

**AIRCONDITIONING AND REFRIGERATION
INDUSTRY RETIREMENT TRUST FUND**

ESTABLISHED BY

SOUTHERN CALIFORNIA PIPE TRADES DISTRICT COUNCIL 16,
SUCCESSOR TO THE AIRCONDITIONING AND REFRIGERATION FITTERS
DIVISION, LOCAL 250 UNITED ASSOCIATION

AND

AIRCONDITIONING, REFRIGERATION AND MECHANICAL
CONTRACTORS ASSOCIATION OF SOUTHERN CALIFORNIA, INC.

AND

SIGNATORY EMPLOYERS

(Amended and Restated as of January 1, 2006)

**AIRCONDITIONING AND REFRIGERATION INDUSTRY
RETIREMENT TRUST FUND**

The Trustees of the Airconditioning and Refrigeration Industry Retirement Trust Fund (the "Plan") hereby amend and restate the Plan, effective January 1, 2006. This document includes Amendments 1 through 12 to the Plan as revised effective December 1996.

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I. DEFINITIONS

SECTION 1.1 ANNUITY STARTING DATE.

The term “Annuity Starting Date” means the effective date of a Participant’s pension and is determined as follows:

- (a) Subject to subsection (b), below, a Participant’s Annuity Starting Date is the first day of the first calendar month starting after the Participant has fulfilled all of the conditions for entitlement to benefits and after the later of:
 - (1) the submission by the Participant of a completed application for benefits, or
 - (2) 30 days after the Plan advises the Participant of the available benefit payment options, unless:
 - (A) the benefit is being paid as a Husband-and-Wife Pension at or after the Participant’s Normal Retirement Age,
 - (B) the Participant and spouse (if any) consent in writing to the commencement of payments before the end of that 30-day period.
- (b) The Annuity Starting Date shall not be later than the Participant’s Required Beginning Date as defined in Section 6.2(b).
- (c) The Annuity Starting Date for a Beneficiary or Alternate Payee shall be determined under subsections (a) and (b), except that references to the Husband-and-Wife Pension and spousal consent do not apply.

SECTION 1.2 ASSOCIATION.

“Association” shall mean the AirConditioning, Refrigeration and Mechanical Contractors Association of Southern California, Inc.

SECTION 1.3 COVERED EMPLOYMENT.

The term “Covered Employment” means employment on work covered by a Labor Agreement. The term shall also include work performed by officers and/or employees of the Union or any affiliated Trust Fund provided their inclusion is not in violation of existing law or regulation.

SECTION 1.4 EMPLOYEE.

The term “Employee” means an employee of an Employer who performs one or more hours of work covered by any of the Collective Bargaining Agreements. The term Employee shall also include employees of the Union or of affiliated Trust Funds on whose behalf contributions are made to the Pension Plan pursuant to regulations adopted by the Board of Trustees. The term Employee shall also include individuals who are shareholders in an Employer which is incorporated except for those incorporated as Subchapter S corporations pursuant to the Internal Revenue Code, provided that such individuals are members of a Local Union in accordance with applicable collective bargaining agreements and the Constitution and By-Laws of that Local Union and the United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada and that contributions on such individuals be made on all hours worked subject to a minimum of 110 hours per month.

SECTION 1.5 EMPLOYER.

The term “Employer” means any employer who is required by agreement with the Union to make contributions to this Fund and who becomes a party to this Trust Agreement.

The Union or any affiliated Trust Fund may be considered an Employer solely for the purpose of covering their employees under the Plan, if permitted by law or governmental regulation, provided that the tax exempt status of the Trust Fund and Plan shall not be adversely affected by such inclusion.

Subject to the approval of the Trustees, other business concerns, associations or groups engaged in the same or similar business as that of one of the Employers, may be considered as an Employer under the Plan, provided any such firm or group, approved by the Trustees, which wishes to become a participant in this Trust shall signify its desire in writing and agree in writing to be bound by the terms and provisions of this Trust Agreement, and any other duly adopted regulations of the Board of Trustees.

For purposes of identifying highly compensated employees and applying the rules on participation, vesting and statutory limits on benefits under the Fund but not for determining Covered Employment, the term “Employer” includes all corporations, trades or businesses under common control with the Employer within the meaning of Internal Revenue Code Section 414(b) and (c), all members of an affiliated service group with the Employer within the meaning of Internal Revenue Code Section 414(m) and all other businesses aggregated with the Employer under Internal Revenue Code Section 414(o).

SECTION 1.6 HOUR OF WORK IN COVERED EMPLOYMENT.

The term “Hour of Work in Covered Employment” means:

- (a) Each hour for which an Employee is paid, or entitled to payment, for the performance of duties for an Employer during the applicable computation period; and
- (b) Each hour for which an Employee is paid, or entitled to payment by the Employer on account of a period of time during which no duties are performed (irrespective of whether the employment relationship has terminated) due to vacation, holiday, illness, incapacity (including disability), lay-off, jury duty, military duty or leave of absence. No more than One Thousand and Forty (1,040) Hours of Service shall be credited under this paragraph for any single continuous period (whether or not such period occurs in a single computation period); and
- (c) Each hour for which back pay, irrespective of mitigation of damages, is either awarded or agreed to by the Employer. The same Hours of Work shall not be credited both under paragraph (a) or paragraph (b) above, as the case may be, and under paragraph (c).

Hours under this Section shall be calculated and credited pursuant to Section 2530.200b-2 of the Department of Labor Regulations which are incorporated herein by this reference.

SECTION 1.7 LABOR AGREEMENT OR COLLECTIVE BARGAINING AGREEMENT.

“Labor Agreement” or “Collective Bargaining Agreement” shall mean (i) the Air Conditioning and Refrigeration Industry Master Labor Agreement between the Union and the Association, (ii) a National Agreement with the United Association which requires the signatory to subscribe to this Trust Agreement, and (iii) a collective bargaining agreement with the Union requiring contributions to this Trust Fund.

SECTION 1.8 NORMAL RETIREMENT AGE.

The term “Normal Retirement Age” means the later of:

- (a) age 65, or
- (b) the earlier of:
 - (1) the fifth anniversary of an active Participant’s plan participation, disregarding participation before January 1, 1988, or
 - (2) the tenth anniversary of the active Participant’s plan participation.

Participation before a Permanent Break in Covered Employment, and participation before a Temporary Break in Covered Employment in the case of a former Participant who has not returned to Covered Employment and reestablished participation by earning at least one Hour of Work in Covered Employment in accordance with Section 1.6 shall be disregarded for purposes of determining a Participant’s fifth or tenth anniversary. For purposes of this Section 1.8, Temporary Break in covered Employment shall mean a Plan Year in which the Participant fails to earn at least one quarter of Pension Credit.

SECTION 1.9 PARTICIPANT.

The term “Participant” as means a person who has earned and is still entitled to Pension Credit under this Plan.

SECTION 1.10 PERMANENT BREAK IN COVERED EMPLOYMENT.

The term “Permanent Break in Covered Employment” shall have the meaning set forth in Section 2.4.

SECTION 1.11 PLAN YEAR.

The term “Plan Year” means the twelve consecutive month period from January 1 of one year to December 31 of the same year.

SECTION 1.12 TRUST OFFICE.

The “Trust Office” is the office to which all communications about Participant benefits and all communications to the Board of Trustees should be addressed. Any inquiries about Participant rights, benefits, responsibilities, or any notice a Participant may be required to file with the Plan should be addressed to this office. The address and telephone number are:

Airconditioning and Refrigeration Industry
Joint Trust Funds
1380 S. Sanderson Avenue
Anaheim, California 92806
(714) 917-6100

SECTION 1.13 UNION.

“Union” means the Southern California Pipe Trades District Council 16.

II. PENSION CREDIT

SECTION 2.1 COVERAGE.

The effective date of the Pension Plan is May 1, 1959.

Coverage will take effect automatically for all Employees working in Covered Employment for any Employer, as of the date contributions first become due on their behalf.

SECTION 2.2 CREDITED SERVICE.

Benefits under the Pension Plan and eligibility to receive payment are determined by the Credited Service a Participant has accumulated. Credited Service is made up of two separate parts. One part is called Past Service and one part is Future Service. The Pension Plan presently provides as follows:

(a) **Past Service.**

An Employee shall be entitled to one year of Pension Credit for each calendar year between January 1, 1936 and January 1, 1959, in which he worked in this area at least 10 weeks in that year at a job now covered by the terms and conditions of the Master Collective Bargaining Agreement. One quarter of Past Service Credit will be given to each Employee who worked a total of 100 hours or more during the first four months of 1959 (i.e., January, February, March and April). If as a result of any employment during the aforementioned period a Participant is eligible to receive a pension or pension credit from any other qualified pension plan, that period of employment shall not count toward the Participant's Past Service credit under this Plan.

If a Participant is unable to establish evidence of past employment for purposes of determining credit, a determination may be made as a result of evidence contained in Union or other records. All Employees first being covered for contributions from and after January 1, 1983, shall not receive any Past Service credit under this section.

(b) **Future Service.**

Future Service credit is based on the number of hours of employment for which an Employer makes contributions to the Pension Plan on behalf of a Participant commencing May 1, 1959.

Between May 1, 1959 and December 31, 1971, a Participant will receive Future Service credit in accordance with the following schedule:

<u>HOURS WORKED</u>	<u>PENSION CREDIT</u>
Less than 350	None
350 to 699	One quarter
700 to 1049	Two quarters
1050 to 1399	Three quarters
1400 or more	One year

Beginning January 1, 1972, Future Service credit will be granted in accordance with the following schedule:

<u>HOURS WORKED</u>	<u>PENSION CREDIT</u>
Less than 315	None
315 to 629	One quarter
630 to 944	Two quarters
945 to 1259	Three quarters
1260 or more	One year

Beginning May 1, 1959 through April 30, 1970, Future Service will be granted on a Fiscal Year basis (May 1 through the following April 30). For example, the period from May 1, 1969 through April 30, 1970, is listed as 1970 on a Participant's pension records. Beginning January 1, 1971, records are kept on a calendar year basis. Because of the change from a fiscal year basis to a calendar year basis on January 1, 1971, pension hours for the interim period of May 1, 1970 through December 31, 1970, are accounted for separately. Those hours are used to give a Participant credit and are reflected on a Participant's pension record in the year prior to the Participant's actual entry into the Plan if the Participant has Future Service credit only. If a Participant has past Service Credit, the hours are used as credit for Future Service in 1959.

Effective January 1, 1972, all hours worked in excess of 1,260 during any calendar year, beginning with the Plan Year in which the 52nd birthday occurs, may be used for the purpose of increasing Pension Credit in any year or years thereafter in which the Participant has earned a minimum of 315 hours but not a full year of Pension Credit. Pension Credit for such hours shall be determined and applied to years in which the Participant worked at least 315 but less than 1,260 hours as follows:

- (1) Divide the total number of excess hours accrued by the Participant prior to his Annuity Starting Date by 315 to determine the number of quarters of Pension Credit based on excess hours.
- (2) Each quarter of Pension Credit determined in paragraph (1) shall be applied to calendar years in chronological order beginning with the calendar year following the Participant's 52nd birthday.
- (3) A Participant may earn a maximum of one year of Pension Credit in a calendar year.

However, hours worked from calendar year 1991 forward in excess of 1,260 may not be used for the purpose of increasing Pension Credit in any year or years thereafter.

(c) **Pension Credit for Non-Working Periods after May 1, 1959.**

A Participant may earn Pension Credit for certain periods when the Participant is not actually at work in Covered Employment. The Plan will grant Pension Credit at the rate of 40 hours per week for periods of absence due to military service or disability. Such credit is granted in the following circumstances:

- (1) Military Service in the Armed Forces of the United States in time of war or national emergency, provided the Participant was working in Covered Employment within 90 days prior to entering military service and makes himself or herself available for Covered Employment within 90 days after release from active duty, or within 90 days after recovery from a disability continuing after the Participant's release from active duty, but not exceeding a period of four years of such service, or such longer period during which the Participant has employment rights with an Employer pursuant to Federal Law.

