RESTATED PENSION PLAN
OF THE
TWIN CITY PIPE TRADES
PENSION TRUST

RESTATED EFFECTIVE MAY 1, 2001

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(as amended)

OF

TWIN CITY PIPE TRADES PENSION TRUST

Effective May 1, 2001

The following Restated Pension Plan is adopted by the Trustees so that, as amended, it will read in its entirety as follows, effective May 1, 2001.

ARTICLE 1

DEFINITIONS

<u>Section 1.01</u> **<u>Act or ERISA</u>**

The term "Act" or "ERISA" as used herein means the Employee Retirement Income Security Act of 1974, as it may be amended from time to time.

<u>Section 1.02</u> **<u>Actuarial Present Value</u>**

(a) For lump sum payments made before May 1, 2000, the "Actuarial Present Value" of a benefit shall be determined using the full set of interest rates prescribed by the Pension Benefit Guaranty Corporation for valuing annuities under single-employer plans that terminate without a Notice of Sufficiency on the first day of the Plan Year in which the date as of which the benefit is valued occurs. Notwithstanding the foregoing, if the value so calculated under the preceding paragraph exceeds $25,000 the "Actuarial Present Value" of a lump sum benefit shall be determined using 120% of the full set of interest rates prescribed by Pension Benefit Guaranty Corporation for valuing annuities under single-employer plans that terminate without a Notice of Sufficiency on the first day of the Plan Year in which the date as of which the benefit is valued occurs.

(b) For converting the normal form of benefit to all optional forms, except lump sum payments, unless otherwise specified in the Plan, the "Actuarial Present Value" of a benefit shall be determined using the interest rate of 7%.

(c) For lump sum payments made before May 1, 2000 and for converting the form of benefit to all optional forms, except lump sum payments, unless otherwise specified in the Plan, the mortality assumption shall be based on the 1971 Group Annuity Mortality Table weighted as follows:

(i) for a Participant's benefit, 100% male and 0% female; and

(ii) for the benefit of a Participant's Spouse or former Spouse, 0% male and 100% female.

(d) Solely for purposes of determining the amount of any lump sum payment distributed on or after May 1, 2000, the determination of Actuarial Present Value shall be based on the applicable mortality table and the applicable interest rate as specified by the Commissioner of Internal Revenue for the second full calendar month preceding the first day of the Plan Year containing the date of distribution pursuant to Code Section 417(e)(3)(A) as amended by the Retirement Protection Act of 1994.

(e) "Actuarial Equivalence" means two benefits of equal Actuarial Present Value based on the actuarial factors and assumptions specified in the provision in which that phrase is used or, if not otherwise specified, based on the assumptions described in this section.

Section 1.03 Annuity Starting Date

(a) The "Annuity Starting Date" means the date as of which benefits are calculated and paid under the Plan and shall be the first day of the first month after or coincident with the later of:

(i) the first day of the month following submission by the Participant of a completed application for benefits, or

(ii) 30 days after the Plan advises the Participant of the available benefit payment options.

(b) The Annuity Starting Date may occur and benefits may begin before the end of the 30-day period, provided:

(i) the Participant and Spouse, if any, consent in writing to the commencement of payments before the end of that 30-day period,

(ii) the Participant's benefit was previously being paid because of an election after Normal Retirement Age, or

(iii) the benefit is being paid out automatically as a lump sum under provisions of the Plan.

(c) The Annuity Starting Date will not be later than the Participant's Required Beginning Date.

(d) The Annuity Starting Date for a Beneficiary or alternate payee under a Qualified Domestic Relations Order (within the meaning of Sections 206(d)(3) of ERISA and 414(p) of the Internal Revenue Code) will be determined as stated in Subsections (a), (b) and (c) above, except that references to spousal consent do not apply.

Section 1.04 Collective Bargaining Agreement or Agreement or Participation Agreement

"Collective Bargaining Agreement" or "Agreement" or "Participation Agreement" means an agreement, usually in writing, binding an Employer to make the required contributions to the Fund.

Section 1.05 Compensation.

Wages within the meaning of Code Section 3401(a) plus all other payments of compensation to an employee by an employer for which the employer must furnish the employee with a Form W-2, including qualifying transportation benefits pursuant to Section 132(f)(4) of the Code. In no event shall such compensation exceed $170,000 per year during Fiscal Year 2001, $200,000 beginning in the 2002 Fiscal Year, or such higher amount as adjusted by the Secretary of Treasury or applicable Treasury Regulations.

<u>Section 1.06</u> **<u>Continuous Employment</u>**

Two periods of Employment are "Continuous" if there is no quit, discharge or other termination of employment between the periods.

<u>Section 1.07</u> **<u>Contributing Employer or Employer</u>**

(a) "Contributing Employer" or "Employer" means those employers who have executed Collective Bargaining Agreements with the Union providing for contributions to the Pension Trust, and other employers who may, in the future, execute Collective Bargaining Agreements with the Union providing for such contribution, and the Trustees have not, by resolution, terminated the employer's status as a Contributing Employer for any reason, including because the employer has failed, for a period of 90 days or more after the due date, to make contributions to the Fund as provided for in its agreement.

(b) "Contributing Employer" or "Employer" shall also include the following who have executed Participation Agreements, approved by the Trustees, providing for such contributions to be paid in the amount and manner as required in said Agreements:

 (i) Governmental bodies or agencies as well as private firms or companies not engaged as contractors in the Pipe Trades Industry if they employ journeymen and apprentice plumbing and pipe fitting workers, who are Employees as defined herein, and

 (ii) organizations allied to or serving the Pipe Trades Industry which are jointly administered by equal numbers of representatives of the Union and management; provided the Trustees have not, by resolution, terminated the employer's status as a Contributing Employer for any reason, including because the employer has failed to make contributions to the Fund as provided for in its agreement.

(c) The Union shall be deemed an employer for the limited purpose of making contributions to the Pension Fund on behalf of its full-time, paid officials of the Union.

(d) An employer, not engaged in the Pipe Trades Industry (as defined herein) under a Collective Bargaining Agreement with the Union, shall not be deemed a Contributing Employer simply because it is part of a controlled group of corporations or of a trade or business under common control, some other part of which is a Contributing Employer.

Section 1.08 Contribution Date

"Contribution Date" means the starting date of Employer Contributions to the Pension Fund as required in the Collective Bargaining Agreement or Participation Agreement.

Section 1.09 Contribution Period

"Contribution Period" means the period during which the Employers is a contributing Employer with respect to the Employees.

Section 1.10 Contributions

"Contributions" means payments made to the Pension Fund by the Employers.

Section 1.11 Covered Employment

(a) "Covered Employment" means employment of an Employee by an Employer including such employment prior to the Contribution Period.

(b) As to periods prior to May 1, 1960, past service credits are available for employment with an Employer and/or full-time employment as a plumber or pipe fitter (or employment performing the duties of either, including employment as an apprentice) with one or more firms or companies whose principal place of business was located in the St. Paul-Minneapolis area, or nearby vicinity, whose standards of employment as to wages and working conditions were not less than those prevailing in said area.

(c) As to periods subsequent to May 1, 1960, as regards new Contributing Employers located outside the area stated in (b) who are under Participating Agreements, past service credits are also available.

(d) "Covered Employment" shall also include credited hours earned in another Union jurisdiction, for which contributions are received by the Fund as a result of a reciprocity agreement with another Trust in such other jurisdiction (Section 7.05 of the Trust Agreement).

(e) Covered Employment shall not, however, include employment by an employer after termination of its status as a Contributing Employer, including for failure to pay contributions due.

Section 1.12 Employee

"Employee" means journeymen and apprentice plumbing and pipe fitting workers employed by an Employer, on whose behalf contributions are made to the Pension Trust, pursuant to a Collective Bargaining Agreement or a Participation Agreement, and full-time paid Local Union officials on whose behalf contributions are made to the Pension Trust by the Union.

The term "Employee" shall also include:

(a) journeymen and apprentice plumbing and pipe fitting workers who are members of the Union and who are employed by a governmental agency or body or a firm or company which is not engaged in business as a contractor in the Pipe Trades Industry and are working with the tools of the trade or in employment directly and closely related with such Employees as determined by a three-fourths vote of the Board of Trustees (such Employees shall hereinafter be referred to as Governmental and Maintenance Employees); and

(b) employees engaged full time by an organization allied to or serving the Pipe Trades Industry which is jointly administered by equal numbers of representatives of the union and management for whom contributions are made to the Pension Trust pursuant to a written agreement.

The term "Employee" shall also include a leased employee of an Employer within the meaning of Section 414(n) of the Internal Revenue Code who otherwise meets the conditions for participation, vesting and/or benefit accrual under the Plan.

The term "Employee" does not include (a) any person engaged in the management of a Contributing Employer; (b) any person who is self-employed in the Pipe Trades Industry; and

(c) any person who has a direct or indirect ownership interest in the business of a Contributing Employer. For the purpose of (c), a person is deemed to have an ownership interest in a Contributing Employer if his spouse holds such interest; and is presumed to have such interest if held by a member of his family, by blood or marriage. Ownership interest with respect to the business of a Contributing Corporate Employer shall not include ownership of the equity securities of an employer whose securities are required to be registered under Section 12 of the Securities Exchange Act of 1934, unless such ownership subjects the owner thereof to the reporting requirements of Section 16 of said Act. The Trustees, by a three-fourths vote, shall, in any case of said three categories, make a final and binding interpretive decision.

Section 1.13 Fiscal Year

"Fiscal Year" means the period from May 1 through the next April 30. (Differs from "Plan Credit Year" for accounting purposes.)

Section 1.14 Former Employee

"Former Employee" means an individual who retired from the service of an Employer prior to May 1, 1960, but after attainment of his 60th birthday, and who rendered service in Covered Employment up to the date of his retirement.

Section 1.15 Gender

Except as the context may specifically require otherwise, use of the masculine gender shall be understood to include both masculine and feminine genders.

Section 1.16 Hour of Work

"Hour of Work" means the Hours of Work in which an Employee performed services and for which he was paid or entitled to payment, adjusted to include premium hours in accordance with the prevailing Collective Bargaining Agreement. An Hour of Work shall also mean each hour for which back pay, irrespective of mitigation of damage, has been either awarded or agreed to by the Employer, which shall be credited to the Employee for the computation period or periods to which the award or agreement pertain rather than the computation period in which the award, agreement or payment was made.

<u>Section 1.17</u> **<u>Normal Retirement Age</u>**

(a) "Normal Retirement Age" means age 65 (or age 62 if the Employee has 600 hours of contributions paid to the Fund on his behalf for Hours of Work after May 1, 1995, for retirements on or after May 1, 1996, or, if later, the earlier of:

(i) the age of the Participant on the fifth anniversary of his participation, or

(ii) the age of the Participant upon accumulation of five pension credit years.

(b) In calculating the fifth anniversary of participation, participation before a Permanent Break in Service shall not be counted.

<u>Section 1.18</u> **<u>Participant and Beneficiary</u>**

(a) "Participant" means a Pensioner or an Employee who meets the requirements for participation in the Plan as set forth in Article 2, or an inactive Employee who has acquired a right to a pension under this Plan.

(b) "Beneficiary" means a person who is receiving benefits under this Plan because of his or her designation for such benefits by a Pensioner or Participant.

<u>Section 1.19</u> **<u>Pension Credits</u>**

"Pension Credits" means the years or units of years required for an Employee to become eligible for a pension under this Plan and which are accumulated and maintained in accordance with Article 4 of this Plan for purposes of determining the amount of pension benefits due a participant.

<u>Section 1.20</u> **<u>Pension Plan or Plan</u>**

"Pension Plan" or "Plan" means this document as adopted by the Trustees and as amended from time to time by the Trustees (also called "Pension Plan Rules").

<u>Section 1.21</u> **<u>Pension Trust, Trust or Fund</u>**

"Pension Trust," "Trust" or "Fund" means all monies and all other things of value which comprise the corpus and additions to the Trust.

Section 1.22 Pensioner

(a) "Pensioner" means a person to whom a pension under this Plan is being paid or to whom a pension is payable.

(b) A Pensioner who has returned to Covered Employment and is accruing benefits on the same basis as other Employees as of the effective date of a benefit increase will not be considered a Pensioner for purposes of that benefit increase.

Section 1.23 Pipe Trades Industry

"Pipe Trades Industry" as used in this Plan means the activity of engaging in or performing, directly or indirectly, any of the trade or work described, from time to time, in the prevailing collective bargaining agreements in effect in St. Paul and Minneapolis, Minnesota.

Section 1.24 Plan Credit Year or Plan Year

"Plan Credit Year" or "Plan Year" means the twelve-month period from April 1 through the next March 31. For purposes of ERISA regulations, the Plan Credit Year shall serve as the vesting computation period, the benefit accrual computation period, and after the initial period of employment or reemployment following a Break in Service, the computation period for eligibility to participate in the Plan.

Section 1.25 Qualified Joint and Survivor Annuity

"Qualified Joint and Survivor Annuity" shall mean for a Participant who has a spouse at the time of the commencement of benefits, an annuity for the life of the Participant with a survivor annuity for the life of his spouse which is 50% of the amount of the annuity which is payable during the joint lives of the Participant and his spouse, and which is based upon the Pension Credits accrued by the Participant. A Qualified Joint and Survivor Annuity for an unmarried Participant shall mean an annuity for the life of such Participant based upon the Pension Credits accrued by the Participant.

Section 1.26 Qualified Preretirement Survivor Annuity

"Qualified Preretirement Survivor Annuity" shall mean an annuity for the life of the Participant's surviving spouse, based upon 50% of the Participant's accrued Pension Credits.

Section 1.27 Required Beginning Date

A Participant's "Required Beginning Date" is April 1 of calendar year following the calendar year in which the Participant reaches age 70-1/2; provided that, for a Participant who attains age 70-1/2 before 1988, other than a 5% owner, the Required Beginning Date is April 1 of the calendar year in which the Participant ceases work in Covered Employment, if that is later.

Section 1.28 Retirement

"Retirement" under this Plan means complete withdrawal by an Employee from employment, except as provided for in Section 6.07, with any employer in a job classification of the type specified in the Collective Bargaining Agreement, or any Employment as a plumber or pipe fitter or from self-employment in the same or related business as any participating Employer, without regard as to geographical area.

Section 1.29 Retirement Date

"Retirement Date" under this Plan means the date a Participant commences receiving a benefit under this Plan, provided the Participant earned Pension Credit in the preceding Plan Year. Otherwise, a Participant's Retirement Date is the end of the Plan Year in which he last earned Pension Credit.

Section 1.30 Trust Agreement

"Trust Agreement" means the Agreement and Declaration of Trust entered into April 26, 1960 (effective as of May 1, 1960) establishing the Twin City Pipe Trades Pension Trust, restated April 1, 1976, and as amended from time to time.

Section 1.31 Trustees

"Trustees" means the Board of Trustees established under the Trust Agreement as constituted from time to time in accordance with the provisions of said Trust Agreement.

Section 1.32 Union

"Union" means Pipe Fitters Local No. 539, Plumbers Local Union No. 15, Pipe Fitters Local No. 455 and Plumbers Local Union No. 34, and any other Local Union chartered by the United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada or other union representing employees working in a capacity related to the Pipe Trades Industry whose bargaining unit is accepted for participation in the Plan and Trust by the Trustees.

Section 1.33 Year of Participation

For purpose of compliance with Regulation 2530 of the Department of Labor, a "Year of Participation" means a Plan Credit Year in which a Participant has completed 2,000 hours of work in Covered Employment during a Contribution Period.

ARTICLE 2

PARTICIPATION

Section 2.01 Purpose

This article contains definitions to meet certain requirements of the Employee Retirement Income Security Act of 1974 (otherwise referred to as ERISA). Once an Employee has become a Participant, the provisions of this Plan give him credit in accordance with the rules of the Plan for some or all of his service before he became a Participant.

Section 2.02 Participation

An Employee who is engaged in Covered Employment, as defined, beginning on his employment commencement date, and continuing during the period his Employer is obligated by his agreement to contribute to the Fund shall become a Participant in the Plan on the date the Employee completes the first Hour of Work for which Contributions are required to be made on the Employee's behalf by the Employer pursuant to the terms of the Collective Bargaining Agreement or Participation Agreement covering the Employee.

Section 2.03 Termination of Participation

A person who incurs a One-Year Break in Service (defined in Section 4.03(b)) shall cease to be a Participant as of the last day of the Plan Credit Year which constituted the One Year Break, unless extended by the terms of Section 4.03, or unless such Participant is a Pensioner or has acquired the right to a pension, other than for disability, whether immediate or deferred.

