notice period in this Section 5.2(c), provided, however, that distribution of the Participant's benefits shall not commence more than seven (7) days after the Participant has been furnished with the foregoing written explanation.

5.3 Optional Forms of Pension.

(a) The following optional forms of pension may be elected pursuant to Section 5.2 in lieu of a Surviving Spouse Pension or Single Life Pension, as the case may be:

- (1) *Life with a Minimum of 60 Months:* A form of pension providing for level monthly payments for the life of the Participant, but guaranteed for 60 months of payments, which is the Actuarial Equivalent of the Participant's Accrued Pension payable as a Single Life Pension at his Pension Start Date. If a Participant dies before having received 60 monthly benefit payments, the same monthly payments are continued to the Participant's Beneficiary for the remainder of the 60 month period; or
- (2) *Joint and Survivor Pop-up Pension:* A form of pension that is the Actuarial Equivalent of the Participant's Accrued Pension payable as a Single Life Pension at his Pension Start Date, under which the Participant receives actuarially reduced level monthly payments for the Participant's life and (i) if the Participant predeceases the Spouse, the Spouse receives level monthly payments for the Spouse's life in an amount equal to 50% of the Participant's actuarially reduced monthly payment, and (ii) if the Spouse predeceases the Participant, the level monthly payments payable to the Participant following the death of the Spouse are increased to an amount equal to the Participant's monthly benefit had the Participant elected a Single Life Pension.

(b) An election of an optional form of benefit payment shall become effective on the Participant's Pension Start Date, and may not be revoked or changed once it becomes effective.

5.4 Continued Employment or Reemployment and Suspension of Benefits.

(a) *Employment After Normal Retirement Age.* Pension benefits under the Plan shall be suspended for any calendar month in which a Participant who has attained Normal Retirement Age continues in employment or has retired and is reemployed (including employment in a supervisory capacity) for 40 or more Hours of Service in such month in:

(i) an industry in which Employees covered by the Plan were employed and accrued pension credits under the Plan as a result of such employment at the time that the payment of benefits commenced or would have commenced if the Participant had not remained in or returned to employment;

(ii) a trade or craft in which the Participant was employed at any time under the Plan; and

(iii) the geographic area covered by the Plan at the time that the payment of benefits commenced or would have commenced if the Participant had not remained in or returned to employment.

For purposes of this Section 5.4, the terms “industry”, “trade or craft” and “geographic area” shall have the meaning ascribed to such terms in Section 2530.203-3 of the regulations under ERISA, as such regulations may be amended from time to time.

(b) *Reemployment Before Normal Retirement Age.* Pension benefits under the Plan shall be suspended for any calendar month in which a retired Participant who has not yet attained Normal Retirement Age is reemployed (including reemployment in a supervisory capacity) for one or more Hours of Service in such month in the industry, trade or craft, and geographic area referred to in Section 5.4(a) above. For this purpose, the geographic area shall also include the area under the jurisdiction of any pension plan with which this Plan has a reciprocal agreement.

(c) *Notice of Suspension of Benefits.*

(i) Upon a Participant’s attainment of Normal Retirement Age or commencement of retirement benefits under the Plan, the Plan shall notify the Participant of the rules under this Section 5.4 regarding the suspension of benefits. If benefits have been suspended under this Section 5.4 and payment resumed, new notification shall, upon such resumption, be given to the Participant, if there has been any material change in the suspension rules or the identity of the industries or area covered by the Plan.

(ii) The Plan shall inform a Participant of any suspension of his retirement benefits under the Plan by notice given by personal delivery or first class mail during the first calendar month in which his benefits are withheld. Such notice shall include a description of the specific reason for the suspension, a copy of the relevant provisions of the Plan, reference to the applicable regulations of the U.S. Department of Labor, and a statement of the procedure for securing a review of the suspension. In addition, such notice shall describe the procedure for the Participant to notify the Plan when his employment ends. If the Plan intends to recover prior overpayments for any month in which retirement benefits should have been suspended, the suspension notice shall explain the offset procedure and identify the amount expected to be recovered and the periods of employment to which they relate. A Participant shall be entitled to review of a determination suspending his benefits by written request filed with the Plan within 180 days of the notice of suspension.

