

SPRINKLER INDUSTRY SUPPLEMENTAL DEFINED CONTRIBUTION PENSION FUND

RESTATED RULES & REGULATIONS EFFECTIVE JANUARY 1, 2005

ARTICLE I DEFINITIONS

Section 1.01. Act.

"Act" means the Employee Retirement Income Security Act of 1974, any amendments to the Act and any regulations issued under the provisions of the Act.

Section 1.02. Annuitant.

"Annuitant" means an Employee who has retired and (a) who is receiving a Single Life Pension or a 50% Husband-and-Wife Pension under this Plan; or (b) to whom a pension would be paid but for the time required for administrative processing.

Section 1.03. Association.

"Association" means the National Fire Sprinkler Association, Inc., a membership corporation organized under the laws of the State of New York. Prior to January 1, 1983, the Association was named the National Automatic Sprinkler and Fire Control Association, Inc.

Section 1.04. Beneficiary.

"Beneficiary" means a person (other than the Annuitant) who is (a) legally entitled to receive benefits under this Plan because of his or her designation for such benefits by an Employee or Annuitant under the provisions of Section 5.05 or 7.04; or (b) legally entitled to and receiving or is entitled to receive benefits by operation of law.

Section 1.05. Collective Bargaining Agreement.

"Collective Bargaining Agreement" means the Collective Bargaining Agreements in force and effect between Sprinkler Local Unions and the Association, together with any modifications, supplements or amendments thereto or any other written labor agreement or written contract which requires Contributions to this Fund in a manner acceptable to the Trustees together with any modifications, supplements or amendments thereto.

Section 1.06. Contributions.

"Contributions" means the payments made to the Fund by an Employer pursuant to a Collective

Bargaining Agreement or other written agreement with the Trustees.

Section 1.07. Covered Employment.

"Covered Employment" means employment covered by a Collective Bargaining Agreement for which Contributions are made to the Fund. The term "Covered Employment" also means work performed by other individuals on whose behalf appropriate Contributions are made to the Fund under a written agreement with the Trustees.

Section 1.08. Employee.

"Employee" means:

- (a) those persons employed by an Employer and on whose behalf payments are required to be made to the Fund pursuant to a Collective Bargaining Agreement or, as additionally defined in the Agreement and Declaration of Trust or policies adopted by the Trustees; and
- (b) Non-Collectively Bargained Employees of Employers and Employees of Sprinkler Local Unions who meet the requirements of Section 7.02 of the Plan.

The term Employee does not include any person who has a direct or indirect interest in a sole proprietorship, or a partnership which is an Employer.

Section 1.09. Employer.

"Employer" means:

- (a) an employer which is a member of the Association which is bound to a Collective Bargaining Agreement with a Sprinkler Local Union;
- (b) an Employer engaged in the sprinkler or fire control business of installing, servicing and maintaining sprinkler and fire control systems, who are now or may become party to a Collective Bargaining Agreement with a Sprinkler Local Union which provides that the Employer party to the Agreement will contribute to the Fund;
- (c) Employer employing sprinkler fitters of a Sprinkler Local Union affiliated with the United Association who is contractually obligated to make Contributions to the Fund;
- (d) Sprinkler Local Unions for the purpose of making payments into this Fund as the employer of Employees of the Sprinkler Local Union for which the Sprinkler Local Union agrees to contribute in accordance with rules adopted by the Trustees; and
- (e) this Fund or other trust funds to which a Sprinkler Local Union is a party, for the purpose of making payments into this Fund as the employer of Employees of such trust funds for which the trust funds agree to contribute in accordance with rules adopted by the Trustees.

Provided, that the foregoing references to Sprinkler Local Unions and trust funds as "Employers" shall not be deemed to convey to them any rights or privileges granted by this Trust Agreement to Employers who are members of the Association.

Section 1.10. Fund.

"Fund" means the Sprinkler Industry Supplemental Defined Contribution Pension Fund established by the Trust Agreement, and means generally the monies, insurance policies and other things of value which comprise the corpus, income and additions to the Trust Fund.

Section 1.11. Hour of Service.

An "Hour of Service" is each hour for which an Employee is paid, or entitled to payment, by the Employer(s), directly or indirectly, including payments for disability from the National Automatic Sprinkler Industry Welfare Fund as well as each hour for which back pay, regardless of mitigation of damages, is awarded or agreed to by an Employer, to the extent that such award or agreement is intended to compensate an Employee for periods during which the Employee would have been entitled to Compensation. However, Hours of Service shall not include any time compensated under a Workers' Compensation or unemployment Compensation law or a plan pursuant to a mandatory disability benefits law and excluding any hours for non-work time in excess of 501 in any one continuous period. Two periods of paid non-work time will be deemed continuous if they are compensated for the same reason (e.g. disability) and are not separated by at least ninety days. Hours of Service will be computed and credited in accordance with Department of Labor Regulations 2530.200b.

Section 1.12. Hour of Work.

"Hour of Work" means (a) each hour for which an Employee was paid or entitled to payment for the performance of duties for an Employer, and (b) each hour for which back pay, regardless of mitigation of damages, is either awarded or agreed to by the Employer, excluding any hour credited under (a). Hours of Work will be computed and credited in accordance with Department of Labor Regulations 2530.200b-3(d).

Section 1.13. Individual Account.

"Individual Account" means the account established for each Employee, pursuant to Article III of the Plan.

Section 1.14. Normal Retirement Age.

"Normal Retirement Age" means age 65 or, if later, the age of the Employee on the fifth anniversary of his participation.

Section 1.15. Participant.

"Participant" means a person who has a Contribution made on his behalf to this Fund and who has satisfied the participation requirements of Section 2.03. A Participant ceases to be a Participant when final payment of his Accumulated Share has been made.

Section 1.16. Plan.

"Plan" means the Sprinkler Industry Supplemental Pension Plan. The Plan is a profit sharing plan as defined in the Internal Revenue Code and related regulations.

Section 1.17. Plan Year.

"Plan Year" means the period from January 1 to the following December 31, inclusive, except that the initial Plan Year commenced July 1, 1977 and ended December 31, 1977.

Section 1.18. Qualified Domestic Relations Order.

"Qualified Domestic Relations Order" means a domestic relations order which has been reviewed by the Plan and determined to be a qualified order as defined in Section 203(d) of the Act.

Section 1.19. Retires.

"Retires" or "Retired" or "Retirement" as used herein and as further defined in Section 5.02, means the complete withdrawal by an Employee from any employment which is within the collective bargaining jurisdiction of the United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada, regardless of whether a Collective Bargaining Agreement actually exists with respect to the employment.

Section 1.20. Sprinkler Local Union.

"Sprinkler Local Union" means Sprinkler Fitters Local Unions No. 709, Los Angeles; No. 483, San Francisco; No. 699, Seattle; No. 183, Milwaukee; No. 268, St. Louis; No. 281, Chicago; No. 314, Kansas City; No. 536, Baltimore; No. 542, Pittsburgh; No. 669, Road Local; No. 676, Meriden, CT; No. 692, Philadelphia; No. 696, Newark; No. 703, Buffalo; No. 704, Detroit; and any other Sprinkler Fitter Local Union affiliated with the United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada who is bound to the Trust Agreement.

Section 1.21. Trust Agreement.

"Trust Agreement" means the Agreement and Declaration of Trust entered into as of January 25, 1978, establishing the Sprinkler Industry Defined Contribution Supplemental Pension Fund, including any amendments, supplements or modifications.

Section 1.22. Trustees.

"Trustees" means the persons who are serving from time to time as Trustees in accordance with the terms of the Trust Agreement.

