

**AMENDMENT TO THE
NECA-IBEW LOCAL NO. 364
DEFINED CONTRIBUTION PENSION PLAN**

WHEREAS, the Board of Trustees of the NECA-IBEW Local No. 364 Defined Contribution Pension Plan (the “Trustees”) previously adopted the NECA-IBEW Local No. 364 Defined Contribution Pension Plan (the “Plan”); and

WHEREAS, the Trustees reserved the right to amend the Plan; and

WHEREAS, the Trustees desire to amend the Plan to reflect that spousal beneficiaries under the Plan shall have the same distribution options as participants in the Plan, and that there shall be a one-year limitation on the filing of a legal action following the Trustees’ final determination on a denied claim under the Plan.

NOW, THEREFORE, the Plan is hereby amended, effective as of August 1, 2019, as follows:

1. The first paragraph of Section 6.9 of the Plan is hereby amended by deleting it in its entirety and by substituting the following therefor:

“6.9 DISTRIBUTION OF DEATH BENEFITS Subject to the provisions of Section 6.10 below, if applicable, a Beneficiary may elect to receive distribution of any death benefit in the form of a single-sum payment or, if the Participant’s Account, excluding the portion of the Account balance that is attributable to rollover contributions and earnings/losses allocable thereto, exceeds \$5,000, in installments over a period of five (5) or ten (10) years, but not in excess of the Beneficiary’s “life expectancy” (within the meaning of Section 401(a)(9) of the Code). If the Beneficiary of the Participant is the Participant’s spouse, the Beneficiary may, if the Account balance as described above exceeds \$5,000, elect to have the Account distributed in the form of a partial lump sum payment, as described in Section 6.3, subject to the provisions of Section 6.5.”

2. Effective as of August 1, 2019, Section 8.2 of the Plan is hereby amended by adding the following to the end thereto:

“Following such final and binding decision by the Administrator, the claimant has the right to bring a civil suit against the Plan under Section 502(a) of ERISA; however such claim must be commenced within one year of the date of the Administrator’s final decision.”

3. Except as hereinabove amended, the provisions of the Plan shall continue in full force and effect.

IN WITNESS WHEREOF, the Trustees, by its duly authorized member Trustee, have caused this Amendment to be executed on the eighth day of August, 2019.

**NECA-IBEW LOCAL NO. 364
DEFINED CONTRIBUTION PENSION PLAN**

By: John J. Battis
Trustee, Chairman

By: Paul C. Tull
Trustee, Secretary

**AMENDMENT TO THE NECA-IBEW LOCAL NO. 364
DEFINED CONTRIBUTION PENSION PLAN**

WHEREAS, the Trustees of the NECA-IBEW Local No. 364 Defined Contribution Pension Trust Fund (“Trustees”) previously adopted the NECA-IBEW Local No. 364 Defined Contribution Pension Plan (“Plan”); and

WHEREAS, Plan Section 10.1 entitled “Amendment” provides the Trustees with the right to amend, alter or modify the Plan at any time or from time-to-time, in whole or in part. Any such Amendment shall become effective under its terms upon adoption by the Trustees; and

WHEREAS, on May 2, 2011 and ratified on August 1, 2011, the Trustees adopted a motion that amended the Pension Plan to add an early retirement at age fifty-five (55) as a “Distributable Event” effective May 1, 2011; and

WHEREAS, the Amendment to memorialize the aforesaid adopted motion cannot be located; and

NOW, THEREFORE, effective May 1, 2011, Plan Section 6.1 is hereby deleted in its entirety and replaced by the following:

6.1 DISTRIBUTABLE EVENTS A Participant’s vested Account shall become distributable to the Participant (or Beneficiary or Beneficiaries in the event of the Participant’s death) following the occurrence of any of the following events:

- (a) the Participant’s death;
- (b) the Participant’s Disability;
- (c) at or after the Participant’s Normal Retirement date or Early Retirement date being the date on which the Participant attains fifty-five (55), provided no contributions have been made to the Participant’s Account for at least three (3) consecutive months;
- (d) regardless of age, provided there has been no contributions to the Participant’s Account for at least twelve (12) months out of the last fourteen (14) months, or six (6) months out of the last eight (8) months in the instance where the Trustees make

a determination that the electrical industry is experiencing a severe economic downturn, and the Participant is not employed in the electrical industry; or

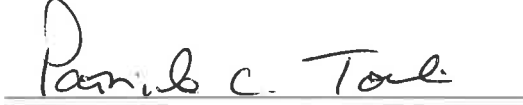
- (e) the Participant having an Individual Account balance of four-thousand hours (4,000) or less and no contribution activity for twelve (12) consecutive months.

Except as herein above amended, the provisions of the Plan shall continue in full force and effect.

IN WITNESS WHEREOF, the Trustees memorialize this Amendment as of this

14th date of September, 2016.


Chairman


Secretary

NECA-IBEW LOCAL NO. 364
DEFINED CONTRIBUTION PENSION PLAN

May 1, 2014

NECA-IBEW LOCAL NO. 364
DEFINED CONTRIBUTION PENSION PLAN

WHEREAS, the Board of Trustees of the NECA-IBEW Local No. 364 Defined Contribution Pension Trust Fund (the “Trustees”) heretofore established the “NECA-IBEW Local No. 364 Defined Contribution Pension Trust Fund” as a money purchase pension plan (the “Plan”); and

WHEREAS, the Trustees reserve the right to amend the Plan; and

WHEREAS, effective as of May 1, 2010, pursuant to a restatement of the Plan, the Plan was converted from a money purchase pension plan to a profit-sharing plan under Sections 401(a) and 501(a) of the Internal Revenue Code of 1986, as amended; and

WHEREAS, the Trustees wish to further amend the Plan to incorporate all prior amendments and to restate the Plan to comply with the Internal Revenue Service’s 2013 Cumulative List of Plan Changes in Plan Qualification Requirements, as set forth in Notice 2013-84;

NOW, THEREFORE, the Plan is hereby amended by restating the underlying document effective as of May 1, 2014, except where the provisions of the Plan (or the requirements of applicable law) shall otherwise specifically provide, in its entirety as follows:

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ARTICLE ONE - DEFINITIONS

For purposes of the Plan, unless the context or an alternative definition specified within another Article provides otherwise, the following words and phrases shall have the definitions provided:

1.1 “**ACCOUNT**” shall mean the individual bookkeeping accounts maintained for a Participant under the Plan, which shall record a) the Participant’s allocations of Employer contributions pursuant to Section 3.1, b) any rollover and/or transfer contributions made pursuant to Section 3.2, and c) the allocation of Trust investment experience.

1.2 “**ADMINISTRATOR**” shall mean the Board of Trustees, or other entity appointed in accordance with Article Eight hereof.

1.3 “**ASSOCIATION**” shall mean the Northern Illinois Chapter of the National Electrical Contractors Association, Inc.

1.4 “**BENEFICIARY**” shall mean any person, trust, organization, or estate entitled to receive payment under the terms of the Plan upon the death of a Participant.

1.5 “**CODE**” shall mean the Internal Revenue Code of 1986, as amended from time to time.

1.6 “**COLLECTIVELY BARGAINED EMPLOYEE**” shall mean an employee who is included in a unit of employees covered by an agreement that the Secretary of Labor finds to be a collective bargaining agreement between Employee representatives and one or more employers, provided that there is evidence that retirement benefits were the subject of good faith bargaining between employee representatives and an Employer or Employers. An employee is a Collectively Bargained Employee regardless of whether the employee benefits under any plan of the employer.

This definition is intended to be interpreted in conformity with Internal Revenue Regulation Section 1.410(b)-6(d)(2)(i).

1.7 “**COMPENSATION**” shall mean the compensation paid to a Participant by an Employer for the Plan Year.

Any Compensation paid after the Participant’s severance from employment with an Employer (except for Compensation attributable to the pay period in which the severance from employment occurred) shall not be treated as Compensation for purposes of Section 3.1.

In addition to other applicable limitations set forth in the Plan, and notwithstanding any other provision of the Plan to the contrary, the annual Compensation of each Participant taken into account under the Plan shall not exceed \$260,000 for the 2014 calendar year, and shall be adjusted annually by the Secretary of the Treasury or his delegate for increases in the cost of living in accordance with Section 401(a)(17)(B) of the Code. The cost-of-living adjustment in effect for a calendar year applies to any period, not exceeding twelve (12) months, over which Compensation is determined (determination period) beginning in such calendar year. If a determination period consists of fewer than twelve (12) months, the annual compensation limit shall be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is twelve (12).

For purposes of determining who is a Highly-Compensated Employee, Compensation shall mean "Compensation" as defined in Code Section 415(c)(3) of the Code.

For purposes of applying the limitations described in Section 9.1, and for purposes of defining compensation under Section 1.14, compensation paid or made available during such limitations years (or Plan Years) shall include elective amounts that are not includible in the gross income of the Employee by reason of Section 125, 132(f)(4), 402(g)(3), 402(h)(1)(B), 457(b) or 403(b) of the Code.

1.8 "CONTRIBUTION AGREEMENT" shall mean a written agreement to which a) an Employer is a party; b) incorporates the Trust Agreement by reference; c) obligates an Employer to make contributions to the Plan; and d) specifies the detailed basis upon which those contributions are to be made by an Employer to the Plan.

The Contribution Agreement may be either a) a collective bargaining agreement with the Union, or b) an agreement between an Employer and the Trustees.

1.9 "COVERED EMPLOYMENT" shall mean employment with an Employer for which a contribution is required to be made to the Plan pursuant to a Contribution Agreement.

1.10 "DISABILITY" or "DISABLED" shall mean a Participant's total and permanent inability, as a result of bodily injury or disease, to engage in work of the type for which any Employer would be obligated to make contributions to the Plan on his behalf. The status shall be determined by the Trustees in their sole judgment and discretion, except as otherwise provided in Section 8.2(b). In this regard, the Trustees shall enact rules and regulations on a uniform and non-discriminatory basis as they may, in their own discretion, deem necessary or appropriate for the enforcement of this provision, including, without limitation, requiring medical examinations and other documentary evidence of the Participant's condition.

1.11 "EFFECTIVE DATE" The Effective Date of this restated Plan document, on and after which it supersedes the terms of the existing Plan document, is May 1, 2014, except where the provisions of the Plan, or the requirements of applicable law, shall otherwise specifically provide. The rights of any Participant who ceased Covered Employment prior to the applicable date shall be established under the terms of the Plan as in effect at the time of the Participant's cessation of

Covered Employment, unless the Participant subsequently returns to Covered Employment with an Employer, or unless otherwise provided under the terms of the Plan. Rights of spouses and Beneficiaries of any such Participant shall also be governed by those documents.

1.12 “**EMPLOYEE**” shall mean any person employed by an Employer for whom a contribution is required to be made to the Plan pursuant to a Contribution Agreement.

1.13 “**EMPLOYER**” shall mean any employer who is required to contribute to the Plan pursuant to a Contribution Agreement and shall also include the Union, the Association and the Trustees of the NECA-IBEW Local No. 364 Defined Contribution Pension Trust Fund, the NECA-IBEW Local No. 364 Health and Welfare Fund and the Northern Illinois Electrical Joint Apprenticeship and Training Trust Fund.

1.14 “**HIGHLY COMPENSATED EMPLOYEE**” shall mean, any Employee who:

- (a) was a five percent (5%) owner of an Employer (as defined in Section 416(i)(1) of the Code) during the “determination year” or “look-back year”; or
- (b) earned more than \$115,000 in 2013 (as increased by cost-of-living adjustments) of Compensation from an Employer during the “look-back year”.

