

**MCASF LOCAL 725
DEFINED CONTRIBUTION RETIREMENT PLAN
PLAN DOCUMENT**

Amended and Restated Effective July 1, 2021

TABLE OF CONTENTS

INTRODUCTION	1
ARTICLE 1 – DEFINITIONS.....	2
ARTICLE 2 – PARTICIPATION IN THE PLAN	12
Section 2.1 Participation.....	12
Section 2.2 Owner Employees.....	12
ARTICLE 3 – VESTING CREDITS	13
Section 3.1 Vesting Credits Generally.....	13
Section 3.2 Vesting Requirements.....	13
Section 3.3 Computation of Vesting Credits	13
Section 3.4 Changes in Vesting Schedule.....	14
ARTICLE 4 – ALLOCATION OF CONTRIBUTIONS	16
Section 4.1 Contributions and Allocations to Participant’s Account	16
Section 4.2 Elective Contributions	16
Section 4.3 Limitation on Benefits	20
Section 4.4 Application of Aggregation Rules Under Code Section 415.....	21
Section 4.5 Highly Compensation Employee	21
Section 4.6 Actual Deferral Percentage (ADP) Test	22
Section 4.7 Adjustments to ADP Test	23
Section 4.8 Safe Harbor Approach	24
Section 4.9 Adoption of Final 415 Regulations.....	25
ARTICLE 5 – BREAKS IN SERVICE.....	28
Section 5.1 Breaks in Service Generally.....	28
Section 5.2 Loss of Credits and Benefits	28
Section 5.3 Allocation of Forfeitures.....	28
ARTICLE 6 – RETIREMENT BENEFITS	29
Section 6.1 Right to Retirement Benefits	29
Section 6.2 Normal Retirement Age.....	29
Section 6.3 Early Retirement Age	29
Section 6.4 Late Retirement Age.....	29
Section 6.5 Retirement Benefit.....	29

ARTICLE 7 – DISABILITY BENEFITS	30
Section 7.1 Right to Disability Benefits	30
Section 7.2 Totally and Permanently Disabled.....	30
Section 7.3 Disability Benefit.....	31
ARTICLE 8 – BENEFIT PAYMENTS	32
Section 8.1 Form of Benefit Payment.....	32
Section 8.2 Standard Benefits	32
Section 8.3 Notice of Forms of Retirement and Disability Benefits	33
Section 8.4 Optional Benefits; Manner of Election and Revocation	33
Section 8.5 Rollovers	35
ARTICLE 9 – REQUIRED PAYMENT OF BENEFITS	36
Section 9.1 Required Payment of Retirement Benefit After Age Seventy Two (72).....	36
Section 9.2 General Rules.....	36
Section 9.3 Time and Manner of Distribution	37
Section 9.4 Required Minimum Distributions During Participant’s Lifetime.....	38
Section 9.5 Required Minimum Distributions After Participant’s Death.....	38
Section 9.6 Definitions.....	39
ARTICLE 10 – PARTICIPANT ACCOUNTS	41
Section 10.1 Calculation of Participant Accounts and Benefit Amount.....	41
Section 10.2 Limitation on Contributions and Allocation to Participants	41
Section 10.3 Certification of Allocations.....	42
Section 10.4 Income and Loss	42
Section 10.5 Appreciation and Depreciation	43
Section 10.6 Maximum Benefit Amount	43
ARTICLE 11 – EMPLOYMENT AFTER RETIREMENT	45
Section 11.1 Suspension of Benefits.....	45
Section 11.2 Notice of Re-Employment	46
Section 11.3 Notice of Re-Retirement	46
Section 11.4 Verification of Retirement	46
Section 11.5 Advanced Determination of Employment	46
Section 11.6 Resumption of Benefits.....	47
Section 11.7 Offset of Retirement Benefits Improperly Paid.....	47
Section 11.8 Claims, Notices and Inquiries	47
Section 11.9 Computation at Re-Retirement	48

ARTICLE 12 –DEATH BENEFITS	49
Section 12.1 Right to Death Benefits.....	49
Section 12.2 Spouse’s Pre-Retirement Survivor Benefits	49
Section 12.3 Unmarried Participant Death Benefits	50
Section 12.4 Election of Optional Spouse’s Survivor Benefits	51
Section 12.5 Designation of Beneficiary	52
Section 12.6 Reduction of Death Benefits.....	52
ARTICLE 13 – PAYMENT OF SMALL AMOUNTS AND ROLLOVER DISTRIBUTIONS.....	53
Section 13.1 Payment of Small Amounts	53
Section 13.2 Direct Rollovers	53
Section 13.3 Rollover Distributions and Trustee to Trustee Transfers.....	55
ARTICLE 14 – TOP-HEAVY RULES	56
Section 14.1 Effective Date	56
Section 14.2 Definitions.....	56
Section 14.3 Top Heavy Rules.....	57
Section 14.4 Top Heavy Vesting Requirements	58
Section 14.5 Top Heavy Benefit Accrual	58
Section 14.6 Maximum Annual Compensation	59
ARTICLE 15 – ADMINISTRATION AND CLAIMS	60
Section 15.1 Board of Trustees and Interpretation of Plan.....	60
Section 15.2 Claims, Notices and Inquiries	60
Section 15.3 Applications for Benefits	61
Section 15.4 Multiple Claims Prohibited.....	62
Section 15.5 Notification of Mailing Address	62
Section 15.6 Benefits Payment to Minors and Incompetents	62
Section 15.7 Interpleader	62
Section 15.8 Reliance on Experts	63
Section 15.9 Payment of Expenses for Administration	63
ARTICLE 16 – CLAIMS, DENIALS, AND APPEALS.....	64
Section 16.1 Notice of Denial of Benefits	64
Section 16.2 Appeals – Claims Review Procedure.....	65
Section 16.3 Exhaustion of Claims Review Procedure	67
Section 16.4 Notices to Participants and Beneficiaries Regarding Certain Distribution Options	67

