

**MINNESOTA CEMENT MASONS AND
PLASTERERS PENSION PLAN**

**As Amended and Restated
Effective January 1, 2015**

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INTRODUCTION

This restatement of the Minnesota Cement Masons and Plasterers Pension Plan (the “Plan”) is effective January 1, 2015 unless otherwise specified herein. All amendments made since the last restatement of the Plan effective January 1, 2009 have been incorporated herein along with the applicable provisions of the regulatory laws pertaining to qualified retirement plans. Specifically, it is intended that the Plan is restated to comply with recent legislative changes and guidance under the 2013 Cumulative List of Changes in Qualification Requirement and other applicable rules and regulations pertaining to qualified pension plans.

The terms of this restated Plan shall not apply to an Employee whose final period of Covered Employment terminated prior to January 1, 2015; in such case, the provisions of the Plan that existed on the Employee’s last date of Covered Employment shall govern.

ARTICLE 1 DEFINITIONS

Section 1.1. Actuarial Present Value.

- A. Unless otherwise specified in the Plan, the “Actuarial Present Value” of a benefit shall be determined using an interest rate of 7.5% per annum. The mortality assumption shall be based on the 1971 Group Annuity Table, weighted as follows:
1. For a Participant’s benefit, 100% male and 0% female
 2. For the benefit of a Participant’s Spouse or former Spouse, 0% male and 100% female; and
 3. In any other case, 50% male and 50% female.
- B. Solely for purposes of determining the amount of any lump sum Actuarial Equivalent distributed prior to January 1, 2000, the interest assumption used shall be the interest rate prescribed by the Pension Benefit Guaranty Corporation for valuing lump sums under single employer plans terminating without a Notice of Sufficiency during the first month of the Calendar Year in which the date as of which the benefit is valued occurs.
- C. Solely for purposes of determining the amount of any lump sum Actuarial Equivalent distributed on or after January 1, 2000 and prior to January 1, 2008, the calculation of Actuarial Present Value shall be based on the interest rate for 30-year Treasury securities or such other rate as may be specified by the Commissioner of Internal Revenue for purposes of carrying out the calculations required by Section 417(e) of the Code (the “Applicable Interest Rate”) and the 1983 Group Annuity Mortality Table, weighted 50% male, 50% female (the “Applicable Mortality Table”). The Applicable Interest Rate used shall be the average rate for the month of November preceding each Calendar Year (the “Stability Period” as defined by Treasury Regulations Section 1.417(e)-1T).
- D. For distributions on or after January 1, 2003 and before January 1, 2008, any reference in the Plan to Applicable Mortality Table shall be construed as a reference to the mortality table prescribed in Rev. Rul. 2001-62.
- E. With respect to any lump sum payment, the following rules apply effective for distributions on or after January 1, 2008:

1. The Applicable Interest Rate for a Plan Year shall be the adjusted first, second and third segment rates applied under the rules similar to the rules of Section 430(h)(2)(C) of the Internal Revenue Code for the second full calendar month preceding the Plan Year which contains the date of distribution or such other time as the Secretary of Treasury may by regulations prescribe. For this purpose, the first, second, and third segment rates are the first, second and third segment rates that would be determined under Section 430(h)(2)(C) of the Internal Revenue Code if:
 - a. Section 430(h)(2)(D) of the Internal Revenue Code were applied by substituting the average yields for the second full calendar month preceding the Plan Year which contains the date of distribution or such other time as the Secretary of Treasury may by regulations prescribe for the average yields for the 24-month period described in such Section,
 - b. Section 430(h)(2)(G)(i)(II) of the Internal Revenue Code were applied by substituting “Section 417(e)(3)(A)(ii)(II) for “Section 412(b)(5)(B) (ii)(II)”, and
 - c. The applicable percentage under Section 430(h)(2)(G) of the Internal Revenue Code is treated as being 20% in 2008, 40% in 2009, 60% in 2010, and 80% in 2011.
 2. The Applicable Mortality Table for all purposes under the Plan shall be the mortality table prescribed in regulations under Section 417(e) of the Internal Revenue Code for use in the Plan Year that contains the date of distribution.
- F. “Actuarial Equivalent” means a benefit 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.
- G. Effective for benefits accrued on and after May 1, 2010, solely for purposes of determining the amount of an Early Retirement Pension under Section 3.9 and the amount of a Deferred Pension under Section 3.13, Actuarial Present Value shall be determined based on the following:
1. An interest rate of 7.5% per annum, and
 2. The RP-2000 Male Combined Healthy Blue Collar Mortality Table.

Section 1.2. Alternate Payee.

A former Spouse, child, or other dependent of a Participant who is recognized by a Qualified Domestic Relations Order as having a right to receive all, or a portion of, the benefits payable under the Plan with respect to such Participant.

Section 1.3. Annuity Starting Date.

The Annuity Starting Date for the Supplemental Pension benefit will be determined as described in Section 6.5.B, except that it may not be sooner than September 1, 1993.

Section 1.4. Beneficiary.

“Beneficiary” means a person (other than a Pensioner) who is receiving benefits under this Plan because of his or her designation for such benefits by a Participant or by provisions of this Plan. A Participant may designate a Beneficiary by submitting a properly completed form (obtained from the Plan Administrator) to the Plan Administrator. The Plan will not recognize a Participant’s designation of Beneficiary unless the Plan receives a properly completed form before the Participant dies.

Section 1.5. Calendar Year.

“Calendar Year” means the period from January 1 through the next December 31. For purposes of ERISA regulations, the Calendar Year shall serve as the vesting computation period, the benefit accrual computation period, and, after the initial period of employment following a Break in Service, the computation period for eligibility to participate in the Plan.

Section 1.6. Collective Bargaining Agreement or Agreement.

“Collective Bargaining Agreement” or “Agreement” means a written agreement between the Union and an Employer, which requires contributions to the Fund.

Section 1.7. Compensation.

For purposes of this Section and Code Sections 414(q) and 416, “Compensation” means all earnings and other Compensation received from any Employer, or from any company in an Employer’s controlled group or affiliated service group within the meanings of Sections 414(b), (c) or (m) of the Code. Effective January 1, 1998, Compensation shall include pre-tax deferrals under Code Sections 401(k), 457, and 125. Effective January 1, 2001, Compensation shall include pre-tax deferrals under Code Section 132(f).

For Plan Years beginning on or after January 1, 1994, the amount of a Participant's Compensation from any one Employer that may be taken into account for any purpose in any Plan Year is \$150,000 (\$200,000 effective for Plan Years beginning on or after January 1, 2002), as that amount may be adjusted from time to time by the Secretary of Treasury under Section 401(a)(17) of the Internal Revenue Code.

Section 1.8. Continuous Employment.

“Continuous Employment” means any periods of Service not separated by quit, discharge, or other termination of employment between the periods.

Section 1.9. Contributing Employer.

“Contributing Employer” or “Employer” means any employer signatory to a Collective Bargaining Agreement with the Union requiring contributions to this Fund and an employer signatory to any other written agreement requiring contributions to this Fund.

“Employer” shall also include the Union.

An employer 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 1.10. Contribution Period.

“Contribution Period” means the period during which an employer is a Contributing Employer with respect to a unit or classification of employment.

Section 1.11. Covered Employment.

“Covered Employment” means employment of an Employee by an Employer including such employment prior to the Contribution Period which, if performed during the Contribution Period, would have resulted in contributions being paid to the Fund.

However, “Covered Employment” shall not include employment by an employer after termination of that employer's status as a Contributing Employer for failure to pay contributions due, pursuant to the provisions of Section 1.8.

Section 1.12. Employee.

“Employee” means a person who is employed by an Employer and covered by a Collective Bargaining Agreement or any written agreement requiring the Employer to contribute to the Plan on his behalf. The Employees of the Union for whom the Union contributes to this Plan are also Employees under this Plan.

The term “Employee” includes 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 benefit accrual under Plan.

The term “Employee” shall not include any self-employed person or sole proprietor of a business organization that is a Contributing Employer.

Section 1.13. Fiscal Year.

“Fiscal Year” means the period from January 1 through the next December 31 and is the period for which various governmental reports are required to be filed by the Plan Administrator.

Section 1.14. 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 1.15. Normal Retirement Age.

“Normal Retirement Age” means age 65 or, if later, the age of the Participant on the tenth anniversary of his participation. Notwithstanding the foregoing, for a Participant who completes one or more hours of Service after December 31, 1987, “Normal Retirement Age” means age 65 or, if later, the age of the Participant on the fifth anniversary of his participation.

In calculating the fifth or tenth anniversary of participation, participation before a Permanent Break in Service shall not be counted.

Section 1.16. Participant.

“Participant” means an Employee who meets the requirements for participation in the Plan as set forth in Article 2, or a former Employee who has acquired a right to a pension under this Plan.

Section 1.17. Participant's Pension.

“Participant’s Pension” means the pension benefits under the Plan, including any Supplemental Pension Benefits that the Participant may have accrued, except as specifically stated otherwise.

Section 1.18. Pension Fund or Trust Fund or Fund.

“Pension Fund,” “Trust Fund,” or “Fund” means the Minnesota Cement Masons Pension Fund established under the Trust Agreement.

Section 1.19. Pension Plan or Plan.

“Pension Plan” or “Plan” means this document as adopted by the Trustees and as thereafter amended by the Trustees.

Section 1.20. Pensioner.

“Pensioner” means a person to whom a pension under this Plan is being paid or to whom a pension would be paid but for time for administrative processing.

Section 1.21. Regular Pension Contributions.

For hours worked prior to January 1, 2006, “Regular Pension Contributions” means all Employer contributions made on behalf of a Participant which are not Supplemental Pension contributions. For hours worked on and after January 1, 2006, “Regular Pension Contributions” means all Employer contributions made on behalf of a Participant which are not Supplemental Contributions.

Section 1.22. Required Beginning Date.

The Required Beginning Date for the Supplemental Pension benefit will be determined as described in Section 6.5.C, except that it may not be sooner than September 1, 1993.

Section 1.23. Service.

Each Employee will be credited with an hour of “Service” for:

- A. Each hour for which an Employee is directly or indirectly paid or entitled to payment by the Employer for the performance of duties. These hours shall be credited to the Employee for the computation period or periods in which the duties are performed;

- B. Each hour for which an Employee is paid, or entitled to payment, by an Employer, directly or indirectly, including payments for disability from the Minnesota Cement Masons Health and Welfare Fund, but excluding any time compensated under a workers' or workmen's compensation or unemployment compensation law or a plan pursuant to a mandatory disability benefits law and excluding any hours of non-work time in excess of 501 hours in any one continuous period. Two periods of paid non-work time shall be deemed continuous if they are compensated for the same reason (e.g., disability) and are not separated by at least ninety days. These hours shall be credited to the Employee for the computation period or periods in which the nonperformance period occurred; and
- C. Each hour for which back pay, irrespective of mitigation of damage, has been either awarded or agreed to by the Employer. These hours shall be credited to the Employee for the computation period or periods to which the award or agreement pertains rather than the computation period in which the award, agreement, or payment was made.

Section 1.24. Spouse.

“Spouse” means a person to whom a Participant is considered married under applicable law.

Section 1.25. Supplemental Contributions.

“Supplemental Contributions” means Employer contributions made on behalf of a Participant which are attributable to the applicable supplemental contribution rate for hours worked on and after the effective date under the respective Collective Bargaining Agreement shown in Appendix B.

Section 1.26. Trust Agreement.

“Trust Agreement” means the Agreement and Declaration of Trust establishing the Minnesota Cement Masons Pension Fund (formerly known as Twin City Cement Masons Pension Fund), dated effective as of November 8, 1966 and restated as of January 1, 2005, and as thereafter amended.

Section 1.27. Trustees or Board of Trustees.

“Trustees” or “Board of Trustees” means the Board of Trustees as established and constituted from time to time in accordance with the Trust Agreement.

Section 1.28. Union or Local Union.

“Union” or “Local Union” means Cement Masons, Plasterers, and Shophands Local 633 of Minnesota, North Dakota and Northwest Wisconsin.

Section 1.29. Work.

“Work” means each hour for which an Employee is paid, or entitled to payment, by an Employer for services performed.

Section 1.30. Other Terms.

The following additional terms are defined in other Sections of this Plan:

Terms	Section(s)
A. ERISA	2.1
B. Regular Pension, Regular Supplemental Pension	3.2
C. Early Retirement Pension, Early Supplemental Pension	3.7-3.8
D. Deferred Pension, Deferred Supplemental Pension	3.11 – 3.12
E. Disability Pension	3.15 – 3.19
F. Partial Pension	3.21
G. Guaranteed Pension Payments – 36 Certain Payments	3.33
H. Death Benefits prior to Retirement	3.35
I. Pension Credits	4.1
J. Year of Vesting Service	4.2
K. Break in Service (One-Year Break in Service, Permanent Break in Service)	4.3
L. Joint and Survivor and Surviving Spouse Pension	5.1
M. Annuity Starting Date, Required Beginning Date	6.5
N. Retirement	6.6
O. Vested Status	6.9

ARTICLE 2 PARTICIPATION

Section 2.1. 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 becomes a Participant, the provisions of this Plan may give him credit in accordance with the rules of the Plan for some or all of his Service before he became a Participant.

Section 2.2. Participation.

An Employee who is engaged in Covered Employment during the Contribution Period shall become a Participant in the Plan on the earliest January 1 or July 1 following completion of a 12-consecutive-month period during which he completed at least 1,000 hours of Service in Covered Employment. The required hours may also be completed with any hours of Service in other employment with an Employer if that other employment is continuous with the Employee's Covered Employment with that Employer.

Section 2.3. Termination of Participation.

A person who incurs a One-Year Break in Service (defined in Section 4.3) ceases to be a Participant as of the last day of the Calendar Year which constituted the One-Year Break, unless such Participant is a Pensioner, or has acquired the right to a pension (other than for disability), whether immediate or deferred.

Section 2.4. Reinstatement of Participation.

An Employee who has lost his status as a Participant in accordance with Section 2.3 regains Participant status:

- A. By working at least 500 hours in Covered Employment in a Calendar Year for which contributions are required to be paid to the Fund; or
- B. By meeting the requirements of Section 2.2 within a Calendar Year after the Calendar Year during which his participation terminated. However, an Employee who has a Permanent Break in Service must meet the requirements of Section 2.2 to again become a Participant.