In order to secure credit for periods of service in any of the Armed Forces of the United States, a Participant must give written notice to the Board of the Participant's availability for Covered Employment and must furnish, in writing, such information and proof concerning the Participant's service as the Board may, in its sole discretion, determine. After July 1, 1961, a Participant must file the written notice and proof required by this Section within ninety days after recovery from a disability continuing after the Participant's release from active duty, unless the Board finds that there were extenuating circumstances which prevented a timely filing.

Notwithstanding any 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.

- (2) Disability for the period compensated by the Weekly Accident and Sickness benefit plan provided by the Airconditioning and Refrigeration Health and Welfare Plan, or which constituted a valid waiting period for such benefits, will be credited and the maximum allowable disability credit shall not exceed 26 weeks per year for a maximum period of 4 years. In no event shall the total pension hours credited exceed 6 months per year, nor a maximum of 2 years total Pension Credit.

SECTION 2.3 VESTING.

The Plan provides for the vesting of Pension Credits under certain conditions. Once the requirements for vesting have been met, a Participant cannot lose previously earned credits through a Break in Covered Employment and will be entitled to receive a pension starting at the permitted retirement age.

The Plan grants Future Service credit for vesting purposes on a different schedule from credit for benefit accrual (see Section 2.2(b)). Between January 1, 1976 and December 31, 1979, an Employee earned one year of Future Service credit for vesting purposes for each plan year in which he was credited with 870 hours of work in Covered Employment. Beginning January 1, 1980, an Employee will receive one year of Future Service credit for vesting purposes for each plan year in which he is credited with 1,000 hours of work in Covered Employment (a "Vesting Year"). No partial credit for vesting purposes is granted for years in which the Employee works less than the required hours.

The requirements for vesting have been changed from time to time. The Plan rules currently require that a Participant accrue at least 5 Vesting Years or 5 years of Pension Credit, including at least one quarter of Future Service credit in 1999 or after, or attain Normal Retirement Age (as an Active Participant). A Non-Bargained Employee who has worked at least one hour in Covered Employment on or after January 1, 1989, will be vested when he or she accrues at least five Vesting Years.

SECTION 2.4 BREAK IN COVERED EMPLOYMENT.

If a Participant does not earn a required amount of Pension Credit over a specified period of time, the Participant will have a Break in Covered Employment. If the Break in Covered Employment is prolonged beyond specified limits, and the Participant has not already met the vesting requirements, the Participant may incur a Permanent Break in Service and lose previously earned Pension Credit.

The rules pertaining to Permanent Breaks in Covered Employment are set forth below.

(a) **May 1, 1959 to January 1, 1968.**

Any Break in Covered Employment between May 1, 1959 and January 1, 1968 is waived.

(b) **January 1, 1968 to January 1, 1975.**

A Participant had a Permanent Break in Covered Employment and all previously earned Pension Credits were cancelled if the Participant failed to earn at least one quarter of Pension Credit in four consecutive calendar years.

(c) **January 1, 1975 to January 1, 1987.**

A Participant had a Permanent Break in Covered Employment during this period if the Participant failed to earn at least one quarter (315 hours) of Pension Credit in consecutive calendar years and the number of such consecutive years equaled or exceeded the greater of the number of full Pension Credits or Vesting Years previously accumulated.

(d) **On and After January 1, 1987.**

Beginning January 1, 1987, a Participant will have a Permanent Break in Covered Employment if the Participant has at least five consecutive calendar years in which the Participant earns less than one quarter (315 hours) of Pension Credit and the number of such years equals or exceeds the greater of the number of full years of Pension Credit or Vesting Years the Participant had previously earned.

(e) **Grace Periods.**

A Participant may be eligible for a grace period if the Participant's failure to earn the required Pension Credit is for certain specified reasons. A grace period extends the time which the Participant has to earn the required one-quarter of Pension Credit before having a Break in Covered Employment. A grace period does not count as service for additional Pension Credit. Grace periods are recognized for involuntary unemployment, total disability, parental leave and non-contributory employment as follows:

- (1) **Involuntary Unemployment and Total Disability.** A Participant will be allowed a grace period if the Participant's failure to earn Pension Credit is due to involuntary unemployment or total disability. This grace period will consist of up to three consecutive calendar years for which the Participant failed to earn Pension Credit because of unemployment or total disability.

- (2) **Parental Leave.** A Participant will be allowed a grace period if the Participant's failure to earn Pension Credit is due to an absence on account of parental leave. This grace period will consist of one calendar year and may be credited to either the calendar year of the absence or the immediately following calendar year. The Participant will be deemed to be on parental leave if he or she is absent from Covered Employment by reason of pregnancy, by reason of the birth of the Participant's child, by reason of the placement of a child in connection with the Participant's adoption of the child, or for purposes of caring for the Participant's child during the period immediately following the birth or placement for adoption, including time involved for a trial period prior to adoption.
- (3) **Non-contributory Employment.** A Participant will be allowed a grace period if the Participant is working in Civil Service, for Disneyland, or in other collectively bargained, air conditioning and refrigeration work in the jurisdiction of Local 250 for which no contributions are required to be made to the Plan. A grace period will be granted for the duration of such non-contributory employment.

The grace periods specified above do not add to a Participant's Pension Credit. Rather, but are periods which are to be disregarded in determining whether a Participant has incurred a Break in Covered Employment.

SECTION 2.5 DELINQUENT OWNER/PLAN PARTICIPANTS.

If a Participant and/or the Participant's spouse have between them a total ownership interest of five percent (5%) or more in the Employer contributing on the Participant's behalf, the Participant will not receive pension credit for any purpose under the Plan for any period for which the Employer is delinquent in payment of any contributions or other sums due to the Plan under a Collective Bargaining Agreement requiring contributions to the Plan. Pension credits are subject to reinstatement in the event that the Employer later pays any required contributions, along with interest, liquidated damages and any other amounts required by the Trustees.

III. TYPES OF PENSION BENEFITS

SECTION 3.1 NORMAL PENSION.

(a) **Eligibility**

A Participant is eligible for a Normal Pension if the Participant meets the requirements described under either (1), (2) or (3):

- (1) The Participant is at least 65 years of age, and
Has at least 10 years but less than 25 years of Pension Credit, and
Has worked at least 5,000 hours in Covered Employment since May 1, 1959; or
- (2) The Participant has attained Normal Retirement Age; or
- (3) Is at least 65 years of age; and
Has at least 5 years but less than 25 years of Pension Credit, and
Either (i) earned at least one quarter of Future Service Credit in 1997 or 1998 and worked at least one hour in Covered Employment in 1999, or (ii) earned at least one quarter of Future Service Credit in 1999 or thereafter; and
Has worked at least 5,000 hours in Covered Employment since May 1, 1959.

However, a Non-Bargained Employee who has worked at least one hour in Covered Employment on or after January 1, 1989 will be eligible for a Normal Pension at age 65 if he or she has earned at least five Vesting Years.

(b) **Pension Amounts**

- (i) For Normal Pensions effective on or after January 1, 2000, the monthly pension amount, unless subsections (ii), (iii), and/or (iv) below apply, will be the sum of:
 - (1) \$40.00 for each full year of Past Service Credit; and
 - (2) the greater of:
 - (A) \$50.00 for each full year of Future Service Credit earned prior to 1991,
or
 - (B) \$70.00 for each full year of Future Service Credit earned prior to 1991,
provided the Participant earned at least one quarter of Future Service Credit in 1998 or 1999; and

- (3) \$70.00 for a full year of Future Service Credit earned in Calendar Year 1991 or later.
- (A) However, for Calendar Years 1991 through 1998, if a Participant worked at least 1,890 hours in Covered Employment the monthly pension amount payable for such Plan Year will be \$105.00. If a Participant worked between 1,260 and 1,890 hours in Covered Employment, the monthly pension amount for such Plan Year is determined by dividing the number of hours worked in Covered Employment by 1,890, then multiplying the result by \$105.00. For example, if the Participant worked 1,700 hours in Calendar Year 1997, the monthly pension amount payable for that year would be \$94.44, determined as follows:
 $1,700/1,890 \times \$105 = \94.44 .
- (B) However, for Calendar Year 1999, if a Participant worked at least 2,000 hours in Covered Employment, the monthly pension amount payable for such Plan Year will be \$111.11. If a Participant worked between 1,260 and 2,000 hours in Covered Employment, the monthly pension amount for such Plan Year is determined by dividing the number of hours worked in Covered Employment by 2,000, then multiplying the result by \$111.11. For example, if the Participant worked 1,700 hours in Calendar Year 1999, the monthly pension amount for that year would be \$94.44, determined as follows: $1,700/2,000 \times \$111.11 = \94.44 . If instead the Participant worked 1,950 hours, the monthly pension amount payable for the year would be \$108.33 ($1,950/2,000 \times \111.11).
- (C) However, for Calendar Year 2000 or later, if a Participant worked at least 2,000 hours in Covered Employment the monthly pension amount payable for such Plan Year will be \$180.00. If a Participant worked between 1,260 and 2,000 hours in Covered Employment, the monthly pension amount for such Plan Year is determined by dividing the number of hours worked in Covered Employment by 2,000, then multiplying the result by \$180.00. For example, if the Participant worked 1,700 hours in Calendar Year 2000, the monthly pension amount for that year would be \$153.00, determined as follows: $1,700/2,000 \times \$180.00 = \153.00 . If instead the Participant worked 1,950 hours, the monthly pension amount payable for the year would be \$175.50 ($1,950/2,000 \times \180.00).

A Participant who worked as a Maintenance Tradesman or Apprentice Trainee will receive \$8.00 for each year of such employment rather than the pension amounts described above.

- (ii) Separation Rule: If a Participant leaves Covered Employment and accrues less than 315 hours in each of two consecutive plan years, the Participant's pension benefits will be calculated at the benefit rate in effect as of the date the Participant last earned credit under the Plan. If a Participant later returns to Covered Employment for at least the number of plan years the Participant was out of Covered Employment, the Pension Credits earned prior to leaving Covered Employment will be calculated at the rate in effect when the Participant again stopped working in Covered Employment. If the Participant returns to Covered Employment for less time than he or she was out of Covered Employment, the Participant's benefits will be calculated for each period of Covered Employment at the rate in effect at the end of each of those periods. One quarter of Pension Credit must be earned in a plan year for purposes of determining that a Participant is in Covered Employment.

EXCEPTION If a Participant's failure to earn any Pension Credit in the two plan years immediately preceding the Participant's retirement was a result of the Participant's involuntary unemployment or disability, the Participant's pension benefits will be calculated at the rate in effect on the Participant's Annuity Starting Date.

EXCEPTION for retirees with at least 25 years of Pension Credit: Retirees with at least 25 years of Pension Credit will be eligible for the increment of all benefit increases effective on or after January 1, 1999 or the Participant's actual date of retirement, whichever is later, although they did not earn any Pension Credit in the two plan years immediately preceding their retirement. (The "increment" means the actual dollar amount of the benefit increase; for example, the "increment" of an increase in benefits for certain Pension Credits from \$53 to \$63, is \$10).