Section 16.5 Right to Inspect or the Right to Certain Documents.....	67
ARTICLE 17 – FUNDING.....	68
Section 17.1 Funding Policy and Method.....	68
Section 17.2 Change of Funding Method	68
ARTICLE 18 – EFFECT OF DOMESTIC RELATIONS ORDERS.....	69
Section 18.1 Assignment of Benefit Upon Divorce.....	69
Section 18.2 Alternate Payee	69
Section 18.3 Filing of Claims	69
Section 18.4 Designation of Representative	69
Section 18.5 Standards for Qualification	69
Section 18.6 Review Procedures.....	70
Section 18.7 Separate Accounting Pending Review	70
Section 18.8 Interpleader	71
Section 18.9 Forfeiture.....	71
ARTICLE 19 – MISCELLANEOUS	72
Section 19.1 Benefits Not Assignable	72
Section 19.2 Merger.....	72
Section 19.3 Termination of the Plan	72
Section 19.4 Incorporation by Reference.....	72
Section 19.5 Amendment of the Plan	72
SIGNATURE PAGE.....	73

INTRODUCTION

The ACRA LOCAL 725 DEFINED CONTRIBUTION RETIREMENT PLAN, adopted July 1, 1999, is hereby amended, restated, and renamed as the MCASF LOCAL 725 DEFINED CONTRIBUTION RETIREMENT PLAN, effective July 1, 2021 (the “Plan”). The provisions of this Plan, as so amended and restated, shall apply only to an Employee who works in Covered Employment on or after the applicable effective date. Any retired Employee receiving benefits before July 1, 2021, or any former Employee who terminated Covered Employment before July 1, 2021, shall have his rights to benefits determined under the Plan in effect when his Covered Employment terminated, and shall not be entitled to any additional benefits under the amended and restated Plan as set forth herein unless the Trustees specifically provide otherwise.

ARTICLE 1
DEFINITIONS

- 1.1 The term "Accrued Benefit" shall mean the Account Balance of a Participant as of the Participant's Retirement Date.
- 1.2 The term "Account Balance" shall mean the amount contained in a Participant's Separate Account(s) pursuant to Subsection 10.1.
- 1.3 The term "Administrator" or "Plan Administrator" shall mean the MCASF Local 725 Service Corporation, which is the non-profit corporation designated and appointed as Plan Administrator and fiduciary by the Board of Trustees.
- 1.4 The term "Annual Compensation" or "Compensation" (unless otherwise specifically modified by other provisions of this Plan), shall have the meaning described in Code Section 415(c). For purposes of testing the annual limitations and performing the annual 401(k) testing, Compensation shall not include any amounts in excess of the limits of Code Section 401(a)(17).
- 1.5 The term "Association" or "MCASF" shall mean the Mechanical Contractors Association of South Florida and its successors and assigns.
- 1.6 The term "Bargaining Unit Employees" shall mean any employee who is a member of the Union and/or for whom the Union is the bargaining representative.
- 1.7 The term "Beneficiary" shall mean a person designated by a Participant or by terms of the Plan in accordance with Section 12.5 of the Plan, who is or may become entitled to a benefit.
- 1.8 The term "Code" or "Internal Revenue Code" shall mean the Internal Revenue Code of 1986, and any amendments as may from time to time be made, and any rules or regulations promulgated pursuant to the provisions of said Code.
- 1.9 The term "Collective Bargaining Agreement" shall mean any written contract for labor between an Employer and the Union, or the Association and Union, or other participating union that provides for Contributions to the Trust Fund for this Plan together with any renewal, modification, amendment or continuation thereof or successor agreement as approved by the Trustees as a basis for participating in the Trust Fund and this Plan. The term shall also include any written contract for labor between the Union and an Employer covering a period of time prior to the date the employer became a Contributing Employer, as well as any written agreement for labor or otherwise by which an Employer becomes obligated to make Contributions to the Trust Fund for this Plan, including without limitation by virtue of any Reciprocal Agreement with any other retirement trust or plan or other agreement executed by and/or approved by the Trustees.