Section 2.04 Reinstatement of Participation

(a) An Employee who has lost his status as a Participant in accordance with Section 2.03 shall again become a Participant by meeting the requirements of Section 2.02 on the basis of Hours of Work after the Plan Credit Year during which his participation terminated. An Employee who meets these requirements shall be considered a Participant retroactively as of his re-employment commencement date in Covered Employment.

(b) The re-employment commencement date is the first day the Employee is credited with an Hour of Work after the Plan Credit Year in which he incurred his last One Year Break in Service.

(c) If an Employee incurs a Permanent Break in Service pursuant to Subsections 4.03(c) and (d) before he has acquired the right to a pension, other than for disability, then the Employee shall become a Participant again only in accordance with Section 2.02.

ARTICLE 3

PENSION ELIGIBILITY AND AMOUNTS

Section 3.01 General Provisions

This article sets forth the eligibility conditions and benefit amounts for the pensions provided by this Plan. The accumulation and retention of Pension Credits and Years of Vesting Service for eligibility are subject to the provisions of Article 4. The benefit amounts are subject to reduction on account of Early Retirement as set forth in Section 3.05, or a Qualified Joint and Survivor Annuity pursuant to Article 5. Entitlement of an eligible Participant to receive pension benefits is subject to his retirement and application for benefits.

Eligibility depends on Pension Credits, which are defined in Section 4.01 and Years of Vesting Service, which are defined in Section 4.02.

Section 3.02 Regular Pension - Eligibility

A Participant shall be entitled to retire on a Regular Pension if he meets the following requirements:

(a) He has attained age 65, or age 62 if he has 600 hours of contributions paid to the Fund on his behalf for Hours of Work after May 1, 1995, and

(b) He has at least 5 Pension Credits and has not incurred a Permanent Break in Service.

Section 3.03 Regular Pension - Amount

The following pension amounts apply to a Regular Pension, before any reduction made in order to pay the benefits as a Qualified Joint and Survivor Annuity, pursuant to Article 5.

(a) A Participant retiring on or after May 1, 1989, with at least 600 hours of contributions paid to the Fund on his behalf for Hours of Work on or after January 1, 1987, who is entitled to receive a Regular Pension shall receive, so long as he continues in Retirement, a monthly amount equal to the following:

(i) $1.50 for each year of Pension Credit accrued up to May 1, 1960, plus

(ii) $2.75 for each year of Pension Credit accrued after May 1960 and up to April 1, 1967, plus

(iii) $29.00 for each year of Pension Credit accrued April 1, 1967, and up to April 1, 1977, plus[1]

(iv) $51.00 for each year of Pension Credit accrued on and after April 1, 1977, and up to April 1, 1992.

[1] A Participant employed in Covered Employment for which the contribution rate was $.63 per hour between April 1, 1979, and April 1, 1980, who retired on or after January 1, 1982, if he earned one year of Pension Credit in that period, shall have the amount of his monthly pension determined in accordance with this Section 3.03(a) and to this shall be added $4.00 per month and if such participant earned less than one year of Pension Credit in this period, the amount added shall be that fraction of $4.00 determined by his hours of employment in accordance with Subsection 4.01(a)(i).

(b) For retirements on or after May 1, 1990, for which the Participant has had 600 hours of contributions paid to the Fund on his behalf for hours of work after January 1, 1987, the benefit amount for each year of Pension Credit accrued from April 1, 1976, and up to April 1, 1977 shall be $51.00.

(c) For retirements on or after May 1, 1991, for which the Participant has had 600 hours of contributions paid to the Fund on his behalf for hours of work after January 1, 1989, the benefit amount for each year of Pension Credit accrued from April 1, 1974, and up to April 1, 1976 shall be $51.00.

(d) The Pension Credit for the Plan Credit Year April 1, 1992, and up to April 1, 1993 shall be $53.00 for retirements before January 1, 1995, $60.00 for retirements on or after January 1, 1995, but before January 1, 1996, and $65.00 for retirements on or after January 1, 1996.

(e) The Pension Credit for the Plan Credit Year April 1, 1993, and up to April 1, 1994 shall be $58.00 for retirements before January 1, 1994, $60.00 for retirements on or after January 1, 1994, but before January 1, 1996, and $65.00 for retirements on or after January 1, 1996.

(f) The Pension Credit for the Plan Credit Years beginning April 1, 1994, through March 31, 1995 shall be $65.00.

(g) Notwithstanding any provision of this Section to the contrary, Participants in this Plan who are members of Local Union No. 12 and began accruing future Service Credits on or after May 1, 1991, the following schedule of Pension amounts shall apply:

   (i) for each year of Pension Credit accrued from April 1, 1991, and up to April 1, 1993, $15.00, plus

   (ii) for the Pension Credit for the Plan Credit Year April 1, 1993, and up to April 1, 1994, $22.00, plus

   (iii) for Pension Credits accrued from April 1, 1994 and later, in the amount as otherwise set forth in this Section for such years.

For retirements on or after January 1, 1995, but before January 1, 1996, the Pension Credit for the Plan Credit Year from April 1, 1992, and up to April 1, 1993 shall be $22.00. For retirements on or after January 1, 1996, the Credits for the Plan Credit Years from April 1, 1992, and up to April 1, 1994, shall be $27.00.

(h) A Participant employed in Covered Employment on or after May 1, 1995, for which the contribution rate is as indicated in this subsection shall be eligible to receive a monthly amount for each Pension Credit earned on or after April 1, 1995, as set forth below and thereafter pursuant to subsection (i):

(i) a Pension Credit of $76.90, based upon a contribution rate of $1.25.

(ii) a Pension Credit of $107.90, based upon a contribution rate of $1.90.

(i) The value for Pension Credits earned by Participants on or after April 1, 1996 shall be in the amounts set out in Table 3 for principal contribution rates in effect for service completed on or after April 1 of each Plan Credit Year. The values for Pension Credits (benefit accrual rates) in Table 3 reflect the rates for the primary collectively bargained employee groups. The value for all Pension Credits are established by the Trustees based upon the applicable contribution rate and the investment experience of the Fund. The value of Pension Credits for Participation Agreements, small contracts and other arrangements in proportion to the values for similarly situated Participants with rates established based upon the primary collectively bargained groups.

<u>Section 3.04</u> **<u>Early Retirement Pension - Eligibility</u>**

A Participant shall be entitled to retire on an Early Retirement Pension if he meets the following requirements:

(a) He has attained age 55, and

(b) He has at least 5 Pension Credits and has not incurred a Permanent Break in Service pursuant to Subsection 4.03(c) and (d).

<u>Section 3.05</u> **<u>Early Retirement Pension - Amount</u>**

(a) For retirements effective on or after May 1, 1986, for Participants who have 600 hours of contributions paid to the Fund on their behalf for Hours of Work after May 1, 1985, the monthly amount of the Early Retirement Pension is the amount of the Regular Pension reduced by one-quarter of one percent for each month by which the commencement of the pension precedes age 63.

(b) For retirements effective before May 1, 1986, and for retirements of Employees who became Participants on or after May 1, 1994, the monthly amount of the Early Retirement Pension is the amount of the Regular Pension reduced by one-half of one percent for each month by which the commencement of the pension precedes the Participant's Normal Retirement Age. If, for Employees who became Participants on or after May 1, 1994, the Participant has accrued 25 pension credits as of the date of retirement, the amount of the Early Retirement Pension is the amount of the Regular Pension reduced by one-quarter of one percent for each month by which the commencement of the pension precedes the Participant's Normal Retirement Age.

(c) Participants who have 600 hours of contributions paid to the Fund for Hours of Work after May 1, 1997 shall not be subject to an early retirement reduction if retiring at age 61 or later. Participants who have 600 hours of contributions paid to the Fund for Hours of Work after May 1, 1998 shall not be subject to an early retirement reduction if retiring at age 60 or later.

<u>Section 3.06</u> **<u>Level Income Option</u>**

A Participant retiring on an Early Retirement Pension for whom the 50% Qualified Joint and Survivor Annuity is not in effect may elect to have his pension increased until age 62 or age 65 according to the age at which he expects to receive his Social Security benefit and reduced thereafter in order to approximate a pension before Social Security benefit payments begin as nearly equal as possible to his combined retirement income from this Plan and Social Security after that age. The adjustment in amount shall be made on the basis of actuarial equivalence in accordance with Table 1.

Section 3.07 Deferred Pension - Eligibility

(a) A Participant shall have the right to a Deferred Pension if he has credit for at least 5 Years of Vesting Service or if he has at least 5 Future Service Pension Credits earned on the basis of employment during the Contribution Period and has attained Normal or Early Retirement Age. A Deferred Pension shall be payable upon retirement:

(i) after the Participant has attained Normal Retirement Age, or

(ii) after the Participant has attained age 55, provided he meets the requirements of Subsection 3.04(b).

(b) As to Government and Maintenance Employees who are in a grace period, the provisions of Subsection 4.03(d)(ii)(C) apply.

Section 3.08 Deferred Pension - Amount

The monthly amount of the Deferred Pension shall be the amount calculated in accordance with Section 3.03 and the accrual rates at the time the Participant last earned Pension Credit, except that if the Deferred Pension begins before the Participant's Normal Retirement Age, the monthly amount shall be further adjusted and determined in accordance with Section 3.05.

Section 3.09 Disability Pension - Eligibility

A Participant may retire on a Disability Pension if he becomes permanently and totally disabled (Section 3.11), has 5 Pension Credits, and has worked in Covered Employment in the Plan Credit Year in which he became disabled or the previous Plan Credit Year.

Section 3.10 Disability Pension Amount

The monthly amount of the Disability Pension is the same as the Regular Pension before any adjustment for a Qualified Joint and Survivor Annuity Pension and will become payable on the first of the month which follows the date the Participant is determined by the Trustees to be totally and permanently disabled.

Section 3.11 Definition of Total and Permanent Disability

A Participant who applies for a Disability Pension shall be deemed to be permanently and totally disabled only if the Trustees, in their sole and absolute discretion, find on the basis of medical evidence that:

(a) he has been totally disabled by bodily injury or a physical or mental condition so as to be prevented from engaging in further work in any job classification of the type specified in the Collective Bargaining Agreement in effect between the Union and the Employer;

(b) such disability will be permanent and continuous for the remainder of his life; and

(c) he is unable to engage in gainful employment of any kind except for activity of a type other than that specified in the Collective Bargaining Agreement at which he is able to earn less than $1,200.00 per month.

A Participant applying for a Disability Pension may be required to submit to an examination by a physician or physicians and employment experts designated by the Trustees, and may be required to submit to re-examination periodically as the Trustees may direct. The cost of such examination shall be assumed by the Pension Trust. A Participant's Social Security disability award may be considered by the Trustees, but is not binding as a determination of permanent and total disability.

A Participant who is retired with a Disability Pension who subsequently ceases to be totally and permanently disabled may:

(a) return to Covered Employment and thereby resume the accrual of Pension Credits as outlined in Article 4 of this Plan, or

(b) apply for an Early Retirement Pension provided he has fulfilled the age requirements for an Early Retirement Pension. Under such circumstances, the amount of Early Retirement Pension shall be based on the later of:

(i) the attained age of the Pensioner as of the date he first entered retirement on a Disability Pension, or

(ii) age 55.

Section 3.12 Government and Maintenance Employee Pension

Government and Maintenance Employees shall be entitled to receive Regular Retirement, Early Retirement or Disability Retirement benefits as provided in this Article 3. The monthly amount of the Government and Maintenance Employee Pension shall be calculated in accordance with this Article. It is also subject to adjustment for payment as a Qualified Joint and Survivor Annuity Pension.

Section 3.13 Non-Duplication of Pensions

A person shall be entitled to only one pension under this Plan, except that a Disability Pensioner who recovers may be entitled to a different type of pension.

Section 3.14 Death Benefits

(a) Prior to Retirement:

(i) If an Employee has accrued at least five full years of Contribution Service Pension Credits as defined in Subsection 4.01(a)(i) and at least 100 hours of contribution at $.53 per hour or more has been paid to the Plan as the result of his employment and he dies after January 1, 1979, and prior to the date he is entitled to any type of pension and prior to a Permanent Break in Service pursuant to Subsections 4.03 (c) and (d) a Death Benefit shall be payable to his designated Beneficiary. The amount of Death Benefit payable shall be 80% of the total contributions credited to his account, without interest or increment.

(ii) If an Employee satisfied the provisions of paragraph (i) above and died after January 1, 1994, the Death Benefit payable shall be 100% of the total contributions credited to his account without interest or increment.

(iii) A Death Benefit shall also be payable to the designated Beneficiary of a person eligible for a Deferred Pension if no pension is payable to the surviving Spouse in accordance with Article 5 of this Plan. In such case, if a Participant has met all of the requirements of this section, except for having 100 or more Hours of Work for which contributions of $.53 per hour or more were paid to the Plan and if a Death Benefit is payable to his designated Beneficiary in accordance with this Section 3.14, the amount of the Death Benefit shall be determined in accordance with the provisions of the Pension Plan at the time the Participant last worked in Covered Employment.

(b) Subsequent to Retirement:

(i) If a Pensioner receiving a Regular, Disability, or Early Retirement Pension dies before he has received, in monthly pension payments, a total amount equal to the Death Benefit to which he would have been entitled had he died the day preceding his retirement, and no pension is payable to the surviving Spouse in accordance with Article 5 of this Plan, the difference between that Death Benefit, and the total of the monthly benefits received by the Pensioner while living, shall be paid in a lump sum to the Pensioner's designated Beneficiary.

(ii) If a Qualified Joint and Survivor Annuity Pension is effective either prior to or after retirement, the Death Benefits described in this section shall be waived and no Death Benefits are payable under this section except as provided in Section 5.03.

(c) Notwithstanding any other provision in the Plan, payment of Death Benefits will commence within a reasonable time after receiving the death certificate.

(i) If the Death Benefit is being paid to a designated Beneficiary other than the Participant's Spouse, payments shall either:

(A) be completed by December 31 of the fifth calendar year following the year of the Participant's death, or

(B) commence no later than the end of the year following the Participant's death and be paid out over a period no greater than the designated

Beneficiary's life or life expectancy, as determined under Table V of Section 1.72-9 of the Treasury Regulations as of the date the payments commence, except that payments can continue until the end of the fifth calendar year following the year of the Participant's death if longer.

(ii) If there is no designated Beneficiary, payment of Death Benefits shall be completed by December 31 of the fifth calendar year following the year of the Participant's death.

(iii) If the designated Beneficiary is the Participant's spouse, Death Benefit payments shall commence no later than December 31 of the year the Participant would have attained age 70-1/2 paid over the life or life expectancy of the Spouse, as determined under Table V of Section 1.72-9 of the Treasury Regulations as of the date the payments commence, and benefits shall be actuarially increased for the delay.

Section 3.15 Designation of Beneficiary

(a) An Employee shall designate in writing, in the form and manner prescribed by the Trustees, the Beneficiary to whom his Death Benefit, or any other payments due him at the time of his death, if any, shall become payable. However, if a married Participant designates someone other than his Spouse as Beneficiary, the Participants' Spouse must consent in writing to the designation of the Beneficiary or Beneficiaries and such consent must be witnessed by a Notary Public or designated Plan representative.

(b) If an Employee dies without having designated a Beneficiary, or if the designated Beneficiary predeceased the Employee, any benefits payable hereunder, except for a Qualified Joint and Survivor Annuity Pension, may be paid to his Spouse, if any, or, if none, to any one or more of his relatives by blood or marriage or to his estate at the sole discretion of a majority of the Trustees.

Section 3.16 Transfer Pensions

(a) The Plan may accept a direct Trustee to Trustee transfer on behalf of an individual participating in the Twin City Pipe Trades Pension Supplement Plan, provided that the transfer is accompanied by a completed annuity election form from the Pension Supplement Plan, in a form acceptable to this Plan. Individuals having a Trustee to Trustee transfer under this Section become Participants in this Plan to the extent of the benefit available and calculated as a result of the direct transfer under this Section.

(b) The rights and benefits available to a Participant pursuant to this Section are solely related to, and a function of, the Trustee to Trustee transfer. Any resulting right to benefits that a Participant may have attributable to the transfer contribution is separate from any entitlement to benefits under any other Section of this Plan. If a Participant is eligible for a benefit under this Section of the Plan and under other provisions of the Plan, the benefit available under this Section 3.16 shall have no effect on any other benefit separately earned by a Participant under this Plan. Entitlement to a benefit pursuant to this Section 3.16 shall not act to increase or decrease a benefit otherwise available pursuant to any other provision of this Plan.