An Employee who separated from service prior to the “determination year” shall be treated as a Highly Compensated Employee for the “determination year” if such Employee was a Highly Compensated Employee when such Employee separated from Service, or was a Highly Compensated Employee at any time after attaining age fifty-five (55).

For purposes of this section, the “determination year” shall be the Plan Year for which a determination is being made as to whether an Employee is a Highly Compensated Employee. The “look-back year” shall be the twelve (12) month period immediately preceding the “determination year”.

1.15 “**HOOR OF SERVICE**” shall have the meaning set forth below:

- (a) An Hour of Service is each hour for which an Employee is paid, or entitled to payment, for the performance of duties for an Employer, during the applicable computation period.
- (b) An Hour of Service is each hour for which an Employee is paid, or entitled to payment, by an Employer on account of a period of time during which no duties are performed (irrespective of whether the employment relationship has terminated) due to vacation, holiday, illness, incapacity (including disability), layoff, jury duty, military duty, or leave of absence. Notwithstanding the preceding sentence,
 - (i) No more than five hundred and one (501) Hours of Service shall be credited under this paragraph (b) to any Employee on account of any single continuous period during which the Employee performs no duties (whether or not such period occurs

in a single computation period). Hours under this paragraph shall be calculated and credited pursuant to Section 2530.200b-2 of the Department of Labor Regulations, which is incorporated herein by reference;

- (ii) An hour for which an Employee is directly or indirectly paid, or entitled to payment, on account of a period during which no duties are performed shall not be credited to the Employee if such payment is made or due under a plan maintained solely for the purpose of complying with applicable workmen's compensation, or unemployment compensation or disability insurance laws; and
- (iii) Hours of Service shall not be credited for a payment which solely reimburses an Employee for medical or medically related expenses incurred by the Employee.

For purposes of this paragraph (b), a payment shall be deemed to be made by or due from an Employer regardless of whether such payment is made by or due from an Employer directly, or indirectly through, among others, a trust fund, or insurer, to which an Employer contributes or pays premiums and regardless of whether contributions made or due to the trust fund, insurer or other entity are for the benefit of particular Employees or are on behalf of a group of Employees in the aggregate.

- (c) An Hour of Service is each hour for which back pay, irrespective of mitigation of damages, is either awarded or agreed to by an Employer. The same Hours of Service shall not be credited both under paragraph (a) or paragraph (b), as the case may be, and under this paragraph (c). Thus, for example, an Employee who receives a back pay award following a determination that he was paid at an unlawful rate for Hours of Service previously credited shall not be entitled to additional credit for the same Hours of Service. Crediting of Hours of Service for back pay awarded or agreed to with respect to periods described in paragraph (b) shall be subject to the limitations set forth in that paragraph.
- (d) Hours of Service under this Section shall be determined under the terms of the Family and Medical Leave Act of 1993 and the Uniformed Services Employment and Reemployment Rights Act of 1994.

For eligibility and vesting purposes only, Hours of Service shall be credited for employment with other members of an affiliated service group (under Section 414(m) of the Code, a controlled group of corporations (under Section 414(b) of the Code, or a group of trades or businesses under common control (under Section 414(c) of the Code) of which an Employer is a member, and any other entity required to be aggregated under Section 414(o) of the Code.

Hours of Service shall be credited for any individual considered an Employee for purposes of this Plan under Section 414(n) or Section 414(o) of the Code.

- 1.16** “**NON-COLLECTIVELY BARGAINED EMPLOYEE**” shall mean any employee who does not satisfy the definition of Collectively Bargained Employee contained in Section 1.6.
- 1.17** “**NON-HIGHLY COMPENSATED EMPLOYEE**” shall mean an Employee of an Employer who is not a Highly Compensated Employee.
- 1.18** “**NORMAL RETIREMENT DATE**” shall mean the date on which the Participant attains age sixty (60).
- 1.19** “**PARTICIPANT**” shall mean any Employee who has satisfied the eligibility requirements of Article Two and who is participating in the Plan.
- 1.20** “**PLAN**” shall mean the NECA-IBEW Local No. 364 Defined Contribution Pension Plan, as set forth herein and as it may be amended from time to time.
- 1.21** “**PLAN YEAR**” shall mean the twelve (12) consecutive month period beginning May 1 and ending April 30.
- 1.22** “**TRUST**” shall mean the NECA-IBEW Local No. 364 Defined Contribution Pension Trust Fund.
- 1.23** “**TRUSTEES**” shall mean the Board of Trustees, the members of which are appointed by the Union and the Association.
- 1.24** “**UNION**” shall mean Local Union No. 364, International Brotherhood of Electrical Workers of Rockford, Illinois and its successors.
- 1.25** “**VALUATION DATE**” shall mean the date or dates established by the Trustees for the valuation of the assets of the Plan; generally this will be each day on which the New York Stock Exchange is open for business. In no event shall the assets of the Plan be valued less frequently than once each Plan Year.

ARTICLE TWO - PLAN PARTICIPATION

2.1 **PARTICIPATION** All Employees participating in the Plan as of April 30, 2014 shall continue to participate, subject to the terms hereof:

Each other Employee shall become a Participant under the Plan as of the date on which contributions are required to be made to the Plan on his behalf pursuant to a Contribution Agreement.

2.2 **PARTICIPATION UPON REEMPLOYMENT** A Participant who receives a distribution of his entire vested Account shall be eligible to resume participation in the Plan upon reemployment by an Employer, provided that the former Participant satisfies the participation requirements designated in Section 2.1 upon reemployment.

2.3 **COMPLIANCE WITH USERRA** Notwithstanding any provisions of this Plan to the contrary, Participants shall receive service credit and be eligible to receive Employer contributions with respect to periods of qualified military service (within the meaning of Section 414(u)(5) of the Code) in accordance with Section 414(u) of the Code. For this purpose, the Administrator shall have the authority and discretion to adopt such lawful rules and procedures, otherwise consistent with the terms of this Plan and applicable law, regarding the administration of contributions, benefits and service credits with respect to qualified military service, as the Administrator deems necessary or appropriate to comply with the preceding sentence.

2.4 **TERMINATION OF ELIGIBILITY** In the event a Participant is an Employee but is no longer a member of a class of Employees for whom a contribution is required to be made to the Plan pursuant to a Contribution Agreement and he becomes ineligible to participate, such Employee shall resume participating upon his return to the class of Employees for whom a contribution is required to be made to the Plan.

In the event an Employee who is not a member of a class of Employees for whom a contribution is required to be made to the Plan becomes a member of such class, such Employee shall participate upon becoming a member of a class of Employees for whom a contribution is required to be made to the Plan, if such Employee has otherwise satisfied the eligibility requirements of Section 2.1 and would have otherwise previously become a Participant.

2.5 **PARTICIPANT CONTRIBUTIONS** Participants are neither required nor permitted to make contributions to the Plan.

ARTICLE THREE - EMPLOYER CONTRIBUTIONS AND ROLLOVERS

3.1 **EMPLOYER CONTRIBUTIONS** Subject to the provisions of Article Nine, for each Plan Year, an Employer shall contribute to the Account of each Participant employed by such Employer an amount determined under the terms of the Contribution Agreement. Any such contribution shall be made at the time and in the manner prescribed by the Contribution Agreement.

Effective May 1, 2010, the type of Plan changed from a money purchase pension plan to a profit-sharing plan. Contributions made under this Section 3.1 for hours worked prior May 1, 2010 shall be made under the Plan as a money purchase pension plan contribution. Contributions made under this Section 3.1 for hours worked on or after May 1, 2010 shall be made under the Plan as a profit-sharing contribution. An Employer may make profit-sharing contributions without regard to current or accumulated profits. Profit-sharing contributions shall be either discretionary or required, as specified in the Contribution Agreement

3.2 **ROLLOVERS AND TRANSFERS OF FUNDS FROM OTHER PLANS** With the approval of the Administrator, there may be paid to the Trust amounts which have been held under the following types of plans:

- (a) a qualified plan described in Section 401(a) or 403(a) of the Code, excluding after-tax employee contributions and excluding designated Roth contributions under Section 402A of the Code;
- (b) an annuity contract described in Section 403(b) of the Code, excluding after-tax employee contributions and excluding designated Roth contributions under Section 402A of the Code;;
- (c) 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, excluding after-tax employee contributions and excluding designated Roth contributions under Section 402A of the Code;; and
- (d) an individual retirement account other than a Roth IRA, excluding any after-tax contributions.

Any amounts rolled over on behalf of any Employee shall be non-forfeitable and shall be maintained under a separate Plan account. Any amounts transferred (not rolled over) on behalf of any Employee shall be maintained in accordance with procedures established by the Plan Administrator and shall be subject to the applicable vesting schedule under Section 5.1. Amounts rolled over or transferred shall be paid in addition to amounts otherwise payable under this Plan. The amount of any such account shall be equal to the fair market value of such account as adjusted for income, expenses, gains, losses, and withdrawals attributable thereto.

ARTICLE FOUR - ACCOUNTING RULES

4.1 INVESTMENT OF ACCOUNTS AND ACCOUNTING RULES

- (a) Investment Funds The investment of Participants' Accounts shall be made in a manner consistent with the provisions of the Trust. The Trustees, subject to such administrative rules and procedures as they may prescribe, may allow the Trust to provide for separate funds for the directed investment of each Participant's Account, or any portion thereof. Notwithstanding the foregoing, investment in employer securities that would subject the Plan to the provisions of Section 401(a)(35) of the Code shall not be permitted.

- (b) Participant Direction of Investments In the event a Participant (including, for this purpose, any former Employee, Beneficiary, or alternate payee with an Account balance) is entitled to direct the investment of all or any portion of his Account, such Participant shall be entitled to direct the investment among the available investment funds in the percentage increments established by the Trustees. In the event a Participant fails to make an investment election, with respect to all or any portion of his Account subject to his investment direction, the Trustees shall invest all or such portion of his Account in the investment fund to be designated by the Trustees. A Participant may change his investment election, with respect to future contributions and/or amounts previously accumulated in the Participant's Account, in accordance with procedures established by the Trustees. Any such change in a Participant's investment election shall be effective at such time as may be prescribed by the Trustees. However, where deemed appropriate, and subject to the requirements of applicable law, the Trustees may decline to implement, or otherwise limit the frequency by which a Participant may direct the investment of his Account. If the Plan's recordkeeper or investments are changed, the Trustees may apply such administrative rules and procedures as are necessary to provide for the transfer of records and/or assets, including without limitation, the suspension of Participant's investment directions. withdrawals and distributions for such period of time as is necessary, and the transfer of Participants' Accounts to designated funds or an interest bearing account until such change has been completed.

- (c) Allocation of Investment Experience As of each Valuation Date, the investment fund(s) of the Trust shall be valued at fair market value (or book value in the case of a Stable Value Fund), and the income, loss, appreciation and depreciation (realized and unrealized), and any paid expenses of the Trust attributable to such fund shall be apportioned among Participants' Accounts within the fund based upon the value of each Account within the fund as of the preceding Valuation Date.

- (d) Manner and Time of Debiting Distributions For any Participant who is entitled to receive a distribution from his vested Account, such distribution shall be made in accordance with the provisions of Section 6.2. The amount distributed shall be based upon the fair market value of the Participant's vested Account as of the Valuation Date preceding the distribution.

4.2 **REDUCTION OF ACCOUNTS** In no event on any Valuation Date shall the total amount in all Accounts plus expenses and reserves payable exceed the market value of the total net assets of the Plan. If such an event should occur, then all existing Accounts shall automatically be proportionately reduced so that the total of all Accounts plus the amount previously established for these expenses and reserves is not more than the total net assets.