- 1.10** The term “Contributions” shall mean, unless provided otherwise, both Employer Contributions and Elective Contributions as defined below:
- (a) “Employer Contributions” shall mean the payment required to be paid by an Employer to the Trust Fund on behalf of each Employee, in amounts and in a manner set forth in the Collective Bargaining Agreement or other written agreement in effect from time to time, but shall not include “Elective Contributions.”
 - (b) “Elective Contributions” shall mean the payments to be contributed to the Plan pursuant to an Election Form filed by an Eligible Participant, which are submitted on behalf of such Eligible Participant by the Employer. Elective Contributions shall be governed by the additional provisions provided in Article 4.
 - (c) “Rollover Contributions” shall mean a direct rollover from the trustee of another retirement plan qualified under Code Section 401 or 403 (in which the Participant had participated), which was made directly by the trustee of said retirement plan to this Trust Fund and provided that: (i) the Participant has made written application to this Plan, in form and substance satisfactory to the Plan, in which the Participant agrees that the sum contributed to this Trust Fund pursuant to said application is subject to the limitations set forth in Subsections 13.2 and 13.3 of this Plan; and (2) such application has been accepted by the Board of Trustees of the Plan.
- 1.11** The term “Covered Employment” shall mean any employment during which the Employee has been employed by an Employer who makes or is required to make Employer Contributions with respect to such employment to the Fund under the terms of a Collective Bargaining Agreement or other written agreement.
- 1.12** The term “Domestic Relations Order” shall mean any judgment, decree or order (including approval of a property settlement agreement) which relates to child support, alimony payments or marital property rights to a spouse (or former spouse), child, or other dependent of a Participant, made pursuant to a state domestic relations law.
- 1.13** The term “Effective Date” shall mean July 1, 1999, the date on which the provisions of this Plan first became effective.
- 1.14** The term “Employee” shall mean:
- (a) Any person on whose behalf Employer Contributions are made to the Trust Fund for this Plan pursuant to a Collective Bargaining Agreement and/or a Reciprocal Agreement;
 - (b) Any full-time, salaried Employee of the Union, for whom the Union makes contributions to the Trust Fund for this Plan on the same basis as other Contributing Employers for their Employees;
 - (c) The corporate officers, superintendents, supervisors or other Non-Bargaining

Unit Employees of an Employer except those covered by other retirement plans to which the Employer contributes on their behalf;

- (d) The Director of Training and full-time Employees employed by the ACRA-Local 725 Joint Apprenticeship and Training Committee Trust Fund for whom contributions are made to the Trust Fund for this Plan by the ACRA-Local 725 Joint Apprenticeship and Training Committee Trust Fund, on the same basis as other Contributing Employers for their Employees; and/or
- (e) Any person who is eligible for participating in this Plan by virtue of a duly adopted Resolution of the Board of Trustees upon such conditions of eligibility as set forth in such Resolution and who are not prohibited from such participation by any applicable law including without limitation the Code, Section 302(c)(5) of the Labor-Management Relations Act of 1974, 29 USC Section 186(E) as amended and the ERISA, for whom the Employer of the said individual make contributions to the Fund on the same basis as other Contributing Employers for their Employees.

1.15 The term "Employer" or "Contributing Employer" shall mean:

- (a) any corporation, individual, partnership, or business association which has presently in force or hereafter executes or enters into a Collective Bargaining Agreement with the Union, or is otherwise bound to or becomes bound to a Collective Bargaining Agreement with the Union, or who performs work in the Jurisdiction of the Fund and for whose Employees the Union is the recognized collective bargaining agent, or is obligated to make Contributions on behalf of Employees to the Trust Fund contemplated by the Trust Agreement by virtue of any Reciprocal Agreement or other written agreement executed by Trustees;
- (b) The Union;
- (c) The ACRA-Local 725 Joint Apprenticeship and Training Committee Trust Fund;
- (d) The MCASF Local 725 Service Corporation; and
- (e) Any Employer of an Employee.

1.16 The term "ERISA" shall mean the Employee Retirement Income Security Act of 1974, any amendments as may from time to time be made, and any rules or regulations promulgated pursuant to the provisions of said Act.

1.17 The term "Fiduciary" shall mean a person who:

- (a) Exercises any discretionary authority or discretionary control respecting management of this Plan or exercises any authority or control respecting management or disposition of its assets; or
- (b) Renders investment service for a fee or other compensation, directly or indirectly, with respect to any monies or other property of this Plan, or has any authority or discretionary responsibilities in the administration of this Plan.