An Employee who meets these requirements becomes a Participant retroactively as of his re-employment commencement date in Covered Employment.

The re-employment commencement date is the first day the Employee is credited with an hour of Service after the Calendar Year in which he incurred his last One-Year Break in Service.

ARTICLE 3 PENSION ELIGIBILITY AND AMOUNTS

Section 3.1. General.

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 the Joint and Survivor Pension (Article 5). Entitlement of an eligible Participant to receive pension benefits is subject to his Retirement and application for benefits, as provided in Article 6.

Section 3.2. Regular Pension—Eligibility.

A Participant may retire on a Regular Pension if he meets the following requirements:

- A. He has attained age 65; and
- B. He has at least five (5) Pension Credits, including at least one (1) Pension Credit earned on the basis of employment during the Contribution Period.

Section 3.3. Regular Supplemental Pension—Eligibility.

On and after September 1, 1993, a Participant or an individual already retired and receiving a pension benefit from this Fund prior to September 1, 1993 (but not beneficiaries), may retire (or, in the case of an individual already retired and receiving benefits from this Fund, may begin receiving benefits) on an unreduced Supplemental Pension if he meets the following requirements:

- A. He has attained age 62 (the reduction in Section 3.7 applies to a Retirement that begins in a month prior to this age, with the reduction beginning at age 62 for each month prior to that age the Retirement begins);
- B. He has at least ten (10) Pension Credits and is receiving a monthly pension benefit from this Fund and if not retired and receiving a monthly pension benefit from this Fund on May 1, 1993, he must have at least one (1) Pension Credit earned on the basis of employment during the Contribution Period; and
- C. Unless he retired on or before May 1, 1993 and is receiving a monthly pension benefit from this Fund, he must have worked in Covered Employment for at least 140 hours in a Calendar Year beginning on or after January 1, 1993.

Section 3.4. Regular Pension—Amount.

The monthly amount of the Regular Pension is calculated in accordance with the benefit amounts appropriate to the earlier of a Participant’s Annuity Starting Date of Pension or the date he separated from Covered Employment. A Participant shall be deemed to have separated from Covered Employment on the last day of Work, which is followed by a One-Year Break in Service except if he subsequently earns at least one (1) Year of Vesting Service.

The monthly amount of the Regular Pension is equal to:

- A. For persons performing Work covered by the Collective Bargaining Agreement of Local 633 only, \$40.00 for pensions effective after 1990 (\$20.00 for pensions effective between January 1, 1988 and December 31, 1990) if the Participant earned at least 1/2 Pension Credit in the two-plan-year period of 1986 and 1987 (\$3.00 if the Participant did not earn the required 1/2 Pension Credit) for each Pension Credit earned before the Contribution Period up to a maximum of ten such Pension Credits. For persons performing Work covered by the Collective Bargaining Agreement of Locals 53, 785, and 20, \$3.00 for each Pension Credit earned before the Contribution Period up to a maximum of ten such Pension Credits; plus
- B. An amount calculated by multiplying the Participant’s Regular Pension Contributions by the appropriate benefit accrual rate, as shown below:

Earlier of Annuity Starting Date or Separation Date from Covered Employment	Benefit Accrual Rate
Before January 1, 1979	1.35%
Between January 1, 1979 and December 31, 1979	1.78%
Between January 1, 1980 and December 31, 1980	1.86%
Between January 1, 1981 and December 31, 1983	2.27%
Between January 1, 1984 and December 31, 1984	2.50%
Between January 1, 1985 and December 31, 1986	2.70%
Between January 1, 1987 and December 31, 1988	3.00%
Between January 1, 1989 and December 31, 1997	3.20%
Between January 1, 1998 and December 31, 2005	3.30%

Effective for benefits accrued on and after January 1, 2006 and before May 1, 2010, the benefit accrual rate shall be 3.0%. Effective for benefits accrued on and after May 1, 2010, the benefit accrual rate shall be 2.0%.

C. If the Participant's Annuity Starting Date is after his Normal Retirement Age, the amount to which he is entitled under Section 3.2 of the Plan is increased for each month he is not engaged in disqualifying employment by 1% during the 60-month period following the month in which he attained Normal Retirement Age and by 1-1/2% for each month thereafter.

Section 3.5. Regular Supplemental Pension—Amount.

The monthly amount of the Supplemental Pension is calculated in accordance with the benefit amounts appropriate to the earlier of a Participant's Annuity Starting Date or the date he separated from Covered Employment. A Participant shall be deemed to have separated from Covered Employment on the last day of Work, which is followed by a One-Year Break in Service except if he subsequently earns at least one (1) Year of Vesting Service.

The monthly amount of the Regular Supplemental Pension is equal to an amount calculated by multiplying the Participant's total Pension Credits earned for Supplemental Pension purposes, to a maximum of 30 such Pension Credits, by the appropriate supplemental pension accrual rate, as shown below:

Earlier of Annuity Starting Date or Separation Date from Covered Employment	Supplemental Pension Accrual Rate
Before January 1, 2000	\$9.91
On and after January 1, 2000	\$11.00

Effective January 1, 2006, a Participant shall cease to accrue Pension Credits for purposes of determining Supplemental Pension benefits. On and after January 1, 2006, Supplemental Pensions shall be determined using only Pension Credits earned through December 31, 2005.

If this monthly benefit begins at or before he reaches age 64, he may elect to receive the Supplemental Pension in a high/low option. The high portion of this benefit is paid prior to the month he reaches age 65 and the low portion begins the month he reaches age 65. The amount of the high/low option is determined using the monthly pension amount for this Supplemental Pension and multiplying that by the factors in Appendix A.

If the Participant's Annuity Starting Date is after his Normal Retirement Age, the amount to which he is entitled under Section 3.2 of the Plan is increased for each month he is not engaged in disqualifying employment by 1% during the 60-month period following the month in which he attained Normal Retirement Age and by 1-1/2% for each month thereafter.

Section 3.6. Full Vesting at or After Normal Retirement Age.

A Participant who has attained Normal Retirement Age is eligible for a pension and a Supplemental Pension, if applicable, regardless of his number of Pension Credits or Years of Vesting Service.

The amount of the pension is determined in accordance with Section 3.4; and the amount of the Supplemental Pension shall be determined in accordance with Section 3.5.

Section 3.7. Early Retirement Pension—Eligibility.

A Participant is 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 ten (10) Pension Credits, including at least one (1) Pension Credit earned on the basis of employment during the Contribution Period.

Section 3.8. Early Supplemental Pension—Eligibility.

A Participant is entitled to retire on an Early Supplemental Pension if he meets the following requirements:

- A. He has attained age 55;
- B. He has at least ten (10) Pension Credits and, if not retired and receiving a monthly pension benefit from this Fund on May 1, 1993, has at least one (1) Pension Credit earned on the basis of employment during the Contribution Period; and
- C. Unless he retired on or before May 1, 1993 and is receiving a monthly pension benefit from this Fund, he must have worked in Covered Employment for at least 140 hours in a Calendar Year beginning on or after January 1, 1993, and he must have worked in Covered Employment for at least 140 hours in a Calendar Year beginning on or after January 1, 1993.

Section 3.9. Early Retirement Pension—Amount.

The monthly amount of the Early Retirement Pension for Retirements occurring after January 1, 1997 is the amount of the Regular Pension reduced by one-third of one percent for each month which the commencement of the pension precedes the Participant's age 62. There is no reduction applied for Participants retiring after attaining age 62.

Effective for benefits accrued on and after May 1, 2010, the amount of the Early Retirement Pension shall be equal to the Actuarial Equivalent of the Participant's Regular Pension payable at age 65.

Section 3.10. Early Supplemental Pension—Amount.

- A. For those receiving a retirement benefit from this Fund (retirees only, not beneficiaries) on May 1, 1993, beginning on September 1, 1993, the monthly amount of the Early Supplemental Pension is the amount the Regular Supplemental Pension would have been reduced by one-fourth of one percent for each month which the commencement of the Early Supplemental Pension precedes the Participant's attainment of age 62. He may elect to receive the Early Retirement Supplemental Pension in a high/low option. The high portion of this benefit is paid monthly prior to the month he reaches age 65 and the low portion begins the month he reaches age 65. The amount of the high/low option is determined by first determining the monthly pension amount for this Early Supplemental Pension benefit and multiplying that by the factors in Appendix A.
- B. For Retirements after May 1, 1993, the monthly amount of the Early Supplemental Pension, except for Deferred Pensions, is the amount of a Regular Supplemental Pension reduced by one-fourth of one percent for each month, which the commencement of the pension precedes the Participant's attainment of age 62. He may elect to receive the Early Retirement Supplemental Pension in a high/low option. The high portion of this benefit is paid monthly prior to the month he reaches age 65 and the low portion begins the month he reaches age 65. The amount of the high/low option is determined by first determining the monthly pension amount for this Early Supplemental Pension benefit and multiplying that by the factors in Appendix A.
- C. For Retirements on a Deferred Supplemental Pension as of May 1, 1993, the monthly amount of the Early Supplemental Pension is reduced by one-fourth of one percent for each month which the commencement of the pension precedes the Participant's Normal Retirement Age. He may elect to receive the Early Retirement Supplemental Pension in a high/low option. The high portion of this benefit is paid monthly prior to the month he reaches age 65. The amount of the high/low option is determined by first determining the monthly pension amount for this Early Supplemental Pension benefit and multiplying that by the factors in Appendix A.
- D. For Retirements after May 1, 1993 on a Deferred Pension, an Early Supplemental Pension is not available.

Section 3.11. Deferred Pension—Eligibility.

- A. A Participant is entitled to a Deferred Pension if he has ten (10) Years of Vesting Service or ten (10) Pension Credits earned on the basis of employment during the Contribution Period.
- B. A Participant who has one (1) hour of Service after December 31, 1988, is not covered by a Collective Bargaining Agreement and has five (5) years of Vesting Service shall be entitled to a Deferred Pension.
- C. A Participant who has one (1) hour of Service after December 31, 1997 and has five (5) years of Vesting Service shall be entitled to a Deferred Pension.
- D. A Deferred Pension is payable to an eligible retired Participant:
 - 1. After the Participant has attained Normal Retirement Age; or
 - 2. After the Participant has completed the requirements as set forth in Subsections 3.8(A), (B) and (C).

Section 3.12. Deferred Supplemental Pension—Eligibility.

- A. A Participant is entitled to a Deferred Supplemental Pension if he has ten (10) Years of Vesting Service or ten (10) Pension Credits with at least one (1) Pension Credit earned on the basis of employment during the Contribution Period beginning on or after January 1, 1993.
- B. A Participant who has one (1) hour of Service after December 31, 1988, is not covered by a Collective Bargaining Agreement, and has five (5) years of Vesting Service shall not be entitled to a Deferred Supplemental Pension unless it begins on or before September 1, 1993.
- C. A Participant who has one (1) hour of Service after December 31, 1997 and has five (5) years of Vesting Service shall be entitled to a Deferred Supplemental Pension.
- D. A Deferred Supplemental Pension is payable to an eligible retired Participant:
 - 1. After the Participant has attained age 62; or
 - 2. After the Participant has completed the requirements as set forth in Subsections 3.8(A), (B) and (C).

Section 3.13. Deferred Pension—Amount.

The monthly amount of the Deferred Pension payable at age 65 shall be determined in accordance with Section 3.4.(B). If a Participant meets the requirements of Paragraph 3.11(D)(2) and retires with his Deferred Pension prior to age 65, the monthly amount of his Deferred Pension will be determined in accordance with Section 3.9.

Section 3.14. Deferred Supplemental Pension—Amount.

The monthly amount of the Deferred Supplemental Pension payable at age 62 shall be determined in accordance with Section 3.5.

Section 3.15. Disability Pension—Eligibility and Commencement.

- A. A Participant may retire on a Disability Pension if he is permanently and totally disabled, he has at least ten (10) Pension Credits, including at least one (1) Pension Credit earned on the basis of employment during the Contribution Period, and he worked in Covered Employment for at least 140 hours in one of the three (3) Calendar Years prior to the Calendar Year in which he became permanently and totally disabled.
- B. A Disability Pension shall commence the first day of the seventh month after the month in which the disability began.

Section 3.16. Disability Supplemental Pension.

There is no Disability Supplemental Pension Benefit or any disability benefits payable under the Supplemental Pension benefits.

Section 3.17. Disability Pension—Amount.

- A. Except as described in Subsection 3.17.B, the monthly amount of the Disability Pension is the same as the monthly amount of the Regular Pension.
- B. The monthly amount of the Disability Pension for a Participant who applies for a Disability Pension on or after May 1, 2010 and who commences receipt of a Disability Pension based on medical evidence other than a Social Security disability award shall be equal to the Actuarial Equivalent of the Participant's Regular Pension payable at age 65; however, if the Participant's attained age at commencement of the Disability Pension is less than age 55, such Actuarial Equivalent shall be calculated as if the Participant's age at benefit commencement were age 55.

- C. The monthly amount of the Disability Pension for a Participant described in Subsection 3.17.B. who, subsequent to the commencement of the reduced Disability Pension described in Subsection 3.17.B., becomes entitled to receive payment of a Social Security Disability Benefit, shall increase to the monthly amount of the unreduced Regular Pension, commencing on the first day of the month that the Participant becomes entitled to receive payment of the Social Security Disability Benefit, but no earlier than the date specified in Subsection 3.15.B.

Section 3.18. Disability Defined.

A Participant shall be considered permanently and totally disabled only if the Board of Trustees find, on the basis of medical evidence, that:

- A. Such disability will be permanent and continuous during the remainder of his life;
- B. He has been totally disabled by bodily injury or disease so as to be prevented thereby from engaging in any further employment in a job classification of the type specified in the Collective Bargaining Agreement; and
- C. He is not engaging in any gainful pursuit, except that a Disability Pensioner who is not receiving a Social Security Disability Benefit may work in activity of a type not specified in the Collective Bargaining Agreement at which he earns less than \$750 per month.