Section 1.23. Valuation Date.

"Valuation Date," means the date on which the Trustees determine the value of each Employee's "Individual Account" in accordance with Sections 4.02 and 4.03. The Valuation Dates will be each March 31, June 30, September 30, and December 31 and such other date or dates which may be determined by the Trustees.

Section 1.24. Other Terms.

Other terms are defined or explained elsewhere as follows:

- (a) Adjusted Account Balances - Section 4.03
- (b) Collectively Bargained Employee - Section 8.01(a)
- (c) Compensation - 7.11(d); 8.01(e)
- (d) Designated Beneficiary - Section 7.04
- (e) Direct Rollover - Section 7.01(h)(ii)(D)
- (f) Distributee - Section 7.01(h)(ii)(C)
- (g) Effective Date - Section 7.01(c)
- (h) Eligible Retirement Plan - Section 7.01(h)(ii)(B)
- (i) Eligible Rollover Distribution - Section 7.01(h)(ii)(A)
- (j) Highly Compensated Employee - 8.01(d)
- (k) Husband-and-Wife Pension - Section 6.02(b)
- (l) Investment Alternative - Article III
- (m) Non-Collectively Bargained Employee - 8.01(b)
- (n) Normal Form of Benefit Payment - Section 5.05(a)
- (o) Preretirement Death Benefit - Section 5.08
- (p) Preretirement Surviving Spouse Benefit – Section 6.03(b)
- (q) Required Beginning Date - Section 7.14
- (r) Retirement Benefit - Section 5.02
- (s) Separation Benefit - Section 5.03
- (t) Single Life Pension - Section 5.05(b)
- (u) Spouse - Section 6.01
- (v) Suspense Account - Section 7.11(e)
- (w) Totally and Permanently Disabled - Section 5.04

ARTICLE II CONTRIBUTIONS AND PARTICIPATION

Section 2.01. Employer Contributions.

Each Employer will contribute on behalf of each Employee employed by that Employer in Covered Employment. These Contributions will be made in the amount and manner and within the time limits required by the applicable Collective Bargaining Agreement, the Trust Agreement, this Plan, and any rules adopted by the Trustees in connection with this Plan.

Section 2.02. Employee Contributions.

No Contributions are permitted by Employees.

Section 2.03. Participation.

An Employee becomes a Participant in the Plan on the date he completes his first Hour of Work in Covered Employment performing work of the type covered by the Collective Bargaining Agreement between a Sprinkler Local Union and an Employer.

An Employee who completes his first Hour of Work on or after January 1, 1993 in Covered Employment performing work of the type not covered by Collective Bargaining Agreements between Sprinkler Local Unions and Employers will become a Participant in the Plan on the first day of the month following the completion of 1000 Hours of Service.

Section 2.04. Termination of Participation.

An Employee is no longer a Participant in the Plan on the date on which final payment of his or her Accumulated Share has been made.

Section 2.05. Return to Covered Employment.

A former Participant in the Plan participates again as of the date of his return to Covered Employment.

Section 2.06. Contributions for Military Service.

- (a) Effective December 12, 1994, notwithstanding any other provision of this Plan to the contrary, Contributions, benefits, and service credit with respect to qualified military service will be provided in accordance with Section 414(u) of the Internal Revenue Code
- (b) Contributions to a Participant's Individual Account for qualified military service in accordance with Section 414(u) of the Internal Revenue Code will be paid from the investment earnings of the Plan, with this payment to occur prior to the allocation of

investment earnings to Individual Accounts.

ARTICLE III INVESTMENT ALTERNATIVES

Section 3.01. Investment Alternatives.

Effective August 17, 1998, the Trustees will establish various Investment Alternatives to be managed by the Trustees in accordance with the Trust Agreement.

Section 3.02. Additional Investment Alternatives.

The Trustees may, from time to time, establish additional Investment Alternatives and eliminate and change the name or nature of existing Investment Alternatives. Participants will be notified of the name and characteristics of each Investment Alternative established by the Trustees. Each Investment Alternative will be governed by the Statement of Investment Policy and Guidelines adopted by the Trustees.

Section 3.03. Selection of Investment Alternatives by Participants.

A Participant may select the manner in which his Individual Account (as of the date of selection as well as the future Contributions to be made to his Individual Account) is to be invested by directing such amounts to be invested in one or more of the Investment Alternatives established by the Trustees. The selection of Investment Alternatives by Participants will be in accordance with rules established by the Trustees.

Section 3.04. Failure of a Participant to Affirmatively Select an Investment Alternative.

If a Participant does not affirmatively select any Investment Alternative, the Participant's Individual Account as well as the future Contributions allocated to the Participant's Individual Account will be invested in one or more Investment Alternatives designated by the Trustees. The Trustees will notify Participants of the manner in which a Participant's Individual Account will be invested in the event the Participant does not affirmatively select any Investment Alternative. Therefore, a Participant's failure to make an affirmative selection following notice of the designated Investment Alternative constitutes the selection of the Investment Alternative or Alternatives designated by the Trustees.

Section 3.05. Section 404(c) Plan.

The Plan is a plan described in Section 404(c) of the Employee Retirement Income Security Act (ERISA). Accordingly, the Trustees are not responsible for any losses that are the result of the investment choices of Participants or the failure of Participants to make investment choices.

ARTICLE IV INDIVIDUAL ACCOUNTS

Section 4.01. Establishment of Accounts.

A separate Individual Account will be established for each Participant when Contributions are received by the Fund on his behalf unless an Individual Account has already been established.

Employer Contributions are allocated to a Participant's Individual Account when they are actually received by the Fund. Contributions are made on a monthly basis as required by the Collective Bargaining Agreement. If an Employer makes all of the Contributions in a month as required by the Collective Bargaining Agreement, the Contributions are allocated to the Participants on whose behalf they are made. If an Employer does not make a complete monthly Contribution as required by the Collective Bargaining Agreement, the Employer's delinquency is allocated proportionally among the Employees of that Employer in that month working within the jurisdiction of the Sprinkler Local Union in which the delinquency arose.

Section 4.02. Valuation of Participant's Individual Accounts.

As soon as practical after each Valuation Date, the Fund will determine the amount in each Participant's Individual Account as of the Valuation Date. The amount of each Participant's Individual Account will be the total of the following:

- (a) The total of the Adjusted Account Balances of the Participant in each Investment Alternative as of the Valuation Date, determined in accordance with Section 4.03, minus
- (b) the administrative expenses of the Plan, to the extent not included in the valuation of each Investment Alternative as provided in Section 4.03, allocated to Participants in proportion to Participants' total Adjusted Account Balances as of the Valuation Date, minus
- (c) if applicable, charges to specific individual accounts for the processing of a Qualified Domestic Relations Order or a transfer (other than a roll-over) of the individual account to another Plan. Such charges will be the actual fees and costs incurred by the Plan in connection with the processing of the QDRO or the transfer.

Section 4.03. Valuation of Investment Alternatives.

As of each Valuation Date, before crediting any Contributions to or making any investment transfers to or from a Participant's Individual Account in an Investment Alternative as of that Valuation Date, the fees and expenses of each Investment Alternative and the investment income and gains and losses in asset value in each separate Investment Alternative since the preceding Valuation Date will be credited or charged to Participants' Individual Accounts in such Investment Alternative.

The allocation of the fees and expenses of each Investment Alternative and investment income and

gains or losses in asset value in each separate Investment Alternative since the preceding Valuation Date will be in proportion to the Adjusted Account Balances of Participants in such Investment Alternative as of each Valuation Date.

