

**OPERATING
ENGINEERS
Construction Industry
and Miscellaneous
PENSION FUND**

Benefits Plan
and
Summary Plan
Description

REVISED 1-1-2007

BOOKLET 4

**OPERATING ENGINEERS
CONSTRUCTION INDUSTRY AND
MISCELLANEOUS FUND**

UNION TRUSTEES

James T. Kunz, Jr., *Chairman*
Thomas M. Durkin
Regan L. Robertson

Ronald E. Sapp
Thomas E. Veres

EMPLOYER TRUSTEES

Robert B. Fay, *Sec.-Treasurer*
G. Douglas Mosites
Russell C. Swank III

John Watkins
Charles J. Wisniewski

FUND ADMINISTRATOR

Robert T. Jack, C.E.B.S.

**MAILING ADDRESS
FOR CLAIMS AND CORRESPONDENCE**

Operating Engineers Construction Industry
And Miscellaneous Pension Fund
P.O. Box 38682
Pittsburgh, PA 15238-8682

ADMINISTRATION OFFICE

Operating Engineers Construction Industry
And Miscellaneous Pension Fund
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FUND ATTORNEY

Tucker Arensberg, P.C.

FUND ACTUARY

Cowden Associates, Inc.

INVESTMENT CONSULTANT

Raulin, Inc.

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ERISA INFORMATION

This is a Summary Plan Description as required by ERISA and is intended to satisfy that requirement.

NAME OF PLAN:

Operating Engineers Construction Industry and
Miscellaneous Pension Fund

PLAN NUMBER: 001

PENSION FUND IDENTIFICATION NUMBER: 25-6135579

PLAN SPONSOR AND PLAN ADMINISTRATOR:

Board of Trustees of the Operating Engineers Construction
Industry and Miscellaneous Pension Fund
111 Zeta Drive, Pittsburgh, PA 15238
Mailing Address for all Claims and Correspondence:
P.O. Box 38682
Pittsburgh, PA 15238
Phone Number: (412) 968-9750

BOARD OF TRUSTEES:

Union Trustees

James T. Kunz, Jr., <i>Chairman</i>	Ronald E. Sapp
Thomas M. Durkin	Thomas E. Veres
Regan L. Robertson	

Employer Trustees:

Robert B Fay, <i>Sec.-Treasurer</i>	John Watkins
G. Douglas Mosites	Charles J. Wisniewski
Russell C. Swank III	

AGENT FOR SERVICE OF LEGAL PROCESS:

Robert T. Jack, Fund Administrator
111 Zeta Drive, Pittsburgh, PA 15238
Mailing Address: P.O. Box 38682, Pittsburgh, PA 15238-8682
Service of legal process may also be made upon the Board of Trustees
or any of the Plan Trustees who jointly are the Plan Administrator.

PLAN YEAR: January 1 through December 31.

ESTABLISHMENT OF THE PLAN

The Plan was established in 1957 by the International Union of Operating Engineers, Local 66, and participating employers who have signed a Collective Bargaining Agreement. These employers make monthly contribution payments in accordance with the terms of each Collective Bargaining Agreement. Copies of Collective Bargaining Agreements may be reviewed at the main office of the Union, Local 66, or at its district dispatch offices during normal business hours.

A list of participating employers is maintained at the Fund Office at 111 Zeta Drive, Pittsburgh, PA 15238. The Fund Office will provide you, without charge and upon request, information as to whether or not your employer is obligated to make contributions to this Plan on behalf of employees working under the Collective Bargaining Agreements.

ADMINISTRATION OF THE PLAN

The Plan is administered by a Joint Board of Trustees, who is the Plan Sponsor. Under the Employee Retirement Income Security Act of 1974 (ERISA), the Board of Trustees is the Plan Administrator with final responsibility for the manner in which the Pension Fund operates. The Board of Trustees consists of 10 members, five appointed by the Union, and five appointed by the participating employers. The current members of the Board of Trustees are listed on Page 3. The Trustees are full-time employees of other organizations and serve without pay. They hire a Fund Administrator, as manager of the Plan, to run the fund on a day-to-day basis. When a plan is operated in this way, it is known as self-administered.

The costs of financing the Pension Plan are determined periodically and are paid entirely by the participating employers in the form of a cents-per-hour contribution as set forth in the collective bargaining agreements. These contributions are held in a Trust Fund established under the Agreement and Declaration of Trust for the Pension Plan for which the Board of Trustees serves as trustee. Investment managers selected by the Board of Trustees invest the assets of the trust in stocks, bonds and other securities until needed to pay Plan benefits.

STATEMENT OF ERISA RIGHTS

As a participant in the Operating Engineers Construction Industry and Miscellaneous Pension Fund, you are entitled to certain rights and

protections under the Employee Retirement Income Security Act of 1974 (ERISA). ERISA provides that all Plan participants shall be entitled to:

Receive Information About Your Plan and Benefits.

Examine, without charge, at the Plan Administrator's office and at other specified locations, such as worksites and union halls, all documents governing the Plan, including insurance contracts and collective bargaining agreements, and a copy of the latest annual report (Form 5500 Series) filed by the Plan with the U.S. Department of Labor and available at the Public Disclosure Room of the Pension and Welfare Benefit Administration.

Obtain, upon written request to the Plan Administrator, copies of the documents governing the operation of the Plan, including insurance contracts and collective bargaining agreements, and copies of the latest annual report (Form 5500 Series) and updated summary plan description. The administrator may make a reasonable charge for the cost of copying.

Receive a summary of the Plan's annual financial report. The Plan Administrator is required by law to furnish each participant with a copy of this summary annual report.

Obtain a statement telling you whether you have a right to receive a pension at normal retirement age (age 65) and if so, what your benefits would be at normal retirement age if you stopped working under the Plan now. If you do not have a right to a pension, the statement will tell you how many more years you have to work to get a right to a pension. This statement must be requested in writing and is not required to be given more than once every twelve months. The Plan must provide the statement free of charge.

Prudent Actions by Plan Fiduciaries.

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

Enforce Your Rights.

If your claim for a pension benefit is denied or ignored, in whole or in part, you have a right to know why this was done, to obtain copies of

documents relating to the decision without charge, and to appeal any denial, all within certain time schedules.

Under ERISA, there are steps you can take to enforce the above rights. For instance, if you request a copy of Plan documents or the latest annual report from the Plan and do not receive them within 30 days, you may file suit in a Federal court. In such a case, the court may require the Plan Administrator to provide the materials and pay you up to \$110 a day until you receive the materials, unless the materials were not sent because of reasons beyond the control of the administrator. If you have a claim for benefits which is denied or ignored, in whole or in part [and you have exhausted the Plan's claim and appeal procedure], you may file suit in a state or Federal court. If you disagree with the Plan's decision or lack thereof concerning the qualified status of a domestic relations order, you may file suit in a Federal court. If it should happen that Plan fiduciaries misuse the Plan's money, or if you are discriminated against for asserting your rights, you may seek assistance from the U.S. Department of Labor, or you may file suit in a Federal court. The court will decide who should pay court costs and legal fees. If you are successful the court may order the person you have sued to pay these costs and fees. If you lose, the court may order you to pay these costs and fees; for example, if it finds your claim is frivolous.

Assistance with Your Questions.

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

Pension Benefit Guaranty Corporation.

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

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

The maximum benefit that the PBGC guarantees is set by law. Under the multi-employer program, effective December 21, 2000, the PBGC guarantee equals a participant's years of service multiplied by (1) 100% of the first \$11 of the monthly benefit accrual rate and (2) 75% of the next \$33. The PBGC's maximum guarantee limit is \$33.75 per month times a participant's years of service. For example, the maximum annual guarantee for a retiree with 30 years of service would be \$12,870.

The PBGC guarantee generally covers: (1) normal and early retirement benefits; (2) disability benefits if you become disabled before the plan becomes insolvent; and (3) certain benefits for your survivors.

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

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

QUALIFIED DOMESTIC RELATIONS ORDERS

As required by federal law, part or all of your pension under the Pension Plan may be assigned and paid to your spouse, former spouse, child or other dependent in accordance with a qualified domestic relations order. In addition, a qualified domestic relations order may assign to a former spouse the rights normally provided to a surviving spouse under the Pension Plan with respect to part or all of your pension, preventing a later spouse from being treated as a surviving spouse to the extent of that assignment.

A qualified domestic relations order is a judgment, decree or order made pursuant to a state domestic relations law which provides child support, alimony payments or marital property rights to your spouse, former spouse, child or other dependent. The Fund Office will notify you if it receives a qualified domestic relations order with respect to your pension.

Under procedures adopted by the Board of Trustees for qualified domestic relations orders, your eligibility to receive a pension under the Pension Plan may be suspended while the Board of Trustees is reviewing a qualified domestic relations order and for a reasonable period after the Board of Trustees has been notified that a qualified domestic relations order is being sought with respect to your pension. By filing a written request with the Fund Office, you (or your spouse or former spouse) may obtain a copy of these procedures without charge.

Your pension will be reduced by any assignment or payments made pursuant to a qualified domestic relations order.

PARTICIPATION IN THE PLAN

You become a participant in the Plan on the first day of the calendar year in which employer contributions are made on your behalf for a minimum of 250 hours.

TYPES OF BENEFITS PROVIDED

The Plan provides the following benefits:

NORMAL RETIREMENT BENEFIT

Monthly pension—to those active participants who retire after attaining age 65, or if later, the fifth anniversary of their date of participation.

EARLY RETIREMENT BENEFIT

Monthly pension—to those active participants who retire after completing 10 years of credited service and attaining age 55. Monthly pension may be reduced because of age.

DISABILITY RETIREMENT BENEFIT

Monthly pension—to those active members who retire due to total and permanent disability after completing 10 years of credited service.

DEFERRED VESTED BENEFIT

Monthly pension beginning at age 55—to those participants who stop working in covered employment after completing five years of credited service. Monthly pension may be reduced because of age or vesting percentage.

DEATH BENEFITS

Lump-sum benefit—payable to designated beneficiary upon the death of an active participant, or a deferred vested participant or after retirement.

Pre-Retirement Surviving Spouse Annuity—monthly benefit payable to surviving spouse of a married vested participant upon death before payment of pension begins.

CREDITED SERVICE

Credited service is the sum of your credited past service and credited future service.

Credited Past Service.

If you were a member of Local 66, 66A or 66B on June 1, 1957 or Local 66C on January 1, 1966, you will receive credited past service (to the nearest quarter year) for the period before June 1, 1957 from your most recent date of initiation into the union before June 1, 1957, or if employed by a participating employer immediately before your initiation, from the first day of the last period of continuous service with the participating employer immediate before your initiation. Credited past service is credited only if you worked a minimum of 250 hours for which contributions were made to the fund during the period beginning on June 1, 1957 and ending on January 1, 1962 if a member of Local 66, 66A or 66B or January 1, 1969 if a member of Local 66C.

Credited Future Service.

Credited future service is determined as your period of service after June 1, 1957 if a member of Local 66, 66A or 66B, and after January 1, 1966 if a member of Local 66C. Credited future service is calculated from your last break in service as the lesser of:

- 1) The number of complete years and complete quarters elapsed to the date of your retirement or termination of employment, whichever is applicable; or
- 2) The number of hours for which contributions were made to the fund on your behalf during these same years and quarters divided by 1,000.

Your years of future credited service for those years and quarters will not be less than the number of calendar years in which you work at least a 1,000 hours for which contributions were made or due to the fund on your behalf.

Example No. 1:

- a) Elapsed period July 1, 1995 to December 31, 2005 equals 10½ years (no break in service).
- b) Number of hours for which contributions were made was 8,500, which divided by 1,000 equals 8½.

Since 8½ is less than 10½, Credited Future Service equals 8½.

Example No. 2:

- a) Elapsed period, July 1, 1995 to December 31, 2005 equals 10½ years (no break in service).
- b) Number of hours for which contributions were made was 15,000, which divided by 1,000 equals 15.

Since 10½ is less than 15, Credited Future Service equal 10½.

Loss of Credited Service and Related Benefit Accruals

If you have not completed 5 years of credited service and are not vested in Plan benefits, you will incur a break in service if there are two calendar years in a row in which you work for less than 250 hours for which contributions are due to the fund.

The break in service will be deemed to occur on the last day of the second calendar year in which you fail to meet the 250-hour requirement.

If you incur a break in service, all of your prior credited service and related benefit accruals will be lost unless you later participate in the Plan and satisfy the requirements for reinstatement of the lost credited service and related benefit accruals.

The 250-hour requirement is proportionately reduced during any year when you are absent for any of the following reasons:

- a) service in the Armed Forces of the United States in time of war or other national emergency, provided you shall not have re-enlisted;
- b) lockouts or duly authorized strikes;
- c) employment by a participating employer in another capacity;
- d) total disability;
- e) approved leave of absence;
- f) approved employment outside the Local's jurisdiction.

For example: Suppose you work the number of hours indicated in the following table:

<u>Plan Year</u> <u>Beginning January 1</u>	<u>Hours</u>
1996	1,000
1997	800
1998	700
1999	1,200
2000	100
2001	800
2002	200
2003	100
2004	600

You would incur a break in service on the last day of the 2003 Plan Year.

Reinstatement of Lost Credited Service and Related Benefit Accruals

If you incur a break in service after January 1, 1976, and subsequently return to work with an Employer under the Plan and meet the requirements to again participate in the Plan, you will have your lost credited service and related benefit accruals reinstated if:

- a) you work 1,000 or more hours in the 12-month period beginning on the date you return to work or in any subsequent calendar year, and
- b) your credited service at the last break in service is greater than the period of the break measured from your last break in service to the beginning of the 12-month period in which you work 1,000 or more hours, or if your break occurred after December 31, 1986, the number of consecutive calendar years in which you fail to work at least 250 hours after the break in service was less than 5 years.

For example: You incur a break in service on December 31, 1995, after completing four years of credited service. You then return to covered employment on January 1, 1998. If you work more than 250 hours in the 12-month period beginning January 1, 1998, and at least 1,000 hours in 1998, your prior credited service of four years would be reinstated

because the number of years of your prior credited service (four years), is greater than the number of years of break in service (two years).

NORMAL RETIREMENT BENEFIT

You may retire on or after reaching your normal retirement date provided you satisfy all of the following conditions:

- a) you are no longer working for an employer participating in this Plan;
- b) you are 65 or older;
- c) you have reached the fifth anniversary of your participation in the Plan.

The date you satisfy these conditions is called the normal retirement date.

If you retire on or after January 1, 2004, your monthly normal retirement benefit is the sum of:

\$4.00 multiplied by your years of credited past service, plus:

8% of total contributions made on your behalf from June 1, 1957 to December 31, 1966, plus

6% of total contributions made on your behalf from January 1, 1967 to December 31, 1967, plus

4% of total contributions made on your behalf from January 1, 1968 to December 31, 1970, plus

3.5% of total contributions made on your behalf from January 1, 1971 to December 31, 1996, plus

4.5% of total contributions made on your behalf from January 1, 1997 to December 31, 1999, plus

3% of total contributions made on your behalf from January 1, 2000 to December 31, 2000, plus

2.5% of total contributions made on your behalf from January 1, 2001 to December 31, 2002, plus

1% of total contributions made on your behalf from January 1, 2003 to date of retirement.

If you retire on or after January 1, 2004, the maximum annual pension payable is the pension calculated as of December 31, 2003 or \$40,000, whichever is larger. Different (or no) maximums applied before January 1, 2004.

AGE 70½ REQUIREMENT – You must begin to receive pension benefits no later than April 1st following the calendar year in which you obtain age 70½.

For Example: Suppose you were eligible for a normal retirement benefit on July 1, 2004, and had the following contributions made during your years of credited future service.

<u>Year</u>	<u>Contributions</u>	<u>Rate</u>	<u>Monthly Benefit \$</u>
1970	500	x 4%	20.00
1971	700	x 3.5%	24.50
1972	900	x 3.5%	31.50
1973	800	x 3.5%	28.00
1974	900	x 3.5%	31.50
1975	900	x 3.5%	31.50
1976	1,000	x 3.5%	35.00
1977	1,100	x 3.5%	38.50
1978	1,200	x 3.5%	42.00
1979	1,500	x 3.5%	52.50
1980	1,300	x 3.5%	45.50
1981	1,300	x 3.5%	45.50
1982	1,500	x 3.5%	52.50
1983	1,600	x 3.5%	56.50
1984	1,800	x 3.5%	63.00
1985	1,800	x 3.5%	63.00
1986	1,700	x 3.5%	59.50
1987	2,000	x 3.5%	70.00
1988	2,000	x 3.5%	70.00
1989	1,900	x 3.5%	66.50
1990	1,000	x 3.5%	35.00
1991	2,000	x 3.5%	70.00
1992	1,000	x 3.5%	35.00
1993	1,500	x 3.5%	52.50
1994	1,000	x 3.5%	35.00
1995	2,000	x 3.5%	70.00
1996	1,800	x 3.5%	63.00
1997	3,000	x 4.5%	135.00
1998	2,000	x 4.5%	90.00
1999	3,500	x 4.5%	157.50
2000	1,500	x 3.0%	45.00
2001	1,800	x 2.5%	45.00
2002	2,200	x 2.5%	55.00
2003	1,400	x 1.0%	14.00
2004	1,670	x 1.0%	16.70
2005	1,670	x 1.0%	16.70

Total monthly Normal Retirement Benefit = \$1,862.40.

EARLY RETIREMENT BENEFIT

You may retire on an early retirement pension provided you satisfy the following conditions:

- a) you are no longer working for an employer participating in this Plan;
- b) you are 55 or older;
- c) you have completed at least 10 years of credited service.

Your monthly early retirement benefit is equal to a benefit calculated using the normal retirement formula.

If you retire with at least 10 years of credited service (and less than 20 years), no reduction is made to your early retirement benefit if payment begins when you are age 62 or older. If you have at least 10 years of credited service (and less than 20 years) and payment begins before age 62, your early retirement benefit will be reduced by $\frac{1}{4}$ of 1% for each month that the first benefit payment precedes age 62.

If you retire with 20 or more years of credited service, no reduction is made to your early retirement benefit if payment begins when you are age 60 or older. If you have at least 20 years of credited service and payment begins before age 60, your early retirement benefit will be reduced by $\frac{1}{4}$ of 1% for each month that the first benefit payment precedes age 60.

(Different rules and provisions apply before 2000. Contact the Fund Office for more information.)

For example: You retire after you have completed 10 years of credited service and payment of your early retirement benefit begins at age 60½. The contributions made on your behalf equal an earned normal retirement benefit of \$1,000 per month. Your monthly early retirement benefit would be calculated as follows:

1. The reduction factor for retiring before age 62 is $\frac{1}{4}$ of 1% times the number of months that the first benefit payment precedes age 62, or $\frac{1}{4}$ of 1% times 18 months = .045.
2. The reduction to your benefit is your earned normal retirement benefit times the factor, or $\$1,000 \times .045 = \45.00 .

2. The monthly benefit you will receive at your early retirement date is your earned normal retirement benefit minus the reduction, or $\$1,000.00 - 45.00 = \955.00 .

DISABILITY RETIREMENT BENEFIT

If you are an active member and become totally and permanently disabled after you have completed 10 years of credited service, you will be eligible for a disability retirement benefit.

Total and permanent disability is a disability by bodily injury or disease that will be permanent, continuous and wholly prevent you for life from engaging in any occupation or performing any work for wage or profit. The entire and irrevocable loss of sight in both eyes, or the severance of both hands above the wrist, or both feet above the ankle, or irrevocable loss of sight in one eye and the severance of one hand above the wrist, or one foot above the ankle is considered to be a total and permanent disability. Total and permanent disability excludes any intentionally self-inflicted disability.

Total and permanent disability must be established by medical evidence satisfactory to the Board of Trustees. The Board may accept such proof from the member's own physician and may require a medical examination by a physician of its choice. The Board may accept a Social Security Disability Award as proof of total and permanent disability.

The monthly disability retirement benefit is calculated using the normal retirement formula. There is no age reduction for payment of the disability retirement benefit before normal retirement age.

Payment of the disability retirement benefit begins the first day of the calendar month following the date of total and permanent disability, provided provide medical proof of disability.

You may incur some delay in either obtaining the medical proof or the Disability Award under the Social Security Act. Thus, you should consider applying for the disability retirement benefit upon becoming disabled or when you apply for Social Security Disability Benefits.

If you recover from your total and permanent disability prior to age 65, your disability retirement benefit will cease with the payment made in the month of recovery. The Board of Trustees has the right to verify your continuing total and permanent disability before you attain age 65. You must provide medical evidence of your continuing total and permanent disability when requested and submit to an independent medical examination when requested. Payment of your disability retirement benefit may be suspended or stopped if you fail to provide medical

evidence of my disability when requested or fail to submit a medical examination when requested.

If your total and permanent disability continues until you attain normal retirement age, you will thereafter continue to receive your disability retirement benefit Pension for your lifetime in the form of payment you had elected when its payment began.

In order to be eligible for a disability retirement benefit, you must be an active participant when you become totally and permanently disabled. If you retire on an early retirement benefit and subsequently become disabled, you will not be eligible to receive a disability retirement benefit and will continue to receive an early retirement benefit.

PRE-RETIREMENT DEATH BENEFITS

A pre-retirement death benefit will be paid to your spouse or designated beneficiary if you die while an active participant or a terminated vested participant before payment of your pension benefit begins. (Different provisions apply for deaths occurring before 2006. In the event of your death, your spouse or beneficiary should contact the Fund Office in order to learn if there are any available benefits.)

Surviving Spouse Annuity.

Your spouse will be eligible for a monthly lifetime spouse's benefit if:

- a) you are an active vested participant or a deferred vested participant;
- b) you die before the payment of your retirement benefit begins; and
- c) you are married to your spouse for at least one year on the date of your death.

The amount of the spouse's benefit is equal to 50% of the monthly retirement benefit you would receive if:

- a) payment of your retirement benefit began on the date payment of the spouse's benefit begins; and
- b) your retirement benefit was paid in the joint and 50% survivor option form of payment. (The joint and 100% survivor option is used for the determination if an election of that option is in effect at your death.)

The spouse's benefit will be paid to your spouse monthly for your spouse's lifetime:

- a) If you die after the earliest date payment of your retirement benefit can begin, payment of the spouse's benefit may begin on the first day of any calendar month following your death.
- b) If you die before the earliest date payment of your retirement can begin, payment of the spouse's benefit may begin on the earliest date payment of your retirement benefit could have begun or on the first day of any following calendar month.

After your death, your spouse may waive the monthly benefits payable under the spouse's benefit and receive an immediate lump sum death payment equal to the greater of:

- a) the total employer contributions paid to the fund on your behalf;
- b) the present value of monthly benefits expected to be made under the spouse's benefit.

This lump sum death payment can be made to your spouse at any time after your death, whether before or after earliest date payment of the monthly spouse's benefit could begin.

If your spouse does not elect a lump sum death payment (in lieu of the monthly spouse's benefit) and:

- a) if your spouse dies before payment of the monthly spouse's benefit begins, a lump sum death benefit equal to the greater of \$500 or the total employer contributions paid to the fund on your behalf) will be paid to a beneficiary designated by your spouse.
- b) if your spouse dies after payment of the monthly benefit begins and the total monthly benefits paid to spouse is less than the greater of \$500 or the total employer contributions paid to the fund on your behalf, the difference will be paid to a beneficiary designated by your spouse.

Example: You are age 55 or older and die while an active participant after \$57,000 of employer contributions has been contributed on your behalf, and you have been married for one year at your death. Your spouse is immediately eligible as the surviving spouse to receive the monthly spouse's benefit. Your spouse may elect to receive a lifetime monthly benefit of \$320 (based on the amount of contributions) for life or may elect to receive a lump-sum death benefit equal to the greater of \$57,000 or the present value of the monthly benefit.

Lump Sum Death Benefit.

A lump sum death benefit will be paid to a beneficiary designated by you if:

- a) you are an active vested participant or a deferred vested participant;
- b) you die before the payment of your retirement benefit begins; and

- c) you are not married at your death, or you are married but your spouse is not eligible for the surviving spouse annuity at your death.

The lump sum death benefit is equal to the total employer contributions paid to the fund on your behalf, or \$500 if greater, and it can be paid at any time after your death.

You should designate a primary beneficiary (or beneficiaries) to receive the lump sum death benefit. You may also designate a contingent beneficiary (or beneficiaries) to receive the lump sum death benefit in the event your primary beneficiary (or beneficiaries) dies prior to you. All beneficiary designations must be made on the beneficiary designation form provided by the Fund Office and will be effective only upon receipt of a completed and signed form by the Fund Office. You may change your beneficiary designation at any time by filing another completed and signed form with the Fund Office. If there is no primary beneficiary or contingent beneficiary at your death, your beneficiary will be deemed to be your surviving spouse, and if none, your surviving children, and if none, your surviving parents, and if none, your estate or intestate heirs.

Example: You die while an active participant after \$30,000 of employer contributions has been contributed on your behalf. You were not married. Your designated beneficiary will receive a lump-sum death benefit equal to \$30,000.

DEFERRED VESTED BENEFIT

You are eligible for a deferred vested benefit if your employment terminates before you are eligible for a normal retirement benefit, an early retirement benefit or disability retirement benefit but after completing 5 years of credited service.

(Different rules and provisions apply before 1997. Contact the Fund Office for more information.)

Deferred Vested Retirement Benefit at Age 65.

If payment begins at age 65 or older, your monthly deferred vested benefit is equal to a benefit calculated using the normal retirement formula

Deferred Vested Retirement Benefit Prior to Age 65.

You may elect to have payment of your deferred vested benefit begin prior to age 65 but no earlier than age 55.

Your deferred vested benefit may be reduced if paid before age 65 depending upon your years of credited service and age.

- If you have at least 10 years of credited service (and less than 20), no reduction is made to your deferred vested benefit if payment begins after you are age 62 or older. If payment begins before age 62, your deferred vested benefit will be reduced by $\frac{1}{4}$ of 1% for each month that the first benefit payment precedes age 62.
- If you have 20 or more years of credited service, no reduction is made to your deferred vested benefit if payment begins when you are age 60 or older. If payment begins before age 60, your deferred vested benefit will be reduced by $\frac{1}{4}$ of 1% for each month that the first benefit payment precedes age 60.
- If you have less than 10 years of credited service, your deferred vested benefit will be reduced by $\frac{1}{4}$ of 1% for each month that the first benefit payment precedes age 65.

(Different rules and provisions apply before 2000. Contact the Fund Office for more information.)

For Example: You terminate employment in 2005 at age 40 with 5 years of credited service. Your benefit calculated using the

normal retirement formula is \$500 per month. Your monthly deferred vested benefit payable at age 65 is \$500.

If you elect to have payment of this benefit begin at age 55, your monthly vested benefit would be reduced as follows:

1. The reduction factor is $\frac{1}{4}$ of 1% times the number of months that the first benefit payment precedes age 65, or $\frac{1}{4}$ of 1% times 120 months = .30.
2. The reduction to your benefits is your monthly deferred vested benefit times the reduction factor, or $\$500.00 \times .30 = \150.00 .
3. The monthly early vested benefit you will receive commencing at age 55 is $\$500.00 - \$150.00 = \$350.00$.

AGE 70 ½ REQUIREMENT: If you are eligible for a deferred vested benefit, you must begin to receive pension benefits no later than April 1st following the calendar year in which you attain age 70 ½.

FORM OF PAYMENT AND POST RETIREMENT DEATH BENEFIT

Single Participants.

If you are not married on the effective date for the payment of your normal retirement benefit, early retirement benefit, deferred vested benefit or disability retirement benefit, your benefit is paid in the form of a single life annuity.

Under the single life annuity form of payment, you receive a monthly pension benefit for your lifetime.

If you die after payment of your monthly benefit begins, and if the total monthly benefits paid to you is less than the greater of \$500 or the total employer contributions paid to the fund on your behalf, the difference will be paid to your designated beneficiary.

Example: You die while receiving a \$1,000 monthly pension in the form of a single life annuity. You had \$50,500 of employer contributions contributed on your behalf. You were on pension for three years. Your death benefit to your designated beneficiary is calculated as follows:

- | | |
|--|-----------------|
| 1. The amount of employers contribution is | \$50,500 |
| 2. Less monthly pension benefit times number of
months you received pension: $\$1,000 \times 36 \text{ months} =$ | <u>\$36,000</u> |
| 3. Amount of death benefit payable | \$14,500 |

Married Participants.