- (iii) Participants whose benefit levels are "frozen" in accordance with the work rules in Section 5.2 below, will be eligible for the increment (as defined above in subsection (ii)) of all future benefit increases effective on or after January 1, 1999 or the Participant's actual date of retirement, whichever is later, without regard to whether the Participant earned any Pension Credit in the two plan years immediately preceding his retirement.
- (iv) For Participants who earned 25 years of Pension Credit prior to Plan Years 1998, 1999 or 2000, the dollar benefit for Pension Credits earned in Plan Years 1998 through 2005 will be increased by one-third (1/3), but only for such of these years (maximum of eight) which follow the Plan Year in which the Participant earned 25 years of Pension Credit.
- (v) **BENEFIT RATE TABLES.** The rates previously in effect in the Plan are as follows:

September 1963	\$ 6.00
April 1966	\$ 7.40
August 1966	\$ 9.28
January 1967	\$16.00
September 1969	\$20.00
July 1973	\$22.00
January 1976	\$24.00
January 1978	\$26.00
January 1979	\$28.00
September 1979	\$30.00
July 1982	\$32.00

January 1983	\$34.00	
January 1986	\$36.00	With ¼ credit in 1984 or 1985, and ¼ credit after January 1986
January 1987	\$36.00	Past Service
	\$40.00	Future Service — with ¼ credit in 1985 or 1986, and ¼ credit after January 1987
January 1989	\$36.00	Past Service
	\$44.00	Future Service — with ¼ credit in 1987 or 1988, and ¼ credit after January 1989
January 1991	\$40.00	Past Service
	\$50.00	Future Service prior to 1991 — with ¼ credit in 1989 or 1990, and ¼ credit after January 1991
January 1994	\$70.00*	Future Service after 1991
	\$50.00	Future Service prior to 1991
	\$53.00	Future Service prior to 1991 — with ¼ credit in 1992 or 1993, and ¼ credit after January 1994
January 1999	\$63.00	Future Service prior to 1991 — with ¼ credit in 1997 or 1998, and ¼ credit after January 1999
	\$66.00	Future Service prior to 1991 — retirees with ¼ credit in one of the two plan years immediately prior to the year of retirement
January 2000	\$70.00	Future Service prior to 1991 — retirees with ¼ credit in one of the two plan years immediately prior to the year of retirement

* For 1991 through 1998, \$105.00 for years in which a Participant worked at least 1,890 hours (pro-rated for work between 1,260 and 1,890 hours). For 1999, \$111.11 for years in which a Participant worked at least 2,000 hours (pro-rated for work between 1,260 hours and 2,000 hours).

For 2000 and after, \$180.00 for years in which a Participant worked at least 2,000 hours (pro-rated for work between 1,260 hours and 2,000 hours).

Effective July 1, 1987, there is no maximum on the amount of credited service which can be accrued.

SECTION 3.2 SERVICE PENSION.

(a) Eligibility

A Participant is entitled to retire on a Service Pension if the Participant meets all of the following requirements:

- (1) The Participant has at least 25 years of Pension Credit.
- (2) The Participant has worked at least 5,000 hours in Covered Employment since May 1, 1959.

If a Participant works in Non-covered Air Conditioning and Refrigeration Service after July 1, 1988 (see Section 7.1), the Participant's eligibility for a Service Pension will be delayed.

(b) Pension Amounts

The amount of the Service Pension is determined in the same way as the Normal Pension, with no reduction for early retirement.

SECTION 3.3 EARLY RETIREMENT PENSION.

(a) Eligibility

A Participant is entitled to retire on an Early Retirement Pension if the Participant meets all of the following requirements:

- (1) The Participant is at least 55 years of age but not yet 65.
- (2) The Participant is at least 15 years of Pension Credit.
- (3) The Participant has worked at least 5,000 hours in Covered Employment since May 1, 1959.

If a Participant worked in Non-covered Air Conditioning and Refrigeration Service after July 1, 1988 (see Section 7.1), the Participant's eligibility for an Early Retirement Pension will be delayed.

(b) Pension Amounts

The amount of the Early Retirement Pension is calculated as follows:

- (1) Determine the amount of the Normal Pension which would be payable to the Participant if he or she were age 65.
- (2) Reduce this amount by 1/4 of 1% for each month the Participant is younger than age 65.

(c) **Return to Covered Employment**

If a Participant who retired, qualified for, and received an Early Retirement Pension, and subsequently returns to Covered Employment, the Participant's Early Retirement Pension benefit payments will immediately stop but the Participant will resume the accrual of Pension Credit as of the date of re-employment.

When the Participant's re-employment stops and the is again eligible to retire in accordance with the rules set forth in this Plan, the Participant will receive an amount calculated in accordance with Sections 3.1, 3.2 or 3.3, whichever is applicable.

SECTION 3.4 DISABILITY PENSION.

(a) **Eligibility**

A Participant is entitled to retire on a Disability Pension if the Participant meets all of the following requirements:

- (1) The Participant is permanently and totally disabled.
- (2) The Participant has at least 10 years of Pension Credit.
- (3) The Participant has worked at least 5,000 hours in Covered Employment since May 1, 1959.
- (4) The Participant has earned at least 1/4 Pension Credit in either the year of retirement or the calendar year prior to the year of retirement.

If the Participant worked in Non-covered Air Conditioning and Refrigeration Service after July 1, 1988 (see Section 7.1), during any part of a calendar year and become disabled in that calendar year or in either of the following two calendar years, he or she will not be eligible for a Disability Pension.

(b) **Proof of Disability**

As used herein, permanent and total disability means that in the sole and absolute judgment of the Board of Trustees, the Participant is unable to engage in Covered Employment by reason of any medically determinable physical or mental impairment which can be expected to result in long-continued and indefinite duration.

To prove disability, a Participant may submit to the Trust Office the official determination by the Social Security Administration indicating that the Participant is entitled to Social Security Disability Benefits. Otherwise, the Participant must submit evidence based on a medical examination by a physician assigned by the Trust Office and as required by the Trustees.

The Trustees may require medical evidence from time to time to determine that the Pensioner is still totally disabled. However, once a Disability Pensioner reaches age 65, his or her benefits will continue regardless of whether or not he or she remains totally disabled.

(c) **Pension Amounts**

Beginning with retirements on and after September 1, 1990, the amount of the Disability Pension is determined in the following manner:

- (1) If a Participant is eligible for a Disability Pension from this Plan by virtue of receiving a Social Security Disability Award, the Participant's monthly benefit will be determined in the same way as the Normal Pension, with no reduction for retirement at an early age; or
- (2) If a Participant is eligible for a Disability Pension from this Plan by virtue of medical evidence but does not have a Social Security Award, the monthly benefit will be an amount equal to the Normal Pension which would be payable if the Participant was age 65, reduced by 1/4% for each month (3% for each year) the Participant is younger than 65, up to a maximum reduction of 50%.

The Disability Pension will be payable from the first day of the month next following the date of the disability or after the filing of an application for pension benefits, whichever is **later**.

A Disability Pensioner who recovers from his or her disability may reenter Covered Employment and resume the accrual of Pension Credit. Upon subsequent retirement, such Participant will be entitled to a pension in an amount calculated at the amount payable in accordance with the type of pension (see pages 9 through 14) the Participant retires on at the time of subsequent retirement, including any additional Pension Credit earned during the Participant's subsequent employment.

(d) **Conversion to a Disability Pension.**

A Participant who is totally disabled but has not yet received a Social Security Disability Benefit and applies for and receives an Early Retirement Pension or a Disability Pension based on medical evidence, may convert his or her pension to a Disability Pension when the Participant becomes entitled to Social Security Disability Benefits if the Participant meets the following requirements:

- (1) The Participant has filed an application for Early Retirement or reduced Disability Pension benefits, and
- (2) The Participant has filed a copy of the Participant's application for Social Security Disability Benefits with his or her application for pension benefits.

Once Social Security Disability Benefits have been awarded, if the Participant meets these requirements, the Participant may convert Early Retirement Pension to a Disability Pension or, if the Participant is receiving a Disability Pension based on medical evidence, recalculate the benefit in accordance with Section 3.4(c)(1), above. The effective date of the converted Disability Pension will be the entitlement date of the Participant's Social Security Disability Benefits as shown on the Social Security Certificate of Award or the Annuity Starting Date of the Participant's Pension benefits whichever is later.

SECTION 3.5 RECIPROcity PENSION.

The Trustees have entered into agreements with trustees of other United Association plumbing and pipefitting industry pension plans including the National Plan to provide reciprocity between pension plans. Thus, if an Employee is working temporarily for an employer under another collective bargaining agreement, the Employee may be entitled to the benefits of a Reciprocity Agreement. Other plans which have signed these Agreements are known as "Related Plans." These Agreements provide two types of reciprocity: "money-follows-the-man" and "pro-rata." Each type of reciprocity is briefly described below.

Money-Follows-the-Man Reciprocity.

Under money-follows-the-man reciprocity, the contributions made to one pension plan for a Participant's work are transferred to a different pension plan. The Participant receives credit for that work, as well as any benefit payable for that work from the pension plan which receives the transferred contributions. For example, if a Participant works in Texas and the Participant's employer makes contributions for that work to a pension plan in Texas that has a reciprocating agreement with this Plan, the Participant may elect to have the contributions made to the Texas plan sent to this Trust. The Participant would then get credit under this Plan for the work he or she performed in Texas. However, in the event the contribution rate in the other plan is different from the contribution rate in this Plan, the Participant's Future Service credit will be adjusted on a pro rata basis. The Participant will never earn more than one year of Pension Credit in any year.

If a Participant wishes to have his or her contributions sent back to this Trust, the Participant must fill out a reciprocity card when the Participant begins working in the jurisdiction of another trust. A reciprocity card is a different card from the travel card that is required by the Local Unions to work in other jurisdictions. If the Participant does not fill out a reciprocity card, the other trust will keep the contributions and if the Participant does not qualify for a benefit under that trust, he or she will lose that time.

A Participant must also complete a reciprocity card if the Participant wants this Trust to send contributions to another trust with which it has a reciprocity agreement.

Pro-Rata Reciprocity.

For pensions effective on or after January 1, 1994, the Plan will also provide pro-rata reciprocity for certain employees who are still ineligible for a pension from one or both plans after money-follows-the-man reciprocity has taken place. In this type of reciprocity, certain credit earned under one plan can be used toward eligibility for a pro-rata pension under another plan. In effect, pro-rata reciprocity allows a Participant—for the purpose of meeting the eligibility requirements for a pension at Normal Retirement Age or avoiding a Break in Covered Employment—to consider credit earned under a related plan as though it was earned under this Plan. However, the benefit payable from a plan will be based solely on the credit earned under that plan.

In order for pro-rata reciprocity to apply, a Participant must have earned at least one year of Future Service Credit under each plan after the completion of money-follows-the-man reciprocity. In addition, the Participant must have earned at least a partial year of Future Service Credit in one of the related plans during one of the five calendar years prior to the effective date of the Participant's pension.

For purposes of vesting and determining eligibility for a pro-rata pension, each related plan will recognize a Participant's Future Service Credit earned under another related plan, including credit earned prior to January 1, 1994 but excluding any credit which is recognized by the other plan under any other reciprocity agreement. However, such credit shall not count for determining the amount of benefits or for avoiding a separation in service as described in Section 3.1(b)(ii). Nor can such credit be used for satisfying the service requirement for a Service Pension, an Early Retirement Pension or a Disability Pension. Past Service Credit is not counted for any purpose under reciprocity.

IV. PROVISIONS AFFECTING BENEFICIARIES

SECTION 4.1 FORM OF BENEFIT PAYMENTS.

Upon retirement, a Participant's pension benefits will be paid in one of the following forms, based upon the Participant's marital status. Only one form of payment may be chosen and, **once benefit payments have begun, the form of benefits cannot be changed.** (As described in Section 5.3, an exception may apply for certain qualifying Pensioners who re-retire following a return to Covered Employment).

A Participant will have 30 days after the Participant files an application to elect the form of benefit and the Participant may change his or her election at any time and as many times as the Participant wishes during this 30-day period. However, the Participant's election may not be dated more than 90 days before the Participant's Annuity Starting Date.

(a) **Life Annuity**

If a Participant is not married when the Participant retires or if the Participant is married and the Participant and the Participant's spouse reject the Joint and Survivor Annuity options set forth in Section 4.1(b) and (c), below, benefits will be paid in the form of a Life Annuity. Benefits will be paid over the Participant's lifetime and payments will cease upon the Participant's death.

Effective with retirements on and after September 1, 2001, if a Participant (and the Participant's spouse, if applicable) has elected Life Annuity benefits, those benefits are guaranteed for a period of five (5) years (sixty (60) monthly payments) beginning with the effective date of pension benefits. Benefits will be continued to the surviving spouse or, if there is no legal spouse, to the Participant's designated beneficiary for the remainder of the five-year period. If the Participant does not designate a beneficiary, the payment will be made to the Participant's legal beneficiary in accordance with applicable state law. If there is no legal beneficiary, no benefits will be payable after the Participant's death within the five year period. No benefits are payable under this provision if payments are made under any of the Joint and Survivor options or if the Participant, after working in Covered Employment, worked in Non-covered Air Conditioning and Refrigeration Service in two calendar quarters unless the Participant returned to work for a Contributing Employer to this Plan for at least as long as the period the Participant worked in such Non-covered Service (See Section 7.1).