The Adjusted Account Balance of a Participant's Individual Account invested in a separate Investment Alternative is the amount in that Individual Account in the Investment Alternative as of the close of business on the preceding Valuation Date, increased by Employer Contributions actually received as of the current Valuation Date and allocated to the Participant's Individual Account in that Investment Alternative, decreased by any withdrawals, transfers or distributions from the Individual Account in the Investment Alternative since the preceding Valuation Date.

Section 4.04. Termination of Accounts.

An Individual Account will be considered terminated as of the date on which final payment of the Individual Account is made.

Section 4.05. Valuation of Total Fund.

In no event and at no time will the total amount in all Individual Accounts at any Valuation Date exceed the total net assets of the Fund. The Trustees may, at any time, uniformly reduce the amount in each Individual Account if financial circumstances so require, as determined by the Trustees in their sole and absolute discretion. If such an event should occur, then all Individual Accounts will automatically be proportionately reduced so that the total of all Individual Accounts does not exceed the net assets of the Fund.

Section 4.06. No Right to Assets.

The fact that Individual Accounts are established and valued as of each Valuation Date does not give any Participant or others any right, title or interest in the Fund or its assets, or in a Participant's Individual Account, except at the time or times, and upon the terms and conditions provided in this Plan, or as required by law.

Section 4.07. Statements.

Each Participant who has an Individual Account will receive a statement of his or her Individual Account as of the end of each calendar quarter.

ARTICLE V BENEFITS AND ELIGIBILITY

Section 5.01. Payment of Benefits.

Subject to the provisions of Article V, the Participant's Individual Account, determined in accordance with Article IV, will be paid upon the Participant's Retirement, Total and Permanent Disability, Separation from Covered Employment or Preretirement Death.

Section 5.02. Retirement.

When a Participant retires as defined in Section 1.19, up to 100% of the amount in his Individual Account, if any, will be paid to the Participant in accordance with Section 5.05 of the Plan. A Participant may retire:

- (a) When he attains Normal Retirement Age;
- (b) When he attains age 55 and provides evidence of his receipt of a pension from another pension plan covering him under terms of a Collective Bargaining Agreement or, in the case of a Participant who is not vested in a pension plan covering him under the terms of such an agreement, he provides evidence of his receipt of Social Security Retirement Benefits; or
- (c) If he is Totally and Permanently Disabled, regardless of age, as determined in accordance with Section 5.04 of the Plan.

A Participant who applies for and receives less than 100% of the amount in his Individual Account may subsequently apply for additional Retirement Benefit payments. The Participant's eligibility for a Retirement Benefit will be determined based on whether he meets the requirements of this Section at the time of each application.

Section 5.03. Benefit Upon Separation from Covered Employment.

- (a) If a Participant separates from Covered Employment, as defined in Section 5.03(b), up to 100% of the amount in his Individual Account may, upon application of the Participant, be paid in accordance with this Section and Section 5.05 of the Plan.

A Participant who applies for and receives less than 100% of the amount in his Individual Account may subsequently apply for additional Separation Benefit payments. However, the Participant's eligibility for a Separation Benefit will be determined based on whether he meets the requirements of this Section at the time of each application.

- (b) For purposes of this Section 5.03, a Participant separates from Covered Employment as follows:
 - (i) with respect to the portion of a Participant's Individual Account based on employment

through December 31, 1995, a Participant separates from Covered Employment on the earlier of the following dates: (A) the end of the second Plan Year following the Plan Year in which the Participant last works in Covered Employment or in any employment for an Employer maintaining the Plan or (B) the end of a period of twelve (12) consecutive months during which he has not worked any hours for which Contributions are required to be made to this Fund, and has not performed any services, direct or indirect, and whether or not compensated, for any employer in the piping industry, or is self-employed in the piping industry within the United States; and

- (ii) with respect to the portion of a Participant's Individual Account based on employment on and after January 1, 1996, a Participant separates from Covered Employment at the end of a period of twelve (12) consecutive months during which he has not worked any hours for which Contributions are required to be made to this Fund and has not performed any services, direct or indirect, and whether or not compensated, for any employer in the piping industry, or is self-employed in the piping industry within the United States.
- (iii) Effective January 1, 2005, a Participant who is not employed by an Employer maintaining the Plan and whose individual account is less than \$2,500 as of the Effective Date, separates from Covered Employment at the end of a period of six (6) consecutive months during which the Participant has not worked any hours for which contributions are required to be made to this Fund.
- (c) With respect to the portion of a Participant's Individual Account based on employment through December 31, 1995, no Separation Benefit will be paid if at the time of application or payment the Participant is employed in Covered Employment or in any employment for an Employer maintaining the Plan. With respect to the portion of a Participant's Individual Account based on employment on and after January 1, 1996, no Separation Benefit will be paid if at the time of application or payment the Participant is employed in Covered Employment or is performing any services, direct or indirect, and whether or not compensated, for any employer in the piping industry, or is self-employed in the piping industry within the United States. In addition, no Separation Benefit will be paid if the Participant has received a Separation Benefit from the Fund within the previous twelve (12) months.
- (d) In connection with each application for a Separation Benefit, the Participant must conclusively demonstrate to the satisfaction of the Trustees that he satisfies the requirements of this Section for a Separation Benefit. The Trustees may adopt rules for the enforcement of this Section including requirements for acceptable documentary evidence.

Section 5.04. Benefit in Case of Total and Permanent Disability.

- (a) If a Participant is Totally and Permanently Disabled as defined in (b) below, he will be eligible to receive his Individual Account as provided in Section 5.05 of this Plan.

- (b) A Participant will be considered to be Totally and Permanently Disabled if as a result of an injury, disease or mental disorder he becomes completely unable to engage in Covered Employment and it is reasonably certain such condition will continue during his remaining lifetime.
- (c) The determination whether a Participant is Totally and Permanently Disabled will be made solely by the Trustees, whose decision will be final and binding on the Participant.

In making this determination, the Trustees may rely on a determination by the Social Security Administration that the Participant qualified for Social Security Disability benefits; they may require the Participant to submit medical reports which they determine to be sufficient to enable the Trustees to make a decision on the question of disability; they may require the Participant to be examined by a physician or physicians of the Trustees' choosing; or they may require that any combination of the foregoing types of proof be provided.

Section 5.05. Form of Benefit.

- (a) A Participant who becomes entitled to receive his Individual Account will receive it in the Normal Form of Benefit Payment for either married or unmarried Employees depending on the Participant's marital status on the Effective Date of the Participant's benefit unless the Participant, and the Participant's Spouse, if applicable, has filed a timely rejection of that form of payment with the Plan. The Effective Date of the Participant's benefit is set out in Section 7.01.
- (b) The Normal Form of Benefit Payment for an unmarried Participant is a Single Life Pension. A Single Life Pension means a series of payments, purchased from an insurance carrier, continuing for the life of the Participant. Any distribution in excess of \$5000 to a Participant who is not married on the Effective Date of his benefits will be paid in the form of a Single Life Pension, unless the Participant elects otherwise in accordance with this Section.
 - (i) Once a Single Life Pension becomes effective it cannot be revoked. If the Participant dies after a Single Life Pension becomes effective, no further payments will be made to the Participant's Beneficiary.
 - (ii) An unmarried Participant who applies for a distribution from his Individual Account will be advised by the Trustees of the estimated effect of payment in the form of the Single Life Pension, including a comparison between the estimated monthly pension benefits and the amount that would be paid in a single payment.
 - (iii) If there is a valid waiver of the Single Life Pension, the Participant's Individual Account will be paid in accordance with the form of payment elected by the Participant.
 - (iv) A Participant will only be permitted to make an election concerning the Single Life

Pension when the Participant applies for a Retirement Benefit under Section 5.02 or a Separation Benefit under Section 5.03.