A Disability Pensioner who is receiving a Social Security Disability Benefit shall be disqualified for Disability Pension benefits under this Plan if he has any earnings from any employment or gainful pursuit. A Disability Pensioner who is not receiving a Social Security Disability Pension must report all and any earnings from any employment or gainful pursuit to the Trustees, in writing, within 15 days after the end of any month in which he has such earnings. A Disability Pensioner who is not receiving a Social Security Disability Pension Benefit will be disqualified from benefits in any month in which he earns \$750 or more in any employment or gainful pursuit. If a Disability Pensioner who is not receiving a Social Security Disability Pension Benefit fails to make timely reports as required in this Section, he will be disqualified for benefits for 12 months in addition to the month or months in which he had earnings from employment or other gainful pursuit. He will also be disqualified for pension benefits for up to 12 additional months for failure to make timely reports. This penalty applies to each such violation unless the Trustees determine there were extenuating circumstances which prevented the Participant from making such timely filings.

Section 3.19. Proof of Total and Permanent Disability.

A Participant applying for a Disability Pension is required to submit to an examination by a physician, or physicians, acceptable to or selected by the Trustees, and may be required to submit to re-examination periodically as the Trustees may direct. However, the Trustees shall waive re-examination after the Participant has attained age 65.

The Trustees shall accept as evidence, in lieu of medical examination, written verification by the Social Security Administration that he is entitled to Social Security Disability payments.

The Trustees are the sole and final decision-makers of total and permanent disability and of a Participant's entitlement to a Disability Pension hereunder.

Section 3.20. Cessation of Total and Permanent Disability.

Any Participant retiring under the Disability Pension provisions of the Plan who subsequently ceases to be totally and permanently disabled may:

- A. Apply for a Regular, Early Retirement, or Deferred Pension provided he has fulfilled the requirements for such benefit. Any benefit for which the Participant is eligible may not become payable sooner than the month immediately following the month in which the Disability Pension will terminate, and the amount is based on the then attained age of the Pensioner; or
- B. Return to Covered Employment and resume the accrual of Pension Credits.

Section 3.21. Partial Pension—Purpose.

Partial Pensions are provided under this Plan for Employees who would otherwise lack sufficient Service credit to be eligible for any pension because their years of employment were divided between different pension plans or, if eligible, whose pension would be less than the full amount because of such division of employment.

Section 3.22. Related Plans.

By resolution duly adopted, the Trustees of this Pension Fund recognize one or more other pension plans, which have executed a Pro-Rata Agreement to which this Plan is a party, as a Related Plan. However, this Pro-Rata Agreement and Partial Pension do not apply to the Supplemental Pension benefits in this Plan.

Section 3.23. Related Service Credits.

Service credits accumulated and maintained by an Employee under a Related Plan are recognized under this Plan as Related Plan Service Credits if the Employee has at least two (2) years of Service credit in that plan based on employment since January 1, 1955 for which contributions have been made. The Trustees will compute Related Plan Service Credits on the basis on which that credit has been earned and credited under the Related Plan and certified by the Related Plan to this Plan.

Section 3.24. Combined Service Credit.

The total of an Employee's Pension Credit under this Plan and Related Plan Service Credit together comprise the Employee's Combined Service Credit. Not more than one year of Combined Service Credit is counted in any Calendar Year.

Section 3.25. Partial Pension Eligibility.

An Employee is eligible for a Partial Pension under this Plan if he satisfies all of the following requirements:

- A. He would be eligible for any type of pension under this Plan (other than a Partial Pension) if his Combined Service Credit were treated as Pension Credit under this Plan;
- B. In addition to any other requirements necessary to be eligible under (A), he has, under this Plan, at least two (2) years of Pension Credit based on employment since January 1, 1955 for which Employer contributions have been made; and
- C. He is found to be (1) eligible for a Partial Pension from a Related Plan and (2) eligible for a Partial Pension from the Terminal Plan. The Terminal Plan is deemed to be the Plan associated with the Local Union which represents the Employee at the time of, or immediately prior to, his Retirement. If at that time the Employee was not represented by any one such Local Union, then the Terminal Plan is the one to which the greatest amount of contributions were paid on behalf of the Employee in the 36 consecutive calendar months immediately preceding his Retirement.

Section 3.26. Breaks in Service.

In applying the rules of this Plan with respect to cancellation of Pension Credits, any period in which an Employee has earned Related Service Credit is not counted in determining whether there has been a period of no Covered Employment sufficient to constitute a Break in Service.

Section 3.27. Election of Pensions.

If an Employee is eligible for more than one (1) type of pension under this Plan, he may elect the type of pension he is to receive.

Section 3.28. Partial Pension Amount.

The amount of the Partial Pension shall be equal to the amount of the pension to which the Employee (or Surviving Spouse of the Employee) would be entitled under this Plan if the Employee's Combined Service Credit were treated as Pension Credit and as Vesting Service under this Plan.

Section 3.29. Payment of Partial Pensions.

The payment of a Partial Pension is subject to all of the conditions contained in this Plan applicable to other types of pensions including, but not limited to, Retirement as herein defined and timely application.

Section 3.30. Effective Date.

This Section 3.28 and the payment of Partial Pension hereunder, are effective on October 30, 1973.

Section 3.31. Rounding of Benefit Amounts.

If the calculation of any benefit amount due under this Plan results in an amount which is not an exact multiple of \$.50, then the amount so calculated will be rounded by raising it to the next higher multiple of \$.50 and the rounded amount will be payable.

Section 3.32. Nonduplication.

A person is entitled to only one (1) pension, which as of September 1, 1993 includes one (1) Supplemental Pension benefit in addition to the other pension benefit selected or awarded under this Plan, except that a Disability Pensioner who recovers may be entitled to a different kind of pension and Pensioner may also receive a pension as the Spouse of a deceased Pensioner. No pension benefits are payable for any month for which the Participant or Pensioner receives wage indemnification for disability from the Minnesota Cement Masons Health and Welfare Fund. This provision shall, however, be subject to the provisions of Subsection 6.7(E).

Section 3.33. Guaranteed Pension Payment—36 Certain Payments.

If a Pensioner rejects the Joint and Survivor Pension and dies before he has received 36 monthly Pension payments, his monthly pension continues to his Spouse or dependent child or children, if living, for a period of 36 consecutive monthly payments, including the payments to the Pensioner and his Spouse or

dependent children. If the Spouse or dependent children of the Pensioner receive payments under this guarantee and subsequently die prior to the time a total of 36 monthly Pension payments have been paid, then the payments cease.

Effective June 1, 1997, if a Pensioner who validly waived the Joint and Survivor Pension in accordance with Section 5.2(E) dies before he has received 36 monthly Pension payments, his monthly pension continues to his designated Beneficiary or, if none, to his estate until a total of 36 monthly payments have been made to the Pensioner and his Beneficiary (or estate).

Section 3.34. Guaranteed Supplemental Pension Payment.

A Pensioner who validly waived the Joint and Survivor Supplemental Pension in accordance with Section 5.2(E) does not get a guaranteed Pension payment for the Supplemental Pension.

Section 3.35. Death Benefits Prior to Retirement.

- A. A Death Benefit and a Supplemental Death Benefit, if applicable, are payable to the surviving Spouse and if there is no surviving Spouse to any surviving dependent children per stirpes of a Participant who dies before Retirement provided:
1. The Participant has at least five (5) Pension Credits earned during the Contribution Period;
 2. The Participant was credited with at least 3/10 of a Pension Credit in the Calendar Year of his death or the preceding Calendar Year; and
 3. The Pre-Retirement Surviving Spouse Pension is not payable.
- B. The amount of the Death Benefit and the Supplemental Death Benefit, if applicable, is equal to 50% of the contributions which the Pension Fund received on behalf of such Participant. However, if a Participant who was eligible to receive a Regular or Early Retirement Pension and, if applicable, a Regular Supplemental or Early Retirement Supplemental Pension should die prior to the date he actually retires, then the Death Benefit payable is not less than the total amount which would have been allowable under the 36 Month Guarantee described in Section 3.33, for the pension benefit (non-supplemental pension benefit) alone, not taking the amount to be received from the Supplemental Death Benefit because the Supplemental Pension benefit does not have the 36 Month Guarantee.

- C. A written application for the Death Benefit and Supplemental Death Benefit, if applicable, must be made to the Trustees on a form supplied by the Pension Fund Office within 24 months from the date of the death of the Participant. If a Participant dies with no surviving Spouse or dependent children, then there is no Death Benefit or Supplemental Death Benefit.
- D. Notwithstanding any other provision in the Plan, payment of Death Benefits and Supplemental Death Benefits will commence within a reasonable time after receiving the death certificate, and payments must be completed by December 31 of the fifth Calendar Year following the year of the Participant's death.

Section 3.36. Application of Benefit Increases.

The Pension and the Supplemental Pension, if applicable, to which a Participant is entitled are determined under the terms of the Plan as in effect at the time the Participant separates from Covered Employment.

A Participant shall be deemed to have separated from Covered Employment on the last day of Work which is followed by a One-Year Break in Service, except if he subsequently earns at least one (1) Year of Vesting Service.

ARTICLE 4 PENSION CREDITS AND YEARS OF VESTING SERVICE

Section 4.1. Pension Credits.

A. For Employment during the Contribution Period

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

Hours Worked in Covered Employment During Calendar Year	Pension Credits
Less than 140 hours	0
140 through 279 hours	1/10
280 through 419 hours	2/10
420 through 559 hours	3/10
560 through 699 hours	4/10
700 through 839 hours	5/10
840 through 979 hours	6/10
980 through 1,119 hours	7/10
1,120 through 1,259 hours	8/10
1,260 through 1,399 hours	9/10
1,400 or more hours	1

In no case may a Participant be granted more than one (1) Pension Credit in any Calendar Year.

B. Pension Credits for Non-work Periods during the Contribution Period

1. A Participant with prior Pension Credit based on Work during the Contribution Period may receive additional credit for certain non-work periods during the Contribution Period as if he had actual periods of Covered Employment because of the following:
 - a. Disability for which Weekly Accident and Sickness Benefits have been received by the Participant from the Minnesota Cement Masons Health and Welfare Fund, or
 - b. Disability arising in Covered Employment for which Workers' Compensation Benefits are received by the Participant.

Each week of total disability is counted for Pension Credit purposes as if it were a full week of Covered Employment at the rate of 40 hours weekly. In addition, over the period of his participation in the Pension Fund, a Participant may not be granted more than two (2) non-work Pension Credits because of disability.

2. Service in any of the armed forces of the United States pursuant to the Uniformed Services Employment and Reemployment Act, or voluntary enlistment, shall be credited to the extent required by law, provided the Employee makes himself available for work in Covered Employment within the appropriate time period. Benefits will be accrued at the rate applicable when the Participant last worked in Covered Employment.

Effective January 18, 2006, if a Participant received a distribution of all or part of his benefits in connection with his or her qualified Uniformed Service, then the Participant may repay the distributed amounts upon reemployment. The repayment amount shall include any interest that would have accrued had the distribution not been made. The repayment may be made during the period beginning on the date of reemployment and continuing for up to three times the Participant's length of Uniformed Service, but not to exceed the earlier of five years or termination of Covered Employment.

C. For Employment before the Contribution Period and prior to January 1, 1967

A Participant may be credited with a maximum of ten (10) Pension Credits for periods prior to January 1, 1967 on the basis of his Work in Covered Employment in accordance with the schedule in Section 4.1(A), provided he earned some Pension Credit on the basis of Work for a Contributing Employer prior to December 31, 1969.

1. The Fund presumes in the absence of proof to the contrary, that a Participant is entitled to one (1) Pension Credit for each full Calendar Year of his continuous membership in the Union prior to the Contribution Period, subject to the provisions of this Section 4.1(C)(1) and Section 4.3.
 2. A Participant is entitled to Pension Credits based on employment under the terms of the Collective Bargaining Agreement of the Union for periods when he did not qualify for Pension Credit in accordance with Subsection (2), provided he had at least 1,400 hours of work in Covered Employment during any Calendar Year, subject to the provisions of this Section 4.1(C)(1) and Section 4.3.
 3. A Participant may not earn more than one (1) Pension Credit for employment before the Contribution Period in any one (1) Calendar Year as the result of the operation of the rules in this Section 4.1(C).
 4. A Participant who is a member of Local 53 may be credited with a maximum of ten (10) Pension Credits for periods prior to March 1, 1989 on the basis of his Work in Covered Employment in accordance with the Schedule in Section 4.1(A).
 5. A Participant who is a member of Local 785 may be credited with a maximum of ten (10) Pension Credits for periods prior to May 1, 1990 on the basis of Work in Covered Employment in accordance with the schedule in Section 4.1(A).
 6. A Participant who is a member of Plasterers' Union Local No. 20 may be credited with a maximum of ten (10) Pension Credits for periods prior to November 1, 1990 on the basis of Work in Covered Employment in accordance with the Schedule in Section 4.1(A).
 7. A Participant who is a member of Local 439, 897, or 899 may be credited with a maximum of ten Pension Credits for periods prior to June 1, 1999 on the basis of Work in Covered Employment in accordance with the Schedule in Section 4.1(A).
 8. The decision of the Trustees as to the amount of Pension Credit granted to an Employee for employment before the Contribution Period is final and binding.
- D. For Supplemental Pension benefit accrual purposes, Pension Credits are determined using the same rules described in (A) through (C) above, provided the Employer of the Participant is making Supplemental Pension contributions. However, a maximum of 30 Pension Credits may be credited to a Participant for Supplemental Pension accrual purposes. In addition, for employment

prior to the Supplemental Pension Contribution Period (May 1, 1993), the following rules shall apply:

1. Except as provided in 2. below, all Pension Credits earned under the Plan for non-Supplemental Pension purposes count for Supplemental Pension accrual purposes subject to the 30-year maximum credit limitation.
2. Participants who are or were members of Locals 53 and 785 and Plasterers Local 20 may be granted up to ten (10) Pension Credits for Supplemental Pension accrual purposes for periods prior to January 1, 1967 under the same rules that are set forth in Section 4.1(C)(1) above for the former Locals 557 and 560. In addition, from January 1, 1967 until the date the membership of that Participant's Local began participating in this Plan, a Participant may be entitled to one (1) Pension Credit for Supplemental Pension accrual purposes for each full Calendar Year of continuous membership in that Union. In addition, to be entitled to Pension Credits for Supplemental Pension accrual purposes for the period prior to May 1, 1993 for those who were not retired and receiving a monthly benefit from this Fund on May 1, 1993, the individual must have been granted a minimum of 500 hours of Service in Calendar Year 1992 and 140 hours of Service in Calendar Year 1993. Members of all the Locals participating in the Supplemental Pension are able (subject to their meeting these rules) to earn the same number of Pension Credits for Supplemental Pension accrual purposes for the period prior to the Supplemental Pension Contribution Period beginning May 1, 1993. However, as stated previously, the total Pension Credits for Supplemental Pension accrual purposes may not exceed 30, regardless of the type of pension or period to which those Pension Credits relate.