If you are married on the effective date for the payment of your normal retirement benefit, early retirement benefit, deferred vested benefit or disability retirement benefit, your benefit may be paid in one of the following forms of payment

- **Single Life Annuity** - Under the single life annuity form of payment, you receive a monthly pension benefit for your lifetime.
- **Joint and 50% Survivor Option** - Under the joint and 50% survivor option, you receive a reduced monthly pension benefit for your lifetime. Upon your death, your spouse (to whom you were married on the effective date for the payment of your Pension) will receive 50% of your reduced pension benefit for life. If your spouse dies before you, you will thereafter receive for life the monthly pension benefit that you would have received under the

Single Life Annuity form of payment (for payment beginning on or after January 1, 1994).

- **Joint and 100% Survivor Option** - Under the joint and 100% survivor option, you receive a reduced monthly pension benefit for your lifetime. Upon your death, your spouse (to whom you were married on the effective date for the payment of your Pension) will receive 100% of your reduced pension benefit for life. If your spouse dies before you, you will thereafter receive for life the monthly pension benefit that you would have received under the Single Life Annuity form of payment (for payment beginning on or after January 1, 1994).

Your pension benefit under the Joint and Survivor Option forms of payment is reduced to pay for the lifetime pension benefit paid to your spouse if you die first. The reduction is based on the combination of the age of you and your spouse. The tables of the Joint-and-50%-Survivor and the Joint-and-100%-Survivor reduction factors are on Pages 142 and 143 are normal retirement, early retirement benefits and deferred vested benefits and at pages 144 and 145 for disability retirement benefits.

If married, you may elect a form of payment for your pension benefit, and change a prior election, only on the application form filed with the Fund Office during the specified period before the effective date for the payment of your benefit.

Your spouse must consent to your election of the Single Life Annuity form of payment on the application form filed with the Fund Office. Your spouse's consent must be witnessed by a notary public, and must be made during the period for the election of a form of payment. Spousal consent is valid only with respect to the spouse granting the consent.

Your election of a form of payment will be effective on the effective date for the payment of your pension benefit. Thereafter, you may not change your election of a form of payment.

Example 1: A married participant retired at age 65 and the spouse was age 62. If the participant does not elect to receive his retirement benefit of \$1,200 per month in another form; the participant will receive a monthly Joint and 50% Survivor Option payment of \$1,032 (\$1,200 times .860) for life with \$516 (1/2 of \$1,032) continuing to the spouse following the participant's death.

Example 2: A married participant retired at age 65 and the spouse was age 60. His monthly pension was \$1,200. The participant can elect a monthly Joint and 100% Survivor Option payment and receive \$876 ($\$1,200 \times .73$) for life with \$876 continuing to the spouse following the participant's death.

If you elect the single life annuity form of payment and die after payment of your monthly benefit begins, and if the total monthly benefits paid to you is less than the greater of \$500 or the total employer contributions paid to the fund on your behalf, the difference will be paid to your designated beneficiary.

If you elect a joint and survivor option form of payment, and if at the last to die of you and your spouse the total monthly benefits paid to you and your spouse is less than the greater of \$500 or the total employer contributions paid to the fund on your behalf, the difference will be paid a beneficiary of the last to die.

Beneficiary Designation.

Because of the death benefit that may be paid following your retirement if you die (or you or your spouse die) before receiving pension benefit payments equal to the employer contributions paid to the fund on your behalf, you should review and update your beneficiary designation for this purpose when you retire.

SUSPENSION OF BENEFITS AND RETURN TO WORK

If you are a Pensioner receiving pension benefits and decide to resume employment in the construction industry normally covered under any Collective Bargaining Agreement with the Union or with an employer under the Plan, you must give written notice to the Fund Office within one week of the date of your return to employment. If it is discovered that you fail to notify the Fund Office of a return to employment, the Trustees may assume that you have returned to the type of employment would result in the suspension of pension.

If you are a Pensioner who returns to employment during a period of high employment (as determined by the Trustees under standards uniformly applied), you will continue to receive your monthly pension.

If you are a Pensioner, who prior to age 65, returns to employment in the construction industry normally covered under any Collective Bargaining Agreement with the Union or with an employer under the Plan, at any time other than a period of high employment, payment of your pension benefit will be suspended during that period of time. When you cease to be re-employed, you must file a written application for resumption of pension payments. In this case, pension payments will resume on the first day of the fourth (4th) month following the date your reemployment ends.

If you are a Pensioner, between age 65 and 70½, who returns to employment at any time other than a period of high employment and works more than 40 hours in any calendar month in the same industry, the same trade or craft, and in the same geographical area covered by the Plan (or by a reciprocal agreement Pension Plan), your retirement pension benefit shall be suspended during that month. When you cease to be re-employed, you must file a written application for resumption of pension payments. In this case, pension payments will resume on the first day of the month following the date your reemployment ends.

However, your pension will not be suspended if you work for a company in which you have a direct ownership interest, your work consists solely of day-to-day management activities consistent with your ownership of that company, and the company has in effect a collective bargaining agreement with the union requiring employer contributions be made to the Plan for eligible employees.

Also, if you are a Pensioner age 65 or older, your pension will not be suspended if you work for an employer under the Plan in employment that is not of the type covered by the collective bargaining agreement. If you are a Pensioner younger than age 65, your pension will not be suspended if you work for an employer under the Plan in employment that is not of the type covered by the collective bargaining agreement after having been retired for at least six months.

If you are a Pensioner age 70½ or older, who returns to employment at any time, your monthly retirement pension benefit will continue to be paid and not suspended.

Benefits payable due to contributions made during return to work will be applied as stated in Section 8.05.

MILITARY SERVICE

In accordance with the Uniformed Services Employment and Reemployment Rights Act (USERRA), if you leave covered employment to enter the military service and later return to covered employment with reemployment rights under USERRA, you will be credited with Credited Service and retirement benefits for the period of your military service.

The Credited Service and retirement benefits credited for a period of eligible military service will be based upon the number of hours of work for which contributions were made on your behalf for the 12 month period preceding your military service and the average hourly rate for those contributions (regardless of whether you are in covered employment for the entire period). If your covered employment initially commenced within the 12 month period preceding your eligible military service, the Credited Service and retirement benefits credited for the eligible military service will be determined by an estimated number of hours determined by the number of your hours of work for which contributions were made on your behalf before your military service. The estimated number of hours will not exceed the average number of hours of work for which contributions were made for all participants in covered employment during the period of military service.

Note that Credited Service and retirement benefits are credited for your military service only if you satisfy all of the requirements of USERRA to be entitled to reemployment rights. Two of the key requirements are that you must be absent from covered employment because of your military service and you must timely return or make yourself available for covered employment after completing your military service. Additional details are available from the Fund Office.

CREDIT FOR SERVICE IN OTHER JURISDICTIONS

The jurisdictional area of the Operating Engineers Local Union No. 66 covers the 33 counties of Western Pennsylvania and the counties of Columbiana, Mahoning and Trumbull of Eastern Ohio.

From time to time, members are required to work outside of this area and do so under the conditions of the bargaining agreements in effect in those areas.

The employers' contributions to these pension funds for employees working out of town may remain on credit in the out-of-town pension fund to which the payment was made and where the employee worked.

In order to insure maximum retirement benefits for the employees, Reciprocity Agreements have been entered into with Trustees of pension funds being administered for other areas of the International Union of Operating Engineers.

Under these agreements, any contributions paid by an employer to an out-of-town pension fund, to be credited to an employee working out of town:

1. can now be transferred to the employee's "home" pension fund, or
2. can be combined with the credit of each plan and pro-rata pension payments will be made at retirement, provided there is eligibility for a benefit.

Any member within this jurisdiction who goes out of town to work should find out whether a Reciprocity Agreement is in effect with the Pension fund in the area where he will be working. Check with the Fund Office for a list of such agreements.

You should notify the Fund Office and the out-of-town pension fund that you desire a return of your pension contributions under a Reciprocity Agreement. This notification should include your name, permanent address, social security number, local union number, union registration number and the out-of-town Pension Fund or local union name and address, the name of the employer, location of job site and period of time worked.

APPLICATION FOR BENEFITS

To receive a Plan benefit, you must apply for it. Upon your request, the Fund Office will provide you with the necessary application forms and an estimate of your benefits under each of the payment options.

You may designate a duly authorized representative to file an application for benefits on your behalf and/or to appeal any benefit denial to the Board of Trustees on your behalf. You will generally be required to provide a written statement of the designation, along with an authorization to release information to your representative.

Application for Benefits.

The date on which you file your application is very important because it determines the first monthly pension payment. Your monthly pension payment will begin on the first day of the calendar month after an application for pension has been postmarked or the month in which you first become eligible for a benefit, whichever is later. Mail your application as soon as possible. This way you will insure that the pension payments will be effective on the first day of the following month. Mail your application even if some of the information you have to supply for the benefit is not complete. You will be given a reasonable length of time to supply this information.

Decision on Application for Benefits.

A decision on your application for benefits will be made by the Fund Office within 90 days. If special circumstances require, the initial 90-day period to consider a claim may be extended for up to an additional 90 days.

A decision on your application for a Disability Retirement Benefit will be made by the Fund Office within 45 days. The 45-day period to consider such a claim may be extended for two separate periods of up to 30 days if, in each case, the extension is necessary due to matters outside the control for the Plan.

You will be sent a written (or electronic) notice of any extension before the end of the applicable period. The notice will indicate the circumstances requiring the extension and the date by which a decision on your claim for benefits is expected. If the extension is for a Disability Retirement Benefit claim, the notice of the extension will also explain:

- the eligibility requirements for the disability benefit;

- the unresolved issues that prevent a decision on the claim; and
- any additional information needed to resolve the issues.

If you fail to submit information needed to decide a Disability Retirement Benefit claim, you will be notified of the information required and will be provided with at least a 45-day period to provide the material or information. In the case of such an extension, the time period to decide your claim will be suspended until the date you respond to the request for additional information or to the end of the 45-day period. If you do not submit the required information, your claim may be denied.

Denial of Application for Benefits.

If your claim for benefits is wholly or partially denied, you will be sent a written (or electronic) notice of the denial of benefits that will include:

- the reasons for the decision;
- a reference to the plan provisions on which the decision is based;
- a description of any additional material or information necessary to support your claim and an explanation of why it is necessary;
- an explanation of the procedures for review of the denied claim, including the applicable time limits; and
- a statement of your right to bring a civil action under ERISA following a denial or adverse determination upon review.

For a Disability Retirement Benefit claim, the denial notice will also include:

- any internal rule, guideline, protocol or other similar criterion relied on for the denial, or a statement that it was relied on and that a copy will be provided free of charge upon your request; and
- if the denial was based on a medical necessity, experimental treatment or similar exclusion or limit, an explanation of the scientific or clinical judgment for the denial (including how the Plan terms apply to your medical circumstances), or a statement that such explanation will be provided free of charge upon your request.

Right to Appeal Denial of Application.

You have the right to appeal a denial of your application for benefits to the Board of Trustees. This is done by sending a written request for appeal to the Fund Office within 60 days of the date you receive the denial. However, for an application for a Disability Retirement Benefit, you have 180 days from the date you receive the denial to send your written request for appeal. If you do not file a timely appeal, you will forfeit your right to have your benefit denial reviewed on appeal and your right to file a lawsuit in court.

Your appeal should set forth the reasons why you believe your application should not have been denied. You may submit any documents, records or other information you believe have a bearing on your application. In preparing your appeal, you may review relevant documents and receive copies free of charge. If related to an application for a Disability Retirement Benefit, you may also request the identity of any medical or vocational experts whose advice was obtained in connection with the denial of your application, whether or not relied on.

Review of Appeals .

The Board of Trustees has the authority and discretion to interpret and apply the terms of the Plan and to resolve any legal and factual issues regarding the Plan and benefits thereunder.

The Board of Trustees will review all relevant facts, documents, records and information, including any documents, records and information you submit with your appeal. For a Disability Retirement Benefit, the review will not give any deference to the initial decision, and if the Disability Benefit application was denied due to a medical judgment, the Board of Trustees will consult with an appropriate health care professional, who will not be the same individual consulted in connection with the denial.

The Board of Trustees will make its decision on review and provide you with a written (or electronic) notice of the decision within a reasonable period of time following the Fund Office's receipt of your request for appeal, but not later than 60 days after receipt, or 45 days after receipt if the claim is for a Disability Retirement Benefit. If there are special circumstances that require an extension, the initial 60-day period and 45-day period may be extended by an additional 60 days or 45 days, respectively. In such case, you will be sent a written (or electronic) notice of the extension setting forth the reasons for the extension and the date by which a decision is expected.

If adverse, the written decision will include:

- the reasons for the decision;
- a reference to the plan provisions on which the decision is based;
- a statement of your right to examine documents that are relevant to your application for benefits and to receive copies free of charge; and
- a statement of your right to bring a civil action under ERISA.

If for an application for a Disability Retirement Benefit, the written decision will also include the following, if applicable:

- any internal rule, guideline, protocol or other similar criterion relied on for the decision, or a statement that it was relied on and that a copy will be provided free of charge upon your request; and
- if the decision was based on a medical necessity, experimental treatment or similar exclusion or limit, an explanation of the scientific or clinical judgment for the decision (including how the Plan terms apply to your medical circumstances), or a statement that such explanation will be provided free of charge upon your request.

The decision of the Board of Trustees on review will be a final and binding decision. You must exhaust the Plan's claims procedures before you may bring any court or administrative action for Plan benefits.

QUESTIONS AND ANSWERS

Must I register with the Pension Fund?

Yes. Ask the Fund Office for a Fund Office Information Card. On this card list your dependents, designate your beneficiary for death benefits and fill in other pertinent data. Failure to file this card does not deny you any benefits, but should you die without naming a beneficiary, any death benefits will be paid to a beneficiary designated by plan terms.

Do I receive any notification of employer contributions?

Yes. Active participants receive an annual pension statement listing that year's employer contributions received on their behalf.

Can I withdraw the contributions or borrow money from the Pension Fund?

No. This Pension Plan does not provide for a withdrawal, refund, or loan of the contributions. The purpose of the Pension Fund is to provide a retirement benefit, or death benefit to the designated beneficiary.

How do I receive a pension estimate and how long does it take to get one?

To receive a pension estimate, simply call the Fund Office at (412) 968-9750. Press 2 for the Pension Department. Your estimate will take approximately 30 days to receive.

How soon do I need to call to receive forms for retirement?

Please call at least 30-45 days before you wish to retire. This allows enough time for your pension to be calculated and the forms sent out. It also allows plenty of time for you to complete the forms and return them to the Fund Office. However, please do not call more than 75 days before the date of your intended retirement.

When can I begin my retirement?

Your pension can begin on the first day of any month following receipt of your pension application (provided you are eligible to receive the pension). Checks are paid on the first for that month. There is no waiting period.

What if I am still working in the month prior to my retirement?

You can continue to work until the last day of the month prior to beginning your pension. You must indicate on your Pension Application the date you last worked. In order to begin your pension on the first of any month, your application must be postmarked by the last day of the previous month.

When will I receive my first check?

You will receive your first check on the 1st of the month in which you requested your pension to begin. The only exceptions to this would be if your paperwork was incomplete, or was received after the checks had already been processed for the month. In these cases, you will receive your check on the first of the next month's check run, plus any retroactive amounts as necessary.

Do I have to send in my original birth certificate? What if I don't have my birth certificate?

You can send in a copy of your birth certificate. If you do send an original, we will make a copy and return your original to you. If you don't have access to your birth certificate, we will send you a list of alternate forms that can be used as proof of birth.

Do I have to sign up for Direct Deposit?

Yes, you must sign up for direct deposit. Effective January 1, 1998, the Board of Trustees approved that all new retirees must sign up for direct deposit, unless their bank does not provide for electronic transfer.

If I have direct deposit and the 1st of the month falls on a holiday or weekend, when do I receive my money?

If the first of the month falls on a holiday or weekend, you will receive your money on the Friday before. The only exception to this is January 1st. Because of tax forms, we cannot transfer the Funds until after January 1st. Therefore, your money will not be available until the first business day after January 1st.

If I sign up for direct deposit, how long will it take to start? What about if I change accounts or banks?

The first month after you originally sign up for direct deposit, or change bank accounts, is called a testing month. Your bank numbers must go through a "prenote" process. You will receive an actual check, delivered to your home, for this month. You must take it to the bank. If everything is OK with your bank numbers, the following month's check will be direct deposited into the account you indicated. You will receive a notice in the mail confirming this process for this first month only.

How much money do you take out for taxes?

You must decide how much you would like withheld from your check for taxes. That will be one of the forms you must complete in order to retire. We recommend that you talk to a financial advisor, accountant, or

the Internal Revenue Service to determine how much withholding is appropriate for your financial situation. You can change the amount of your election at any time by calling the Pension Department and requesting a new form.

I am already receiving my pension and would like to change my option.

Once you are in pay status and receiving your monthly benefit, you cannot change your selection.

I am retired, but my company has called me to go back to work for a while. Can I do this and what kind of penalties will I face?

Depending on your age, you may only be able to work certain times of the year or a certain number of hours without suspending the payment of your pension or affecting your Welfare Fund coverage. Please check with the Fund Office to review your options.

What if a pensioner returns to work?

If you are receiving retirement benefits and return to work, you must notify the Fund Office within one week of the date of your return to employment. A return to work can result in the suspension of the payment of your pension. See page 26. You can contact the Fund Office for more information.

What is vested interest of a Member in the Plan?

If, on or after October 1, 1971, you have at least five (5) years of credited service and terminate your employment, you will be eligible for a deferred vested benefit payable at age 65 or an early deferred vested benefit payable at age 55 or over. Your eligibility for this benefit is frozen and cannot be lost or taken away.

PENSION FUND AGREEMENT AND DECLARATION OF TRUST

There is hereby continued and maintained the "Operating Engineers' Construction Industry and Miscellaneous Pension Fund" (the "Pension Fund"). The office of the Pension Fund shall be located in Allegheny County, Pennsylvania.

ARTICLE I DEFINITIONS

Section 1.01 - Actuarial Equivalent

The term "Actuarial Equivalent," as used herein, shall mean a benefit of approximately equivalent value when computed on the basis of the actuarial tables in use when the retirement benefit goes into pay status and attached hereto as appendices to the Pension Plan. The Board of Trustees may, upon the basis of a recommendation from the independent enrolled actuary for the Pension Plan and by amendment of the Pension Plan, revise any such actuarial tables at any time effective for participants whose retirement benefit payment commences after the effective date of any such revision.

Section 1.02 - Agreement, and Agreement and Declaration of Trust, and Trust

The terms "Agreement" and "Agreement and Declaration of Trust" and "Trust," as used herein, shall mean this instrument, including any amendments hereto.

Section 1.03 - Association

The term "Association," as used herein, shall mean, collectively all Employer Associations who, by a collective bargaining agreement with the Union, have bound their Employer members to make Contributions.

Section 1.04 - Benefit Commencement Date

The term "Benefit Commencement Date," as used herein, shall mean the effective date of the commencement of benefit payments.

Section 1.05 - Board of Trustees

The term "Board of Trustees," as used herein, shall mean the Trustees or successor Trustees designated under the terms of the Agreement and Declaration of Trust.

Section 1.06 - Break in Service

- (a) The term "Break in Service," as used herein, shall mean any consecutive two calendar year period prior to an Employee fulfilling the requirements for vesting under Articles V and VII, wherein an Employee has failed to work for a minimum total of 250 hours in at least one calendar year of said two calendar year period for which Contributions are required to be made to the Pension Fund on his behalf. A Break in Service shall be deemed to occur on the last day of the second calendar year in which an Employee fails to meet the 250-hour requirement.
- (b) In the event of a Break in Service, all prior service credits and related Contributions to which said Employee would be entitled under the Pension Plan shall not be credited, and shall be lost, unless said Employee returns to coverage of the Pension Plan as a Reinstated Employee.
- (c) Notwithstanding subsection (a), the 250-hour requirement for the period shall be proportionately reduced during any year when the Employee is absent for any of the following reasons:
 - (1) service in the Armed Forces of the United States in time of war or other national emergency, provided he shall not have re-enlisted;
 - (2) lockouts or duly authorized strikes;
 - (3) employment by an Employer hereunder in another capacity;
 - (4) total disability, as defined in Article IX herein.
- (d) Notwithstanding any contrary provisions, the Board of Trustees may in their sole discretion and under standards uniformly applied, determine that an Employee whose domicile is in this area and who is working in another area for an Employer hereunder, who in the opinion of the Board of Trustees is not a temporary Employer in this

area, shall not be considered to have a Break in Service solely because he is not working in this area.

- (e) Notwithstanding any contrary provisions, the Board of Trustees shall have the power to designate any year or years as exempt from these Break in Service provisions when in their sole discretion and under standards uniformly applied, it would be equitable to do so because of a war or other national emergency, and no prior service credits shall be lost by an Employee by a Break in Service occasioned during any year so designated by the Board of Trustees.
- (f) Notwithstanding any contrary provisions, the Board of Trustees shall have the power to grant a leave of absence to any Employee which will exempt said Employee from a Break in Service hereunder during the leave of absence period allowed by the Board of Trustees when in the sole discretion of the Board of Trustees and under standards uniformly applied, it would be equitable to grant such leave of absence. In the event that any Employee should be granted a leave of absence approved by the Board of Trustees, no credit shall be given for service during the period of such leave of absence, but, such period shall not be deemed to apply toward a Break in Service provided the Employee returns to work in employment covered under the Pension Plan on or prior to the end of such period of leave, including any extensions thereto. Such leave of absence may only be granted by approval of the Board of Trustees upon proper application and the decision on any rulings in connection with the granting, refusal, or continuance of any leave of absence shall be at the sole discretion of the Board of Trustees and under standards uniformly applied. Upon approval of such application, the Board of Trustees may impose such requirements as to the continuance or cessation of the leave of absence period as the Board of Trustees may see fit in its sole discretion and under standards uniformly applied.

Section 1.07 - Contributions

The term "Contributions," as used herein, shall mean payments required to be made or transmitted by Employers to the Trust Fund in accordance with any then existing collective bargaining agreement and any payments required to be made or transmitted to the Fund by any other Employer in accordance with a participation agreement with the Board of Trustees.

Section 1.08 - Credited Service

The term "Credited Service," as used herein, shall mean the total of an Employee's Credited Past Service and Credited Future Service as defined in Article IV of the Pension Plan.

Section 1.09 - Deferred Vested Pension

The term "Deferred Vested Pension," as used herein, shall mean the pension payable to a Vested Employee under the Pension Plan.

Section 1.10 - Employee

- (a) The term "Employee," as used herein, shall mean:
- (1) an Employee of an Employer on whose behalf the Employer is or was required to make payments to the Trust Fund by virtue of a collective bargaining agreement with the Union, or
 - (2) an Employee of an Employer on whose behalf the Employer is or was required to make periodic payments to the Trust Fund by virtue of a participation agreement with the Board of Trustees.
- (b) An Employer who desires to include in the Pension Plan his office or supervisory Employees, must apply in writing to the Board of Trustees for inclusion of all such Employees and must agree to remit payments to the Trust Fund in accordance with the Pension Plan for all supervisory or office Employees of the Employer.
- (c) If the Union desires to include in the Pension Plan its full-time salaried Employees including office Employees, the Union must apply in writing to the Board of Trustees for inclusion of all such full-time salaried Employees and office Employees and must agree to remit payments to the Trust Fund in accordance with the Pension Plan for all such full-time salaried Employees and office Employees of the Union.
- (d) All applications to the Board of Trustees by an Employer or the Union to include its Employees in the Pension Plan are subject to the approval of the Board of Trustees. The Board of Trustees may require such Employer to furnish all pertinent information that it may deem necessary to determine its approval or rejection of the application and any approval or rejection is subject to the sole discretion of the Board of Trustees. In the event of approval of any application, the Board of

Trustees shall submit a written participation agreement for the signature of the Employer that shall set forth any terms or conditions that are not inconsistent with this Trust Agreement. However, the rate of contribution shall be established by collective bargaining agreements for each hour paid an Employee.

- (e) In event of approval of the Board of Trustees of any application by an Employer or the Union to include its Employees in the Pension Plan, Contributions and crediting of service may be made retroactive to the date of the application of the Employer.

Section 1.11 - Employer

- (a) The term "Employer," as used herein, shall mean:

- (1) an Employer who is a member of one of the Associations that has in force and effect a collective bargaining agreement with the Union providing for the remitting by such Employer of payments to the Pension Fund, or
 - (2) an Association or independent Employer that hereafter enters into a collective bargaining agreement with the Union requiring its members or the independent Employer to remit payments to the Pension Fund, but only with the consent of the Board of Trustees, or
 - (3) an Employer who employs persons represented by the Union and who is obligated to make periodic payments to the Pension Fund pursuant to a participation agreement with the Board of Trustees, or
 - (4) the Union and its affiliated organizations obligated to make periodic payments to the Pension Fund on behalf of its Employees pursuant to a participation agreement with the Board of Trustees.
- (b) It is understood and agreed that any individual, partnership, corporation or other business entity becoming an Employer shall be bound and abide by all of the provisions of this Agreement and of any Agreement made or to be made by and between the Association and the Union in respect to the Trust and all rules, regulations, decisions and determinations which may from time to time be made by the Board of Trustees, and such Employer agrees that the Association is

and shall be his agent and representative for the purpose of negotiating and bargaining with the Union in reference to the Trust.

Section 1.12 - Hour, Hour of Service, or Hour of Employment

- (a) The terms "Hour," "Hour of Service" or "Hour of Employment," as used herein, shall mean each hour for which an Employee is paid, or entitled to payment, for the performance or non-performance of duties for an Employer during the period of membership in the Pension Plan. Hours of Service shall be computed in accordance with the DOL Regulations under Section 2530-200b. The report forms received from the Employer or other acceptable written proof shall be the source of information as to hours an Employee is paid or entitled to payment.

- (b) For purposes of determining whether a Break in Service has occurred for participation and vesting purposes, effective January 1, 1987, an individual shall be credited with up to a total of 251 Hours of Service in a calendar year for periods of absence from work commencing on or after January 1, 1987:
 - 1) by reason of the pregnancy of the individual;
 - (2) by reason of the birth of a child of the individual;
 - (3) by reason of the placement of a child in connection with the adoption of the child by the individual; or
 - (4) for purposes of caring for the child during the period immediately following the birth or placement for adoption.

- (c) The Hours of Service required to be credited under subsection (b) shall be credited only (i) in the calendar year in which the absence begins for one of the permitted reasons if the crediting is necessary to prevent a Break in Service in that year, or (ii) if the Employee has been credited with 251 Hours of Service in such year, in the following calendar year. If the absence from work is not an approved leave of absence, credit will not be granted during such absence unless the Employee informs the Employer on a timely basis that the leave was taken for one of the permitted reasons listed above.

Section 1.13 - Participant or Member

The terms "Participant" or "Member," as used herein, shall mean an Employee participating in the Pension Plan in accordance with the requirements of Section 5.01.

Section 1.14 - Pension Fund or Fund

The terms "Pension Fund" or "Fund," as used herein, shall mean the trust estate of the Operating Engineers' Construction Industry and Miscellaneous Pension Fund, which shall consist of all investments made and held by the Pension Fund Trustee, all monies received by the Board of Trustees as Contributions or as income from investments made or held by the Pension Fund Trustee or otherwise, and any other property received and held by the Board of Trustees for the uses and purposes set forth in this Agreement.

Section 1.15 - Pension Fund Trustee

The term "Pension Fund Trustee," as used herein, shall mean the Pension Fund Trustee designated in Section 2.01 as the holder of the Fund and the payer of benefits.

Section 1.16 - Pension Plan

The term "Pension Plan," as used herein, shall mean the benefits, service requirements and conditions outlined in this Agreement and Declaration of Trust and such rules and regulations concerning administration as shall be adopted by the Board of Trustees.

Section 1.17 - Plan Year

The term "Plan Year," as used herein, shall mean the calendar year.

Section 1.18 - Reinstatement or Reinstated Employee

- (a) The terms "Reinstatement" or "Reinstated Employee," as used herein, shall mean an Employee who returns to the coverage of the Pension Plan following a Break in Service or a Termination of Employment by once again meeting the requirements of Section 5.01 and who meets the conditions of this Section to be treated as Reinstatement or a Reinstated Employee.