1.18 The term "Hour of Service" shall mean:

- (a) Generally – Any hour of Covered Employment for which a person is paid, or entitled to payment, by an Employer:
 - (1) For the performance of duties; or
 - (2) For reasons other than the performance of duties, including vacations, holidays, illness, jury duty, military duty, or leave of absence; or
 - (3) As the result of backpay being awarded, or agreed to, by an Employer (irrespective of mitigation of damages).
- (b) Exclusions - Hour of Service does not include hours for which the person is paid, or entitled to payment, if no duties are performed and if such payment is made or due solely for the purpose of complying with workers compensation, unemployment compensation, or disability insurance laws, or if such payment solely reimburses the person for medical or medically related expenses incurred by the person.
- (c) Limitations – Hours of Service for reasons other than the performance of duties, such as vacations, holidays, illness, jury duty, military duty, leave of absence, or backpay, is limited to a maximum of five hundred and one (501) hours per Plan Year on account of any single, continuous period during which no duties are performed;
- (d) Contiguous Non-Covered Employment - A person who is paid, or entitled to payment, by an Employer (including a company which is a member of a controlled group of corporation, and including a trade or business which is under common control, all in accordance with Department of Labor Regulations, 29 CFR Section 2530.210(d) and (e)) shall also be credited with Hours of Service for purposes of participation, vesting, and breaks in service, but not for benefit accrual purposes, based upon the hours of service in non-covered employment for such Employer. However, the person must have worked for the same Employer in Covered Employment immediately before or immediately after the non-covered employment. Further, that person must not have quit, been discharged, or retired between the Covered Employment and the non-covered employment unless the Employer or Participant notifies the Board of Trustees of entry of the Hours of

Service of the Participant in non-covered Employment within sixty (60) days after the Employee became a Participant.

- (e) Other Federal Law - Nothing in this section shall be construed as denying a person credit for an Hour of Service if credit is otherwise required by law. The nature and extent of such credit shall be determined under the law.
- (f) Determination of Hours of Service - Hours of Service shall be ascertained from the most accurate records available, including records of hours, work shifts, days or weeks for which payment is made or owing, as reported to the Board of Trustees. If records are not available which reflect services performed on an hourly basis, then the number of work shifts, days or weeks of service shall be converted to an hourly basis in accordance with Department of Labor Regulations 29 CFR Section 2530.200b-2(b) and (c), which are incorporated herein by reference.
- (g) Crediting Period - Hours of Service shall be credited during the Plan Year for which the duties were performed, or if no duties were performed, then during the Plan Year for which the payment relates, provided that hours of service credited as the result of a backpay award or agreement shall not be credited as additional Hours of Service.

1.19 The term "Industry of the Fund" refers to the pipefitting and/or HVAC/R service industry and the type of work normally performed by a member of United Association Local 725 of Miami, Florida, as described and covered in the Collective Bargaining Agreement between the Union and the Association herein, or any other work to which a trade employee of a Contributing Employer has been assigned, referred or is capable of performing by virtue of his skills and training as a tradesman in the trade governed by the Collective Bargaining Agreement, whether or not collectively bargained.

1.20 The term "Jurisdiction of the Fund" shall mean the territorial jurisdiction of the Collective Bargaining Agreement between the Union and the Association.

1.21 The term "Married" shall mean:

- (a) A Participant who is married throughout the one (1) year period ending on the date of the receipt of retirement or disability benefits.
- (b) A Participant shall also be considered married:
 - (1) If the Participant dies before receipt of such benefits, but the Participant has been married throughout the one (1) year period ending on the date of the Participant's death; or
 - (2) If the Participant marries less than one (1) year before receipt of such benefits but had been married for at least a one (1) year period ending on or before the date of the Participant's death; or

- (3) To the extent provided under a qualified domestic relations order; provided however, that the term “married” for purposes of determining survivor benefits shall be construed in a manner consistent with the definition of “Spouse” in Section 1.32 hereof.

1.22 The term "Maternity or Paternity Leave" shall mean:

- (a) A Participant’s absence from work by reason of:
 - (1) the pregnancy of the Participant; or
 - (2) the birth of a child of the Participant; or
 - (3) the placement of a child with the Participant in connection with the adoption of such child by the Participant; or
 - (4) the caring for such child by the Participant for a period beginning immediately following such birth or placement.
- (b) Crediting Hours of Leave - Solely for purposes of determining whether a Break in Service has occurred as provided in Section 5.1, and not for purposes of vesting or benefit accrual, a Participant who is absent from work in Covered Employment due to maternity or paternity leave shall be credited with the Hours of Service which otherwise would normally have been credited to the Participant, but for such absence, not to exceed five hundred (500) hours per Plan Year. In any case in which such hours cannot be determined, eight (8) Hours of Service shall be credited per day of such absence.
- (c) Crediting Period - The Hours of Service absent from work due to maternity or paternity leave shall be credited, solely for purposes of excusing a Break in Service, during the Plan Year in which the absence began if the crediting of those hours is necessary to prevent a Break in Service in that Plan Year, or, in all other cases, in the next following Plan Year.

1.23 The term "Non-Vested Employee" shall mean a Participant who has less than the number of Years of Service required under Subsection 3.2(b) to be one hundred percent (100%) vested, or whose benefits are otherwise subject to forfeiture pursuant to Section 5.2.

1.24 The term "Normal Retirement Age" shall be age sixty-five (65) or the age of the Participant as of the fifth anniversary of the time Participant commenced participation in the Plan, whichever is later.