(b) **50% Joint and Survivor Annuity**

If the Participant is married at the time of retirement, the Participant's pension will automatically be paid in the form of a 50% Joint and Survivor Annuity unless the Participant and the Participant's spouse properly reject it and select another form available under the Plan. This form of payment provides a monthly retirement benefit for the Participant's lifetime that is less than the Life Annuity described above, with 50% of such reduced benefit payable to the surviving spouse for his or her life upon the Participant's death. The monthly retirement benefit payable for the Participant's lifetime is reduced because the 50% Joint and Survivor Annuity extends payment over two lifetimes (the lifetimes of the Participant and the Participant's spouse). The 50% Joint and Survivor Annuity, however, is actuarially equivalent to the Life Annuity based on the actuarial assumptions set forth in paragraph (d), below.

(c) **75% or 100% Joint and Survivor Annuity**

In addition to the benefit options described above, the Participant and the Participant's spouse may elect, in accordance with Plan rules, to receive benefits in the form of a 75% Joint and Survivor Annuity, or a 100% Joint and Survivor Annuity.

The 75% Joint and Survivor Annuity provides a monthly retirement benefit for the Participant's lifetime, with 75% of such reduced benefit payable to the Participant's surviving spouse for his or her life upon the Participant's death. The monthly retirement benefit payable over the Participant's lifetime under the 75% Joint and Survivor Annuity is less than that payable under the 50% Joint and Survivor Annuity because the Participant's spouse will receive a larger benefit upon the Participant's death. The 75% Joint and Survivor Annuity, however, is actuarially equivalent to the Life Annuity based on the actuarial assumptions set forth in paragraph (d), below.

The 100% Joint and Survivor Annuity provides a monthly retirement benefit for the Participant's lifetime, with 100% of such reduced benefit payable to the Participant's surviving spouse for his or her life upon the Participant's death. The monthly retirement benefit payable over the Participant's lifetime under the 100% Joint and Survivor Annuity is less than that payable under the 75% Joint and Survivor Annuity and the 50% Joint and Survivor Annuity because under the 100% Joint and Survivor Annuity the Participant's spouse will receive a larger benefit upon the Participant's death than he or she would receive under either of the other forms of payment. The 100% Joint and Survivor Annuity, however, is actuarially equivalent to the Life Annuity based on the actuarial assumptions set forth in paragraph (d), below.

Once payments have started as a 50%, 75%, or 100% Joint and Survivor Annuity, the monthly benefits must continue on that basis even if the marriage is dissolved. However, beginning August 1, 1995, if the Participant's spouse should die before the Participant, the Participant's monthly benefit amount will be increased to the amount the Participant would have received under the Life Annuity if the Participant had not elected a joint and survivor annuity at retirement. The adjusted benefit will be effective on the first day of the month following the death of the Participant's spouse except that if the spouse died before August 1, 1995, the increased benefit amount will become payable August 1, 1995.

- (d) For purposes of this Section 4.1, actuarial equivalence is based on an interest rate of five percent (5%) and the following mortality table: the 1994 Group Annuity Reserving Table (94 GAR) projected, using Scale AA, to 2002, blended 50% unloaded male and 50% unloaded female mortality rates.

SECTION 4.2 DEATH BENEFITS.

(a) **Joint and Survivor Benefits**

Beginning November 1, 1994, if a Participant is married and dies before his or her Annuity Starting Date, the Participant's surviving spouse may be entitled to receive the survivor benefits under the 100% joint and Survivor Annuity as described above. (Prior to November 1, 1994, the survivor benefits under the 50% joint and Survivor Annuity were payable unless the Participant had elected the 75% or 100% Joint and Survivor Annuity.) When the annuity becomes payable is determined based on the Pension Credit the Participant had accrued and the Participant's age at death.

- (1) If the Participant meets the age and service requirement for an Early Retirement (age 55 and 15 Pension Credits), Service Pension (any age and 25 Pension Credits) or Normal Pension (age 65 and 5 Pension Credits) monthly payments to the Participant's spouse will commence on the first of the month following the date of death.
- (2) If the Participant meets the service requirement for a Normal Pension (5 Pension Credits) but is younger than age 65, monthly payments to the Participant's spouse will commence with the month following the month in which the Participant would have attained age 65.
- (3) If the Participant meets the service requirement for Early Retirement (15 Pension Credits) but is younger than age 55, monthly payments to the Participant's spouse will commence with the earlier of the following: The month in which the Participant (a) would have reached age 55 had the Participant lived, or (b) would have accrued 25 years of Pension Credit, had the Participant continued to work and accrue credits at the rate of one per year. The monthly benefit shall be calculated as if the Participant had been age 55 at the time of death and shall be based upon the actual Pension Credit earned.

(b) **Pre-Retirement 5 year Guaranteed Benefits**

If a Participant who has earned sufficient Pension Credit to be eligible for pension benefits dies before retirement, 60 monthly payments will be paid to his or her spouse. If there is no spouse living or the spouse dies before receiving 60 monthly payments, then the remainder of the 60 monthly payments will be made to the Participant's designated beneficiary(ies). If there is no designated beneficiary(ies), the payments will be made to the legal beneficiary(ies) in accordance with applicable state law. If there is no legal beneficiary, no death benefit shall be payable.

The amount of the monthly payments will be equal to the monthly amount of Normal Pension the Participant would have been entitled to receive had he or she retired and been age 65 at the time of death. A copy of the Death Certificate of the Participant must be filed with the application for the Death Benefit.

This Death Benefit will not be payable if the Participant, after working in Covered Employment, worked in Non-covered Air Conditioning and Refrigeration Service for two calendar quarters unless the Participant returned to work for a Contributing Employer to the Plan for at least as long a period as he worked in such Non-covered Service.

This pre-retirement 60 monthly payment benefit will not be payable if the Participant was married at the time of death and the surviving spouse has elected one of the Joint and Survivor Benefits available from the Plan. The spouse may elect either a Joint and Survivor Benefit or the 60 month pre-retirement benefit and must make that election within ninety (90) days after notification to the spouse of the opportunity to make that election.

(c) **Burial Benefit**

Upon the active or retired Participant's death, the surviving spouse will receive up to \$80 for each whole year of Pension Credit the Participant had accumulated on his or her Annuity Starting Date or the date of the active Participant's death. If there is no surviving spouse, the benefit may be paid to a named beneficiary or the Participant's heirs. This benefit may not exceed \$2,000.

(d) **Death Before Retirement**

If an active Participant who has not accumulated at least ten full Pension Credits dies after at least \$100 in contributions on the Participant's behalf have been made to the Plan, the surviving spouse will receive an amount equal to the contributions made on his or her behalf after any Break in Covered Employment, up to a maximum of \$20,000.

If an Employee dies having at least ten years of Pension Credit, the surviving spouse will receive (in addition to the joint and survivor annuity, if any) a fixed amount as follows:

Journeyman and Apprentices	\$10,000
Maintenance Tradesmen, Apprentice Trainee	\$4,000

If there is no surviving spouse, the death benefits described in this section will be paid to the Participant's surviving children. If neither spouse nor children survive, the benefit is not payable.

(e) **Death After Retirement**

Upon the death of a retiree, other than a retiree who retired on a Normal Pension with less than 10 years of Pension Credit, the following amounts are payable to the surviving spouse, if any (in addition to any other pension benefits to which a beneficiary may be entitled):

Journeyman and Apprentices	\$10,000
Maintenance Tradesmen, Apprentice Trainee	\$4,000

If there is no surviving spouse, the death benefits described in this section will be paid to the Participant's surviving children. If neither spouse nor children survive, the benefit is not payable.

(f) **Ineligibility for Death and Burial Benefits**

If a Participant loses or has lost eligibility under the Airconditioning and Refrigeration Industry Health and Welfare Trust (the "Health and Welfare Trust") before pension benefits have commenced, the Participant is not eligible for either post-retirement or pre-retirement Death Benefits or Burial Benefits unless the Participant returns to Covered Employment and re-establishes eligibility under the Health and Welfare Trust. If the Participant would otherwise lose eligibility under the Health and Welfare Trust, periods of total disability or involuntary unemployment may be considered work in Covered Employment in order to maintain eligibility for Death Benefits.

However, if a Participant had at least 15 years of Pension Credit at the time he or she lost eligibility under the Health and Welfare Trust but was continuously employed by a contributing employer from that time until death or retirement under this Plan, the Participant's beneficiary as determined by the Plan will be eligible to receive pre- and post-retirement Death Benefits. The amount payable under this provision will be 4% of the maximum benefit payable depending upon the Employee's job classification multiplied by the number of full years of Pension Credit he or she has earned up to the maximum benefit. Burial benefits will also be payable under these circumstances.

SECTION 4.3 BENEFIT LIMITATIONS.

Notwithstanding any other provision of the Plan, all benefits shall comply with the following:

- (a) If the distribution of the Employee's entire interest is not made in a lump sum, the distribution will be made:
 - (1) over the life of the Employee; or
 - (2) over the lives of the Employee and designated beneficiary; or
 - (3) over a period certain not extending beyond the life expectancy of the Employee or the life expectancy of the Employee and a designated beneficiary.
- (b) If distribution of the Employee's benefits commenced in accordance with the Regulations before the Employee's death, the remaining interest will be distributed at least as rapidly as under the method used as of the date of the Employee's death.
- (c) If the Employee dies before his benefits commenced in accordance with the Regulations, the method of distribution must satisfy the following requirements:
 - (1) any remaining portion of the Employee's interest that is not payable to a beneficiary designated by the Employee will be distributed within five years after the Employee's death; and
 - (2) any portion of the Employee's interest that is payable to a beneficiary designated by the Employee will be distributed either (i) within five years after the Employee's death, or (ii) over the life of the beneficiary or over a period certain not extending beyond the life expectancy of the beneficiary commencing not later than the end of the calendar year following the calendar year in which the Employee died (or, if the designated beneficiary is the Employee's surviving spouse, commencing not later than the end of the calendar year following the calendar year in which the Employee would have attained age 70 ½).
- (d) All survivor benefits shall comply with the limits of Internal Revenue Code Section 401(a)(9) and the incidental benefit rule and the regulations prescribed under them including proposed Treas. Reg. Sections 1.401(a)(9)-1 and 1.401(a)(9)-2.

V. SUSPENSION OF PAYMENTS FOR CERTAIN EMPLOYMENT AFTER RETIREMENT

SECTION 5.1 GENERAL.

To receive monthly pension payments from this Plan, an Employee must retire and cannot perform work which is prohibited by the Plan rules. If a retired Employee takes work which is prohibited by the Plan, he must notify the Plan, **in writing**, within 30 days after he starts work. His monthly pension will be suspended while he is in prohibited employment and possibly longer, as described later in this section.

SECTION 5.2 PROHIBITED WORK AFTER RETIREMENT AND BEFORE NORMAL RETIREMENT AGE.

Other than the specific work described below, while younger than age 65, a retired Employee cannot work anywhere at all in the air conditioning and refrigeration industry or the plumbing and pipefitting industry and receive pension benefits. "Work" means working for someone else or self-employment in the Employee's own business and includes all work of any kind connected in any way with the pre-fabrication, erecting, installing, joining together, handling and setting up, dismantling, charging, testing, adjusting, altering, servicing after completion, and repairing and maintenance of all types of air conditioning or refrigeration or plumbing or pipefitting equipment by any and all methods of equipment used to do this work now and in the future for any and all purposes.

This work includes, but is not limited to, work for, or ownership in, any business doing air conditioning or refrigeration or plumbing or pipefitting work or employing air conditioning or refrigeration or plumbing or pipefitting workers, whether or not the business is incorporated or whether or not it contributes to the Plan; transportation of air conditioning and refrigeration or plumbing and pipefitting equipment; performing air conditioning and refrigeration or plumbing and pipefitting repair or maintenance; or performing any duties as to design or consulting related to air conditioning and refrigeration or plumbing and pipefitting work. For purposes of this Section 5.2 and Section 5.3, "plumbing or pipefitting work" shall include any other work included in the recognized trade jurisdiction of the United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada (AFL-CIO) by agreement or decision.

Effective November 22, 2005, such work shall also include work as a physical plant and/or stationary engineer or hospital engineer.