- (b) An Employee who returns to employment with an Employer following a Break in Service which occurred after December 31, 1986 shall be treated as a Reinstatement or Reinstated Employee if:
- (1) he works 1,000 Hours with an Employer in (i) the twelve (12) month period commencing with the date of his return, or (ii) the twelve (12) month period commencing on the January 1 following his return, or (iii) any subsequent twelve (12) month period commencing on January 1; and
 - (2) either (i) the period of time between his last Break in Service and the beginning of the twelve (12) month period in which he fulfills said 1,000 hour requirement is not greater than his total Credited Service as of his last Break in Service or (ii) the number of consecutive calendar years in which he fails to work for a minimum total of 250 hours is less than five (5) years.
- (c) Subject to subsection (d), an Employee who returns to employment with an Employer following a Break in Service which occurred after December 31, 1975 and before January 1, 1987 shall be treated as a Reinstatement or Reinstated Employee if:
- (1) he works 1,000 Hours with an Employer in (i) the twelve (12) month period commencing with the date of his return, or (ii) the twelve (12) month period commencing on the January 1 following his return, or (iii) any subsequent twelve (12) month period commencing on January 1; and
 - (2) the period of time between his last Break in Service and the beginning of the twelve (12) month period in which he fulfills said 1,000 hour requirement is not greater than his total Credited Service as of his last Break in Service.
- (d) An Employee who returns to employment with an Employer on or after January 1, 1987 following a Break in Service which occurred after December 31, 1975 and before January 1, 1987 and for whom the period of time between his last Break in Service and December 31, 1986 is not greater than his total Credited Service as of his last Break in Service shall be treated as a Reinstatement or Reinstated Employee if:
- (1) he works 1,000 Hours with an Employer in (i) the twelve (12) month period commencing with the date of his return, or (ii) the twelve (12) month period commencing on the January 1

following his return, or (iii) any subsequent twelve (12) month period commencing on January 1; and

- (2) either (i) the period of time between his last Break in Service and the beginning of the twelve (12) month period in which he fulfills said 1,000 hour requirement is not greater than his total Credited Service as of his last Break in Service or (ii) the number of consecutive calendar years in which he fails to work for a minimum total of 250 hours is less than five (5) years.
- (e) An Employee who returns to employment with an Employer following a Break in Service that occurred before January 1, 1976 shall not be treated as a Reinstatement or Reinstated Employee (and instead shall be treated as a new Employee for all purposes of the Pension Plan).
 - (f) If an Employee returns to employment with an Employer following a Break in Service and is treated as a Reinstatement or Reinstated Employee under subsection (b), (c) or (d), then the Credited Service and related benefit accruals as of the date of his last Break in Service shall be restored as of the last day of the twelve (12) month period in which the 1,000 hour requirement set forth in said subsection is fulfilled.
 - (g) An Employee who returns to employment with an Employer following a Termination of Employment which occurred after December 31, 1975 shall be treated as a Reinstatement or Reinstated Employee if he works 1,000 Hours with an Employer in (i) the twelve (12) month period commencing with the date of his return, or (ii) the twelve (12) month period commencing on the January 1 following his return, or (iii) any subsequent twelve (12) month period commencing on January 1.
 - (h) An Employee who returns to employment with an Employer following a Termination of Employment which occurred before January 1, 1976 shall be treated as a Reinstatement or Reinstated Employee if:
 - (1) he had 15 or more years of Credited Service as of his last Termination of Employment; and
 - (2) he works 1,000 Hours with an Employer in (i) the twelve (12) month period commencing with the date of his return, or (ii) the twelve (12) month period commencing on the January 1 following his return, or (iii) any subsequent twelve (12) month period commencing on January 1.

- (i) An Employee who returns to employment with an Employer following a Termination of Employment which occurred before January 1, 1976 and who had less than 15 years of Credited Service as of his last Termination of Employment shall not be treated as a Reinstatement or Reinstated Employee (and instead shall be treated as a new Employee for all purposes of the Pension Plan).
- (j) If an Employee returns to employment with an Employer following a Termination of Employment and is treated as a Reinstatement or Reinstated Employee under subsection (g) or (h), then the Credited Service and related benefit accruals as of the date of his last Termination of Employment shall be restored as of the last day of the twelve (12) month period in which the 1,000 hour requirement set forth in said subsection is fulfilled. Except for eligibility and vesting, a former Employee who received the full value of his non-forfeitable benefits upon his earlier Termination of Employment will not be entitled to reinstated Credited Service unless he repays to the Fund the entire amount of his distribution, together with interest compounded annually at the rate of (i) for the period prior to January 1, 1988, five percent (5%) and (ii) for the period beginning on January 1, 1988, one hundred twenty percent (120%) of the Federal mid-term rate in effect under Section 1274 of the Internal Revenue Code for the first month of each Plan Year beginning on and after January 1, 1988 (unless a different rate is explicitly required by the Internal Revenue Code). Said payment must be made by the later of (i) five (5) years of the date he again becomes an Employee and (ii) the date his Breaks in Service equal or exceed five (5) years.
- (k) Notwithstanding any contrary provisions, an Employee who returns to employment with an Employer on or after January 1, 1997 following a Break in Service or a Termination of Employment (including for this purpose Retirement) and who was not one hundred percent (100%) vested in his accrued benefit under the Pension Plan at his prior Break in Service or Termination of Employment shall in no event have his years of Credited Service credited before the Break in Service or Termination of Employment recognized under the Pension Plan following such return to employment for the purpose of determining his vested interest in his accrued benefit under the Pension Plan until he fulfills the 1,000 hour requirement set forth in this Section.

Section 1.19 - Retired Employee

The term "Retired Employee," as used herein, shall mean an Employee who is in receipt of monthly benefits from the Pension Plan.

Section 1.20 - Retirement

The term "Retirement," as used herein, shall mean a complete withdrawal from performing work in the construction industry normally covered under any collective bargaining agreement with the Union, subject to the provisions of Section 8.04.

Section 1.21 - Termination of Employment

The term "Termination of Employment," as used herein, shall mean an absence that would otherwise constitute a Break in Service incurred by an Employee who has attained a vested interest in the benefits accrued under the Pension Plan (but which shall not constitute a Break in Service). A Termination of Employment shall be deemed to occur on the last day of the second calendar year in which such Employee fails to meet the 250-hour requirement that would have otherwise constituted a Break in Service. The Credited Service earned by an Employee after he returns to employment with an Employer following a Termination of Employment shall not apply to increase his vesting percentage in the benefits he had earned at his prior Termination of Employment (but shall apply to increase his vesting percentage in benefits earned after his return to employment with an Employer).

Section 1.22 - Union

"Union" shall mean International Union of Operating Engineers, Local 66, 66A, 66B and 66C, AFL-CIO.

Section 1.23 - Vested Employee

The term "Vested Employee," as used herein, shall mean an Employee who has incurred a Termination of Employment and who is entitled to a deferred monthly pension under the Pension Plan.

ARTICLE II **MANAGEMENT OF FUNDS**

Section 2.01 - Fund, Pension Fund Trustee

- (a) All the funds of the Pension Plan over and above those reasonably necessary for administration expenses as provided in Section 2.03 shall be used in providing and paying the benefits set forth in the Pension Plan; paying premiums of insurance, if any, purchased to

provide benefits, and paying any administration expenses of the Pension Fund Trustee for holding and disbursing such Fund provided no part of the corpus or income of the Pension Trust shall be used for, or diverted to, purposes other than for the exclusive benefit of the members of the Pension Plan and their beneficiaries and contingent annuitants prior to the satisfaction of all liabilities to them.

- (b) All funds received by the Board of Trustees hereunder as part of the Fund shall be deposited by them with a Pension Fund Trustee as the Board of Trustees may designate from time to time on such terms and conditions as the Board of Trustees see fit. Such Pension Fund Trustee shall be a bank authorized to act as Trustee for trust funds under the laws of the Commonwealth of Pennsylvania and/or a qualified insurance company as selected by the Board of Trustees (or a qualified investment counselor). The Board of Trustees is empowered to invest and reinvest such part of the Fund, as in their judgment, is not required for current expenditures, in such stocks, bonds and other property as it, in their sole discretion, deem suitable for the Fund. The Board of Trustees may delegate their investment authority to the Pension Fund Trustee and/or a qualified investment counselor in which case the Pension Fund Trustee and/or the qualified investment counselor shall be considered to be a fiduciary with respect to the investment of Fund assets apart from any other obligations they may have to the Fund. No person shall have any interest in or to, or under the Pension Trust, or any part of the assets thereof, except as and to the extent expressly provided in the Pension Plan and in the Trust Agreement.
- (c) Neither the Union, any Association or Employer, nor the Board of Trustees shall have any responsibility for the administration of the Trust Funds held by the Pension Fund Trustee or any liability for any loss with respect thereto except that the Board of Trustees shall be liable for gross negligence in the selection of or continuing in office of the above Pension Fund Trustee.
- (d) Notwithstanding any other provision of this Agreement and Declaration of Trust, the Board of Trustees may cause any part or all of the Fund to be invested as a part of the collective investment funds maintained by a bank. The portion of the Fund so invested may be commingled with the funds of other trusts, to the extent allowed by law. The portion of the Fund so invested shall be subject to all of the provisions of the declaration (s) of trust creating said collective investment fund (s), as amended from time to time. Such declaration

(s) of trust, as amended, are hereby (or shall be) incorporated by reference into and made a part of this Declaration of Trust.

Section 2.02 - Source of Benefits

The Trust Fund held by the Pension Fund Trustee and created pursuant to this Article II is designed to be and shall be the sole source of the benefits and payments provided for under the Pension Plan. Neither the Union, the Association, Employer nor the Board of Trustees guarantees such benefits or payments or assumes any obligation with respect thereto other than to pay into the Trust Fund the Contributions received from Employers as provided for herein.

Section 2.03 - Application of Fund

- (a) The Board of Trustees shall use and apply the Fund for the following purposes:
 - (1) to pay or provide for the payment of all reasonable and necessary expenses of collecting payments to be remitted by the Employer and other monies and property to which it may be entitled and of administering the affairs of this Trust, including, but not limited to the employment of administrative, legal, expert and clerical assistance, bonding of Trustees or Employees of the Pension Plan, the leasing of premises, and the purchase or lease of materials, supplies and equipment necessary or appropriate in accomplishing the purpose for which this Trust is created; and
 - (2) to pay benefits as the same become due and owing under Articles V, VI, VII, VIII, IX, X and XI if the Board of Trustees elect to pay said benefits directly and to pay the Pension Fund Trustee the remainder of the money received as payments hereunder from Employers or any other source.
- (b) The Board of Trustees shall provide for keeping records as to eligibility, Contributions, etc. (but the investment of funds shall be by the Pension Fund Trustee or through insurance carried for that purpose, purchased by the Pension Fund Trustee as authorized by the Board of Trustees).

Section 2.04 - Reciprocal Agreements

The Board of Trustees may enter into reciprocal agreement with (i) the trustees of pension funds created for the benefit of Operating Engineers represented by Local Unions affiliated with the International Union of Operating Engineers, and (ii) the trustees of pension funds of other construction industry unions operating within the geographic jurisdiction of the Union, for the purpose of preserving and continuing eligibility and providing maximum benefits for said Employees in accordance with the terms of the respective reciprocal agreements. Employer contributions reciprocated to this Fund pursuant to said agreements shall be treated as Contributions hereunder subject to all of the terms and provisions of the Pension Plan. To the extent employer contributions are reciprocated to such other pension fund, the employee/participant for whom said contributions are reciprocated shall look solely to said pension fund for the benefits attributable to such reciprocated contributions and said benefits shall be determined solely by the terms and provisions of said pension fund.

Section 2.05 - Enrolled Actuary

In addition to any other expert services deemed necessary for administration of the Trust and Fund, the Board of Trustees shall engage the services of an enrolled actuary, on behalf of all covered Employees, to determine that the pension benefits provided by the Pension Plan are properly funded by the Contributions being made to the Fund pursuant to the provisions of this Trust. The actuary shall determine the adequacy of the contribution commitments on the basis of actuarial assumptions that, in the aggregate, are reasonable, including a valuation of the assets of the Fund based upon a reasonable actuarial method of valuation that takes into account fair market value. Furthermore, the actuary shall advise the Board of Trustees as to anticipated liquidity needs of the Fund and render such reports, certificates or opinions as may be required from time to time by the Board of Trustees or pursuant to any of the provisions of the Employee Retirement Income Security Act of 1974 as amended from time to time or other applicable laws or regulations.

ARTICLE III DUTIES OF EMPLOYER

Section 3.01 - Payment of Contributions

Each Employer shall pay to the Board of Trustees within the period specified by collective bargaining agreement and/or participation

agreement the amount or amounts of the Contribution for each Employee pursuant to the Employer's labor contract and working agreement for each hour paid during the preceding calendar month, each such payment to be accompanied by such reports as the Board of Trustees shall deem necessary or desirable in the administration of the Trust.

Section 3.02 - Commencement of Contributions

Contributions shall commence as of the date specified in the applicable collective bargaining agreement and/or participation agreement and as to an Employer becoming obligated to make Contributions after the date hereof, as of the commencement of the workweek during which he shall become so obligated. The Association shall not be responsible for the Contributions or other obligations of any Employer and no Employer shall be responsible for the contribution or other obligations of any other Employer.

Section 3.03 - Contribution Rate

The effective current contribution rate for all Employers hereunder is as provided in their collective bargaining agreements and/or participation agreements.

Section 3.04 - Remittance Reports

The Board of Trustees shall have the right to require such reports as it may deem necessary or desirable for the administration of the Fund, and each Employer shall promptly furnish to the Board of Trustees, on demand, records of Employees, their names, social security numbers, the hours worked by each Employee and such other information as the Board of Trustees may reasonably require in connection with the administration of the Fund. The Board of Trustees may examine the payroll and employment records of each Employer at the Employer's place of business during office hours whenever such examination is deemed necessary or advisable by the Board of Trustees in connection with the proper administration of the Fund.

Section 3.05 - Delinquent Contributions

- (a) If an Employer shall fail to pay his Contributions to the Fund when the same shall be due and payable, he shall be considered delinquent and in breach of this Agreement, and shall pay, as an additional amount to cover added bookkeeping costs and other incidental late report

charges, liquidated damages, plus interest as provided in the collective bargaining agreement between the Union and the Employer.

- (b) If Contributions are due from an Employer pursuant to a participation agreement, the Contributions shall be delinquent if not received by the fifteenth (15th) day of the month following the month for which they are to be reported. If such an Employer is delinquent in paying any Contributions, the Employer shall pay the Fund, as an additional amount to cover added bookkeeping costs and other incidental late report charges, liquidated damages in the amount of five percent (5%) of the amount due but not less than ten dollars (\$10.00) or more than one hundred dollars (\$100.00), plus interest on the total delinquency at rate of one percent (1%) per month or portion thereof.
- (c) The Board of Trustees may take such steps, including the prosecution of or the intervention in any proceedings at law, in equity or in bankruptcy as it may deem necessary or desirable in order to collect delinquent Contributions, and the delinquent Employer shall be liable for the Board of Trustees' reasonable expenses, including attorney's fees and other disbursements, incurred in the collection of such delinquent Contributions.
- (d) Should any Employer remain delinquent in remitting said contribution for a period of thirty (30) calendar days or more, or be habitually or frequently delinquent, the Board of Trustees shall have the power, in their discretion, to require any such delinquent Employer to post security for the payment of such delinquencies in the form of cash or a corporate surety bond in the amount as determined to be adequate by the Board of Trustees.

Section 3.06 - Venue for Collection

The Employer waives any venue requirement and agrees that Allegheny County shall be the proper venue for bringing any action for collection of Contributions.

Section 3.07 - Irrevocability of Contributions

All Contributions by the Employer to the Fund shall be irrevocable; provided, however, to the extent permitted by the Employee Retirement Income Security Act of 1974, the Trustees may authorize a return of an overpayment of Contributions made by reason of a mistake of fact or law.

Section 3.08 - Participant Contributions

No Participant shall be required or permitted to make any contribution to the Fund.

ARTICLE IV **CREDITING OF SERVICE**

Section 4.01 - Credited Past Service

- (a) An Employee who is employed by an Employer, as herein defined, and/or who was a member of the International Union of Operating Engineers, Local 66, 66A or 66B on June 1, 1957, or in Local 66C on January 1, 1966, shall be credited with Past Service (hereinafter called "Credited Past Service") from the time he was last initiated into a local affiliated with the International Union of Operating Engineers prior to June 1, 1957, provided, however, the Employee shall also be credited with Credited Past Service from the first day of the last period of continuous employment by an Employer, herein, immediately prior to the date he was last initiated into the International Union of Operating Engineers, and provided further, that no Employee shall receive credit for any Past Service under the above provisions unless he has worked a minimum of 250 hours in the period from the first day of June 1957 to the first day of January 1962, and in the case of Local 66C members to the first day of January 1969, inclusive.
- (b) Past Service shall be computed to the nearest quarter year and terminate at June 1, 1957.

Section 4.02 - Credited Future Service

An Employee shall be credited with a number of years of future service (hereinafter called "Credited Future Service") based on his service after June 1, 1957, and in the case of Local 66C members or non-union Employees working within the jurisdiction of Local 66C based on their service after January 1, 1966, or after a subsequent Break in Service and prior to the date of his Retirement or Termination of Employment, as the case may be, equal to the lesser of:

- (a) the number of complete years and complete quarters elapsed to the date of his Retirement or Termination of Employment, whichever is applicable, or

- (b) the number (taken to the next lower quarter) determined by dividing the number of hours for which Contributions were made on his behalf by 1,000.

Section 4.03 - Minimum Credited Future Service

In no event will the determination made in Section 4.02 result in fewer years of Credited Future Service than the number of Plan Years during the period of the calculations in which the Participant worked 1,000 hours or more for which Contributions were made or due.

Section 4.04 - Service for Reinstated Employee

Credited Past Service and Credited Future Service shall include, for all purposes of the Pension Plan, all such service restored to a Reinstated Employee. Benefit accruals and the underlying Contributions upon which the benefit accruals were determined are also restored to the Reinstated Employee and treated as though participation in the Pension Plan had been continuous with no interruption.

ARTICLE V **ELIGIBILITY**

Section 5.01 - Participation

- (a) Every Employee, as defined herein, shall be a Member of the Pension Plan upon having worked 250 hours in any Plan Year or in the period from June 1, 1957 to December 31, 1961, inclusive. Membership shall be deemed to have commenced as of the first day of the Plan Year, or as of the first day of the period June 1, 1957 to December 31, 1961, if applicable, in which the 250-hour requirement is met.
- (b) An Employee will cease to be a member of the Pension Plan as of the date of his Break in Service or Termination of Employment.
- (c) A former Participant who meets the requirements of Section 1.18 to be a Reinstated Employee (other than fulfilling the 1,000-hour requirement) will again become a Participant on the date of his re-employment. Any other former Participant will again become a Participant on the date he first meets the requirements set forth herein.

Section 5.02 - Normal Retirement

On and after the first day of April, 1973, a Member who has attained the age of sixty-five (65) with at least five (5) years of Credited Service, and on and after the first day of January 1, 1988, a Member who has attained the later of age sixty-five (65) or the fifth anniversary of the date he entered the Pension Plan, and in each case whose employment is terminated or who elects to retire, shall be eligible for retirement benefits provided for in Article VI. An active Participant shall be 100% vested upon attaining said normal retirement age.

Section 5.03 - Early Retirement

A Member who has reached the age of fifty-five (55) with at least fifteen (15) years of Credited Service may terminate his employment and retire at his option and shall be eligible for early retirement benefits provided in Article VI. On or after January 1, 1990, a Member who has reached the age of fifty-five (55) with at least ten (10) years of Credited Service may terminate his employment and retire at his option and shall be eligible for early retirement benefits provided in Article VI.

ARTICLE VI
RETIREMENT BENEFITS

Section 6.01 - Normal and Disability Retirement

- (a) The benefits provided by the Pension Fund for a Member eligible for normal retirement pursuant to Section 5.02 or a disability benefit under Section 9.01 and who retires on or after January 1, 2003 shall be a monthly amount equal to the sum of the following, subject to the maximum benefit described in paragraph (k) of this Section 6.01:
- (1) \$4.00 per month multiplied by the total of the Member' years of Credited Past Service prior to June 1, 1957, plus
 - (2) 8% of total Contributions made on his behalf from June 1, 1957 to December 31, 1966, plus
 - (3) 6% of total Contributions made on his behalf from January 1, 1967 to December 31, 1967, plus
 - (4) 4% of total Contributions made on his behalf from January 1, 1968 to December 31, 1970, plus
 - (5) 3.5% of total Contributions made on his behalf from January 1, 1971 through December 31, 1996, plus
 - (6) 4.5% of total Contributions made on his behalf from January 1, 1997 through December 31, 1999, plus
 - (7) 3.0% of total Contributions made on his behalf from January 1, 2000 to December 31, 2000, plus
 - (8) 2.5% of total Contributions made on his behalf from January 1, 2001 to December 31, 2002, plus
 - (9) 1.0% of total Contributions made on his behalf from January 1, 2003 to date of retirement.
- (b) The benefits provided by the Pension Plan for a Member eligible for normal retirement pursuant to Section 5.02 or a disability benefit under Section 9.01 and who retires on or after January 1, 2001 and

before January 1, 2003 shall be a monthly amount equal to the sum of the following:

- (1) \$4.00 per month multiplied by the total of the Member's years of Credited Past Service prior to June 1, 1957, plus
 - (2) 8% of total Contributions made on his behalf from June 1, 1957 to December 31, 1966, plus
 - (3) 6% of total Contributions made on his behalf from January 1, 1967 to December 31, 1967, plus
 - (4) 4% of total Contributions made on his behalf from January 1, 1968 to December 31, 1970, plus
 - (5) 3.5% of total Contributions made on his behalf from January 1, 1971 through December 31, 1996, plus
 - (6) 4.5% of total Contributions made on his behalf from January 1, 1997 through December 31, 1999, plus
 - (7) 3.0% of total Contributions made on his behalf from January 1, 2000 through December 31, 2000, plus
 - (8) 2.5% of total Contributions made on his behalf from January 1, 2001 to date of retirement.
- (c) The benefits provided by the Pension Plan for a Member eligible for normal retirement pursuant to Section 5.02 or a disability benefit under Section 9.01 and who retired on or after January 1, 2000 and before January 1, 2001 shall be a monthly amount equal to the sum of the following:
- (1) \$4.00 per month multiplied by the total of the Member's years of Credited Past Service prior to June 1, 1957, plus
 - (2) 8% of total Contributions made on his behalf from June 1, 1957 to December 31, 1966, plus
 - (3) 6% of total Contributions made on his behalf from January 1, 1967 to December 31, 1967, plus
 - (4) 4% of total Contributions made on his behalf from January 1, 1968 to December 31, 1970, plus

- (5) 3.5% of total Contributions made on his behalf from January 1, 1971 through December 31, 1996, plus
 - (6) 4.5% of total Contributions made on his behalf from January 1, 1997 through December 31, 1999, plus
 - (7) 2.5% of total Contributions made on his behalf from January 1, 2000 to date of retirement.
- (d) The benefits provided by the Pension Plan for a Member eligible for normal retirement pursuant to Section 5.02 or a disability benefit under Section 9.01 and who retired on or after September 1, 1998 and before January 1, 2000 shall be a monthly amount equal to the sum of the following:
- (1) \$4.00 per month multiplied by the total of the Member's years of Credited Past Service prior to June 1, 1957, plus
 - (2) 8% of total Contributions made on his behalf from June 1, 1957 to December 31, 1966, plus
 - (3) 6% of total Contributions made on his behalf from January 1, 1967 to December 31, 1967, plus
 - (4) 4% of total Contributions made on his behalf from January 1, 1968 to December 31, 1970, plus
 - (5) 3.5% of total Contributions made on his behalf from January 1, 1971 through December 31, 1996, plus
 - (6) 4.5% of total Contributions made on his behalf from January 1, 1997 through December 31, 1998, plus
 - (8) 2.5% of total Contributions made on his behalf from January 1, 1999 to date of retirement.
- (e) The benefits provided by the Pension Plan for a Member eligible for normal retirement pursuant to Section 5.02 or a disability benefit under Section 9.01 and who retired on or after January 1, 1998 and before September 1, 1998 shall be a monthly amount equal to the sum of the following:
- (1) \$4.00 per month multiplied by the total of the Member's years of Credited Past Service prior to June 1, 1957, plus

- (2) 8% of total Contributions made on his behalf from June 1, 1957 to December 31, 1966, plus
 - (3) 6% of total Contributions made on his behalf from January 1, 1967 to December 31, 1967, plus
 - (4) 4% of total Contributions made on his behalf from January 1, 1968 to December 31, 1970, plus
 - (5) 3.0% of total Contributions made on his behalf from January 1, 1971 through December 31, 1994, plus
 - (6) 3.5% of total Contributions made on his behalf from January 1, 1995 through December 31, 1996, plus
 - (7) 4.5% of total Contributions made on his behalf from January 1, 1997 through December 31, 1997, plus
 - (8) 2.5% of total Contributions made on his behalf from January 1, 1998 to date of retirement.
- (f) The benefits provided by the Pension Plan for a Member eligible for normal retirement pursuant to Section 5.02 or a disability benefit under Section 9.01 and who retired on or after January 1, 1997 and before January 1, 1998 shall be a monthly amount equal to the sum of the following:
- (1) \$4.00 per month multiplied by the total of the Member's years of Credited Past Service prior to June 1, 1957, plus
 - (2) 8% of total Contributions made on his behalf from June 1, 1957 to December 31, 1966, plus
 - (3) 6% of total Contributions made on his behalf from January 1, 1967 to December 31, 1967, plus
 - (4) 4% of total Contributions made on his behalf from January 1, 1968 to December 31, 1970, plus
 - (5) 3.0% of total Contributions made on his behalf from January 1, 1971 through December 31, 1994, plus
 - (6) 3.5% of total Contributions made on his behalf from January 1, 1995 through December 31, 1996, plus

- (7) 2.5% of total Contributions made on his behalf from January 1, 1997 to date of retirement.
- (g) The benefits provided by the Pension Plan for a Member eligible for normal retirement pursuant to Section 5.02 or a disability benefit under Section 9.01 and who retired on or after January 1, 1996 and before January 1, 1997 shall be a monthly amount equal to the sum of the following:
- (1) \$4.00 per month multiplied by the total of the Member's years of Credited Past Service prior to June 1, 1957, plus
 - (2) 8% of total Contributions made on his behalf from June 1, 1957 to December 31, 1966, plus
 - (3) 6% of total Contributions made on his behalf from January 1, 1967 to December 31, 1967, plus
 - (4) 4% of total Contributions made on his behalf from January 1, 1968 to December 31, 1970, plus
 - (5) 3.0% of total Contributions made on his behalf from January 1, 1971 through December 31, 1994, plus
 - (6) 2.5% of total Contributions made on his behalf from January 1, 1995 to date of retirement.
- (h) The benefits provided by the Pension Plan for a Member eligible for normal retirement pursuant to Section 5.02 or a disability benefit under Section 9.01 and who retired on or after January 1, 1995 and before January 1, 1996 shall be a monthly amount equal to the sum of the following:
- (1) \$4.00 per month multiplied by the total of the Member's years of Credited Past Service prior to June 1, 1957, plus
 - (2) 8% of total Contributions made on his behalf from June 1, 1957 to December 31, 1966, plus
 - (3) 6% of total Contributions made on his behalf from January 1, 1967 to December 31, 1967, plus
 - (4) 4% of total Contributions made on his behalf from January 1, 1968 to December 31, 1970, plus

- (5) 3.0% of total Contributions made on his behalf from January 1, 1971 through December 31, 1993, plus
 - (6) 2.5% of total Contributions made on his behalf from January 1, 1994 to date of retirement.
- (i) The benefits provided by the Pension Plan for a Member eligible for normal retirement pursuant to Section 5.02 or a disability benefit under Section 9.01 and who retired on or after January 1, 1994 and before January 1, 1995 shall be a monthly amount equal to the sum of the following:
- (1) \$4.00 per month multiplied by the total of the Member's years of Credited Past Service prior to June 1, 1957, plus
 - (2) 8% of total Contributions made on his behalf from June 1, 1957 to December 31, 1966, plus
 - (3) 6% of total Contributions made on his behalf from January 1, 1967 to December 31, 1967, plus
 - (4) 4% of total Contributions made on his behalf from January 1, 1968 to December 31, 1970, plus
 - (5) 3.0% of total Contributions made on his behalf from January 1, 1971 through December 31, 1992, plus
 - (6) 2.5% of total Contributions made on his behalf from January 1, 1993 to date of retirement.
- (j) The benefits provided by the Pension Plan for members retired prior to January 1, 1994 shall be in accordance with the terms of the Pension Plan in effect at retirement date as amended.
- (k) The maximum monthly pension payable under this Section for Members who retire on or after January 1, 2004 shall be \$3,333.33 per month, or the benefit accrued prior to January 1, 2004, if greater. The maximum monthly pension payable under this Section for Members who retired on or after January 1, 2003 shall be \$5,000 per month. There shall be no maximum monthly pension payable under this Section for Members who retire on or after January 1, 1990 and before January 1, 2003. The maximum monthly pension payable under this Section for Members who retired on or after January 1, 1987 and before

January 1, 1990 shall be \$1,400 per month. The maximum monthly pension payable under this Section for Members who retired on or after January 1, 1985 and through December 31, 1986 shall be \$1,000 per month. The maximum monthly pension payable under this Section for Members who retired on or after January 1, 1984 and through December 31, 1984 shall be \$800 per month. The maximum monthly pension payable under this Section for Members who retired on or after January 1, 1980 and through December 31, 1983 shall be \$700 per month. The maximum monthly pension for Members who retired on or after January 1, 1978 and through December 31, 1979 shall be \$600. The maximum monthly benefit for Members who retired prior to January 1, 1978 shall be \$500.