(iii) The Plan shall inform all retired Participants at least once every 12 months of the employment notification requirements and the presumptions set forth in this Section 5.4.

(d) *Notice of Employment by Participant.*

(i) A Participant shall notify the Plan in writing within 30 days after starting any work of a type that may result in the suspension of benefits under this Section 5.4, without regard to the number of hours of such work. A Participant may ask the Plan whether a particular employment will be disqualifying. The Plan shall provide the Participant with its determination.

(ii) A Participant who has been employed and whose pension benefits have been suspended pursuant to this Section 5.4 shall notify the Plan when such employment terminates. The Plan shall have the right to hold back benefit payments until such notice is filed with the Plan.

(e) *Presumptions Upon Failure to Give Notice.*

(i) If a Participant has worked in employment that would result in a suspension of benefits under this Section 5.4 and has failed to give timely notice to the Plan of such employment, the Plan shall presume that the Participant worked for at least 40 hours in such month and any subsequent month before the Participant gives notice that he has ceased such employment. The Participant shall have the right to overcome such presumption by establishing that his employment was not in fact an appropriate basis, under the Plan, for suspension of benefits.

(ii) If a Participant has become employed for any number of hours for a contractor at a building or construction site and has failed to give timely notice to the Plan of such employment, the Plan shall presume that such Participant has engaged in such work for as long as the contractor has been and remains actively engaged at such site. The Participant shall have the right to overcome such presumption by establishing that his work was not in fact an appropriate basis, under the Plan, for suspension of benefits.

(f) *Commencement or Resumption of Benefit Payments.* Commencement or resumption of payment of a Participant's retirement benefits following suspension of such benefits shall be made in accordance with the provisions of Section 4.5(c).

5.5 Statutory Commencement of Benefits.

(a) A Participant's benefits under the Plan shall begin not later than the 60th day after the close of the Plan Year in which the latest of the following events occur, provided that the Participant has filed a written application with the Plan for the payment of such benefits:

(i) The Participant attains Normal Retirement Age;

(ii) The 10th anniversary of the date the Participant's participation in the Plan commences; or

(iii) The Participant leaves Covered Employment.

(b) In no event may a Participant elect the commencement of his benefits under the Plan later than April 1st of the calendar year following the calendar year in which the Participant attains age 70½, and payment of the Participant's benefit under the Plan shall commence no later than such date.

ARTICLE 6

Pre-Retirement Survivors' Benefits

6.1 Pre-Retirement Surviving Spouse Benefit.

(a) *If Participant is Eligible for Retirement.* If a Participant who attains his Earliest Retirement Date while employed in Covered Employment should die prior to his Pension Start Date, then a pre-retirement survivor benefit shall be payable to such Participant's Surviving

Spouse in an amount equal to the amount the Surviving Spouse would be entitled to receive had the Participant retired and elected to take a Surviving Spouse Pension on the date of his death. Such benefit shall commence on the first day of the month following the month of the Participant's death and shall be payable for the life of the Surviving Spouse.

(b) *If Participant is Not Eligible for Retirement.* If a Participant (other than a Disabled Participant) who is vested but has not attained his Earliest Retirement Date should die, then a pre-retirement survivor benefit shall be payable to such Participant's Surviving Spouse in an amount equal to the amount Surviving Spouse would be entitled to receive had the Participant (1) terminated Covered Employment on the date the Participant is last employed in Covered Employment, (2) survived until his Earliest Retirement Date, (3) retired and elected to take a Surviving Spouse Pension at such Earliest Retirement Date, and (4) died immediately following such retirement. Such benefit shall commence on the first day of the month following the Participant's Earliest Retirement Date, and shall be payable for the life of the Surviving Spouse, unless the Surviving Spouse elects a 60-month benefit under Section 6.1(c) below. If a Participant who is receiving a Disability Pension should die prior to his Earliest Retirement Date, then a pre-retirement survivor benefit shall be payable to such Participant's Surviving Spouse pursuant to Section 5.1(c).