(c) The Plan shall calculate the monthly benefit available to a Participant under this Section through an actuarial calculation based upon:

(i) The amount of the Trustee to Trustee transfer;

(ii) An interest rate assumption of seven percent (7%);

(iii) The age of the Participant, and if married, of the Participant's spouse;

(iv) The 1983 Group Annuity Mortality Tables with a 50% - 50% blend of the male-female rates; and

(v) An Annuity Starting Date that shall be not later than the first day of the month following receipt of Trustee to Trustee transfer.

Section 3.17 Military Service

Pension credit and years of vesting service will be granted to a participant for time spent in the U.S. armed forces in accordance with applicable federal law, provided the Participant was actively engaged in covered employment immediately prior to entering military service and that he reapplied for work in covered employment within ninety (90) days after separation from military service.

ARTICLE 4

PENSION CREDITS AND YEARS OF VESTING SERVICE

Section 4.01 Pension Credits

(a) For Employment during the Contribution Period (Future Service).

(i) General Rule:

For periods during the Contribution Period, a Participant shall be credited with Pension Credits on the basis of Hours of Work in Covered Employment for which contributions to the Pension Fund were made in accordance with the following schedule:

Hours within the Plan Credit Year	Future Service Pension Credit
1,500 or more	one year
1,350 through 1,499	.9 of one year
1,200 through 1,349	.8 of one year
1,050 through 1,199	.7 of one year
900 through 1,049	.6 of one year
750 through 899	.5 of one year
600 through 749	.4 of one year
Less than 600	-0-

(ii) If in a Plan Credit Year after April 1, 1976, a Participant completes a Year of Vesting Service but less than 600 Hours of Work in Covered Employment, he shall be credited with a pro-rated portion of a full Pension Credit in the ratio of his Hours of Work in Covered Employment to 2,000.

(iii) If in any Plan Credit Year after April 1, 1977, a Participant completes more than 1,800 Hours of Work for which contributions were paid to the Fund, the hours in excess of 1,800 in that year shall be recorded as a Reserve Bank of Hours credited to the Participant. The maximum number of hours which may be accumulated in the Reserve Bank of Hours at any time before May 1, 1987, is 2,000. Effective May 1, 1987, the maximum number of hours which may be accumulated in the Reserve Bank of Hours at any time is 3,000. In Plan Credit Years during which the Participant completes at least 600 Hours of Work but fewer than 1,500 Hours of Work for which contributions were paid to the Fund, or if the Participant did not complete at least 600 Hours of Work in the Plan Credit Year because of temporary total disability, the hours in the Reserve Bank of Hours, to the extent they are available, shall be withdrawn to increase the number of hours counted for Pension Credit purposes in the Plan Credit Year to 1,500 hours.

At the Retirement Date, the balance of Hours of Work for which contributions were paid to the Fund and recorded in the Reserve Bank of Hours, plus the Hours of Work in the Plan Year in which retirement occurs (Final Plan Year) shall be added together and used as follows:

(A) To bring to 1,500 hours all prior Plan Credit Years, and, if any such Hours of Work remain, they shall be used as follows:

(B) To bring to 1,500 hours of credit the Plan Year in which retirement occurs, and if any such Hours of Work remain, they shall be used for additional credited hours in accordance with the table in Subsection 4.01(a)(i) even though the effect is to increase credited hours beyond the Plan Year.

Notwithstanding any provision of this subparagraph to the contrary, effective after March 31, 1994, Participants will no longer accrue hours in the Reserve Bank of Hours. As of April 1, 1994, any hours in the Reserve Bank of Hours to the credit of a Participant will be used to increase the number of hours counted for Pension Credit purposes in the Plan Credit Years from and after April 1, 1977, to 1,500 hours in which the Participant at least 600 hours but has less than 1,500 hours of contributions. Any remaining hours in the Reserve Bank of Hours, to the extent they are available, shall be used to purchase all or a portion of an additional pension credit(s) at the rate in effect for the last Plan Credit Year for which at least 600 hours of contributions were actually received up to a maximum of the $60.00 Pension Credit rate according to the schedule in subparagraph (i) above.

(iv) For Plan Credit Years from and after April 1, 1994, in which a Participant completes at least 2,000 hours of Work for which contributions were paid to the Fund, the Participant shall be entitled to receive 1.10 Pension Credits for that Plan Credit Year. If for any such year a Participant completes more than 2,400 hours of Work for which contributions were paid to the Fund, the Participant shall instead be entitled to receive 1.20 Pension Credits for such Plan Credit Year.

(b) A Participant who retired on or after January 1, 1987, will be entitled to receive additional Pension Credit for certain non-work periods after April 1, 1979, as if he had actual weeks of Covered Employment for which contributions were made on his behalf. Periods of disability after April 1, 1979, arising in Covered Employment for which Workers, Compensation Benefits were received by the Participant shall be credited at the rate of 15 hours per week, up to a maximum of .5 Pension Credits in any Plan Year. There is a lifetime maximum of one (1) Pension Credit for all such disabilities for any Participant covered by the Pension Plan. Proof of total disability must be submitted to the Trustees in the form and manner which they require and their decision as to total disability shall be final and binding.

In order to receive credit for such periods of time, a Participant must notify the Trustees in writing of his claim for such credit, within one year after the period for which credit is sought.

In no event shall the application of this Subsection 4.01(b) result in the crediting of more than one (1) Pension Credit for any Plan Year.

(c) For Employment before the Contribution Period (Past Service).

A Participant shall be credited with Pension Credits for Periods before the Contribution Period on the basis of his uninterrupted years of work in Covered Employment up to a maximum of 20 years.

It is recognized that it may be difficult, or impossible, to obtain complete verification of Covered Employment for past years. Accordingly, the Trustees shall determine the amount of Past Service to be credited on the basis of the best available evidence, which may be obtained from Employer records, Union records, Social Security records or affidavits by parties having knowledge of such Past Service. The decision of the Trustees as to the amount of Past Service Pension Credit granted to any Participant shall be final and binding.

(d) Maximum Pension Credits.

In determining the pension benefit of a Participant, no more than 35 full years of Pension Credit shall be granted for Participants retiring before January 1, 1995. Participants retiring on or after January 1, 1995 shall be granted no more than 36 Pension Credits as the maximum. Participants retiring on or after January 1, 1996 shall be granted not more than 37 Pension Credits as the maximum. Participants retiring on or after January 1, 1997 shall be granted not more than 38 Pension Credits as the maximum. Participants retiring on or after January 1, 1999 shall be granted not more than 39 Pension Credits as the maximum. Participants retiring on or after February 1, 2000 shall be granted not more than 40 Pension Credits as the maximum if they have worked at least 600 hours in Covered Employment after May 1, 1999. If the sum of the Participant's Past Service Credits and Future Service Pension Credits total more than maximum allowable number of Pension Credits, then all Future Service Credits, up to the maximum Pension Credits, shall be used in calculating the pension payable and the remainder, if any, shall consist of the Participant's Past Service Credits, subject to the maximum amount of past service which may be accrued under this Plan.

Section 4.02 Years of Vesting Service

(a) **General Rule**.

A Participant shall be credited with one Year of Vesting Service for each Plan Credit Year during the Contribution Period in which he worked in Covered Employment for 870 Hours or more. A Participant shall be credited with a Year of Vesting Service for each Plan Credit Year in which he worked in Covered Employment for 870 hours or more before he became a Participant, provided such employment was in the capacity of an apprentice in the pipefitting industry in the period immediately preceding the time when he became a Participant and continuous with such period and for each preceding Plan Credit Year in which he worked as such an apprentice for 870 hours or more and any such period with a Contributing Employer that was prior to but Continuous with being an apprentice. Ten Years of Vesting Service is required to achieve vested status, meaning a non-forfeitable right to a pension, or five Years of Vesting Service if a Participant has one Hour of Work after April 1, 1999. Vested status prior to attainment of Normal Retirement Age means a Permanent Break in Service will not occur and previously credited Years of Vested Service and Pension Credits will not be cancelled.

If a Participant works for a Contributing Employer in a job not covered by this Plan and is continuous with his employment with that Employer in Covered Employment, meaning that there has not been any break whatsoever in the Employee's employment with the Employer after contributions were not required to be made, his Hours of Work in such a non-covered job during the Contribution Period and after April 1, 1976, shall be counted in calculating Years of Vesting Service.

(b) **Exceptions**.

A Participant shall not be entitled to credit toward a Year of Vesting Service for the following periods:

(i) Years preceding a Permanent Break in Service as defined in Subsection 4.03(d) for periods prior to March 31, 1976.

(ii) Years preceding a Permanent Break in Service as defined in Subsection 4.03 (c).

(c) **Pro Rata Vesting**.

A Participant may become vested and entitled to a non-forfeitable right to a pension notwithstanding any provision of this Section 4.02 to the contrary, if sufficient vesting service is earned pursuant to this subsection as a result of a pro rata pension reciprocity agreement.

For purposes of determining whether a Participant has earned a nonforfeitable vested benefit under this Plan, the following provisions shall apply:

(i) The Participant must presently have, or had before incurring a Break In Service, but prior to a Permanent Break in Service, at least one year of Future Service Pension Credit pursuant to the terms of Section 4.01(a) of this Plan after the completion of money-follows-the-man reciprocity and without regard to the provisions of this subsection.

(ii) The Participant must also have earned at least a partial year of Future Service Pension Credit in either this Plan or another Plan signatory to the pro rata reciprocity agreement during at least one of the five calendar years prior to the effective date of the Participant's pension.

(iii) The Plan shall recognize a Participant's Hours of Future Service under the other Plan signatory to the pro rata reciprocity agreement, including any such Hours of Service earned prior to the effective date of the reciprocity agreement but excluding any Hours of Service as may be recognized by the other Plan under one or more other similar but separate reciprocity agreements. Such service shall be recognized only for the purposes of vesting and determining eligibility for a vested pension under this Plan, and not for the amount of Pension Credits accrued.

(iv) Service under another signatory Plan shall not count for the purpose of accruals in determining the amount of benefits from this Plan, nor shall it count for avoiding any other break in continuity provisions of the Plan, but shall count to avoid a Break in Service and prevent or restore any resulting loss of Credits under the Plan.

(v) The Plan shall only recognize that service actually credited after completion of money-follows-the-man reciprocity. Recognition of service under the other Plan for purposes of vesting shall apply only to pensions that are first effective on or after the effective date of the applicable pro rata reciprocity agreement and shall not apply to anyone already receiving a pension from either of the respective Plans on or before the effective date of such an agreement.

(vi) Past Service Credit under either this Plan or the other Plan signatory to a pro rata reciprocity agreement shall not count for any purpose under this subsection. Hours of Service that are duplicative of Hours under such other Plan shall not be counted twice by the Plan for any purpose.

<u>Section 4.03</u> <u>Breaks in Service</u>

(a) **General**.

If a person has a Break in Service before he has acquired the right to a pension, other than for disability, it has the effect of canceling his participation, his previously credited Years of Vesting Service, and his previously accrued Pension Credits. However, a Break in Service may be temporary or permanent, as hereafter provided.

(b) **One-Year Break in Service**.

(i) A person has a One-Year Break in Service in any Plan Credit Year after March 31, 1976, in which he fails to complete 435 Hours of Work in Covered Employment.

(ii) The time of employment with a Contributing Employer in noncovered employment after March 31, 1976, if creditable under Subsection 4.02(b) shall be counted as if it were Covered Employment in determining whether a Break in Service has been incurred.

(iii) If an Employee enters active service of the Armed Forces of the United States, his period of service in the Armed Forces shall not be counted as a Break in Service for up to 5 years prior to August 1, 1961, and for up to 5 years thereafter, subject to the provisions of Subsection 4.03(d)(i).

(iv) A One-Year Break in Service is repairable, in the sense that its effects are eliminated if, before incurring a Permanent Break in Service, the Employee subsequently earns a Year of Vesting Service (870 Hours of Work). More specifically,

(A) participation is restored in accordance with the provisions of Section 2.04, and previously earned Years of Vesting Service and Pension Credits are restored.

(B) Nothing in this subparagraph (iv) shall change the effect of a Permanent Break in Service.

(c) **Permanent Break in Service after March 31, 1976**.

A person who has not met the age and service requirements for a Regular, or Early Retirement Pension, or the service requirements of a Deferred Pension, has a Permanent Break in Service if he has consecutive One-Year Breaks in Service, including at least one after March 31, 1976, that equal or exceed the number of Years of Vesting Service or Pension Credits earned during the Contribution Period with which he has been credited, whichever is greater.

Effective May 1, 1985, a Participant who has not met the age and service requirements for a Regular, or Early Retirement Pension, or the service requirements of a Deferred Pension, has a Permanent Break in Service if his consecutive One-Year Breaks equal or exceeds the greater of (i) five or (ii) the number of Years of Vesting Service or Pension Credits earned during the Contribution Period, whichever is greater.

It shall not be considered a break in service and a Participant shall be granted an extension of the break periods referred to in this subsection (c), if, during the Contribution Period, the Participant's failure to earn any Pension Credit is due to acceptance by the Participant of employment as a Governmental or Maintenance Employee as defined in Section 1.12, in which case a grace period for the entire length of such employment will be granted. In order to secure the benefit of a grace period under this provision, an application in writing must be made to the Pension Fund Office prior to the end of the applicable break period and the grace period must be approved by the Trustees. This provision for extension of Break and Service does not include self-employment.

(d) **Permanent Break in Service on or before March 31, 1976**.

(i) For employment before the Contribution Period (Past Service) a person shall have incurred a Permanent Break in Service if he failed to be engaged in Covered Employment for a period of six or more consecutive months. A Break in Service shall not have occurred if failure to work in Covered Employment was because of entrance into the Armed Forces of the United States either during a period of national emergency or through the operation of a compulsory military service law. In such case, the person shall be granted full credit for such periods of service, plus additional credits for any period after his discharge or release from the Armed Forces of the United States in which his re-employment rights are guaranteed by law. These credits shall not be granted in the case of voluntary re-enlistment.

(ii) For employment during the Contribution Period (Future Service) a person shall have incurred a Permanent Break in Service if, with respect to a Participant who has less than 15 years of total Pension Credits or with respect to a Participant who has 15 years of Pension Credits who does not have 5 years of Future Service Pension Credit, he fails to achieve any Future Service Pension Credit during any three consecutive Plan Credit Years.

It shall not be considered a Break in Service and a Participant shall be granted an extension of the break periods referred to in this subparagraph (ii) if, during the Contribution Period, but on or before March 31, 1976, his failure to earn any Pension Credit during the 3 Plan Credit Years, referred to in the above paragraph, is due to:

(A) total disability, in which case a grace period of up to two years will be allowed during the continuance of such disability. Total disability for the purpose of this section of the Plan shall be determined to the sole satisfaction of the Trustees. In order to secure the benefit of a disability grace period, a Participant must give written notice to the Trustees that he is disabled and no grace period shall be granted for any time prior to one year before the receipt of such written notice, unless the Trustees find that there were extenuating circumstances which prevented timely filing. In the case of a Pensioner receiving a Disability Pension under this Plan, the grace period shall not be less than the period for which he received such Pension.

(B) military service of the Participant in the Armed Forces of the United States during a period of national emergency or service required through the operation of a compulsory military service law, in which case the grace period shall be the period thereafter in which his re-employment rights are guaranteed by law. Periods of voluntary re-enlistment shall not be considered as grace periods, subject however, to the provisions of Subsection 4.03(b)(iii).

(C) promotion of a Participant by an Employer to an employment category not covered by the Collective Bargaining Agreement in effect between the Union and the Employer, or acceptance by a Participant of full-time employment with the International Union with whom the participating

Local Unions are affiliated, or acceptance by the Participant of employment as a Governmental or Maintenance Employee as defined in Section 1.10 in which case a grace period for the entire length of such employment will be granted. In order to secure the benefit of a grace period under this clause (C), an application in writing must be made to the Pension Fund Office prior to the end of the applicable break period and the grace period must be approved by the Trustees. This clause (C) does not include self-employment.

(e) **Absence Due to Pregnancy, Adoption, or Child Care**.