Effective July 1, 1991, a retired Employee who meets the following rules can do the work described and receive pension benefits.

ALL WORK MUST HAVE THE APPROVAL OF THE BOARD OF TRUSTEES PRIOR TO THE START OF WORK.

- (a) A retiree who has reached age 55 and has earned a minimum of 25 years of future service credits, may do the following work and still receive pension benefits.
- Refrigeration and air conditioning wholesale parts house worker.
 - Teaching air conditioning and refrigeration in a junior college, public or private occupational school and full-time at United Association Training Centers.
 - City and/or civil service work performing air conditioning or refrigeration work.

- Sales, dispatcher, estimator, or a similar job only if working for a Local 250 signatory employer which contributes to this Plan. **THIS DOES NOT ALLOW THE RETIREE TO WORK WITH THE TOOLS, OR TO HAVE AN OWNERSHIP INTEREST, INCLUDING A COMMUNITY PROPERTY INTEREST, IN THE COMPANY FOR WHICH HE IS WORKING.**
 - Part time employment (less than 40 hours per month) for an Employer conducting training of the Employees of such Employer, provided that such training (i) relates to and is performed on the Employer's proprietary equipment, and (ii) is not available through the Joint Journeyman and Apprentice Training Trust.
- (b) At age 62 or older, the retiree may be allowed to be employed by a contributing contractor and work with the tools for a **MAXIMUM** of 16 hours per week and still receive pension benefits. Full wages and benefit contributions including health and welfare and pension will be payable for all hours while working with the tools.
- (c) Part-time teaching at a United Association Training Center, auto air conditioning and building inspector work are permissible at any age and pension benefits and retiree health and welfare are unaffected.

These rules are subject to additional review and change by the Trustees from time to time as deemed necessary in the Trustees' sole discretion.

SECTION 5.3 SUSPENSION OF PENSION PAYMENTS.

If a Participant is retired and takes work which is prohibited by the Plan, the Participant must notify the Trust Office, in writing, within 30 days after the Participant starts work. Pension payments will be suspended for each month the Participant is working in prohibited employment.

If the Participant fails to notify the Trust Office within 30 days as required and the Participant is younger than age 65, the Participant's benefits will be suspended for each month he or she works in prohibited employment. In addition to the suspension of benefits, when the Participant stops the prohibited employment, the Participant's benefit reinstatement will be delayed six months for each calendar quarter he or she performed the prohibited work.

The Trustees will recover the amount of any pension payment made which should have been suspended had the Participant properly notified the Trust Office of the prohibited employment. This recovery may be made through offset against future monthly pension payments or other lawful means.

The Plan requires that a Pensioner who returns to work must notify the Trustees, in writing, when that work stopped or will stop. Benefit payments will be withheld until such notice is filed with the Trustees.

Each retiree must file a copy of his or W-2 forms and Federal Income Tax Statement (or an affidavit in the form furnished by the Board if the retiree is not required to file tax forms) by May 1 of each year with the Board of Trustees as certification of continuing eligibility for benefits. If the retiree fails to provide these documents by May 1, the retirees benefits will be discontinued beginning June 1 until the documents are provided.

If the retiree returns to Covered Employment, the retiree may be entitled to a higher pension amount when the retiree stops working in Covered Employment than the retiree was previously receiving based on any additional Pension Credit earned. However, the retiree will not be entitled to apply (1) any hours worked in excess of 1,260 during any year prior to retirement to any Pension Credit or hours

earned after retirement and return to Covered Employment, or (2) any hours worked in excess of 1,260 in a year after the retiree returns to Covered Employment to any years prior to the earlier retirement.

Effective January 1, 2000, if a retiree returns to Covered Employment and earns a minimum of one Pension Credit, total, within two consecutive Plan years, he or she shall be eligible to reelect the form of pension for payments made subsequent to the re-retirement (i.e., single life versus husband and wife/ joint and survivor benefits), with adjustments to the total benefit amount determined pursuant to the Plan.

Suspension of Benefits Due to Plumbing and Pipefitting Work.

Effective June 7, 2004, if a Participant performs plumbing or pipefitting work, the Participant's benefits that had accrued before June 1, 2003, will not be suspended. Engagement in plumbing or pipefitting work will, however, result in the suspension of benefits accruing on or after June 1, 2003.

Any Participant who (1) commenced receipt of benefits and whose benefits were subsequently suspended due to the Participant's engagement in plumbing or pipefitting work, or (2) applied for benefits and whose application was approved, but whose benefits, due to the engagement in plumbing or pipefitting work, were suspended before payments commenced, shall be paid amounts representing those benefits accrued before June 1, 2003, retroactive to the later of June 7, 2004, or the date the Participant was eligible to commence receipt of benefits. Such retroactive payments shall include any appropriate interest or actuarial increase, and shall be made no later than January 1, 2007.

Any Participant who, at any time on or after June 1, 2003, was (1) eligible to commence the receipt of benefits without regard to this Section 5.3, (2) was engaged in plumbing or pipefitting work, and (3) did not apply for benefits, shall be given the opportunity to elect to begin receiving those benefits accrued before June 1, 2003, retroactive to the later of June 7, 2004, or the date the Participant was eligible to commence receipt of benefits. Notice of the opportunity to make such election shall be sent on or before January 1, 2007. The election period shall end seven months after such notification is sent. Any retroactive benefits paid pursuant to this paragraph shall be subject to Treasury Regulation Section 1.417(e)-1.

Suspension of Benefits Due to Work as a Stationary Engineer.

In the case of a Participant who works as a physical plant and/or stationary engineer or hospital engineer, only those benefits accrued after November 22, 2005, may be suspended.

SECTION 5.4 SUSPENSION OF BENEFITS AFTER NORMAL RETIREMENT AGE.

If a Participant is retired and age 65 or older, the Participant may work in the air conditioning and refrigeration industry in the same geographic area covered by the Plan or a related Plan for less than 40 hours in a calendar month while receiving pension benefits. If the Participant works 40 or more hours a month, pension benefits will be suspended until the Participant notifies the Trust Office that he or she is so employed. If the Participant does not notify the Trust of his or her employment, the Trustees will presume that that Participant worked more than 40 hours in each month the Participant worked.

SECTION 5.5 ADVANCE DETERMINATION.

If a Participant has any questions as to whether a job the Participant plans to take will cause a suspension, the Participant should write the Trust Office, name the employer for whom the Participant intends to work, describe the job the Participant proposes to perform. The Participant will be advised in writing if the job will cause a suspension of benefits. If a Participant does not request such a determination and the Trustees later find that the Participant was working in violation of the rules, the Participant will be required to repay the Trust for any benefits to which the Trustees determine the Participant is not entitled, and if the Participant is younger than age 65, the resumption of the Participant's benefits will be delayed as described in Section 5.3.

VI. APPLYING FOR A PENSION

SECTION 6.1 GENERAL.

A Participant will be considered as having applied for a pension only when the Participant's completed application has been received by the Trust Office. Payments cannot begin before the completed application is received.

A Participant must provide a copy of his or her birth certificate or other proof of date of birth, along with any other information or proof reasonably requested by the Trust Office. Proof of marriage and of the Participant's spouse's date of birth must also be submitted if the Participant is applying for a Joint and Survivor Annuity.

Disability Pension Application.

For a Disability Pension, a Participant must provide proof of disability in addition to the documents described above. Proof of disability is (1) notice of entitlement to Social Security disability benefits, or (2) if the Participant does not have entitlement to Social Security disability benefits, report of an examination by an independent physician. The Trust Office will arrange for the Participant's examination by an independent physician, and the Trustees will use the physician's report to establish whether or not the Participant is totally disabled as defined by the Trust Fund.

Beneficiaries' Application for Benefits.

If a Participant dies before retirement, the surviving spouse or other beneficiary must file an application with the Trust Office for death benefits which may be due (see section on "Provisions Affecting Beneficiaries" beginning on page 17).

SECTION 6.2 PENSION EFFECTIVE DATES.

Benefit payments will be payable beginning with the first day of the month in which the Participant has fulfilled all the conditions of entitlement to benefits, including the filing of an application. Such first day is the "Effective Date" of a Participant's pension. In some cases, the start of payments may be delayed because of processing but once the processing is completed and the Participant is found eligible for a Pension, the Participant will receive payments retroactive to the appropriate effective date as described above. The effective date will be delayed if the Participant works in Non-covered Air Conditioning and Refrigeration Service (as defined in Section 7.1) after July 1, 1988.

In no event, unless the Participant elects otherwise by failing to apply for benefits, shall the payment of benefits begin later than the 60th day after the later of the close of the calendar year in which:

- (a) the Participant attains Normal Retirement Age, or
- (b) the Participant terminates Covered Employment and retires,

provided that no such election filed on or after January 1, 1989 may postpone the commencement of benefits to a date later than April 1 of the calendar year immediately following the calendar year in which a Participant reaches age 70 ½ .

Pension payments shall end with the payment for the month in which the Participant's death occurs except as provided in accordance with a Joint and Survivor Annuity or, if applicable, upon the completion of the guaranteed payments provided for in Section 4.1(a).

SECTION 6.3 CLAIM PROCEDURES.

(a) Claim Procedures for Benefits Other Than a Disability Pension.

(1) Initial Benefit Determination.

- (A) Applications for benefits under the Plan are reviewed by the Benefits Committee of the Board of Trustees. If an application for benefits other than a Disability Pension is denied in whole or in part by the Benefits Committee, the claimant will be notified within ninety (90) days after receipt of the claimant's application by the Plan, unless special circumstances beyond the control of the Plan require an extension of time for processing the claim. If such an extension is required, the claimant will be given written notice prior to the termination of the initial 90-day period. In no event shall such extension exceed a period of ninety (90) days from the end of such initial period. The extension notice shall indicate the special circumstances requiring an extension of time and the date by which the Plan expects to render a decision regarding the application for benefits.

The period of time within which a benefit determination is required to be made shall begin at the time a claim is filed in accordance with the reasonable procedures of the Plan, without regard to whether all the information necessary to make a benefit determination accompanies the filing.

- (B) Notice that a claimant's application for benefits has been denied will:

- (i) State the specific reason(s) for the denial;
- (ii) Refer to the specific Plan provisions on which the determination is based;
- (iii) Describe any additional material or information necessary for the claimant to perfect the claim with an explanation why such material or information is necessary;
- (iv) Describe the Plan's review procedures and the time limits applicable to such procedures; and
- (v) Set forth a statement that, if the claimant appeals the decision of the Benefits Committee and the appeal is denied, the claimant has the right to bring a civil action under Section 502(a) of ERISA.

(2) Review by Appeals Committee.

- (A) If an application for benefits other than a Disability Pension is denied by the Benefits Committee, the claimant, or a representative appointed by the claimant, may file an appeal to the Appeals Committee. Members of the Appeals Committee are different than the members of the Benefits Committee. The claimant's appeal must be in writing and must state the reason or reasons for disagreement with the Benefit Committee's determination. The appeal must be filed with the Trust Office within sixty (60) days after the claimant receives notice of the decision of the Benefits Committee. The Plan may consider a late application if it concludes the delay in filing was for reasonable cause.

The appeal procedure will:

- (i) Provide the claimant the opportunity to submit written comments, documents, records, and other information relating to the claimant's application for benefits.
- (ii) Provide the claimant, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to the claim. Whether a document is "relevant" will be determined in accordance with ERISA Regulation Section 2560.503-1(m)(8).
- (iii) Take into account all comments, documents, records, and other information the claimant may submit relating to the claim, without regard to whether such information was submitted or considered in the initial benefit determination.

The claimant may also request that the claimant or the claimant's authorized representative be allowed to appear before the Appeals Committee when it considers the appeal.

If a benefit determination regarding an appeal is to be made by the Board or the subcommittee which is holding regularly scheduled meetings at least quarterly, the benefit determination shall be made no later than the date of the first such meeting which occurs at least thirty (30) days following receipt of the request for review; but if special circumstances require an extension of time for processing, the benefit determination shall be rendered not later than the third meeting following receipt of the request. The claimant shall be notified of the benefit determination as soon as possible, but not later than five (5) days after the benefit determination is made. In all other cases, the claimant shall be notified of the Plan's benefit determination within a reasonable period of time, but not later than sixty (60) days after receipt of the request for review, unless special circumstances require an extension of time for processing the claim; in no event shall such extension exceed a period of sixty (60) days from the end of the initial period.