Section 4.2. Years of Vesting Service.

A. General Rule

A Participant is credited with one (1) Year of Vesting Service for each Calendar Year during the Contribution Period (including periods before he became a Participant) in which he completed at least 1,000 hours of Service in Covered Employment. This rule is subject to the following Subsections.

B. Additions

If a Participant works for a Contributing Employer in a job not covered by a Collective Bargaining Agreement and such Employment is continuous with his Employment with that Employer in Covered Employment, then his hours of Service in such non-covered job during the Contribution Period after December 31, 1975 are counted toward a Year of Vesting Service.

A Participant who is a member of Local 53, Local 785, or Plasterers' Local 20 is credited with one (1) Year of Vesting Service for each Calendar Year beginning January 1, 1976, in which he completed at least 1,000 hours of Service in Covered Employment. A member of Plasterers' Local 20, who ceases participation in this Plan as a result of the merger of Local 20 with Local 65 to former Local 265, will have Service earned as a member of Local 265 counted toward Vesting Service only, under the regular terms of this Plan.

C. Exceptions

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

1. Years preceding a Permanent Break in Service as defined in Section 4.3(D) for periods prior to January 1, 1976.
2. Years preceding a Permanent Break in Service as defined in Section 4.3(C).
3. Years before January 1, 1976 unless the Participant earned at least three (3) Years of Vesting Service after December 31, 1970.

D. Supplemental Pension Years of Vesting Service

A Participant's Years of Vesting Service, as determined above in Subsections (A) through (C), are also his Years of Vesting Service for Supplemental Pension benefits.

Section 4.3. Breaks in Service.

A. General

If a person has a Break in Service before he acquires the right to a pension, whether immediate or deferred, then his standing under the Plan is cancelled. His participation, his previously credited Years of Vesting Service, and his previous Pension Credits are cancelled. However, after

January 1, 1976, a Break in Service may be temporary, subject to repair by a sufficient amount of subsequent Service. A longer Break in Service may be permanent.

B. One-Year Break in Service

1. As of January 1, 1976, a person has a One-Year Break in Service in any Calendar Year during the Contribution Period in which he fails to complete 500 hours of Service in Covered Employment.
2. Time of employment with a Contributing Employer in non-covered employment after December 31, 1975 if creditable under Section 4.2(B), is counted as if it were Covered Employment in determining whether a Break in Service has been incurred.
3. 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 becomes a Participant as provided in Section 2.4. In such case, previously earned Years of Vesting Service and Pension Credits are restored. However, nothing in this paragraph (3) changes the effect of a Permanent Break in Service.

C. Permanent Break in Service after December 31, 1975

After December 31, 1975, a person incurs a Permanent Break in Service if the number of consecutive One-Year Breaks in Service is greater than or equal to the number of Years of Vesting Service or Pension Credits, whichever is greater.

After December 31, 1986, the minimum number of consecutive One-Year Breaks in Service needed to cause a Permanent Break in Service is five (5).

D. Permanent Break in Service before January 1, 1976

Prior to January 1, 1976, a person incurred a Permanent Break in Service if he failed to earn any Pension Credit(s) during three (3) consecutive Calendar Years.

E. Effect of Permanent Break in Service

If an Employee has a Permanent Break in Service before he retires with a pension or before he meets the requirements of Section 3.11, his previous Pension Credits, Years of Vesting Service, and his participation are cancelled, with new participation being subject to the provisions of Section 2.4.

Section 4.4. Grace Periods.

Certain periods will be considered Grace Periods for determining if a person has a One-Year Break in Service or a Permanent Break in Service. These periods will not add Pension Credits nor will they interrupt the continuity of a person's One-Year Breaks in Service. The following periods shall be counted as Grace Periods.

A. Total Disability

Total Disability, if not credited as a non-work Period under Section 4.1(B), in which case a Grace Period of up to three (3) Calendar Years, will be allowed during which the total disability continues. Total disability, as used in this Section of the Plan, is determined to the total satisfaction of the Trustees on the basis of medical evidence. In order to secure the benefit of a disability Grace Period, written notice must be given to the Trustees that the Participant is totally disabled.

B. Military Service

A Participant is allowed a Grace Period if his failure to earn Pension Credit was due to Military Service in the Armed Forces of the United States. This Grace Period consists of the entire time the Participant was engaged in such Military Service, provided he makes himself available for Work in Covered Employment within 90 days after recovery from a disability incurred during the Military Service. Periods of voluntary enlistment and re-enlistment not effected during national emergency or time of war are excluded.

C. Employment in a Supervisory Capacity or by the International Union with Whom the Union is Affiliated

During the Contribution Period, a Participant is allowed a Grace Period if he is promoted by an Employer to an employment category not covered by the Collective Bargaining Agreement in effect between the Employer and the Union, or if he accepts full-time employment with the Operative Plasterers' and Cement Masons' International Association. In such instances, the duration of the Grace Period is for the entire length of such employment, provided the former Participant submits a written application to the Trustees requesting such Grace Period within one (1) year of leaving Covered Employment.

D. Parental Leave

A Participant who is absent from Covered Employment on or after May 1, 1985 is credited with up to 501 hours of Service in a Plan Year to prevent a Break in Service if the absence is due to:

1. The pregnancy of the Participant; or
2. The birth of a child of the Participant; or
3. The placement of a child through adoption with the Participant; or
4. For the purpose of caring for such child for a period beginning immediately following the birth or placement.

The hours of Service are those normally credited or, if the Trustees are unable to determine the hours of Service, eight (8) hours of Service per day of absence. These hours shall be treated as hours of Service only in the Plan Year the absence began if necessary to prevent a Break in Service or 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 paragraphs (1), (2), (3), or (4) and for the number of days for which there was such absence. Hours credited under this Subsection (D) do not count toward accrual of Vesting Service or Pension Credit.

The granting of Grace Periods as outlined in the preceding Subsections of this Section 4.4 are not intended to add to the Pension Credits of a Participant. They are merely set forth to define the circumstances, which may be disregarded in determining whether a Break in Service has occurred.

ARTICLE 5 JOINT AND SURVIVOR AND SURVIVING SPOUSE PENSIONS

Section 5.1. General.

- A. If the Annuity Starting Date of a pension and, if applicable, a Supplemental Pension payable to a married Participant is after December 31, 1984, each benefit is to be paid as a Joint and Survivor Pension unless:
1. The Participant and the Spouse elect otherwise for either or both pension benefits in accordance with Section 5.2(E), and they have the right to make that election separately for each pension benefit;
 2. The Spouse is not a Qualified Spouse as defined below; or
 3. The benefit for that pension benefit is payable only in a single sum, under Subsection 6.5(C)(2) and Subsection 6.5(G).
- B. If a married Participant with a right to a pension and, if applicable, a Supplemental Pension, whether immediate or deferred, dies after August 22, 1984, but before the Annuity Starting Date, a Pre-Retirement Surviving Spouse Pension and, if applicable, a Pre-Retirement Surviving Spouse Supplemental Pension are payable as described in this Article.
- C. To be eligible to receive the survivor's pension(s) in accordance with a Joint and Survivor Pension or a Pre-Retirement Surviving Spouse 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 on the Annuity Starting Date or, if earlier, the date of death, or if the Participant and Spouse were divorced after at least one year of marriage and the Participant does not remarry. 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 one year before his death.

Section 5.2. Joint and Survivor Pension at Retirement.

- A. The pension (including a Disability Pension) and the Supplemental Pension, if applicable, of a Participant who is married to a Qualified Spouse on the date his pension payments commence shall be paid in the form of a Joint and Survivor Pension, and a Joint and Survivor Supplemental Pension, if applicable, unless a valid waiver of that form of payment has been filed with the Plan. A separate waiver must be filed for the Supplemental Pension. The automatic form of payment of a Joint and Survivor shall be a 50% Joint and Survivor Pension.
- B. A 50% Joint and Survivor Pension and, if applicable, a 50% Joint and Survivor Supplemental Pension for a Participant means that the Participant will receive an adjusted monthly amount for life and, if the Participant dies before his Qualified Spouse, the latter will receive a monthly benefit for her lifetime of 50% of the Participant's adjusted monthly amount. The Participant's monthly amount is a percentage of the full monthly amount otherwise payable as a single-life pension (after adjustment, if any, for early Retirement) as follows:
1. If the Participant's pension or Supplemental Pension is not a Disability Pension, and the Supplemental Pension is not being paid by using the high/low option, the percentage shall be 89% plus 0.4% for each full year that the Spouse is older than the Participant or minus 0.4% for each full year that the Spouse is younger than the Participant.
 2. If the Participant's pension is a Disability Pension, the percentage shall be 79% plus 0.4% for each full year that the Spouse is older than the Participant or minus 0.4% for each full year that the Spouse is younger than the Participant. This is not applicable to the Supplemental Pension because it cannot be paid as a Disability Pension benefit.
 3. In no event is the percentage to be greater than 99%.
 4. If the Supplemental Pension is being paid using the high/low option, the percentage in (1) above shall be applied to what would have been the Participant's lifetime benefit had he selected that instead of the high/low benefit that is being paid.
- C. A Joint and Survivor Pension, once payments have begun, may not be revoked and the Pensioner's benefits may not be increased by reason of subsequent divorce.

If a Spouse predeceases a Participant on or after December 14, 1987 and after the Joint and Survivor Pension is in effect, the Joint and Survivor Pension ceases to be effective as of the date

of the Spouse's death. The Pensioner's pension amount increases to the amount that would have been payable had the Pensioner rejected the Joint and Survivor Pension at the time of his Retirement. The increase in the amount of the monthly pension payment begins with the month following the month in which satisfactory proof of the Spouse's death has been filed with the Trustees. This provision (increase) does not apply to the Joint and Survivor Supplemental Pension. The monthly benefit under the Joint and Survivor Supplemental Pension will remain the same in the event the Spouse predeceases the Pensioner.

Effective May 1, 1991, if the Participant's benefit is paid in the form of a Joint and Survivor Pension, including a Joint and Survivor Supplemental Pension, and the Participant and Spouse are subsequently divorced, the Spouse on the Annuity Starting Date of the Joint and Survivor Pension(s) will continue to be entitled to the Joint and Survivor Pension survivor benefit unless the Spouse waives such benefit or a Qualified Domestic Relations Order (as defined in Section 414(p) of the Internal Revenue Code) provides otherwise, in which case the Pensioner shall have his pension(s) amount increased to the amount that would have been payable had the Pensioner rejected the Joint and Survivor Pension(s) at the time of his Retirement.

- D. A retiring Participant shall be advised by the Trustees of the effect of payment on the basis of the Joint and Survivor Pension and the Joint and Survivor Supplemental Pension, including a comparison of both the 50% Joint and Survivor Pension and the 75% Joint and Survivor Pension to the full single-life pension amount for both the pension and the Supplemental Pension and the adjusted amount for both, if applicable.
- E. The Joint and Survivor Pension and Joint and Survivor Supplemental Pension, if applicable, may be waived in favor of another form of distribution only as follows:
 - 1. The Participant files the waiver in writing in such form as the Trustees may prescribe and the Participant's Spouse acknowledges the effect of the waiver and consents to it in writing, witnessed by a notary public or such representative of the Plan as the Trustees may designate for that purpose. Separate waivers must be filed for the Joint and Survivor Pension and the Joint and Survivor Supplemental Pension.
 - 2. Notwithstanding any other provision of the Plan, spousal consent in accordance with Section 5.2(E)(1) is not required if the Participant establishes to the satisfaction of the Trustees:
 - a. That there is no Spouse;

- b. That the Spouse cannot be located;
- c. That the Participant and Spouse are legally separated; or
- d. That the Participant has been abandoned by the Spouse as confirmed by a court order.

If the Spouse is legally incompetent, consent under Section 5.2(E)(1) may be given by his or her legal guardian, including the Participant if authorized to act as the Spouse's legal guardian.

- 3. To be timely, the request(s) for a waiver and any required consent must be filed with the Trustees before the date payments start, except that it may be filed later if within 90 days of the date the Participant was notified by the Trustees of the effect of the Joint and Survivor Pension and, if applicable, the Joint and Survivor Supplemental Pension, but in any event no more than 90 days before the Annuity Starting Date and no later than 30 days before the Annuity Starting Date. The Participant may file a new waiver or revoke a previous waiver at any time during the 90-day period prior to the Annuity Starting Date. A Participant and spouse, if any, shall also be provided a statement of the relative values of the forms of benefit and a statement of the right to defer commencement of distributions.
 - 4. A Spouse's consent to a waiver of the Joint and Survivor Pension and, if applicable, the Joint and Survivor Supplemental Pension is effective only with respect to that Spouse, and it is irrevocable unless the Participant revokes the waiver to which it relates.
- F. If the 50% Joint and Survivor Pension and, if applicable, the 50% Joint and Survivor Supplemental Pension would be payable except for the fact that the Spouse is not a Qualified Spouse on the date the Participant's pension payments start because the Participant and Spouse have not been married for at least one year at that time, pension payments to the Participant shall be made in the amount adjusted for the 50% Joint and Survivor Pension, and if the Participant and Spouse have not been married to each other for at least one (1) year before the death of the Participant, the difference between the amounts that had been paid and the amount that would have been paid if the monthly amounts had not been adjusted shall be paid to the Spouse (assuming there is no valid waiver allowing payment to a Beneficiary), if then alive, and otherwise to the Participant's Beneficiary or, if none, to his estate.