A Participant who is absent from Covered Employment on or after May 1, 1985 shall be credited with up to 435 Hours of Work in a Plan Credit Year to prevent a Break in Service if the absence is due to:

(i) the pregnancy of the Participant, or

(ii) the birth of a child of the Participant, or

(iii) the placement through adoption of a child with the Participant, or

(iv) the caring for such child for a period beginning immediately following the birth or placement.

The Hours of Work are those normally credited or, if the Trustees are unable to determine the Hours of Work, eight Hours of Work per day of absence. These hours shall be treated as Hours of Work only in the Plan Credit Year the absence began if necessary to prevent a Break in Service in the immediately following year.

No credit will be given unless the Participant furnishes to the Trustees such timely information as the Trustees may reasonably require to establish that the absence from work is for reasons referred to in clauses (i), (ii), (iii), or (iv) and for the number of days for which there was such absence. Hours credited under this Subsection (e) shall not count toward accrual of Years of Vesting Service or Pension Credit.

(f) **Absence Due to Family and Medical Leave**.

Solely for the purpose of determining whether a Participant has incurred a Break in Service, any leave of absence granted by an Employer, up to 12 weeks, that qualifies under the Family and Medical Leave Act (FMLA) shall not be counted as a Break in Service for purposes of determining eligibility and vesting.

(g) **Effect of Permanent Break in Service**.

If a person who has not acquired a right to a pension other than for disability, whether immediate or deferred, has a Permanent Break in Service:

(i) his previous Pension Credits and Years of Vesting Service are cancelled, and

(ii) his participation is cancelled, new participation being subject to the provisions of Section 2.02.

ARTICLE 5

QUALIFIED JOINT AND SURVIVOR ANNUITY PENSION AND QUALIFIED PRERETIREMENT SURVIVOR ANNUITY PENSION

<u>Section 5.01 General</u>

The Qualified Joint and Survivor Annuity Pension provides a lifetime pension for a married Participant plus a lifetime pension for the Participant's surviving Spouse, starting after the death of the Participant. The monthly amount to be paid to the surviving Spouse is one-half the monthly amount paid to the Participant. When a Qualified Joint and Survivor Annuity Pension is in effect, the monthly amount of the Participant's pension is actuarially reduced in accordance with the provisions of Section 5.04 from the full amount otherwise payable and the Death Benefit as provided in Section 3.14 shall not be payable.

<u>Section 5.02 Qualified Joint and Survivor Annuity</u>

(a) If the Annuity Starting Date of a pension payable to a married Participant is after December 31, 1984, the benefit shall be paid as a 50% Joint and Survivor Annuity Pension, unless:

(i) the Participant has filed with the Trustees, in writing, a timely rejection of that form of pension, subject to all of the conditions of this section;

(ii) the Spouse is not a Qualified Spouse as defined below; or

(iii) the benefit is payable only in a single sum, under Section 6.18.

(b) (i) No rejection shall be effective unless the Spouse of the Participant has consented in writing to such rejection and acknowledged the effect thereof, and such rejection is witnessed by the designated Plan representative or a Notary Public. No consent shall be required if it has been established, to the satisfaction of the Trustees, that there is no Spouse, or the Spouse cannot be located, or if such consent cannot be obtained for extenuating reasons satisfactory to the Trustees. A Participant and his Spouse may reject the Qualified Joint and Survivor Annuity Pension, or revoke a previous rejection, at any time during the 90-day period prior to the Annuity Starting Date.

(ii) A waiver is valid only if a written explanation of the effect of the Qualified Joint and Survivor Annuity Pension has been provided to the Participant no earlier than 90 days before the Annuity Starting Date and no later than 30 days before the Annuity Starting Date. Notwithstanding the foregoing, a Participant may commence receiving benefits before 30 days have elapsed from receipt of such notice provided the Participant and Spouse waive such 30-day advance waiting period, in writing.

(c) (i) For purposes of the Plan, a Spouse is a person to whom a Participant is considered married under applicable law and, if and to the extent provided in a Qualified Domestic Relations Order, a Participant's former Spouse.

(ii) To be eligible to receive the survivor's pension in accordance with a Qualified Joint and Survivor Annuity Pension, the Spouse must be a "Qualified Spouse." A Spouse is a Qualified Spouse if the Participant and Spouse were married on the date of the Participant's death and had been married throughout the year ending with the date the Participant's pension payments start or, if earlier, the date of death, or if the Participant and Spouse were divorced after being married for at least one year and the former Spouse is required to be treated as a Spouse or surviving Spouse under a Qualified Domestic Relations Order. A Spouse is also a Qualified Spouse if the Participant and Spouse became married within the year immediately preceding the date the Participant's pension payments start and they were married for at least a year before his death.

(d) Effective January 1, 1985, a waiver of the Qualified Joint and Survivor Annuity Pension described in this section shall be void if:

(i) someone other than the Participant's Spouse is named as Beneficiary under the Plan for any share of the Participant's account that would otherwise be payable as a death benefit under the Qualified Joint and Survivor Annuity Pension, unless

(ii) the Spouse has acknowledged the designation of the alternative Beneficiary in connection with his or her consent to the Participant's waiver of the Qualified Joint and Survivor Annuity Pension in writing, witnessed by a Plan representative or Notary Public.

Thereafter, any changes of Beneficiary shall be void if the Participant has a Spouse at the date of death, unless the change in Beneficiary is consistent with the Spouse's written consent.

(e) After January 1, 1989, if the Spouse dies at a time the Participant is receiving the Qualified Joint and Survivor Annuity Pension, the amount of the Participant's monthly benefit will be increased the following month to the amount which would have been paid when he retired if the pension had not been paid in the Qualified Joint and Survivor Pension form.

<u>Section 5.03</u> **<u>Qualified Preretirement Survivor Annuity Pension</u>**

(a) If a Participant who has a Qualified Spouse dies after meeting the service requirements for a pension and after earning one or more Hours of Work after August 22, 1984, and before the Annuity Starting Date, the surviving Spouse shall be entitled to a Qualified Preretirement Survivor Annuity Pension.

(b) This section shall also apply to an inactive Participant who has a Qualified Spouse and has met the service requirement for a pension and has one or more Hours of Work on or after January 1, 1976, and dies after August 22, 1984.

(c) If the Participant's death occurred after attainment of age 55, the Spouse shall be paid a Preretirement Survivor Annuity Pension as if the Participant had retired on a Qualified Joint and Survivor Annuity Pension on the day before death. If the Participant's death occurred before attainment of age 55, the Spouse shall be paid a Preretirement Survivor Annuity Pension commencing with the month following the month in which the Participant would have reached age 55 had he lived, and the amount of such pension shall be determined as if the Participant had left Covered Employment, on the date he last worked in Covered Employment, retired on a Qualified Joint and Survivor Annuity Pension upon reaching age 55, and died on the last day of the month in which age 55 was reached.

(d) If a Participant's death occurs before attainment of age 55, a surviving Spouse who is eligible for the Death Benefit in Subsection 3.14(a) may elect to receive the Death Benefit payable under Section 3.14 in lieu of a Qualified Preretirement Survivor Annuity Pension. The value of the benefits paid shall be no less than the Actuarial Equivalent of the survivor's benefit in accordance with this Section 5.03.

(e) A Participant may waive the Qualified Preretirement Survivor Annuity, revoke any previous waivers, and file a new waiver, at any time before the Annuity Starting Date. The Trustees shall provide each Participant within the period beginning with the first day of the Plan Year in which the Participant attains age 32 and ending with the close of the Plan Year preceding the Plan Year in which the Participant attains age 35, with a written explanation of the Qualified Preretirement Survivor Annuity containing comparable information to that required in regard to the Qualified Joint and Survivor Annuity under Section 5.02. If this Section applies to an individual who first becomes a Participant after having attained age 32, the Trustees shall provide such explanation by the end of the three year period beginning with the first day of the first Plan Year for which the individual is a Participant.

The election period to waive the Qualified Preretirement Survivor Annuity shall begin on the first day of the Plan year in which the Participant attains age 35 and continue until the date of the Participant's death.

If a Participant elects to waive the Qualified Preretirement Survivor Annuity prior to the first day of the Plan Year in which he attains age 35, such election shall be invalid as of the first day of such Plan Year. At such time, a new election or a re-execution of the invalid election shall be made by the Participant in writing on or after the first day of such Plan Year, subject to the spouse's written consent in accordance with the provisions of this Section.

Section 5.04 Joint and Survivor Options

(a) This section applies to all Participants eligible for a Qualified Joint and Survivor Annuity and only to Participants whose pension was first effective on or after May 1, 1992 for a 75% or 100% Joint and Survivor Pension.

(b) Participants who are eligible for the 50% Qualified Joint and Survivor Annuity Pension under Section 5.02 but not yet retired as of May 1, 1992, may elect to receive a 75% or 100% Joint and Survivor Pension.

(c) The general terms and conditions for surviving Spouse pensions under Sections 5.02, this 5.04, and 5.05 shall apply to the 75% or 100% Joint and Survivor Pension, except:

(i) written spousal consent for optional elections under Subsection 5.02 does not apply; and

(ii) a Participant, upon attaining vested status, may elect the 100% Joint and Survivor Pension optional form of benefit.

(d) Any pension which becomes effective after December 31, 1983, shall be adjusted for the 50% Qualified Joint and Survivor Annuity Pension by multiplying the full amount otherwise payable by the following factors:

(i) **Non-Disability** - If a non-disability pension is made in the form of a 50% Qualified Joint and Survivor Annuity Pension, the pension amount shall be adjusted by multiplying the amount by the following percentage: 89.5% minus 0.6% for each full year that the beneficiary's age is less than the Participant's age or plus 0.6% for each full year that the beneficiary's age is greater than the participant's age; provided, however, that the resulting percentages shall not be greater than 99%.

(ii) **Disability** - A Disability Pension shall be made in the form of a 50% Qualified Joint and Survivor Annuity Pension, and the pension amount shall be adjusted by multiplying the amount by the following percentage: 80.5% minus 0.4% for each full year that the beneficiary's age is less than the participant's age or plus 0.4% for each full year that the beneficiary's age is greater than the participant's age; provided, however, that the resulting percentage shall not be greater than 99%.

(e) A 75% Joint and Survivor Pension means that the Participant will receive an adjusted monthly amount for life and, if the Participant dies before his Qualified Spouse, the Qualified Spouse will be entitled to receive 75% of the reduced lifetime amount that the retired Pensioner was receiving at the time of his death. The monthly amount shall be a percentage of the full monthly amount otherwise payable as a single life pension (after adjustment, if any, for early retirement) as follows:

(i) **Non-Disability**. If a non-disability pension is made in the form of a 75% Joint and Survivor Pension, the percentage shall be 85.0% minus 0.6% for each full year that the Spouse's age is less than the Participant's age or plus 0.6% for each full year the Spouse's age is greater than the Participant's age.

(ii) **Disability**. If a disability pension is made in the form of a 75% Joint and Survivor Pension, the percentage shall be 73.0% minus 0.5% for each full year that the Spouse's age is less than the Participant's age or plus 0.5% for each full year the Spouse's age is greater than the Participant's age.

(f) A 100% Joint and Survivor Pension means that the Participant will receive an adjusted monthly amount for life and, if the Participant dies before his Qualified Spouse, the Qualified Spouse will be entitled to receive 100% of the reduced lifetime amount that the retired Pensioner was receiving at the time of his death. The monthly amount shall be a percentage of the full monthly amount otherwise payable as a single life pension (after adjustment, if any, for early retirement) as follows:

(i) **Non-Disability**. If a non-disability pension is made in the form of a 100% Joint and Survivor Pension, the percentage shall be 80.5% minus 0.6% for each full year that the Spouse's age is less than the Participant's age or plus 0.6% for each full year the Spouse's age is greater than the Participant's age.

(ii) **Disability**. If a disability pension is made in the form of a 100% Joint and Survivor Pension, the percentage shall be 66.0% minus 0.6% for each full year that the Spouse's age is less than the Participant's age or plus 0.6% for each full year the Spouse's age is greater than the Participant's age.

Section 5.05 Additional Conditions

A 50% Qualified Joint and Survivor Annuity Pension, 75% Joint and Survivor Pension, or 100% Joint and Survivor Pension is not effective under any of the following circumstances:

(a) For purposes of the Plan, a Spouse is a person to whom a Participant is considered married under applicable law and, if and to the extent provided in a Qualified Domestic Relations Order, a Participant's former Spouse.

(b) To be eligible to receive the survivor's pension in accordance with a 50% Qualified Joint and Survivor Annuity Pension, 75% Joint and Survivor Pension, or a 100% Joint and Survivor Pension the Spouse must be a "Qualified Spouse." A Spouse is a Qualified Spouse if the Participant and Spouse were married on the date of the Participant's death and had been married throughout the year ending with the date the Participant's pension payments start or, if earlier, the date of death, or if the Participant and Spouse were divorced after being married for at least one year and the former Spouse is required to be treated as a Spouse or surviving Spouse under a Qualified Domestic Relations Order within the meaning of Sections 206(d)(3) of ERISA or 414(p) of the Internal Revenue Code. A Spouse is also a Qualified Spouse if the Participant and Spouse became married within the year immediately preceding the date the Participant's pension payments start and they were married for at least a year before his death.

(c) Subject to the requirements for documentation described in Section 5.02 above, before the Annuity Starting Date, the Participant must file a written representation on which the Trustees are entitled to rely concerning that Participant's marital status which, if false, gives the Trustees the discretionary right to adjust the dollar amount of the pension payments made to the alleged surviving Spouse so as to recover any excess benefits which may have been erroneously paid.

(d) An election or revocation of a 50% Qualified Joint and Survivor Annuity Pension, 75% Joint and Survivor Pension, or 100% Joint and Survivor Pension must be:

(i) made or (revoked) prior to the Annuity Starting Date;

(ii) made on forms furnished by the Trustees.

(iii) filed with the office of the Trustees.

(e) The Spouse may elect in writing, filed with the Trustees, and on whatever form the Trustees may prescribe, to defer commencement of the Qualified Pre-retirement Survivor Annuity Pension until a specified date that is no later than the first of the month following the date the Participant would have reached Normal Retirement Age. The benefit will be determined as if the Participant survived to the date the surviving Spouse elected to begin receiving that benefit, retired at that age with an immediate 50% Joint and Survivor Annuity Pension and died the next day.

If the deceased Participant's surviving Spouse dies before the date the surviving Spouse elected to begin receiving the benefit, the Qualified Pre-retirement Survivor Annuity Pension will be forfeited and there will be no payments to any other Beneficiary.

(f) The amount of the Pre-retirement Survivor Annuity Pension shall be determined under the terms of the Plan in effect when the Participant last worked in Covered Employment, unless otherwise expressly specified.

(g) A retiring Participant shall be advised by the Trustees of the effect of payment on the basis of the 50% Joint and Survivor Annuity Pension, the 75% Joint and Survivor Pension, or the 100% Joint and Survivor Pension, including a comparison of the full single-life pension amount and of the adjusted amount.

(h) A Spouse's consent to a waiver of the 50% Joint and Survivor Annuity Pension shall be effective only with respect to that Spouse, and shall be irrevocable unless the Participant revokes the waiver to which it relates.

(i) Notwithstanding any other provision of this section, a Qualified Pre-retirement Survivor Annuity Pension shall be paid pursuant to Section 6.18.

Section 5.06 Continuation of Qualified Joint and Survivor Annuity Pension After Divorce

(a) The monthly amount of the 50% Qualified Joint and Survivor Annuity Pension, 75% Joint and Survivor Pension, or 100% Joint and Survivor Pension once it has become payable, shall not be increased if the Spouse is subsequently divorced from the Pensioner or if the Spouse predeceases the Pensioner, unless pursuant to a Qualified Domestic Relations Order.

(b) If a Participant retires with a 50% Qualified Joint and Survivor Annuity Pension, 75% Joint and Survivor Pension, or 100% Joint and Survivor Pension and subsequently divorces, the former Spouse will receive the survivor benefit upon the Participant's death, unless the former Spouse consents or a Qualified Domestic Relations Order provides otherwise.

Section 5.07 Effective Date of Survivor Benefit Provisions

The provisions of this article do not apply to a pension of which the effective date was before April 1, 1976.

Section 5.08 Benefit Adjustments if the Payment of the Qualified Pre-retirement Survivor Annuity Pension is Postponed

(a) Notwithstanding any other provisions of the Plan, if the Annuity Starting Date for a Qualified Pre-retirement Survivor Annuity Pension is after the Participant's earliest retirement date, the benefit shall be determined as if the Participant had died on the surviving Spouse's Annuity Starting Date after retiring with a 50% Qualified Joint and Survivor Annuity Pension the day before, taking into account any actuarial adjustments to the Participant's accrued benefit that would have applied as of the date.