4.3 **NO RIGHTS CREATED BY ALLOCATION OR VALUATION OF ACCOUNTS** The fact that Accounts are established and valued as of each Valuation Date shall not cause any Employee, or others, to have any right, title or interest in any assets of the Trust, or in the Accounts, except at the time and under the terms and conditions expressly provided in the Plan.

4.4 **SAFE-HARBOR UNDER SECTION 404(c) OF ERISA** It is intended that the Plan shall comply with the requirements of Section 404(c) of the Employee Retirement Income Security Act of 1974, as amended (“ERISA”), and Title 29 of the Code of Federal Regulations Section 2550.404c-1, and the fiduciaries of the Plan shall, to the extent permitted by the law, be relieved of liability for any losses which are the direct and necessary result of the investment instructions given by any Participant or Beneficiary.

ARTICLE FIVE - VESTING, RETIREMENT AND DISABILITY BENEFITS

5.1 VESTING A Participant shall at all times have a non-forfeitable (vested) right to any rollovers made to his Account under Section 3.2, as adjusted for investment gains and losses thereon. Except as otherwise provided herein, a Participant shall have a nonforfeitable (vested) right to the portion of his Account derived from any Employer contributions made pursuant to Section 3.1 upon the completion of three hundred and twenty (320) Hours of Service within a period of twelve (12) consecutive months.

If a Participant terminates prior to completing the requisite Hours of Service or prior to his Normal Retirement Date, the Participant's Account shall be forfeited.

5.2 FORFEITURES Any forfeitures under the Plan shall be used to pay Plan expenses. Forfeitures shall be used in accordance with the terms of the Plan no later than the end of the Plan Year following the Plan Year in which the forfeiture occurs.

5.3 NORMAL RETIREMENT Notwithstanding the foregoing provisions of this Article Five, a Participant who is in Covered Employment at his Normal Retirement Date shall have a non-forfeitable interest in one hundred percent (100%) of his Account.

5.4 DISABILITY Notwithstanding the foregoing provisions of this Article Five, if a Participant incurs a Disability while in Covered Employment, the Participant shall have a non-forfeitable interest in one hundred percent (100%) of his Account.

ARTICLE SIX - MANNER AND TIME OF DISTRIBUTING BENEFITS

6.1 **DISTRIBUTABLE EVENTS** A Participant's vested Account shall become distributable to the Participant (or Beneficiary or Beneficiaries in the event of the Participant's death) following the occurrence of any of the following events:

- (a) the Participant's death;
- (b) the Participant's Disability;
- (c) at or after the Participant's Normal Retirement Date, provided that no contributions have been made to the Participant's Account for at least three (3) consecutive months; or
- (d) regardless of age, provided there has been no contributions to the Participant's Account for at least twelve (12) months out of the last fourteen (14) months, or six (6) months out of the last eight (8) months in the instance where the Trustees make a determination that the electrical industry is experiencing a severe economic downturn, and the Participant is not employed in the electrical industry.

6.2 **TIME OF COMMENCEMENT OF BENEFIT PAYMENTS** Distribution of the Participant's vested Account balance shall normally be made or commence no later than sixty (60) days following the close of the Plan Year in which a distributable event (as set forth in Section 6.1) occurs; provided, however, that if the amount required to be distributed cannot be ascertained by such date, distribution shall be made or commence no later than sixty (60) days after the earliest date on which such amount can be ascertained; and provided that the Participant may elect to defer distribution of his Account, subject to the foregoing provisions of this Section 6.2.

A Participant who is not vested in any portion of his Account shall be deemed to have received distribution of such portion of his Account as of the end of the Plan Year following the Plan Year in which he ceases Covered Employment.

Notwithstanding the foregoing, a Participant's Account may be frozen to prevent the Participant from taking withdrawals and/or distributions from his Account in accordance with the Plan's qualified domestic relations order procedures.

Moreover, if the Participant's vested Account does not exceed \$5,000 (without regard to any rollover contributions made under Section 3.2), the Participant's entire vested Account shall be normally distributed to the Participant (or, in the event of the Participant's death, his Beneficiary) in a lump-sum payment as soon as administratively practicable following the date the Participant ceases Covered Employment. However, in the event of a mandatory distribution to a Participant whose vested Account is greater than \$1,000, if the Participant does not elect to have such automatic distribution paid directly to an eligible retirement plan specified by the Participant in a direct rollover or to receive the distribution directly, then the Plan Administrator shall pay the distribution in a direct rollover to an individual retirement plan designated by the Plan Administrator.

In no event shall distribution of the Participant's vested Account be made or commence later than the April 1st following the end of the calendar year in which the Participant attains age seventy and one-half (70½), or, if later, the April 1st following the calendar year in which the Participant ceases Covered Employment (the "Required Beginning Date").

6.3 **MANNER OF PAYMENT** Subject to the following provisions of this Article Six, if the Participant's vested Account, excluding the portion of the Account balance that is attributable to rollover contributions and earnings/losses allocable thereto, exceeds \$5,000, the Participant's Account shall normally be distributed to the Participant in the form of a nontransferable annuity purchased from an annuity provider. However, the Participant may elect to waive the annuity, pursuant to the provisions of Section 6.6 below, and elect to have his vested Account distributed in a single-sum payment, in the form of a fixed monthly benefit payable in equal installments of five (5) or ten (10) years, or in the form a partial lump-sum payment, with the balance paid in such installments, subject to the provisions of Section 6.5.

If the Participant's vested Account, excluding the portion of the Account balance that is attributable to rollover contributions and earnings/losses allocable thereto, does not exceed \$5,000, the Participant's entire vested Account shall be distributed to the Participant (or, in the event of the Participant's death, his Beneficiary) in a single-sum payment.

Notwithstanding any provision of this Article Six to the contrary, if a Participant's vested Account consists solely of profit-sharing contributions made under Section 3.1 after May 1, 2010, and/or any rollover contributions made under Section 3.2, the normal form of payment shall be a lump-sum payment, unless the Participant elects an optional form of payment described above.

6.4 **FURNISHING INFORMATION** Prior to the payment of any benefit under the Plan, each Participant or Beneficiary may be required to complete such administrative forms and furnish such proof as may be deemed necessary or appropriate by the Trustees.

6.5 **MINIMUM DISTRIBUTION REQUIREMENTS**

(a) General Rules

- (1) Effective Date The provisions of this Article will apply for purposes of determining required minimum distributions.
- (2) Precedence The requirements of this Article shall take precedence over any inconsistent provisions of the Plan; provided, however, that this Article shall not require the Plan to provide any form of benefit, or any option, not otherwise provided under Section 6.3.
- (3) Requirements of Treasury Regulations Incorporated All distributions required under this Article will be determined and made in accordance with the Treasury regulations under Section 401(a)(9) of the Code and the minimum distribution incidental benefit requirement of Section 401(a)(9)(G) of the Code.

(b) Time and Manner of Distribution

- (1) Required Beginning Date The Participant's entire interest shall be distributed, or begin to be distributed, to the Participant no later than the Participant's required beginning date.
- (2) Death of Participant Before Distributions Begin If the Participant dies before distributions begin, the Participant's entire interest shall be distributed, or begin to be distributed, no later than as follows:
 - (A) If the Participant's surviving spouse is the Participant's sole designated Beneficiary, distribution of the Participant's vested account shall be completed by the December 31 of the calendar year containing the fifth anniversary of the Participant's death unless distribution is to be made over the surviving spouse's life or over a period certain not exceeding his life expectancy (if permitted under Section 6.3) in which case distribution shall commence by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70½, if later.
 - (B) If the Participant's surviving spouse is not the Participant's sole designated Beneficiary, distribution of the Participant's vested Account shall be completed by the December 31 of the calendar year containing the fifth anniversary of the Participant's death unless distribution is to be made over the life or over a period certain not exceeding the life expectancy of the designated Beneficiary (if permitted under Section 6.3 of the Plan), in which case distribution shall commence by December 31 of the calendar year immediately following the calendar year in which the Participant died.
 - (C) If there is no designated Beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's vested Account shall be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.
 - (D) If the Participant's surviving spouse is the Participant's sole designated Beneficiary and the surviving spouse dies after the Participant but before distributions to the surviving spouse begin, this Section 6.5(b)(2), other than Section 6.5(b)(2)(A), shall apply as if the surviving spouse were the Participant.

For purposes of Sections 6.5(b) and 6.5(d), unless Section 6.5(b)(2)(D) applies, distributions are considered to begin on the Participant's required beginning date. If Section 6.5(b)(2)(D) applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under Section 6.5(b)(2)(A). If distributions under an annuity purchased from an insurance company irrevocably commence to the Participant before the Participant's required beginning date (or to the Participant's surviving spouse before the date distributions are required to begin to the surviving spouse

under Section 6.5(b)(2)(A)), the date distributions are considered to begin is the date distributions actually commence.

- (3) Forms of Distribution Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution calendar year, distributions shall be made in accordance with Sections 6.5(c) and (d). If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder shall be made in accordance with the requirements of Section 401(a)(9) of the Code and the Treasury regulations.

(c) Required Minimum Distributions During Participant's Lifetime

- (1) Amount of Required Minimum Distribution for Each Distribution Calendar Year During the Participant's lifetime, the minimum amount that shall be distributed for each distribution calendar year is the lesser of:
 - (A) the quotient obtained by dividing the Participant's vested Account balance by the distribution period in the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9, Q&A-2, of the Treasury regulations, using the Participant's age as of the Participant's birthday in the distribution calendar year; or
 - (B) if the Participant's sole designated Beneficiary for the distribution calendar year is the Participant's spouse, the quotient obtained by dividing the Participant's vested Account balance by the number in the Joint and Last Survivor Table set forth in Section 1.401(a)(9)-9, Q&A-3, of the Treasury regulations, using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the distribution calendar year.
- (2) Lifetime Required Minimum Distributions Continue Through Year of Participant's Death Required minimum distributions shall be determined under this Section 6.5(c) beginning with the first distribution calendar year and up to and including the distribution calendar year that includes the Participant's date of death.

(d) Required Minimum Distributions After Participant's Death

- (1) Death On or After Date Distributions Begin
 - (A) *Participant Survived by Designated Beneficiary* If the Participant dies on or after the date distributions begin and there is a designated Beneficiary, the minimum amount that shall be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's vested Account balance by the longer of the remaining life expectancy of the Participant or the remaining life expectancy of the Participant's designated Beneficiary, determined as follows:
 - (i) The Participant's remaining life expectancy is calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.