- G. Effective for Annuity Starting Dates on and after January 1, 2009, a Participant whose pension is payable in the form of a 50% Joint and Survivor Pension and whose Supplemental Pension, if applicable, is payable in the form of a 50% Joint and Survivor Supplemental Pension may elect to receive a 75% Joint and Survivor Pension in lieu of the 50% Joint and Survivor Pension and may elect to receive a 75% Joint and Survivor Supplemental Pension in lieu of the 50% Joint and Survivor Supplemental Pension. A separate election applies to the Supplemental Pension.

A 75% Joint and Survivor Pension and, if applicable, a 75% Joint and Survivor Supplemental Pension for a Participant means that the Participant will receive an adjusted monthly amount for life and, if the Participant dies before his Qualified Spouse, the latter will receive a monthly benefit for her lifetime of 75% of the Participant's adjusted monthly amount. The Participant's monthly amount is a percentage of the full monthly amount otherwise payable as a single-life pension (after adjustment, if any, for early Retirement) as follows:

1. If the Participant's pension is not a Disability Pension, and if the Supplemental Pension is not being paid under the high/low option, the percentage shall be 84.5% plus 0.5% for each full year that the Spouse is older than the Participant or minus 0.5% for each full year that the Spouse is younger than the Participant.
2. If the Participant's pension is a Disability Pension, the percentage shall be 72% plus 0.5% for each full year that the Spouse is older than the Participant or minus 0.5% for each full year that the Spouse is younger than the Participant.
3. In no event is the percentage to be greater than 99%.
4. If the Supplemental Pension is being paid under the high/low option, the percentage in (1) above shall be applied to what would have been the Participant's lifetime benefit had he selected that instead of the high/low benefit that is being paid.

Section 5.3. Pre-Retirement Surviving Spouse Pension.

- A. If a Participant who has a Qualified Spouse dies after August 22, 1984 and before his pension payments start, a Pre-Retirement Surviving Spouse Pension is paid to his surviving Spouse provided:

1. He met the Service requirements for a pension, whether immediate or deferred; and
2. He had at least one (1) hour of Service after December 31, 1975.

- B. If the Participant described in Subsection 5.3(A) above died at a time when he would have been eligible to begin receiving pension payments (other than a Disability Pension) had he retired, the surviving Qualified Spouse is entitled to a lifetime benefit determined in accordance with the provisions of Section 5.2 as if the Participant had retired the day before he died.
- C. If the Participant described in Subsection 5.3(A) above died before he would have been eligible to begin receiving pension payments had he retired (other than a Disability Pension), the surviving Qualified Spouse is entitled to a Pre-Retirement Surviving Spouse Pension determined as if the Participant had separated from Covered Employment rather than died, survived to the earliest age at which a pension (other than a Disability Pension) would be payable to him under the Plan, retired at that age with an immediate 50% Joint and Survivor Pension as described in Subsection 5.2(B) and died the next day. In other words, the Pre-Retirement Surviving Spouse Pension begins when the Participant would have attained the earliest retirement age for which he would have qualified and the amount is 50% of what the Participant's pension amount would have been after adjustment, if any, for the early retirement and for the 50% Joint and Survivor Pension form as described in Subsection 5.2(B). The amount is determined under the terms of the Plan in effect when the Participant last worked in Covered Employment, unless otherwise expressly specified.
- D. The Spouse may elect in writing and on whatever form the Trustees may prescribe, to defer commencement of the Pre-Retirement Surviving Spouse 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 amount payable at that time shall be determined as described in paragraphs (C) and (D) of this Section, except that the benefit is paid in accordance with the terms of the Plan in effect when the Participant last worked in Covered Employment (unless otherwise specified) as if the Participant had retired with a 50% Joint and Survivor Pension on the day before the Surviving Spouse's payments are scheduled to start, and died the next day.
- E. Notwithstanding any other provision of this Article, a Pre-Retirement Surviving Spouse Pension will not be paid in the form, manner, or amount described above if the Actuarial Present Value of the benefit is less than \$3,500 (\$5,000 effective January 1, 1998). In that case, the Trustees will make a single-sum payment to the Spouse in an amount equal to that Actuarial Present Value in full discharge of the Pre-Retirement Surviving Spouse Pension.

Section 5.4. Pre-Retirement Surviving Spouse Supplemental Pension.

- A. If a Participant who has a Qualified Spouse dies after May 1, 1993 and before his pension payments start, a Pre-Retirement Surviving Spouse Supplemental Pension is paid to his surviving Spouse provided:
1. He had met the Service requirements for a Supplemental Pension, whether immediate or deferred; and
 2. He had at least one (1) hour of Service after December 31, 1975.
- B. If a Participant described in Subsection 5.4(A) above died at a time when he would have been eligible to begin receiving Supplemental Pension payments had he retired, the surviving Qualified Spouse is entitled to a Pre-Retirement Surviving Spouse Supplemental Pension determined in accordance with the provisions of Section 5.2 as if the Participant had retired the day before died.
- C. If the Participant described in Subsection 5.4(A) above died before he would have been eligible to begin receiving Supplemental Pension payments had he retired (other than a Disability Pension), then the surviving Qualified Spouse is entitled to a Pre-Retirement Surviving Spouse Supplemental Pension determined as if the Participant had separated from Covered Employment rather than died, survived to the earliest age at which a pension would be payable to him under the Plan, retired at that age with an immediate 50% Joint and Survivor Supplemental Pension as described in Subsection 5.2(B) and died the next day. In other words, the Pre-Retirement Surviving Spouse Supplemental Pension begins when the Participant would have attained the earliest retirement age for which he would have qualified and the amount is 50% of what the Participant's pension amount would have been after adjustment, if any, for the early retirement and for the 50% Joint and Survivor Supplemental Pension form as described in Subsection 5.2(B). The amount is determined under the terms of the Plan in effect when the Participant last worked in Covered Employment, unless otherwise expressly specified.
- D. The Spouse may elect in writing, filed with the Trustees, and on whatever form they may prescribe, to defer commencement of the Pre-Retirement Surviving Spouse Supplemental Pension until a specified date that is no later than the first of the month following the date the Participant would have reached age 62. The amount payable at that time is determined as described in Subsections 5.4(C) and 5.4(D) except that the benefit is paid in accordance with the terms of the Plan in effect when the Participant last worked in Covered Employment (unless otherwise

specified) as if the Participant had retired with a 50% Joint and Survivor Supplemental Pension on the day before the Surviving Spouse's payments are scheduled to start, and died the next day.

- E. A Pre-Retirement Surviving Spouse Supplemental Pension with an Actuarial Present Value of \$3,500 or less (\$5,000 or less effective January 1, 1998) is payable in a single-sum payment to the Spouse in an amount equal to the Actuarial Present Value in full discharge of the Pre-Retirement Surviving Spouse Supplemental Pension.

Section 5.5. Relation to Qualified Domestic Relations Order.

Any rights of a former Spouse or other alternate payee under a Qualified Domestic Relations Order, with respect to a Participant's pension, take precedence over those of any later Spouse of the Participant under this Article.

Section 5.6. Trustees' Reliance.

The Trustees are entitled to rely on written representations, consents, and revocations submitted by Participants, Spouses, or other parties in making determinations under this Plan and, unless such reliance is arbitrary or 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. 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 Section, determined as of the Annuity Starting Date of the Participant's pension or, if earlier, the date of the Participant's death.

Section 5.7. Survivor Benefit Limitations.

Notwithstanding any other provision of the Plan, payment of the Joint and Survivor Pension, the Pre-Retirement Surviving Spouse Pension, the 36 Certain Payments, and the death benefits provided under Section 5.2, 5.3, and 3.35 and the Joint and Survivor Supplemental Pension, the Pre-Retirement Surviving Spouse Supplemental Pension, and the Supplemental Pension Death Benefits under Section 5.4 must 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 Section 1.401(a)(9)-1 and Section 1.401(a)(9)-2 of the Final Treasury Regulations.

ARTICLE 6 APPLICATION, BENEFIT PAYMENTS, RETIREMENT AND BENEFIT SUSPENSIONS

Section 6.1. Applications.

A Participant must submit a written application for pension benefits to the Fund prior to the date pension payments are to commence.

The Trustees will notify the Participant when a benefit under the Plan is requested. Such notification shall include a general description of the material features, and an explanation of the relative values of, the optional forms of benefit available under the Plan in a manner that would satisfy the notice requirements of IRC 417(a)(3) and Treas. Reg. 1.417(a)(3)-1.

Section 6.2. Information and Proof.

Every Participant, Beneficiary, or Pensioner must furnish, at the request of the Trustees, any information or proof reasonably required to determine his benefit rights. If the claimant makes a false statement material to his application or furnishes false information or proof material to his claim, then benefits not Vested under this Plan (as defined in Section 6.8) may be denied, suspended, or discontinued. The Trustees have the right to recover any benefit payments made in reliance on any false or fraudulent statement, information, or proof submitted by a Participant, Beneficiary, or Pensioner, plus interest and costs, by any lawful means, including, without limitation, by offset of future benefit payments.

Section 6.3. Action of Trustees.

All questions or controversies of whatsoever character arising in any manner or between any parties or persons in connection with the Plan or Trust Agreement or its operation, whether as to any claim for benefits, as to the construction of the language of the Plan or Trust Agreement 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, must be submitted to the Board of Trustees for decision. In the event of a denial of a claim for benefits, no lawsuit or other action against the Fund or its Trustees may be filed until the matter has been submitted for review under the ERISA-mandated review procedure set forth in Article 7. The decision on review is 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 6.4. 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 is entitled upon Retirement to receive the monthly benefits provided for the remainder of his life, subject to the provisions of this Plan.
- B. Benefit payments shall commence on the first day of the month following the month in which the Participant has fulfilled all the conditions for entitlement to a benefit, including the filing of an application. Such first day is what is meant by the “Annuity Starting Date” of the Participant’s pension.
- C. A Participant may, however, elect in a written statement filed with the Trustees to receive benefits first payable for a later month, provided that no such election may postpone the commencement of benefits beyond the Required Beginning Date regardless of whether he is working or not, as follows:
 - 1. A Participant’s Required Beginning Date is the later of:
 - a. The April 1st following the Calendar Year in which the Participant reaches 70½;
or
 - b. If the Participant reaches age 70½ before January 1, 1988 or after December 31, 1995 and is not a 5% owner of an Employer, the April 1st following the Calendar Year in which the Participant retires.
 - 2. If a Participant who is definitely located fails to file a completed application for benefits on a timely basis, the Fund will start the Participant’s benefit payments on the Required Beginning Date, as follows:
 - a. If the Actuarial Present Value of the Participant’s benefit is no more than \$3,500 (\$5,000 effective January 1, 1998), in a single sum.
 - b. In any other case, in the form of a Joint and Survivor Pension calculated on the assumptions that the Participant is and has been married for at least one (1) year by the date payments start, and that the Participant is three (3) years older than the Spouse.

- c. The benefit payment form will be irrevocable once it begins, with the exception that it may later be changed to a single-life annuity if the Participant proves that he was not married on the Required Beginning Date, and the amounts of future benefit payments will be adjusted based on the actual ages of the Participant and Spouse if proven to be different from the assumption.
 - d. 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.
 - 3. Benefit payments that are not paid to or claimed by a Participant or Beneficiary in accordance with the schedule established as of the Required Beginning Date will be forfeited, subject to reinstatement if the Participant or Beneficiary appears and demonstrates his or her entitlement to the funds.
 - D. Payment of benefits may begin sooner, but shall begin no later than 60 days after the last of the following dates:
 - 1. The end of the Calendar Year in which the Participant attained Normal Retirement Age.
 - 2. The end of the Calendar Year in which the Participant retired, as that term is defined in Section 6.5.
 - 3. The date the Participant filed a claim for benefits.
- Notwithstanding the foregoing, payment of benefits shall begin no later than the Required Beginning Date as defined in Subsection 6.4(C) above.
- In any event, the Trustees need not make payment before they are first able to ascertain entitlement to, or the amount of, the pension.
- E. Pension payments end with the payment for the month in which the death of the Pensioner occurs, except as provided in accordance with a Joint and Survivor Pension or any other provision of this Plan for payments after the death of the Pensioner.
 - F. Notwithstanding any other provision of this Plan, if the Actuarial Present Value of a benefit payable under the Plan is \$3,500 or less (\$5,000 or less effective January 1, 1998) as of the date payment would start, the Trustees will pay it in a single sum equal to that value. This Subsection

6.5(G) does not apply after payment of the Participant’s pension has begun unless the Participant or Beneficiary consents in writing to the single-sum distribution.

Section 6.5. Retirement.

To be considered retired, a Participant must not be engaged in disqualifying employment as defined in Subsections 6.7(A) and (B).

Section 6.6. Suspension of Benefits.

A. Before Normal Retirement Age

1. The monthly benefit shall be suspended for any month in which the Participant is employed in Disqualifying Employment before he has attained Normal Retirement Age. “Disqualifying Employment” for the period before Normal Retirement Age is any of the following:

a. Employment in Covered Employment as follows:

- i. Employment in Covered Employment in either the calendar month in which benefit payments commence or in the immediately following calendar month.
- ii. Employment in Covered Employment in excess of 300 hours for which contributions are payable to the Fund in any one Calendar Year; except, however, that solely for Calendar Years 2000, 2001, 2002, 2006, and 2012, the foregoing limit shall be as follows:

<u>Calendar Year</u>	<u>Hours Limit</u>
2000	800
2001	800
2002	500
2006	500
2012	500

iii. Employment in Covered Employment at any time while receiving a Disability Pension.

b. Employment with any employer in the same or related business as any Contributing Employer.

c. Self-employment in the same or related business as any Contributing Employer.

There are no limits to the geographical area covered for each of the employment situations described above.

For each eight (8) hours or fractional part thereof in excess of 300 hours of Covered Employment within a Calendar Year as provided for in Subsection (A)(1)(a), such Participant loses entitlement to a monthly benefit payment, up to a maximum of twelve (12) monthly benefit payments in any one year.

2. In addition, the monthly benefits shall be suspended for six (6) consecutive months after any consecutive period of one (1) or more months during which the Participant was engaged in Disqualifying Employment.

If the Participant failed to notify the Plan of employment that may be the basis for suspension of benefits under Subsection 6.6(A), in accordance with the notification requirements of Subsection 6.6(D), or has willfully misrepresented to the Plan with respect to Disqualifying Employment, the monthly benefit shall be suspended for an additional period of six (6) months.