1.25 The term “Participant” shall mean:

- (a) An Employee who meets the requirements for participation in the Plan as set forth in Article 2;
- (b) Any retired individual who is otherwise separated from or covered by the Plan who is currently receiving benefits from the Plan;
- (c) Any retired individual or one who is vested to a benefit which may be received in the future;
- (d) Any individual receiving or who has a non-forfeitable right to receive in the future any benefit from the Plan; or

The term “Participant” does not include the following:

- (a) Any individual for whom contributions are paid to the Plan, which the Plan in turn pays to another Plan under the terms of a Reciprocal Agreement;
- (b) Any individual whose previously earned credits have been forfeited or lost pursuant to the terms of this Plan;
- (c) Any person to whom an insurance company has made irrevocable commitment to pay all the benefits to, which the individual is entitled under the Plan;
- (d) Any survivor, dependent or other party entitled to benefits under the Plan, but whose right is derivative, such as a survivor or dependent rather than having been an Employee employed by an Employer on whose behalf contributions were made. In such cases, the Employee through whom the claim is made shall be considered the Participant rather than the survivors or other party deserving the benefit by, through, or under the Employee; or
- (e) Any sole-proprietor or partner of an unincorporated business; or
- (f) Any Alternate Payee under a Qualified Domestic Relations Order.

1.26 The term "Plan" shall mean the Plan program, method, rules and procedures for the payment of benefits from the Trust Fund as herein set forth and described in this Plan document, and the same as may be amended from time to time by the Trustees.

1.27 The term "Plan Year" shall mean:

- (a) for all Plan Years beginning after June 30, 1999 and ending before January 1, 2000, the six (6) month period beginning with July 1 and ending the following December 31; and,

- (b) for all Plan Years beginning after December 31, 1999, the twelve (12) month period beginning on January 1st and ending the following December 31.

1.28 The term “Present Value” shall be the value computed in accordance with the requirements of Code Section 417(e) and Treasury Regulations Section 1.417(e)-(d)(1) for all Plan Years commencing after December 31, 2007 and with respect to any distribution, consent, waiver, election or other matter for which a present value or “actuarial equivalent” must be computed. In addition, such present value:

- (a) shall be calculated and computed in a manner utilizing the “Applicable Mortality Table” and the “applicable interest rate”, which are hereby defined as:
 - (1) the Applicable Mortality Table defined in Code Section 417(e) as further defined in Revenue Ruling 2007-67 and/or subsequent guidance issued by the Internal Revenue Service; and,
 - (2) the “applicable interest rate” defined in Code Section 417(e) calculated in the manner described in Revenue Ruling 2007-67 and any subsequent guidance issued by the Internal Revenue Service, calculated in a manner to avoid violation of Code Section 411(d)(6), including, without limitation, not changing the time for determining the interest rate and not substituting the modified segment rates, described therein, for a rate that is not the thirty (30) year Treasury Rate.
- (b) For Plan Years commencing after December 31, 2007, notwithstanding any other provision in this Plan, in no event may any calculation of any “present value” or “actuarial equivalent” including a “modified segment rate” utilize an interest rate other than the interest rate otherwise required by this Section 1.27 (or, with respect to a Lump Sum Benefit, if any, is ever provided to a Participant hereunder, the thirty (30) year Treasury Rate).

1.29 The term “Qualified Spouse” shall mean a Spouse who satisfies one of the following criteria:

- (a) The Participant and the Spouse have been married to each other for at least the one-year period ending on the earlier of the date payment of the Participant’s retirement benefit or disability benefit commenced or the Participant’s date of death; or
- (b) The Participant and the Spouse married within the year immediately preceding the date payment of the Participant’s retirement benefit or disability benefit commenced and they remained married for at least one year before the Participant’s date of death; or

- (c) The Participant and Spouse were divorced after being married for at least one year and the former Spouse is required to be treated as a Qualified Spouse pursuant to a Qualified Domestic Relations Order.
- 1.30 The term "Reciprocal Agreement" shall mean any written agreement between the Trustees of this Plan and another retirement plan providing a basis for portability and/or transfer and/or allocation of credits and/or Contributions as defined in this Plan and/or the plan of the Board of Trustees with whom the agreement is entered on behalf of Employees for the purpose or providing benefits hereunder or thereunder, such as the Union Association Pension Fund Reciprocal Agreement, which provides for a money follows the employee arrangement.
- 1.31 The term "Retirement" or "Retired" shall mean the separation of service and complete withdrawal from any further employment and work in the Jurisdiction of the Fund for a period of at least 90 days after having reached an applicable retirement age as provided in Article 6.
- 1.32 The term "Retirement Benefit" or "Benefits" shall mean those classes of benefits provided by the Plan as set forth in Article 6 of this Plan.
- 1.33 The term "Spouse" shall mean a person who is married to a Participant and whose marriage is lawfully recognized and was validly entered into, including two individuals of the same sex who are legally married. Persons shall cease being a Spouse upon entering into a legal separation or upon the entry of a formal decree of dissolution of marriage.
- 1.34 The term "Trust Agreement" shall mean the Trust Agreement governing the Fund that was originally adopted simultaneously with this Plan together with any amendments, modifications, or restatements thereof as the Trustees may have in the past and from time to time in the future adopt and promulgate.
- 1.35 The term "Trust Fund" or "Fund" shall mean the MCASF LOCAL 725 DEFINED CONTRIBUTION RETIREMENT TRUST FUND, and all of its assets, including all funds received in the forms of Contributions, together with all contracts, any contributions received from any other retirement trust fund, all investments made and held by the Fund, all income, increments, earnings, profits, and all other property or funds received and held by the Fund.
- 1.36 The terms "Trustees" or "Board of Trustees" shall mean the persons acting as Employer Trustees and Union Trustees under the terms of the Trust Agreement. The Trustees collectively shall be the "Administrator" of this Fund as that term is used in ERISA.
- 1.37 The terms "Union" or "Participating Union" shall mean the United Association Local 725 of Miami, Florida, or any other union which is accepted by the Trustees in writing for participation in the Trust Fund and Plan for the purpose of providing participation in this Plan for Employees represented by the Participating Union for the purpose of Collective