(b) If a surviving Spouse dies before the Annuity Starting Date for a Qualified Pre-retirement Survivor Annuity Pension, that benefit will be forfeited and unless an alternate Beneficiary has been designated by the Participant, with the acknowledgement and consent of the Participant's Spouse, under Section 5.02, there will be no payments to any other party.

Section 5.09 Survivor Benefit Limitations

Notwithstanding any other provision of the Plan, payment of the 50% Qualified Joint and Survivor Annuity Pension, the 75% Joint and Survivor Pension, the 100% Joint and Survivor Pension, the Qualified Preretirement Survivor Annuity Pension and the death benefits and optional benefits provided under Sections 3.06, 3.12, and 3.14 shall comply with the limits of Section 401(a)(9) of the Internal Revenue Code and the incidental death benefit rule and the regulations prescribed thereunder including Sections 1.401(a)(9)-l and 1.401(a)(9)-2 of the Treasury Regulations.

<u>Section 5.10</u> **<u>Relation to Qualified Domestic Relations Order</u>**

Any rights of a former Spouse or other alternate payee under a Qualified Domestic Relations Order, within the meaning of Sections 206(d) of ERISA and 414(p) of the Internal Revenue Code, with respect to a Participant's pension, shall take precedence over those of any later Spouse of the Participant under this article.

<u>Section 5.11</u> **<u>Trustee's Reliance</u>**

The Trustees shall be entitled to rely on written representations, consents, and revocations submitted by the Participants, Spouses or other parties in making determinations under this article and, unless such reliance is arbitrary and capricious, the Trustees' determinations shall be final and binding, and shall discharge the Fund and the Trustees from liability to the extent of the payments made. This means that, unless the Plan is administered in a manner determined to be inconsistent with the fiduciary standards of Part 4 of Title I of ERISA, the Fund shall not be liable under this article for duplicate benefits with respect to the same Participant, or for surviving Spouse benefits in excess of the Actuarial Present Value of the benefits described in this article, determined as of the Annuity Starting Date of the Participant's pension or, if earlier, the date of the Participant's death.

ARTICLE 6

APPLICATIONS, BENEFIT PAYMENTS, RETIREMENT, AND BENEFIT SUSPENSIONS

<u>Section 6.01</u> **<u>Applications</u>**

A pension must be applied for in writing and filed with the Trustees. A Participant must notify the Trustees in writing in the first month after retirement or other work cessation that would entitle the participant to pension payments. Such notice must be given during such month, except to the extent that the Trustees find that failure to make timely application was due to extenuating circumstances.

<u>Section 6.02</u> **<u>Information and Proof</u>**

Every Participant or Pensioner shall furnish, at the request of the Trustees, any information or proof reasonably required to determine his benefit rights. If a person makes a willfully false statement on an application or furnishes fraudulent information or proof, the benefits not Vested under this Plan, as defined in Section 6.10, may be denied, suspended or discontinued as determined by the Trustees. The Trustees shall have the right to recover any benefit payments made in reliance on any false or fraudulent statement, information or proof submitted by a Participant or Pensioner.

Section 6.03 Action of Trustees

(a) The Trustees shall, subject to the requirements of the law, be the sole judges of the standard of proof required in any case in the application and interpretation of this Plan, and decisions of the Trustees shall be final and binding on all parties. The Trustees retain the absolute discretion and have the responsibility to interpret the provisions of this Plan, and it is the intent of the Plan that the Trustees be given deference in the implementation of their interpretations. The Trustees shall exercise such powers in a uniform and nondiscriminatory manner.

(b) All questions or controversies of any nature arising in any manner or between any parties or persons in connection with this Plan or its operation, whether as to any claim for benefits, as to the construction of language of this Plan or any rules and regulations adopted by the Trustees, or as to any writing, decision, instrument or account in connection with the operation of the Plan or otherwise, shall be submitted to the Board of Trustees for decision. In the event a claim for benefits has been denied, no lawsuit or other action against the Fund or its Trustees may be filed until the matter has been submitted for review under the review procedure set forth in Section 6.04, as required by ERISA. The decision on review shall be binding upon all persons dealing with the Plan or claiming any benefit hereunder, except to the extent that such decision may be determined to be arbitrary or capricious by a court or arbitrator having jurisdiction over such matter.

Section 6.04 Denial of Claim, Review, and Arbitration

(a) The Trustees will direct a review by the Plan through its administrative staff of a request for benefits within 45 days of the receipt of the complete benefit request. If additional time is required to determine the claim for benefits, the Plan shall send the claimant a notice that the Plan is extending the period of time to decide the claim for up to an additional 30 days. Before the end of the initial 45 day period (or the 30 day extension period, if elected) the Plan will either send the claimant a written decision on the claim or provide the claimant with notice that it is extending the period to decide the claim for an additional 30 days. If the Plan notifies the claimant that it is extending the period of time to decide the claim and that extension is the result of the claimant not having provided additional information requested by the Plan, the extension period will not begin to run until the claimant has provided the information.

(b) In the event an application for benefits under this Plan is denied, in whole or in part, the claimant shall be provided with adequate notice in writing setting forth the specific reasons for such denial. The claimant shall have the opportunity for a full and fair review on appeal, by submitting a written request filed with the Trustees within 180 days after receipt of the notice denying the claim. The review may be conducted by the Board of Trustees, or by a person or committee designated by the Trustees after which a recommended decision shall be given to the Trustees.

The Trustees shall make a decision on review no later than the date of the next regular meeting of the Board of Trustees immediately following the date the request for review has been received, unless the request is received less than 30 days prior to the meeting, in which case the Trustees shall make their decision by the second meeting following receipt of the claimant's request. If special circumstances exist requiring additional time to make a determination, then the determination shall be made not later than the third meeting following receipt of the claimant's request. In the event the Trustees seek such an extension, the Trustees shall notify the claimant in writing prior to the commencement of the extension, describing the special circumstances and the date as of which a determination will be made.

The decision of the Trustees shall be communicated to the claimant within 5 days of the meeting at which the decision was made. The decision shall include the specific reason for the decision, the specific plan provisions, rules, protocols or other criterion that the decision is based upon, that the claimant may receive, at no cost, access to and copies of all documents, materials and procedures relevant to the claim.

(c) If the claimant is not satisfied with the decision of the Trustees, he may thereafter submit his claim to a court or to arbitration as provided in Section 7.05.

Section 6.05 Benefit Payments Generally

(a) A Participant who is eligible to receive benefits under this Plan and who makes application in accordance with the rules of this Pension Plan shall be entitled upon the Annuity Starting Date to receive the benefits, subject to the provisions of this Plan.

(b) Pension benefits shall be payable commencing with the Annuity Starting Date.

(c) Payment of benefits may begin sooner but shall begin no later than 60 days after the last of the following dates:

(i) The end of the Plan Year in which the Participant attained Normal Retirement Age;

(ii) The end of the Plan Year in which the Participant retired as that term is defined in Subsection 6.07(b).

(iii) The date the Participant filed a claim for benefits.

In any event, the Trustees need not make payment before they are first able to ascertain entitlement to, or the amount of, the pension.

(d) Pension payments shall end with the payment for the month in which the death of the Pensioner occurs except as provided in accordance with a Qualified Joint and Survivor Annuity Pension or any other provision of this Plan for payments after the death of the Pensioner.

(e) Effective as of May 1, 1989, if the Annuity Starting Date is after the Participant's Normal Retirement Age, the monthly benefit will be the accrued benefit at Normal Retirement Age, actuarially increased for each complete calendar month between Normal Retirement Age and the Annuity Starting Date, for which benefits were not suspended pursuant to the provisions of this Plan, and then converted as of the Annuity Starting Date to the benefit payment form elected in the pension application or to the 50% Qualified Joint and Survivor Annuity Pension, if no other form is elected by a married Participant with a required spousal waiver.

(i) If a Participant first becomes entitled to additional benefits after Normal Retirement Age, whether through additional service or because of a benefit increase, the actuarial increase in those benefits will start from the date they would first have been paid rather than Normal Retirement Age.

(ii) The actuarial increase will be 1% per month for the first sixty (60) months after Normal Retirement Age and 1.5% per month for each month thereafter.

(iii) For purposes of this subsection, a pension shall not be considered due and payable for any month in which the Participant is engaged in disqualifying employment as defined in the Plan.

(f) Effective May 1, 1989, any additional benefits earned by a Participant in Covered Employment after the Annuity Starting Date will be determined at the end of each Plan Year and will be payable as of April 1 following the end of the Plan Year in which it accrued.

Section 6.06 Mandatory Commencement of Benefits

(a) Notwithstanding any provision of the Plan of the contrary, effective April 1, 1988, the Fund will begin benefit payments to all Participants by their Required Beginning Date, whether or not they apply for benefits.

(b) If a Participant who is definitely located fails to file a completed application for benefits on a timely basis, the Fund will establish the Participant's Required Beginning Date as the Annuity Starting Date and begin payments as follows:

(i) If the Actuarial Value of the Participant's benefit is no more than $5,000, in a single-sum payment.

(ii) In any other case, in the form of a Qualified Joint and Survivor Annuity Pension calculated on the assumptions that the Participant is and has been married for at least one year by the date payments start and that the husband is three years older than the wife.

(iii) The benefit payment form specified here will be irrevocable once it begins, with the exception that it may be changed to a single life annuity if the Participant proves that he did not have a Qualified Spouse, including an alternate payee under a Qualified Domestic Relations Order, on the Required Beginning Date. Additionally, the amounts of future benefits will be adjusted based on the actual age difference between the Participant and Spouse if proven to be different from the foregoing assumptions.

(iv) Participant who is already receiving required minimum distributions but who has not yet ceased working in Covered Employment may elect to stop receiving distributions and have them recommence after retirement or termination of employment with any Employer, and a new Annuity Starting Date will be created.

(v) Federal, state, and local income tax, and any other applicable taxes, will be withheld from the benefit payments as required by law or determined by the Trustees to be appropriate for the protection of the Fund and the Participant.

Section 6.07 Retirement

To be considered retired, a Participant must have separated from Covered Employment as defined in Section 1.11 and thereafter not be engaged in any disqualifying employment as defined in 6.08.

Section 6.08 Suspension of Benefits

(a) **Before Normal Retirement Age**.

(i) The Participant's monthly benefit shall be suspended for any month before the Participant has attained Normal Retirement Age in which the Participant is employed in Disqualifying Employment. "Disqualifying Employment" for the period before Normal Retirement Age is employment in any type of work classified in the Collective Bargaining Agreement or self-employment in any capacity in the Pipe Trades Industry as defined in 1.14, except that after the first ninety (90) days of retirement the Participant, if not receiving a Disability Pension, shall be permitted to work in Disqualifying Employment up to 560 hours per calendar year. In the event that there is less than a full calendar year remaining in which the retired Participant is eligible to work, the retired Participant shall be eligible to work that portion of 560 hours that represents 46.6 hours times the number of remaining months in the calendar year.

(ii) If the Participant has failed to notify the Plan of employment that may be the basis for suspension of benefits under subparagraph (i), in accordance with the notification requirements of paragraph (d), or has willfully misrepresented to the Plan information with respect to Disqualifying Employment, the monthly benefit may be suspended, at the discretion of the Trustees, for an additional period of six (6) months over and above the suspension period of the preceding subparagraph (i).

(iii) Non-work time shall be counted toward the measure of 560 hours if the retired Participant is paid for vacation, holiday, illness or other incapacity, layoff, jury duty, military duty or leave of absence.

(b) **After Normal Retirement Age**.

(i) The Participant's monthly benefit shall be suspended for any month after Normal Retirement Age in which the Participant is employed in Disqualifying Employment. "Disqualifying Employment" for the period after Normal Retirement Age means employment or self-employment that is in an industry covered by the Plan when the Participant's pension payments began, in the geographic area covered by the Plan when the Participant's pension began, and in any occupation in which the Participant worked under the Plan at any time or any occupation covered by the Plan at the time the Participant's pension payments began that exceeds 560 hours per calendar year, or in cases involving less than a complete calendar year, the fractional portion of 560 hours. However, if a Participant worked in Covered Employment only in a skilled trade or craft, that is, as a plumber or a pipefitter, employment shall be disqualifying only if it is in work that involves the skill or skills of that trade or craft directly, or as in the case of supervisory work, indirectly.

(ii) The term, "industry covered by the Plan," means the plumbing and pipefitting industry and any other industry in which employees covered by the Plan were employed when the Participant's pension began, or, but for suspension under this Section, would have begun.

(iii) The geographic area covered by the Plan is the State of Minnesota, and any other area covered by the Plan when the Participant's pension began, or, but for suspension under this Article, would have begun, and any other area covered by a plan which, under a reciprocal agreement in effect when the Participant's pension payments began, had forwarded contributions to this Plan, on the basis of which this Plan accrued benefits for the Participant.

(iv) If a retired Participant reenters Covered Employment to an extent sufficient to cause a suspension of benefits, and his pension payments are subsequently resumed, the industry and geographic area covered by the Plan "when the Participant's pension began" shall be the industry and geographic area covered by the Plan when his pension was resumed. The term "Industry" is defined in 1.14 herein.

(v) Paid non-work time shall be counted toward the measure of 560 hours if paid for vacation, holiday, illness or other incapacity, layoff, jury duty, military duty or leave of absence.

(c) **Definition of Suspension**. "Suspension of benefits" for a month means non-entitlement to benefits for the month. If benefits were paid for a month for which benefits were later determined to be suspended, the overpayment shall be recoverable through deductions from future pension payments pursuant to paragraph (g), and in accordance with 6.03.

(d) **Notices**.

(i) Upon commencement of pension payments, the Trustees shall notify the Pensioner of the Plan rules governing suspension of benefits, including identity of the industries and areas covered by the Plan. If benefits have been suspended and payment resumed, new notification shall, upon resumption, be given to the Participant if there has been any material change in the suspension rules or the identity of the industries or area covered by the Plan.

(ii) A Pensioner shall notify the Plan in writing within 30 days after starting any work of a type that is or may be disqualifying under the provisions of the Plan and without regard to the number of hours of such work (that is, whether or not less than 40 hours in a month). If a Pensioner has worked in disqualifying employment in any month and has failed to give timely notice to the Plan of such employment, the Trustees shall presume that he worked for at least 40 hours in such month and any subsequent month before the Participant gives notice that he has ceased disqualifying employment.

(iii) A Pensioner whose pension has been suspended shall notify the Plan when Disqualifying Employment has ended. The Trustees shall have the right to hold back benefit payments until such notice is filed with the Plan.

(iv) A Participant may ask the Plan whether a particular employment will be disqualifying. The Plan shall provide the Participant with its determination.

(v) The Plan shall inform a Participant of any suspension of his benefits by notice given by personal delivery or first class mail during the first calendar month in which his benefits are withheld. Such notice shall include a description of the specific reasons for the suspension, copy of the relevant provisions of the Plan, reference to the applicable regulations of the U.S. Department of Labor, and a statement of the procedure for securing a review of the suspension. In addition, the notice shall describe the prodecure for the Participant to notify the Plan when his Disqualifying Employment ends. If the Plan intends to recover prior overpayments by offset under subparagraph (g) (ii), the suspension notice shall explain the offset procedure and identify the amount expected to be recovered, and the periods of employment to which they relate.

(e) **Review**. A Participant shall be entitled to a review of a determination suspending his benefits by written request filed with the Trustees within 180 days of the notice of suspension (see 6.04). The same right of review shall apply, under the same terms, to a determination by or on behalf of the Trustees that contemplated employment will be disqualifying (see 6.04).

(f) **Waiver of Suspension**. The Trustees may, upon their own motion or on request of a Participant, waive suspension of benefits subject to such limitations as the Trustees in their sole discretion may determine, including any limitations based on the Participant's previous record of benefit suspensions or non-compliance with reporting requirements under this Article.

(g) **Resumption of Benefit Payments**.

(i) Benefits shall be resumed for months after the last month for which benefits were suspended, with payments beginning no later than the third month after the last calendar month for which the Participant's benefit was suspended, provided the Participant has complied with the notification requirements of subparagraph (d) (iii) above.