- (ii) If the Participant's surviving spouse is the Participant's sole designated Beneficiary, the remaining life expectancy of the surviving spouse is calculated for each distribution calendar year after the year of the Participant's death using the surviving spouse's age as of the spouse's birthday in that year. For distribution calendar years after the year of the surviving spouse's death, the remaining life expectancy of the surviving spouse is calculated using the age of the surviving spouse as of the spouse's birthday in the calendar year of the spouse's death, reduced by one for each subsequent calendar year.
 - (iii) If the Participant's surviving spouse is not the Participant's sole designated Beneficiary, the designated Beneficiary's remaining life expectancy is calculated using the age of the Beneficiary in the year following the year of the Participant's death, reduced by one for each subsequent year.
 - (B) *No Designated Beneficiary* If the Participant dies on or after the date distributions begin and there is no designated Beneficiary as of September 30 of the year after the year of the Participant's death, the minimum amount that shall be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's vested Account balance by the Participant's remaining life expectancy calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.
- (2) Death Before Date Distributions Begin
 - (A) *Participant Survived by Designated Beneficiary* If the Participant dies before the date distributions begin and there is a designated Beneficiary, the minimum amount that shall be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's vested Account balance by the remaining life expectancy of the Participant's designated Beneficiary, determined as provided in Section 6.5(d)(1).
 - (B) *No Designated Beneficiary* If the Participant dies before the date distributions begin and there is no designated Beneficiary as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire interest shall be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

- (C) *Death of Surviving Spouse Before Distributions to Surviving Spouse Are Required to Begin* If the Participant dies before the date distributions begin, the Participant's surviving spouse is the Participant's sole designated Beneficiary, and the surviving spouse dies before distributions are required to begin to the surviving spouse under Section 6.5(b)(2)(A), this Section 6.5(d) shall apply as if the surviving spouse were the Participant.

(e) Definitions

- (1) Designated Beneficiary The individual who is designated as the Beneficiary under Section 6.8 of the Plan and is the designated Beneficiary under Section 401(a)(9) of the Code and Section 1.401(a)(9)-4, of the Treasury regulations.
- (2) Distribution Calendar Year A calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Participant's required beginning date. For distributions beginning after the Participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin under Section 6.5(b)(2). The required minimum distribution for the Participant's first distribution calendar year shall be made on or before the Participant's required beginning date. The required minimum distribution for other distribution calendar years, including the required minimum distribution for the distribution calendar year in which the Participant's required beginning date occurs, shall be made on or before December 31 of that distribution calendar year.
- (3) Life Expectancy Life expectancy as computed by use of the Single Life Table in Section 1.401(a)(9)-9, Q&A-1, of the Treasury regulations.
- (4) Participant's Vested Account Balance The vested Account balance as of the last valuation date in the calendar year immediately preceding the distribution calendar year (valuation calendar year) increased by the amount of any contributions made and allocated or forfeitures allocated to the vested Account balance as of dates in the valuation calendar year after the valuation date and decreased by distributions made in the valuation calendar year after the valuation date. The vested Account balance for the valuation calendar year includes any amounts rolled over or transferred to the Plan either in the valuation calendar year or in the distribution calendar year if distributed or transferred in the valuation calendar year.
- (5) Required Beginning Date The date specified in Section 6.2 of the Plan.

(f) Special Rules for Required Minimum Distributions During 2009

For purposes of this subsection, a "2009 RMD" is the required minimum distribution a Participant or Beneficiary, as applicable, is required to receive for 2009 without regard to Section 401(a)(9)(H) of the Code.

A Participant or Beneficiary shall not receive distribution of his 2009 RMD unless he elects otherwise in accordance with procedures established by the Administrator.

A direct rollover shall be offered only for distributions that would be eligible rollover distributions without regard to Section 401(a)(9)(H) of the Code.

The provisions of this subsection (f) shall be interpreted in accordance with Section 401(a)(9)(H) of the Code and regulatory guidance issued thereunder.

6.6 JOINT AND SURVIVOR ANNUITY

- (a) Normal Form of Benefit Payment Subject to the provisions of Section 6.3, if distribution of a Participant's vested Account balance commences during his lifetime, his vested Account shall be applied to the purchase of a "single life annuity" for a Participant who is unmarried as of his benefit commencement date, or if the Participant is married as of his benefit commencement date, applied to the purchase of a "50% qualified joint and survivor annuity".

A "qualified joint and survivor annuity" is an immediate annuity for the life of the Participant with a survivor annuity for the life of the spouse equal to fifty percent (50%) of the amount of the annuity which is payable during the joint lives of the Participant and his spouse. Subject to the spousal consent requirements under (b) below, the Participant may also select a "qualified optional survivor annuity" (defined in (c) below) or a one hundred percent (100%) joint and survivor annuity with his spouse as an alternative form of benefit payment.

A "single life annuity" is an annuity for the life of the Participant.

- (b) Waiver of Annuity The Participant may, at any time during the "election period", elect to waive the annuity form of payment described above and elect any of the optional forms of payment set forth under Section 6.3.

The "election period" under this Section shall be one hundred and eighty (180)-day period) prior to the "annuity starting date," which date shall be the first day of the first period in which an amount is payable as an annuity.

An election to waive the applicable annuity form of payment under the Plan must be made in writing in a form acceptable to the Trustees. In addition, an election to waive the qualified joint and survivor annuity shall not take effect unless, 1) the Participant's spouse consents in writing to the election, 2) the election designates any specific alternate Beneficiary, if applicable, including any class of Beneficiaries or any contingent Beneficiaries, which may not be changed without spousal consent (unless the Participant's spouse expressly permits designations by the Participant without any further spousal consent), 3) the spouse's consent acknowledges the effect of the election, and (4) the spouse's consent is witnessed by an authorized Plan representative or a notary public. In addition, a Participant's waiver of a qualified joint and survivor annuity shall not be effective unless the election designates a form of benefit payment which may not be changed without spousal consent (or the Participant's spouse expressly permits designation by the Participant without any further spousal consent). Notwithstanding the foregoing, spousal consent hereunder shall not be required if it is established to the

satisfaction of the Trustees that the spouse's consent cannot be obtained because such spouse cannot be located, or because of such other circumstances as may be prescribed in regulations or other guidance pursuant to Section 417 of the Code.

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

- (c) Qualified Optional Survivor Annuity To the extent required under applicable law, effective for Plan Years beginning after December 31, 2007, a Participant who elects to waive the qualified joint and survivor annuity form of benefit shall be entitled to elect the "qualified optional survivor annuity" at any time during the applicable election period. Furthermore, the written explanation of the joint and survivor annuity shall explain the terms and conditions of the "qualified optional survivor annuity".

For such purposes, the term "qualified optional survivor annuity" means an annuity:

- (1) for the life of the Participant, with a survivor annuity for the life of the spouse which is equal to seventy-five percent (75%) of the amount of the annuity which is payable during the joint lives of the Participant and his or her spouse; and
- (2) which is the actuarial equivalent of a single annuity for the life of the Participant.

Such term also includes any annuity in a form having the effect of an annuity described in the preceding sentence.

- (d) Notice Requirement The Trustees shall provide to each Participant, not less than thirty (30) days and not more than one hundred and eighty (180) days prior to the commencement of benefits, a written explanation of:
- (1) the terms and conditions (including any other material features) of the qualified joint and survivor annuity, qualified optional survivor annuity or life annuity;
 - (2) the Participant's right to waive such applicable annuity and the effect of such waiver;
 - (3) the rights of the Participant's spouse regarding the required consent to an election to waive the qualified joint and survivor annuity; and
 - (4) the right to make, and the effect of, a revocation of an election to waive the applicable annuity.

- (e) Restrictions Notwithstanding anything contained herein to the contrary, if the balance of the Participant's vested Account, excluding the portion of the Account balance that is attributable to rollover contributions and earnings/losses allocable thereto, does not exceed \$5,000, or if the Participant's vested Account consists solely of profit-sharing contributions made under Section 3.1 after May 1, 2010 and/or rollover contributions made under Section 3.2, distribution of the Participant's Account shall be made in the form of a single-sum payment. However, no distribution shall be made pursuant to this subsection after the first day of the first period for which an amount is received as an annuity, unless the Participant and the Participant's spouse, if applicable, consent in writing to such distribution.

6.7 AMOUNT OF DEATH BENEFIT

- (a) Death Before Termination of Employment In the event of the death of a Participant while in the employ of an Employer, vesting in the Participant's Account shall be one hundred percent (100%), if not otherwise one hundred percent (100%) vested under Section 5.1, with the credit balance of the Participant's Account being payable to his Beneficiary.
- (b) Death After Termination of Employment In the event of the death of a former Participant after ceasing Covered Employment, but prior to the complete distribution of his vested Account balance under the Plan, the undistributed vested balance of the Participant's Account shall be paid to the Participant's Beneficiary.

6.8 DESIGNATION OF BENEFICIARY Subject to Section 6.6 and 6.10, each Participant shall designate a Beneficiary in a manner acceptable to the Trustees to receive payment of any death benefit payable under the Plan if such Beneficiary should survive the Participant. However, no Participant who is married shall be permitted to designate a Beneficiary other than his spouse unless the Participant's spouse has signed a written consent, witnessed by an authorized Plan representative or a notary public, which provides for the designation of an alternate Beneficiary.

Subject to the above, Beneficiary designations may include primary and contingent Beneficiaries, and may be revoked or amended at any time in similar manner or form, and the most recent designation shall govern. A designation of a Beneficiary made by a Participant shall cease to be effective upon his marriage or remarriage. In addition, a spousal Beneficiary designation shall cease to be effective upon written notification to the Administrator of the divorce of the Participant and such spouse. In the absence of an effective designation of Beneficiary, or if the Beneficiary dies before distribution to such Beneficiary had commenced, all amounts shall be paid to the surviving spouse of the Participant, or, if none, to the Participant's surviving dependent children in equal shares, or, if none, to the Participant's surviving non-dependent children in equal shares, or, if none, to the Participant's surviving parents or, if none, to the Participants estate. Notification to Participants of the death benefits under the Plan and the method of designating a Beneficiary shall be given at the time and in the manner provided by regulations and rulings under the Code.

In the event a Beneficiary survives the Participant, but dies before receipt of all payments due that Beneficiary hereunder, any benefits remaining to be paid to the Beneficiary shall be paid to the Beneficiary's estate.

6.9 DISTRIBUTION OF DEATH BENEFITS Subject to the provisions of Section 6.10 below, if applicable, a Beneficiary may elect to receive distribution of any death benefit in the form of a single-sum payment or, if the Participant's Account, excluding the portion of the Account balance that is attributable to rollover contributions and earnings/losses allocable thereto, exceeds \$5,000, in installments over a period of five (5) or ten (10) years, but not in excess of the Beneficiary's "life expectancy" (within the meaning of Section 401(a)(9) of the Code).

- (a) *Distribution Beginning Before Death* - If the Participant dies after distribution of his vested Account has commenced, any survivor's benefit must be paid at least as rapidly as under the method of payment in effect at the time of the Participant's death.
- (b) *Distribution Beginning After Death* - If the Participant dies before distribution of his vested Account has commenced, distribution of the Participant's vested Account shall be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death, except as provided below:
 - (i) if any portion of the Participant's vested Account is payable to a designated Beneficiary, and if distribution is to be made over a period certain not greater than the life expectancy of the designated Beneficiary, such payments shall commence on or before December 31 of the calendar year immediately following the calendar year in which the Participant died;
 - (ii) if the Participant's surviving spouse is the Participant's sole designated Beneficiary, the date distribution is required to begin shall not be earlier than the later of (A) December 31 of the calendar year immediately following the calendar year in which the Participant died and (B) December 31 of the calendar year in which the Participant would have attained age seventy and one-half (70½).

For purposes of this paragraph (b), if the surviving spouse dies after the Participant, but before payments to such spouse begin, the provisions of this paragraph, with the exception of paragraph (ii) herein, shall be applied as if the surviving spouse were the Participant.