- (v) The Single Life Pension may only be waived in accordance with this Section. The Participant must file the waiver in writing in the form that the Trustees require.
- (vi) To be timely, a waiver of the Single Life Pension must be filed within the time period provided in Section 7.01(b). To be valid, such a waiver must be made after the Participant has been provided with information which includes a general explanation of the Single Life Pension, the circumstances in which it will be provided unless the Participant elects otherwise, the availability of the election, the estimated effect of the Single Life Pension and the eligibility conditions and other material features of the optional forms of benefits provided under the Plan including the relative values of the optional forms. The Participant may revoke a previous waiver or file a new waiver at any time after the receipt of the information referred to in this subsection and before benefit payments to the Participant actually begin.
- (c) The Normal Form of Benefit Payment for a married Participant is a 50% Husband-and-Wife Pension. A 50% Husband-and-Wife Pension is defined in Section 6.02. The 50% Husband-and-Wife Pension is purchased from an insurance carrier.
- (d) A Participant who has rejected the Normal Form of Benefit Payment which applies to him based on his marital status, with the consent of his Spouse, if applicable, will be entitled to elect to receive his Individual Account (i) in one lump sum, (ii) in monthly, quarterly, semi-annual or annual installments over a period specified by the Participant which may not be less than two (2) years or more than ten (10) years, (iii) a combination of a lump sum and payment in installments or (iv) in any other actuarially equivalent form available from an insurance company.

If the Participant is receiving his Individual Account in installment payments, each payment will be the amount of the Participant's Individual Account at the time the installment is to be paid divided by the number of installments remaining.

Section 5.06. Payment of Small Amounts.

If a Participant's Individual Account is less than \$5000, payment will be made only in a lump sum. If the portion of a Participant's Individual Account which is paid as a Preretirement Surviving Spouse Benefit under Section 6.03 is less than \$5000, payment to the Surviving Spouse shall be made only in a lump sum. If any payment on a monthly basis is less than permitted by the insurance contract under which payments are made, the monthly payments may be combined into quarterly, semi-annual or annual payments.

A lump sum payment will not be made under this Section after the starting date of a Single Life Pension, 50% Husband-and-Wife Pension, Preretirement Surviving Spouse Benefit, or other payment form available from an insurance company pursuant to Section 5.05(b), regardless of the amount of

the Individual Account, unless the payment is consented to in writing by the Participant and the Participant's Spouse, if any, in accordance with Section 6.05 or, where the Participant is dead, the Participant's Surviving Spouse in accordance with Section 6.03(c)(iii).

Section 5.07. Full Vesting.

A person for whom an Individual Account has been established will be fully and immediately vested in the Individual Account. However, the Individual Account may be reduced or eliminated in accordance with Sections 4.05 or other applicable sections so that the total of all Individual Accounts does not exceed the net assets of the Fund.

Section 5.08. Preretirement Death Benefit.

If a Participant dies before he becomes an Annuitant, his Individual Account will be paid to his Beneficiary in a lump sum. The Beneficiary may elect to receive as a pension any benefits to which the Beneficiary may be entitled.

However, if the Participant was married on the date of his death, one-half of the Participant's Individual Account will be used to provide a Preretirement Surviving Spouse Benefit in accordance with Section 6.03.

If the Designated Beneficiary is not alive at the time of the Participant's death, the Individual Account will be paid in accordance with Section 7.04.

Section 5.09. Military Service.

Notwithstanding any other provision of this Plan to the contrary, Contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Section 414(u) of the Internal Revenue Code.

ARTICLE VI HUSBAND-AND-WIFE SURVIVING SPOUSE ANNUITIES

Section 6.01. Definition of Spouse.

For purposes of determining the Normal Form of Benefit Payment which applies to a Participant and the election and calculation of the Husband-and-Wife Pension, a Spouse is the person to whom an Employee is married under the law of the state in which the Participant resides on the Effective Date of a Participant's benefit. For purposes of the Preretirement Surviving Spouse Benefit, the Spouse is the person to whom the Participant was married on the date of the Participant's death.

A former Spouse is considered a Spouse for purposes of this Plan if required by a Qualified Domestic Relations Order which is issued by a court and approved by the Plan before a benefit is distributed. If the Plan receives notice that a Participant's marital status is changing while the Plan is processing an application for payment of the Participant's Individual Account or the Plan receives notice that all or a portion of the Participant's Individual Account may be payable to an Alternate Payee, the Plan may delay the distribution of the Participant's Individual Account until the effect of the change in marital status may be taken into account or a determination made concerning the status of the claimed Alternate Payee.

Section 6.02. Husband-and-Wife Pension at Retirement or Termination of Covered Employment.

- (a) Any distribution in excess of \$5000 to a Participant who is married on the Effective Date of his benefits will be paid in the form of a 50% Husband-and-Wife Pension, unless the Participant and Spouse elect otherwise in accordance with Section 6.05.
- (b) A 50% Husband-and-Wife Pension means that the Participant will receive a monthly amount for life and, if the Participant dies before his or her Spouse, the Spouse will receive a monthly benefit for his or her lifetime that is 50% of the monthly amount the Participant received during the Participant's lifetime. The monthly benefits will be at the level payable under an insurance contract that is the actuarial equivalent of the Participant's Individual Account as of the date of distribution, determined in accordance with Section 6.04.
- (c) Once payment of the 50% Husband-and-Wife Pension begins, it cannot be revoked. If, after that point, the Spouse dies before the Participant, the Participant's monthly pension benefit will not be increased, and no one can be substituted as the Participant's Beneficiary in place of the Spouse.
- (d) In the event of a divorce between the Spouse and the Participant after the 50% Husband-and-Wife Pension becomes effective, the former Spouse will be treated as the Spouse of the Participant for the purpose of the Husband-and Wife Pension and will be entitled to receive the survivor pension benefits if the Participant dies before the former Spouse unless a

Qualified Domestic Relations Order provides otherwise.

- (e) A married Participant who applies for a distribution from his Individual Account will be advised by the Trustees of the estimated effect of payment in the form of the 50% Husband-and-Wife Pension, including a comparison between the estimated monthly pension benefits and the amount that would be paid in a single payment.
- (f) If there is a valid waiver of the 50% Husband-and-Wife Pension, the Participant's Individual Account will be paid out in accordance with Section 5.05.
- (g) A Participant and Spouse will only be permitted to make an election concerning the 50% Husband-and-Wife Pension when the Participant applies for a Retirement Benefit under Section 5.02 or a Separation Benefit under Section 5.03.

Section 6.03. Preretirement Surviving Spouse Benefit.

- (a) If a Participant who has a Spouse dies before distribution of his Individual Account has begun, a Preretirement Surviving Spouse Benefit will be paid to his surviving Spouse.
- (b) The Preretirement Surviving Spouse Benefit is a monthly pension benefit for the life of the Spouse that is the actuarial equivalent, determined in accordance with Section 6.04, of 50% of the Participant's Individual Account as of the date of the Participant's death.
- (c)
 - (i) Except as provided below or in Section 6.05, the Preretirement Surviving Spouse Benefit will be payable as described in subsection (b) above starting as of the Effective Date of benefits in accordance with Section 7.01(c) after the date the Surviving Spouse applies for payments in the manner prescribed by the Trustees, including submission of any and all information that they require to process the claim and arrange for the commencement of payments.
 - (ii) A Surviving Spouse may not postpone the commencement of benefit payments beyond the April 1st following the calendar year in which the Participant would have reached age 70 ½ .
 - (iii) A Spouse may elect to receive the Preretirement Surviving Spouse Benefit in a single payment instead of a lifetime pension. If the Spouse is the Participant's Beneficiary for his entire Individual Account, the Spouse may elect to receive a pension that is the actuarial equivalent of the entire Individual Account, determined in accordance with Section 6.04. The Spouse's election must be in writing, must acknowledge the effect of the election, and must be witnessed by a Notary Public or Plan official.