(c) *Optional 60 Month Benefit.* A Surviving Spouse who is entitled to a death benefit under Section 6.1(b) may elect, in lieu of the death benefit payable pursuant to such provision, a monthly benefit in an amount equal to the amount the Participant would have received had he been eligible for retirement and elected to take a Single Life Pension on the date of his death. Such benefit shall commence on the first day of the month following the date of the Participant's death and shall end on the 60th month following such commencement. The Actuarial Equivalent value of the benefit payable under this Section 6.1(c), as determined under Section 1.2(c), shall not be less than the Actuarial Equivalent value of the benefit which would otherwise be payable under Section 6.1(b).

6.2 Non-Spouse Beneficiary Pre-Retirement Survivor Benefit.

(a) If a Participant who (i) has no Surviving Spouse or has designated, in accordance with Section 6.2(c), a Beneficiary other than his Surviving Spouse, (ii) is vested or has attained his Earliest Retirement Age, and (iii) has not incurred two or more consecutive Break in Service Years immediately preceding his death, should die before retirement on or after April 1, 1992, a monthly death benefit shall be payable to such Participant's Beneficiary in an amount equal to the amount the Participant would have received had he elected to take a Single Life Pension on the date of his death. Such monthly benefit payments to the Beneficiary shall commence on the first day of the month following the Participant's death and shall end on the 60th month following such commencement.

(b) Except as otherwise provided in Section 6.2(c), a Participant may designate a Beneficiary for purposes of this Section 6.2 on such form and in such manner as may be determined by the Trustees. The designated Beneficiary may be one or more individuals or an estate, trust or organization (other than a corporation). In the event that no Beneficiary had been designated or that no designated Beneficiary survives the Participant, the following persons (if then living) shall be deemed to have been designated as the Participant's Beneficiary in the

following priority for purposes of this Section 6.2: (1) Spouse, (2) children, including adopted children, in equal shares, per stirpes, (3) parents, in equal shares, (4) personal representative of the Participant's estate.

(c) A married Participant may designate a Beneficiary other than his Surviving Spouse for purposes of this Section 6.2, and thereby waive the pre-retirement Surviving Spouse benefit of Section 6.1, only during the "election period" and provided that the Participant's Spouse consents to such Beneficiary designation in accordance with the requirements for spousal consent in Section 5.2 (without regard to the 90-day election period). Any such Beneficiary designation and waiver of the pre-retirement Surviving Spouse benefit may be revoked by the Participant during the election period. For purposes of this Section 6.2(c), the "election period" is the period that begins on the first day of the Plan Year in which the Participant attains age 35 and ends on the date of the Participant's death. If a Participant separates from service prior to the first day of the Plan Year in which age 35 is attained, the election period shall begin on the date of separation with respect to benefits accrued prior to separation.

(d) In no event will any benefit be paid under this Article 6 to a Surviving Spouse who has consented to the designation of a Beneficiary other than the Surviving Spouse.

ARTICLE 7

General Rules Regarding Payment of Pensions

7.1 Application for Pension. No benefits shall be paid under the Plan unless the Participant or Beneficiary entitled thereto shall have filed a written application with the Plan which provides all the information reasonably necessary for the payment of such benefits. A Participant's pension benefits shall become payable on his Pension Start Date.

7.2 Cash Out of Vested Accrued Pensions. Notwithstanding anything in this Article 7 to the contrary, if the Actuarial Equivalent of a Participant's Accrued Pension payable as a Single Life Pension on such Participant's Pension Start Date is \$5,000 or less, such Accrued Pension shall be paid as a lump sum amount as soon as practicable following the Pension Start Date. If the present value of a Participant's vested Accrued Pension is zero, such Participant shall be deemed to have received a distribution of such vested Accrued Pension on such date. Any payment under this Section 7.2 shall be in full settlement of the Participant's Accrued Pension.