Bargaining, including by Reciprocal Agreement, where both the Union and the Employer become bound to the Trust Agreement.

- 1.38** The term "Vested" or "Vested Participant" shall mean a Participant who has a non-forfeitable right to a retirement benefit as provided in Article 3. The term does not include any Participant eligible for and/or receiving disability payments unless such Participant has otherwise satisfied the vesting requirements of Article 3.

ARTICLE 2
PARTICIPATION IN THE PLAN

2.1 Participation

- (a) A person shall become a Participant on the first day in which the person becomes an Employee and works in Covered Employment and Contributions are required to be submitted to the Fund on the Participant's behalf.
- (b) A person shall remain a Participant until the earlier of:
 - (1) suffering a Loss of Credits as provided in Section 5.2;
 - (2) all benefits having been paid to the Participant; or
 - (3) the person dies.
- (c) A former Participant who again becomes an Employee after having suffered a Loss of Credits as provided in Section 5.2 shall become a Participant as of date he returns to Covered Employment.

2.2 Owner Employees

An Owner Employee of an Employer who intermittently performs work covered by the Collective Bargaining Agreement may become a Participant as determined by the Board of Trustees pursuant to the following conditions:

- (a) The Owner Employee participates in such other fringe benefits funds sponsored by the Union and Association;
- (b) The Owner Employee's Employer makes Contributions to all fringe benefit funds sponsored by the Union and Association on behalf of the Owner Employee on the basis of 40-hours per week, 52-weeks per year including holidays, vacations, sick leave, or such higher numbers of hours as such person may be entitled to have been paid in accordance with U.S. Department of Labor regulation;
- (c) The Employer executes a Participation Agreement in form and substance as prescribed by the Board of Trustees acknowledging that such Owner Employee's participation in the Plan is a privilege and conditioned upon the requirements set forth herein and in said Participation Agreement.

Notwithstanding the above, sole proprietors, partners or principals of non-incorporated Employers may not participate.

ARTICLE 3
VESTING CREDITS

3.1 Vesting Credits Generally

A Participant shall earn Vesting Credits as set forth herein. No Participant, beneficiary or other person shall have any vested right to a retirement benefit unless the Participant has met the vesting requirements provided for in this Article 3. Prior to being vested, a Participant may lose Vesting Credits as provided in Article 5. The total number of Vesting Credits earned and retained shall determine whether a Participant has a vested right to a retirement benefit.

3.2 Vesting Requirements

- (a) Early Retirement Benefit - A Participant shall have a One Hundred Percent (100%) vested right to an early retirement benefit upon earning two (2) Vesting Credits.
- (b) Normal Retirement Benefit and Late Retirement Benefit - A Participant shall have One Hundred Percent (100%) vested right to a normal retirement benefit and a late retirement benefit upon the first to occur of:
 - (1) earning two (2) Vesting Credits; or
 - (2) reaching age sixty-five (65) plus the first anniversary of the time a Participant commenced participation in the Plan; or
 - (3) the termination or partial termination of this Plan (to the extent funded).
- (c) Apprentices - Notwithstanding the above, a fourth year apprentice who becomes a Participant after having worked for a Contributing Employer during the first three years of apprenticeship (but for which no Employer Contributions were made to the Plan per the terms of the Collective Bargaining Agreement) will be immediately vested upon becoming a Participant and Employer Contributions being submitted on such apprentice's behalf.
- (d) Elective Contribution Accounts - A Participant shall be immediately One Hundred Percent (100%) vested on all amounts credited to such Participant's Elective Contribution Account as provided in Section 4.2.

3.3 Computation of Vesting Credits

- (a) Vesting Credits for all Plan Years except the Plan Year July 1, 1999 through December 31, 1999 shall be computed on the basis of Hours of Service as follows:

**Hours of Service in
A Plan Year** **Vesting Credits**

Less than 500	.000
500 but less than 1,000	.500
1,000 or more	1.000

- (b) Vesting Credits for Plan Year July 1, 1999 through December 31, 1999 shall be computed as follows:

**Hours of Service in
Plan Year** **Vesting Credits**

Less than 250	.000
250 but less than 500	.500
500 or more	1.000

- (c) Prior Vesting Credits - Any Participant who was One Hundred (100%) Percent vested to a Retirement Benefit from the ACRA-Local 725 Pension Plan as of December 31, 1998, shall, upon having any Hours of Service reported to this Plan on or before December 31, 2000, be One Hundred (100%) Percent vested in this Plan.