Section 6.04. Actuarially Equivalent Benefits.

For purposes of this Article, the following principles will apply in determining the actuarial equivalent of a Participant's Individual Account:

- (a) The value of a Participant's Individual Account will be in accordance with Article IV as of the date for which the value is to be determined. The value of the account will be adjusted as of each subsequent Valuation Date, until the amount in the Individual Account is distributed by purchase of an annuity or otherwise.
- (b) The conversion of an Accumulated Share, or part of it, to an actuarially equivalent pension shall be based on the actuarial assumptions and other terms prescribed by an insurance company selected to issue the pension. These need not be the same factors (or the same insurance company) used to estimate the pension benefits for purposes of informing the Participant and/or Spouse about the effect of receiving the benefit in a pension form.
- (c) Fees and other costs directly incurred in connection with the purchase of a pension from an insurance company will be deducted from the Individual Account immediately before the purchase.

Section 6.05. Waiver of Spousal Benefits.

The 50% Husband-and-Wife Pension may only be waived in accordance with this Section.

- (a) The Participant must file the waiver in writing in the form that the Trustees require. The Participant's Spouse must acknowledge the effect of the waiver and must consent to it in writing. The Spouse must also consent to a specified Beneficiary or Beneficiaries and to a specified optional benefit form. The Spouse's consent must be witnessed by a Notary Public or Plan official. The Participant may not subsequently change the designated Beneficiary or Beneficiaries or the optional benefit form without the consent of the Spouse, or
- (b) The Participant must establish to the satisfaction of the Trustees that a waiver is not required because:
 - (i) the Participant is not married;
 - (ii) the Spouse whose consent would be required cannot be located; or
 - (iii) consent of the Spouse cannot be obtained because of extenuating circumstances, as provided in IRS regulations.
- (c) To be timely, a waiver of the 50% Husband-and-Wife Pension and any required consent must be filed within the time period provided in Section 7.01(c). To be valid such a waiver must be made after the Participant and Spouse have been provided with information which includes a general explanation of the 50% Husband-and-Wife Pension, the circumstances in which it will be provided unless the Participant and Spouse elect otherwise, the availability of the election, the estimated effect of the 50% Husband-and-Wife Pension and the eligibility

conditions and other material features of the optional forms of benefits provided under the Plan including the relative values of the optional forms. The Participant and Spouse may revoke a previous waiver or file a new waiver at any time after the receipt of the information referred to in this subsection and before benefits payments to the Participant actually begin.

- (d) A Spouse's consent to a waiver is effective only for that Spouse.

Section 6.06. Insurance Contracts.

Unless the Trustees determine otherwise, any lifetime pension benefits payable under this Plan will be provided by the purchase of an irrevocable annuity contract from an insurance company. The purchase of the annuity contract from the insurance company will discharge the Trustees' obligations to the Participant and/or Spouse and thereafter the payment of benefits under the annuity contract, and any other matters relating to the administration of the benefit, will be the sole responsibility of the insurance company.

Section 6.07. Trustees' Reliance.

The Trustees will be entitled to rely on written representations, consents, and revocations submitted by Participants, Spouses, or other parties in making determinations under this Article and, unless such reliance is arbitrary or capricious, the Trustees' determinations will be final and binding, and will discharge the Fund and the Trustees from liability to the extent of the payments made. This means that, unless the Plan is administered in a manner determined to be inconsistent with the fiduciary standards of Part 4 of Title I of the Act, the Fund will not be liable under this Article for duplicate benefits with respect to the same Participant's Individual Account determined as of the date scheduled for the start of payments to the Participant or, if earlier, the date of the Participant's death.

ARTICLE VII GENERAL PROVISIONS

Section 7.01. Applications.

- (a) Except as required by law, as a condition for payment of any benefit from the Plan, an application for the benefit must be made in writing in the form and manner required by the Trustees. No benefits will be paid prior to the establishment of an Individual Account. An application may be withdrawn at any time before the payments commence.
- (b) If the amount of the Individual Account is \$5000 or less, the Trustees will pay the benefit in a lump sum. If the amount of the Individual Account exceeds \$5000, benefits may not be paid before the date the Participant attains Normal Retirement Age without the consent of the Participant. The Participant's consent is not valid unless the Participant has received a general description of the material features and an explanation of the relative values of the optional forms of benefit available under the Plan before giving consent.
- (c) The Effective Date of benefits is the date specified by the Participant or, if later, the first of the month after a Participant has fulfilled all of the conditions for entitlement to benefits (including the conditions for the form of benefit elected by the Participant in Sections 5.05 and 6.05) and after the later of the following:
 - (i) submission by the Participant of a completed application for benefits, or
 - (ii) 30 days after the Plan advises the Participant and Spouse, if applicable, of the available benefit payment options, unless--
 - (A) the benefit is being paid as a Husband-and-Wife Pension at or after the Participant reaches Normal Retirement Age; or
 - (B) the benefit is being paid out automatically as a lump sum under Section 5.06; or
 - (C) in the case of a Single Life Pension under Section 5.05, the Participant consents in writing to the commencement of payments before the end of that 30-day period.
 - (iii) The Effective Date may be before the end of the thirty-day period in subsection (c)(ii) above if all of the following requirements are met:
 - (A) The Participant, and Spouse if applicable, are provided with information about the right to at least 30 days to consider the available benefit options and whether to consent to payment;
 - (B) The Participant, and Spouse, if applicable, are permitted to revoke any

election until the Effective Date, or if later, at any time prior to the expiration of the seven-day period that begins the day after the explanation of the available benefit payment options is provided to the Participant, and Spouse, if applicable;

- (C) The Effective Date is after the date that the explanation of the available benefit payment options is provided to the Participant, and Spouse if applicable; and
- (D) The actual payment of benefits does not begin before the expiration of the seven-day period that begins the day after the explanation of the available benefit payment options is provided to the Participant, and Spouse if applicable.

Provided, that the Effective Date of benefits will not be later than the April 1st following the calendar year in which the Participant will reach age 70 ½.

- (d) Payment of a Participant's Individual Account will be made as soon as practical after the Participant's Effective Date of benefits but not later than 60 days after the latest of the following to occur:
 - (i) December 31st of the Plan Year in which the Participant reaches Normal Retirement Age;
 - (ii) the Participant's termination of employment;
 - (iii) the date as of which the Participant's benefit is first ascertained.
- (e) If a Participant's Beneficiary is not his Surviving Spouse, the payment of any benefits that become payable because of the Participant's death will begin no later than one year from the date of death or, if later, as soon as practical after the Trustees learn of the death.
- (f)
 - (i) If a Participant begins to receive distribution of his Individual Account, payments will be made over a period no longer than the joint life expectancies of the Participant and his Spouse and/or other Beneficiary.
 - (ii) Payments continuing to a surviving Spouse or other Beneficiary after the death of a Participant whose distribution had begun will continue over a period that is no longer than the period originally scheduled when the Participant's payments started.
 - (iii) If the Participant died before a distribution began, payments will be made over a period no longer than the life expectancy of his Spouse or other Designated Beneficiary provided that any portion of the Participant's benefit that is not paid to the

Participant's Spouse or other Designated Beneficiary will be distributed within five (5) years of the death of the Participant.