(ii) Overpayments attributable to payments made for any month or months for which the Participant had Disqualifying Employment shall be deducted from pension payments otherwise paid or payable subsequent to the period of suspension. A deduction from a monthly benefit for a month after the Participant attained Normal Retirement Age shall not exceed 25 percent of the pension amount (before deduction), except for the first pension payment made upon resumption after a suspension. If a Pensioner dies before recovery of overpayments has been completed, deductions shall be made from the benefits payable to his beneficiary or contingent beneficiary, subject to the 25 percent limitation on the rate of deduction.

Section 6.09 Recomputation of Benefit Payments following Suspension

(a) (i) A Pensioner (except a disability Pensioner) who returns to Covered Employment and has earned additional benefit accruals, shall have his pension recalculated as of the following April 1. If such a Pensioner resumes receiving pension payments during a Plan Year, the monthly payment will be the amount calculated as of the prior April 1, and the monthly amount shall be adjusted as of the following April 1 as described below.

(ii) Each April 1 the benefit calculation will be based on the employee's then attained age and will include any additional accruals earned during the prior plan year, reduced by the actuarial equivalent of any pension payments made prior to Normal Retirement Age. The amount of such reduction shall be calculated by dividing the amount of the Pensioner's payments prior to Normal Retirement Age by the factor in Table 2 that corresponds to the Participant's age when payments resume. In no event will the new monthly benefit be less than the prior monthly amount.

(b) A 50% Qualified Joint and Survivor Annuity Pension, 75% Joint and Survivor Pension, or 100% Joint and Survivor Pension in effect immediately prior to suspension of benefits, and any other benefit following the death of the Pensioner, shall remain effective if the Pensioner's death occurs while his benefits are in suspension.

(c) A Pensioner who returns to Covered Employment and earns additional benefit accruals shall be entitled to a new election as to form of benefit payment for such additional accrual; provided, however, that the first election on or after Normal Retirement Age shall apply for any subsequent accrual earned.

Section 6.10 Vested Status or Nonforfeitability

(a) The benefits to which a Participant is entitled under this Plan upon his attainment of Normal Retirement Age or Vested Status, subject, however, to retroactive amendments to this Plan made within the limitations of Section 411(a)(3)(c) of the Internal Revenue Code and Section 302(c)(8) of ERISA. The benefit to which a surviving Spouse is entitled shall likewise be nonforfeitable. Participants and Beneficiaries shall be entitled to any of the other benefits of this Plan subject to all of the applicable terms and conditions.

(b) A Participant acquires "Vested Status" and his right to benefit payments is non-forfeitable on or after attainment of Normal Retirement Age and fulfillment of the service requirements for receipt of a pension. Years of Vesting Service that are not taken into account because of a Permanent Break in Service do not count in determining a Participant's vested status.

(c) In accordance with ERISA, no amendment of this Plan may take away a Participant's vested status if earned at the time of the amendment. An amendment may also not change the schedule on the basis of which a Participant acquires vested status, unless each Participant who has credit for at least three Years of Vesting Service at the time the amendment is adopted or effective, whichever is later, is given the option of achieving vested status on the basis of the pre-amendment schedule. That option may be exercised within 60 days after the latest of the following dates:

  (i) when the amendment was adopted.

  (ii) when the amendment became effective, or

  (iii) when the Participant was given written notice of the amendment.

(d) For purposes of applying the provisions of this section and of determining when a Participant has acquired nonforfeitable rights, a Participant who has completed the required number of Years of Vesting Service will be 100% vested. While this Plan provides Regular, Early Retirement, and Disability Pension on the basis of requirements that may be met by some Participants who have not completed the required number of Years of Vesting Service, such eligibility rules represent provisions of the Plan in addition to the vesting schedule.

<u>Section 6.11</u> **<u>Non-Duplication with Disability Benefits</u>**

No pension benefits shall be payable for any month for which the Participant or Pensioner under age 65 receives wage indemnification for disability from the Twin City Pipe

Trades Welfare Fund, or unemployment compensation benefits. This provision shall, however, be subject to the provisions of Section 6.08.

Section 6.12 Incompetence or Incapacity of a Pensioner or Beneficiary

In the event it is determined to the satisfaction of the Trustees that a Pensioner or Beneficiary is unable to care for his affairs because of mental or physical incapacity, any payment due may be applied, in the discretion of the Trustees, to the maintenance and support of such Pensioner or Beneficiary or to such person as the Trustees in their sole discretion find to be an object of the natural bounty of the Pensioner of Beneficiary in the manner decided by the Trustees, unless, prior to such payment, claim shall have been made for such payment by a legally-appointed guardian, conservator, committee, or other legal representative appropriate to receive such payments on behalf of the Pensioner or Beneficiary.

Section 6.13 Non-Assignment of Benefits

(a) No Participant, Pensioner or Beneficiary entitled to any benefits under this Pension Plan shall have the right to assign, alienate, transfer, encumber, pledge, mortgage, hypothecate, anticipate, or impair in any manner his legal or beneficiary interest, or any interest in assets of the Pension Fund, or benefits of this Pension Plan. Neither the Pension Fund nor any of the assets thereof, shall be liable for the debts of any Participant, Pensioner or Beneficiary entitled to any benefits under this Plan, nor be subject to attachment or execution or process in any court action or proceeding.

(b) Notwithstanding Subsection 6.13(a) or any other provisions of the Plan, benefits shall be paid in accordance with a Qualified Domestic Relations Order as defined in Section 206(d)(3) of ERISA, and with written procedures adopted by the Trustees in connection with such order, which shall be final and binding on all Participants, Beneficiaries and other parties. In no event shall the existence or enforcement of a Qualified Domestic Relations Order cause the Fund to pay benefits with respect to a Participant in excess of the Actuarial Present Value of the Participant's benefits without regard to the order.

Benefits otherwise payable under this Plan shall be reduced or adjusted to take into account any payment ordered to be made under a Qualified Domestic Relations Order.

(c) The Trustees shall establish reasonable procedures to determine the qualified status of a Domestic Relations Order and to administer distributions thereunder.

Section 6.14 No Right to Assets

No person other than the Trustees of the Pension Fund shall have any right, title or interest in any of the income, or property of any funds received or held by or for the account of the Pension Fund, and no person shall have any right to benefits provided by the Pension Plan except as expressly provided herein.

Section 6.15 Maximum Limitations

(a) Notwithstanding the other provisions of this Plan, the annual retirement benefit to which an Employee shall be entitled hereunder when aggregated with the benefit under all other Defined Benefit Plans maintained by the employer, shall not exceed the lesser of:

(i) $90,000, or

(ii) 100% of the Employee's average annual compensation for the 3 highest consecutive calendar years during which he participated in the Plan or any other plan maintained by the employer.

The $90,000 limit set forth in subparagraph (i) above shall be increased automatically to account for increases in the cost of living or subsequent adjustment to the annual maximum benefit amount. Such adjustments shall be limited to scheduled increases in accordance with regulations issued by the Secretary of Treasury and shall be effective no sooner than January 1 of each year.

(b) For purposes of this section, "compensation" shall mean the Employee's earned income, wages, salaries, and fees for professional services, and other amounts received for personal services actually rendered in the course of employment with the Employer maintaining the Plan, including, but not limited to, commissions paid by salesmen, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips and bonuses, and excluding the following:

(i) Employer contributions to a plan of deferred compensation which are not included in the Employee's gross income for the taxable year in which contributed or Employer contributions under a simplified Employee pension plan to the extent such contributions are deductible by the Employee, or any distribution from a plan of deferred compensation.

(ii) Amounts realized from the exercise of a non-qualified stock option, or when restricted stock or other property held by the Employer either becomes freely transferrable or is no longer subject to a substantial risk of forfeiture.

(iii) Amounts realized from the sale, exchange or other disposition of stock acquired under a qualified stock option plan.

(iv) Other amounts which received special tax benefits, or contributions made by the Employer, whether or not under a salary reduction agreement, towards the purchase of an annuity described in Section 403(b) of the Internal Revenue Code whether or not the amounts are actually excludable from the gross income of the Employee.

(c) In the case of an Employee who has less than 10 years of service, the limitation set forth in subparagraphs (a)(i) and (ii) of this section shall be multiplied by a fraction, the numerator of which is the number of the Employee's years of service and the denominator of which is 10. In the case of an Employee whose benefits hereunder commence prior to his attainment of age 62, the limitation set forth in subparagraph (a)(i) of this section shall, in accordance with regulations issued by the Secretary of the Treasury, be adjusted so that it is the equivalent to such a benefit beginning at age 62, provided that such adjustment shall not reduce such limitation below:

(i) if the benefit commences after the Employee attains age 55, $75,000, or

(ii) if the benefit commences before the Employee attains age 55, the amount which is the equivalent to the $75,000 limitation at age 55.

In the case of an Employee whose benefits hereunder commence after his attainment of age 65, the limitation set forth in subparagraph (a)(i) of this section shall, in accordance with regulations issued by the Secretary of the Treasury, be adjusted so that it is the equivalent to the dollar limitation for a benefit commencing at age 65. For purposes of adjusting any benefit under this paragraph, the interest rate assumption shall be 5%.

(d) Notwithstanding the limitations of Subsection 6.15(a) of this section, if an Employee was covered by the Plan before the first day of the Limitation Year beginning in 1983, he may receive an annual retirement benefit which is not less than the amount of his current accrued benefit as of the close of the last Limitation Year beginning before 1983, as determined under the terms of the Plan as then in effect disregarding any amendments or cost of living adjustments occurring after July 1, 1982. For purposes of this section, the term "Limitation Year" shall mean the Plan Credit Year.

(e) If an Employee covered by this Plan participates in both Defined Benefit and Defined Contributions Plans maintained by the Employer, the sum of (i) and (ii) below may not exceed 1.0:

(i) The sum of the projected annual benefit of the Employee under all defined benefit pension plans of the Employer determined as of the close of the Limitation Year, divided by the lesser of:

(A) the product of 1.25 multiplied by the dollar limitation in effect under Section 415(b)(1)(A) of the Internal Revenue Code for such year, or

(B) the product of 1.4 multiplied by the amount which may be taken into account under Section 415(b)(1)(B) of the Internal Revenue Code with respect to such Employee for such year; and

(ii) the sum of the annual additions to the Employee's account under all defined contribution plans of the Employer as of the close of the Limitation Year and for all prior Plan Credit Years divided by the sum of the lesser of (A) or (B) for such year and for each prior year of service with the Employer (regardless of whether any such defined contribution plan was in existence during those years), where (A) is the product of 1.25 multiplied by the dollar limitation in effect under Section 415(c)(1)(A) of the Internal Revenue Code for such year (determined without regard to Section 415(c)(6) of such Code), and (B) is the product of 1.4 multiplied by the amount which may be taken into account under Section 415(c)(1)(B) of the Internal Revenue Code (or Section 415(c)(7) or (8) of such Code, if applicable) with respect to such individual under such plan for such year; provided, however, that the Board of Trustees may elect that the amount taken into account for each Employee for all years ending before January 1, 1983, under (A) and (B) above shall be determined pursuant to the special transition rule provided in such Section 415(e)(6) of the Internal Revenue Code.

If this Plan is aggregated with another plan that was in existence on July 1, 1982, and the above limitations are not met, each Participant for whom the limits are violated will not receive any annual additions or accruals in this Plan. In the event that at the earlier to occur of each December 31 or the date of an Employee's retirement or termination, the sum of (i) and (ii) above exceeds 1.0 and the benefit of such Employee under such other plan or plans is not reduced to bring such sum to 1.0, then such Employee's benefits under this Plan shall be reduced by an amount sufficient to cause the sum of (i) and (ii) above for each Employee to equal 1.0.

Section 6.16 Waiver of Benefits

Any Pensioner who is eligible for or who is receiving any other pension benefit, the receipt of which is dependent upon his not exceeding certain income limits, may, if he so elects by signing a written waiver and delivering the same to the Trustees, waive all or any part of his benefits under this Plan, provided, however, that such waiver may not be withdrawn except upon 30 days written notice to the Trustees. After having executed such waiver, the Pensioner shall, at no time, be entitled to make claim for the payments which have been waived and withdrawal of such waiver shall not be effective until 30 days after the receipt thereof by the Trustees.

If this Plan is aggregated with another plan that was in existence on July 1, 1982, and the above limitations are not met, each Participant for whom the limits are violated will not receive any annual additions or accruals in this Plan. In the event that at the earlier to occur of each December 31 or the date of an Employee's retirement or termination, the sum of (i) and (ii) above exceeds 1.0 and the benefit of such Employee under such other plan or plans is not reduced to bring such sum to 1.0, then such Employee's benefits under this Plan shall be reduced by an amount sufficient to cause the sum of (i) and (ii) above for each Employee to equal 1.0.

Section 6.17 Rounding of Pension Amounts

If not already a multiple of one dollar ($1.00), any pension amount shall be rounded to the next higher multiple of one dollar ($1.00).

Section 6.18 Small Benefits

(a) The Trustees may, by agreement with a particular payee, arrange to pay small pension benefits less frequently than monthly or in a lump sum settlement. A Participant's Spouse, if any, must consent to a lump sum settlement if the single-sum value, computed in accordance with this Section 6.18, is greater than $5,000.

(b) In the event that the Actuarial Present Value of the entire nonforfeitable benefit of a Participant or a Beneficiary is $5,000 or less, the Trustees shall pay the entire nonforfeitable benefit in one lump sum.

(c) When such a lump sum has been paid by the Fund, all Pension Credit earned by the Participant with respect to which the lump sum distribution was made shall be completely disregarded and the Fund's liability for the payment of benefits to the Participant or Beneficiary shall be completely discharged.

(d) This section shall not apply after payment of the Participant's pension has commenced unless the Participant or Beneficiary consents in writing to the single-sum distribution.

Section 6.19 Optional Forms of Benefits

Unless otherwise specified, any optional form of benefits under this Plan is intended to be at least the Actuarial Equivalent of the Participant's nonforfeitable accrued benefit payable at Normal Retirement Age or, if later, the Participant's Annuity Starting Date.

Section 6.20 Rollover Contributions and Trustee to Trustee Transfers

Where the Fund has received, or will receive, a distribution from another qualified retirement plan which is exempt from taxation under the Code, the Trustees may accept the amount of said distribution:

(a) as a Rollover Contribution to the Fund; or

(b) as a Trustee to Trustee Transfer from the other qualified retirement plan.

The Trustees shall not accept a Rollover Contribution unless the Trustees have reason to believe that, if the Trustees accept the Rollover Contribution, the Employee will avoid taxation under the Code on the contribution and the Plan will not be required to make available to the Employee any optional form of benefit not currently available to the Employee under the Plan. A Rollover Contribution or Trustee to Trustee Transfer may be accepted from an Employee or another qualified retirement plan only after the Employee becomes a Participant.

Rollover Contributions, Trustee to Trustee Transfers and earnings and losses thereon may be segregated into a separate account for accounting purposes. Rollover Contributions or Trustee to Trustee Transfers shall be subject to the same requirements of this Plan as are applicable to Employer Contributions to the Plan on behalf of the Participant.

Section 6.21 Direct Rollovers on or After January 1, 1993

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 an election under this

Section, a Distributee may elect, at the time and in the manner prescribed by the Trustees, to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan specified by the Distributee in a Direct Rollover. For purposes of this Section, the following definitions shall apply:

(a) "Eligible Rollover Distribution" shall mean any distribution of all or any portion of the balance to the credit of the Distributee, except that an Eligible Rollover Distribution does not include:

(i) any distribution that is one of a series 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;

(ii) any distribution to the extent such distribution is required under section 401(a)(9) of the Code; and

(iii) the portion of any distribution that is not includable in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities).

(b) "Eligible Retirement Plan" shall mean an individual retirement account described in section 408(a) of the Code, an individual retirement annuity described in section 408(b) of the Code, an annuity plan described in section 403(a) of the Code, or a qualified trust described in section 401(a) of the Code, that accepts the Distributee's Eligible Rollover Distribution. However, 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.

(c) "Distributee" includes a Participant or former Participant. In addition, the Participant's or former Participant's surviving spouse and the Participant's or former Participant's spouse or former spouse who is the Alternate Payee under a Qualified Domestic Relations Order, as defined in section 414(p) of the Code, are Distributes with regard to the interest of the spouse or former spouse.

(d) "Direct Rollover" shall mean a payment by the Plan to the Eligible Retirement Plan specified by the Distributee.