3.4 Changes in Vesting Schedule

- (a) (1) Right to Election - Any future changes or amendments in the vesting schedule for a normal retirement benefit shall apply to Participants who had not vested under the vesting schedule in effect prior to such amendment and who:
- (i) have not accumulated sufficient Vesting Credits by the end of the election period provided in Paragraph (a)(3) below to vest under the vesting schedule in effect prior to such amendment; and
 - (ii) have not made a timely election to have their vested right to a normal retirement benefit determined without regard to the change in the vesting schedule.
- (2) Manner of Election - The election must be in writing, signed by the Participant on a duly prescribed form timely submitted to the Board of Trustees, and must clearly indicate that the Participant is making the election provided herein.

- (3) Election Period - The election must be made before the latest of the following dates:
- (i) Sixty (60) days after the date the Plan Amendment is adopted; or
 - (ii) Sixty (60) days after the day the Plan Amendment becomes effective; or
 - (iii) Sixty (60) days after the day the Participant is given written notice of the Plan Amendment.
- (b) Notice of Plan Amendment - Promptly after the adoption of an amendment to the Plan changing the vesting schedule for a normal retirement benefit, all Participants entitled to an election under Subsection (a) shall receive written notice of the amendment and of the availability of an election to have their vested right to a normal retirement benefit determined on the basis of the vesting schedule then in effect. The notice shall state that there is a time period during which the election must be made and shall include an election form
- (c) Limitation on Changes in Vesting Schedules - No amendment shall reduce a Participant's vested right to a normal retirement benefit at the time such amendment is adopted, or, if later, at the time such amendment is effective.

ARTICLE 4
ALLOCATION OF CONTRIBUTIONS

4.1 Contributions and Allocations to Participant's Account

Each Employer will contribute on behalf of each Participant for whom Contributions are required to be made to the Fund pursuant to the terms of the Collective Bargaining Agreement, participation agreement, or any other written document requiring Employer Contributions. Contributions on behalf of a Participant shall be allocated to that Participant's Separate Account(s) pursuant to Subsection 10.1, subject to the limitations set forth in Article 10.

With respect to corporate officers, superintendents, supervisors, or Non-Bargaining Unit Employees of an Employer, the same Contribution amount shall apply except that Contributions shall be made based on forty (40) hours per week, fifty-two (52) weeks per year including vacation, holidays, sick leave, or such higher number of hours as such person may be entitled to have paid in accordance with U.S. Department of Labor regulations. No Contributions shall be made on behalf of sole proprietors, partners or principals of non-incorporated Employers.

4.2 Elective Contributions

- (a) A Participant's Elective Contributions shall be governed by the following additional provisions:
- (1) Amounts credited to a Participant's Elective Contribution Account shall be one hundred (100%) percent vested and non-forfeitable at all times.
 - (2) Except as otherwise specifically provided in this Plan, Elective Contributions shall be considered as a contribution made by the Employer for all purposes of this Plan.
 - (3) A Participant may make an election only once per Plan Year commencing with the Plan Year beginning January 1, 2002 and for any Plan Year thereafter. An Election may be made by filing a written Election Form with the Plan and the Union within the Election Period applicable to the next following Plan Year for which the Election is to be effective. Any such Election shall be effective and applicable to all payroll periods commencing in Plan Years that begin after the timely filing of the Election Form. An Election may not be made retroactively or with respect to any compensation already received by an Eligible Participant.
 - (4) An Election may be cancelled or amended by a Participant only by giving advance written notice to the Plan and the Union within an Election Period. The cancellation shall be effective for the Plan Year commencing after the Election Period, and for each Plan Year thereafter. However, an Eligible Participant may file an Election or amendment for Plan Years following the Plan Year for which a cancellation or amendment is filed.

In the event of cancellation or amendment, an Eligible Participant may not file a new Election until the following Election Period effective only for the Plan Year following the expiration of the Plan Year for which such cancellation or amendment is filed.