7.3 Maximum Benefit Limits.

(a) In addition to other limitations set forth in this Plan, and notwithstanding any other provisions of this Plan, a Participant's Accrued Pension, including the right to any optional benefit provided in this Plan (and all other defined benefit plans required to be aggregated with this Plan under the provisions of Section 415 of the Code), shall not exceed the amount permitted under Section 415 of the Code, including, for Plan Years commencing prior to January 1, 2000, the combined plan limits of Section 415(e) of the Code. To the extent such combined plan limits are exceeded, benefits accrued under this Plan shall be reduced in such a manner so as to cause such combined plan limits not to be exceeded.

(b) For purposes of this Section 7.3, a Participant's compensation shall mean the Participant's wages or salary, including (i) bonuses and overtime and (ii) for the avoidance of doubt, any elective amounts that are not included in the gross income of the employee by reason of Sections 125, 401(k) or 132(f)(4) of the Code, but excluding reimbursement for expenses. Compensation used for determining all benefits under this Plan shall, effective January 1, 1994, not exceed \$150,000 or such amount as later adjusted in compliance with Section 401(a)(17) of the Code.

7.4 Direct Rollovers.

(a) Notwithstanding any provision of the Plan to the contrary that would otherwise limit a distributee's election, a distributee under this Section 7.4 may elect at the time and in the manner prescribed by the Trustees, to have any portion of an eligible rollover distribution paid in the form of a direct rollover to an eligible retirement plan that accepts the distributee's eligible rollover distribution.

(b) For purposes of this Section 7.4, the following terms shall have the following meanings:

(i) *Eligible rollover distribution:* Any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include (i) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of 10 years or more; (ii) any distribution to the extent such distribution is required under Section 401(a)(9) of the Code; (iii) the portion of any distribution that is not includable in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities); and (iv) any distribution with a value of \$200 or less.

(ii) *Eligible retirement plan:* An individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, an annuity plan described in Section 403(a) of the Code, an annuity contract described in Section 403(b) of the Code, a qualified trust described in Section 401(a) of the Code, or an eligible plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Code. Only one eligible retirement plan may be designated with respect to any eligible rollover distribution.

(iii) *Distributee:* An Employee or former Employee. In addition, the Employee's or former Employee's Spouse or former Spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Code, are distributees with regard to the interest of the Spouse or former Spouse.

(iv) *Direct rollover*: A payment by the Plan to the eligible retirement plan specified by the distributee. Notwithstanding anything herein to the contrary, only one direct rollover may be made with respect to any eligible rollover distribution.

ARTICLE 8

Administration of the Plan

8.1 Responsibility of Trustees. The Trustees shall have the authority and responsibility for the management and administration of the Plan and shall be considered the “named fiduciary” for the Plan within the meaning of Section 402(a) of ERISA.

8.2 Maintenance of Records. The Trustees shall keep a record of the hours worked of each Employee (as reported by, or otherwise obtained from, an Employer) and shall maintain accounts showing the fiscal transactions of the Plan and shall keep in convenient form such data as may be necessary for actuarial valuations of the Plan.

8.3 Reliance by Trustees. The Trustees may rely upon all certificates and reports made by an accountant designated by the Trustees, upon all opinions given by legal counsel and investment counsel selected by the Trustees, upon all tables, valuations, certificates and reports furnished by an actuary engaged by the Trustees, upon medical opinion submitted by a doctor acceptable to the Trustees, and shall be fully protected in respect of any action taken or suffered by them in good faith in reliance upon any accountant, counsel, actuary or doctor, and such action should be conclusive upon Employees, Employers, Participants, and others having anything to do with the Trustees, the Plan or the Fund.

8.4 Indemnification. Except as otherwise provided by applicable law, the Fund shall indemnify and save harmless each member of the Board of Trustees against any cost or expense (including attorneys’ fees and disbursements) or liability arising out of any act or omission to act as a Trustee, except for any liability arising out of a Trustee’s own gross and wanton negligence or willful misconduct.