Section 6.02 - Early Retirement

- (a) The Early Retirement Benefit of a Member eligible for Early Retirement pursuant to Section 5.03 who applies on or after January 1, 2000 shall be equal to:
 - (1) if the Member retires on or after the first day of the month coinciding with or next following the earlier of (i) his attainment of age sixty (60) and completion of twenty (20) years of Credited Service or (ii) his attainment of age sixty-two (62), the benefit computed in Section 6.01;
 - (2) if the Member has less than 20 years of Credited Service and benefits begin before the first day of the month coinciding with or next following his attainment of age sixty-two (62), the benefit computed in Section 6.01 reduced by one-quarter (1/4) of one percent (1%) multiplied by the number of months between the date of his retirement and age sixty-two (62); and
 - (3) if the Member has 20 or more years of Credited Service and benefits begin before the first day of the month coinciding with or next following his attainment of age sixty (60), the benefit computed in Section 6.01 reduced by one-quarter (1/4) of one percent (1%) multiplied by the number of months between the date of his retirement and age sixty (60).
- (b) The Early Retirement Benefit of a Member eligible for Early Retirement pursuant to Section 5.03 who applied on or after January 1, 1994 but before January 1, 2000, shall be equal to:
 - (1) if the Member retires on or after the first day of the month coinciding with or next following the earlier of (i) his attainment of age sixty (60) and completion of twenty (20) years of

- Credited Service or (ii) his attainment of age sixty-two (62), the benefit computed in Section 6.01;
- (2) if the Member has less than 20 years of Credited Service and benefits begin before the first day of the month coinciding with or next following his attainment of age sixty-two (62), the benefit computed in Section 6.01 reduced by one-half (1/2) of one percent (1%) multiplied by the number of months between the date of his retirement and age sixty-two (62); and
 - (3) if the Member has 20 or more years of Credited Service and benefits begin before the first day of the month coinciding with or next following his attainment of age sixty (60), the benefit computed in Section 6.01 reduced by one-half (1/2) of one percent (1%) multiplied by the number of months between the date of his retirement and age sixty (60).
- (c) The Early Retirement Benefit of any Member eligible for Early Retirement who applied on or after January 1, 1978 but before January 1, 1994 shall be equal to:
- (1) if the Member retires on or after the first day of the month coinciding with or next following his attainment of age sixty-two (62), the benefit computed in Section 6.01; and
 - (2) if benefits begin before the first day of the month coinciding with or next following his attainment of age sixty-two (62), the benefit computed in Section 6.01 reduced by one-half (1/2) of one percent (1%) multiplied by the number of months between the date of his retirement and age sixty-two (62).
- (d) The Early Retirement Benefit of any Member eligible for Early Retirement who applied prior to 1978, shall be equal to the benefit computed in Section 6.01, reduced by one-half (1/2) of one percent (1%) multiplied by the number of months between the date of his retirement and age sixty-five (65).
- (e) The maximum monthly pension payable under this Section for Members who retire on or after January 1, 2004 shall be \$3,333.33 per month. The maximum monthly pension payable under this Section for Members who retired on or after January 1, 2003 shall be \$5,000 per month

Section 6.03 - Joint and Survivor Option

- (a) An Employee may elect to have the pension to which he is entitled on normal, early, or disability retirement or his deferred vested pension

converted in accordance with the appropriate factor in Table C or D of Appendix A, as applicable, to a pension under a Joint and Survivor Option. Said option shall provide for continuance after the Employee's death to his spouse of either 100% or 50%, at the Employee's election, of the adjusted pension the Employee would have received, pursuant to the Joint and Survivor Option, if he were alive.

- (b) If, on the Employee's Benefit Commencement Date, he is legally married and he has not elected in writing another form of payment, his pension will be converted and paid as the Joint and Survivor Option with 50% of his adjusted pension continued to his spouse after his death. An election other than the 50% or 100% Joint and Survivor Option made by an Employee who is legally married on his Benefit Commencement Date shall not be effective unless it is approved in writing by the Employee's spouse and such approval acknowledges the effect of said election. In this event, the signature of the spouse must be duly notarized. The written consent of the spouse shall not be required if it is established to the satisfaction of the Board of Trustees that it cannot be obtained because there is no spouse, because the spouse cannot be located, or because of any other circumstances as are specified by the Secretary of the Treasury by regulation.
- (c) An Employee's election is subject to the following conditions:
 - (1) The election must be made on forms furnished by the Board of Trustees, completed in all respects and delivered to the Board of Trustees in the manner prescribed by the Board of Trustees;
 - (2) The election may be made (and revoked, and once revoked, another election made) at any time and any number of times during (and only during) the ninety (90) day period ending on the Employee's Benefit Commencement Date.
 - (3) If the Employee or his spouse dies before the Employee's Benefit Commencement Date, the election is null and void.
 - (4) If the spouse of the Employee dies on or after the Employee's Benefit Commencement Date, the election shall continue to be in full force and the pension payment payable to the Employee under the Joint and Survivor Option elected shall continue for the life of the Employee; provided, however, effective January 1, 1994, if an Employee applies for pension benefits on or after January 1, 1994 and elects a Joint and Survivor Option and the spouse of the Employee dies on or after the Employee's Benefit

Commencement Date, the benefit continuing to the Employee commencing on the first of the month coincident with or next following the death of the spouse shall revert to the amount the Employee would have been receiving had he not elected a Joint and Survivor Option;

- (5) A Joint and Survivor Option in effect at the date of a Member's return to employment following retirement shall continue in effect during the period of the Member's return to employment and upon resumption of pension payments subject to the provisions of this Section.
- (d) The maximum monthly pension payable under this Section for Members who retire on or after January 1, 2004 shall be \$3,333.33 per month. The maximum monthly pension payable under this Section for Members who retired on or after January 1, 2003 shall be \$5,000 per month.

Section 6.04 - Pension Increases

- (a) Effective January 1, 1981, each monthly pension in payment status on that date will be increased by an amount equal to (i) \$2.00 multiplied by (ii) the years of Credited Service of the member to the earlier of the member's date of retirement or January 1, 1981. All monthly pensions commencing during 1981 will be adjusted in the same manner.
- (b) Effective January 1, 1982, all monthly pensions commencing during 1982 will be increased by an amount equal to (i) \$2.00 multiplied by (ii) years of Credited Service of the member to the earlier of the member's date of retirement or January 1, 1981.
- (c) Effective January 1, 1990, each monthly pension in payment status on that date and in December 1989 shall be increased by four percent (4%).
- (d) The increases under subsections (a), (b) and (c) shall be calculated before the application of the adjustment for the Joint and Survivor Option and shall apply for the purpose of determining the amount to be paid to the surviving spouse under the Joint and Survivor Option.
- (e) Effective January 1, 1998, each monthly pension in payment status on that date shall be increased by four percent (4%), but not less than \$25.00 after the adjustment for the Joint and Survivor Option. Said

increase shall apply for the purpose of determining the amount to be paid to the surviving spouse under the Joint and Survivor Option.

- (f) Each Member in pay status in December 1985 shall receive a one-time payment equal to one-half of the monthly amount received by the Member for December 1985.
- (g) Each Member in pay status in December 1986 shall receive a one-time payment equal to the monthly amount received by the Member for December 1986.
- (h) Each Member in pay status in December 1987 shall receive a one-time payment equal to the monthly amount received by the Member for December 1987.
- (i) Each Member in pay status in December 1988 shall receive a one-time payment equal to the monthly amount received by the Member for December 1988.
- (j) Each Member in pay status in December 1989 shall receive a one-time payment equal to the monthly amount received by the Member for December 1989.
- (k) Each Member in pay status in December 1990 shall receive a one-time payment equal to the monthly amount received by the Member for December 1990.
- (l) Each Member in pay status in December 1991 shall receive a one-time payment equal to one-half of the monthly amount received by the Member for December 1991.
- (m) Each Member in pay status in December 1992 shall receive a one-time payment equal to the monthly amount received by the Member for December 1992.
- (n) Each Member in pay status in December 1993 shall receive a one-time payment equal to the monthly amount received by the Member for December 1993.
- (o) Each Member in pay status in December 1994 shall receive a one-time payment equal to the monthly amount received by the Member for December 1994.

- (p) Each Member in pay status in December 1995 shall receive a one-time payment equal to the monthly amount received by the Member for December 1995.
- (q) Each Member in pay status in December 1996 shall receive a one-time payment equal to the monthly amount received by the Member for December 1996.
- (r) Each Member in pay status in July 1997 shall receive a one-time payment equal to one-half of the monthly amount received by the Member for July 1997.
- (s) Each Member in pay status in December 1997 shall receive a one-time payment equal to the monthly amount received by the Member for December 1997.
- (t) Each Member in pay status in September 1998 shall receive a one-time payment equal to one-half of the monthly amount received by the Member for September 1998.
- (u) Each Member in pay status in December 1998 shall receive a one-time payment equal to the monthly amount received by the Member for December 1998.
- (v) Each Member in pay status in July 1999 shall receive a one-time payment equal to one-half of the monthly amount received by the Member for July 1999.
- (w) Each Member in pay status in December 1999 shall receive a one-time payment equal to the monthly amount received by the Member for December 1999.
- (x) Each Member in pay status in July 2000 shall receive a one-time payment equal to one-half of the monthly amount received by the Member for July 2000.
- (y) Each Member in pay status in December 2000 shall receive a one-time payment equal to one-half of the monthly amount received by the Member for December 2000.
- (z) Each Member in pay status in December 2001 shall receive a one-time payment equal to one-half of the monthly amount received by the Member for December 2001.

Section 6.05 - Military Service

- (a) Notwithstanding any contrary provisions, contributions, benefits and service credit with respect to qualified military service shall be provided in accordance with Section 414(u) of the Internal Revenue Code.
- (b) For the purpose of determining the Credited Service and retirement benefits of Participants with reemployment rights under the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) with respect to this Plan, the Participants shall be credited with hours of work and Contributions under the Plan for the period of qualified military service at hourly rates provided for in the collective bargaining agreements between the Employers and the Union or in other written agreements with the Trustees as they may be negotiated from time to time. For this purpose, the hours and Contributions due for an individual Participant for his period of qualified military service shall be determined by the number of hours for which Contributions were made on the Participant's behalf for the 12 consecutive months preceding the period of his qualified military service and the average hourly rate for said Contributions, whether or not the Participant was in Covered Employment continuously during such 12-month period. However, if said Participant's Covered Employment initially commenced within the 12 consecutive month period preceding the period of his qualified military service, the hours and Contributions due for the period of his qualified military service shall be determined by an estimated number of hours based upon the number of hours for which Contributions were made on the Participant's behalf for the period of his Covered employment preceding the period of his qualified military service, but said estimated number of hours shall in no event exceed the average number of hours for which Contributions were made for all Participants in Covered Employment during the period of the Participant's qualified military service.
- (c) No Employer shall be liable for making the Contributions required to be made to the Fund for a Participant for his period of qualified military service protected by USERRA. Instead, the cost of said Contributions shall be borne by the Fund, and for this purpose, shall be treated as an administrative and operating expense of the Fund as a whole.

ARTICLE VII
VESTED INTEREST ON TERMINATION OF
EMPLOYMENT

Section 7.01 - Termination 2000 or Later

- (a) An Employee who incurs a Termination of Employment on and after January 1 2000 shall be eligible for a Deferred Vested Pension under this Section if he has completed five (5) or more years of Credited Service.
- (b) If such Participant has twenty (20) or more years of Credited Service, a Deferred Vested Pension under this Section shall be payable to the Participant on the first day of the calendar month coinciding with or following his sixtieth (60th) birthday and equal to his accrued pension benefit calculated in accordance with this Article as determined by the Contributions made on his behalf and his Credited Service to the date of Termination of Employment
- (c) A Participant with twenty (20) or more years of Credited Service may apply to have payment of his Deferred Vested Pension under subsection (b) begin at any time on or after the first day of the month coinciding with or next following his fifty-fifth (55th) birthday, reduced by one-quarter (1/4) of one percent (1%) multiplied by the number of months between the date his payments begin and the first day of the month coinciding with or next following his sixtieth (60th) birthday.
- (d) If such Participant has less than twenty (20) years of Credited Service, a Deferred Vested Pension under this Section shall be payable to the Participant on the first day of the calendar month coinciding with or following his sixty-fifth (65th) birthday and equal to his accrued pension benefit calculated in accordance with this Article as determined by the Contributions made on his behalf and his Credited Service to the date of Termination of Employment.
- (e) A Participant with ten (10) or more, but less than twenty (20), years of Credited Service at his Termination of Employment may apply to have payment of his Deferred Vested Pension under subsection (d) begin at any time on or after the first day of the month coinciding with or next following his fifty-fifth (55th) birthday, reduced by one-quarter (1/4) of one percent (1%) multiplied by the number of months between the date his payments begin and the first day of the month coinciding with or next following his sixty-second (62nd) birthday.

- (f) A Participant with less than ten (10) years of Credited Service at his Termination of Employment may apply to have payment of his Deferred Vested Pension under subsection (d) begin at any time on or after the first day of the month coinciding with or next following his fifty-fifth (55th) birthday, reduced by one-quarter (1/4) of one percent (1%) multiplied by the number of months between the date his payments begin and the first day of the month coinciding with or next following his sixty-fifth (65th) birthday.

Section 7.02 - Termination 1997 Through 1999

- (a) An Employee who incurs a Termination of Employment on and after January 1 1997 and before January 1, 2000 shall be eligible for a Deferred Vested Pension under this Section if he has completed five (5) or more years of Credited Service.
- (b) If such Participant has twenty (20) or more years of Credited Service, a Deferred Vested Pension under this Section shall be payable to the Participant on the first day of the calendar month coinciding with or following his sixtieth (60th) birthday and equal to his accrued pension benefit calculated in accordance with this Article as determined by the Contributions made on his behalf and his Credited Service to the date of Termination of Employment
- (c) A Participant with twenty (20) or more years of Credited Service may apply to have payment of his Deferred Vested Pension under subsection (b) begin at any time on or after the first day of the month coinciding with or next following his fifty-fifth (55th) birthday, reduced by (i) if payment begins before January 1, 2000, one-half (1/2) of one percent (1%) multiplied by the number of months between the date his payments begin and the first day of the month coinciding with or next following his sixtieth (60th) birthday and (ii) if payment begins on or after January 1, 2000, reduced by one-quarter (1/4) of one percent (1%) multiplied by the number of months between the date his payments begin and the first day of the month coinciding with or next following his sixtieth (60th) birthday.
- (d) If such Participant has less than twenty (20) years of Credited Service, a Deferred Vested Pension under this Section shall be payable to the Participant on the first day of the calendar month coinciding with or following his sixty-fifth (65th) birthday and equal to his accrued pension benefit calculated in accordance with this Article as determined by the Contributions made on his behalf and his Credited Service to the date of Termination of Employment.

- (e) A Participant with ten (10) or more, but less than twenty (20), years of Credited Service at his Termination of Employment may apply to have payment of his Deferred Vested Pension under subsection (d) begin at any time on or after the first day of the month coinciding with or next following his fifty-fifth (55th) birthday, reduced by (i) if payment begins before January 1, 2000, one-half (1/2) of one percent (1%) multiplied by the number of months between the date his payments begin and the first day of the month coinciding with or next following his sixty-second (62nd) birthday and (ii) if payment begins on or after January 1, 2000, reduced by one-quarter (1/4) of one percent (1%) multiplied by the number of months between the date his payments begin and the first day of the month coinciding with or next following his sixty-second (62nd) birthday.
- (f) A Participant with less than ten (10) years of Credited Service at his Termination of Employment may apply to have payment of his Deferred Vested Pension under subsection (d) begin at any time on or after the first day of the month coinciding with or next following his fifty-fifth (55th) birthday, reduced by (i) if payment begins before January 1, 2000, one-half (1/2) of one percent (1%) multiplied by the number of months between the date his payments begin and the first day of the month coinciding with or next following his sixty-fifth (65th) birthday and (ii) if payment begins on or after January 1, 2000, reduced by one-quarter (1/4) of one percent (1%) multiplied by the number of months between the date his payments begin and the first day of the month coinciding with or next following his sixty-fifth (65th) birthday.

Section 7.03 - Termination From 1994 Through 1996

- (a) An Employee who incurred a Termination of Employment on and after January 1 1994 and before January 1, 1997 shall be eligible for a Deferred Vested Pension under this Section if he had completed five (5) or more years of Credited Service.
- (b) If such Participant had twenty (20) or more years of Credited Service, a Deferred Vested Pension under this Section shall be payable to the Participant on the first day of the calendar month following his sixtieth (60th) birthday and equal to his accrued pension benefit calculated in accordance with this Article as determined by the Contributions made on his behalf and his Credited Service to the date of Termination of Employment
- (c) A Participant with twenty (20) or more years of Credited Service may apply to have payment of his Deferred Vested Pension begin at any

time on or after the first day of the month coinciding with or next following his fifty-fifth (55th) birthday, reduced by (i) if payment begins before January 1, 2000, one-half (1/2) of one percent (1%) multiplied by the number of months between the date his payments begin and the first day of the month coinciding with or next following his sixtieth (60th) birthday and (ii) if payment begins on or after January 1, 2000, reduced by one-quarter (1/4) of one percent (1%) multiplied by the number of months between the date his payments begin and the first day of the month coinciding with or next following his sixtieth (60th) birthday.

- (d) If such Participant had less than twenty (20) years of Credited Service, a Deferred Vested Pension under this Section shall payable to the Participant on the first day of the calendar month following his sixty-fifth (65th) birthday and equal to his accrued pension benefit calculated in accordance with this Article as determined by the Contributions made on his behalf and his Credited Service to the date of Termination of Employment multiplied by the following vesting percentage:
 - 1) For employees in employment with an Employer covered by a collective bargaining agreement, the vesting percentage shall be as determined by the following table:

<u>Completed Years of Credited Service</u>	<u>Vesting Percentage</u>
5 through 9	50%
10 or more	100%

- (2) For employees not in employment with an Employer covered by a collective bargaining agreement, the vesting percentage shall be 100 percent.
- (e) A Participant with ten (10) or more, but less than twenty (20), years of Credited Service at his Termination of Employment may apply to have payment of his Deferred Vested Pension under subsection (d) begin at any time on or after the first day of the month coinciding with or next following his fifty-fifth (55th) birthday, reduced by (i) if payment begins before January 1, 2000, one-half (1/2) of one percent (1%) multiplied by the number of months between the date his payments begin and the first day of the month coinciding with or next following his sixty-second (62nd) birthday and (ii) if payment begins on or after January 1, 2000, reduced by one-quarter (1/4) of one percent (1%) multiplied by the number of months between the date his payments begin and the first day of the month coinciding with or next following his sixty-second (62nd) birthday.
- (f) A Participant with less than ten (10) years of Credited Service at his Termination of Employment may apply to have payment of his Deferred Vested Pension under subsection (d) begin at any time on or after the first day of the month coinciding with or next following his fifty-fifth (55th) birthday, reduced by (i) if payment begins before January 1, 2000, one-half (1/2) of one percent (1%) multiplied by the number of months between the date his payments begin and the first day of the month coinciding with or next following his sixty-fifth (65th) birthday and (ii) if payment begins on or after January 1, 2000, reduced by one-quarter (1/4) of one percent (1%) multiplied by the number of months between the date his payments begin and the first day of the month coinciding with or next following his sixty-fifth (65th) birthday.

Section 7.04 - Termination From 1990 Through 1993

- (a) An Employee who incurred a Termination of Employment on and after January 1 1990 and before January 1, 1994 shall be eligible for a Deferred Vested Pension under this Section if he had completed five (5) or more years of Credited Service.

(b) A Deferred Vested Pension under this Section shall be payable to the Participant on the first day of the calendar month following his sixty-fifth (65th) birthday and equal to his accrued pension benefit calculated in accordance with this Article as determined by the Contributions made on his behalf and his Credited Service to the date of Termination of Employment multiplied by the following vesting percentage:

(1) For employees in employment with an Employer covered by a collective bargaining agreement, the vesting percentage shall be as determined by the following table:

<u>Completed Years of Credited Service</u>	<u>Vesting Percentage</u>
5 through 9	50%
10 or more	100%

(2) For employees not in employment with an Employer covered by a collective bargaining agreement, the vesting percentage shall be 100 percent.

(c) If such Participant had ten (10) or more years of Credited Service at his Termination of Employment, he may apply to have payment of his Deferred Vested Pension under subsection (b) begin at any time on or after the first day of the month coinciding with or next following his fifty-fifth (55th) birthday, reduced by (i) if payment begins before January 1, 2000, one-half (1/2) of one percent (1%) multiplied by the number of months between the date his payments begin and the first day of the month coinciding with or next following his sixty-second (62nd) birthday and (ii) if payment begins on or after January 1, 2000, reduced by one-quarter (1/4) of one percent (1%) multiplied by the number of months between the date his payments begin and the first day of the month coinciding with or next following his sixty-second (62nd) birthday.

(d) If such Participant had less than ten (10) years of Credited Service at his Termination of Employment, he may apply to have payment of his Deferred Vested Pension under subsection (b) begin at any time on or after the first day of the month coinciding with or next following his fifty-fifth (55th) birthday, reduced by (i) if payment begins before January 1, 2000, one-half (1/2) of one percent (1%) multiplied by the number of months between the date his payments begin and the first day of the month coinciding with or next following his sixty-fifth (65th) birthday and (ii) if payment begins on or after January 1, 2000,

reduced by one-quarter (1/4) of one percent (1%) multiplied by the number of months between the date his payments begin and the first day of the month coinciding with or next following his sixty-fifth (65th) birthday.

Section 7.05 - Termination In 1989

- (a) An Employee who incurred a Termination of Employment in 1989 shall be eligible for a Deferred Vested Pension under this Section if he had completed five (5) or more years of Credited Service.
- (b) A Deferred Vested Pension under this Section shall be payable to the Participant on the first day of the calendar month following his sixty-fifth (65th) birthday and equal to his accrued pension benefit calculated in accordance with this Article as determined by the Contributions made on his behalf and his Credited Service to the date of Termination of Employment multiplied by the following vesting percentage:
 - (1) For employees in employment with an Employer covered by a collective bargaining agreement, the vesting percentage shall be as determined by the following table:

<u>Completed Years of Credited Service</u>	<u>Vesting Percentage</u>
5 through 9	50%
10 or more	100%

- (2) For employees not in employment with an Employer covered by a collective bargaining agreement, the vesting percentage shall be 100 percent.
- (c) If such Participant had fifteen (15) or more years of Credited Service at his Termination of Employment, he may apply to have payment of his Deferred Vested Pension under subsection (b) begin at any time on or after the first day of the month coinciding with or next following his fifty-fifth (55th) birthday, reduced by (i) if payment begins before January 1, 2000, one-half (1/2) of one percent (1%) multiplied by the number of months between the date his payments begin and the first day of the month coinciding with or next following his sixty-second (62nd) birthday and (ii) if payment begins on or after January 1, 2000, reduced by one-quarter (1/4) of one percent (1%) multiplied by the number of months between the date his payments begin and the first day of the month coinciding with or next following his sixty-second (62nd) birthday.

- (d) If such Participant had less than fifteen (15) years of Credited Service at his Termination of Employment, he may apply to have payment of his Deferred Vested Pension under subsection (b) begin at any time on or after the first day of the month coinciding with or next following his fifty-fifth (55th) birthday, reduced by (i) if payment begins before January 1, 2000, one-half (1/2) of one percent (1%) multiplied by the number of months between the date his payments begin and the first day of the month coinciding with or next following his sixty-fifth (65th) birthday and (ii) if payment begins on or after January 1, 2000, reduced by one-quarter (1/4) of one percent (1%) multiplied by the number of months between the date his payments begin and the first day of the month coinciding with or next following his sixty-fifth (65th) birthday.

Section 7.06 - Termination From 1976 Through 1988

- (a) An Employee who incurred a Termination of Employment on and after January 1 1976 and before January 1, 1989 shall be eligible for a Deferred Vested Pension under this Section if he had completed five (5) or more years of Credited Service.
- (b) A Deferred Vested Pension under this Section shall be payable to the Participant on the first day of the calendar month following his sixty-fifth (65th) birthday and equal to his accrued pension benefit calculated in accordance with this Article as determined by the contributions made on his behalf and his Credited Service to the date of Termination of Employment multiplied by the vesting percentage as determined by the following table:

<u>Completed Years of Credited Service</u>	<u>Vesting Percentage</u>
5 through 9	50%
10	75%
11	80%
12	85%
13	90%
14	95%
15 or more	100%

- (c) If such Participant had fifteen (15) or more years of Credited Service at his Termination of Employment, he may apply to have payment of his Deferred Vested Pension under subsection (b) begin at any time on

or after the first day of the month coinciding with or next following his fifty-fifth (55th) birthday, reduced by (i) if payment begins before January 1, 2000, one-half (1/2) of one percent (1%) multiplied by the number of months between the date his payments begin and the first day of the month coinciding with or next following his sixty-second (62nd) birthday and (ii) if payment begins on or after January 1, 2000, reduced by one-quarter (1/4) of one percent (1%) multiplied by the number of months between the date his payments begin and the first day of the month coinciding with or next following his sixty-second (62nd) birthday.

- (d) If such Participant had less than fifteen (15) years of Credited Service at his Termination of Employment, he may apply to have payment of his Deferred Vested Pension under subsection (b) begin at any time on or after the first day of the month coinciding with or next following his fifty-fifth (55th) birthday, reduced by (i) if payment begins before January 1, 2000, one-half (1/2) of one percent (1%) multiplied by the number of months between the date his payments begin and the first day of the month coinciding with or next following his sixty-fifth (65th) birthday and (ii) if payment begins on or after January 1, 2000, reduced by one-quarter (1/4) of one percent (1%) multiplied by the number of months between the date his payments begin and the first day of the month coinciding with or next following his sixty-fifth (65th) birthday.

Section 7.07 - Termination From October 1971 Through 1975

- (a) An Employee who incurred a Termination of Employment on and after October 1, 1971 and before January 1, 1976 shall be eligible for a Deferred Vested Pension under this Section if he had completed five (5) or more years of Credited Service.
- (b) A Deferred Vested Pension under this Section shall be payable to the Participant on the first day of the calendar month following his sixty-fifth (65th) birthday and equal to his accrued pension benefit calculated in accordance with this Article as determined by the Contributions made on his behalf and his Credited Service to the date of Termination of Employment multiplied by the vesting percentage as determined by the following table:

<u>Completed Years of Credited Service</u>	<u>Vesting Percentage</u>
5 through 9	50%
10 through 14	75%

15 or more

100%

- (c) Such Participant may apply to have payment of his Deferred Vested Pension under subsection (b) begin at any time on or after the first day of the month coinciding with or next following his fifty-fifth (55th) birthday, reduced by (i) if payment begins before January 1, 2000, one-half (1/2) of one percent (1%) multiplied by the number of months between the date his payments begin and the first day of the month coinciding with or next following his sixty-fifth (65th) birthday and (ii) if payment begins on or after January 1, 2000, reduced by one-quarter (1/4) of one percent (1%) multiplied by the number of months between the date his payments begin and the first day of the month coinciding with or next following his sixty-fifth (65th) birthday.