- (g) Any benefits payable to an "Alternate Payee" under a Qualified Domestic Relations Order will reduce any benefits payable to a Participant, Spouse, or Beneficiary under this Plan.
- (h) This subsection applies to distributions made on or after January 1, 1993. Notwithstanding any provision of the Plan to the contrary that would otherwise limit a Distributee's election under this subsection, a Distributee may elect, at the time and in the manner required by the Trustees, to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan specified by the Distributee in a Direct Rollover.
- (i) "Eligible Rollover Distribution": An Eligible Rollover Distribution is any distribution of all or any portion of the benefit of the Distributee, except that an Eligible Rollover Distribution does not include any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Distributee or the joint lives (or joint life expectancies) of the Distributee and the Distributee's Designated Beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Code; and the portion of any distribution that is not includible in gross income. To the extent the Plan may permit elective Contributions and hardship withdrawals and effective on or after January 1, 2000, an Eligible Rollover Distribution described in Section 401(c)(4) of the Internal Revenue Code, which the Participant can elect to roll over to another plan pursuant to Section 401(a)(31) of the Internal Revenue Code, excludes hardship withdrawals as defined in Section 401(k)(2)(B)(i)(IV) of the Internal Revenue Code, which are attributable to the Participant's elective Contributions under Treasury Regulation Section 1.401(k)-1(k)(2)(ii).
- (ii) "Eligible Retirement Plan": An Eligible Retirement Plan is an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, an annuity plan described in Section 403(a) of the Code, or a qualified trust described in Section 401(a) of the Code, that accepts the Distributee's Eligible Rollover Distribution. However, for distributions made prior to January 1, 2002, in the case of an Eligible Rollover Distribution to the surviving Spouse or former Spouse who is an alternate Payee under a Qualified Domestic Relations Order, an Eligible Retirement Plan is an individual retirement account or individual retirement annuity.

Effective for distributions made after December 31, 2001, 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 or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan. In addition, this definition of Eligible Retirement Plan shall apply in the case of a

distribution to a surviving Spouse or to a Spouse or former Spouse who is the Alternate Payee under a Qualified Domestic Relations Order.

- (iii) "Distributee": A Distributee includes a Participant or former Participant. In addition, the Participant's or former Participant's surviving Spouse and the Participant's or former Participant's Spouse or former Spouse who is the Alternate Payee under a Qualified Domestic Relations Order, as defined in Section 414(p) of the Code, are Distributees with regard to the interest of the Spouse or former Spouse.
- (iv) "Direct Rollover": A Direct Rollover is a payment by the Plan to the Eligible Retirement Plan specified by the Distributee.

Section 7.02. Information and Proof.

At the request of the Trustees, a Participant, Annuitant or Beneficiary must provide any evidence reasonably required for the administration of the Plan or to enable the Trustees to make a determination of any matter that the Trustees may have before them. The Trustees will be the sole judges of the standard of evidence required in any case. Failure to furnish information on a timely basis, and in good faith, will be sufficient reason for the denial of immediate benefits to a Participant or Beneficiary, or temporary suspension of benefits to an Annuitant. Furnishing a false statement that is material to an application or furnishing false information or proof will be sufficient reason for the denial, suspension or discontinuance of benefits under this Plan. The Trustees have the right to recover any losses resulting from reliance on false information.

Section 7.03. Right to Appeal.

If an application for benefits under this Plan has been denied, in part or in whole, or if a dispute arises as to the amount of an Individual Account or any other matter concerning application of this Plan, the Participant or Beneficiary has the right to appeal the decision.

The decisions of the Trustees applying and interpreting any of the provisions of this Plan, will be final and binding on all parties, including Participants, Employers, the Union, Annuitants and Beneficiaries.

Section 7.04. Designation of Beneficiary.

An Employee may designate a Beneficiary on a form provided by the Trustees and delivered to the Trustees before death. An Employee may change his or her Beneficiary (without the consent of the Beneficiary) in the same manner. The divorce of the Participant and Designated Beneficiary does not invalidate the designation; the Participant must submit a change of Beneficiary designation to the Fund to remove the former Spouse as a Beneficiary.

If there is no Designated Beneficiary, the Designated Beneficiary predeceases the Participant, or if the Beneficiary dies prior to receiving the full or remaining amount of the Individual Account, distribution shall be made in a single payment to the deceased Participant's Surviving Spouse or, if

none, in equal shares to his or her surviving children or, if none, in equal shares to his or her surviving natural parents or, if none, to his or her estate.

However, in every case, the Spouse of a married Participant will be the Participant's Beneficiary for at least one-half (50%) of his Individual Account unless the Spouse has filed with the Trustees a notarized written rejection of the right to be the Beneficiary.

Section 7.05. Incompetence or Incapacity.

If it is determined to the satisfaction of the Trustees that any Participant, Annuitant, or Beneficiary is unable to care for his affairs because of mental or physical incapacity, any benefit due the Participant, Annuitant or Beneficiary, may be paid, in the discretion of the Trustees, for the maintenance and support of the Participant, Annuitant, or Beneficiary; or to a legal guardian, committee, or other legal representative; or, in the absence of any of them, to any relative by blood or connection by marriage who is determined by the Trustees to be equitably entitled thereto. Any such payment will completely discharge the Trustees' liability with respect to the benefit.

Section 7.06. Nonassignment of Benefits.

No Participant, Annuitant or Beneficiary under this Plan will have the right to assign, alienate, transfer, sell, mortgage, encumber, pledge, or anticipate any payments. Payments will not in any way be subject to any legal process to levy, execution upon, or attachment or garnishment proceeding for the payment of any claim against the Participant, Annuitant, or Beneficiary. Payments will not be subject to the jurisdiction of any bankruptcy court or insolvency proceedings by operation of law, or otherwise. However, a Participant's benefits may be reduced pursuant to a judgment, order, decree or settlement entered into on or after August 5, 1997 where the Participant has committed a breach of fiduciary duty against the Plan or committed a criminal act against the Plan. Payments may be made by the Fund to an Alternate Payee of a Participant or Annuitant in accordance with the terms of a Qualified Domestic Relations Order.

Section 7.07. Trustees' Authority.

The Trustees have the responsibility for interpreting and carrying out the administration of the Plan in accordance with the Trust Agreement. The Trustees have full discretion and authority to interpret and administer the Plan and Trust Agreement. The Board of Trustees may allocate and delegate its responsibilities to others, where they deem appropriate, for the effective administration of the Plan as provided in the Trust Agreement.

Section 7.08. Amendments.

The Trustees may amend or modify the Plan at any time in accordance with the Trust Agreement, except that no amendment or modification may reduce any benefits which have been approved for payment prior to amendment, as long as funds are available for payment of such benefits.

Section 7.09. Plan Termination.

In the event of termination of the Plan, the assets then remaining, after providing for the expenses of the Plan and for the payment of any Individual Accounts previously approved, will be distributed among the Participants. Each Participant will receive that part of the total remaining assets in the same ratio as his Individual Account bears to the aggregate amount of the Individual Accounts of all Participants. No part of the assets will be returned to any Employer or inure to the benefit of any Employer or the Union. A reasonable effort will be made to contact every Participant. Those who cannot be located, or those for whom no claim is made for payment of their Individual Account within 90 days following the sending of notice by registered mail to the last known address, shall have their Individual Account placed in a federally insured savings account. The names of these individuals for whom an account is established will be available for reference with the Union. An attempt will also be made to contact any Designated Beneficiary in an attempt to locate the Participant.