Whenever special circumstances require an extension of time for processing, written notice of the extension shall be furnished to the claimant before the extension period begins. Such notice shall describe the special circumstances and the date as of which the benefit determination will be made.

The period of time within which a benefit determination regarding an appeal is required to be made shall begin at the time an appeal is filed in accordance with the reasonable procedures of the Plan, without regard to whether all the information necessary to make a benefit determination accompanies the filing. In the event that a period of time is extended due to a claimant's failure to submit information necessary to decide a claim, the period for making the benefit determination shall be tolled from the date on which the notification of the extension is sent to the claimant until the date on which the claimant responds to the request for additional information.

- (B) The claimant will be provided with written notification of the Plan's determination regarding the appeal. If the appeal is denied, notice of the denial will:
 - (i) State the specific reason(s) for the denial;
 - (ii) Refer to the specific Plan provisions on which the determination is based;

- (iii) State that the claimant is entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to the claimant's claim for benefits.
- (iv) Set forth a statement that the claimant has the right to bring a civil action under Section 502(a) of ERISA.

(b) Claim Procedures for Disability Pensions

(1) Initial Benefit Determination

- (A) Applications for Disability Pensions under the Plan are reviewed by the Benefits Committee of the Board of Trustees. If an application for a Disability Pension is denied in whole or in part by the Benefits Committee, the claimant will be notified within forty-five (45) days after receipt of the claimant's application by the Plan, unless special circumstances beyond the control of the Plan require an extension of time for processing the claim. If such an extension is required, the claimant will be given written notice prior to the termination of the initial 45-day period. In no event shall such extension exceed a period of thirty (30) days from the end of such initial period. If, prior to the end of the initial 30-day extension period, the administrator determines that due to special circumstances beyond the Plan's control a decision cannot be rendered within that extension period, the period for making the determination may be extended for up to an additional thirty (30) days, provided the Plan notifies the claimant, prior to the end of the first 30-day extension period, of the circumstances requiring the extension and the date as of which the Plan expects to render a decision. In the case of any extension under this paragraph, the notice of extension shall specifically explain the standards on which entitlement to a benefit is based, the unresolved issues that prevent a decision on the claim, and the additional information needed to resolve those issue, and the claimant shall have at least 45 days within which to provide the specified information.

The period of time within which a benefit determination is required to be made shall begin at the time a claim is filed in accordance with the reasonable procedures of the Plan, without regard to whether all the information necessary to make a benefit determination accompanies the filing. In the event that a period of time is extended due to a claimant's failure to submit information necessary to decide a claim, the period for making the benefit determination shall be tolled from the date on which the notification of the extension is sent to the claimant until the date on which the claimant responds to the request for additional information.

- (B) Notice that a claimant's application for a Disability Pension has been denied will:

- (i) State the specific reason(s) for the denial;
- (ii) Refer to the specific Plan provisions on which the determination is based;
- (iii) Describe any additional material or information necessary for the claimant to perfect the claim with an explanation why such material or information is necessary;
- (iv) Describe the Plan's review procedures and the time limits applicable to such procedures; and

- (v) Set forth a statement that, if the claimant appeals the decision of the Benefits Committee and the appeal is denied, the claimant has the right to bring a civil action under Section 502(a) of ERISA.
- (vi) If an internal rule, guideline, protocol, or other similar criterion was relied upon in making the adverse determination, the notice shall contain either the specific rule, guideline, protocol, or other similar criterion; or a statement that such a rule, guideline, protocol, or other similar criterion was relied upon in making the adverse determination and that a copy of such rule, guideline, protocol, or other criterion will be provided free of charge to the claimant upon request; and
- (vii) If the adverse benefit determination is based on a medical necessity or experimental treatment or similar exclusion or limit, the notice shall either give an explanation of the scientific or clinical judgment for the determination, applying the terms of the Plan to the claimant's medical circumstances, or state that such explanation will be provided free of charge upon request.

(2) **Review by Appeals Committee.**

- (A) If an application for a Disability Pension is denied by the Benefits Committee, the claimant, or a representative appointed by the claimant, may file an appeal to the Appeals Committee. Members of the Appeals Committee are different than the members of the Benefits Committee. The claimant's appeal must be in writing and must state the reason or reasons for disagreement with the Benefit Committee's determination. The appeal must be filed with the Trust Office within one hundred eighty (180) days after the claimant receives notice of the decision of the Benefits Committee. The Plan may consider a late application if it concludes the delay in filing was for reasonable cause.

The review procedure shall:

- (i) Provide the claimant the opportunity to submit written comments, documents, records, and other information relating to the claimant's application for benefits.
- (ii) Provide the claimant, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to the claim. Whether a document is "relevant" will be determined in accordance with ERISA Regulation Section 2560.503-1(m)(8).
- (iii) Take into account all comments, documents, records, and other information the claimant may submit relating to the claim, without regard to whether such information was submitted or considered in the initial benefit determination.
- (iv) Provide for a review that does not afford deference to the initial adverse benefit determination and that is conducted by an appropriate named fiduciary of the Plan who is neither the individual who made the adverse benefit determination that is subject to the appeal, nor the subordinate of such individual;

- (v) Provide that, in deciding an appeal of any adverse benefit determination that is based in whole or in part on a medical judgment, including determinations with regard to whether a particular treatment, drug, or other item is experimental, investigational, or not medically necessary or appropriate, the appropriate named fiduciary shall consult with a health care professional who has appropriate training and experience in the field of medicine involved in the medical judgment;
- (vi) Provide for the identification of medical or vocational experts whose advice was obtained on behalf of the Plan in connection with a claimant's adverse benefit determination, without regard to whether the advice was relied upon in making the benefit determination; and
- (vii) Provide that the health care professional engaged for purposes of a consultation under paragraph 6.3(b)(2)(A)(v) above shall be an individual who is neither an individual who was consulted in connection with the adverse benefit determination that is the subject of the appeal, nor the subordinate of any such individual.

The claimant may also request that the claimant or the claimant's authorized representative be allowed to appear before the Appeals Committee when it considers the appeal.

If the benefit determination regarding an appeal is to be made by the Board or subcommittee which is holding regularly scheduled meetings at least quarterly, the determination shall be made no later than the date of the first such meeting which occurs at least thirty (30) days following receipt of the request for review; but if special circumstances require an extension of time for processing, the benefit determination shall be rendered not later than the third meeting following receipt of the request. The claimant shall be notified of the benefit determination as soon as possible, but not later than five (5) days after the benefit determination is made.

In all other cases, the claimant shall be notified of the Plan's benefit determination upon review within a reasonable period of time, but not later than forty-five (45) days after receipt of the request for review, unless the Plan administrator determines that special circumstances require an extension of time for processing the claim; in no event shall such extension exceed a period of forty-five (45) days from the end of the initial period.

Whenever special circumstances require an extension of time for processing, written notice of the extension shall be furnished to the claimant before the extension period begins. Such notice shall describe the special circumstances and the date as of which the benefit determination will be made.

The period of time within which a benefit determination on review is required to be made shall begin at the time an appeal is filed in accordance with the reasonable procedures of the Plan, without regard to whether all the information necessary to make a benefit determination on review accompanies the filing. In the event that a period of time is extended due to a claimant's failure to submit information necessary to decide a claim, the period for making the benefit determination on review shall be tolled from the date on which the notification of the extension is sent to the claimant until the date on which the claimant responds to the request for additional information.

- (B) The claimant will be provided with written notification of the Plan's determination regarding the appeal. If the appeal is denied, notice of the denial will:
- (i) State the specific reason or reasons for the adverse determination;
 - (ii) Refer to the specific Plan provisions on which the determination is based;
 - (iii) State that the claimant is entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to the claimant's claim for benefits;
 - (iv) State that the claimant has the right to bring an action under Section 502(a) of ERISA;
 - (v) If an internal rule, guideline, protocol, or other similar criterion was relied upon in making the adverse determination, either the specific rule, guideline, protocol, or other similar criterion; or a statement that such a rule guideline, protocol, or other similar criterion was relied upon in making the adverse determination and that a copy of such rule, guideline, protocol, or other criterion will be provided free of charge to the claimant upon request;
 - (vi) If the adverse benefit determination is based on a medical necessity or experimental treatment or similar exclusion or limit, either an explanation of the scientific or clinical judgment for the determination, applying the terms of the Plan to the claimant's medical circumstances, or a statement that such explanation will be provided free of charge upon request; and
 - (vii) The following statement: "You and your plan may have other voluntary alternative dispute resolution options, such as mediation. One way to find out what may be available is to contact your local U.S. Department of Labor Office and your State insurance regulatory agency."
- (c) The decision of the Board of Trustees or subcommittee with respect to any appeal shall be final and binding upon all parties, including the claimant and any person representing the claimant.

SECTION 6.4 INFORMATION REQUIRED.

The Board of Trustees shall, as a condition precedent to the payment of any benefit under the Plan, have the right to secure any information from the Union, the Employers and the beneficiaries which they deem to be reasonably necessary for such purpose.

ALL PARTICIPANTS OR BENEFICIARIES MUST NOTIFY THE TRUST IMMEDIATELY OF ANY CHANGE IN MARITAL STATUS AS THAT COULD AFFECT ENTITLEMENT TO OR AMOUNT OF BENEFITS.

Each Employee and Pensioner shall furnish to the Board of Trustees any information or proof requested by it and reasonably required to administer the Pension Plan. Failure on the part of any Employee or Pensioner to comply with such request promptly or to otherwise fail to provide information required, completely and in good faith, shall be sufficient grounds for denying, suspending or discontinuing benefits to such person. If an Employee or Pensioner or other claimant to benefits hereunder makes a false statement or fails to disclose information material to a claim for benefits or a right to continued receipt of benefits, the Board shall recoup, offset or recover the amount of any payments made in reliance on such false statement in excess of the amount to which such Employee or Pensioner or other claimant was rightfully entitled under the provisions of this Plan.

VII. MISCELLANEOUS PROVISIONS

SECTION 7.1 SPECIAL RULES FOR WORK FOR NON-CONTRIBUTING EMPLOYERS.

If an Employee works in Non-covered Air Conditioning and Refrigeration Service after July 1, 1988 (or, if so employed prior to July 1, 1988, does not leave such employment by December 31, 1988), the following special rules will apply.

Non-covered Air Conditioning and Refrigeration Service means air conditioning and refrigeration work in the geographical jurisdiction of this Plan or a Related Plan (*see* Section 3.5) on or after July 1, 1988, for an employer which does not have, or self-employment which is not covered by, a Collective Bargaining Agreement with a Plumbing and Pipefitting Industry Union requiring contributions to this Plan or a Related Plan.

- (a) **Early Retirement Pension.** The effective date of a Participant's Early Retirement Pension will be delayed six months for every calendar quarter in which the Participant has at least one hour of Non-covered Air Conditioning and Refrigeration Service.
- (b) **Service Pension.** The effective date of a Participant's Service Pension will be delayed six months for every calendar quarter in which the Participant has at least one hour of Non-covered Air Conditioning and Refrigeration Service.
- (c) **Disability Pension.** A Participant shall not be eligible to receive a Disability Pension if he works in Non-covered Air Conditioning and Refrigeration Service during any part of a calendar year and then becomes disabled during that same calendar year or the immediately following two consecutive calendar years.
- (d) **Death Benefits.** Benefits will not be payable under the 5 year pre- or post-retirement guarantee provision if the Participant, after working in Covered Employment, has worked in Non-covered Air Conditioning and Refrigeration Service for two calendar quarters unless the Participant has returned to work for a Contributing Employer to this Plan for at least as long a period as he worked in such Non-covered Service.

SECTION 7.2 DUPLICATION OF PENSIONS.

A Pensioner shall not be entitled to the payment under this Plan of more than one type of Pension at any one time.

SECTION 7.3 NON-ASSIGNMENT OF BENEFITS.