B. After Normal Retirement Age

1. If the Participant has attained Normal Retirement Age, his monthly benefit shall be suspended for any month in which he worked or was paid for at least 40 hours in Disqualifying Employment. After attainment of Normal Retirement Age, “Disqualifying Employment” means employment or self-employment that is (a) in an industry covered by the Plan when the Participant’s pension payments began, (b) in the geographic area covered by the Plan when the Participant’s pension began, and (c) 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. However, if a Participant worked in Covered Employment only in a skilled trade or craft, that is, as a cement mason, employment or self-employment is Disqualifying Employment only if it was in work that involved the skill or skills of that trade or craft directly or, as in the case of supervisory work, indirectly. However, in any event, any Work for at least 40 hours in a month for which contributions are required to be made to the Plan is Disqualifying Employment.

2. The term “industry covered by the Plan” means the industry in which Employees covered by the Plan were employed when the Participant’s pension began or, but for suspension under this Article, would have begun.
3. The term “geographic area covered by the Plan” means the State of Minnesota plus the remainder of any Standard Metropolitan Statistical Area which falls in part within Minnesota and any other area covered by the Plan when the Participant’s pension commenced or, but for suspension under this Article, would have commenced.
4. If a retired Participant re-enters 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” is the industry and area covered by the Plan when his pension was resumed.
5. Paid non-work time is counted toward the measure of Disqualifying Employment hours if paid for vacation, holiday, illness or other incapacity, layoff, jury duty, or other leave of absence. However, time compensated under a workers’ compensation or temporary disability law is not counted.
6. Notwithstanding any other provision of this Section, as of a Participant’s Required Beginning Date, no employment will be considered Disqualifying Employment with respect to such Participant.

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 is recoverable through deductions from future pension payments, pursuant to Subsection 6.6(F).

D. Notices

1. Upon commencement of pension payments, the Trustees must notify the Pensioner of the Plan rules governing suspension of benefits, including identity of the industries and geographic area covered by the Plan. If benefits have been suspended and payment resumed, new notification must, 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.

2. A Pensioner must notify the Fund in writing within 21 days after starting any Work of a type that is or may be Disqualifying Employment under the provisions of the Fund and without regard to the number of hours of such Work (that is, whether or not less than the disqualifying number of hours). If a Pensioner has worked in Disqualifying Employment in any month and has failed to give timely notice to the Fund of such Disqualifying 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. The Participant has the right to overcome such presumption by establishing that his Work was not in fact an appropriate basis, under the Fund, for suspension of his benefits.

The Trustees shall inform all retirees at least once every 12 months of the re-employment notification requirements and the presumptions set forth in this Subsection.

3. A Pensioner whose pension has been suspended must notify the Fund when Disqualifying Employment has ended. The Trustees have the right to hold back benefit payments until such notice is filed with the Fund.
4. A Participant may ask the Fund whether a particular employment will be Disqualifying Employment. The Fund will provide the Participant with its determination.
5. The Fund must 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 includes a description of the specific reasons for the suspension, copy of the relevant provisions of the Fund, reference to the applicable regulation of the U.S. Department of Labor, and a statement of the procedure for securing a review of the suspension. In addition, the notice describes the procedure for the Participant to notify the Fund when his Disqualifying Employment ends. If the Fund intends to recover prior overpayments by offset under Subsection 6.7(F)(2), the suspension notice explains the offset procedure and identify the amount expected to be recovered and the periods of employment to which they relate.

E. Review

A Participant is entitled to a review of a determination suspending his benefits by written request filed with the Trustees within 60 days of the notice of suspension.

The same right of review applies, under the same terms, to a determination by or on behalf of the Trustees that contemplated employment will be Disqualifying Employment.

F. Resumption of Benefit Payments

1. Benefits will resume for the 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 Subsection 6.7(D)(3) above.
2. Overpayments attributable to payments made for any month or months for which the Participant had disqualifying employment are 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 may not exceed 25 percent of the pension amount (before deduction), except that the Plan may withhold up to 100 percent of the first pension payment made upon resumption of Retirement after a suspension. If a Pensioner dies before recoupment of overpayments has been completed, deduction is made from the benefits payable to his Beneficiary or Spouse receiving a pension subject to the 25 percent limitation on the rate of deduction.

Section 6.7. Benefit Payments Following Suspension.

- A. A Pensioner who returns to Covered Employment and completes a Year of Vesting Service is entitled to a recomputation of his pension amount, upon resumption of his pension, based on any additional contributions made to the Fund on his behalf.

If a Pensioner retired on a pension payable before Normal Retirement Age and his benefits were suspended because of disqualifying employment for at least three (3) months, his pension amount will be adjusted for his age (up to Normal Retirement Age) when his payments are resumed.

- B. If a Pensioner who retired on a pension payable before his Normal Retirement Age (except a Disability Pension) returns to work in disqualifying employment, he will, upon resumption of his pension, have his pension amount, as determined in accordance with Subsection 6.7(A), reduced by the Actuarial Equivalent of his previous pension payments.

If the monthly benefit resulting from the deduction of the Actuarial Equivalent of payments received prior to Normal Retirement Age is less than the previous pension amount payable before

Normal Retirement Age, the amount payable upon resumption of his pension will be equal to the previous pension amount payable before Normal Retirement Age.

- C. The amount determined under the above paragraph is adjusted for the Joint and Survivor Pension or any other optional form of benefit in accordance with which the benefits of the Pensioner and any contingent annuitant or Beneficiary are payable.
- D. A Joint and Survivor Option in effect immediately prior to suspension of benefits and any other benefit following the death of a Pensioner remains effective if the Pensioner's death occurs while his benefits are in suspension. If a Pensioner has returned to Covered Employment, he is entitled to a new election as to the Joint and Survivor Option or any other optional form of benefit if, upon such return, he had sufficient Covered Employment to earn at least two consecutive Years of Vesting Service. If a Pensioner who retired before Normal Retirement Age returns to Covered Employment and is credited with one (1) Year of Vesting Service but less than two consecutive Years of Vesting Service, he is entitled to a new election as to the Joint and Survivor Pension or any other optional form of benefit based only on the credit earned during his return to Covered Employment.
- E. No adjustment of benefit amount under this Article may result in forfeiture of a Participant's Normal Retirement benefit or of its actuarial equivalent in violation of Section 203(a)(3)(B) of ERISA.

Section 6.8. Vested Status or Nonforfeitability.

- A. The Employee Retirement Income Security Act requires that certain of the benefits under this Plan be vested (in the term used in the Act, "nonforfeitable").
- B. Vested Status is earned as follows:
 - 1. A Participant's right to his normal retirement benefit is nonforfeitable upon his attainment of Normal Retirement Age, except to the extent that benefits are canceled pursuant to Section 8.4 because the employer has ceased to contribute to the Plan with respect to the employment unit in which the Participant was employed.
 - 2. A Participant who has at least one (1) hour of Service after December 31, 1997 acquires Vested Status after completion of five (5) Years of Vesting Service. A Participant whose participation is not covered by a Collective Bargaining Agreement and has one (1) hour

of Service after December 31, 1988, also acquires Vested Status after completion of five (5) Years of Vesting Service.

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 (“Nonbargained Work”), the following rules shall apply:

- a. In determining whether an individual has five (5) Years of Vesting Service as required by the first paragraph of this Subsection 6.8(B)(2), years in which the Participant earned a Year of Vesting Service in Nonbargained Work will be counted.
- b. The maximum credit a Participant may receive for any Year is one (1) Year of Vesting Service. If a Participant works part of a Calendar Year in Nonbargained Work and part of a Year in Bargained Work, he will receive credit for that Calendar Year as a Bargained Year if the majority of the hours of Service were in Bargained Work; and conversely, he will receive credit for that Calendar Year as a Nonbargained Year if the majority of hours of Service were in Nonbargained Work; provided, however, if an Employee works 1,000 hours of Service in Nonbargained Work in a Calendar Year, he will receive credit for that year as a Year of Vesting Service in Nonbargained Work.

C. ERISA also provides certain limitations on any Plan amendment that may change the Plan’s vesting schedule. In accordance with those legal limitations, no amendment of this Plan may take away a Participant’s Vested Status if he has already earned it at the time of the amendment. Also, an amendment may not change the schedule on the basis of which a Participant acquires Vested Status, unless each Participant who has credit for at least three (3) 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:

1. When the amendment was adopted;
2. When the amendment became effective; or
3. When the Participant was given written notice of the amendment.

- D. For purposes of applying the provisions of this Section 6.9 and of determining when a Participant has acquired nonforfeitable rights, as defined under the law, the vesting schedule of this Plan consists of 100 percent nonforfeitability for a Participant who has completed the required number of Years of Vesting Service. While this Plan provides Regular, Deferred, Early Retirement Pension, and Disability Pensions 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 above and beyond its vesting schedule.

Section 6.9. 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 to the Pensioner or Beneficiary may be applied to the maintenance and support of such Pensioner or Beneficiary or to such person as the Trustees find to be an object of the natural bounty of the Pensioner or Beneficiary in the manner decided by the Trustees unless, prior to such payment, claim is made for such payment by a legally-appointed guardian, committee, or other legal representative appropriate to receive such payments on behalf of the Pensioner or Beneficiary.

Section 6.10. Nonassignment of Benefits.

- A. No Participant, Pensioner or Beneficiary entitled to any benefits under this Pension Plan has the right to assign, alienate, transfer, encumber, pledge, mortgage, hypothecate, anticipate, or impair in any manner his legal or beneficial interest, or any interest in assets of the Pension Fund, or benefits of the 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 6.12(A) or any other provision 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 Orders, which shall be binding on all Participants, Beneficiaries, and other parties. In no event does 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, and benefits otherwise payable under the Plan shall be reduced by the Actuarial Present Value of any payment ordered to be made under a Qualified Domestic Relations Order.

Section 6.11. 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 has any right to benefits provided by the Pension Plan except as expressly provided herein.

Section 6.12. Maximum Limitation.

A. Limitations on Benefits Under Section 415.

In addition to any other limitations set forth in the Plan and notwithstanding any other provisions of the Plan, effective for Limitation Years beginning on and after January 1, 2008, benefits under the Plan shall be limited in accordance with Section 415 of the Code and the Treasury Regulations thereunder, in accordance with this Section. This Section 6.12 is intended to incorporate the requirements of Section 415 of the Code by reference, including the final Regulations effective January 1, 2008, the Pension Funding Equity Act of 2004 effective January 1, 2004, and the Pension Protection Act of 2006 effective January 1, 2006, except as otherwise specified herein.

B. Definitions.

1. “Limitation Year” means the Calendar Year.
2. “Plan Benefit” means as of any date, the amount of a Participant’s Benefit as determined under the applicable provisions of the Plan before application of the limits in this Section.
3. “415 Compensation” means:
 - a. Wages within the meaning of Section 3401(a) of the Codes (for purposes of income tax withholding at the source), plus amounts that would be included in wages but for an election under Sections 125(a), 132(f)(4), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b) of the Code; provided, however, that any rules that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Section 3401(a)(2) of the Code) are disregarded for purposes of this definition; and

- b. All other payments of Compensation to an Employee by his or her Employer (in the course of the Employer's trade or business) for which the Employer is required to furnish the Employee a written statement under Sections 6041(d), 605(a)(3), and 6052 of the Code (e.g., a W-2 or a 1099).
 - c. The definition of Compensation in Section 6.12.B.3.a. of the Plan, includes payments made by the later of 2-1/2 months after severance from employment, or the end of the Limitation Year that includes the date of severance from employment, if, absent a severance from employment, such payments would have been paid to the Employee while the Employee continued in employment with the employer, and are regular Compensation for services during the Employee's regular working hours, Compensation for services outside the Employee's regular working hours (such as overtime or shift differential), commissions, bonuses or other similar Compensation.
4. "Severance From Employment" has occurred when a Participant is no longer an Employee of an Employer maintaining the Plan.

C. Limit on Accrued Benefits

For Limitation Years beginning on or after January 1, 2008, in no event shall a Participant's benefit accrued under the Plan for a Limitation Year exceed the annual dollar limit determined in accordance with Section 415 of the Code and the Treasury Regulations thereunder (the "annual dollar limit") for that Limitation Year. If a Participant's Plan Benefit for a Limitation Year beginning on or after January 1, 2008 would exceed the annual dollar limit for that Limitation Year, the accrued benefit, but not the Plan Benefit, shall be frozen or reduced so that the accrued benefit does not exceed the annual dollar limit for that Limitation Year.

D. Limits on Benefits Distributed or Paid

For Limitation Years beginning on or after January 1, 2008, in no event shall the annual amount of benefit distributed or otherwise payable to or with respect to a Participant under the Plan in a Limitation Year exceed the annual dollar limit for that Limitation Year. If the benefit distributable or otherwise payable in a Limitation Year would exceed the annual dollar limit for that Limitation Year, the benefit shall be reduced so that the benefit distributed or otherwise payable does not exceed the annual dollar limit for that Limitation Year

E. Multiple Plans

In the event that the aggregate benefit accrued in any Plan Year by a Participant exceeds the limits under Section 415 of the Code and the Treasury Regulations thereunder as a result of the mandatory aggregation of the benefits under this Plan with the benefits under another plan maintained by the Employer, the benefits under this Plan shall be reduced only after all reductions have been made under such other plan.

F. General

1. To the extent that a Participant's benefit is subject to provisions of Section 415 of the Code and the Treasury Regulations thereunder that have not been set forth in the Plan, such provisions are hereby incorporated by reference into this Plan and for all purposes shall be deemed a part of the Plan.
2. This Section is intended to satisfy the requirements imposed by Section 415 of the Code and the Treasury Regulations thereunder and shall be construed in a manner that will effectuate this intent. This Section shall not be construed in a manner that would impose limitations that are more stringent than those required by Section 415 of the Code and the Treasury Regulations thereunder.
3. If and to the extent that the rules set forth in this Section are no longer required for qualification of the Plan under Section 401(a) and related provisions of the Code and the Treasury Regulations thereunder, they shall cease to apply without the necessity of an amendment to the Plan.

Section 6.13. Mergers.