Section 7.10. Severability.

In the event that any provision, section or subsection of this Plan is determined to be invalid by decision, act or regulation of a duly constituted body or authority this will not nullify any of the other provisions, section or subsections of the Plan.

Section 7.11. Limitation on Contributions.

Contributions to a Participant's Individual Account shall be adjusted or curtailed in any Plan Year, if required, to insure compliance with Section 415 of the Internal Revenue Code.

- (a)
 - (i) Annual Additions to a Participant's Individual Account during a Plan Year (which is the Limitation Year for the Plan) after 1983 but prior to 2002 will not exceed the lesser of –
 - (A) 25% of the Participant's Compensation from Employers; or
 - (B) \$30,000 or such amount as adjusted for cost of living increases as permitted by Internal Revenue Service regulations.
 - (ii) For Limitation Years after 2001, Annual Additions to a Participant's Individual Account will not exceed the lesser of –
 - (A) 100% of the Participant's Compensation within the meaning of Section 415(c)(3) of the Internal Revenue Code; or
 - (B) \$40,000, as adjusted for increases in the cost of living under Section 415(d) of the Internal Revenue Code.

The Compensation limit referred to in (A) does not apply to any Contribution for medical benefits after separation from service (within the meaning of Section 401(h) or Section 419A(f)(2) of the Internal Revenue Code) which is otherwise treated as an Annual Addition.

- (b) In any Plan Year beginning before January 1, 2000, if a Participant is covered by a defined Contribution plan of an Employer (or any other employer under common control with an Employer), which is qualified under Section 401(a) of the Internal Revenue Code and which is other than a multiemployer defined Contribution plan, such plan will be aggregated with this Plan in accordance with IRS Reg. 1.415-8(e) for purposes of determining compliance with the limitations under Section 415(c) of the Internal Revenue Code.
- (c) In any Plan Year beginning before January 1, 2000, if a Participant is covered by a defined benefit plan of an Employer (or any other employer under common control with an Employer), which is qualified under Section 401(a) of the Internal Revenue Code and which is other than a multiemployer defined benefit plan, such plan will be aggregated with this Plan for purposes of determining compliance with Section 415(e) of the Internal Revenue Code.
- (d) For purposes of this Section, "Compensation" means the Employee's earned income for service rendered in the course of employment with an Employer maintaining the Plan for a Plan Year determined in accordance with Section 415(c)(3) of the Internal Revenue Code and in accordance with Treasury Regulation §1.415-2(d)(2) and (3), which is subject to taxation under Section 3101(a) of the Internal Revenue Code without the dollar limitation therein, and any amount which is contributed or deferred by the Employer at the election of the Employee by reason of Sections 125 or 457 of the Internal Revenue Code. For Plan Years beginning on or after January 1, 2001, "Compensation" is as defined in Code Section 415(c)(3) as amended by the Community Renewal tax Act of 2000 and IRS Notice 2001-37. Notwithstanding anything to the contrary, for Plan Years prior to 2002, the annual Compensation of each Participant taken into account in determining allocations shall not exceed \$150,000, as adjusted for cost of living increases in accordance with Section 401(a)(17)(B) of the Internal Revenue Code, and for Plan Years after 2001, the annual Compensation of each Participant taken into account in determining allocations shall not exceed \$200,000, as adjusted for cost of living increases in accordance with Section 401(a)(17)(B) of the Internal Revenue Code.
- (e) If Employer Contributions required on behalf of a Participant by a Collective Bargaining Agreement plus other additions to a Participant's Individual Account exceed the limit set forth in Section 7.11(a), then the excess Contributions and/or other additions will be placed in a Suspense Account. Since the Employer is contractually obligated to make the Contributions placed in the Suspense Account, the Contributions will then be reallocated to the Participant's Individual Account in the next Plan Year in which the Contributions made on behalf of the Participant plus other additions to the Participant's Individual Account do not exceed the limitations in Section 7.11(a). However, if a Participant does not have any Hours of Work in Covered Employment during a Plan Year, then all excess Contributions and/or additions

made on behalf of a Participant which have not been reallocated to the Participant's Individual Account pursuant to this Subsection, will be reallocated to all other Participants in the Plan who have not exceeded the limitation set forth in Section 7.11(a) for that Plan Year.

Section 7.12. Merger.

In the event of any merger or consolidation with, or transfer of assets or liabilities to any other Plan, the amount which a Participant would receive upon a termination of the Plan immediately after such merger, consolidation or transfer will be no less than the amount he would have been entitled to receive immediately before the merger, consolidation, or transfer if the Plan had been terminated.

Section 7.13. Payments to Minors.

If benefits from this Fund are payable to a minor, the Trustees may pay the benefits due to the minor to the person having present custody or care of the minor and with whom the minor resides. Such recipient on behalf of the minor must agree in writing to apply the payments of benefits to the minor by depositing the payments in a federally insured savings account in the sole name of the minor and by giving written notice of such deposit to the minor. Payment made in the manner set forth in this Section will discharge the Trustees from any liability to the minor or anyone representing his or her interests. No payment will be made under this Section to a government agency.

Section 7.14. Required Payments.

- (a) Benefit payments which are required to commence in accordance with this Section will be made automatically to Participants to whom benefits are payable by the Fund but who fail or refuse to apply for benefits. Benefits will be paid on the Required Beginning Date, as follows:
 - (i) in a single sum if the present value of the Participant's benefit is no more than \$5000; and
 - (ii) in the form of a 50% Husband-and-Wife Pension calculated on the assumption that the Participant is married on the date payments start and that the husband is three (3) years older than the wife unless the Fund has information to the contrary concerning the marital status of the Participant which the Trustees accept as sufficient.
- (b) A Participant's Required Beginning Date is April 1st of the calendar year following the year in which the Participant attains age 70 ½ subject to the provisions of Section 401(a)(9) of the Internal Revenue Code and related regulations.

ARTICLE VIII
RULES AFFECTING THE PARTICIPATION
OF NON-COLLECTIVELY BARGAINED EMPLOYEES

Section 8.01. Definitions.

The following definitions apply to the participation of Non-Collectively Bargained Employees in this Plan:

- (a) "Collectively Bargained Employee"
 - (i) A Collectively Bargained Employee for any Plan Year is an Employee who is included in a unit of Employees covered by a Collective Bargaining Agreement, as defined in Section 1.05 of the Plan, between an Employer and the Employee's Employee representative, provided there is evidence that Retirement Benefits were the subject of good faith bargaining between the Employer and Employee representative. An Employee who is not covered by an agreement as defined in Section 1.05 of the Plan may not participate in the Plan without the prior approval of the Trustees.
 - (ii) A Non-Collectively Bargained Employee will be treated as a Collectively Bargained Employee (A) if the Employee is or was a member of a unit of Employees covered by a Collective Bargaining Agreement and that agreement or another agreement, such as an agreement with the Trustees, provides for the Employee to benefit under the Plan in the Plan Year; and (B) the Employee performs services for an Employer during that Plan Year both as a Collectively Bargained Employee and as a Non-Collectively Bargained Employee, provided at least half of the Employee's Hours of Work during the Plan Year are performed as a Collectively Bargained Employee.
 - (iii) An Employee who was a Collectively Bargained Employee for a Plan Year, may be treated as a Collectively Bargained Employee for the duration of the Collective Bargaining Agreement applicable for that Plan Year, or if later, until the end of the following Plan Year (A) if the Employee is or was a member of a unit of Employees covered by a Collective Bargaining Agreement and that agreement or another agreement, such as an agreement with the Trustees, provides for the Employee to benefit under the Plan in the Plan Year; and (B) the terms of the Plan providing for benefit accruals treat the Employee in a manner that is generally no more favorable than similarly situated Employees who are currently in a unit of Employees covered by a Collective Bargaining Agreement.
 - (iv) A Non-Collectively Bargained Employee may be treated as a Collectively Bargained Employee (A) if the Employee is or was a member of a unit of Employees covered by a Collective Bargaining Agreement and that agreement or another agreement, such as an agreement with the Trustees, provides for the Employee to benefit under the Plan