Each Employee or Pensioner under the Pension Plan is hereby restrained from selling, transferring, anticipating, assigning other than Joint and Survivor benefits, hypothecating or otherwise disposing of his Pension, prospective Pension or any other right or interest under the Plan, and the Board of Trustees shall not recognize, or be required to recognize, any such sale, transfer, anticipation, assignment, hypothecation or other disposition. Any such Pension, prospective Pension, right or interest shall not be subject in any manner to voluntary transfer or transfer by operation of law or otherwise, and shall be exempt from the claims of creditors or other claimants and from all orders, decrees, garnishments, executions or other legal or equitable process or proceedings to the fullest extent permissible by law.

Notwithstanding the foregoing, benefits shall be paid in accordance with the applicable requirements of any "Qualified Domestic Relations Order" as defined in Section 206(d)(3) of ERISA.

Participants can obtain, without charge, a copy of the Plan's procedures governing qualified domestic relations order (QDRO) determinations from the plan administrator.

VIII. TECHNICAL PROVISIONS

SECTION 8.1 LIMITATION OF LIABILITY.

This Plan has been adopted on the basis of an actuarial calculation which has established to the extent possible that the contributions will, if continued, be sufficient to maintain the Plan on a permanent basis. However, it is recognized that the benefits provided by this Plan can be paid only to the extent that the Plan has available adequate resources for those payments. No Employer has any liability, directly or indirectly, to provide the benefits established by this Plan beyond the obligation of the Employer to make contributions as stipulated in the Labor Agreement. In the event that at any time the Trust Fund does not have sufficient assets to permit continued payments under this Plan, nothing contained in this Plan and the Trust Agreement shall be construed as obligating any Employer to make benefit payments or contributions (other than the contributions for which the Employer may be obligated by the Labor Agreement) in order to provide for the benefits established by the Plan. Likewise, there shall be no liability upon the Board of Trustees individually or collectively, or upon any Employer, any signatory Association, or the Union to provide the benefits established by this Plan if the Fund does not have assets to make such benefit payments except as provided by ERISA.

SECTION 8.2 MERGERS AND CONSOLIDATIONS OF PLANS: TRANSFERS OF PLAN ASSETS.

In case of any merger or consolidation with, or transfer of assets or liabilities to, any other plan, each Participant in the Plan shall (if the Plan then terminates) receive a benefit which is equal to or greater than the benefit he would have been entitled to receive immediately before the merger, consolidation, or transfer (if the Plan had then terminated).

SECTION 8.3 RIGHT TO MERGE AND CONSOLIDATE PLANS: TRANSFERS OF PLAN ASSETS.

In the event of any contemplated merger or consolidation with or transfer of assets or liabilities to any other plan, the Board of Trustees shall provide each Participant with written notice thereof. Except as hereinafter provided, no such merger, consolidation or transfer shall be effective unless a majority of the Participants shall have consented to said merger, consolidation or transfer in writing. The right to notice and the requirements of the consent of a majority of the Participants, as hereinabove provided, shall be limited to contemplated mergers or consolidations with, or transfer of, assets or liabilities to any other Plan. No Participant approval, as herein set forth, shall be required if a majority of the Labor Trustees and the Employer Trustees present and voting at a duly convened meeting agree that such merger, consolidation or transfer is necessary and prudent based solely upon financial considerations. The provisions of this Section 8.3 shall remain in effect unless a written ruling by the Department of Labor or other governmental agency states that such provision constitutes an unlawful or unacceptable constraint upon the ability of the Board of Trustees to properly exercise the duties imposed by ERISA.

SECTION 8.4 INCOMPETENCE OR INCAPACITY OF A PENSIONER.

In the event that it is determined to the satisfaction of the Board of Trustees that a Pensioner is unable to care for his affairs because of mental or physical incapacity, any payment due may be applied in the discretion of the Board to the maintenance and support of such Pensioner in the manner decided by the Board (except that no payment shall be made to a governmental institution or facility if the Pensioner is not legally required to pay for his care and maintenance), unless prior to such payment a claim shall have been made for such payment by a legally appointed guardian, committee or other legally appointed representative.

SECTION 8.5 TRUST ASSETS.

Neither the Employers, any signatory Association, any individual Employer, the Union, any Employee, or Pensioner under the Pension Plan nor any other person shall have any right, title or interest in or to the Fund other than as specifically provided in the Trust Agreement or in the Pension Plan. Neither the Fund nor any contributions to the Fund shall be in any manner liable for or subject to the debts, contracts or liabilities of any of the Employers, any signatory Association, the Union or any Employee, or Pensioner, except as provided for under ERISA.

SECTION 8.6 MAXIMUM LIMITATION.

(a) General Rule.

- (1) Effective for Plan Years beginning after December 31, 2001, and notwithstanding any other provision of this Plan, the annual Accrued Benefit relating to employment with a contributing Employer payable with respect to any Participant shall not exceed \$160,000.
- (2) This limit shall not apply to any benefits payable in a year that do not exceed \$1,000 a year for each Year of Service, up to a maximum of \$10,000, unless the Participant has also been covered by an individual account plan to which the Employer contributed on his behalf, and such plan was maintained as a result of collective bargaining involving the same employee representative as this Plan.
- (3)
 - (A) The \$160,000 limit in subsection (a)(1) is increased annually in accordance with IRS rulings and regulations under Code Section 415(d).
 - (B) Benefit payments that are limited by this Section shall be increased annually to the level permitted by the limitations of this Section as adjusted for later years in accordance with this subsection, but in no event to a level higher than the benefits attributable to Pension Credits earned by the Participant.
- (4) The benefit under this Plan considered as payable with respect to a Participant and an Employer shall equal the excess of the benefit over the benefit computed as if the Participant had no covered service with the Employer.

(b) Adjustment for Early or Late Retirement.

- (1) If the Participant's benefit payments begin before age 65 but on or after age 62, the dollar limit set forth in (a)(1) above is not reduced.
- (2) If the benefit of a Participant begins prior to age 62, the dollar limit in subsection (a)(1) is reduced to 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 limit applicable to the Participant at age 62. Any decrease in the defined benefit dollar limit determined in accordance with this paragraph (b) 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 dollar limit in subsection (a)(1) is increased to an annual benefit payable in the form of a straight life annuity beginning at the later age that is the Actuarial Equivalent of the defined benefit dollar limitation applicable to the Participant at age 65 (adjusted under (a) above, if required). For these purposes, mortality between age 65 and the age at which benefits commence shall be ignored.
 - (4) For purposes of this Section, the Actuarial Equivalent is based on a 5 percent interest assumption and the Applicable Mortality Table.
- (c) **Adjustment for Optional Payment Form.** If the Participant's benefit is to be paid in any form other than a straight life annuity (with no ancillary benefits), or a Husband and Wife Pension, the limitations in Section 8(a)(1) (as otherwise modified under this section) are applied to the annual benefit in the form of a straight life annuity commencing at the same age that is actuarially equivalent to the Plan benefit. If the Plan benefit is not subject to Internal Revenue Code Section 417(e)(3), the benefit that is equivalent to the Plan benefit is equal to the greater of (1) the benefit computed using the interest rate and mortality table, or tabular factor, specified in the Plan for actuarial equivalence for the particular form of benefit payable, and (2) the benefit computed using a 5% interest rate and the Applicable Mortality Table. If the Plan benefit is subject to Internal Revenue Code Section 417(e)(3), the equivalent annual benefit is equal to the greater of (1) the benefit computed using the interest rate and mortality table, or tabular factor, specified in the Plan for actuarial equivalence for the particular form of benefit payable, and (2) the benefit computed using the Applicable Interest Rate and the Applicable Mortality Table.
- (d) **Plan Aggregation.**
- (1) In applying the limits of this Section, the benefits of and contributions to all other retirement plans sponsored by the Employer or any Affiliate shall be taken into consideration, except for multiemployer plans.
 - (2) Except as noted in subsection (d)(1), all defined benefit plans sponsored by the Employer or any Affiliate are treated as a single plan. Benefits payable under any other such plan with respect to a Participant shall be reduced to the extent possible before any reduction will be made in his benefits payable under this plan, if necessary to observe these limits.
 - (3) For Plan Years beginning before 2000 and except as noted in subsection (d)(1), if a Participant is covered under one or more defined contribution plans sponsored by the Employer or any Affiliate, his combined benefits and annual additions under all such defined benefit and defined contribution plans shall not exceed the applicable combined plan limits under Code Section 415(e) and the rules and regulations thereunder.
- (e) **Phase-In Over Years of Participation.** If a Participant has fewer than 10 years of participation in this Plan the \$160,000 limit in subsection (a)(1) shall be multiplied by a fraction, the numerator of which is the Participant's total years of participation in this Plan and the denominator of which is 10.
- (f) **Limitation Year.** The annual limits of this Section shall be applied on a calendar year basis.

(g) **Protection of Prior Benefits.**

- (1) For any year before 1983, the limitations prescribed by Section 415 of the Code as in effect before enactment of the Tax Equity and Fiscal Responsibility Act of 1982 shall apply, and no benefit earned under this Plan shall be reduced on account of the provisions of this Section if it would have satisfied those limitations under the prior law.
- (2) For any year before 1992, the limitations prescribed by Section 415 of the Code as in effect before enactment of the Tax Reform Act of 1986 shall apply, and no benefit earned under this Plan as of the close of the last Limitation Year beginning before January 1, 1987 shall be reduced on account of the provisions of this Section if it would have satisfied those limitations under the prior law.

(h) **Interpretation or Definition of Other Terms.** All terms used in this Section not otherwise expressly defined in the Plan shall be defined, interpreted and applied as prescribed in Code Section 415 and the regulations and rulings issued thereunder.

(i) **Effect on Participants.** Benefit increases resulting from the increase in the limitations of section 415(b) of the Code will be provided to all current and former Participants (with benefits limited by 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 resulting solely as a result of the increases in limitations under section 415(b)).

SECTION 8.7 CONTIGUOUS EMPLOYMENT.

A Participant will receive Future Service credit for vesting purposes for work in Contiguous Non-Covered Employment with an Employer or Employers. A Participant will also receive Future Pension credit for purposes of computing the amount of benefits provided the Participant's Employer elected to make contributions.

Non-Covered Employment means employment with an Employer which is not Covered Employment except employment during any period in which the Participant was a part or sole shareholder or partner or sole proprietor of any Contributing Employer. The Non-Covered Employment is "Contiguous" if it precedes or follows Covered Employment with the same Employer and no quit, discharge or retirement occurs between the Covered Employment and the Non-Covered Employment.

These provisions reflect the formalization of an established policy which commencing January 1, 1980, will be applied in a manner consistent with Section 2530.210 of the Department of Labor Regulations which are incorporated herein by reference.

SECTION 8.8 AMENDMENT.

The Board of Trustees may amend or modify this Plan at any time or from time to time in accordance with the Trust Agreement, except that no amendment or modification may reduce any benefits payable to employees who retire prior to such amendment or modification so long as funds are available for payment of such benefits. In no event shall any amendment or modification of this Plan cause or result in any portion of the Trust Fund to revert to, or be recovered by, any Employer, any signatory Association or the Union, or cause or result in the diversion of any portion of the Fund to any purpose other than the exclusive benefit of Employees, retirees and the payment of the administrative expenses of the Fund and the Plan.

SECTION 8.9 TERMINATION.

If this Plan is terminated, the assets then remaining in the Pension Fund, after providing for the expenses of the Plan, shall be allocated to the extent that they shall be sufficient for the purpose of paying Pension benefits (based on Pension Credit to the date of termination of the Pension Plan) as provided by the provisions of the Pension Benefit Guaranty Corporation and/or the Trust Agreement and shall be nonforfeitable.

SECTION 8.10 HIGHLY COMPENSATED EMPLOYEE.

- (a) The term “highly compensated employee” includes highly compensated active employees and highly compensated former employees 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 or status with respect to that Employer.
- (b) A highly compensated active employee is any employee of the Employer who performs service for the Employer during the calendar year being tested and who:
 - (1) was a 5-percent owner of the Employer at any time during the calendar year or the preceding calendar year, or
 - (2) for the preceding calendar year
 - (A) had Compensation from the Employer in excess of \$80,000 (as adjusted annually for increases in the cost-of-living in accordance with regulations prescribed by the Secretary of the Treasury), and
 - (B) was in the top-paid group of employees of such Employer for such preceding calendar year. For this purpose, the top-paid group of employees shall consist of the top 20 percent of the employees when ranked on the basis of Compensation paid during such year.