Section 7.08 - Termination From 1961 Through September 1971

- (a) An Employee who incurred a Termination of Employment on and after January, 1 1961 and before October 1, 1971 shall be eligible for a Deferred Vested Pension under this Section if he had completed fifteen (15) or more years of Credited Service (in accordance with the terms of the Pension Plan then in effect) and attained at least age forty-five (45).
- (b) A Deferred Vested Pension under this Section shall be payable to the Participant on the first day of the calendar month following his sixty-fifth (65th) birthday and equal to his accrued pension benefit calculated in accordance with this Article as determined by the Contributions made on his behalf and his Credited Service to the date of Termination of Employment
- (c) Such Participant may apply to have payment of his Deferred Vested Pension under subsection (b) begin at any time on or after the first day of the month coinciding with or next following his fifty-fifth (55th) birthday, reduced by (i) if payment begins before January 1, 2000, one-half (1/2) of one percent (1%) multiplied by the number of months between the date his payments begin and the first day of the month coinciding with or next following his sixty-fifth (65th) birthday and (ii) if payment begins on or after January 1, 2000, reduced by one-quarter (1/4) of one percent (1%) multiplied by the number of months between the date his payments begin and the first day of the month coinciding with or next following his sixty-fifth (65th) birthday.

Section 7.09 - Vesting Upon Termination or Partial Termination

Upon termination or partial termination of the Pension Plan, the rights of each Employee shall be fully vested and non-forfeitable subject to the provisions of Article XIV and the sufficiency of Fund Assets.

Section 7.10 - Accrued Pension Benefit

- (a) For an Employee who incurred a Termination of Employment and retired prior to January 1, 1984, his accrued pension benefit shall be determined in accordance with the benefit provisions of the Pension Plan in effect on the date of his Termination of Employment.
- (b) For an Employee who incurred a Termination of Employment prior to 1987 and retired on or after January 1, 1984, but prior to 1987, his accrued pension benefit shall be the sum of:
 - (1) four dollars (\$4.00) per month multiplied by the total of the Member's years of Credited Past Service prior to June 1, 1957, plus
 - (2) 8% of total Contributions made on his behalf from June 1, 1957 to December 31, 1966, plus
 - (3) 6% of total Contributions made on his behalf from January 1, 1967 to December 31, 1967, plus
 - (4) 4% of total Contributions made on his behalf from January 1, 1968 to December 31, 1970, plus
 - (5) 2.1% of total Contributions made on his behalf from January 1, 1971 to December 31, 1982, plus
 - (6) 2.4% of total Contributions made on his behalf from January 1, 1983 to date of Termination of Employment.
- (c) For an Employee who incurred a Termination of Employment prior to January 1, 1989 and retired on or after January 1, 1987, but prior to 1990, his accrued pension benefit shall be the sum of:
 - (1) \$4.00 per month multiplied by the total of the Member's years of Credited Past Service prior to June 1, 1957, plus

- (2) 8% of total Contributions made on his behalf from June 1, 1957 to December 31, 1966, plus
 - (3) 6% of total Contributions made on his behalf from January 1, 1967 to December 31, 1967, plus
 - (4) 4% of total Contributions made on his behalf from January 1, 1968 to December 31, 1970, plus
 - (5) 2.4% of total Contributions made on his behalf from January 1, 1971 to date of Termination of Employment.
- (d) For an Employee who incurred a Termination of Employment on or after January 1, 1989 and retired before January 1, 1990, his accrued pension benefit shall be the sum of
- (1) \$4.00 per month multiplied by the total of the Member's years of Credited Past Service prior to June 1, 1957, plus
 - (2) 8% of total Contributions made on his behalf from June 1, 1957 to December 31, 1966, plus
 - (3) 6% of total Contributions made on his behalf from January 1, 1967 to December 31, 1967, plus
 - (4) 4% of total Contributions made on his behalf from January 1, 1968 to December 31, 1970, plus
 - (5) 2.5% of total Contributions made on his behalf from January 1, 1971 to December 31, 1987, plus
 - (6) 2.4% of total Contributions made on his behalf from January 1, 1988 to date of Termination of Employment.
- (e) For an Employee who incurred a Termination of Employment on or after January 1, 1990, and retired before January 1, 1992, his accrued pension benefit shall be the sum of:
- (1) \$4.00 per month multiplied by the total of the Member's years of Credited Past Service prior to June 1, 1957, plus
 - (2) 8% of total Contributions made on his behalf from June 1, 1957 to December 31, 1966, plus

- (3) 6% of total Contributions made on his behalf from January 1, 1967 to December 31, 1967, plus
 - (4) 4% of total Contributions made on his behalf from January 1, 1968 to December 31, 1970, plus
 - (5) 3.0% of total Contributions made on his behalf from January 1, 1971 through December 31, 1989, plus
 - (6) 2.5% of total Contributions made on his behalf from January 1, 1990 to date of Termination of Employment.
- (f) For an Employee who incurred a Termination of Employment on or after January 1, 1992, and retired before January 1, 1993, his accrued pension benefit shall be the sum of:
- (1) \$4.00 per month multiplied by the total of the Member's years of Credited Past Service prior to June 1, 1957, plus
 - (2) 8% of total Contributions made on his behalf from June 1, 1957 to December 31, 1966, plus
 - (3) 6% of total Contributions made on his behalf from January 1, 1967 to December 31, 1967, plus
 - (4) 4% of total Contributions made on his behalf from January 1, 1968 to December 31, 1970, plus
 - (5) 3.0% of total Contributions made on his behalf from January 1, 1971 through December 31, 1990, plus
 - (6) 2.5% of total Contributions made on his behalf from January 1, 1991 to date of Termination of Employment.
- (g) For an Employee who incurred a Termination of Employment on or after January 1, 1993, and retired before January 1, 1994, his accrued pension benefit shall be the sum of:
- (1) \$4.00 per month multiplied by the total of the Member's years of Credited Past Service prior to June 1, 1957, plus
 - (2) 8% of total Contributions made on his behalf from June 1, 1957 to December 31, 1966, plus

- (3) 6% of total Contributions made on his behalf from January 1, 1967 to December 31, 1967, plus
 - (4) 4% of total Contributions made on his behalf from January 1, 1968 to December 31, 1970, plus
 - (5) 3.0% of total Contributions made on his behalf from January 1, 1971 through December 31, 1991, plus
 - (6) 2.5% of total Contributions made on his behalf from January 1, 1992 to date of Termination of Employment.
- (h) For an Employee who incurred a Termination of Employment on or after January 1, 1994 and retired before January 1, 1995, his accrued pension benefit shall be the sum of:
- (1) \$4.00 per month multiplied by the total of the Member's years of Credited Past Service prior to June 1, 1957, plus
 - (2) 8% of total Contributions made on his behalf from June 1, 1957 to December 31, 1966, plus
 - (3) 6% of total Contributions made on his behalf from January 1, 1967 to December 31, 1967, plus
 - (4) 4% of total Contributions made on his behalf from January 1, 1968 to December 31, 1970, plus
 - (5) 3.0% of total Contributions made on his behalf from January 1, 1971 through December 31, 1992, plus
 - (6) 2.5% of total Contributions made on his behalf from January 1, 1993 to date of Termination of Employment.
- (i) For an Employee who incurred a Termination of Employment on or after January 1, 1995 and retired before January 1, 1996, his accrued pension benefit shall be the sum of:
- (1) \$4.00 per month multiplied by the total of the Member's years of Credited Past Service prior to June 1, 1957, plus
 - (2) 8% of total Contributions made on his behalf from June 1, 1957 to December 31, 1966, plus

- (3) 6% of total Contributions made on his behalf from January 1, 1967 to December 31, 1967, plus
 - (4) 4% of total Contributions made on his behalf from January 1, 1968 to December 31, 1970, plus
 - (5) 3.0% of total Contributions made on his behalf from January 1, 1971 through December 31, 1993, plus
 - (6) 2.5% of total Contributions made on his behalf from January 1, 1994 to date of Termination of Employment.
- (j) For an Employee who incurred a Termination of Employment on or after January 1, 1996 and retired before January 1, 1997, his accrued pension benefit shall be the sum of:
- (1) \$4.00 per month multiplied by the total of the Member's years of Credited Past Service prior to June 1, 1957, plus
 - (2) 8% of total Contributions made on his behalf from June 1, 1957 to December 31, 1966, plus
 - (3) 6% of total Contributions made on his behalf from January 1, 1967 to December 31, 1967, plus
 - (4) 4% of total Contributions made on his behalf from January 1, 1968 to December 31, 1970, plus
 - (5) 3.0% of total Contributions made on his behalf from January 1, 1971 through December 31, 1994, plus
 - (6) 2.5% of total Contributions made on his behalf from January 1, 1995 to date of Termination of Employment.
- (k) For an Employee who incurred a Termination of Employment on or after January 1, 1997 and retired before January 1, 1998, his accrued pension benefit shall be the sum of:
- (1) \$4.00 per month multiplied by the total of the Member's years of Credited Past Service prior to June 1, 1957, plus
 - (2) 8% of total Contributions made on his behalf from June 1, 1957 to December 31, 1966, plus

- (3) 6% of total Contributions made on his behalf from January 1, 1967 to December 31, 1967, plus
 - (4) 4% of total Contributions made on his behalf from January 1, 1968 to December 31, 1970, plus
 - (5) 3.0% of total Contributions made on his behalf from January 1, 1971 through December 31, 1994, plus
 - (6) 3.5% of total Contributions made on his behalf from January 1, 1995 through December 31, 1996; plus
 - (7) 2.5% of total Contributions made on his behalf from January 1, 1997 to date of Termination of Employment.
- (l) For an Employee who incurred a Termination of Employment on or after January 1, 1998 and retired before September 1, 1998, his accrued pension benefit shall be the sum of:
- (1) \$4.00 per month multiplied by the total of the Member's years of Credited Past Service prior to June 1, 1957, plus
 - (2) 8% of total Contributions made on his behalf from June 1, 1957 to December 31, 1966, plus
 - (3) 6% of total Contributions made on his behalf from January 1, 1967 to December 31, 1967, plus
 - (4) 4% of total Contributions made on his behalf from January 1, 1968 to December 31, 1970, plus
 - (5) 3.0% of total Contributions made on his behalf from January 1, 1971 through December 31, 1994, plus
 - (6) 3.5% of total Contributions made on his behalf from January 1, 1995 through December 31, 1996; plus
 - (7) 4.5% of total Contributions made on his behalf from January 1, 1997 through December 31, 1997; plus
 - (8) 2.5% of total Contributions made on his behalf from January 1, 1998 to date of Termination of Employment.

- (m) For an Employee who incurred a Termination of Employment on or after September 1, 1998 and retired before January 1, 2000, his accrued pension benefit shall be the sum of:
- (1) \$4.00 per month multiplied by the total of the Member's years of Credited Past Service prior to June 1, 1957, plus
 - (2) 8% of total Contributions made on his behalf from June 1, 1957 to December 31, 1966, plus
 - (3) 6% of total Contributions made on his behalf from January 1, 1967 to December 31, 1967, plus
 - (4) 4% of total Contributions made on his behalf from January 1, 1968 to December 31, 1970, plus
 - (5) 3.5% of total Contributions made on his behalf from January 1, 1971 through December 31, 1996, plus
 - (6) 4.5% of total Contributions made on his behalf from January 1, 1997 through December 31, 1998; plus
 - (7) 2.5% of total Contributions made on his behalf from January 1, 1999 to date of Termination of Employment.
- (n) For an Employee who incurred a Termination of Employment on or after January 1, 2000 and retired before January 1, 2001, his accrued pension benefit shall be the sum of:
- (1) \$4.00 per month multiplied by the total of the Member's years of Credited Past Service prior to June 1, 1957, plus
 - (2) 8% of total Contributions made on his behalf from June 1, 1957 to December 31, 1966, plus
 - (3) 6% of total Contributions made on his behalf from January 1, 1967 to December 31, 1967, plus
 - (4) 4% of total Contributions made on his behalf from January 1, 1968 to December 31, 1970, plus
 - (5) 3.5% of total Contributions made on his behalf from January 1, 1971 through December 31, 1996, plus

- (6) 4.5% of total Contributions made on his behalf from January 1, 1997 through December 31, 1999; plus
 - (7) 2.5% of total Contributions made on his behalf from January 1, 2000 to date of Termination of Employment.
- (o) For an Employee who incurred a Termination of Employment and retires on or after January 1, 2001, but before January 1, 2003, his accrued pension benefit shall be the sum of:
- (1) \$4.00 per month multiplied by the total of the Member's years of Credited Past Service prior to June 1, 1957, plus
 - (2) 8% of total Contributions made on his behalf from June 1, 1957 to December 31, 1966, plus
 - (3) 6% of total Contributions made on his behalf from January 1, 1967 to December 31, 1967, plus
 - (4) 4% of total Contributions made on his behalf from January 1, 1968 to December 31, 1970, plus
 - (5) 3.5% of total Contributions made on his behalf from January 1, 1971 through December 31, 1996; plus
 - (6) 4.5% of total Contributions made on his behalf from January 1, 1997 through December 31, 1999; plus
 - (7) 3.0% of total Contributions made on his behalf from January 1, 2000 through December 31, 2000; plus
 - (8) 2.5% of total Contributions made on his behalf from January 1, 2001 to date of Termination of Employment.
- (p) For an Employee who incurred a Termination of Employment and retires on or after January 1, 2003, his accrued pension benefit shall be the sum of (subject to the maximum benefit described in paragraph (k) of Section 6.01):
- (1) \$4.00 per month multiplied by the total of the Member's years of Credited Past Service prior to June 1, 1957, plus

- (2) 8% of total Contributions made on his behalf from January 1, 1957 to December 31, 1966, plus
- (3) 6% of total Contributions made on his behalf from January 1, 1967 to December 31, 1970, plus
- (4) 4% of total Contributions made on his behalf from January 1, 1968 to December 31, 1970, plus
- (5) 3.5% of total Contributions made on his behalf from January 1, 1971 through December 31, 1996, plus
- (6) 4.5% of total Contributions made on his behalf from January 1, 1997 through December 31, 1999, plus
- (7) 3.0% of total Contributions made on his behalf from January 1, 2000 through December 31, 2000, plus
- (8) 2.5% of total Contributions made on his behalf from January 1, 2001 to December 31, 2002, plus
- (9) 1.0% of total Contributions made on his behalf from January 1, 2003 to Termination of Employment.

ARTICLE VIII

COMMENCEMENT AND DURATION OF BENEFITS

Section 8.01 - Normal Retirement Benefits

Normal Retirement Benefits under Article V shall be payable to a Member who is eligible therefore, and has filed application therefore, from the first day of the month after such Member became eligible, and shall be payable on the first day of each month thereafter during the life of such Member.

Section 8.02 - Early Retirement Benefits

Early Retirement Benefits under Article V shall be payable to a Member who is eligible therefore, and has filed application therefore, from the first day of the month after such Member became eligible or the first day of the month after which he files such application, whichever is later, and shall be payable on the first day of each month thereafter during the life of such Member.

Section 8.03 - Deferred Pension Benefits

Deferred Pension Benefits under Article VII shall be payable to a Member who is eligible therefore, and has filed application therefore, from the first day of the month after such Member becomes eligible or the first day of the month after which he files such application, whichever is later, and shall be payable on the first day of each month thereafter during the life of such Member.

Section 8.04 - Required Payment

- (a) Notwithstanding Sections 8.01, 8.02, 8.03, in no event shall the payment of benefits under the Pension Plan to the Employee begin later than the sixtieth (60th) day after the close of the Plan Year in which the latest of the following occurs:
- (1) the Employee attains eligibility for Normal Retirement Benefits; or
 - (2) the Employee terminates covered employment; or
 - (3) the date specified in the election made by the Employee, which election shall be deemed to be made for the purposes of this Section where the employee does not submit a written application for benefits following the later of the occurrence of the events identified in subsection (a) or (b).
- (b) Notwithstanding subsection (a), if the Board of Trustees is unable to effect commencement of benefits because it is unable to locate the Employee, the commencement of benefits may be delayed until sixty (60) days after the Employee is located.
- (c) Subject to the subsection (d), payment of a Participant's benefits shall, as required by and in the manner consistent with Section 401(a)(9) of the Internal Revenue Code (and the proposed regulations there under, including § 1.401(a)(9)-2, as the same may be finalized and amended from time to time) which shall supersede all inconsistent provisions herein, commence no later than April 1 of the calendar year following the calendar year in which he attains age seventy and one-half (70½), regardless of whether he has then retired.
- (d) Notwithstanding subsection (c), effective April 1, 1990, if a Participant attained age seventy and one-half (70½) before January 1,

1988 (i.e., age seventy (70) before July 1, 1987), then payment of his benefits shall commence no later than April 1 of the calendar year following the later of (i) the calendar year in which he attains age seventy and one-half (70½) or (ii) the calendar year in which he retires; provided, however, if such Participant was a 5-percent owner within the meaning of Section 416(i) of the Internal Revenue Code at any time during the Plan Year which begins after December 31, 1979 and which ends with or within the calendar year in which he attains age sixty-six and one-half (66½) or during any subsequent Plan Year, the payment of his benefits shall commence no later than April 1 of the calendar year following the later of (i) the calendar year in which he attains seventy and one-half (70½) or (ii) the earlier of the calendar year in which he retires or the calendar year in which ends such Plan Year in which he becomes such a 5-percent owner.

- (e) If payment of benefits commences under this Section to an active Participant who continues to accrue additional benefits, the additional benefits accrued by said Participant each calendar year following said commencement of benefits shall be payable to said Participant as of January 1 of the following calendar year. Said additional benefits accrued for a calendar year shall be paid in the same form of payment in effect as of the Participant's Benefit Commencement Date; provided, however, in such case:
- (1) if said additional benefits are to be paid under the Joint and Survivor Option, the factor used to determine the actuarial equivalent pension payable under said form of payment shall be determined under Exhibit C or D, as applicable, by the ages of the Participant and his spouse as of the January 1 said additional benefits are payable, with a factor of one (1) used if the spouse is deceased as of said January 1; and
 - (2) if said additional benefits are to be paid in a single cash payment (because the actuarial equivalent present value of the Participant's pension as of his Annuity Starting Date did not exceed three thousand five hundred dollars (\$3,500) or five thousand dollars (\$5,000), as applicable, and said present value was paid to the Participant in a single cash payment pursuant to Section 8.07), (i) said additional benefits shall be paid to the Participant in a single cash payment only if the actuarial equivalent present value of said additional benefits as of the January 1 it is payable does not exceed five thousand dollars (\$5,000), (ii) actuarial equivalent present value for this purpose shall be determined under Section 8.07 by the age of the Participant as of said January 1, and (iii) if

the actuarial equivalent present value of said additional benefits accrued in any calendar year shall exceed five thousand dollars (\$5,000), said additional benefits shall be paid in an annuity form of payment in accordance with Section 6.03 and this subsection, which annuity form shall apply to any said additional benefits accrued in any subsequent calendar year.

Section 8.05 - Suspension of Payment

- (a) The monthly Retirement Benefit of a Member payable at or after age 65 shall be suspended during any calendar month in which the Member is employed and completes more than forty (40) Hours of Service in the same industry, same trade or craft, and in the same geographical area covered either by the Pension Plan when such benefit commenced or would have commenced or by a Pension Plan from which pension benefits are being received pursuant to the terms of a Reciprocal Agreement, with the exception of those periods of high employment determined under standards uniformly applied by the Board of Trustees. Effective April 1, 1990, the monthly Retirement Benefit shall not be suspended for any calendar month commencing on or after April 1 of the calendar year following the calendar year in which the Member attains age seventy and one-half (70-1/2) (or such later date provided in Section 8.04).
- (b) The monthly Retirement Benefit payable to a Member prior to age 65 shall be suspended during any period in which the Member (i) returns to active employment in the construction industry which is normally covered under any Collective Bargaining Agreement with the Union or which is covered by a Reciprocal Agreement, or (ii) returns to active service with an Employer hereunder, except for those periods of high employment determined under standards uniformly applied by the Board of Trustees.
- (c) The Board of Trustees shall notify the Member, by personal delivery, certified mail, or first class mail during the first calendar month in which the Pension Plan withholds payments, that his benefits are suspended.
- (d) A Member is required to notify the Board of Trustees of any such employment subsequent to the commencement of benefits from the Pension Plan. In addition, the Board of Trustees may request from the Member access to reasonable information for the purpose of verifying such employment. Failure of the Member to notify the Board of Trustees of any employment that falls into the category noted above

may result in the Board of Trustees assuming such employment qualifies for a suspension of benefits.

- (e) Upon resumption of retirement status at the expiration of any such period of service, such Participant shall be entitled to a Retirement Benefit computed upon the basis of his age and Credited Service at the time such resumed retirement status (or the time benefits commence if retiring before age 65), reduced in accordance with the provisions of Section 6.02 and adjusted for any optional Retirement Benefit form as applicable. In reducing such benefit under the provisions of Section 6.02, the reduction, if any, will be based upon an adjusted age equal to his age at the time he resumes retirement status (or the time benefits commence if retiring before age 65) or age 65, if lesser, minus the number of months prior to age 62 (prior to age 65 with respect to early retirements occurring before 1978) during which he was previously retired and received benefits.
- (f) For retirement pension benefits suspended for return to employment, the following provisions shall apply with respect to the resumption of pension payments under this Section.
 - (1) The re-determined payment shall become payable (i) where payments commence at or after attainment of age 65, on the first day of the first (1st) month following the date he resumes retirement status, but no later than on the first day of the third (3rd) month, with retroactivity to such first (1st) month, and (ii) where payments commence prior to attainment of age 65 on the first day of the fourth (4th) month following the date of written application for resumption of payments (but in no case later than the first day of the month coinciding with or next following the Member's sixty-fifth (65th) birthday). The re-determined pension payment shall not be paid until the Member furnishes the Board of Trustees with whatever it may require in the way of proof of resumption of retirement status.
 - (2) The re-determined pension payment may be offset by any benefit payments previously made by the Pension Plan during those calendar months in which the Retired Employee was employed as described above. The initial re-determined Retirement Benefit payment may be fully offset. Subsequent payments may also be fully offset if the Participant resumes retirement status prior to attainment of age 65. However, if the Participant resumes retirement status after attainment of age 65, subsequent payments may not be offset more than twenty-five percent (25%) of that

month's total benefit payment that would have been due but for the offset.

- (g) Notwithstanding subsections (a) and (b) of this Section, a Member's monthly Retirement Benefit shall not be suspended during a calendar month or period, respectively, during which the Member is employed or in the active service of an Employer if (i) the Employer has or is bound by a collective bargaining agreement in effect with the Union requiring Contributions to be made to the Pension Fund for the eligible Employees of the Employer, (ii) the Member has a direct ownership in the Employer, and (iii) the Member's employment or service for the Employer consists solely of day-to-day management activities in connection with his ownership of the Employer. If, during such employment or service for such Employer, the Member performs any employment or service of the type that would be covered by the collective bargaining agreement with the Union, this subsection shall not apply, and such Member's monthly Retirement Benefit shall be subject to suspension in accordance with the remaining subsections of this Section.
- (h) Notwithstanding subsection (a) of this Section, the monthly Retirement Benefit Payable to a Member at or after age 65 shall not be suspended for a calendar month during which the Member is employed or in the active service of an Employer if such employment or service is not of the type that would be covered by the collective bargaining agreement with the Union. If during such employment or service for such Employer, the Member performs any employment or service of the type that would be covered by the collective bargaining agreement with the Union, this section shall not apply, and such Member's monthly Retirement Benefit shall be subject to suspension in accordance with the remaining subsections of this Section.
- (i) Notwithstanding subsection (b) of this Section, after the six-month period following a Member's Retirement, the monthly Retirement Benefit payable to a Member prior to age 65 shall not be suspended for a period during which the Member is employed or in the active service of an Employer if such employment or service is not of the type that would be covered by the collective bargaining agreement with the Union. If during such employment or service for such Employer, the member performs any employment or service of the type that would be covered by the collective bargaining agreement with the Union, (i) this subsection shall not apply, (ii) such Member's monthly Retirement Benefit shall be subject to suspension in accordance with the remaining subsections of this Section, and (iii) the

determination of whether the Participant has been retired for a six-month period following his Retirement shall be determined from the date of his subsequent Retirement from said employment or service. If during the six-month period following his Retirement, the Participant is employed in any employment or service that would result in the suspension of his monthly Retirement Benefit under subsection (b) of this Section, the determination of whether the Participant has been retired for a six-month period following his Retirement shall be determined from the date of his subsequent Retirement from said employment or service.

Section 8.06 - Incapacity

In the event that it shall be found that any Retired Employee to whom a pension is payable is unable to care for his affairs because of illness or accident, any payment due (unless prior claims therefore shall have been made by a duly qualified guardian or other legal representative) may be paid to the spouse, parent, brother or sister or other person deemed by the Board of Trustees to have incurred expense for such Retired Employee otherwise entitled to payment. Any such payment shall be a payment for the account of the Retired Employee and shall be a complete discharge of any liability of the Pension Plan therefore.

Section 8.07 - Small Benefits

- (a) Beginning January 1, 1998, if the present value of the vested pension provided for any Employee of the Pension Plan is five thousand dollars (\$5,000) or less at his termination of Employment, and if said Employee is not eligible to retire, said present value shall be paid to the Employee in (and only in) a single cash payment, in lieu of any benefit due to the Employee, as soon as practicable after his application therefore.
- (b) Beginning January 1, 1998, if the present value of the vested pension provided for any Employee of the Pension Plan who is eligible to retire is five thousand dollars (\$5,000) or less at the time of his application for payment of retirement benefits, then notwithstanding any contrary provisions, (i) if said Employee is at least age fifty-five (55) but not age sixty (60) or older, said Employee may elect to have said present value paid to him in a single cash payment in lieu of any monthly pension due to the him, and (ii) if said Employee is age sixty (60) or older, said present value shall be paid to him in (and only in) a single cash payment in lieu of any benefit due to the Employee.

- (c) Beginning January 1, 1998, if the present value of the vested benefit payable to a surviving spouse at the Employee's death (prior to his Benefit Commencement Date) is five thousand dollars (\$5,000) or less, said present value shall be paid to the spouse in (and only in) a single cash payment, in lieu of any benefit due to the spouse, as soon as practicable after the spouse's application therefore (but said payment shall not be less than the amount of the lump sum death benefit determined in accordance with Section 10.02 at the time of the Participant's death).
- (d) The present value of the pension to a Participant shall be determined in accordance with the appropriate factor in Table A of the Appendix. The present value of the pension to a surviving spouse shall be determined in accordance with the appropriate factor in Table B of the Appendix. Notwithstanding the foregoing, beginning January 1, 1996, in no event shall the present value be less than the amount determined on the basis of the applicable mortality table prescribed by the Commissioner of Internal Revenue for the determination of present value under Section 417(e)(3)(A)(ii)(I) of the Internal Revenue Code with interest equal to the annual rate on 30-year Treasury securities specified by the Commissioner of Internal Revenue for the determination of present value under Section 417(e)(3)(A)(ii)(II) of the Internal Revenue Code for the November preceding the Plan Year of determination.

Section 8.08 - Direct Rollover Election

- (a) A Distributee who receives a distribution from the Pension Plan that is an Eligible Rollover Distribution may elect to transfer said distribution to an Eligible Rollover Plan specified by the Distributee in a Direct Rollover.
- (b) Notwithstanding any contrary provisions of this Section (except as otherwise required by Section 401(a)(31) of the Internal Revenue Code, (i) a Direct Rollover can be elected for part of an Eligible Rollover Distribution only if the amount so elected is at least five hundred dollars (\$500.00), (ii) only one Eligible Rollover Plan may be designated for a Direct Rollover, (iii) a Direct Rollover election made with respect to one payment in a series of payments shall apply to all subsequent payments until another election is made by the Distributee, and (iv) no Direct Rollover election is required to be provided for an Eligible Rollover Distribution of less than two hundred dollars (\$200.00) (when aggregated with all other Eligible Rollover Distributions for the taxable year).