in the Plan Year; (B) the Employee is performing services for an Employer, for this Plan or for a Union; (C) the terms of the Plan providing for benefit accruals treat the Employee in a manner that is generally no more favorable than similarly situated Employees who are currently in a unit of Employees covered by a Collective Bargaining Agreement; and (D) no more than five percent (5%) of the Employees covered under the Plan are Non-Collectively Bargained Employees determined without regard to this subsection 8.01(a)(iv). For purposes of this five percent (5%) limitation, Employees described in subsections 8.01(a)(ii) and (iii) are treated as Collectively Bargained Employees.

- (b) "Non-Collectively Bargained Employee" - A Non-Collectively Bargained Employee for any Plan Year is an Employee who is not a Collectively Bargained Employee for that Plan Year as defined in subsection 8.01(a)(i). Provided, however, that certain Non-Collectively Bargained Employees may be treated as Collectively Bargained Employees in accordance with subsections 8.01(a)(ii), (iii) and (iv) above.
- (c) "Employer" - For purposes of determining the group of Highly Compensated Employees and for purposes of this Article but not for purposes of determining Covered Employment, the term "Employer" includes all corporations, trades or businesses under common control with the Employer within the meaning of Section 414(b) or (c) of the Code; all members of an affiliated service group with the Employer within the meaning of Section 414(m) of the Code and all other businesses aggregated with the Employer under Section 414(o) of the Code. The term "Employer" includes a Union or fund whose officers or Employees participate in the Plan.
- (d) "Highly Compensated Employee" - A Highly Compensated Employee is a highly compensated active Employee or a highly compensated former Employee of an Employer. Whether an individual is a Highly Compensated Employee is determined separately with respect to each Employer, based solely on that individual's Compensation from that Employer and relationship to that Employer. A Highly Compensated Employee may be determined based on the Employer's workforce on a single day during the calendar year in accordance with IRS Revenue Procedure 93-42.

A highly compensated active Employee is an Employee of the Employer who performs services for the Employer during the calendar year and who during the calendar year:

- (i) was a 5-percent owner;
- (ii) received Compensation from the Employer in excess of \$80,000, as adjusted.

A highly compensated former Employee for a calendar year is any former Employee who, with respect to the Employer, had a separation year prior to the calendar year and was a highly compensated active Employee for either the Employee's separation year or any calendar year ending on or after the Employee's 55th birthday.

An Employee who performs no services for an Employer during the calendar year is treated as a former Employee for that calendar year. Such Employee's separation year is the year in which the Employee last performed services for the Employer.

- (e) For purposes of this Section, "Compensation" is Compensation as defined in Section 7.11(d) of the Plan. Only Compensation received by an Employee during the applicable calendar year is taken into account.
- (f) "Hour of Work" - For purposes of this Article, an Hour of Work is defined in accordance with Section 1.12 of the Plan.

Section 8.02. Rules for Participation of Non-Collectively Bargained Employees.

- (a) Effective January 1, 1994, Non-Collectively Bargained Employees, including those Employees described in subsections 8.01(a)(ii), (iii) and (iv) may participate in the Plan on the terms and conditions set forth in this Article pursuant to a written agreement between the Employer of such Non-Collectively Bargained Employees and the Trustees.
- (b) Non-Collectively Bargained Employees who are eligible to participate in the Plan are owners, officers and Employees of incorporated Employers; officers and staff Employees of participating Local Unions and Employees of trust funds affiliated with participating Local Unions. Non-Collectively Bargained Employees of an Employer will not be eligible to participate in this Plan if they perform work of the type covered by a Collective Bargaining Agreement in the building and construction industry (except the Sprinkler Industry) or perform work as a fabricator or truck driver. Owners of unincorporated Employers may not participate in the Plan.
- (c) Non-Collectively Bargained Employees covered by this Agreement must provide services to the Employer and receive Compensation for those services from the Employer. Whether or not an individual is an Employee of the Employer will be determined based upon whether the Employer is the employer of the individual for purposes of reports and tax returns filed with the Federal or state governments or agencies. Other information will be considered by the Trustees if necessary to determine whether an individual is employed by the Employer. The Employer agrees to furnish such information to the Trustees upon request.
- (d) The Employer must keep adequate records of a Non-Collectively Bargained Employee's Hours of Work. The Employer must also keep adequate records to document the individual's eligibility to participate in the Plan. These records must be provided to the Trustees upon request.
- (e) The Employer must make Contributions on behalf of its Non-Collectively Bargained Employees to the Sprinkler Industry Supplemental Pension Fund for each Hour of Work. Contributions must be made at the rate established by the Collective Bargaining Agreement for journeyman Sprinkler Fitters employed by the Employer unless otherwise approved by the Trustees.

- (f) Contributions as set out in subparagraph (e) above must be paid starting as of the date a Non-Collectively Bargained Employee performs an Hour of Work under an agreement requiring Contributions to the Plan.
- (g) Payments must be made at the time and in the manner established by the Trustees. The Trustees have the authority to retain an accountant or representative to review the records of the Employer to determine whether the correct Contributions have been made.
- (h) A Non-Collectively Bargained Employee will commence and terminate participation in the Plan in accordance with the provisions of Article II of the Plan.
- (i) The participation in the Plan of the Non-Collectively Bargained Employees of an Employer for each Plan Year is conditioned on the Employer's compliance with the requirements of the Plan and the requirements of Sections 401(a)(4) and 410(b) of the Internal Revenue Code for that Plan Year. A Non-Collectively Bargained Employee will not accrue a benefit under the Plan during a Plan Year unless the Non-Collectively Bargained Employees of the Employer meet the requirements of Sections 401(a)(4) and 410(b) of the Internal Revenue Code for that Plan Year and the Employer provides the Plan with information deemed necessary by the Trustees to monitor compliance with the requirements of the Plan and the Internal Revenue Code.

If the Employer fails to provide information requested by the Trustees or fails to comply with the requirements of the Plan or the requirements of Sections 401(a)(4) and 410(b) of the Internal Revenue Code, the Employer must immediately take appropriate and necessary remedial action. Such action may include the withdrawal of the Employer's Non-Collectively Bargained Employees from participation in the Plan, or the curing of the defect. If the Employer fails to take necessary and appropriate remedial action, the participation of its Non-Collectively Bargained Employees will terminate as of the end of the Plan Year immediately preceding the Plan Year in which it failed to comply or for which information or certifications to determine compliance was requested but not provided.

- (j) In determining and certifying compliance with the coverage and non-discrimination requirements of the Plan and the Internal Revenue Code, an Employer may use "substantiation quality data" as defined in IRS Revenue Procedure 93-42. In addition, an Employer may determine and certify compliance on the basis of the Employer's workforce on a single day during the calendar year (snapshot day) in accordance with IRS Revenue Procedure 93-42.
- (k) In addition to the provision of subsection (i) the participation of its Non-Collectively Bargained Employees in the Plan will end upon termination of the agreement with the Trustees or upon termination of the Employer's Collective Bargaining Agreement.