Notwithstanding the foregoing, if the Participant has no designated Beneficiary (within the meaning of Section 401(a)(9) of the Code and the regulations thereunder), distribution of the Participant's vested Account must be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

6.10 QUALIFIED PRE-RETIREMENT SURVIVOR ANNUITY

- (a) If a Participant dies before distribution of benefits has commenced and is survived by his spouse, his vested Account balance shall be applied to the purchase of an annuity for the life of the Participant's surviving spouse. The Participant's surviving spouse may commence the payment of such qualified pre-retirement survivor annuity under this Section within a reasonable period following the Participant's death.
- (b) The Participant may elect to waive such survivor annuity death benefit during the period commencing on the first day of the Plan Year in which the Participant attains age thirty-five (35) (or the date he terminates employment, if earlier) and ending on the date of his death. Any such election, however, shall not take effect unless it is accompanied by the written consent of the Participant's spouse, which consent acknowledges the effect of such election and is witnessed by an authorized Plan representative or a notary public. A Participant who will not yet attain age thirty-five (35) as of the end of any current Plan Year may make a special qualified election to waive the qualified pre-retirement survivor annuity for the period beginning on the date of such election and ending on the first day of the Plan Year in which the Participant will attain thirty-five (35). Such election shall not be valid unless the Participant receives a written explanation of the qualified pre-retirement survivor annuity in such terms as are comparable to the explanation required under Section 6.6(c). Qualified pre-retirement survivor annuity coverage shall be reinstated automatically as of the first day of the Plan Year in which the Participant attains age thirty-five (35). Any new waiver on or after such date shall be subject to the full requirements of this Section.

The election to waive such survivor annuity death benefit must be made in writing in a form acceptable to the Trustees and must include the Participant's designation of a Beneficiary. The designation of a Beneficiary may not be changed unless a new consent is signed by the Participant's spouse.

In the event of such an election, hereunder, any such death benefit shall be paid to the Participant's Beneficiary in accordance with the provisions of Section 6.9.

- (c) The Trustees shall furnish to each Participant, subject to the provisions of this Section 6.10, a written explanation of: 1) the terms and conditions of the survivor annuity death benefit; 2) the Participant's right to make, and the effect of, an election to waive the survivor annuity death benefit, and to revoke such election; and 3) the right of the Participant's spouse to prevent such an election by withholding the necessary consent. Such explanation shall be provided to the Participant within the period beginning on the later of the first day of the Plan Year in which the Participant attains age thirty-two (32) and ending on the last day of the Plan Year preceding the Plan Year in which the Participant attains age thirty-five (35), or within a reasonable period after the Participant commences participation in the Plan, or after the Participant ceases Covered Employment, if the Participant has not attained age thirty-five (35) at the time he ceases Covered Employment.

For purposes of the preceding paragraph, a “reasonable period” shall mean the end of the two (2)-year period beginning one (1) year prior to the date the applicable event occurs, and ending one (1) year after that date. In the case of a Participant who ceases Covered Employment before the Plan Year in which age thirty five (35) is attained, notice shall be provided within the two (2) year period beginning one (1) year prior to separation and ending (1) year after separation. If such a Participant thereafter returns to Covered Employment with an Employer, the applicable period for such Participant shall be redetermined.

Following the Participant’s death, if such death benefit is to be paid to the Participant’s surviving spouse in the form of a survivor annuity, the surviving spouse may elect to waive the survivor annuity and receive such death benefit in a form permitted under Section 6.9.

Notwithstanding the foregoing, if the balance of the Participant’s vested Account, excluding the portion of the Account balance that is attributable to rollover contributions and earnings/losses allocable thereto, does not exceed \$5,000, or if the Participant’s Account consists solely of profit-sharing contributions made under Section 3.1 after May 1, 2010, and/or rollover contributions made under Section 3.2, any benefit payable under this Section shall be payable to the surviving spouse in a single-sum payment.

6.11 ELIGIBLE ROLLOVER DISTRIBUTIONS Notwithstanding the foregoing provisions of this Article Six, the provisions of this Section 6.11 shall apply to any distributions made under the Plan.

- (a) A distributee (as hereinafter defined) may elect, at the time and in the manner prescribed by the Trustees, to have any portion of an eligible rollover distribution (as hereinafter defined) paid directly to an eligible retirement plan specified by the distributee in a direct rollover.
- (b) Definitions:
 - (i) Eligible Rollover Distribution An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee’s designated Beneficiary, or for a specified period of ten (10) years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Code; and any hardship distribution. A portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such portion may be transferred only to (1) a traditional individual retirement account or annuity described in Section 408(a) or (b) of the Code (a “traditional IRA”) or a Roth individual retirement account or annuity described in Section 408A of the Code (a “Roth IRA”), or (2) a qualified plan or annuity contract described in Section 401(a) or 403(b) of the Code, respectively, that agrees to separately account for amounts so transferred (and earnings thereon), including separately

accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

- (ii) Eligible Retirement Plan An eligible retirement plan is a traditional IRA, a Roth IRA, an individual retirement annuity described in Section 408(b) of the Code (other than an endowment contract), an annuity plan described in Section 403(a) of the Code, a qualified plan described in Section 401(a) of the Code, an annuity contract described in Section 403(b) of the Code and an eligible plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan, that accepts the distributee's eligible rollover distribution. 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.
 - (iii) Distributee A distributee includes an Employee or former Employee. In addition, the Employee's or former Employee's surviving spouse and the Employee's or former Employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Code, are distributees with regard to the interest of the spouse or former spouse. For distributions after December 31, 2009, a distributee includes the Employee's or former Employee's non-spouse designated Beneficiary, in which case, the distribution can only be transferred to a traditional or Roth inherited IRA established on behalf of the non-spouse designated Beneficiary for the purpose of receiving the distribution.
 - (iv) Direct Rollover A direct rollover is a payment by the Plan to the eligible retirement plan specified by the distributee.
- (c) If a distribution is one to which Sections 401(a)(11) and 417 of the Code do not apply, such distribution may commence less than thirty (30) days after the notice required under Section 1.411(a)-11(c) of the Income Tax Regulations is given, provided that:
- (i) the Trustees clearly informs the Participant that the Participant has a right to a period of at least thirty (30) days after receiving the notice to consider the decision of whether or not to elect a distribution (and, if applicable, a particular distribution option), and
 - (ii) the Participant, after receiving the notice, affirmatively elects a distribution.
- (d) If a distribution is one to which Sections 401(a)(11) and 417 of the Code applies, the distribution may commence less than thirty (30) days, but not less than seven (7) days, after the notice required under Section 1.411(a)-11(c) of the Income Tax Regulations is given, provided that the requirements of paragraphs (c)(i) and (c)(ii) above are satisfied with respect to both the Participant and the Participant's spouse, if applicable.

- (e) For any distribution notice issued in Plan Years beginning after December 31, 2006, the description of a Participant's right, if any, to defer distribution shall also describe the consequences of failing to defer receipt of the distribution in accordance with the requirements of applicable law. In addition, any reference to the ninety (90) day maximum notice period prior to distribution in applying the notice requirements of Sections 402(f), 411(a)(11) and 417 of the Code will become one hundred and eighty (180) days.

ARTICLE SEVEN - WITHDRAWALS

7.1 WITHDRAWALS OF ROLLOVER CONTRIBUTIONS A Participant, by giving written notice to the Trustees, may withdraw from the Plan the entire portion of the Participant's Account attributable to any rollover contributions plus any earnings on such rollover contributions made to the Plan. Any such withdrawal shall be made in accordance with nondiscriminatory and objective standards consistently applied by the Trustees. In addition, if the Participant is married, the Participant must obtain the written consent of the Participant's spouse, witnessed by an authorized Plan representative or a notary public.

7.2 HEART ACT PROVISIONS

- (a) Death benefits. In the case of a Participant's death occurring on or after January 1, 2007, if a Participant dies while performing qualified military service (as defined in Section 414(u) of the Code), the Beneficiary(ies) (or surviving spouse, if the qualified joint and survivor annuity or qualified pre-retirement survivor annuity rules apply) of the Participant shall be entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the Plan as if the Participant had resumed employment and then terminated employment on account of death. In addition, vesting service credit for the deceased Participant's period of qualified military service shall be credited to the extent required by Section 401(a)(37) of the Code.
- (b) Differential wage payments. For years beginning after December 31, 2008, (i) a Participant receiving a differential wage payment, as defined by Section 3401(h)(2) of the Code, shall be treated as an Employee of the Employer making the payment, (ii) the differential wage payment shall be treated as Compensation, and (iii) the Plan shall not be treated as failing to meet the requirements of any provision described in Section 414(u)(1)(C) of the Code by reason of any contribution or benefit which is based on the differential wage payment.

Effective as of the dates specified above, the provisions of this Section 7.2 shall be interpreted consistent with, and governed by, the Heroes Earnings Assistance and Relief Tax Act of 2008 ("HEART Act") and regulatory guidance issued thereunder.

7.3 HARDSHIP DISTRIBUTIONS In the case of a financial hardship resulting from a proven immediate and heavy financial need, a Participant (including an Employee or former Employee) may receive a distribution not to exceed the lesser of (i) the vested value of the Participant's Account attributable to profit-sharing contributions under Section 3.1, or (ii) the amount necessary to satisfy the financial hardship. The amount of any such immediate and heavy financial need may include any amounts necessary to pay Federal, state or local income taxes reasonably anticipated to result from the distribution. Such distribution shall be made in accordance with nondiscriminatory and objective standards and procedures consistently applied by the Administrator. In addition, if the Participant is married, the Participant must obtain the written consent of the Participant's spouse, which consent must be witnessed by a notary public.

Hardship distributions under this Section shall be deemed to be the result of an immediate and heavy financial need if such distribution is to: (a) pay expenses for (or to obtain) medical care that would be deductible under Section 213(d) of the Code determined without regard to whether the expenses exceed seven and one-half percent (7.5%) of adjusted gross income; (b) purchase the principal residence of the Participant (excluding mortgage payments); (c) pay tuition and related educational fees for the next twelve (12) months of post-secondary education for the Participant, Participant's spouse, or any of the Participant's dependents (as defined in Section 152 of the Code, and without regard to Section 152(b)(1), (b)(2) and (d)(1)(B) of the Code); (d) prevent the eviction of the Participant from his principal residence or foreclosure on the Participant's principal residence; (e) pay funeral or burial expenses for the Participant's deceased parent, spouse, children or dependents (as defined in Section 152 of the Code, and without regard to Section 152(d)(1)(B) of the Code); or (f) repair damage to the Participant's principal residence that would qualify for a casualty loss deduction under Section 165 of the Code (determined without regard to whether the loss exceeds ten percent (10%) of adjusted gross income). Distributions paid pursuant to this Section shall be deemed to be made as of the Valuation Date immediately preceding the hardship distribution, and the Participant's Account shall be reduced accordingly.

A distribution shall not be treated as necessary to satisfy an immediate and heavy financial need of a Participant to the extent the amount of the distribution is in excess of the amount required to relieve the financial need or to the extent the need may be satisfied from other resources that are reasonably available to the Participant. This determination shall generally be made on the basis of all relevant facts and circumstances. For purposes of this paragraph, the Participant's resources shall be deemed to include those assets of the Participant's spouse and minor children that are reasonably available to the Participant. A distribution generally shall be treated as necessary to satisfy a financial need if the Administrator relies upon the Participant's written representation, unless the Administrator has actual knowledge to the contrary, that the need cannot reasonably be relieved:

- (1) Through reimbursement or compensation by insurance or otherwise;
- (2) By liquidation of the Participant's assets; or
- (3) By other distributions or nontaxable (at the time of the loan) loans from plans maintained by the Employer or by any other employer, or by borrowing from commercial sources on reasonable commercial terms, in an amount sufficient to satisfy the need.

For purposes of the foregoing paragraph, a need cannot reasonably be relieved by one of the actions listed above if the effect would be to increase the amount of the need. In making such determination, the Administrator may rely upon the Participant's written representation to such effect, unless the Administrator has actual knowledge to the contrary.