8.5 Powers and Duties of Trustees. In addition to the other powers granted in this Plan and in the Trust Agreement, the Trustees shall have the following additional powers and duties:

(a) to establish a funding policy and method which satisfy the requirements of Part 3 of Title I of ERISA, and to meet annually to review such funding policy and method;

(b) to authorize specifically by a resolution in writing the allocation of their collective responsibilities for the operation and administration of the Plan to one or more Trustees acting as a committee, provided that the resolution creating such committee shall specify its powers and purposes. If the Trustees have allocated specific responsibilities, obligations or duties among the Trustees, a Trustee to whom certain responsibilities, obligations or duties have not been allocated shall not be liable either individually or as a Trustee for any loss resulting to the Plan arising from the acts or omissions on the part of another Trustee to whom such responsibilities, obligation or duties have been allocated;

(c) to amend, modify, terminate and interpret in their discretion the Plan and governing rules and regulations;

(d) to withdraw monies from the Pension Fund by means of checks, drafts, vouchers or other withdrawals signed by designated Trustees. The Trustees may be reimbursed or receive advances for all reasonable and necessary expenses they may incur in the performance of their duties. The costs and expense of any suit or proceeding brought by or against the Trustees (including attorneys' fees and disbursements) shall be paid from the Fund as incurred to the extent then permitted by applicable law;

(e) to authorize any person or group of persons to serve in more than one capacity (fiduciary or otherwise) with respect to the Plan (including service both as Trustee and plan administrator);

(f) to allocate fiduciary responsibilities (other than trustee responsibilities among Trustees);

(g) to designate persons other than Trustees to carry out responsibilities, fiduciary or otherwise (other than trustee responsibilities), under the Plan;

(h) to employ one or more persons to render advice with regard to any responsibility such Trustee has under the Plan, including legal, accounting and actuarial advice and services;

(i) to appoint one or more investment managers (as defined in Section 3(38) of ERISA, who shall be responsible for the management, acquisition, disposition, investing and reinvesting of such of the assets of Fund as the Trustees may specify. If an investment manager or managers have been appointed by the Trustees, no Trustee shall be liable for the acts or omissions of such manager or managers, or be under any obligation to invest or otherwise manage any asset of the Fund which is subject to the management of such investment manager; and

(j) to purchase out of Fund assets insurance for the Trustees and the Plan to cover liability or losses occurring by reasons of the act or an omission of a Trustee, to the fullest extent permitted by applicable law.

8.6 Claim Procedures. (a) Claims for benefits under the Plan shall be made in accordance with this Section 8.6 and such rules and procedures as may be established by the Trustees. The Trustees shall make all final determinations as to the right of any person to receive benefits under the Plan. For purposes of the Plan, a claim for benefit is a written application for benefit filed with the Plan. In the event that any Participant or other person claims to be entitled to a benefit under the Plan, or claims to be entitled to a benefit in an amount which is different from the amount determined by the Plan, and the Plan determines that such claim should be denied in whole or in part, the Plan shall, in writing, notify such claimant within 90 days of receipt of such claim (180 days if the Plan notifies the claimant in writing within the initial 90-day period that special circumstances exist which require an extension of such period) that his claim has been denied in whole or in part. Such notice shall be written in a manner reasonably expected to be understood by the claimant and shall set forth:

- (i) the specific reasons for such denial;
- (ii) the pertinent sections of the Plan on which the denial is based;
- (iii) a description of any additional material or information necessary for the claimant to perfect the claim for benefits and an explanation of the reasons such material or information is necessary; and
- (iv) information regarding the procedures for the submission of a request for review of the claim (including applicable time limits) and a statement as to the claimant's right to bring an action under Section 502(a) of ERISA following a denial of the claim on review.