ARTICLE 7

MISCELLANEOUS

Section 7.01 Nonreversion

It is expressly understood that in no event shall any of the corpus or assets of the Pension Fund revert to the Employers to be subject to any claims of any kind or nature by the Employers, except for the return of an erroneous contribution within the time limits prescribed by law.

Section 7.02 Funding Limitation of Liability

The Pension Plan has been established 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, fulfilling the funding requirements of ERISA. Except for liabilities which may result from provisions of ERISA, nothing in this Plan shall be construed to impose any obligation to contribute beyond the obligation of the Employer to make contributions as stipulated in its collective bargaining with the Union, or in its participation agreement with other Employers as provided in Section 1.07(b). Liability imposed upon Employers by the Multi-employer Pension Plan Amendments Act of 1980 and regulations thereunder (herein 1980 Act) should be calculated in the same manner for all Participating Employers whether engaged in the construction industry or not. Such liability is in addition to those imposed and limited in this Section 7.02.

Section 7.03 New Employers

No new Employer (other than those signatory to a collective bargaining agreement prevailing in the Minneapolis-St. Paul territorial jurisdictions) may be admitted to participation in the Pension Fund and this Pension Plan except upon approval by three-fourths of the Trustees and execution of a participation agreement. The participation of any such new Employer shall be subject to such terms, conditions, and actuarial adjustments as the Trustees may prescribe including, but not limited to, the imposition of waiting periods in connection with the commencement of benefits, a requirement for retroactive contributions, or the application of modified benefit conditions and amounts. In adopting applicable terms or conditions, the Trustees shall take into account such requirements as they, in their sole discretion, may deem necessary to preserve the actuarial soundness of the Pension Fund and to preserve an equitable relationship with the contributions required from other participating Employers and the benefits provided to their Employees.

Section 7.04 Terminated, Withdrawn and Delinquent Employers

(a) **Terminated Employers**.

If an Employer ceases to comply with the definition of Employer, as set forth in Section 1.07, or if an Employer is declared by the Trustees to have ceased participation in the Pension Plan for any reason, including by virtue of its failure to make the required contribution, then it shall be deemed a termination of participation and the following shall apply:

(i) Employment by that Employer after termination shall not be credited as Covered Employment provided; and

(ii) Employment by that Employer prior to termination shall be credited under this Plan, except if a Break in Covered Employment as defined in Article 4 is incurred; and

(iii) There shall be no refund of contributions or reversion of assets to a terminated Employer, directly or indirectly, or to a Pension Trust or annuity contract or Pension Plan of a Terminated Employer.

(iv) Provided that an actuarial study shows the termination significantly affects actuarial costs.

(b) **Withdrawn Employers**.

The liability of an Employer who withdraws from the Pension Plan shall be as determined by the Trustees as provided in Section 4211(b) of ERISA as amended by said 1980 Act and Regulations, and as hereafter amended.

(c) **Delinquent Employers**.

A Delinquent Employer is one who fails to pay to the Pension Fund the required contributions for a period of time as determined by the Trustees by their administrative Rule or Resolution. In addition to the enforcement of payment provisions stated in the collective bargaining agreement with the Unions, the Trustees or their representative by an action in federal or state court (or by arbitration if voluntarily agreed to by the parties) shall be entitled to an award as provided for in said 1980 Act. Such award includes unpaid contributions, plus interest at the current adjusted prime rate charged by banks plus liquidated damages up to 20% of the unpaid contributions (or higher amount permitted by law) if greater than said total interest, plus reasonable attorneys' fees and costs of the court action or arbitration, and other relief as may be determined by the court or arbitrator.

Section 7.05 Arbitration or Court Action

(a) **Disputes**.

All disputes, grievances, or claims against the Trust, arising under the Trust Agreement, this Pension Plan, the Administrative Rules, or any operations of the Trust, whatever is not settled to the satisfaction of the claimant by the review procedure stated in Subsection 6.04(a), may be appealed to a court, or to arbitration as provided in Section 7.05, as the claimant may decide.

Disputes or grievances covered in this section include, but are not limited to, those which may occur as between this Trust and (1) Employees, their eligible dependents, Beneficiaries, estates and representatives; (2) any parties dealing with the Trust; (3) any appointees of the Trust; (4) the parties signatory hereto; and (5) other parties who are or may become participants in the Trust, by agreement or otherwise. If the claimant chooses arbitration, the claim shall be submitted by agreement between the parties.

(b) **Arbitrator**.

The Arbitrator shall be appointed by the Chief Judge of the U.S. District Court for the District of Minnesota or the judge assigned by the Clerk of Court, pursuant to a notice to said judge by either party with a copy to the other party to the dispute or grievance as set forth in Title 9 of the United States Code.

(c) **Procedure**.

The Arbitrator shall determine the time and place of the hearing, unless a hearing is waived by both parties and submission is made in writing by both sides. The procedure to be followed, in any case, and the form of the award shall be determined by the Arbitrator in his discretion, subject to the provisions of the arbitration agreement executed between the parties. Any award shall be final and binding on all parties and enforceable as provided in Title 9 of the United States Code.

(d) **Costs**.

The costs of arbitration shall be borne equally by the parties, unless the Trustees in their sole discretion decide to bear more than the proportionate share of the Trust in a case where otherwise there would be undue burden on the other party.

Section 7.06 Law Governing

All questions relating to interpretation, validity, or administration of this Plan shall be determined in accordance with ERISA, 29 U.S.C. §1001 et seq., except as to any matter reserved to state law, in which case such interpretation shall be in accordance with the laws of the State of Minnesota.

Section 7.07 Termination of the Plan

(a) **Right to Terminate**.

The Trustees shall have the right to discontinue or terminate the Plan in whole or in part. The rights of all affected Participants to benefits accrued to the date of termination, partial termination, or discontinuance to the extent funded as of such date shall be nonforfeitable.

(b) **Priorities of Allocation**.

In the event of termination, the assets then remaining in the Plan, after providing for any administrative expenses, shall be allocated among the Pensioners, Beneficiaries, and Participants in the following order:

(i) First: in the case of benefits payable as a pension;

(A) in the case of the pension of a Participant or Beneficiary which was in pay status as of the beginning of the three-year period ending on the termination date of the Plan, to each such pension, based on the provisions of the Plan (as in effect during the five-year period ending on such date) under which such pension would be the least. The lowest pension in pay status during the three-year period shall be considered the pension in pay status for such period.

(B) in the case of a pension of a Participant or Beneficiary which would have been in pay status as of the beginning of such three-year period if the Participant had retired prior to the beginning of the three-year period and if his pension had commenced (in the standard form) as of the beginning of such period, to each such pension based on the provisions of the Plan (as in effect during the five-year period ending on such date) under which the pension would be the least.

(ii) Second: to all other benefits (if any) of the individuals under the Plan guaranteed under Title IV of ERISA.

(iii) Third: to all other vested benefits under the Plan.

(iv) Fourth: to all other benefits under the Plan.

(c) **Allocation Procedure**.

For purposes of Subsection (b) hereof:

(i) the amount allocated under any paragraph of Subsection (b) with respect to any benefit shall be properly adjusted for any allocation of assets with respect to that benefit under a prior paragraph of that subsection.

(ii) if the assets available for allocation under any paragraph of Subsection (b) (other than paragraphs (iii) and (iv)) are insufficient to satisfy in full the benefits of all individuals which are described in that paragraph, the assets shall be allocated pro-rata among such individuals on the basis of the present value (as of the termination date) of their respective benefits described in that paragraph.

(iii) this paragraph applies if the assets available for allocation under Subsection (b)(iii) are not sufficient to satisfy in full the benefits of individuals described in that paragraph.

(A) If this paragraph applies, except as provided in Subparagraph (B) below, the assets shall be allocated to the benefits of individuals described in Subsection (b)(iii) on the basis of the benefits of individuals which would have been described in such Subsection (b)(iii) under the Plan as in effect at the beginning of the five-year period ending on the date of Plan termination.

(B) If the assets available for allocation under Subparagraph (A) above are sufficient to satisfy, in full, the benefits described in such paragraph (without regard to this subparagraph), then for purposes of Subparagraph (A), benefits of individuals described in such paragraph shall be determined on the basis of the Plan as amended by the most recent Plan amendment effective during such five-year period under which the assets available for allocation are sufficient to satisfy, in full, the benefits of individuals described in Subparagraph (A) and any assets remaining to be allocated under Subparagraph (A) on the basis of the Plan as amended by the next succeeding Plan amendment effective during such period.

(d) **Effect of 1980 Act**.

If any of the foregoing provisions of this Section 7.07 are inconsistent with said 1980 Act, the latter shall apply.

Section 7.08 Mistaken Contributions

Refund of contributions made to the Pension Fund by an Employer due to mistake of fact or law shall be in accordance with and as limited by law, including said 1980 Act, as determined by the Trustees in each case.

ARTICLE 8

AMENDMENTS

Section 8.01 Amendment

This Plan may be amended at any time by a majority vote of the Trustees, unless a greater majority is required by specific provisions of this Plan, or the provisions of the Trust Agreement. However, no amendment may decrease the accrued benefit of any Participant, except as necessary to establish or maintain the qualifications of the Plan or the Trust Fund under the Internal Revenue Code and to maintain compliance of the Plan with the requirements of ERISA. No individual Trustee, group of Trustees, administration, union official or employer may alter, modify or otherwise change the terms of this Plan, except by official action of the Trustees consistent with the provisions of this Plan and the Trust Agreement.

No amendment to the Plan (including a change in the actuarial basis for determining optional or early retirement benefits) shall be effective to the extent that it has the effect of decreasing a Participant's accrued benefit. Notwithstanding the preceding sentence, a Participant's accrued benefit may be reduced to the extent permitted under Section 412(c)(8) of the Internal Revenue Code. For purposes of this Section 8.01, a plan amendment which has the effect of eliminating or reducing an early retirement benefit or a retirement-type subsidy, or eliminating an optional form of benefit, with respect to benefits attributable to service before the amendment shall be treated as reducing accrued benefits. In the case of a retirement-type subsidy, the preceding sentence shall apply only with respect to a Participant who satisfies (either before or after the amendment) the pre-amendment conditions for the subsidy. In general, a retirement-type subsidy is a subsidy that continues after retirement, but does not include a qualified disability benefit, a medical benefit, a social security supplement, a death benefit (including life insurance), or a plan shutdown benefit (that does not continue after retirement age). Furthermore, a Participant's vested interest determined without regard to such amendment shall be determined as of the later of the date such amendment is adopted, or becomes effective.

Section 8.02 Summary Plan Description

The provisions of this Plan shall at all times control, notwithstanding any inconsistent provision of a Summary Plan Description or communication by any Trustee, administrator or other representative of the Plan.

ARTICLE 9

TOP HEAVY PROVISIONS

Section 9.01 Definitions

For purposes of this article, the following words and phrases shall have the meaning stated below unless a different meaning is clearly required by the context:

(a) **Key Employee**.

"Key Employee" means an employee or former employee (and the beneficiaries of such employee) meeting the definition of "key employee" contained in Section 416(i)(1) of the Internal Revenue Code and Section 1.416-1 of the Treasury Regulations.

(b) **Non-Key Employee**.

"Non-Key Employee" means any Employee who is not a Key Employee.

(c) **Annual Compensation**.

"Annual Compensation" means compensation as defined in Section 415(c)(3) of the Code and Section 1.415-2(d) of the Treasury Regulations, but in no event more than $170,000 in the 2001 calendar year, and $200,000 in Plan Years beginning January 1, 2002, or as adjusted by the Secretary of the Treasury. Annual Compensation also includes amounts contributed by the Employer pursuant to a salary reduction agreement which are excludable from an Employee's gross income under Sections 125, 132(f), 401(a)(8), 402(h), or 403(b) of the Code.

(d) **Determination Date**.

"Determination Date" means, with respect to any Plan Year, the last day of the preceding Plan Year, or in the case of the first Plan Year of any Plan, the last day of such Plan Year.

Section 9.02 Top Heavy Plan Requirements

Effective January 1, 1984, for any Top Heavy Plan Year, the Plan shall provide the following:

(a) Special vesting requirements of Section 416(b) of the Internal Revenue Code pursuant to Section 9.04.

(b) Special minimum benefit requirements of Section 416(c) of the Internal Revenue Code pursuant to Section 8.05.

Section 9.03 Determination of Top Heavy Status

(a) This Plan shall be a Top Heavy Plan for any Plan Year commencing after December 31, 1983, in which, as of the Determination Date,

(i) the present value of accrued benefits of Key Employees, and

(ii) the sum of the aggregate accounts of Key Employees under this Plan and all plans of an Aggregation Group exceeds sixty percent (60%) of the present value of accrued benefits and the aggregate accounts of all Key Employees and Non-Key Employees under this Plan and all plans of an Aggregation Group.

If any Participant is a Non-Key Employee for a Plan Year, but such Participant was a Key Employee for any prior Plan Year, such Participant's present value of accrued benefits and/or aggregate account balance shall not be taken into account for purposes of determining whether this Plan is a Top Heavy or Super Top Heavy Plan (or whether any Aggregation Group which includes this Plan is a Top Heavy Group). In addition, for Plan Years beginning after December 31, 1984, if a Participant or former Participant has not received any Annual Compensation from any Employer maintaining the Plan (other than benefits under the Plan) at any time during the five-year period ending on the Determination Date, the aggregate account and/or present value of accrued benefit for such Participant or former Participant shall not be taken into account for the purposes of determining whether this Plan is a Top Heavy Plan or Super Top Heavy Plan.

(b) This Plan shall be a "Super Top Heavy Plan" for any Plan Year commencing after December 31, 1983, in which, as of the Determination Date:

(i) the present value of accrued benefits of Key Employees, and

(ii) the sum of the aggregate accounts of Key Employees under this Plan and all plans of an Aggregation Group exceeds ninety percent (90%) of the present value of accrued benefits and the aggregate accounts of all Key Employees and Non-Key Employees under this Plan and all plans of an Aggregation Group.

(c) A Participant's aggregate account as of the Determination Date shall be determined under applicable provisions of the defined contribution plan used in determining Top Heavy Plan status.

(d) "Aggregation Group" means either a Required Aggregation Group or a Permissive Aggregation Group as hereinafter determined.

(i) In determining a Required Aggregation Group hereunder, each plan of an Employer in which a Key Employee is a Participant, and each other plan of an Employer which enables any plan in which an Employee participates to meet the requirements of Sections 401(a)(4) and 410 of the Internal Revenue Code, will be required to be aggregated. Such group shall be known as a "Required Aggregation Group."

In the case of a Required Aggregation Group, each plan in the group will be considered a Top Heavy Plan if the Required Aggregation Group is a Top Heavy Group. No plan in the Required Aggregation Group is a Top Heavy Plan if the Required Aggregation Group is not a Top Heavy Group.

(ii) An Employer may also include any other plan not required to be included in the Required Aggregation Group, provided the resulting group, taken as a whole, would continue to satisfy the provisions of Section 401(a)(4) and 410 of the Internal Revenue Code. Such group shall be known as a "Permissive Aggregation Group."

In the case of a Permissive Aggregation Group, only a plan that is part of the Required Aggregation Group will be considered a Top Heavy Plan if the Permissive Aggregation Group is a Top Heavy Group. No plan in the Permissive Aggregation Group will be considered a Top Heavy Plan if the Permissive Aggregation Group is not a Top Heavy Group.

(iii) Only those plans of an Employer in which the Determination Dates fall within the same calendar year shall be aggregated in order to determine whether such plans are Top Heavy Plans.

(e) In the case of a defined benefit plan, a Participant's present value of accrued benefits shall be determined:

(i) as of the most recent actuarial valuation date which is the most recent valuation date within a twelve-month period ending on the Determination Date,

(ii) for the first Plan Year, as if:

(A) the Participant terminated service as of the Determination Date; or

(B) the Participant terminated service as of the actuarial valuation date, but taking into account the estimated present value of accrued benefits as of the Determination Date.

(iii) for any other Plan Year, as if the Participant terminated service as of the actuarial valuation date,

(iv) the actuarial valuation date must be the same date used for computing the defined benefit plan minimum funding costs, regardless of whether a valuation is performed in the Plan Year.

(f) The calculation of a Participant's present value of accrued benefit as of a Determination Date shall be the sum of the following:

(i) the present value of accrued benefit using actuarial assumptions stated in the most recent actuarial valuation, and

(ii) any Plan distributions made within the Plan Year that includes the Determination Date or within four preceding Plan Years. However, in the case of distributions made after the valuation date and prior to the Determination Date, such distributions are not included as distributions for Top Heavy purposes to the extent that such distributions are already included in the Participant's present value of accrued benefit as of the valuation date.