- (c) For purposes of this Section, the following terms shall have the meaning given to them in this subsection:
- (1) "Direct Rollover" shall mean a payment by the Pension Plan to the eligible retirement plan specified by the Distributee.
 - (2) "Distributee" shall mean (i) an employee or former employee and (ii) the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is an alternative payee under a Qualified Domestic Relations Order, as defined in Section 414(p) of the Internal Revenue Code, with respect to the interest of the spouse or former spouse.
 - (3) "Eligible Rollover Plan" shall mean an individual retirement account described in Section 408(b) of the Internal Revenue Code, an individual retirement annuity described in Section 408(b) of the Internal Revenue Code, an annuity plan described in Section 403(a) of the Internal Revenue Code, or a qualified trust described in Section 401(a) of the Internal Revenue Code; provided, however, for an Eligible Rollover Distribution to a spouse, eligible retirement plan means an individual retirement account or individual retirement annuity.
 - (4) "Eligible Rollover Distribution" shall mean any distribution of all or any portion of the balance to the credit of the Distributee under the Pension Plan, but excluding (as applicable) (i) any distribution which 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 and the Distributee's designated beneficiary or for a specified period of ten years or more, (ii) any distribution to the extent such distribution is required under Section 401(a)(9) of the Internal Revenue Code, and (iii) the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities).
- (d) Said election and Direct Rollover shall be made in accordance with procedures prescribed by the Board of Trustees in conformance with Section 401(a)(31) of the Internal Revenue Code.

ARTICLE IX

DISABILITY BENEFITS

Section 9.01 - Eligibility for Disability Benefit

- (a) On and after first day of October, 1971 and before January 1, 1990, a Member who has a total of at least fifteen (15) years of Credited Service and who becomes totally and permanently disabled as defined in Section 9.02 shall be eligible for a disability benefit in the same amount as set forth in Section 6.01. Section 6.03, in accordance with the appropriate factor in Table D of Appendix A, shall govern the election, at the time of retirement, of a Joint and Survivor Option.

- (b) On or after January 1, 1990, a Member who has a total of at least ten (10) years of Credited Service and who becomes totally and permanently disabled as defined in Section 9.02 shall be eligible for a disability benefit in the same amount as set forth in Section 6.01. Section 6.03, in accordance with the appropriate factor in Table D of Appendix A, shall govern the election, at the time of retirement, of a Joint and Survivor Option.

Section 9.02 - Disability Definition

Disability shall be deemed to be total and permanent disability whenever the Member is wholly disabled by bodily injury or disease and will be permanently, continuously and wholly prevented thereby for life from engaging in any occupation and performing any work for wage or profit. The Board of Trustees will recognize as total and permanent Disability the entire and irrevocable loss of sight in both eyes, or the severance of both hands above the wrist, or both feet above the ankle, or irrevocable loss of sight in one eye and the severance of one hand above the wrist, or one foot above the ankle, but shall not be limited to such specific cases in determining the existence of total and permanent Disability. Intentionally self-inflicted Disability shall not qualify any Member for Disability benefits.

Section 9.03 - Payment of Disability Benefit

The Disability benefit payment shall begin to be payable on the first day of a calendar month following commencement of total and permanent Disability, upon receipt of the due proof of such Disability by the Board of Trustees, and shall be payable on the first day of each month thereafter during the life of such Member. Upon payment of Disability benefits, such

Member shall not be entitled to any other retirement benefit under the Pension Plan so long as his permanent and total Disability shall continue.

Section 9.04 - Proof of Disability

The Board of Trustees, before approving the payment of any Disability benefits, shall require proof in such form as the Board of Trustees may decide, including but not limited to, the certificate of a duly licensed physician, that the Member has become totally and permanently disabled.

Section 9.05 - Medical Examination

A Member who has become eligible for Disability benefits and is receiving Disability benefits hereunder shall receive said benefits only so long as his permanent and total Disability shall continue. The Board of Trustees shall have the right to verify the continued existence of the Member's permanent and total Disability at reasonable times from time to time prior to his sixty-fifth (65th) birthday. Should the Member refuse to submit to medical examination, any benefit granted hereunder shall be discontinued until withdrawal of the refusal.

ARTICLE X
DEATH BENEFIT

Section 10.01 - Eligibility for Death Benefit

A Participant, a Vested Employee and a Retired Employee may be eligible for a death benefit.

Section 10.02 - Amount and Payment of Death Benefit

- (a) For deaths occurring on or after January 1, 1977, the death benefit amount shall be equal to the total accumulated contribution made on the deceased's behalf, subject to a minimum of five hundred dollars (\$500). The death benefit amount for a Vested Employee shall be equal to the product of the death benefit to which he would have been entitled had he been a Participant at the time of his death and his vesting percentage as determined in Article VII. The resulting death benefit shall then be reduced by any retirement benefit payments made to the deceased under Articles VI, VII or IX.
- (b) For deaths occurring during the period October 1, 1971, through December 31, 1976, the death benefit amount shall be equal to the

total accumulated Contributions made on the deceased's behalf, subject to a maximum of ten thousand dollars (\$10,000) and a minimum of five hundred dollars (\$500). The death benefit amount for a Vested Employee shall be equal to the product of the death benefit to which he would have been entitled had he been a Participant at the time of his death and his vesting percentage as determined in Article VII. The resulting death benefit shall then be reduced by any retirement benefit payments made to the deceased under Articles VI, VII or IX.

- (c) For deaths occurring during the period January 1, 1961 through September 30, 1971, the death benefit shall be paid in accordance with the eligibility and benefit rules in effect at date of death.
- (d) Notwithstanding the foregoing, if an eligible Employee is receiving benefit payments in the form of a Joint and Survivor Option under Section 6.03 at his death, the death benefit shall payable upon the death of both the Participant and his spouse and shall be paid to the beneficiary of the last to die of the Employee and his spouse. The amount of the death benefit in such case shall be equal to the excess, if any, of the death benefit in effect at the date of retirement of the Employee over the accumulated pension payments made to the Employee and his spouse under the Joint and Survivor Option.
- (e) Notwithstanding the foregoing, if an eligible Employee dies before his Benefit Commencement Date and has a spouse eligible for the survivor pension under Section 10.03, the death benefit shall be payable in accordance with Section 10.03(i), and only then if the spouse does not elect a lump sum payment in accordance with Section 10.03(h).
- (f) At the death of the eligible person on or after January 1, 1961, the Board of Trustees upon proper notice and verification as it shall uniformly prescribe, shall remit the applicable death benefit, if any, to such beneficiary as the said eligible person shall have designated in writing in the manner prescribed by the Board of Trustees. If there is no beneficiary designated by an Employee or surviving at the death of the Employee, the Employee shall be deemed to have designated the following beneficiaries with priority in the order named: (i) his surviving Spouse, and, if none, (ii) his surviving children, and if none, (iii) his surviving parents, and if none, (iv) the personal representative of the estate of the Employee, and if none, (v) the persons entitled to his estate under the intestate laws of the state in which the Employee resides. If there is no beneficiary designated by a person other than

the Employee or surviving at the death of the person, such person shall be deemed to have designated the following beneficiaries with priority in the order named: (i) the personal representative of the estate of such person, and if none, (ii) the persons entitled to his estate under the intestate laws of the state in which such person resides.

Section 10.03 - Survivor Pension for Spouse

- (a) The spouse of a Participant who is credited with an Hour of Service after August 22, 1984 will be entitled to a survivor pension as described in this Section provided the Participant (i) has a non-forfeitable right to a benefit, (ii) dies prior to Benefit Commencement Date, and (iii) is survived by a spouse to whom he had been married for at least one (1) year at the date of his death.
- (b) The spouse of a Participant who is credited with an Hour of Service after 1975 but before August 23, 1984 will be entitled to a survivor pension as described in this Section provided the Participant (i) has a non-forfeitable right to a benefit, (ii) completed ten (10) years of Credited Service, (iii) is not receiving such benefit on August 23, 1984 but will receive such benefit at Benefit Commencement Date in the form of an annuity, (iv) dies prior to Benefit Commencement Date, and (v) is survived by a spouse to whom he has been married for at least one (1) year at the date of his death.
- (c) The survivor pension shall be payable to the surviving spouse for life:
 - (1) in the case of a Participant eligible for immediate retirement on the day preceding his death, from the first day of the month following the Participant's death or the first day of the month specified by the spouse in the application filed therefore, whichever is later;
 - (2) in the case of a Participant not eligible for immediate retirement on the day preceding his death, from the first day of the month following the date the Participant would have attained his immediate retirement eligibility had he survived or the first day of the month specified by the spouse in the application filed therefore, whichever is later.
- (d) Notwithstanding subsection (c), payment of the survivor pension to an eligible spouse shall begin no later than the later of (i) December of the calendar year following the calendar year in which the Participant

to whom such spouse was married died or (ii) December of the calendar year in which such Participant would have attained age seventy and one-half (70½).

- (e) The monthly pension payment to the surviving spouse of a deceased Participant eligible for immediate retirement shall be determined in accordance with the following steps:
 - (1) The retirement benefit of the deceased Participant shall be determined as provided in Sections 6.01 and 6.02 as though payment of the retirement benefit to the deceased Participant had commenced on the date payment of the survivor pension to the spouse commences;
 - (2) The deceased Participant shall be deemed to have elected the Joint and 50% Survivor Option pursuant to the provisions of Section 6.03, the effective date being the date payment of the survivor pension to the spouse commences;
 - (3) The surviving spouse shall then receive 50% of the pension the Participant would have received pursuant to the preceding steps (1) and (2) if he were alive.

- (f) The monthly pension payment to the surviving spouse of a deceased Participant who was not eligible for immediate retirement shall be determined in accordance with the following steps:
 - (1) The vested benefit of the deceased Participant shall be determined as provided in Sections 7.01, 7.02, 7.03, 7.04, 7.05 and 7.06 as though payment of the vested benefit to the deceased Participant had commenced on the date payment of the survivor pension to the spouse commences;
 - (2) The deceased Participant shall be deemed to have elected the Joint and 50% Survivor Option pursuant to the provisions of Section 6.03, the effective date being the date payment of the survivor pension to the spouse commences;
 - (3) The surviving spouse shall then receive 50% of the pension the Participant would have received pursuant to the preceding steps (1) and (2) if he were alive.

- (g) Effective January 1, 1993, if, as of the date of his death, the Participant had elected a Joint and 100% Survivor Option under Section 6.03, the survivor pension payable to spouse under subsection (e) or (f) shall be determined as if the deceased spouse had elected the Joint and 100% Survivor Option and the surviving spouse would then receive 100% of the pension the Participant would have received if he were alive.
- (h) A spouse eligible for a survivor pension may elect in writing and in the manner prescribed by the Board of Trustees to receive a lump sum payment in lieu of monthly payments for life equal to the greater of:
 - (1) the lump sum death benefit determined in accordance with Section 10.02 at the time of the Participant's death; and
 - (2) the present value of the survivor pension determined in accordance with the appropriate factor in Table B of the Appendix; provided, however, beginning January 1, 1996, in no event shall the present value be less than the amount determined on the basis of the applicable mortality table prescribed by the Commissioner of Internal Revenue for the determination of present value under Section 417(e)(3)(A)(ii)(I) of the Internal Revenue Code with interest equal to the annual rate on 30-year Treasury securities specified by the Commissioner of Internal Revenue for the determination of present value under Section 417(e)(3)(A)(ii)(II) of the Internal Revenue Code for the November preceding the Plan Year of determination.
- (i) If the accumulated pension payments paid to the eligible surviving spouse under this Section at the spouse's death is less than the lump sum death benefit determined in accordance with Section 10.02 at the Participant's death, then the excess of the lump sum death benefit over the accumulated pension payments shall be paid to the beneficiary designated by the spouse in writing in the manner prescribed by the Board of Trustees. If there is no beneficiary designated by the spouse or surviving at the death of the spouse, the spouse shall be deemed to have designated the following beneficiaries with priority in the order named: (i) the personal representative of the estate of the spouse, and if none, (ii) the persons entitled to his estate under the intestate laws of the state in which the spouse resides.

ARTICLE XI

BECKWITH PLAN MERGER

Section 11.01 - Definitions

The following definitions shall apply to this Article.

- (a) "Accrued Benefit" shall mean the sum of the accrued benefit earned by a Merged Participant under his Beckwith Plan and the accrued benefit earned under the Pension Plan.
- (b) "Beckwith Plan" shall mean, as applicable, the Beckwith Machinery Company Retirement Plan for Employees at the Clearfield, et. al. Locations Represented by International Union of Operating Engineers, Local Union No. 66C or the Beckwith Machinery Company Retirement Plan for Employees at the Pittsburgh Location Represented by International Union of Operating Engineers, Local Union No. 66C.
- (c) "Combined Service" shall mean the total of a Merged Participant's Continuous Service under his Beckwith Plan and his Credited Service under the Pension Plan.
- (d) "Continuous Service" shall mean continuous service credited under Section 1.09 of the Beckwith Plan.
- (e) "Effective Date" shall mean 11:59 p.m. December 31, 1998.
- (f) "Merged Participant" shall mean (i) a vested or unvested active participant and non-retired terminated participant on the Principal Financial Group's Display of Benefits for a Beckwith Plan on the Effective Date, (ii) an employee of Beckwith Machinery Company on the Effective Date at locations covered by a Beckwith Plan that, subsequent to the Effective Date, satisfies either the eligibility and service requirements of Article 2 of the Beckwith Plan or the eligibility requirements of Article V of the Pension Plan, and (iii) Susan Patterson and Barbara Muth.
- (g) "Merger" shall mean the merger of the Beckwith Plans with and into the Pension Plan.

Section 11.02 - Participation

A Merged Participant shall participate in the Pension Plan on January 1, 1999.

Section 11.03 - Continuous Service

A Merged Participant's Continuous Service shall be retained and given full force and effect under the Pension Plan after the Effective Date for all purposes.

Section 11.04 - Vesting

- (a) A Merged Participant shall retain his vesting percentage under the Pension Plan.
- (b) After the Merger, a Merged Participant who was partially vested shall vest in accordance with the more favorable of the vesting schedule under the merged plan or the Pension Plan. A Merged Participant who was zero percent vested on the Effective Date shall vest after the Merger in accordance with the vesting schedule of the Pension Plan.
- (c) A Merged Participant's vesting percentage under the Pension Plan shall be based upon his Combined Service.

Section 11.05 - Benefits

- (a) The benefit of a Merged Participant under the Pension Plan after the Merger shall not be less than his benefit under his Beckwith Plan prior to the Merger.
- (b) The benefit payable by the Pension Plan to a Merged Participant after the Merger shall be based upon, as elected by the Merged Participant, either (i) his Accrued Benefit offered with the benefits (except Disability Pension), rights and features available under the Pension Plan or (ii) his accrued benefit under the Pension Plan with its benefits, right and features, plus his accrued benefit under the Beckwith Plan with its benefits, rights and features.
- (c) After the Merger, a Merged Participant who becomes totally and permanently disabled within the meaning of Section 9.02 on or after earning ten (10) years of Combined Service shall be eligible for the Disability Pension provided by Article IX with the amount thereof based solely on his benefit accrual under the Pension Plan.
- (d) The Pension Plan shall not provide a Merged Participant with an available benefit under the Pension Plan in an amount that is less than the actuarial equivalent of an available benefit under his Beckwith Plan.
- (e) To the extent not otherwise provided by the Pension Plan, the spousal benefit options available to the spouse of a Merged

Participant under the Beckwith Plan shall be available under the Pension Plan after the Effective Date with respect to the portion of the Merged Participant's Accrued Benefit attributable to his Continuous Service under his Beckwith Plan.

- (f) To the extent not otherwise provided by the Pension Plan, any other forms of distribution and benefits, rights and features of the Beckwith Plan shall be available under the Pension Plan after the Effective Date with respect to the portion of the Merged Participant's Accrued Benefit attributable to his Continuous Service under the Beckwith Plan.

Section 11.06 - Administration

The payment under this Pension Plan of the pensions and benefits earned under the Beckwith Plans shall be subject to the administrative provisions set forth in the Pension Plan. Without limiting the generality of the foregoing, effective with the Merger, the claims and appeals procedures of Article XV shall apply to the payment of said pensions and benefits, and the Trustees shall have the powers and duties specified in Section 12.03 with respect to the Beckwith Plans, including for the period prior to their merger into the Pension Plan.

ARTICLE XII ADMINISTRATION OF THE FUND

Section 12.01 - Administration by Board of Trustees

The Fund shall be administered by a Board of ten (10) Trustees, five (5) whom shall be designated as Employer Trustees, and five (5) of whom shall be designated as Employee Trustees. Two (2) Employer Trustees shall be representatives of and appointed by the Construction Association of Western Pennsylvania; one (1) Employer Trustee shall be a representative of and appointed by the Builders Association of Eastern Ohio and Western Pennsylvania; one (1) Employer Trustee shall be a representative of and appointed by the Master Builders Association of Western Pennsylvania; and one (1) Employer Trustee shall be a representative of and appointed by the Keystone Building Contractors Association. Five (5) Employee Trustees shall be representatives of and appointed by the International Union of Operating Engineers, Local 66, 66A, 66B and 66C, AFL-CIO.

ARTICLE XIII
POWERS AND DUTIES OF TRUSTEES

Section 13.01 - Contributions

The Board of Trustees shall have power to demand, collect and receive Contributions (it being expressly understood that the Board of Trustees shall have no authority or jurisdiction in regard to the amount or amounts of such payments per hour of employment) and all other money and property to which the Board of Trustees may be entitled, and shall hold the same until applied to the purposes provided in Sections 2.01, 2.02 and 2.03, and may take such steps, including the institution and prosecution of or the intervention in any proceeding at law, or in equity or in bankruptcy, as may be necessary or desirable to effectuate the collection of such payments, money and property.

Section 13.02 - Conduct of Business

The Board of Trustees shall conduct the business of the Trust and execute all instruments in the name of the "Operating Engineers' Construction Industry and Miscellaneous Pension Fund" and may in accordance with provisions of Article II, in such name, receive, collect, hold, deposit, and disburse the Fund and enter into an agreement and/or a contract with a Pension Fund Trustee for the investment and disbursement of the funds deposited with such Pension Fund Trustee by the Board of Trustees necessary for maintenance and actuarially sound benefits due and payable now or in the future.

Section 13.03 - Power to Construe and to Apply Plan

- (a) The Board of Trustees shall have power to construe and interpret the provisions of this Declaration and the terms used herein, and any construction or interpretation adopted by the Board of Trustees in good faith shall be binding upon all Employers and Employees, the Association and the Union.

- (b) The Board of Trustees shall have the obligation, exclusive right and absolute discretion to interpret and apply all terms of the Pension Plan, and may correct any defect, supply any omission or reconcile any inconsistency or ambiguity in such manner as they deem advisable. They shall have full authority and absolute discretion to make all factual and/or legal determinations concerning eligibility and status of Employees and Participants, the right of any person(s) to benefits and

all other rights hereunder, and all other matters concerning plan administration, operation and interpretation. All determinations and actions of the Board of Trustees with respect to any matter relating to the Pension Plan shall be final, conclusive and binding upon all persons.

- (c) By way of example and not by way of limitation, the Board of Trustees shall have the following specific powers:
- (1) To make rules and regulations for the administration and operation of the Pension Plan which are not inconsistent with the terms and provisions of this Agreement.
 - (2) To establish procedures for the processing of all claims for benefits, including the promulgation of appropriate forms necessary for the application for benefits.
 - (3) To determine all questions relating to the eligibility of Participants, spouse and beneficiaries to receive benefits.
 - (4) To make all determinations and computations concerning the benefits, credits and debits to which any Participant or person may be entitled under the Pension Plan.

Section 13.04 - Compensation and Expenses

The Board of Trustees shall receive no compensation out of the Fund, but shall be reimbursed for all reasonable and necessary expenses that it may incur in the performance of its duties, including attendance at institutions, seminars, conferences, or workshops for, or on behalf of, the Fund.

Section 13.05 - Rules and Regulations

The Board of Trustees may promulgate such rules and regulations as may be proper or necessary for the efficient administration of the Trust, provided such rules and regulations are not inconsistent with this Agreement and Declaration of Trust.

Section 13.06 - Insurance and Advisors

The Trustees may use trust assets to purchase fiduciary insurance to protect the Fund from any negligent acts by the Board of Trustees. The Board of

Trustees may also engage the services of professionals, such as attorneys, accountants, actuaries and insurance consultants.

Section 13.07 - Resignation

A member of the Board of Trustees may resign and become and remain fully discharged from all further duty or responsibility hereunder, upon giving thirty (30) days' notice in writing to the remaining members of the Board of Trustees and to the party which appointed such member of the Board of Trustees, or such shorter notice as such remaining members of the Board of Trustees and such party may accept. Such notice shall state the date when such resignation shall take effect, and the same shall take effect on the date so specified unless a successor Trustee shall have been appointed prior to such date, in which event such resignation shall take effect immediately upon the appointment of and acceptance of this Trust by such successor Trustee.

Section 13.08 - Term of Service

Each member of the Board of Trustees shall serve as Trustee until he shall die, become incapable of acting hereunder, resign or be removed as herein provided.

Section 13.09 - Removal

- (a) A member of the Board of Trustees may be removed by a court of competent jurisdiction, in an action instituted pursuant to the vote of a majority of the Board of Trustees, for violation of his fiduciary obligations hereunder or other sufficient legal ground.
- (b) Any Employer Trustee may be removed at any time by a resolution of the party appointing him, and any Employee Trustee may be removed at any time by a resolution of the party appointing him; such removal shall become effective upon the delivery of certified copies of such resolution to the Chairman or the Secretary of the Board of Trustees.

Section 13.10 - Successor Appointments

- (a) In the event of a vacancy in the office of the Board of Trustees for any cause, a successor Trustee shall be appointed by the party that appointed such Trustee. A successor Employer Trustee shall be certified to the Board of Trustees by an instrument signed by the Association that appointed him, and upon the receipt of such

certification by the Board of Trustees, such successor Trustee shall be deemed to have been duly appointed. A successor Employee Trustee shall be certified to the Board of Trustees by an instrument signed by the President and Secretary of the Union, and upon receipt of such certification by the Board of Trustees, such successor of Trustee shall be deemed to have been duly appointed.

- (b) Each successor Trustee shall, immediately upon the certification of his appointment as above provided and his written acceptance of the Trust, become vested with the property, rights, powers, duties and immunities of a Trustee hereunder, with like effect as if originally named a Trustee, and the Pension Fund Trustee or each insurance carrier, as the case may be, shall be immediately notified thereof.
- (c) It is the intention that the fund shall at all times be administered by an equal number of Employer Trustees and Employee Trustee, but until the appointment of a successor Trustee or Trustees as hereinabove provided, the remaining Trustees shall have full power to act.
- (d) In the event any party having the right to fill a vacancy in the office of Trustee shall fail, for a period of thirty (30) days, to fill such vacancy, any Trustee may petition a court of competent jurisdiction for an order requiring such party to appoint a successor Trustee, and in the event of the failure of such party to comply with such order, may petition such court for the appointment by it of a successor Trustee to fill such vacancy.

Section 13.11 - Meetings, Quorum, Voting

- (a) Two (2) Employer Trustees and two (2) Employee Trustees present in person at any meeting shall constitute a quorum of the Board of Trustees for the transaction of business. If at any meeting the number of Employer and Employee Trustees present shall be unequal, then the group of Trustees lesser in number shall be entitled to cast the same number of votes as the other group of Trustees. In the event there shall be present at any meeting only two (2) Trustees of a group and such Trustees shall be unable to agree as to the manner in which the vote of the absent Trustee or Trustees shall be cast, then action on the matter then under consideration shall be postponed until all Trustees shall be present except in cases where the absent Trustee's vote would not change the result of the balloting.

- (b) Any action taken by the Board of Trustees, except as herein otherwise provided, shall be by the affirmative vote of a majority of the votes cast. Any and all actions so taken shall have the same force and effect as if taken by all the Trustees.
- (c) The Chairman and the Secretary-Treasurer of the Board of Trustees may jointly call a meeting of the Board of Trustees upon giving at least seven (7) days' written notice of the time and place thereof to the remaining Trustees. Any two of the Trustees may call a meeting of the Trustees at any time by giving at least ten (10) days' written notice of the time and place thereof to the remaining Trustees. Meetings of the Board of Trustees may also be held at any time without notice if all of the Trustees consent thereto.
- (d) Any action by the Board of Trustees may also be taken by them in writing without a meeting, provided, however, that in such case there shall be unanimous written concurrence by all of the Trustees then in office.
- (e) In the event of a deadlock of the Board of Trustees in any matter, including matters pertaining to the administration of the Trust, or in the event a quorum is not available after two called meetings, the Board of Trustees shall agree on the impartial arbitrator who shall have power to decide such dispute. In the event of a failure of the Board of Trustees to agree upon an impartial arbitrator within seven (7) days of such dispute, or in the event a quorum is not available after two called meetings, either group of Trustees may petition the District Court of the United States for the Western District of Pennsylvania to appoint an impartial arbitrator to settle the dispute. However, such arbitrator shall not have the power to add or subtract from the terms of this Trust Agreement.

Section 13.12 - Books and Records

The Board of Trustees shall keep true and accurate records and books of account of all its transactions, which records and books shall be audited at least annually by a certified public accountant, or more often as determined by the Board of Trustees.

Section 13.13 - Signatures

All checks, drafts, vouchers, or other withdrawal of monies from the account or accounts of the Trust and all orders to the Pension Fund Trustee

shall be countersigned by one Employer Trustee and one Employee Trustee, who shall be designated for such purpose in a resolution adopted by the Board of Trustees.

Section 13.14 - Special Account

The Board of Trustees may provide for a special account not in excess of \$200.00 at any one time in the name of the Secretary-Treasurer or any Employee of the Board of Trustees or an Administrator as the Board of Trustees may designate from which special account the Secretary-Treasurer or such Employee or Administrator shall be permitted to withdraw on his own signature only, and without countersignature, such funds as may be necessary for the operation of the Fund. The Secretary-Treasurer or such Employee or Administrator shall report from time to time, or at any time upon the demand of the Board of Trustees, upon all sums deposited in or withdrawn from such special account.

Section 13.15 - Fidelity Bond

The Board of Trustees shall, by resolution, provide for fidelity bonds in such amounts as it may determine, for the administrative agency and the Trustees who shall be authorized to withdraw monies from the Trust and issue disbursing orders to the Pension Fund Trustee.

Section 13.16 - Minutes

The Secretary-Treasurer shall keep minutes and records of all meetings, proceedings and acts of the Board of Trustees. He shall, with reasonable promptness, send copies of such minutes and records to all Trustees.

Section 13.17 - Executive Committee

The Board of Trustees shall have the power to appoint an Executive Committee of the Board of Trustees for the purpose of executing the details of policies established by the full Board of Trustees. The number of Trustees serving on the Executive Committee shall be determined by the Board of Trustees, it being provided, however, that the Executive Committee shall at all times consist of an equal number of Employer and Employee Trustees. The power of the Executive Committee shall be decided by the Board of Trustees, it being provided, however, that the Executive Committee shall have no powers that do not belong to the Board of Trustees itself or are inconsistent with the Agreement.

Section 13.18 - Legal Proceedings

All suits and proceedings to recover Contributions or to enforce or protect any other right, demand, or claim on behalf of the Board Trustees or of the Fund may be instituted or prosecuted on behalf of the Fund and the Board of Trustees by the Chairman and Secretary-Treasurer, jointly, in their capacities as such, or by their designee.

Section 13.19 - Plan Administrator/Named Fiduciary

- (a) The Pension Plan shall be operated and administered by the Board of Trustees, and the Board of Trustees shall be the Plan Administrator and the Plan Sponsor for purposes of the Employee Retirement Income Security Act of 1974. The Board of Trustees shall have all of the powers, authority and discretion to carry out the provisions of the Pension Plan. However, the details of administering the Pension Plan may be vested by the Board of Trustees in an administrator/manager appointed by the Board of Trustees to serve during their will.
- (b) The Board of Trustees shall be the named fiduciary of the Pension Plan for purposes of the Employee Retirement Income Security Act of 1974. The Board of Trustees may designate any other person as a named fiduciary by an instrument in writing signed by it, delivered to the designated named fiduciary, and acknowledged and accepted in writing by such designated fiduciary. Any such designation may be modified or amended by written agreement between the parties and may be revoked by either party by written notice delivered to the other party.
- (c) Any named fiduciaries who have joint and several duties and responsibilities under the Pension Plan may allocate such duties and responsibilities (other than the duty to invest all or a portion of the Fund) to any one or more of them, and any named fiduciary may delegate to any person such responsibility he has with respect to the Pension Plan (other than the duty to invest all or a portion of the Fund). Any such allocation or delegation shall be made by written agreement between the parties, may be amended or modified by written agreement between such parties, and may be revoked by either party by written notice delivered to the other party.