In the case of any merger or consolidation with, or transfer of assets or liabilities to, any other plan, each Participant will receive (if the Plan then terminated) a benefit immediately after the merger, consolidation, or transfer which is equal to or greater than the benefit he would have been entitled to receive immediately before the merger, consolidation, or transfer (if this Plan had then terminated). This Section applies only to the extent determined by the Pension Benefit Guaranty Corporation.

Section 6.14. Optional Forms of Benefit.

Unless otherwise specified, any optional form of benefit under this Plan is intended to be at least the Actuarial Equivalent of the Participant's nonforfeitable accrued benefit(s) payable at Normal Retirement Age or, if later, the Annuity Starting Date of the Participant's pension which is payable as a single-life annuity, including the 36-month guarantee, as described in Section 3.33. herein and in the case of the Supplemental Pension which is payable as a single-life annuity as described in Section 3.34. herein. Except as this Plan otherwise provides, any election of a form of benefit is irrevocable once payments commence.

ARTICLE 7 CLAIMS AND APPEALS

Section 7.1. Non-Disability Claims.

- A. This Section 7.1 applies to all claims except disability-based claims.
- B. The Participant shall notify the Fund of his desire to apply for benefits and upon such notification, the Fund shall furnish the Participant with an application form and instructions on how to complete the form and submit other documentary evidence required to supplement said application.
- C. Upon receipt of the completed application and supporting documentary evidence, the Trustees shall review the same and if necessary shall advise the Participant of any additional information, documents or explanations required. Upon receipt of all materials requested, unless notified that the Participant cannot furnish the materials requested, the Participant's application and supporting documents shall promptly be reviewed and the application shall be approved or denied.
- D. Unless special circumstances exist, a claimant shall be informed of the Fund's decision on his claim within ninety (90) days of the date the claim is filed, regardless of whether all the information and evidence necessary to process the claim is received. Within such ninety (90)-day period, the claimant shall receive a notice of the Fund's decision or a notice that:
 - 1. Explains the special circumstances requiring a delay in the decision; and
 - 2. Sets a date, no later than one hundred eighty (180) days after his claim has been received, by which he can expect to receive a decision.

The claimant may assume that his claim has been denied and may proceed to appeal the denial if the claimant does not receive any notice from the Fund within the ninety (90)-day period, or a notice of a delayed decision within such ninety (90)-day period.

The Trustees may delegate the obligation to review and decide claims to any individual, committee or entity.

- E. Whenever an applicant or claimant has been notified by the Fund that his application for benefits has been denied in whole or in part, the Notice required under this Article shall set forth therein, in plain and concise language, the specific reason or reasons for the denial and a statement of all rights and procedures for review of the denial.
- F. Effective for all claims filed on or after January 1, 2002, a claimant may authorize a representative to act on the claimant's behalf for any purpose under Sections 5.17 or 5.18. An authorization to use a representative must be provided to the Fund on a written form provided by the Fund Office or in a manner satisfactory and acceptable to the Trustees.

Section 7.2. Appeal of Denied Non-Disability Claims.

- A. This Section 7.2 applies to appeals for all claims except disability-based claims.
- B. Upon denial of the application by the Fund, the Participant shall be entitled to the following appeal rights and procedures:
 - 1. A statement of the reason or reasons for denial of the application.
 - 2. The right to submit additional proofs.
 - 3. The right to examine any evidence in possession of the Fund adverse to the application.
 - 4. The right within sixty (60) days of receipt of the notice of denial of his application to appeal the decision to the Board of Trustees, the same to be done by written petition addressed to the Fund setting forth the precise grounds for the appeal, that is, a clear statement as to which of the reasons for the denial of the application he disagrees with and why he disagrees with the same.
 - 5. Upon completion of the hearing and any adjournments thereof and after full and complete opportunity to be heard has been afforded the Participant, the Trustees shall, within thirty (30) days thereafter, notify the Participant, in writing, of its decision allowing or denying the application and appeal and, in the event of a denial, the notice shall set forth the reason for said denial.
- C. The Plan Administrator shall provide the claimant with notice of the Trustees' decision on appeal in writing. The notice of the decision will include the specific reasons for the decision, specific references to Plan provisions, a statement that the claimant is entitled to receive, upon request and

free of charge, reasonable access to, and copies of, all documents, records and other information relevant to the claim, and a statement that the claimant has a right to bring an action under Section 502(a) of ERISA for any issues denied on appeal.

Section 7.3. Claims for Disability-Based Claims.

A. Sections 7.3 and 7.4 are applicable with respect to claims for disability-based claims.

B. Application for Disability-Based Benefits

Any claim for which a Participant's eligibility is based on his Total and Permanent Disability must be in writing on a form provided by the Trustees. Unless an extension as described herein below applies, the Fund must advise the claimant of its initial decision within forty-five (45) days of actual receipt of the written claim.

1. The Fund may extend the date for rendering an initial decision by two separate periods of thirty (30) days, provided any extension is due to circumstances beyond the control of the Fund. Such circumstances will include a delay in obtaining medical information from a physician or other health care provider. The Fund will notify the claimant in writing before the end of the forty-five (45) day period if the first extension is utilized and prior to seventy-five (75) days if the second extension is utilized.
2. Any request to the claimant for additional information must be made within the initial forty-five (45) day period. The claimant then has forty-five (45) days to obtain the additional information. If the claimant does not provide the requested information, then the claim must be approved or denied within thirty (30) days of the claimant's deadline.
3. The Trustees may delegate their responsibility to make the initial claim determination to any individual, committee or entity.

C. Notice of Adverse Determination

Notice of adverse determination shall include the following:

1. The specific reason or reasons for the adverse determinations;
2. Reference to the specific Plan provision on which the determination is based;

3. A description of any additional material or information necessary for the claimant to perfect the claim and an explanation of why such material or information is necessary;
4. A description of Plan's review procedures and applicable time limits;
5. A statement of the right to bring a civil action under ERISA Section 502(a);
6. If an adverse determination based upon an internal rule, guideline, protocol or other similar criteria, a statement that the claimant, upon request, may obtain a free copy of such rule, guideline, protocol or other similar criteria; and
7. If an adverse determination is based on a medical opinion, a statement that the claimant, upon request, may obtain a free copy of an explanation of the scientific or clinical judgment for the determination.

Section 7.4. Appeal of Denied Disability-Based Claim.

A. Claimant's Appeal

A claimant may file a written appeal of a denied claim with the Trustees within one hundred eighty (180) days after receiving notice that his claim has been denied. A claimant may authorize a representative to act on the claimant's behalf for this purpose. An authorization to use a representative must be provided to the Trustees on a written form provided by the Fund Office or in a manner satisfactory and acceptable to the Trustees. The Trustees may delegate their responsibilities to committees or individuals including an Appeals Review Committee. The review must not be made by the same person(s) who made the initial claim determination or a subordinate to the person(s) who made the initial claim determination.

B. Claimant's Rights on Appeal

If the claimant files a timely written appeal, he may:

1. Submit additional materials, including any comments, statements or documents;
2. Review all relevant information (free of charge) upon reasonable request to the Trustees. A document, record or other information is relevant if;
 - a. It was relied upon by the Fund in making the decision;

- b. It was submitted, considered or generated in the course of making the benefit determination (regardless of whether it was relied upon); or
 - c. It demonstrates compliance with the claims processing requirements;
- 3. Be advised of the identity of any medical experts upon request;
- 4. Request in the appeal petition to appear before the Trustees for a hearing on the merits of the appeal petition. In the event such a request is made, the hearing shall be held at the next regular meeting of the Board of Trustees or at such other time as may be agreed upon by the claimant and said Trustees. In the absence of such a request, the Trustees will review the entire application and supporting evidence and approve or deny the application at its next regular meeting. The legally recognized rules of evidence shall be a guide for the conduct of said hearing but shall not be directly applied to the same; and
- 5. Present witnesses, evidence and arguments at the hearing.

C. Full and Fair Review on Appeal

The Trustees' review shall consider all comments, documents, records and other information submitted or considered in the initial determination.

The review must consider all comments and records submitted by the claimant. The appeal cannot defer to the initial claim determination.

If the determination is based on a medical opinion, the Trustees (or the Trustees' Appeals Review Committee) must consult a medical professional who is not the same individual who consulted on the initial review of the claim or a subordinate of that individual.

D. Time Limits on Appeal

Within forty-five (45) days after receipt of the written appeal, the Trustees shall render a determination on the appeal of the claim in a written statement. If special circumstances require a delay in the decision, the Trustees shall notify the claimant of the reasons for the delay within the forty-five (45) day period. A delayed decision shall be issued no later than ninety (90) days after the date the Trustees receive a request for review.

Alternatively, the Trustees may also render the decision at the next quarterly meeting. If a request for appeal is received within thirty (30) days prior to a quarterly meeting, then the decision may be rendered at the subsequent quarterly meeting or if there are special circumstances by the third meeting following receipt of the appeal. The Fund shall notify the claimant of its decision within five (5) days of the date the decision is made.

E. Content of Decision on Appeal

The Trustees' written decision on a claimant's appeal shall:

1. Contain the reason or reasons for the decision;
2. Refer to specific Plan provisions and/or the internal rules, guidelines or protocols on which the decision is based;
3. Notify the claimant of his right to request and obtain free copies of all documents, records and other information relevant to the claim;
4. Notify the claimant of the right to bring a civil action under ERISA; and
5. Notify the claimant of any additional voluntary appeal procedures offered by the Plan, if any.

F. The claimant may appeal the final decision of the Trustees to final and binding arbitration as set forth in Section 7.5.

Section 7.5. Legal Actions.

A Participant may not start a lawsuit to obtain benefits until after the Participant has appealed the Fund's adverse determination and the Fund has reached a final decision on that particular appeal, or until the appropriate time frame described above has elapsed since the Participant filed an appeal and the Participant has not received a final decision or notice that an extension will be necessary to reach a final decision. Any lawsuit brought upon appeal of the Fund's denial of the Participant's claim for benefits is governed by the applicable statute of limitations.

ARTICLE 8 MISCELLANEOUS

Section 8.1. Non-Reversion.

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

Section 8.2. Limitation of Liability.

This 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 Agreement with the Union.

There shall be no liability upon the Trustees individually, or collectively, or upon the Union to provide the benefits established by this Pension Plan, if the Pension Fund does not have assets to make such payments.

Section 8.3. New Employers.

- A. If an Employer is sold, merged, or otherwise undergoes a change of company identity, the successor company will participate as to the Employees theretofore covered in the Pension Plan just as if it were the original company, provided it remains a Contributing Employer as defined in Section 1.9.
- B. No new Employer may be admitted to participate in the Pension Fund and this Pension Plan except upon approval by the Trustees. The participation of any such new Employer is subject to such terms and conditions as the Trustees may lawfully 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 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 8.4. Terminated Employer.

- A. The provisions of this Section establish the respective obligations of the Pension Fund and of the Employer in the event that an Employer ceases to participate in the Pension Fund as a Contributing Employer with respect to a bargaining unit.
- B. An Employer ceases to participate in the Pension Fund with respect to a bargaining unit if it is determined by the Trustees to be terminated because it no longer has a Collective Bargaining Agreement for the bargaining unit requiring contributions to the Pension Fund or because it fails to make the contributions for which it is obligated for the unit for a period of 90 days.
- C. Upon the termination of the participation of an Employer unit, the Trustees may, in the interest of preserving the actuarial soundness of the Pension Fund, limit the liability of the Fund so that it is not liable for benefits accrued as a result of service within a bargaining unit before it participated in the Plan, and after it ceased to participate in the Plan, and moreover is not liable for benefits that cannot be paid out of “net contributions.” “Net contributions” are the contributions received from the Employer with respect to the terminated unit, less the sum of benefits paid during the participation of the Employer unit and attributable to Participants’ service in the terminated unit, each adjusted for administration expenses and investment yield as determined by the Trustees on a reasonable basis. None of the Trustees, the Employers who remain as contributing Employers (with respect to the Employees for which they continue to maintain this Plan), or the Union are obliged to make such payments.

Any benefits not paid on the basis of this Subsection shall be the obligation of the Employer.

- D. The Trustees may discharge their liability under this Section by allocating assets sufficient to meet their liability for benefits, as defined under Subsection 7.4(C), or by transferring such assets to a successor plan, if one has been established or maintained by the employer or to the Pension Benefit Guaranty Corporation, or to a Trustee appointed pursuant to Title IV of the Employee Retirement Income Security Act.
- E. The Trustees may amend this Section if, and to the extent, necessary to retain the status of the Plan as a “multiemployer” pension plan under the Employee Retirement Income Security Act of 1974.

Section 8.5. Termination.

A. Right to Terminate

The Trustees have the right to discontinue or terminate this 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 are nonforfeitable.

B. Priorities of Allocation

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

1. 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 is 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.
2. Second, to all other benefits (if any) of the individuals under the Plan guaranteed under Title IV of ERISA.
3. Third, to all other vested benefits under this Plan.
4. Fourth, to all other benefits under this Plan.

C. Allocation Procedure

For purposes of Subsection 8.5(B) hereof:

1. The amount allocated under any paragraph of Subsection 8.5(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.
2. If the assets available for allocation under any paragraph of Subsection 8.5(B) (other than paragraphs (3) and (4)) are insufficient to satisfy in full the benefits of all individuals which are described in that paragraph, the assets are 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.
3. This paragraph applies if the assets available for allocation under Subsection 8.5(B)(3) are not sufficient to satisfy in full the benefits of individuals described in that paragraph.
 - a. If this paragraph applies, except as provided in Subsection 8.5(C)(3)(b) below, the assets are allocated to the benefits of individuals described in Subsection 8.5(B)(3) on the basis of the benefits of individuals which would have been described in such Subsection (B)(3) 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 Subsection 8.5(C)(3)(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) on the basis of the Plan as amended by the next succeeding Plan amendment effective during such period.

Section 8.6. Expenses.

As directed by the Trustees, the Trust Fund pays administrative expenses.

Section 8.7. Trustee Discretion.

If the Trustees determine that a good-faith act or omission in administering this Plan was inconsistent with one or more discrete terms of this Plan, the Trustees may nevertheless interpret the act or omission to be consistent with the Plan as a whole, if the Trustees determine that the act or omission did not violate applicable law, and, within a reasonable period of discovering the inconsistency, the Trustees are able to correct the act or omission such that the Plan and its Participants are restored to the positions they would have held had the act or omission been consistent with every discrete term of this Plan.