SECTION 8.11 COMPENSATION.

- (a) Solely for the purposes of determining Highly Compensated Employees and the limitations under Section 415 of the Internal Revenue Code, a Participant's annual Compensation shall mean the total cash salary or wages paid to the Participant during a Plan Year and reportable as earnings subject to income tax on Form W-2. In addition, Compensation shall include any elective deferral (as defined under Code Section 402(g)(3)), and any amount which is contributed or deferred by the Employer at the election of the Employee, and which, by reason of Code Sections 125 or 457, is not includable in the gross income of the Employee.
- (b) Compensation shall not include:
 - (1) Amounts realized from the exercise of non-qualified stock options, or when restricted stock (or property) held by the employee either becomes freely transferable or is no longer subject to a substantial risk of forfeiture;
 - (2) Amounts realized from the sale, exchange or other disposition of stock acquired under a qualified stock option; and
 - (3) Other amounts which received special tax benefits, other than amounts referred to in subsection (a).

- (c) For limitation years beginning on or after January 1, 2001, for purposes of applying the limitations described in Section 8.6 of the Plan, Compensation paid or made available during such limitation years shall include elective amounts that are not included in the gross income of the Participant by reason of Internal Revenue Code Section 132(f)(4).

SECTION 8.12 DIRECT ROLLOVERS.

This Section 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 Article, a distributee may elect, at the time and in the manner prescribed by the plan administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(a) **Eligible rollover distribution:**

An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated Beneficiary, or for a specified period of ten 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 includable in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities).

(b) **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. For distributions before 2002, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity. Effective for distributions made on or after January 1, 2002, an "eligible retirement plan" also shall include an annuity contract described in Internal Revenue Code Section 403(b) and an eligible plan under Internal Revenue Code Section 457(b), 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. For distributions after 2001, the definition of eligible retirement plan also 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 as defined in Section 414(p) of the Code.

(c) **Distributee:**

A distributee includes an Employee or former Employee. In addition, the Employee's or former Employee's surviving spouse and the Employee's or former Employee's spouse or former spouse who is the alternate payee under a Qualified Domestic Relations Order, as defined in Section 414(p) of the Code, are distributees with regard to the interest of the spouse or former spouse.

(d) **Direct rollover:**

A direct rollover is a payment by the plan to the eligible retirement plan specified by the distributee.

SECTION 8.13 APPLICABLE INTEREST RATE.

The “Applicable Interest Rate” for a Calendar Year is the annualized rate of interest on 30-year Treasury securities as specified by the Commissioner of Internal Revenue for the month of November immediately preceding the Calendar Year which contains the Annuity Starting Date.

SECTION 8.14 APPLICABLE MORTALITY TABLE.

The “Applicable Mortality Table” is the table prescribed in regulations under Section 417(e) of the Internal Revenue Code for use in the Calendar Year which contains the Annuity Starting Date, and which, until modified or superseded, is the table set forth in Revenue Ruling 2001-62.

SECTION 8.15 COMPENSATION TAKEN INTO ACCOUNT IN DETERMINING BENEFIT ACCRUALS.

(a) **Compensation limit.**

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).

(b) **Cost-of-living adjustment.**

The \$200,000 limit on annual compensation in paragraph (a) shall be adjusted for cost-of-living increases in accordance with Internal Revenue Code Section 401(a)(17)(B). 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.

IX. MINIMUM DISTRIBUTION REQUIREMENTS

SECTION 9.1 GENERAL RULES.

- (a) **Effective Date.** The provisions of this Section will apply for purposes of determining required minimum distributions for calendar years beginning with the 2003 calendar year.
- (b) **Precedence.** The requirements of this Section will take precedence over any inconsistent provisions of the Plan.
- (c) **Requirements of Treasury Regulations Incorporated.** All distributions required under this Section will be determined and made in accordance with the Treasury regulations under section 401(a)(9) of the Internal Revenue Code.
- (d) **TEFRA Section 242(b)(2) Elections.** Notwithstanding the other provisions of this Section, other than Section 9.1(c), distributions may be made under a designation made before January 1, 1984, in accordance with section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act (TEFRA) and the provisions of the Plan that relate to section 242(b)(2) of TEFRA.

SECTION 9.2 TIME AND MANNER OF DISTRIBUTION.

- (a) **Required Beginning Date.** The Participant's entire interest will be distributed, or begin to be distributed, to the Participant no later than the Participant's required beginning date.
- (b) **Death of Participant Before Distributions Begin.** If the Participant dies before distributions begin, the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows:
 - (1) If the Participant's surviving spouse is the Participant's sole designated beneficiary, then distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70-½, if later.
 - (2) If the Participant's surviving spouse is not the Participant's sole designated beneficiary, then distributions to the designated beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.
 - (3) If there is no designated beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.
 - (4) If the Participant's surviving spouse is the Participant's sole designated beneficiary and the surviving spouse dies after the Participant but before distributions to the surviving spouse begin, this Section 9.2(b), other than Section 9.2(b)(1), will apply as if the surviving spouse were the Participant.

For purposes of this Section 9.2 and Section 9.5, distributions are considered to begin on the Participant's required beginning date (or, if Section 9.2(b)(4) applies, the date distributions are required to begin to the surviving spouse under Section 9.2(b)(1)). If annuity payments irrevocably commence to the Participant before the Participant's required beginning date (or to the Participant's surviving spouse before the date distributions are required to begin to the surviving spouse under Section 9.2(b)(1)), the date distributions are considered to begin is the date distributions actually commence.

- C. Form of Distribution. Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution calendar year distributions will be made in accordance with Sections 9.3, 9.4 and 9.5 of this Section. If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of section 401(a)(9) of the Code and the Treasury regulations. Any part of the Participant's interest which is in the form of an individual account described in section 414(k) of the Code will be distributed in a manner satisfying the requirements of section 401(a)(9) of the Code and the Treasury regulations that apply to individual accounts.

SECTION 9.3 DETERMINATION OF AMOUNT TO BE DISTRIBUTED EACH YEAR.

- (a) General Annuity Requirements. If the Participant's interest is paid in the form of annuity distributions under the Plan, payments under the annuity will satisfy the following requirements:
- (1) the annuity distributions will be paid in periodic payments made at intervals not longer than one year;
 - (2) the distribution period will be over a life (or lives) or over a period certain not longer than the period described in Section 9.4 or Section 9.5;
 - (3) once payments have begun over a period certain, the period certain will not be changed even if the period certain is shorter than the maximum permitted;
 - (4) payments will either be nonincreasing or increase only as follows:
 - (a) by an annual percentage increase that does not exceed the annual percentage increase in a cost-of-living index that is based on prices of all items and issued by the Bureau of Labor Statistics;
 - (b) to the extent of the reduction in the amount of the Participant's payments to provide for a survivor benefit upon death, but only if the beneficiary whose life was being used to determine the distribution period described in Section 9.4 dies or is no longer the Participant's beneficiary pursuant to a qualified domestic relations order within the meaning of section 414(p);
 - (c) to provide cash refunds of employee contributions upon the Participant's death; or
 - (d) to pay increased benefits that result from a Plan amendment.

- (b) Amount Required to be Distributed by Required Beginning Date. The amount that must be distributed on or before the Participant's required beginning date (or, if the Participant dies before distributions begin, the date distributions are required to begin under Sections 9.2(b)(1) or 9.2(b)(2)) is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received, e.g., bi-monthly, monthly, semi-annually, or annually. All of the Participant's benefit accruals as of the last day of the first distribution calendar year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the Participant's required beginning date.
- (c) Additional Accruals After First Distribution Calendar Year. Any additional benefits accruing to the Participant in a calendar year after the first distribution calendar year will be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues.

SECTION 9.4 REQUIREMENTS FOR ANNUITY DISTRIBUTIONS THAT COMMENCE DURING PARTICIPANT'S LIFETIME.

- (a) Joint Life Annuities Where the Beneficiary Is Not the Participant's Spouse. If the Participant's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the Participant and a nonspouse beneficiary, annuity payments to be made on or after the Participant's required beginning date to the designated beneficiary after the Participant's death must not at any time exceed the applicable percentage of the annuity payment for such period that would have been payable to the Participant using the table set forth in Q&A-2 of section 1.401(a)(9)-6T of the Treasury regulations. If the form of distribution combines a joint and survivor annuity for the joint lives of the Participant a nonspouse beneficiary and a period certain annuity, the requirement in the preceding sentence will apply to annuity payments to be made to the designated beneficiary after the expiration of the period certain.
- (b) Period Certain Annuities. Unless the Participant's spouse is the sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain for an annuity distribution commencing during the Participant's lifetime may not exceed the applicable distribution period for the Participant under the Uniform Lifetime Table set forth in section 1.401(a)(9)-9 of the Treasury regulations for the calendar year that contains the annuity starting date. If the annuity starting date precedes the year in which the Participant reaches age 70, the applicable distribution period for the Participant is the distribution period for age 70 under the Uniform Lifetime Table set forth in section 1.401(a)(9)-9 of the Treasury regulations plus the excess of 70 over the age of the Participant as of the Participant's birthday in the year that contains the annuity starting date. If the Participant's spouse is the Participant's sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain may not exceed the longer of the Participant's applicable distribution period, as determined under this Section 9.4(b), or the joint life and last survivor expectancy of the Participant and the Participant's spouse as determined under the Joint and Last Survivor Table set forth in section 1.401(a)(9)-9 of the Treasury regulations, using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the calendar year that contains the annuity starting date.

SECTION 9.5 REQUIREMENTS FOR MINIMUM DISTRIBUTIONS WHERE PARTICIPANT DIES BEFORE DATE DISTRIBUTIONS BEGIN.

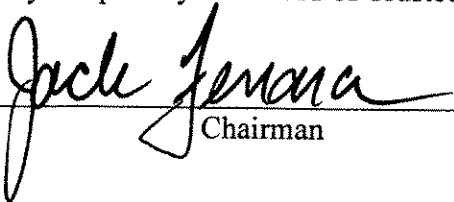
- (a) Participant Survived by Designated Beneficiary. If the Participant dies before the date distribution of his or her interest begins and there is a designated beneficiary, the Participant's entire interest will be distributed, beginning no later than the time described in Sections 9.2(b)(1) or 9.2(b)(2), over the life of the designated beneficiary or over a period certain not exceeding:
 - (1) unless the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year immediately following the calendar year of the Participant's death; or
 - (2) if the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year that contains the annuity starting date.
- (b) No Designated Beneficiary. If the Participant dies before the date distributions begin and there is no designated beneficiary as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.
- (c) Death of Surviving Spouse Before Distributions to Surviving Spouse Begin. If the Participant dies before the date distribution of his or her interest begins, the Participant's surviving spouse is the Participant's sole designated beneficiary, and the surviving spouse dies before distributions to the surviving spouse begin, this Section 9.5 will apply as if the surviving spouse were the Participant, except that the time by which distributions must begin will be determined without regard to Section 9.2(b)(1).

SECTION 9.6 DEFINITIONS.

- (a) Designated beneficiary. The individual who is designated as the beneficiary under the Plan and is the designated beneficiary under Section 401(a)(9) of the Internal Revenue Code and Section 1.401(a)(9)-1, Q&A-4, of the Treasury regulations.
- (c) Distribution calendar year. A calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Participant's required beginning date. For distributions beginning after the Participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin pursuant to Section 9.2(b).
- (c) Life expectancy. Life expectancy as computed by use of the Single Life Table in Section 1.401(a)(9)-9 of the Treasury regulations.
- (d) Required beginning date. The date specified in Section 1.1 of the Plan.

CERTIFICATE OF ADOPTION

The undersigned Chairman and Secretary of the Board of Trustees of the Airconditioning and Refrigeration Industry Retirement Trust Fund do hereby certify that the foregoing Restatement was duly adopted by the Board of Trustees at a meeting duly called and held on FEB 21, 2006.



Chairman



Secretary