ARTICLE XIV

TERMINATION OF PARTICIPATING EMPLOYER AND WITHDRAWAL LIABILITY

Section 14.01 - Termination of Participating Employer

- (a) A Participating Employer shall be considered a Withdrawn Employer if on or after April 29, 1980, the Employer ceases to have an obligation to contribute to the Pension Plan and:
 - (1) continues to perform work in the jurisdiction of the collective bargaining agreement of the type for which Contributions were previously required; or
 - (2) resumes such work within five (5) years after the date on which the obligation to contribute under the Pension Plan ceases, and does not renew the obligation at the time of resumption.
- (b) The date of withdrawal is the date of the cessation of the obligation to contribute. A Withdrawn Employer shall be liable to the Pension Plan for a withdrawal liability as set forth in this Article XIV.
- (c) An Employer who ceases to exist because of a change in corporate structure or a switch to an alternate form of doing business shall not be considered a Withdrawn Employer provided that the change in status does not cause an interruption in Contributions or obligation to contribute. In addition, a withdrawal does not occur if a Participating Employer suspends Contributions during a strike or other labor dispute.

Section 14.02 - Partial Termination of Participating Employer

- (a) A Participating Employer shall be considered a Partially Withdrawn Employer if on or after April 29, 1980, the employer's obligation to contribute under the Pension Plan is continued for no more than an insubstantial portion of its work in the craft and area jurisdiction of the collective bargaining agreement of the type for which Contributions are required resulting from:
 - (1) the Employer permanently ceasing to have an obligation to contribute under one or more but fewer than all collective bargaining agreements under which the Employer has been

obligated to contribute under the Pension Plan but continues to perform work in the jurisdiction of the collective bargaining agreements of the type for which Contributions were previously required or transfers such work to another location; or

- (2) the Employer permanently ceases to have an obligation to contribute under the Pension Plan with respect to work performed at one or more but fewer than all of its facilities, but continues to perform work at the facility of the type for which the obligation to contribute ceased.

Section 14.03 - Method of Computing Withdrawal Liability

- (a) A Withdrawn Employer's withdrawal liability, prior to any adjustments or limitations, shall be the allocated amount of the Unfunded Vested Benefit determined in accordance with the Presumptive Method, as specified in Section 4211(b) of the Employee Retirement Income Security Act of 1974 as amended by the Multi-employer Pension Plan Amendments Act of 1980, as set forth in this Section.
- (b) The amount of the Unfunded Vested Benefits allocated to a Withdrawn Employer is equal to the sum of the following, but not less than zero:
 - (1) the Employer's proportional share, if any, of the un-amortized amount of the Pension Plan's Un-funded Vested Benefit as of the last day of the Plan Year ending on December 31, 1979, as described in subsection (c);
 - (2) the Employer's proportional share of the un-amortized amount of the change in the Pension Plan's Un-funded Vested Benefits for the Plan Years ending on December 31, 1980 and each December 31 thereafter, as described in subsection (d); and
 - (3) the Employer's proportional share of the un-amortized amounts of the reallocated Un-funded Vested Benefits as described in subsection (e).
- (c) An Employer's proportional share of the un-amortized amount of the Pension Plan's Un-funded Vested Benefits on December 31, 1979 is the product of such un-amortized amount; multiplied by a fraction:

- (1) the numerator of which is the sum of all Contributions required to be made by the Employer under the Pension Plan for the five Plan Years ending on December 31, 1979; and
 - (2) the denominator of which is the sum of all Contributions made for the five Plan Years ending on December 31, 1979, by all Employers who had an obligation to contribute under the Pension Plan for the Plan Year ending on December 31, 1980.
- (d) An Employer's proportional share of the un-amortized amount of the change in the Pension Plan's Un-funded Vested Benefits for Plan Years ending on December 31, 1980 and thereafter, is the sum of the Employer's proportional shares of the un-amortized amount of the change in Un-funded Vested Benefits for each Plan Year ending on December 31, 1980 and thereafter in which the employer has an obligation to contribute to the Pension Plan.

An Employer's proportional share of the un-amortized amount of the change in the Un-funded Vested Benefit for each year is the product of the un-amortized amount of such change (as of the last day of the Plan Year, preceding the Plan Year in which the Employer withdraws), multiplied by a fraction:

- (1) the numerator of which is the sum of the Contributions required to be made under the Pension Plan by an Employer for the Plan Year in which such change arose and for the four preceding Plan Years; and
 - (2) the denominator of which is the sum for the Plan Year in which such change arose and the four preceding Plan Years of all Contributions made by Employers who had an obligation to contribute under the Pension Plan for the Plan Year in which such change arose reduced by the Contributions made in such years by Employers who had withdrawn from the Pension Plan in or prior to the year in which the change arose.
- (e) An Employer's proportional share of the un-amortized amount of the reallocated Un-funded Vested Benefits is the sum of the Employer's proportional shares of the un-amortized amount of the reallocated Un-funded Vested Benefits for each Plan Year ending before the Plan Year in which the Employer withdrew from the Pension Plan.

The reallocated Un-funded Vested Benefits for a Plan Year is the sum of:

- (1) any amount which the Board of Trustees determine in that Plan Year to be un-collectible for reasons arising out of cases or proceedings under Title 11, United States Code, or similar proceedings;
- (2) any amount which the Board of Trustees determine in that Plan Year will not be assessed as a result of the operation of the de minimis rule defined in Section 14.05(a), the limitation on Employer payments to twenty (20) annual payments as described in Section 14.06 and the limitation due to a sale of assets as described in Section 14.05(b); and
- (3) any amount which the Board of Trustees determine to be un-collectible or un-assessable in that Plan Year for other reasons consistent with regulations issued by the Pension Benefit Guaranty Corporation (PBGC).

An Employer's proportional share of the un-amortized amount of the reallocated Un-funded Vested Benefit for each year is the product of the un-amortized amount of the reallocated Un-funded Vested Benefit (as of the last day of the Plan Year preceding the Plan Year in which the Employer withdraws) multiplied by the fraction defined in Section 14.03(d).

(f) For the purposes of this section:

- (1) the value of Pension Plan assets shall be the value of assets included in the actuarial valuation of the Pension Plan for the particular year and the value of the non-forfeitable benefits under the Pension Plan shall be determined based on the factors and assumptions utilized in the actuarial valuation of the Pension Plan for the particular year;
- (2) the Pension Plan's Un-funded Vested Benefit is the amount equal to the value of non-forfeitable benefits under the Pension Plan decreased by the value of Pension Plan assets;
- (3) the un-amortized amount of the Un-funded Vested Benefits for the Plan Year ending on December 31, 1979, is the amount of the Un-funded Vested Benefits as of the end of that Plan Year

reduced by five percent (5%) of such amount for each succeeding Plan Year;

- (4) the un-amortized amount of the change in a Pension Plan's Un-funded Vested Benefits with respect to a Plan Year is the change in Un-funded Vested Benefit for the Plan Year, reduced by five percent (5%) of such change for each succeeding Plan Year;
- (5) the change in a Pension Plan's Un-funded Vested Benefit for a Plan Year is the amount by which the Un-funded Vested Benefit at the end of the Plan Year, exceeds the sum of -
 - (A) the un-amortized amount of the Un-funded Vested Benefits for the Plan Year ending December 31, 1979, and
 - (B) the sum of the un-amortized amounts of the changes in Un-funded Vested Benefits for each Plan Year ending on December 31, 1980 and thereafter, and preceding the Plan Year for which the change is determined; and
- (6) the un-amortized amount of the reallocated Un-funded Vested Benefit with respect to a Plan Year is the reallocated Un-funded Vested Benefit for the Plan Year, reduced by five percent (5%) of such reallocated Un-funded Vested Benefit for each succeeding Plan Year.

Section 14.04 - Method of Computing Partial Withdrawal Liability

A Partially Withdrawn Employer's withdrawal liability shall be the allocated amount of the Un-funded Vested Benefit determined in accordance with Section 14.03 and adjusted as described in Section 14.05 as if the Employer had completely withdrawn from the Pension Plan, multiplied by one (1) minus a fraction:

- (a) the numerator of which is the Employer's Hours for the Plan Year following the Plan Year in which the Partial Withdrawal occurred; and
- (b) the denominator is the average of the Employer's Hours for the five (5) Plan Years immediately preceding the Plan Year in which the Partial Withdrawal occurs.

Section 14.05 - Limitation/De Minimis Rule

- (a) De Minimis Rule. The amount of the Un-funded Vested Benefit allocated to a Withdrawn Employer or Partially Withdrawn Employer under Section 14.03 or Section 14.04 shall be reduced by the lesser of

-
- (1) 3/4 of 1% of the Pension Plan's Un-funded Vested Benefit determined as of the end of the Plan Year before the date of withdrawal, or
 - (2) \$50,000, reduced by the amount the Un-funded Vested Benefit allocable to the Withdrawn Employer, without regard to this section, exceeds \$100,000.

The de minimis rule will not apply to an employer who withdraws in a Plan Year in which substantially all Employers withdraw from the Pension Plan, or to an Employer who withdraws pursuant to an agreement or arrangement in which substantially all Employers withdraw from the Pension Plan during a period of one or more Plan Years. In any action or proceedings to determine or collect withdrawal liability, if substantially all Employers have withdrawn from the Pension Plan within a period of three Plan Years, an Employer who has withdrawn from the Pension Plan during such period shall be presumed to have withdrawn from the Pension Plan pursuant to an agreement or arrangement, unless the Employer proves otherwise by a preponderance of the evidence.

- (b) Sale of Assets. In the case of bona fide sale of all or substantially all of an Employer's assets in an arm's-length transaction to an unrelated party, the Un-funded Vested Benefit allocable to such an Employer after the application of the provisions of this Article other than an Employer undergoing reorganization under Title 11, United States Code, or similar provisions of State law, shall not exceed the greater of:

- (1) a portion of the liquidation or dissolution value the Employer, determined after the sale or exchange of such assets; or
- (3) the Un-funded Vested Benefit attributable to Employees of the Employer.

The portion described in (1) above shall be determined in accordance with the following table:

If the liquidation or dissolution value of the Employer after <u>the sale or exchange is</u>	The portion is
Not more than \$2,000,000	30% of the amount
More than \$2,000,000 but not more than \$4,000,000	\$600,000, plus 35% of the amount in excess of \$2,000,000
More than \$4,000,000 but not more than \$6,000,000	\$1,300,000, plus 40% of the amount in excess of \$4,000,000
More than \$6,000,000 but not more than \$7,000,000	\$2,100,000, plus 45% of the amount in excess of \$6,000,000
More than \$7,000,000 but not more than \$8,000,000	\$2,550,000, plus 50% of the amount in excess of \$7,000,000
More than \$8,000,000 but not more than \$9,000,000	\$3,050,000, plus 60% of the amount in excess of \$9,000,000
More than \$9,000,000 but not more than \$10,000,000	\$3,650,000, plus 80% of the amount in excess of \$9,000,000
More than \$10,000,000	\$4,350,000, plus 80% of the amount in excess of \$10,000,000

(c) In the case of an insolvent Employer undergoing liquidation or dissolution, the Un-funded Vested Benefit allocable to that employer shall not exceed an amount equal to the sum of:

- (1) Fifty percent (50%) of the Un-funded Vested Benefit allocable to the Employer, determined without regard to this section; and
- (2) that portion of fifty percent (50%) of the Un-funded Vested Benefit allocable to the Employer as determined under subsection (b) above which does not exceed the liquidation or dissolution

value of the Employer determined as of the commencement of liquidation or dissolution, and after reducing the liquidation or dissolution value of the employer by the amount determined under subsection (b).

Section 14.06 - Withdrawal Liability Payments

- (a) The amount of each annual payment made by the Withdrawing Employer toward the Withdrawal Liability shall be the product of:
 - (1) the average annual number of hours for the period of three (3) consecutive Plan Years, during the period of ten (10) consecutive Plan Years ending before the Plan Year in which the withdrawal occurs, in which the number of Hours for which the Employer had an obligation to contribute under the Pension Plan is the highest; and
 - (2) the highest contribution rate at which the Employer had an obligation to contribute under the Pension Plan during the ten (10) Plan Years ending with the Plan Year in which the withdrawal occurs.
- (b) In the case of a partial withdrawal, the amount of each annual payment shall be the product of:
 - (1) the amount determined in subsection (a); multiplied by
 - (2) the fraction determined in Section 14.04.
- (c) Except as provided by subsection (d), an Employer shall pay the amount determined over the period of years necessary to amortize the withdrawal liability in level annual payments calculated as if the first payment were made on the first day of the Plan Year following the Plan Year in which the withdrawal occurs and as if each subsequent payment were made on the first day of each subsequent Plan Year.
- (d) The determination of the amortization period shall be based on the assumptions used for the most recent actuarial valuation for the Pension Plan. In any case in which the amortization period exceeds twenty (20) years, the Employer's liability shall be limited to the first twenty (20) annual payments.

- (e) Each annual payment shall be payable in four (4) equal installments due quarterly, or at other intervals as agreed upon between the Board of Trustees and the Withdrawn Employer. If a payment is not made when due, interest on the payment shall accrue from the due date until the date on which the payment is made.
- (f) The Withdrawn Employer shall be entitled to prepay the outstanding amount of the unpaid annual withdrawal liability payments plus accrued interest, if any, in whole or in part, without penalty. If the prepayment is made pursuant to a withdrawal which is later determined to be part of a withdrawal described in Section 14.05(a) the withdrawal liability of the Employer shall not be limited to the amount of the prepayment.
- (g) In the event of a default, the Board of Trustees may require immediate payment of the outstanding amount of an Employer's withdrawal liability, plus accrued interest on the total outstanding liability from the due date of the first payment that was not timely made. For purposes of this section, the term "default" means:
 - (1) the failure of an Employer to make, when due, any payment under this section, if the failure is not cured within 60 days after the Employer receives written notification from the Board of Trustees of such failure; and
 - (2) any other event defined in rules adopted by the Board of Trustees that indicates a substantial likelihood that an Employer will be unable to pay its withdrawal liability.
- (h) In the case in which the Pension Plan terminates by the withdrawal of every Employer from the Pension Plan, or in which substantially all the Employers withdraw from the Pension Plan pursuant to an agreement or arrangement to withdraw from the Pension Plan:
 - (1) the liability of each such Employer who has withdrawn shall be determined (or re-determined) without regard to the twenty (20) year payment limitation noted above; and
 - (2) notwithstanding any other provision of this part, the total Unfunded Vested Benefit of the Pension Plan shall be fully allocated among all such Employers in a consistent manner.

- (i) In the case of a plan termination, an Employer's obligation to make payments under this section ceases at the end of the Plan Year in which the assets of the Pension Plan (exclusive of withdrawal liability claims) are sufficient to meet all obligations of the Pension Plan, as determined by the Pension Benefit Guaranty Corporation.

Section 14.07 - Withdrawal Liability Notification Provisions

- (a) An Employer shall, within 30 days after a written request from the Board of Trustees, furnish such information as the Board of Trustees reasonably determines to be necessary to enable the Board of Trustees to comply with the requirements of this Section.
- (b) As soon as practicable after an Employer's complete or partial withdrawal, the Board of Trustees shall notify the Employer of the amount of the liability and the schedule of liability payments and demand payment in accordance with the schedule.
- (c) No later than 90 days after the Employer receives the notice described above, the Employer:
 - (1) may ask the Board of Trustees to review any specific matter relating to the determination of the Employer's liability and the schedule of payments;
 - (2) may identify any inaccuracy in the determination of the amount of the Un-funded Vested Benefit allocable to the Employer; and
 - (3) may furnish any additional relevant information to the Board of Trustees.
- (d) After a reasonable review of any matter raised, the Board of Trustees shall notify the Employer of:
 - (1) the Board of Trustees' decision;
 - (2) the basis for the decision; and
 - (3) the reason for any change in the determination of the Employer's liability or schedule of liability payments.
- (e) Withdrawal liability shall be payable in accordance with the schedule set forth by the Board of Trustees in Section 14.06, beginning no later

than 60 days after the date of the demand notwithstanding any request for review or appeal of determinations of the amount of such liability or of the schedule.

- (f) In the event of a dispute between a withdrawing Employer and the Board of Trustees as to the amount of the withdrawal liability assessed on the withdrawing Employer and the payment of said amount, such dispute shall be resolved in accordance with the provisions of Section 4221 of the Employee Retirement Income Security Act of 1974 as amended from time to time.

Section 14.08 - Information Furnished to Employers

- (a) The Administrator shall provide to a Participating Employer upon written request and without charge the following information regarding Employer Withdrawal Liability:
 - (1) the method that the Pension Plan uses to calculate the Employer's allocable share of the Un-funded Vested Benefit, which method is referred to as the Presumptive Method;
 - (2) the total amount of the Pension Plan's Un-funded Vested Benefit; and
 - (3) the total value of Contributions.
- (b) The Administrator may provide additional information, including an estimate of the Employer's potential withdrawal liability on information unique to the Employer, such as the amount of the Employer's total Contributions used in the calculation of the Withdrawal Liability. The Pension Plan may charge a reasonable fee for preparing and furnishing such additional information.

ARTICLE XV **CLAIMS AND APPEALS PROCEDURES**

Section 15.01 - Claims for Benefits

All claims by Employees and beneficiaries for benefits under the Pension Plan shall be filed in the administration office on forms approved by the Board of Trustees.

Section 15.02 - Denied Claims

In the event a claim is wholly or partially denied, the claimant shall be so notified in writing within ninety (90) days. If notification of such denial is not made within ninety (90) days and the claim is not granted within said period of time, it shall be deemed denied for the purpose of proceeding to review of denied claims. The denial of a claim shall set forth in as simple language as possible the reason and basis for the denial. In the event any additional material or information is necessary from claimant to perfect the claim, the claimant shall be so notified and shall be granted no less than ninety (90) days to furnish the information or to perfect the claim. In addition to the specific reason or reasons for the denial, the denial shall make specific reference to the pertinent plan provisions on which the denial is based and shall be accompanied by notification of the right to appeal and review.

Section 15.03 - Appeal of Denied Claims

A claimant whose claim is denied shall have ninety (90) days in which to appeal the denial of his claim for benefits. Such appeal shall be made in writing to the Board of Trustees. Upon appeal, the claimant or his duly authorized representative shall be given an opportunity to review pertinent documents and shall further be given the opportunity to submit in writing any statement or comments, or material relevant to the claim.

Section 15.04 - Review of Appeal

No later than ninety (90) days after receipt of a request for review, a decision shall be rendered in writing and shall include specific reasons for the decision in as simple language as possible with specific references to the pertinent plan provisions on which the decision is based.

ARTICLE XVI **AMENDMENT, WITHDRAWAL AND TERMINATION OF** **TRUST**

Section 16.01 - Amendment

The provisions of this Agreement may be amended at any time by an instrument in writing executed by the Board of Trustees, and consented to

and approved by the Union and the Association, provided that no amendment shall:

- (a) provide for the use or application of the Fund for any purpose other than those set forth in Sections 2.01, 2.02 and 2.03; or
- (b) eliminate or modify the terms and provisions of Section 2.01; or
- (c) eliminate or modify the terms and provisions of Section 18.05; or
- (d) permit the return to or payment of the Fund, or any part thereof, to any Employers, except only the return of an overpayment of Contributions; or
- (e) so amend this Declaration that there shall not be an equal number of Employer Trustees and of Employer Trustees to administer the Trust; or
- (f) alter, modify or abrogate any of the provisions of Section 13.11(a), (b) or (e), or
- (g) so amend this Declaration to provide for a merger or consolidation with, or transfer of assets or liabilities to, any other plan if any Participant in the Pension Plan (if the Pension Plan then terminated) would receive a benefit immediately after the merger, consolidation or transfer which is less than the benefit he would have been entitled to receive immediately before the merger, consolidation or transfer (if the Pension Plan had then terminated).

Section 16.02 - Termination

- (a) In the event that the obligation of the Association, or Employers not Members thereof, to make Contributions shall all terminate, or upon the liquidation of the Trust Estate, the assets then remaining in the Pension Fund, after providing expenses of the Pension Plan, shall be allocated to the extent that shall be sufficient for the purpose of paying retirement benefits (based on Credited Service to the date of the discontinuance of the Pension Plan) to Participants, Retired Employees, and Vested Employees in the following order of precedence:
 - (1) To provide the pension benefits called for under the Pension Plan for those Retired Employees who have been receiving monthly

payments for three (3) years or who would have been receiving monthly payments for three (3) years if they had been eligible to and elected to retire five (5) years preceding date of termination of the Pension Plan;

- (2) if the same has not already been done, to provide the pension benefits called for under the Pension Plan that are guaranteed by the Pension Benefit Guaranty Corporation, reduced to reflect any allocations made pursuant to the preceding allocation;
 - (3) If the same has not already been done, to provide all other benefits that, pursuant to Articles V and VII are non-forfeitable, reduced to reflect any allocations made pursuant to the preceding allocations; and
 - (4) If the same has not already been done, to provide all other accrued benefits under the Pension Plan, reduced to reflect any allocations made pursuant to the preceding allocations.
- (b) If the pension benefits to which the Employees of any of the classes described in subsection (a) are entitled cannot be provided, then the assets available for such class of Employees shall be allocated pro rata among such Employees, based upon the actuarial value of the pension benefit described in that class.
- (c) If, after following the order of allocation set forth in subsection (a) and providing for the expenses incident to termination which are not otherwise provided, there are any assets remaining, then the amount of such assets shall be used for the sole benefit of the Employees in a manner determined by the Board of Trustees at the time of termination.
- (d) The termination of the Pension Plan shall be carried out by the Board of Trustees in full compliance, including proper notification, with Title IV of the Employee Retirement Income Security Act of 1974 as amended from time to time and the regulations issued with respect thereto by the Pension Benefit Guaranty Corporation. Subject to the preceding, the allocation described in subsection (a) shall be accomplished through:
- (1) continuance of the Pension Trust Fund or a new Pension Trust Fund, but subject to the requirements of the Internal Revenue

Code and the Employee Retirement Income Security Act of 1974,
or

- (2) purchase of insurance annuity contracts; provided, however, that the Board of Board of Trustees, upon finding that it is not practicable or desirable under the circumstances to do either of the foregoing with respect to some or all of the groups listed above, may, with the unanimous consent of all its members, provide for some allocation of a part or all of the assets of the Pension Trust Fund other than the continuance of the Trust Fund or the purchase of insurance annuity contracts with respect to any or all of such groups; provided, however, that no change shall be effected in the order of precedence and basis for allocation above established, or
- (3) through the Pension Benefit Guaranty Corporation.

Section 16.03 - No Reversion

In no event shall any part of the Fund revert to the Employer or contributor, except where there is overpayment of contribution.

ARTICLE XVII **LIMITATION ON BENEFITS AND PARTICIPATION**

Section 17.01 - Limitations on Benefits

- (a) The provisions and limitations on benefits and contributions under qualified plans as contained in Section 415 of the Internal Revenue Code are incorporated by reference and shall supersede all inconsistent provisions.
- (b) Notwithstanding anything in this Pension Plan to the contrary, the annual benefit which will become payable under the Pension Plan to a Participant at any time shall be limited and adjusted so as not to exceed the maximum annual benefit permissible under Section 415 of the Internal Revenue Code for such Participant. If the benefit that the Participant would otherwise accrue in a Limitation Year would produce an annual benefit in excess of the maximum permissible amount, the rate of accrual will be reduced so that the annual benefit will equal the maximum permissible amount.
- (c) For purposes of applying the Code Section 415 limitations with respect to a Participant employed by an Employer maintaining the

Pension Plan, only the benefits provided to such Participant by such Employer shall be taken into account.

- (d) The Code Section 415 limitations on annual benefits imposed by this Section shall be deemed satisfied if the annual benefit payable to a Participant is not more than \$1,000 multiplied by the Participant's number of full and partial Years of Credited Service (not to exceed 10) with an Employer, and the Participant has not at any time participated in an Employer-funded defined contribution plan, a welfare benefit plan under Section 419(e) of the Internal Revenue Code, or an individual medical account under Section 415(l)(2) of the Internal Revenue Code maintained pursuant to the Collective Bargaining Agreement.
- (e) The annual benefit payable to a retired or terminated Participant, which is otherwise limited by the dollar limitation under Section 415 of the Internal Revenue Code, shall be increased in accordance with annual cost of living adjustments to such dollar limitations pursuant to Section 415(d) of the Internal Revenue Code.
- (f) For purposes of this Section, an annual benefit payable in a form other than a single life annuity must be adjusted to an actuarially equivalent single life annuity before applying the limitations of this Section. For this purpose, effective January 1, 1995, but subject to paragraph (i) below, actuarial equivalence shall be determined by the applicable mortality table prescribed by the Commissioner of Internal Revenue under Section 415(b)(2)-(E)(v) of the Internal Revenue Code for purposes of the adjustment of the Code Section 415 limitations for defined benefit plans and interest at the greater of five (5%) percent or the interest rate used under the Pension Plan to determine Actuarial Equivalent optional forms of benefits; provided, however, that the interest rate used to determine actuarial equivalence for a lump sum payment under the Pension Plan (or a form of payment otherwise subject to Section 417(e)(3) of the Internal Revenue Code) shall be the greater of the interest rate used under the Pension Plan to determine Actuarial Equivalent optional forms of benefit or the rate equal to the annual interest rate on 30-year Treasury securities specified by the Commissioner of Internal Revenue for the determination of present value under Section 417(e)(3)(A) (ii)(II) of the Internal Revenue Code for the November preceding the applicable Limitation Year. No actuarial adjustment to the benefit is required for (i) the value of a qualified joint and survivor annuity, (ii) the value of benefits that are not directly related to retirement benefits, and (iii) the value of post-retirement cost-of-living increases made in accordance with Section

415(d) of the Internal Revenue Code and I. T. Reg. § 1.415-3(c)(2)(iii).

- (g) If a benefit under the Pension Plan begins after the Participant's "social security retirement age" as determined under Section 415(b) of the Internal Revenue Code, the defined benefit dollar limitation shall be adjusted (increased) to the actuarial equivalent of an annual benefit of such dollar limitation beginning at the Participant's social security retirement age. For this purpose, effective January 1, 1995, but subject to paragraph (i) below, actuarial equivalence will be determined by (to the extent required) the applicable mortality table prescribed by the Commissioner of Internal Revenue under Section 415(b)(2)-(E)(v) of the Internal Revenue Code for purposes of the adjustment of the Code Section 415 limitations for defined benefit plans and interest at the lesser of five (5%) percent or the interest rate used under the Pension Plan to determine Actuarial Equivalent optional forms of benefits.
- (h) If a benefit under the Pension Plan begins before the Participant's "social security retirement age" as determined under Section 415(b) of the Internal Revenue Code, but on or after the Participant's attainment of age sixty-two (62), the defined benefit dollar limitation shall be reduced by 5/9ths of one percent for each of the first thirty-six (36) months and 5/12ths of one percent for each additional month by which the payment date for the benefit precedes the month in which the Participant will attain social security retirement age. If the benefit begins prior to the Participant's attainment of age sixty-two (62), the defined benefit dollar limitation shall be adjusted (reduced) to the actuarial equivalent of the dollar limitation specified in this paragraph for a benefit beginning at age sixty-two (62). For this purpose, effective January 1, 1995, but subject to paragraph (i) below, actuarial equivalence will be determined by (to the extent required) the applicable mortality table prescribed by the Commissioner of Internal Revenue under Section 415(b)(2)(E)(v) of the Internal Revenue Code for purposes of the adjustment of the Code Section 415 limitations for defined benefit plans and interest at the greater of five (5%) percent or the interest rate used under the Pension Plan to determine Actuarial Equivalent optional forms of benefits.
- (i) The Section 415(b)(2)(E) changes (within the meaning of Rev. Rul. 98-1) as set forth in paragraphs (f), (g) and (h) shall not apply to benefits accrued prior to January 1, 2000 (referred to as "old-law benefit" for this purpose). A Participant's old-law benefit shall be determined on the basis of his/her accrued benefit under the terms of

the Pension Plan in effect on December 31, 1999, after applying the requirements of Section 415 of the Internal Revenue Code as set forth in the Pension Plan as in effect on December 7, 1994 (including the then participation requirements of Section 415(b)(5) of the Internal Revenue Code), but subject to increase to the extent permitted with respect to the repeal of Section 415(e) of the Internal Revenue Code (as provided for by Q&A-12 of IRS Notice 99-44). To implement this, the Code Section 415(b) limitations shall apply to the Participant's total accrued benefit, but the Participant shall receive no less than his/her old-law benefit (which is method 2 of Q&A-14 of Rev. Rul. 98-1).