Notwithstanding anything herein to the contrary, all distributions, including distributions made prior to January 1, 1984, and distributions under a terminated plan which if it had not been terminated would have been required to be included in an Aggregation Group, will be counted.

(iii) Any Employee contributions, whether voluntary or mandatory. However, amounts attributable to tax deductible Qualified Voluntary Employee Contributions shall not be considered to be a part of the Participant's present value of accrued benefits.

(iv) With respect to unrelated rollovers and plan-to-plan transfers (ones which are both initiated by the Employee and made from a plan maintained by one Employer to a plan maintained by another Employer), if this Plan provides for rollovers or plan-to-plan transfers, it shall always consider such rollovers or plan-to-plan transfers as a distribution for purposes of this section. If this Plan is the plan accepting such rollovers or plan-to-plan transfers, it shall not consider such rollovers or plan-to-plan transfers accepted after December 31, 1983, as part of the Participant's present value of accrued benefits. However, rollovers or plan-to-plan transfers accepted prior to January 1, 1984, shall be considered as part of the Participant's present value of accrued benefits.

(v) With respect to related rollovers and plan-to-plan transfers (ones either not initiated by the Employee or made to a plan maintained by the same Employer), if this Plan provides the rollover or plan-to-plan transfer, it shall not be counted as a distribution for purposes of this section. If this Plan is the plan accepting such rollover or plan-to-plan transfer, it shall consider such rollover or plan-to-plan transfer as part of the Participant's present value of accrued benefits, irrespective of the date on which such rollover or plan-to-plan transfer is accepted.

(g) "Top Heavy Group" means an Aggregation Group in which, as of the Determination Date, the sum of:

(i) the present value of accrued benefits of Key Employees under all defined benefit plans included in the group, and

(ii) the aggregate accounts of Key Employees under all defined contribution plans included in the group exceeds sixty percent (60%) of a similar sum determined for all Participants.

(h) Notwithstanding anything herein to the contrary, the effective date otherwise provided for herein for the application of Section 416 of the Internal Revenue Code to this Plan (Plan Years after December 31, 1983) shall be extended in accordance with any federal law or regulatory authority.

Section 9.04 Top Heavy Vesting

(a) Notwithstanding the determination of Vested Status in accordance with Section 9.04(a) of the Plan for any Top Heavy Plan Year, the vested portion of any Participant's accrued benefit shall be determined on the basis of the Participant's number of Years of Vesting Service according to the following schedule:

Vesting Schedule

Years of Service	Percentage
less than 2	0%
2	40%
3	60%
4	80%
5 or more	100%

(b) If, in any subsequent Plan Year, the Plan ceases to be a Top Heavy Plan, the Trustees may elect to:

(i) continue to apply this vesting schedule in determining the vested portion of any Participant's accrued benefit, or

(ii) revert to the vesting schedule in effect before this Plan became a Top Heavy Plan pursuant to Section 411(a)(10) of the Internal Revenue Code. The nonforfeitable percentage of the accrued benefit before the Plan ceased being Top Heavy, therefore must not be reduced and any Participant with three or more years of service must be given the option of remaining under the Top Heavy vesting schedule. Any such reversion shall be treated as a Plan amendment.

(c) The Top Heavy vesting schedule does not apply to the accrued benefit of any Employee who does not have one Hour of Service after the Plan has initially become a Top Heavy Plan and such Employee's accrued benefit attributable to Employer contributions will be determined without regard to this Article.

Section 9.05 Top-Heavy Benefit Requirements

(a) The maximum accrued benefit derived from Employer contributions to be provided under the section for each Non-Key Employee who is a Participant shall equal the product of:

(i) one-twelfth (1/12th) of Annual Compensation averaged over the five consecutive "limitation years" (or actual number of "limitation years" if less) which produces the highest average, and

(ii) the lesser of

(A) two percent (2%) multiplied by Years of Vesting Service, or

(B) twenty percent (20%).

(b) For purposes of providing the minimum benefit under Section 416 of the Internal Revenue Code, a Non-Key Employee who is not a Participant solely because:

(i) His Annual Compensation is below a stated amount, or

(ii) He declined to make mandatory contributions to the Plan will be considered to be a Participant.

(c) For purposes of this section, Years of Vesting Service for any Plan Year ending prior to January 1, 1984, or for any Plan Year during which the Plan was not a Top Heavy Plan shall be disregarded.

(d) For purposes of this section, Annual Compensation for any "limitation year" ending prior to January 1, 1984, or subsequent to the last "limitation year" during which the Plan is a Top Heavy Plan shall be disregarded. The term "limitation year" means the Plan Year.

(e) For purposes of this section, Annual Compensation shall have the meaning set forth in Section 1.415-2(d) of the Treasury Regulations, but in no event more that $170,000 in the 2001 Plan Year and $200,000 beginning in the 2002 Plan Year (as adjusted annually under Section 401(a)(17) of the Code) per calendar year.

(f) If the Plan provides for the normal retirement benefit to be paid in a form other than a single life annuity, the accrued benefit under this section shall be the Actuarial Present

Value of the minimum accrued benefit under Subsection (a) above pursuant to Section 1.02 of the Plan.

(g) If payment of the minimum accrued benefit commences at a date other than Normal Retirement Age, the minimum accrued benefit shall be adjusted in accordance with Subsections 6.05(e)(ii).

(h) If a Non-Key Employee participates in this Plan and a defined contribution plan included in a Required Aggregation Group which is top heavy, the minimum benefits shall be provided under this Plan.

(i) To the extent required to be nonforfeitable under Section 6.10 of the Plan the minimum accrued benefit under this section may not be forfeited under Sections 411(a)(3)(B) or 411(a)(3)(D) of the Internal Revenue Code.

ARTICLE 10

NON-BARGAINED EMPLOYEES

Section 10.01 Employer

For purposes of identifying Highly Compensated Employees and applying the rules of participation, vesting and statutory limits on benefits under the Fund for such employees, but not for determining covered service, the term "Employer" includes all members of an affiliated service group with the Employer within the meaning of Section 414(m) of the Internal Revenue Code and all other businesses aggregated with the Employer under Section 414(o) of the Internal Revenue Code.

For this purpose, an "Employer" also includes all corporations, trades or businesses under common control with the Employer within the meaning of Sections 414(b) and (c) of the Internal Revenue Code.

For all other purposes, the term "Employer" shall have the meaning stated in Section 1.07.

<u>Section 10.02</u> **<u>Non-Bargained Employee</u>**

A "Non-Bargained Employee" means a person who is employed by an Employer and who is not covered by a Collective Bargaining Agreement, but is covered by another written agreement requiring Employer contributions on his or her behalf, other than bargaining unit alumni as defined by Treasury Regulations. A Non-Bargained Employee also includes an Employee who is a "professional" as defined in Section 1.410(b)-9(g) of the proposed Treasury regulations.

<u>Section 10.03</u> **<u>Highly Compensated Employee</u>**

(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 form of compensation or status with respect to that Employer.

(b) A highly compensated active employee is an employee of the Employer who performs service for the Employer during the determination year and who during the look-back year:

(i) received compensation from the Employer in excess of $75,000 (as adjusted under Section 414(q) of the Internal Revenue Code);

(ii) received compensation from the Employer in excess of $50,000 (as adjusted under Section 414(q) of the Internal Revenue Code) and was a member of the top-paid group for that year, or

(iii) was an officer of the Employer and received compensation from the Employer in an amount greater than 50% of the dollar limitation in effect for that year under Section 415(b)(1)(A) of the Internal Revenue Code; or

(iv) meets one of the criteria listed in Subsection 10.03(a), above, for the determination year and is one of the 100 employees who received the most compensation from the Employer during the determination year, or

(v) is a 5% owner at any time during the look-back year or the determination year.

(c) If no officer received compensation in the determination year or look-back year at the level described in Subsection 10.03(b)(3), above, the officer who received the highest pay in that year shall be treated as a Highly Compensated Employee.

(d) A highly compensated former employee is an employee who separated from service, or was deemed to have separated, before the determination year, performs no service for the Employer during the determination year, and was a highly compensated employee either for the separation year or for any determination year ending on or after the individual reaches age 55.

(e) The "determination year" is the plan year for which the test is being applied, and the look-back year is the 12-month period immediately preceding that plan year.

(f) An Employer may elect to make the look-back year calculation for a determination year on the basis of the calendar year ending with or within the applicable determination year, in accordance with Treasury regulation 1.414(q)-T.

(g) If an employee is, during a determination year or look-back year, a family member of a Highly Compensated Employee who is either a 5% owner or one of the 10 most highly paid employees of the Employer during that year, then the family member and the Highly Compensated Employee will, to the extent required by specific provisions of the Internal Revenue Code, be treated as a single aggregated individual receiving compensation and benefits equal to the sum of the compensation and benefits of the persons aggregated. For this purpose, someone is a family member of a Highly Compensated Employee if he or she is that person's spouse, lineal ascendant or descendant. In applying specific provisions of the Internal Revenue Code, the definition of "family member" may be more limited, as set forth in those provisions.

(h) The determination of who is a Highly Compensated Employee, including the determinations of the number and identity of employees in the top-paid group, the top 100 employees, the number of employees treated as officers and the compensation that is considered, will be made in accordance with Section 414(q) of the Internal Revenue Code and the regulations thereunder.

Section 10.04 Vesting for Non-Bargained Employees

(a) **Non-Bargained Employees**

A Non-Bargained Employee who has at least one Hour of Service after March 31, 1989, will attain Vested Status after accumulating 5 Years of Vesting Service in Non-bargained Work.

(b) **Transfer Between Bargained and Non-Bargained Status**

(i) If a Participant has worked at different times in employment covered by a Collective Bargaining Agreement ("Bargained Work") and in employment not covered by a Collective Bargaining Agreement ("Non-bargained Work") the following rules shall apply:

(A) The maximum credit a Participant may receive for any Plan Year is one Year of Vesting Service. If a Participant works part of a Plan Year in Non-bargained Work and part of a Plan Year in Bargained Work, the Participant will receive credit for the Plan Year as a Bargained Year if the majority of the hours of service were in Bargained Work; and conversely, the Participant will receive credit for that Plan Year as a Non-bargained Year if the majority of hours of service were in Non-bargained Work; provided, however, if an Employee works 1,000 hours of service in Non-bargained Work in a Plan Year the Employee shall receive credit for that year as a Year of Vesting Service in Non-bargained Work.

(B) A Participant to whom this paragraph applies will acquire Vested Status when the Participant's combined years of Vesting Service attributable to Bargained Work and Non-bargained Work equal ten, or if sooner, when the Participant's Years of Vesting Service attributable to Non-bargained Work equal five.

(c) **Break in Service**.

Years of Vesting Service that are not taken into account because of a Permanent Break in Service do not count in determining a Participant's Vested Status.

Section 10.05 Nondiscrimination, Coverage, and Participation

(a) Effective April 1, 1989, participation in the Plan by Non-Bargained Employees shall be in compliance with Section 401(a)(4) (nondiscrimination rules), 410(b) (coverage rules), and 401(a)(26) (minimum participation rules) of the Internal Revenue Code.

(b) A Non-Bargained, Highly Compensated Employee shall not receive any Pension Credit (although vesting credit may be earned) for any Plan Year in which the Employer fails to meet the requirements of Sections 410(b) and 401(a)(26) of the Internal Revenue Code with respect to coverage and participation of Non-Bargained Employees. Section 401(a)(26) applies during any Plan Year in which there are less than 50 Participants, including Participants covered by a Collective Bargaining Agreement.

TABLE 1

Factors for Level Income Option
(Section 3.06)

An income payable monthly to the Participant for his lifetime with the monthly amount payable before the Participant begins to receive social security benefits larger than the amount of the Single Life Annuity and the monthly amount payable after the Participant begins to receive monthly social security benefit payments smaller than the amount of the Single Life Annuity in order to pay monthly pension payments before social security benefits become payable as nearly equal to possible to the Participant's retirement income from this Plan and social security benefits after social security monthly benefits commence. The monthly pension payments from this Plan shall be reduced as of the first payment coincident with or following the Participant's 62nd birthday or 65th birthday according to the age at which the Participant expects to begin receiving social security benefit payments. For pensions commencing prior to May 1, 2000, the adjustment in the amount of the Single Life Annuity, in order to determine the Level Income Annuity amounts, shall be calculated by the Trustees in accordance with the following factors:

Social Security Paid at Age 65		Social Security Paid at Age 62	
Age	Factor	Age	Factor
55	55.3573	55	.4989
56	.3923	56	.5478
57	.4316	57	.6026
58	.4756	58	.6640
59	.5251	59	.7332
60	.5810	60	.8112
61	.6443	61	.8996
62	.7162		
63	.7982		
64	.8921		

Multiply the expected monthly social security benefit by the factor appropriate to the age and add this amount to the monthly Early Retirement benefit payable from this Plan. At the time when social security benefits begin to be paid, the amount of the expected monthly social security benefit will be subtracted from the total amount of the monthly payment from this Plan prior to that date.

For pensions commencing under the Level Income Option on and after May 1, 2000, Actuarial Equivalence shall be based on the mortality and interest assumptions set forth in Section 1.02(d).

TABLE 2

Annuity Factors For Converting Pension Payments
Prior To Suspension of Benefits
(Section 6.08)

Age

Months
Years

55	154.43	154.16	153.90	153.63	153.37	153.10	152.84	152.57	152.30	152.04	151.77	151.51
56	151.24	150.97	150.70	150.43	150.16	149.89	149.62	149.35	149.08	148.08	148.54	148.27
57	148.00	147.45	147.45	147.18	146.90	146.63	146.35	146.08	145.80	145.53	145.25	144.98
58	144.70	144.42	144.14	143.86	143.58	143.30	143.03	142.75	142.47	142.19	141.19	141.63
59	141.35	141.07	140.78	140.50	140.22	139.93	139.65	139.37	139.08	138.80	138.52	138.23
60	137.95	137.66	137.38	137.09	136.80	136.51	136.23	135.94	135.65	135.36	135.08	134.79
61	134.50	134.21	133.92	133.63	133.34	133.05	132.76	132.47	132.18	131.89	131.60	131.31
62	131.02	130.73	130.44	130.14	129.85	129.56	129.27	128.97	128.68	128.39	128.10	127.80
63	127.51	127.22	126.92	126.63	126.33	126.04	125.75	125.45	125.16	124.86	124.57	124.27
64	123.98	123.69	123.39	123.10	122.80	122.51	122.21	121.92	121.62	121.33	121.03	120.74
65	120.44	120.14	119.85	119.55	119.26	118.96	118.67	118.37	118.07	117.78	117.48	117.19
66	116.89	116.60	116.30	116.01	115.72	115.13	115.13	114.84	114.54	114.25	113.96	113.66
67	113.37	113.08	112.78	112.49	112.20	111.90	111.61	111.32	111.02	110.73	110.44	110.14
68	109.85	109.56	109.26	108.97	108.68	108.09	108.09	107.80	107.50	107.21	106.92	106.62
69	106.33	106.04	105.74	105.45	105.15	104.57	104.57	104.27	103.68	103.68	103.39	103.09
70	102.80											

TABLE 3

Period when Service is Earned	Benefit Accrual Rates*							
	Local 12	**Local 15**	**Local 34**	**Local 308**	**Local 455**	**Local 539**	**Mankato Plumber**	**Mankato Fitter**
After March 2001	$149.19	$91.08	$156.17	N/A	$174.47	$159.85	$50.72	$50.83
April 2000 – March 2001**	132.52	86.32	140.93	N/A	150.66	150.33	36.71	40.35
April 2000 – March 2001	128.22	83.52	136.36	N/A	145.78	145.46	35.71	39.04
April 1999 – March 2000***	125.84	81.15	126.36	N/A	133.88	140.22	25.71	25.71
April 1999 – March 2000	116.52	75.13	117.00	N/A	123.96	129.83	25.71	25.71
April 1998 – March 1999	107.00	75.13	107.00	$115.47	112.06	122.69	N/A	N/A
April 1997 – March 1998	100.71	65.95	88.80	94.52	100.71	110.71	N/A	N/A
April 1996 – March 1997	76.90	65.00	76.90	76.90	88.80	100.70	N/A	N/A

* Does not include all employee groups. Some smaller groups are not represented in this chart.
** For retirements after February 1, 2001.
*** For retirements after February 1, 2000.