(b) Within 60 days after the mailing or delivery by the Plan of such notice, such claimant may request, by mailing or delivery of written notice to the Trustees, a review by the Trustees of a decision denying the claim. If the claimant fails to request such a review within such 60 days period, it shall be conclusively determined for all purposes of this Plan that the denial of such claim by the Plan is correct, binding and conclusive. If a review is requested, the claimant shall have 30 days after filing a request for review to submit additional written material in support of the claim. On review, the claimant may submit written comments as well as documents or other information relating to the claim, without regard to whether such information was submitted with the initial claim, and may examine documents, records or other information relevant to the claim.

(c) Upon review, the Trustees shall notify the claimant of their decision in writing no later than 60 days after receipt of a request for review (120 days if the Trustees notify the claimant within the initial 60-day period that special circumstances exist which require an extension of such period). Such notice shall set forth the specific reasons for the decision and the Plan provisions on which it is based, shall include a statement that the claimant is entitled to receive, upon request and free of charge, reasonable access to all relevant documents, records and information, and shall include a statement as to the claimant's right to bring an action under Section 502(a) of ERISA following a denial of benefits on review.

(d) If such determination is favorable to the claimant, it shall be final, binding and conclusive. If such determination is adverse to the claimant, it shall be binding and conclusive unless the claimant notifies the Trustees within 90 days after the mailing or delivery to him by the Trustees of their determination that he intends to institute legal proceedings challenging the determination of the Trustees, and actually institutes such legal proceeding within 180 days after such mailing or delivery.

(e) No interest shall be payable with respect to any favorable determination or award with respect to a claim for benefits under the Plan.

8.7 Action of Trustees. The Trustees shall be the sole judges of the standard of proof required in any matter relating to the Plan, or any case or appeal relating to the Plan, and the application and interpretation of this Plan, and the decisions of the Trustees shall be determined by their discretionary powers and shall be final and binding on all parties. In keeping with their position as sole judge, but not being arbitrary or capricious, wherever in the Plan the Trustees are given discretionary powers, they shall exercise such powers in a uniform and non-discriminatory manner. The Plan shall process a claim for benefits as speedily as is feasible, consistent with the

need for adequate information and proof necessary to establish the claimant's benefit rights and to commence the payment of benefits.

8.8 Qualified Domestic Relations Orders.

- (a) A qualified domestic relations order means any "domestic relations order" that:
 - (1) creates, recognizes, or assigns to an alternate payee the right to receive all or a portion of a Participant's benefits payable under the Plan; and
 - (2) meets the requirements of Section 414(p) of the Code.
- (b) A domestic relations order is any judgment, decree, or order (including approval of a property settlement agreement) that 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 and is made pursuant to a state domestic relations law, including community property law.
- (c) A domestic relations order meets the requirements of this Section 8.8 only if such order clearly specifies:
 - (1) the name and the last known mailing address of the Participant and the name and mailing address of each alternate payee covered by the order;
 - (2) the amount or percentage of the Participant's benefit to be paid by the Plan to 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.
- (d) A domestic relations order meets the requirements of this Section 8.8 only if such order:
 - (1) does not require the Plan to provide any type or form of benefits, 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 payments of benefits to an alternate payee which are required to be paid to another alternate payee under another order previously determined to be a qualified domestic relations order.

ARTICLE 9

Amendments and Termination

9.1 Amendments to the Plan.

(a) The provisions of this Plan may be amended by the Trustees at any time, providing that such amendments do not change the status of the Trust and Fund as exempt from income taxes under pertinent sections of the Code and applicable regulations thereunder.

(b) For the purposes of minimum funding standards under the Code, any amendment must be adopted no later than two years after the close of the Plan Year to which the amendment applies and if such amendment reduces the Accrued Pension of any Employee, such amendment shall not be effective unless approved by the Secretary of Labor, or unless he fails to take action disapproving such amendment within 90 days after receiving notice of it.

(c) No Plan amendment affecting the vesting rules shall be effective as to any Employee with five or more Vesting Credits, who elects to have his right to vested Accrued Pension determined under the terms of the Plan, as in effect prior to the amendment.