- (j) If a Participant is or has at any time been a participant in any other qualified defined benefit plan(s) (other than another multi-employer plan) maintained or contributed to by an Employer, and the aggregate benefits for such Participant under this and all such other plans would exceed the limitations of Code Section 415, benefits will be adjusted to prevent violation of the Code Section 415 limits under such other plans; provided, however, if such other plan is terminated, the adjustment shall be made under this Pension Plan.
- (k) The Code Section 415 limitations applicable to a Participant who also participates a qualified defined contribution plan(s) (other than another multi-employer plan) maintained or contributed to by an Employer shall not apply to Limitations Years beginning on and after January 1, 2000.
- (l) For purposes of this Section, "compensation" shall mean all of an Employee's wages for the entire Limitation Year within the meaning of Section 3401(a) of the Internal Revenue Code or any other payments of compensation for which the Employee is required to be furnished a written statement under Sections 6041(d) and 6051(a)(3) of the Internal Revenue Code, determined without regard to any rules under Section 3401(a) of the Internal Revenue Code that limit the remuneration included in wages based on the nature or location of the employment or services performed, including for Limitation Years beginning on and after January 1, 1998, (i) elective deferrals that are not includible in gross income under Sections 125, 402(e)(3), 402(h), 403(b) of the Internal Revenue Code (and any predecessors and successors thereto), (ii) compensation deferred under a Code Section 457(b) deferred compensation plan, and (iii) employee pick-up contributions under Section 414(h) of the Internal Revenue Code, and including for Limitation Years beginning on and after January 1, 2001, elective amounts that not includible in gross income under

Section 132(f)(4) of the Internal Revenue Code (and any predecessors and successors thereto).

- (m) For purposes of applying the limitations of this Article, compensation for a Limitation Year is the compensation actually paid or made available during the Limitation Year. Notwithstanding the preceding sentence, compensation for a Participant in a defined contribution plan who is permanently and totally disabled (as defined in Section 22(e)(3) of the Internal Revenue Code) is the compensation such Participant would have received for the Limitation Year if the Participant had been paid at the rate of compensation paid immediately before becoming permanently and totally disabled; provided, however, such imputed compensation for the disabled Participant may be taken into account only if contributions made on behalf of such Participant are non-forfeitable when made, and beginning January 1, 1997, if the Participant is a highly compensated employee within the meaning of Section 17.02(d), only if contributions are made on behalf of all such permanently and totally disabled participants.
- (n) For purposes of this Section, the term "Employer" shall be interpreted to mean the Employer of the Participant, and all members of a controlled group of corporations (as defined in Section 414(b) of the Internal Revenue Code as modified by Section 415(h) of the Internal Revenue Code), all commonly controlled trades or businesses (as defined in Section 414(c) of the Internal Revenue Code as modified by Section 415(h) of the Internal Revenue Code) or affiliated service groups (as defined in Section 414(m) of the Internal Revenue Code) of which the Employer is a part, and any other entity required to be aggregated with the Employer pursuant to regulations under Section 414(o) of the Internal Revenue Code.
- (o) For purposes of this Section, the term "Limitation Year" shall mean the calendar year.
- (p) For purposes of the 2004 and 2005 Limitation Years, and notwithstanding any contrary provisions, the interest rate used under subsection (f) of this Section to determine actuarial equivalence for a lump sum payment under the Pension Plan (or a form of payment otherwise subject to Section 417(e)(3) OF THE Internal Revenue Code) shall be the greater of five and one-half percent (5.5%) or the interest rate used under the Pension Plan to determine Actuarial Equivalent optional forms of benefit.

Section 17.02 - Special Limitation on Participation

- (a) Notwithstanding any contrary provisions, the participation of a Participant who is both a highly compensated employee within the meaning of subsection (d) of this Section and a non-collectively bargained employee within the meaning of subsection (e) of this Section may be conditioned upon submission by the Employer(s) who contributes (or is obligated to contribute) on behalf of such Participant of a demonstration and certification satisfactory to the Trustees that the portion of the Pension Plan which covers the non-collectively bargained employees (including the Participant) of such Employer(s) satisfies the minimum participation, minimum coverage and general nondiscrimination provisions of Section 401(a)(26), Section 410(b) and Section 401(a)(4) of the Internal Revenue Code with respect to such relevant Plan Year.
- (b) For purposes of demonstrating satisfaction with any applicable nondiscrimination requirements of the Internal Revenue Code under this Section, an Employer may elect to use any definition of compensation that complies with the provisions of I.T. Reg. §1.414(s)-1 (or its successor) to apply such nondiscrimination requirements to the portion of the Pension Plan which is required to be tested as a separate plan of such Employer, provided that the definition of compensation so elected by an Employer is used consistently to the extent required by I.T. Reg. §1.414(s)-1 (or its successor).
- (c) For purposes of demonstrating satisfaction with any applicable nondiscrimination requirements of the Internal Code under this Section, the annual compensation of a Participant taken into account for any Plan Year beginning on or after January 1, 1994 shall not exceed \$150,000, with said dollar amount reduced proportionately for any Plan Year shorter than twelve (12) months and adjusted at the same time and in the same manner as provided by Section 401(a)(17) of the Internal Revenue Code, and effective January 1, 1997, determined without regard to family aggregation. Said annual compensation limit shall be applied separately with respect to the compensation of an Employee from each Employer maintaining the Pension Plan, rather than the total compensation from all Employers maintaining the Pension Plan.
- (d) For purposes of this Section, effective January 1, 1997, a Participant shall be considered a highly compensated employee for a Plan Year (the "current Plan Year") if, as determined in accordance with Section 414(q) of the Internal Revenue Code, the Participant

performs service for an Employer during the current Plan Year and either:

- (1) is a 5-percent owner (within the meaning of Section 416(i)(1)(A)(iii) of the Internal Revenue Code) at any time during the current Plan Year or preceding Plan Year; or
 - (2) had more than \$80,000 of compensation (within the meaning of Section 415(e)(3) of the Internal Revenue Code) or such higher amount prescribed pursuant to Section 414(q)(1) of the Internal Revenue Code from the Employer for the preceding Plan Year, and if elected by the Employer with respect to its benefit plans in accordance with Internal Revenue Service guidance, was also within the top-paid group of the Employer (i.e., among the top 20 percent paid employees of the Employer when excluding employees under Section 414(q)(5) of the Internal Revenue Code).
- (e) A non-collectively bargained employee shall mean an Employee for whom an Employer is obligated to contribute pursuant to a participation agreement with the Trustees, and not a collective bargaining agreement with the Union; provided, however, for purposes of this Section, such an Employee shall be treated as a collectively bargained employee to the extent provided by I.T. Reg. §1.410(b)-6(d)(2)(ii)(A) through (D) (or any successor).

ARTICLE XVIII **MISCELLANEOUS**

Section 18.01 - Situs

This Trust is created and accepted in the State of Pennsylvania and all questions pertaining to the validity or construction of this instrument and of the acts and transactions of the parties hereto shall be determined in accordance with the Employee Retirement Income Security Act of 1974 as amended from time to time.

Section 18.02 - Separability

Should any provision of this Declaration of Trust be held to be unlawful as to any person or instance, such fact shall not adversely affect the other provisions herein contained or the application of said provisions to any other person or instance, unless such illegality shall make impossible the functioning of the Pension Plan.

Section 18.03 - Reliance

No person, partnership or corporation dealing with the Board of Trustees shall be obliged to see to the application of any funds or property of the Trust, or to see that the terms of the Trust have been complied with, or be obliged to inquire into the necessity or expediency of any act of the Board of Trustees, and every instrument executed by the Board of Trustees shall be conclusive in favor of any person, partnership or corporation relying thereon that

- (a) at the time of the execution of said instrument the Trust was in full force and effect;
- (b) said instrument was executed in accordance with the terms and conditions of this Agreement; and
- (c) the Board of Trustees was duly authorized and empowered to execute such instrument.

Section 18.04 - Number and Gender

Whenever any words are used in this Agreement in the masculine gender, they shall also be construed to include the feminine gender or neuter gender in all situations where they would so apply, and wherever any words are used in the singular, they shall also be construed to include the plural in all situations where they would so apply, and wherever any words are used in the plural, they shall also be construed to include the singular in all situations where they would so apply.

Section 18.05 - Right to Fund

No Employee, no Employer (except as to an overpayment of payments) no Union or Labor Organization, and no Employer's Association, or any person claiming by, through or under any of them, shall have any right, title or interest in or to the Fund or any part thereof, provided, however, that any Employee who shall be covered by the Pension Plan, or his beneficiaries under the Pension Plan, shall be entitled to the benefits in the forms and amounts and subject to the terms and conditions of the Pension Plan and of this Trust. No Employee shall have any right to or option to receive any part of an Employer's payments or of said Fund instead of the benefits of the Pension Plan or of this Trust.

Section 18.06 - Spendthrift

- (a) As and to the extent required by the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code, benefits and interests in the Pension Plan and the Fund shall not be subject in any matter to alienation, sale, transfer, assignment, pledge, attachment or encumbrance of any kind. Any attempt to alienate, sell, transfer, assign, pledge, or otherwise encumber any such benefit, whether presently or thereafter payable, shall be void. No benefit nor the Fund shall in any manner be liable for or subject to the debts or liabilities of any Participant, spouse or beneficiary.
- (b) Notwithstanding the above, all or a part of a Participant's benefits may be assigned and paid to an alternate payee to the extent required and in the manner specified under Section 414(p) of the Internal Revenue Code with respect to a "qualified domestic relations order" as said term is defined in Section 414(p) of the Internal Revenue Code. For this purpose, all present value calculations shall be made using the appropriate factors, including the applicable interest rate, of the Pension Plan, and no payment shall be made under a qualified domestic relations order prior to the Participant's attainment of the "earliest retirement age" as defined in Section 414(p) of the Internal Revenue Code.
- (c) The Board of Trustees shall establish such procedures pursuant to Section 414(p) of the Internal Revenue Code as it deems necessary or desirable to determine the qualified status of domestic relations orders and to administer payments under qualified domestic relations orders, including procedures relating to:
 - (1) the Participant's eligibility to receive benefits under the Pension Plan during the period the Board of Trustees is determining whether a domestic relations order is a qualified domestic relations order with respect to the Participant and/or during the period after the Board of Trustees have been notified that a qualified domestic relations order is being sought with respect to the Participant; and
 - (2) the administration and payment of benefits payable to alternate payees pursuant to qualified domestic relations orders.
- (d) Notwithstanding subsection (a) of this Section, all or part of a Participant's benefit may be offset against an amount that the Participant is ordered to pay to the Pension Plan under a judgment, order, decree or settlement described in Section 401(a)(13)(C) of the

Internal Revenue Code issued or entered into on or after August 5, 1997.

Section 18.07 - PBGC Premiums

The Fund may pay annual premiums to the Pension Benefit Guaranty Corporation to the extent that such premiums may be required by law in order to protect the participants against the risks related to a plan termination.

Section 18.08 - Acceptance of Trust

The Trustees by the execution of this Declaration, accept their said appointment and agree faithfully to perform their duties as such Board of Trustees.

Section 18.09 - Withholding

The Board of Trustees may make any appropriate arrangements to deduct from all amounts paid under the Pension Plan any taxes required to be withheld by any government or government agency. The Participant and/or his beneficiary shall bear all taxes on amounts paid under the Pension Plan to the extent that no taxes are withheld, irrespective of whether withholding is required.

ARTICLE XIX
EGTRRA AMENDMENTS

Section 19.01 - Purpose

- (a) This Article reflects certain provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA"). This Article is intended as good faith compliance with the requirements of EGTRRA and is to be construed in accordance with EGTRRA and guidance issued there under. Except as otherwise provided, this Article shall be effective as of the first day of the first plan year beginning after December 31, 2001.
- (b) This Article shall supersede the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this Article.

Section 19.02 - Amendment for §§ 611(a) and 654 of EGTRRA

- (a) This Section shall be effective for limitation years ending after December 31, 2001.

- (b) Benefit increases resulting from the increase in the limitations of Section 415(b) of the Internal Revenue Code will be provided to all current and former participants (with benefits limited by said Section 415(b)) who have an accrued benefit under the plan immediately prior to the effective date (other than an accrued benefit resulting from a benefit increase solely as a result of the increases in limitations under said Section 415(b)).
- (c) For purposes of this Section, the "defined benefit dollar limitation" is \$160,000, as adjusted, effective January 1 of each year, under Section 415(d) of the Internal Revenue Code in such manner as the Secretary shall prescribe, and payable in the form of a straight life annuity. A limitation as adjusted under said Section 415(d) will apply to limitation years ending with or within the calendar year for which the adjustment applies.
- (d) For purposes of this Section, the "maximum permissible benefit" is the defined benefit dollar limitation (adjusted where required, as provided in (1) and, if applicable, in (2) or (3) below).
 - (1) If the participant has fewer than 10 years of participation in the plan, the defined benefit dollar limitation shall be multiplied by a fraction, (i) the numerator of which is the number of years (or part thereof) of participation in the plan and (ii) the denominator of which is 10.
 - (2) If the benefit of a participant begins prior to age 62, the defined benefit dollar limitation applicable to the participant at such earlier age is an annual benefit payable in the form of a straight life annuity beginning at the earlier age that is the actuarial equivalent of the defined benefit dollar limitation applicable to the participant at age 62 (adjusted under (1) above, if required). The defined benefit dollar limitation applicable at an age prior to age 62 is determined as the lesser of (i) the actuarial equivalent (at such age) of the defined benefit dollar limitation computed using the interest rate and mortality table (or other tabular factor) specified in Section 17.01(h) of the Plan and (ii) the actuarial equivalent (at such age) of the defined benefit dollar limitation computed using a 5 percent interest rate and the applicable mortality table as defined in Section 17.01(h) of the Plan. Any decrease in the defined benefit dollar limitation determined in accordance with this subparagraph (2) shall not reflect a mortality decrement if benefits are not forfeited upon

the death of the participant. If any benefits are forfeited upon death, the full mortality decrement is taken into account.

- (3) If the benefit of a participant begins after the participant attains age 65, the defined benefit dollar limitation applicable to the participant at the later age is the annual benefit payable in the form of a straight life annuity beginning at the later age that is actuarially equivalent to the defined benefit dollar limitation applicable to the participant at age 65 (adjusted under (1) above, if required). The actuarial equivalent of the defined benefit dollar limitation applicable at an age after age 65 is determined as (i) the lesser of the actuarial equivalent (at such age) of the defined benefit dollar limitation computed using the interest rate and mortality table (or other tabular factor) specified in Section 17.01(g) of the Plan and (ii) the actuarial equivalent (at such age) of the defined benefit dollar limitation computed using a 5 percent interest rate assumption and the applicable mortality table as defined in Section 17.01(g) of the Plan. For these purposes, mortality between age 65 and the age at which benefits commence shall be ignored.

- (e) Effective for limitation years beginning after December 31, 2001 (notwithstanding the effective date in paragraph (a) above), this Plan shall not be aggregated with a qualified defined benefit non-multi-employer plan (or with a multi-employer plan) for purposes of the Code Section 415 limitations.

Section 19.03 – Amendment for § 611(c) of EGTRRA

- (a) To the extent used (under Section 17.02), the annual compensation of each participant taken into account in determining benefit accruals in any plan year beginning after December 31, 2001, shall not exceed \$200,000. Annual compensation means compensation during the plan year or such other consecutive 12-month period over which compensation is otherwise determined under the plan (the determination period). For purposes of determining benefit accruals in a plan year beginning after December 31, 2001, compensation for any prior determination period shall be \$200,000.
- (b) The \$200,000 limit on annual compensation in paragraph (a) above shall be adjusted for cost-of-living increases in accordance with Section 401(a)(17)(B) of the Internal Revenue Code. The cost-of-living adjustment in effect for a calendar year applies to annual

compensation for the determination period that begins with or within such calendar year.

Section 19.04 – Amendment for §§ 641, 642 and 643 of EGTRRA

- (a) This section shall apply to distributions made after December 31, 2001.

- (b) For purposes of the direct rollover provisions in Section 8.08 of the Plan, an eligible retirement plan shall also mean an annuity contract described in Section 403(b) of the Internal Revenue Code and an eligible plan under Section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this plan. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relation order, as defined in Section 414(p) of the Internal Revenue Code.

ATTACHMENT 1 MILITARY SERVICE

Under the Uniformed Services Employment and Reemployment Act (USERRA), if you enter military service or are called for active military service from reserve status you may be entitled to service credits while you are on active service or away from work as a reservist.

To be eligible for such benefits you must:

First: Notify the Fund Office and the Union before you leave work for military service. The notice may be oral or written. If notice is not given then an affidavit from the employee will be required, with any supporting documentation, to explain why the notice was not given. Failure to notify due to military necessity, impossibility or unreasonable circumstances will not automatically disqualify you.

Second: Notify the Fund Office and the Union of your intention to return to work upon your discharge from military service. The notice to the Fund Office shall include a copy of discharge papers from military service. An honorable discharge is required. A time limitation exists to return to work. A chart is provided below:

<u>Length of Service</u>	<u>Reemployment Deadline</u>
Less than 31 days hours)*	1 work-day from discharge (plus 8 hours)
31 thru 180 days	14 days after discharge**
more than 180 days	90 days after discharge

* or as soon as possible after the expiration of the 8 hours travel time if such is impossible or unreasonable.

** or if such is impossible, then the next day when it becomes possible after the 14 days.

An absence for purposes of examination for service is treated as a period for less than 31 days. If hospitalization occurs during service, then the time periods above apply after recovery, but such time shall not exceed two years.

These rights are limited and you should contact the Fund Office for further details. This notice is not intended to explain all rights and limitations of USERRA.

APPENDIX A

TABLE A
OPERATING ENGINEERS' CONSTRUCTION INDUSTRY
AND MISCELLANEOUS PENSION FUND

Factors to Convert Deferred to Age 65
Life Only Benefit to Lump Sum Amount
On and After January 1, 1995

Participant <u>Age</u>	Factor	Participant <u>Age</u>	Factor	Participant <u>Age</u>	Factor
20	.6189	40	2.0109	60	7.0000
21	.6563	41	2.1342	61	7.4886
22	.6960	42	2.2654	62	8.0187
23	.7380	43	2.4050	63	8.5955
24	.7826	44	2.5537	64	9.2255
25	.8300	45	2.7121	65	9.9166
26	.8802	46	2.8812		
27	.9334	47	3.0616		
28	.9900	48	3.2544		
29	1.0499	49	3.4605		
30	1.1136	50	3.6811		
31	1.1811	51	3.9172		
32	1.2528	52	4.1703		
33	1.3288	53	4.4416		
34	1.4096	54	4.7327		
35	1.4953	55	5.0453		
36	1.5864	56	5.3810		
37	1.6831	57	5.7418		
38	1.7859	58	6.1301		
39	1.8950	59	6.5485		

To obtain the lump sum amount (as one step to determine a lump sum payment), the above factor appropriate to the age of the Participant at the benefit calculation date is multiplied by the Participant's life only annual benefit otherwise payable at the Participant's benefit commencement date.

TABLE B-1
OPERATING ENGINEERS' CONSTRUCTION INDUSTRY AND
MISCELLANEOUS PENSION FUND
Surviving Spouse REA Death Benefit

Factors to Convert Deceased Participant's Deferred to Age 55 Annual Benefits to Lump Sum Equivalents
On and After January 1, 1995

Participant's Age at Death_	Base Factor Lump Sum Equivalent Factor Applicable to Age_	Participant's Age at Death_	Base Factor Lump Sum Equivalent Factor Applicable to Age_
28	2.7605	43	6.6651
29	2.9270	44	7.0709
30	3.1036	45	7.5021
31	3.2910	46	7.9602
32	3.4897	47	8.4473
33	3.7005	48	8.9652
34	3.9242	49	9.5161
35	4.1615	50	10.1023
36	4.4133	51	10.7261
37	4.6804	52	11.3901
38	4.9639	53	12.0971
39	5.2647	54	12.8501
40	5.5841	55	13.6527
41	5.9231		
42	6.2829		

To determine the lump sum equivalent of a deferred retirement benefit as of a benefit calculation date (as one step to determine a lump sum payment):

1. determine Participant Age at Death, 5.
add difference in step 4 to the number 1,
2. determine Spouse Age at Participant's Death, 6.
determine Base Factor based on Participant's Age at Death,
3. determine difference in ages, i.e., (1) - (2) (retaining negative sign), 7.
determine adjusted Base Factor by multiplying (5) by (6),
4. multiply difference in step 3 by .015, 8.
determine Lump Sum Value by multiplying Adjusted Base Factor by.

Annual Benefit payable to spouse

TABLE B-2

OPERATING ENGINEERS' CONSTRUCTION INDUSTRY
AND MISCELLANEOUS PENSION FUND

Surviving Spouse REA Death Benefit
Factors to Convert Deceased Participant's Immediate
(Age 55 or Older at Death) Annual Benefits to Lump Sum Equivalents
On and After January 1, 1995

<u>Spouse's Age at Participant's</u>	<u>Base Factor Lump Sum Equivalent Factor Applicable</u>	<u>Spouse's Age at Participant's</u>	<u>Base Factor Lump Sum Equivalent Factor Applicable</u>
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<u>Death</u>	<u>to Age</u>	<u>Death</u>	<u>to Age</u>
25	16.4552	35	15.9315
26	16.4143	36	15.8627
27	16.3712	37	15.7901
28	16.3257	38	15.7137
29	16.2778	39	15.6332
30	16.2273	40	15.5486
31	16.1741	41	15.4596
32	16.1181	42	15.3660
33	16.0591	43	15.2676
34	15.9970	44	15.1643

(continued next page)

TABLE B-2 continued

<u>Spouse's Age at Participant's Death</u>	<u>Base Factor Lump Sum Equivalent Factor Applicable to Age</u>	<u>Spouse's Age at Participant's Death</u>	<u>Base Factor Lump Sum Equivalent Factor Applicable to Age</u>
45	15.0560	60	12.6870
46	14.9424	61	12.4705
47	14.8235	62	12.2460
48	14.6991	63	12.0132
49	14.5691	64	11.7721
50	14.4332	65	11.5224
51	14.2910	66	11.2640
52	14.1421	67	10.9969
53	13.9863	68	10.7213
54	13.8232	69	10.4378
55	13.6527	70	10.1474
56	13.4748	71	9.8514
57	13.2893	72	9.5514
58	13.0963	73	9.2488
59	12.8955	74	8.9450

To obtain the lump sum amount (as one step to determine a lump sum payment), the above factor appropriate to the age of the Spouse at the death of the Participant is multiplied by Annual Benefit payable to the Spouse.

TABLE C

OPERATING ENGINEERS' CONSTRUCTION INDUSTRY AND
MISCELLANEOUS PENSION FUND

Factors to Convert Life Only Benefit to 50% or 100% Joint and Survivor Option
On and After January 1, 1995

<u>Participant's Age</u>							
Difference Between Ages of Participant and Spouse	<u>55 to 57</u>		<u>58 to 60</u>		<u>61 to 63</u>		<u>4</u>
	<u>50%</u>	<u>100%</u>	<u>50%</u>	<u>100%</u>	<u>50%</u>	<u>100%</u>	
<u>Participant Older</u>							
29 or more years	85%	73%	82%	70%	79%	66%	7
26, 27 or 28 yrs.	85	74	83	71	80	67	7
23, 24 or 25 yrs.	86	75	84	72	81	68	7
20, 21 or 22 yrs.	86	76	84	73	82	69	7
17, 18 or 19 yrs.	87	77	85	74	82	70	8
14, 15 or 16 yrs.	87	78	85	75	83	71	8
11, 12 or 13 yrs.	88	79	86	76	84	73	8
8, 9 or 10 yrs.	89	80	87	77	85	74	8
5, 6 or 7 yrs.	90	82	88	79	87	76	8
2, 3 or 4 yrs.	91	83	89	81	88	78	8
less than 2 yrs.	92	85	91	83	89	81	8

(continued next page)
TABLE C continued

<u>Participant's Age</u>							
Difference Between Ages of Participant and Spouse	<u>55 to 57</u>		<u>58 to 60</u>		<u>61 to 63</u>		<u>4</u>
	<u>50%</u>	<u>100%</u>	<u>50%</u>	<u>100%</u>	<u>50%</u>	<u>100%</u>	
<u>Participant Younger</u>							
less than 2 yrs.	92%	85%	91%	83%	89%	81%	8
2, 3 or 4 yrs.	93	86	92	85	91	83	9
5, 6 or 7 yrs.	94	88	93	87	92	86	9
8, 9 or 10 yrs.	95	90	94	89	94	88	9
11, 12 or 13 yrs.	96	92	95	91	95	90	9
14, 15 or 16 yrs.	97	93	96	93	96	92	9
17, 18 or 19 yrs.	97	95	97	94	97	94	9

20, 21 or 22 yrs.	98	96	98	96	98	96	98
23, 24 or 25 yrs.	98	97	98	97	98	97	98
26, 27 or 28 yrs.	99	98	99	98	99	98	99
29 or more years	99	99	99	99	99	99	99

TABLE D

OPERATING ENGINEERS' CONSTRUCTION INDUSTRY AND
MISCELLANEOUS PENSION FUND

Factors to Convert Life Only Benefit for a Disability Retiree to 50% or 100%
Joint and Survivor Option
On and After January 1, 1995

Difference Between to 66	Participant's Age							
	<u>55 to 57</u>		<u>58 to 60</u>		<u>61 to 63</u>		<u>64</u>	
Ages of Participant and Spouse	<u>67 to 69</u>		<u>70 to 72</u>		<u>Over</u>			
	50%	100%	50%	100%	50%	100%	50%	
	100%	50%	100%	50%	100%	50%	100%	
Participant Older								
29 or more years	73%	58%	69%	53%	65%	49%	61%	44%
26, 27 or 28 yrs.	74	59	70	54	66	50	62	45
23, 24 or 25 yrs.	75	60	71	55	67	50	63	46
20, 21 or 22 yrs.	75	60	72	55	68	50	64	46
17, 18 or 19 yrs.	76	61	72	57	68	52	64	48
14, 15 or 16 yrs.	76	62	73	58	69	53	66	49
11, 12 or 13 yrs.	77	63	74	59	71	54	67	50
8, 9 or 10 yrs.	78	64	75	60	72	56	68	52
5, 6 or 7 yrs.	79	66	76	62	73	58	70	54
2, 3 or 4 yrs.	81	67	78	64	75	60	72	56
less than 2 yrs.	82	69	79	66	77	62	74	59

(continued next page)

TABLE D continued

Difference Between to 66	<u>55 to 57</u>		<u>58 to 60</u>		<u>61 to 63</u>		<u>64</u>	
	<u>67 to 69</u>		<u>70 to 72</u>		<u>Over</u>			

Ages of Participant
and Spouse

	50%	100%	50%	100%	50%	100%	50%
	100%	50%	100%	50%	100%	50%	100%
<u>Participant Younger</u>							
less than 2 yrs.	82%	69%	79%	66%	77%	62%	74%
2, 3 or 4 yrs.	83	72	81	68	79	65	77
5, 6 or 7 yrs.	85	74	83	71	81	69	79
8, 9 or 10 yrs.	81	77	78	74	75	72	72
11, 12 or 13 yrs.	89	80	87	78	86	76	85
14, 15 or 16 yrs.	90	83	89	81	89	80	88
17, 18 or 19 yrs.	92	85	91	84	91	83	90
20, 21 or 22 yrs.	94	88	93	87	93	87	92
23, 24 or 25 yrs.	95	91	95	90	95	90	95
26, 27 or 28 yrs.	96	93	96	93	96	93	96
29 or more years	97	95	97	95	97	95	97

TABLE E

OPERATING ENGINEERS' CONSTRUCTION INDUSTRY
AND MISCELLANEOUS PENSION FUND

Other Factors On and After January 1, 1995

For non-disabled lives, any benefit not convertible under Tables A, B, C, or D shall be computed in accordance with the 83 GAM Male Mortality Table (without any setback or set forward) at 6% interest per annum.

For disabled lives, all calculations will utilize the 83 GAM Male Mortality Table set forward 10 years and 6% interest per annum.