ARTICLE EIGHT - ADMINISTRATION OF THE PLAN

8.1 **PLAN ADMINISTRATION** The Trustees shall serve as the Plan Administrator, hereinbefore and hereinafter called the Administrator, and “named fiduciary” (for purposes of Section 402(a)(1) of ERISA) of the Plan, unless the Union and the Association shall designate a person or other committee of persons to be the Administrator. The Trust Agreement may also designate a person, a committee of persons, and/or other entity as a named fiduciary or named fiduciaries. The administration of the Plan, as provided herein, including a determination of the payment of benefits to Participants and their Beneficiaries, shall be the responsibility of the Administrator; provided, however, that the Administrator may delegate any of its powers, authority, duties or responsibilities to any person or committee of persons, such delegation to be in accordance with ERISA Section 405. The Administrator shall have full discretion to interpret the terms of the Plan, to determine factual questions that arise in the course of administering the Plan, to adopt rules and regulations regarding the administration of the Plan, to determine the conditions under which benefits become payable under the Plan, and to make any other determinations that the Administrator believes are necessary and advisable for the administration of the Plan. Any determination made by the Administrator shall be final and binding on all parties, and shall be given the maximum deference allowed by law.

In the event more than one party shall act as Administrator, all actions shall be made by majority decisions. In the administration of the Plan, the Administrator may a) employ agents to carry out non-fiduciary responsibilities (other than trustee responsibilities), b) consult with counsel, who may be counsel to the Union, and c) provide for the allocation of fiduciary responsibilities (other than trustee responsibilities) among its members. Actions dealing with fiduciary responsibilities shall be taken in writing and the performance of agents, counsel and fiduciaries, to whom fiduciary responsibilities have been delegated, shall be reviewed periodically.

The reasonable expenses of administering the Plan and the compensation of all employees, agents, or counsel of the Administrator, including accounting fees, recordkeeper’s fees, and other administrative, legal and consulting expenses, shall be paid by the Plan.

The Administrator shall administer the Plan and adopt such rules and regulations as, in the opinion of the Administrator, are necessary or advisable to implement and administer the Plan and to transact its business.

8.2 **CLAIMS PROCEDURE**

The provisions of paragraph (a) below shall apply to all benefit claims under the Plan, except as provided in paragraph (b) below.

- (a) Pursuant to procedures established by the Administrator, claims for benefits under the Plan made by a Participant or Beneficiary (the "claimant") must be submitted in writing to the Administrator. Approved claims shall be processed and instructions issued to the Trustee or custodian authorizing payment as claimed.

If a claim is denied in whole or in part, the Administrator shall notify the claimant within ninety (90) days after receipt of the claim (or within one hundred eighty (180) days, if

special circumstances require an extension of time for processing the claim, and provided written notice indicating the special circumstances and the date by which a final decision is expected to be rendered is given to the claimant within the initial ninety (90) day period).

The notice of the denial of the claim shall be written in a manner calculated to be understood by the claimant and shall set forth the following:

- (i) the specific reason or reasons for the denial of the claim;
- (ii) the specific references to the pertinent Plan provisions on which the denial is based;
- (iii) a description of any additional material or information necessary to perfect the claim, and an explanation of why such material or information is necessary;
- (iv) a statement that any appeal of the denial must be made by giving to the Administrator, within sixty (60) days after receipt of the denial of the claim, written notice of such appeal, such notice to include a full description of the pertinent issues and basis of the claim; and
- (v) a statement about the claimant's right to bring civil action under Section 502(a) under ERISA if the claim is denied on review.

Upon denial of a claim in whole or part, the claimant (or his duly authorized representative) shall have the right to submit a written request to the Administrator for a full and fair review of the denied claim, to be permitted to review documents (free of charge) pertinent to the denial, and to submit issues and comments in writing. Any appeal of the denial must be given to the Administrator within the period of time prescribed under (a)(iv)/(d) above. If the claimant (or his duly authorized representative) fails to appeal the denial to the Administrator within the prescribed time, the Administrator's adverse determination shall be final, binding and conclusive.

The Administrator may hold a hearing or otherwise ascertain such facts as it deems necessary and shall render a decision which shall be binding upon both parties. The Administrator shall advise the claimant of the results of the review within sixty (60) days after receipt of the written request for the review, unless special circumstances require an extension of time for processing, in which case a decision shall be rendered as soon as possible but not later than one hundred twenty (120) days after receipt of the request for review. If such extension of time is required, written notice of the extension shall be furnished to the claimant prior to the commencement of the extension. The decision of the review shall be written in a manner calculated to be understood by the claimant and shall include specific reasons for the decision, specific references to the pertinent Plan provisions on which the decision is based, the claimant's right to receive free of charge upon written request, reasonable access to and copies of, all Plan documents, records, and other information relevant to the claim, and a statement about the claimant's right to bring a civil action under Section 502(a) of ERISA. The decision of the Administrator shall be final, binding and conclusive.

- (b) The provisions of this subsection (b) shall apply to a claim involving a determination by the Administrator of a Participant's Disability.

Such a claim for Disability benefits must be submitted in writing to the Administrator. Approved claims shall be processed and instructions issued to the Trustee or custodian authorizing payment as claimed.

If such a claim is denied in whole or in part, the Administrator shall notify the claimant within forty-five (45) days after receipt of the claim (or within seventy-five (75) days, if special circumstances require an extension of time for processing the claim, and provided written notice indicating the special circumstances and the date by which a final decision is expected to be rendered is given to the claimant within the initial forty-five (45) day period).

If, prior to the end of the seventy five (75) day extended period, the Administrator determines that a decision cannot be rendered within the initial extension period due to special circumstances, the period for making a determination may be extended for up to an additional thirty (30) days, provided written notice indicating the special circumstances and the date by which a final decision is expected to be rendered is given to the claimant within the originally extended seventy-five (75) day period.

The notice of the denial of the claim shall be written in a manner calculated to be understood by the claimant and shall set forth the following:

- (i) the specific reason or reasons for the denial of the claim;
- (ii) the specific references to the pertinent Plan provisions on which the denial is based;
- (iii) a description of any additional materials or information necessary to perfect the claim, and an explanation of why such material or information is necessary;
- (iv) a statement that any appeal of the denial must be made by giving to the Administrator, within one hundred eighty (180) days after receipt of the denial of the claim, written notice of such appeal, such notice to include a full description of the pertinent issues and basis of the claim;
- (v) a statement about the claimant's right to bring a civil action under Section 502(a) of ERISA if the claim is denied on review; and
- (vi) to the extent that an internal rule, guideline, protocol, or other similar criterion was relied upon in the denial, the notification shall set forth the specific rule, guideline, protocol, or criterion or indicate that such was relied upon and that a copy will be provided free of charge to the claimant upon request.

Upon denial of a claim in whole or in part, the claimant (or his duly authorized representative) shall have the right to submit a written request to the Administrator for a full and fair review of the denied claim, to be permitted to review documents (free of charge) pertinent to the denial, and to submit issues and comments in writing. Any

appeal of the denial must be given to the Administrator within the period of time prescribed under (b)(iv) above. If the claimant (or his duly authorized representative) fails to appeal the denial to the Administrator within the prescribed time, Administrator's initial adverse determination shall be final, binding and conclusive.

The Administrator shall consider the full record of the claimant's appeal without deference to the initial determination and, if the determination is based in whole or in part on a medical judgment, shall consult with a health care professional experienced in the field of medicine involved in the medical judgment. The health care professional consulted on the appeal shall be an individual who was not consulted in connection with the initial denied claim (nor a subordinate of any individual consulted in connection with the initial denied claim) and whose identity shall be disclosed to the claimant upon written request of the claimant, regardless of whether the health care professional's advice was relied upon in making the subsequent claim determination.

The Administrator shall render a decision that shall be binding upon both parties. The Administrator shall advise the claimant of the results of their review within forty-five (45) days after receipt of the written request for the review, unless special circumstances require an extension of time for processing, in which case a decision shall be rendered as soon as possible but not later than ninety (90) days after receipt of the request for review. If such extension of time is required, written notice of the extension shall be furnished to the claimant prior to the commencement of the extension. The decision of the review shall be written in a manner calculated to be understood by the claimant and shall set forth the following:

- (A) the specific reason or reasons for the denial of the claim;
- (B) the specific references to the pertinent Plan provisions on which the denial is based;
- (C) the claimant's right to receive free of charge, upon written request, reasonable access to and copies of, all Plan documents, records, and other information relevant to the claim;
- (D) a statement about the claimant's right to bring a civil action under Section 502(a) of ERISA; and
- (E) to the extent that an internal rule, guideline, protocol, or other similar criterion was relied upon in the denial, the notification shall set forth the specific rule, guideline, protocol, or criterion or indicate that such was relied upon and that a copy will be provided free of charge to the claimant upon request.

The decision of the Administrator shall be final, binding and conclusive.

ARTICLE NINE - LIMITATION ON ANNUAL ADDITIONS

9.1 RULES AND DEFINITIONS

- (a) **Rules** The following rules shall limit additions to Participants' Accounts:
- (1) If the Participant does not participate, and has never participated, in another qualified plan maintained by an Employer, the amount of annual additions which may be credited to the Participant's Account for any limitation year shall not exceed the lesser of the "maximum permissible" amount (as hereafter defined) or any other limitation contained in this Plan. If an Employer contribution that would otherwise be allocated to the Participant's Account would cause the annual additions for the limitation year to exceed the maximum permissible amount, the amount allocated shall be reduced so that the annual additions for the limitation year shall equal the maximum permissible amount.
 - (2) Prior to determining the Participant's actual compensation for the limitation year, an Employer may determine the maximum permissible amount for a Participant on the basis of a reasonable estimation of the Participant's compensation for the limitation year, uniformly determined for all Participants similarly situated.
 - (3) As soon as is administratively feasible after the end of the limitation year, the maximum permissible amount for the limitation year shall be determined on the basis of the Participant's actual compensation for the limitation year.
 - (4) If, the limitations of Section 415 of the Code are exceeded, such excess amount shall be corrected in accordance with the requirements of applicable law, including pursuant to the Employee Plans Compliance Resolution System.
 - (5) If, in addition to this Plan, the Participant is covered under another defined contribution plan maintained by an Employer, or a welfare benefit fund, as defined in Section 419(e) of the Code, maintained by an Employer, or an individual medical account, as defined in Section 415(1)(2) of the Code, maintained by an Employer which provides an annual addition, the annual additions which may be credited to a Participant's account under all such plans for any such limitation year shall not exceed the maximum permissible amount. Benefits shall be reduced under any discretionary defined contribution plan before they are reduced under any defined contribution pension plan. If both plans are discretionary contribution plans, they shall first be reduced under this Plan. Any excess amount attributable to this Plan shall be disposed of in the manner described in Section 11.1(a)(4).

(b) Definitions

- (1) Annual additions The following amounts credited to a Participant's Account for the limitation year shall be treated as annual additions:
- (A) Employer contributions;
 - (B) Elective deferrals, if any;
 - (C) Employee after-tax contributions, if any;
 - (D) Forfeitures, if any; and
 - (E) Amounts allocated after March 31, 1984 to an individual medical account, as defined in Section 415(l)(2) of the Code, which is part of a pension or annuity plan maintained by an Employer. Also, amounts derived from contributions paid or accrued after December 31, 1985 in taxable years ending after such date which are attributable to post-retirement medical benefits allocated to the separate account of a Key Employee, as defined in Section 419A(d)(3), and amounts under a welfare benefit fund, as defined in Section 419(e), maintained by an Employer, shall be treated as annual additions to a defined contribution plan.