(d) No merger or consolidation with, or transfer of assets or liabilities to, any other plan after the date of the enactment of ERISA shall be effective unless each Participant in the Plan would (if the Plan then terminated) receive a benefit immediately after the merger, consolidation, or transfer which is equal to or greater than the benefit he would have been entitled to receive immediately before the merger, consolidation, or transfer (if the Plan had then terminated). This paragraph shall apply only to the extent determined by the Pension Benefit Guaranty Corporation.

9.2 Termination of the Plan.

(a) The Plan may be terminated by the Trustees or by the Pension Benefit Guaranty Corporation in accordance with the provisions of Title IV of ERISA.

(b) Upon termination or partial termination of the Plan, the right of all affected Participants to benefits accrued to date of termination to the extent then funded as of such date, shall be nonforfeitable.

ARTICLE 10

Miscellaneous

10.1 Uniform Administration. Whenever in the administration of the Plan, any action is required by the Trustees or other persons administering the Plan, including but not by way of limitation, action with respect to eligibility or classification of Employees, Participants or benefits, such action shall be uniform in nature as applied to all persons similarly situated and no such action shall be taken which will discriminate in favor of Participants who are "highly compensated employees" with the meaning of the Code.

10.2 Payment Due an Incompetent or Incapacitated Person. If the Trustees determine that any person to whom a payment is due under the Plan is incompetent or incapacitated by reason of physical or mental disability, the Trustees shall have the power to cause the payments becoming due to such person to be made to the person or institution maintaining or having custody of such person, without responsibility of the Trustees to see to the application of such payment. Payments made pursuant to such power shall operate as a complete discharge of any and all liability on the part of the Trustees and the Fund.

10.3 Identity of Payee. The determination of the Trustees as to the identity of the proper payee of any benefit under the Plan and the amount of such benefit properly payable shall be conclusive, and payment in accordance with such determination shall constitute a complete discharge of all obligations on account of such benefit.

10.4 Non-alienation of Benefits. No benefit under the Plan shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance or charge, and any attempt so to anticipate, alienate, sell, transfer, assign, pledge, encumber or charge the same shall be void; nor shall any such benefit be in any manner liable for or subject to the debts, contracts, liabilities, engagements or torts of the person entitled to such benefits; except as specifically provided in the Plan. Notwithstanding the foregoing, the creation, assignment, or recognition of a right to any benefit payable with respect to a Participant pursuant to a “qualified domestic relations order” under Section 8.8 shall not be treated as an assignment or alienation prohibited by this Section.

10.5 Source of Payment. All benefits shall be paid or provided solely from the Fund and the Trustees do not assume any liability or responsibility therefor, except to the extent required by applicable law.

10.6 Prevention of Escheat. Notwithstanding any other provision of the Plan, if the Plan cannot ascertain the whereabouts of any person to whom a payment is due under of the Plan, and if, after two years from the date the payment is due, a notice of such payment due is mailed to the last known address of such person (as shown on the records of the Plan) and within three months after such mailing such person has not made written claim therefor, the Plan if it so elects, may direct that such payment and all remaining payments otherwise due to such person be canceled on the records of the Plan. Upon such cancellation, the Plan and Trust shall have no further liability therefor, except that, in the event such person later notifies the Plan of his whereabouts and requests the payment or payments due to him under the Plan, the amount so applied shall be paid to him as provided in Article 5.

10.7 Rollovers and Trust-to-Trust Transfers. In no event shall any amount which meets the requirements of Section 402 of the Code as an “eligible rollover” be accepted into this Plan either as a transfer or as a rollover.

10.8 No Reversion of Fund Assets. In no event shall any of the corpus or assets of the Pension Fund revert to any Employer or be subject to any claims of any kind or nature by the Employers except for the return of an erroneous contribution within the time limits prescribed by law.

10.9 Applicable Law. Except to the extent governed by Federal law, the Plan shall be administered and interpreted in accordance with the law of the State of New York.