ARTICLE 9 AMENDMENTS

Section 9.1. Amendment.

This Plan may be amended at any time by the Trustees, prospectively or retrospectively, consistent with the provisions of the Trust Agreement and applicable law.

However, no amendment may decrease the accrued benefit of any Participant, except:

- A. As necessary to establish or maintain the qualification of the Plan or the Trust Fund under the Internal Revenue Code and to maintain compliance of the Plan with the requirements of ERISA;
or
- B. If the amendment meets the requirements of Section 302(c)(8) of ERISA and Section 412(c)(8) of the Internal Revenue Code, and the Secretary of Labor has been notified of such amendment and has either approved of it or, within 90 days after the date on which such notice was filed, failed to disapprove.

ARTICLE 10 ROLLOVERS

Section 10.1. Rollovers.

Notwithstanding any provision of the Plan to the contrary that would otherwise limit a distributee's election under this Article, a distributee may elect, at the time and in the manner prescribed by the Plan Administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

Section 10.2. Definitions.

A. Eligible Rollover Distribution

An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's Beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Internal Revenue Code; the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities), and effective January 1, 2000, hardship distributions.

B. Eligible Retirement Plan

An eligible retirement plan is an individual retirement account described in Section 408(a) of the Internal Revenue Code, an individual retirement annuity described in Section 408(b) of the Internal Revenue Code, an annuity plan described in Section 403(a) of the Internal Revenue Code, or a qualified trust described in Section 401(a) of the Internal Revenue Code, that accepts the distributee's eligible rollover distribution. Effective for distributions made after December 31, 2001, an eligible retirement plan also shall include an annuity contract described in IRC Section 403(b), an eligible plan under Internal Revenue Code Section 457(b) which is maintained by a state, political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan, and effective January 1, 2008, a Roth individual retirement account described in Section 408A of the Internal Revenue Code. The definition of eligible retirement plan shall apply in the case of a distribution to a surviving spouse, or to a

spouse or former spouse who is the alternate payee under a qualified domestic relations order as defined in Internal Revenue Code Section 414(p).

C. Distributee

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

D. Direct Rollover

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

F. Non-Spousal Rollover

Effective January 1, 2010, a non-spousal Beneficiary may elect a direct rollover into an inherited IRA.

ARTICLE 11 MINIMUM DISTRIBUTION REQUIREMENTS

Section 11.1. General Rules.

- A. The provisions of this Article will apply for purposes of determining required minimum distributions for calendar years beginning with the 2003 calendar year.
- B. **Precedence**
 - 1. The requirements of this Article will take precedence over any inconsistent provisions of the Plan.
 - 2. Except to the extent inconsistent with this Article, all distribution options provided under the Plan are preserved.
 - 3. This Article does not authorize any distribution options not otherwise provided under the Plan.
- C. All distributions required under this Article will be determined and made in accordance with the Treasury regulations under Section 401(a)(9) of the Internal Revenue Code.
- D. Notwithstanding the other provisions of this Article, other than Subsection 10.1(C), distributions may be made under a designation made before January 1, 1984, in accordance with Section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act (TEFRA) and the provisions of the Plan that relate to Section 242(b)(2) of TEFRA.

Section 11.2. Time and Manner of Distribution.

- A. The Participant's entire interest will be distributed, or begin to be distributed, to the Participant no later than the Participant's Required Beginning Date.
- B. If the Participant dies before distributions begin, the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows:
 - 1. If the Participant's surviving Spouse is the Participant's sole designated Beneficiary, distributions to the surviving Spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70½, if later.

2. If the Participant's surviving Spouse is not the Participant's sole designated Beneficiary, distributions to the designated Beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.
3. If there is no designated Beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.
4. If the Participant's surviving Spouse is the Participant's sole designated Beneficiary and the surviving Spouse dies after the Participant but before distributions to the surviving Spouse begin, this Subsection 11.2(B), other than Section 11.2(B)(1), will apply as if the surviving Spouse were the Participant.

For purposes of this Subsection 11.2(B) and Section 11.5, distributions are considered to begin on the Participant's Required Beginning Date (or, if Subsection 11.2(B)(4) applies, the date distributions are required to begin to the surviving Spouse under Subsection 11.2(B)(1)). If annuity payments irrevocably commence to the Participant before the Participant's Required Beginning Date (or to the Participant's surviving Spouse before the date distributions are required to begin to the surviving Spouse under Subsection 11.2(B)(1)), the date distributions are considered to begin is the date distributions actually commence.

- C. Unless the Participant's interest is distributed in a single sum on or before the Required Beginning Date, as of the first distribution calendar year distributions will be made in accordance with Sections 11.3., 11.4. and 11.5.

Section 11.3. Determination of Amount to be Distributed Each Year.

- A. If the Participant's interest is paid in the form of annuity distributions under the Plan, payments under the annuity will satisfy the following requirements:
 1. The annuity distributions will be paid in periodic payments made at intervals not longer than one year;
 2. The distribution period will be over a life (or lives) or over a period certain not longer than the period described in Section 11.4. or 11.5;

3. Once payments have begun over a period certain, the period certain will not be changed even if the period certain is shorter than the maximum permitted;
 4. Payments will either be non-increasing or increase only as follows:
 - a. By an annual percentage increase that does not exceed the annual percentage increase in a cost-of-living index that is based on prices of all items and issued by the Bureau of Labor Statistics;
 - b. To the extent of the reduction in the amount of the Participant's payments to provide for a survivor benefit upon death, but only if the Beneficiary whose life was being used to determine the distribution period described in Section 13.4. dies or is no longer the Participant's Beneficiary pursuant to a Qualified Domestic Relations Order within the meaning of Section 414(p) Internal Revenue Code;
 - c. To provide cash refunds of Employee contributions upon the Participant's death;
or
 - d. To pay increased benefits that result from a Plan amendment amount accrues.
- B. The amount that must be distributed on or before the Participant's Required Beginning Date (or, if the Participant dies before distributions begin, the date distributions are required to begin under Subsection 11.3(B)(1) or (2)) is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received, e.g., bi-monthly, monthly, semi-annually, or annually. All of the Participant's benefit accruals as of the last day of the first distribution calendar year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the Participant's Required Beginning Date.
- C. Any additional benefits accruing to the Participant in a calendar year after the first distribution calendar year will be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues.

Section 11.4. Requirements for Annuity Distribution That Commence During Participant's Lifetime.

- A. If the Participant's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the Participant and a non-spouse Beneficiary, annuity payments to be made on or after the Participant's Required Beginning Date to the designated Beneficiary after the Participant's death must not at any time exceed the applicable percentage of the annuity payment for such period that would have been payable to the Participant using the table set forth in Q&A-2 of Section 1.401(a)(9)-6 of the Treasury regulations as adjusted in the manner set forth in Q&A-2(c) of that regulation. If the form of distribution combines a joint and survivor annuity for the joint lives of the Participant and a non-spouse Beneficiary and a period certain annuity, the requirement in the preceding sentence will apply to annuity payments to be made to the designated Beneficiary after the expiration of the period certain.
- B. Unless the Participant's Spouse is the sole designated Beneficiary and the form of distribution is a period certain and no life annuity, the period certain for an annuity distribution commencing during the Participant's lifetime may not exceed the applicable distribution period for the Participant under the Uniform Lifetime Table set forth in §1.401(a)(9)-9 of the Treasury regulations for the calendar year that contains the Annuity Starting Date. If the Annuity Starting Date precedes the year in which the Participant reaches age 70, the applicable distribution period for the Participant is the distribution period for age 70 under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations plus the excess of 70 over the age of the Participant as of the Participant's birthday in the year that contains the Annuity Starting Date. If the Participant's Spouse is the Participant's sole designated Beneficiary and the form of distribution is a period certain and no life annuity, the period certain may not exceed the longer of the Participant's applicable distribution period, as determined under this Subsection 13.4(B), or the joint life and last survivor expectancy of the Participant and the Participant's Spouse as determined under the Joint and Last Survivor Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations, using the Participant's and Spouse's attained ages as of the Participant's and Spouse's birthdays in the calendar year that contains the Annuity Starting Date.

Section 11.5. Requirements for Minimum Distributions Where Participant Dies Before Date Distributions Begin.

- A. If the Participant dies before the date distribution of his or her interest begins and there is a designated Beneficiary, the Participant's entire interest will be distributed, beginning no later than the time described in Subsection 11.2(B)(1) or (2), over the life of the designated Beneficiary or over a period certain not exceeding:
 - 1. Unless the Annuity Starting Date is before the first distribution calendar year, the life expectancy of the designated Beneficiary determined using the Beneficiary's age as of the Beneficiary's birthday in the calendar year immediately following the calendar year of the Participant's death; or
 - 2. If the Annuity Starting Date is before the first distribution calendar year, the life expectancy of the designated Beneficiary determined using the Beneficiary's age as of the Beneficiary's birthday in the calendar year that contains the Annuity Starting Date.
- B. If the Participant dies before the date distributions begin and there is no designated Beneficiary as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.
- C. If the Participant dies before the date distribution of his or her interest begins, the Participant's surviving Spouse is the Participant's sole designated Beneficiary, and the surviving Spouse dies before distributions to the surviving Spouse begin, this Section 11.5 will apply as if the surviving Spouse were the Participant, except that the time by which distributions must begin will be determined without regard to Section 11.2(B)(1).

Section 11.6. Definitions.

- A. Designated Beneficiary is the individual who is designated as the Beneficiary under the Plan and is the designated Beneficiary under Section 401(a)(9) of the Internal Revenue Code and Section 1.401(a)(9)-1, Q&A-4, of the Treasury regulations.
- B. Distribution calendar year is a calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year, which contains the Participant's Required

Beginning Date. For distributions beginning after the Participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin pursuant to Subsection 10.2(B).

- C. Life expectancy is the life expectancy as computed by use of the Single Life Table in Section 1.401(a)(9)-9 of the Treasury regulations.
- D. Required Beginning Date is the date specified in the Plan.

APPENDIX A SUPPLEMENTAL PENSION HIGH/LOW OPTION FACTORS

For supplemental pensions commencing before January 1, 2000:

Age of Pensioner	High Factor	Low Factor
55	1.366534	.2493
56	1.417506	.2493
57	1.479239	.2493
58	1.555230	.2493
59	1.650645	.2493
60	1.773459	.2493
61	1.936631	.2493
62	2.162740	.2493
63	2.494938	.2493
64	3.027293	.2493
65	4.011231	.2493

For supplemental pensions commencing on or after January 1, 2000 and before January 1, 2001:

Age	High Factor	Low Factor
55	1.268768	0.50
56	1.297455	0.50
57	1.330542	0.50
58	1.369022	0.50
59	1.414206	0.50
60	1.467859	0.50
61	1.532416	0.50
62	1.611324	0.50
63	1.709639	0.50
64	1.835073	0.50
65	2.000000	0.50

The monthly Supplemental Pension benefit is multiplied by the High Factor for years prior to age 65. The high benefit is then multiplied by the Low Factor for years beginning at age 65.

For supplemental pensions commencing on or after January 1, 2001, the High Factors will be adjusted as of each January 1, based on the actuarial assumptions set forth in Section 1.1.

APPENDIX B SUPPLEMENTAL CONTRIBUTION RATES

Collective Bargaining Agreement	Effective Date	Supplemental Contribution Rate
Metro Builders & Highway/Heavy	January 1, 2006	\$0.90 per hour
	May 1, 2009	\$2.10 per hour
	May 1, 2014	\$1.85 per hour
Iron Range Builders & Highway/Heavy	May 1, 2006	\$0.71 per hour
	May 1, 2007	\$0.85 per hour
	October 1, 2009	\$1.55 per hour
	May 1, 2014	\$1.37 per hour
North Dakota Cement Masons, Builders & Heavy/Highway & Residential	May 1, 2006	\$0.53 per hour
	May 1, 2009	\$1.19 per hour
	May 1, 2014	\$1.05 per hour
Northwest Minnesota Cement Masons	May 1, 2006	\$0.53 per hour
	May 1, 2009	\$1.19 per hour
	May 1, 2014	\$1.05 per hour
Northwest Minnesota Plasterers	May 1, 2006	\$0.39 per hour
	May 1, 2009	\$0.99 per hour
	May 1, 2014	\$0.87 per hour
North Dakota Plasterers	May 1, 2006	\$0.39 per hour
	May 1, 2009	\$0.99 per hour
	May 1, 2014	\$0.87 per hour
NE Minnesota/NW Wisconsin Plasterers	May 1, 2006	\$0.88 per hour
	May 1, 2009	\$1.95 per hour
	May 1, 2014	\$1.72 per hour

Collective Bargaining Agreement	Effective Date	Supplemental Contribution Rate
Duluth/Superior Area Cement Masons, Builders & Highway/Heavy	May 1, 2006	\$0.88 per hour
	May 1, 2009	\$1.95 per hour
	May 1, 2014	\$1.72 per hour
Rochester Builders	May 1, 2006	\$0.62 per hour
	May 1, 2009	\$1.52 per hour
	May 1, 2014	\$1.34 per hour
Rochester Highway/Heavy	May 1, 2006	\$0.62 per hour
	May 1, 2009	\$1.52 per hour
	May 1, 2014	\$1.34 per hour
Rochester Builders AGC To-Be-Bound	May 1, 2006	\$0.62 per hour
	May 1, 2009	\$1.52 per hour
	May 1, 2014	\$1.34 per hour
Rochester Highway/Heavy AGC To-Be-Bound	May 1, 2006	\$0.62 per hour
	May 1, 2009	\$1.52 per hour
	May 1, 2014	\$1.34 per hour
Rochester Plasterers	May 1, 2006	\$0.56 per hour
	May 1, 2009	\$1.43 per hour
	May 1, 2014	\$1.26 per hour

SIGNATURES

IN WITNESS WHEREOF, the Board of Trustees hereby adopt this restatement of the Minnesota Cement Masons and Plasterers Pension Plan by affixing their signatures as of this _____ day of January 2015.

UNION TRUSTEES

EMPLOYER TRUSTEES

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