Employer and employee contributions taken into account as annual additions shall include "excess contributions" as defined in Section 401(k)(8)(B) of the Code, "excess aggregate contributions" as defined in Section 401(m)(6)(B) of the Code, and "excess deferrals" as defined in Section 402(g) of the Code, regardless of whether such amounts are distributed, recharacterized or forfeited, unless such amounts constitute excess deferrals that were distributed to the Participant no later than April 15 of the taxable year following the taxable year of the Participant in which such deferrals were made.

For this purpose, any excess amount applied under Section 9.1(a)(4) in the limitation year to reduce Employer contributions shall be considered annual additions for such limitation year.

- (2) Compensation For purposes of determining maximum permitted benefits under this Section, compensation shall include all of a Participant's earned income, wages, salaries, differential wage payments as defined by Section 3401(h)(2) of the Code, and fees for professional services, and other amounts received for personal services actually rendered in the course of employment with an Employer, including, but not limited to, commissions paid to salesmen, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips and bonuses, elective deferrals (as defined in Section 402(g)(3) of the Code) made by an Employee to the Plan and any amount contributed or deferred by an Employee on an elective basis and not includable in the gross income of the Employee under Section 125, 132(f), or 457 of the Code. Notwithstanding the foregoing, Compensation for purposes of this Section shall exclude the following:

- (A) Except as provided in the preceding paragraph of this Section 9.1(b)(2), Employer contributions to a plan of deferred compensation which are not included in the Employee's gross income for the taxable year in which contributed, or Employer contributions under a simplified employee pension plan (funded with individual retirement accounts or annuities) to the extent such contributions are deductible by the Employee, or any distributions from a plan of deferred compensation;
- (B) Amounts realized from the exercise of a nonqualified stock option, or when restricted stock (or property) held by the Employee either becomes freely transferable or is no longer subject to a substantial risk of forfeiture;
- (C) Amounts realized from the sale, exchange, or other disposition of stock acquired under a qualified stock option;
- (D) Other amounts which received special tax benefits, or contributions made by an Employer (whether or not under a salary reduction agreement) toward the purchase of an annuity described in Section 403(b) of the Code (whether or not the amounts are actually excludable from the gross income of the Employee); and
- (E) Amounts in excess of the applicable limit under Section 401(a)(17) of the Code.

Compensation shall be measured on the basis of compensation paid in the limitation year. Any compensation described in this Section 9.1(b)(2) does not fail to be Compensation merely because it is paid after the Participant's severance from employment with an Employer, provided the Compensation is paid by the later of 2½ months after severance from employment with an Employer or the end of the limitation year that includes the date of severance from employment. In addition, payment for unused accrued bona fide sick, vacation or other leave shall be included as Compensation if (i) the Participant would have been able to use the leave if employment had continued, (ii) such amounts are paid by the later of 2½ months after severance from employment with an Employer or the end of the Plan Year that includes the date of severance from employment, and (iii) such amounts would have been included as Compensation if they were paid prior to the Participant's severance from employment with an Employer.

- (3) Defined contribution dollar limitation This shall mean \$52,000, as adjusted under Section 415(d) of the Code.
- (4) Employer This term refers to an Employer as defined in Section 1.13 that adopts the Plan, and all members of a controlled group of corporations (as defined in Section 414(b) of the Code, as modified by Section 415(h)), commonly-controlled trades or businesses (as defined in Section 414(c), as modified by Section 415(h)), or affiliated service groups (as defined in Section 414(m)) of which an Employer is a part, or any other entity required to be aggregated with an Employer under Section 414(o) of the Code.

- (5) Limitation year This shall mean the Plan Year, unless the Administrator elects a different twelve (12) consecutive month period. The election shall be made by the adoption of a Plan amendment by the Trustees. If the limitation year is amended to a different twelve (12) consecutive month period, the new limitation year must begin on a date within the limitation year in which the amendment is made.
- (6) Maximum permissible amount This shall mean an amount equal to the lesser of the defined contribution dollar limitation or one hundred percent (100%) of the Participant's compensation for the limitation year. If a short limitation year is created because of an amendment changing the limitation year to a different twelve (12)-consecutive month period, the maximum permissible amount shall not exceed the defined contribution dollar limitation multiplied by the following fraction:

Number of months in the short limitation year

12

ARTICLE TEN - AMENDMENT AND TERMINATION

10.1 **AMENDMENT** The Trustees reserve the right to amend, alter or modify the Plan at any time, or from time to time, in whole or in part. Any such amendment shall become effective under its terms upon adoption by the Trustees and upon notification to the Union, Association and Employers. However, no amendment shall be made to the Plan which shall:

- (a) make it possible (other than as provided in Section 12.2) for any part of the corpus or income of the Trust Fund (other than such part as may be required to pay taxes and administrative expenses) to be used for or diverted to purposes other than the exclusive benefit of the Participants or their Beneficiaries;
- (b) decrease a Participant's account balance or otherwise place greater restrictions or conditions on a Participant's rights to Section 411(d)(6) protected benefits, even if the amendment merely adds a restriction or condition that is permitted under the vesting rules in Section 411(a)(3) through (11) of the Code;
- (c) eliminate an optional form of payment (unless permitted by applicable law) with respect to benefits accrued as of the later of (i) the date such amendment is adopted, or (ii) the date the amendment becomes effective; or
- (d) reduce the schedule for vesting in a Participant's Account with respect to any Participant with three (3) or more years of service for vesting purposes without his consent or deprive any Participant of any non-forfeitable portion of his Account.

Notwithstanding paragraph (b) above, a Participant's Account balance may be reduced to the extent permitted under Section 412(d)(2) of the Code or to the extent permitted under Treasury Regulations Sections 1.411(d)-3 and 1.411(d)-4. For purposes of paragraph (b) above, a Plan amendment which has the effect of decreasing a Participant's Account balance, with respect to benefits attributable to service before the amendment, shall be treated as reducing an accrued benefit. Furthermore, if the vesting schedule of the Plan is amended, in the case of an Employee who is a Participant as of the later of the date such amendment is adopted or the date it becomes effective, the nonforfeitable percentage (determined as of such date) of such Employee's employer-derived contribution will not be less than the percentage computed under the Plan without regard to such amendment. The application of Section 411(a) nonforfeitability provisions to Section 411(d)(6) protected benefits shall apply to amendments adopted after August 9, 2006.

Notwithstanding the other provisions of this Section or any other provisions of the Plan, any amendment or modification of the Plan may be made retroactively if necessary or appropriate to conform to or to satisfy the conditions of any law, governmental regulation, or ruling, and to meet the requirements of the Employee Retirement Income Security Act of 1974, as it may be amended.

If any corrective amendment (within the meaning of Section 1.401(a)(4)-11(g) of the IRS Treasury Regulations) is made after the end of a Plan Year, such amendment shall satisfy the requirements of Section 1.401(a)(4)-11(g)(3) and (4) of the IRS Treasury Regulations.

10.2 **CONTRIBUTION AGREEMENT** The Trustees shall also have the exclusive authority to approve and/or enter into Contribution Agreements.

10.3 **TERMINATION OF THE PLAN** The Trustees reserve the right at any time and in their sole discretion to discontinue payments under the Plan and to terminate the Plan. In the event the Plan is terminated, or upon complete discontinuance of contributions under the Plan by the Employers, the rights of each Participant to his Account on the date of such termination or discontinuance of contributions, to the extent of the fair market value under the Trust Fund, shall be fully vested and non-forfeitable. The Trustees shall distribute the Trust Fund in accordance with the Plan's distribution provisions to the Participants and their Beneficiaries, each Participant or Beneficiary receiving a portion of the Trust Fund equal to the value of his Account as of the date of distribution. These distributions may be implemented by the continuance of the Trust and the distribution of the Participants' Account shall be made at such time and in such manner as though the Plan had not terminated, or by any other appropriate method, including rollover into Individual Retirement Accounts. Upon distribution of the Trust Fund, the Trustees shall be discharged from all obligations under the Trust and no Participant or Beneficiary shall have any further right or claim therein. In the event of the partial termination of the Plan, the provisions of the preceding paragraph shall apply with respect to the affected Participants' Accounts.

In the event of the termination of the Plan, any amounts to be distributed to Participants or Beneficiaries who cannot be located shall be handled in accordance with the provisions of applicable law (which may include the establishment of an account for such Participant or Beneficiary).

ARTICLE ELEVEN - TOP-HEAVY PROVISIONS

11.1 APPLICABILITY. The provisions of this Article shall become applicable only for any Plan Year in which the Plan is a Top-Heavy Plan (as defined in Section 11.2(b)) and only if, and to the extent, required under Section 416 of the Code and the regulations issued thereunder.

11.2 DEFINITIONS. For purposes of this Article, the following definitions shall apply:

- (a) **“Key Employee”:** Key Employee shall mean any Employee or former Employee (including any deceased Employee) who, at any time during the Plan Year that includes the determination date, was an officer of an Employer having annual compensation greater than \$170,000 (as adjusted under Section 416(i)(1) of the Code for Plan Years beginning after December 31, 2014), a five percent (5%) owner of an Employer, or a one percent (1%) owner of an Employer having annual compensation of more than \$150,000. For this purpose, annual compensation shall mean compensation as defined in Section 11.1(b)(2) of the Plan. The determination of who is a Key Employee (including the terms “5% owner” and “1% owner”) shall be made in accordance with Section 416(i)(1) of the Code and the applicable regulations and other guidance of general applicability issued thereunder.

- (b) **“Top-Heavy Plan”:**
 - (1) The Plan shall constitute a “Top-Heavy Plan” if any of the following conditions exist:
 - (A) The top-heavy ratio for the Plan exceeds sixty percent (60%) and the Plan is not part of any required aggregation group or permissive aggregation group of plans; or
 - (B) The Plan is part of a required aggregation group of plans (but is not part of a permissive aggregation group) and the top-heavy ratio for the group of plans exceeds sixty percent (60%); or
 - (C) The Plan is a part of a required aggregation group of plans and part of a permissive aggregation group and the top-heavy ratio for the permissive aggregation group exceeds sixty percent (60%).
 - (2) If an Employer maintains one (1) or more defined contribution plans (including any simplified employee pension plan funded with individual retirement accounts or annuities) and an Employer maintains or has maintained one (1) or more defined benefit plans which have covered or could cover a Participant in this Plan, the top-heavy ratio is a fraction, the numerator of which is the sum of account balances under the defined contribution plans for all Key Employees and the actuarial equivalents of accrued benefits under the defined benefit plans for all Key Employees, and the denominator of which is the sum of the account balances under the defined contribution plans for all Participants and the actuarial equivalents of accrued benefits under the defined benefit plans for all Participants.

Both the numerator and denominator of the top-heavy ratio shall include any distribution of an account balance or an accrued benefit made in the one (1)-year period ending on the determination date and any contribution due to a defined contribution pension plan but unpaid as of the determination date. In determining the accrued benefit of a non-Key Employee who is participating in a plan that is part of a required aggregation group, the method of determining such benefit shall be either (i) in accordance with the method, if any, that uniformly applies for accrual purposes under all plans maintained by an Employer, or (ii) if there is no such method, as if such benefit accrued not more rapidly than the slowest accrual rate permitted under the fractional accrual rate of Section 411(b)(1)(C) of the Code.

(3) For purposes of (1) and (2) above, the value of account balances and the actuarial equivalents of accrued benefits shall be determined as of the most recent Valuation Date that falls within or ends with the twelve (12)-month period ending on the determination date. The account balances and accrued benefits of a Participant who is not a Key Employee but who was a Key Employee in a prior year shall be disregarded. The accrued benefits and account balances of Participants who have performed no service with any Employer maintaining the plan for the one (1)-year period ending on the determination date shall be disregarded. The calculations of the top-heavy ratio, and the extent to which distributions, rollovers, and transfers are taken into account shall be made under Section 416 of the Code and regulations issued thereunder. Deductible Employee contributions shall not be taken into account for purposes of computing the top-heavy ratio. When aggregating plans, the value of account balances and accrued benefits shall be calculated with reference to the determination dates that fall within the same calendar year.

(4) Definition of terms for Top-Heavy status:

(A) **“Top-heavy ratio”** shall mean the following:

(1) If an Employer maintains one or more defined contribution plans (including any simplified employee pension plan funded with individual retirement accounts or annuities) and an Employer has never maintained any defined benefit plans which have covered or could cover a Participant in this Plan, the top-heavy ratio is a fraction, the numerator of which is the sum of the account balances of all Key Employees as of the determination date, and the denominator of which is the sum of the account balances of all Participants as of the determination date. Both the numerator and the denominator shall be increased by any contributions due but unpaid to a defined contribution pension plan as of the determination date.

- (B) **“Permissive aggregation group”** shall mean the required aggregation group of plans plus any other plan or plans of an Employer which, when considered as a group with the required aggregation group, would continue to satisfy the requirements of Sections 401(a)(4) and 410 of the Code.
- (C) **“Required aggregation group”** shall mean (i) each qualified plan of an Employer (including any terminated plan) in which at least one Key Employee participates, or participated at any time during the Plan Year containing the determination date or any of the four preceding Plan Years, and (ii) any other qualified plan of an Employer which enables a plan described in (i) to meet the requirements of Section 401(a)(4) or 410 of the Code.
- (D) **“Determination date”** shall mean, for any Plan Year subsequent to the first Plan Year, the last day of the preceding Plan Year. For the first Plan Year of the Plan, “determination date” shall mean the last day of that Plan Year.
- (E) **“Valuation Date”** shall mean the last day of the Plan Year.
- (F) Actuarial equivalence shall be based on the interest and mortality rates utilized to determine actuarial equivalence when benefits are paid from any defined benefit plan. If no rates are specified in said plan, the following shall be utilized: pre- and post-retirement interest -- five percent (5%); post-retirement mortality based on the Unisex Pension (1984) Table as used by the Pension Benefit Guaranty Corporation on the date of execution hereof.

11.3 ALLOCATION OF EMPLOYER CONTRIBUTIONS FOR A TOP-HEAVY PLAN YEAR.

- (a) Except as otherwise provided below, in any Plan Year in which the Plan is a Top-Heavy Plan, an Employer contributions allocated on behalf of any Participant who is a non-Key Employee shall not be less than the lesser of three percent (3%) of such Participant’s compensation (as defined in Section 11.1(b)(2) and as limited by Section 401(a)(17) of the Code) or the largest percentage of Employer contributions and elective deferrals (within the meaning of Section 4.1) as a percentage of the Key Employee’s compensation (as defined in Section 10.1(b)(2) and as limited by Section 401(a)(17) of the Code), allocated on behalf of any Key Employee for that Plan Year. This minimum allocation shall be made even though, under other Plan provisions, the Participant would not otherwise be entitled to receive an allocation or would have received a lesser allocation for the Plan Year because of insufficient Employer contributions under Section 4.2 or compensation is less than a stated amount.
- (b) The minimum allocation under this Section shall not apply to any Participant who was not employed by an Employer on the last day of the Plan Year.

- (c) Elective deferrals may not be taken into account for the purpose of satisfying the minimum allocation. However, Employer matching contributions (if permitted under the Plan) may be taken into account for the purpose of satisfying the minimum allocation.
- (d) For purposes of the Plan, a non-Key Employee shall be any Employee or Beneficiary of such Employee, any former Employee, or Beneficiary of such former Employee, who is not or was not a Key Employee during the Plan Year ending on the determination date.
- (e) If no defined benefit plan has ever been part of a permissive or required aggregation group of plans of an Employer, the contributions under this step shall be offset by any allocation of contributions under any other defined contribution plan of an Employer with a Plan Year ending in the same calendar year as this Plan's Valuation Date.
- (f) There shall be no duplication of the minimum benefits required under Section 416 of the Code. Benefits shall be provided under defined benefit plans before under any defined contribution plans. If a defined benefit plan (active or terminated) is part of the permissive or required aggregation group of plans of an Employer, the minimum allocation in subparagraph (a) shall be deemed to be five percent (5%) and shall be offset by a Participant's accrued benefit under a defined benefit plan according to the following equivalencies: a one percent (1%) "qualifying benefit accrual" under a defined benefit plan equals a two and one-half percent (2.5%) allocation under a defined contribution plan. To be a "qualifying benefit accrual," the pension under the defined benefit plan must be converted to a pension payable for life based on the average of the five (5) consecutive years of the Participant's highest compensation, payable at that plan's normal retirement date. Accordingly, for a Participant whose "qualifying benefit accrual" equals two percent (2%) multiplied by each year of his participation in the Plan while a Top-Heavy Plan, there shall be no minimum allocation hereunder. (If the "qualifying benefit accrual" is a lesser amount than two percent (2%) for each such year, the minimum allocation under this Plan shall be provided on a pro rata basis, adjusted on the basis of the above equivalencies. Except as provided in subparagraph (g), in no event shall additional minimum allocations be provided for any Participant who has earned a "qualifying benefit accrual" equal to twenty percent (20%) of his final average Compensation computed on the basis of his total taxable remuneration over the five (5) consecutive years in which the Participant's Compensation was the highest.

11.4 VESTING. The provisions contained in Section 5.1 relating to vesting shall continue to apply in any Plan Year in which the Plan is a Top-Heavy Plan, and apply to all benefits within the meaning of Section 411(a)(7) of the Code, including benefits accrued before the effective date of Section 416 of the Code and benefits accrued before the Plan became a Top-Heavy Plan.

Payment of a Participant's vested Account balance under this Section shall be made in accordance with the provisions of Article Six.

ARTICLE TWELVE - MISCELLANEOUS PROVISIONS

12.1 PLAN DOES NOT AFFECT EMPLOYMENT Neither the creation of this Plan, any amendment thereto, the creation of any fund nor the payment of benefits hereunder shall be construed as giving any legal or equitable right to any Employee or Participant against an Employer, its officers or Employees, or against the Trustees, the Association or the Union. All liabilities under this Plan shall be satisfied, if at all, only out of the Trust Fund held by the Trustees. Participation in the Plan shall not give any Participant any right to be retained in the employ of any Employer.

12.2 REPAYMENTS TO AN EMPLOYER Notwithstanding any provisions of this Plan to the contrary:

- (a) Any monies or other Plan assets attributable to any contribution made to this Plan by an Employer because of a mistake of fact may be returned to an Employer within one (1) year after the date of contribution.
- (b) Any monies or other Plan assets attributable to any contribution made to this Plan by an Employer may be refunded to an Employer, to the extent such contribution is predicated on the deductibility thereof under the Code and the income tax deduction for such contribution is disallowed. Such amount shall be refunded within one (1) taxable year after the date of such disallowance or within one (1) year of the resolution of any judicial or administrative process with respect to the disallowance. All Employer contributions hereunder are expressly contributed based upon such contributions' deductibility under the Code.

12.3 BENEFITS NOT ASSIGNABLE Except as provided in Section 414(p) of the Code with respect to "qualified domestic relations orders," or except as provided in Section 401(a)(13)(C) of the Code with respect to certain judgments and settlements, the rights of any Participant or his Beneficiary to any benefit or payment hereunder shall not be subject to voluntary or involuntary alienation or assignment.

With respect to any "qualified domestic relations order" relating to the Plan, the Plan shall permit distribution to an alternate payee under such order at any time, irrespective of whether the Participant has attained his "earliest retirement age" (within the meaning of Section 414(p)(4)(B) of the Code) under the Plan. A distribution to an alternate payee prior to the Participant's attainment of his earliest retirement age shall, however, be available only if the order specifies distribution at that time or permits an agreement between the Plan and the alternate payee to authorize an earlier distribution. Nothing in this paragraph shall, however, give a Participant a right to receive distribution at a time otherwise not permitted under the Plan nor does it permit the alternate payee to receive a form of payment not otherwise permitted under the Plan or under said Section 414(p) of the Code.

- 12.4 MERGER OF PLANS** In the case of any merger or consolidation of the Plan with, or transfer of the assets or liabilities of the Plan to, any other plan, the terms of such merger, consolidation or transfer shall be such that each Participant would receive (in the event of termination of this Plan or its successor immediately thereafter) a benefit which is no less than what the Participant would have received in the event of termination of the Plan immediately before such merger, consolidation or transfer.
- 12.5 INVESTMENT EXPERIENCE NOT A FORFEITURE** The decrease in value of any Account due to adverse investment experience shall not be considered an impermissible “forfeiture” of any vested balance.
- 12.6 CONSTRUCTION** Wherever appropriate, the use of the masculine gender shall be extended to include the feminine and/or neuter or vice versa; and the singular form of words shall be extended to include the plural; and the plural shall be restricted to mean the singular.
- 12.7 GOVERNING DOCUMENTS** A Participant’s rights shall be determined under the terms of the Plan as in effect as of the date the Participant ceases Covered Employment, or, if later, and to the extent permitted by applicable law, as determined under the terms of the Plan.
- 12.8 GOVERNING LAW** The provisions of this Plan shall be construed under the laws of the state of the situs of the Trust, except to the extent such laws are preempted by Federal law.
- 12.9 HEADINGS** The Article headings and Section numbers are included solely for ease of reference. If there is any conflict between such headings or numbers and the text of the Plan, the text shall control.
- 12.10 COUNTERPARTS** This Plan may be executed in any number of counterparts, each of which shall be deemed an original; said counterparts shall constitute but one and the same instrument, which may be sufficiently evidenced by any one counterpart.
- 12.11 LOCATION OF PARTICIPANT OR BENEFICIARY UNKNOWN** In the event that all or any portion of the distribution payable to a Participant or to a Participant’s Beneficiary hereunder shall, at the expiration of three (3) years after it shall become payable, remain unpaid solely by reason of the inability of the Administrator to ascertain the whereabouts of such Participant or Beneficiary, after sending a registered letter, return receipt requested, to the last known address, and after further diligent effort, the amount so distributable shall be forfeited and used to pay Plan expenses. In the event a Participant or Beneficiary is located subsequent to the reallocation of his Account balance, such Account balance shall be restored.

12.12 DISTRIBUTION TO MINOR OR LEGALLY INCAPACITATED In the event any benefit is payable to a minor or to a person deemed to be incompetent or to a person otherwise under legal disability, or who is by sole reason of advanced age, illness, or other physical or mental incapacity incapable of handling the disposition of his property, the Administrator, may direct the Trustee to make payment of such benefit to the minor's or legally incapacitated person's court appointed guardian, person designated in a valid power of attorney, or any other person authorized under state law. The receipt of any such payment or distribution shall be a complete discharge of liability for Plan obligations.

IN WITNESS WHEREOF, the Trustees, have caused this Plan to be executed on the 28th day of January, 2015.

UNION TRUSTEES

Paul C. Tol
Alan R. Gold

EMPLOYER TRUSTEES

Pat Maffei
[Signature]