- (5) Effective on or after January 1, 2017, the Plan may allow a change in the elective deferral rate for a Participant for the term of the current election that had been submitted timely by the Participant in those cases where the contribution actually received by the Plan is different from the Participant's election, through no fault of the Participant, and over which the Participant did not have control, provided further that the Participant requests that the incorrect deferral rate remain in effect until the next scheduled deferral election.
- (6) The Plan may amend or terminate the Elective Contribution Election of an Eligible Participant at any time necessary to ensure that a Participant's annual additions for any Plan Year will not exceed the limitations of the Plan, of Code Section 401(k), or to ensure that the Deferral Percentage Test described in Code Section 401(k)(3)(A)(iii) is satisfied for such Plan Year. If a Participant's Election is amended or terminated by the Plan and satisfies the requirements for any Plan Year, the Elective Contribution Election of such Participant shall be deemed as timely re-filed in its original form effective for the following Plan Year unless the Participant files a timely Election to amend or terminate said Election Elective Contribution Account.
- (7) The same reporting, payment, time, and other collection procedures and remedies of the Plan shall be imposed upon Employers with respect to Elective Contributions as are applicable and available with respect to all other contributions to the Plan (including, without limitation, Employer Contributions). In the event an Employer is late in submitting the required Elective Contributions and is assessed a late payment assessment as provided by the Trust Agreement and/or policies enacted by the Board of Trustees, such late payment assessment will, to the extent necessary, be credited first to any outstanding applicable investment returns associated with the Elective Contributions that were submitted late.
- (8) The Plan shall disregard Elective Contributions in applying the vesting provisions of the Plan to other contributions or benefits under Code Section 411(a)(2). However, the Plan shall otherwise take a participant's Elective Contributions into account in determining the Participant's vested benefits under the Plan. Thus, for example, the Plan shall take Elective Contributions into account in determining whether a Participant has a non-forfeitable right to contributions under the Plan for purposes of forfeitures, and for applying provisions permitting the repayment of distributions to have forfeited amounts restored, and the provisions of

Code Sections 410(a)(5)(D)(iii) and 411(a)(6)(D)(iii) permitting a plan to disregard certain service completed prior to breaks-in-service (sometimes referred to as “the rule of parity”).

- (9) The Collective Bargaining Agreement may terminate or amend the right to elect Elective Contributions with respect to any class or category of Participants. Such termination or amendment shall not affect any then-existing Elective Contribution Account or earnings. However, commencing January 1, 2020, the maximum regular contributions which may be accepted by the Plan (to a Participant’s Elective Contribution Account) shall be Nineteen Thousand Five Hundred and 00/100 (\$19,500.00) Dollars in any calendar year or such higher amount as may be established from time to time by the Secretary of the Treasury to reflect increases in the cost of living, pursuant to Code Section 402(g)(5). The maximum contributions, however, are subject to the following further limitations:
- a. The maximum hours for which Elective Contributions may be made for any Plan Year shall be 2,500 Hours of Service regardless of the Elective Contribution Rate elected by the Employee.
 - b. No “catch up” contributions, as described in Code Section 414(v) shall be permitted, unless otherwise provided for in the Plan. However, the Plan may, in the sole and absolute discretion of the Trustees, apply the provisions of Code Section 414(v) to any Elective Contribution received in excess of the maximum amounts set forth herein (“Excess Annual Contributions”) in order to cure any violations of the maximum amounts of annual contributions permitted under the Code on behalf of an Employee. The application of Code Section 414(v) may only be used if the Plan determines in the sole discretion of the Trustees it is impractical, undesirable, or would otherwise be adverse to the best interests of the Plan to return or refund such Excess Annual Contributions to the Employer.
 - c. The Employer must agree in a written instrument, with the Plan (or in a written instrument of which the Plan is a third party beneficiary) that (a) the Employer shall comply with all directions from the Plan regarding elective contributions from any Employee; and, (b) if the Employer maintains another qualified retirement plan, the employer shall not make any contributions on behalf of any individual who has filed an Election and is having Elective Contributions made pursuant to the Collective Bargaining Agreement to the Plan.

(b) For purposes of Subsection 4.2, the following terms shall have the following meanings:

- (1) Eligible Participant – any Participant eligible to elect wage reduction for contributions to the Plan under the Collective Bargaining Agreement.
- (2) Election – the timely filing within the applicable Election Period of a property executed and completed Election Form by an Eligible Participant, exercising their right to cause additional contributions to be made to this Plan on behalf of said Eligible Participant, solely and strictly in accordance with, and pursuant to, the terms of the Collective Bargaining Agreement.
- (3) Election Form – a written document, in form and substance satisfactory to the Trustees in their sole and absolute discretion, filed with the Plan and the Union, pursuant to which an Eligible Participant elects to have Elective Contributions paid to the Plan pursuant to the Collective Bargaining Agreement. The terms of any such Election Form shall provide that the Participant agrees to accept a reduction in wages from the Employer equal to the amount provided in the Collective Bargaining Agreement that is to be contributed to the Plan by a Contributing Employer. In consideration of such agreement, the Election Form will contain an acknowledgement by the Eligible Participant that Employers shall make Elective Contributions to the Participant’s Elective Contribution Account on behalf of the Participant for which the Participant’s compensation from the Plan shall be reduced during the Plan Year in accordance with the Collective Bargaining Agreement. Said Election Form shall include an election by the Employee of the Elective Contribution Rate for the period of time to which the Election Form is applicable.
- (4) Electing Participant – an Eligible Participant who files an Election as required.
- (5) Election Period – the period commencing on October 1 and terminating November 30 immediately preceding the Plan Year for which any Election, termination, or amendment of an Election is to be effective. No Election, termination or amendment may be revoked, amended or altered in any manner after the termination date (November 30) of any Election Period.
- (6) Elective Contribution Rate – the Elective Contribution Rate is the amount per Hour of Service of Elective Contribution elected by the Employee for any Plan Year for which an Election is filed by an Eligible Participant.

Effective as of January 1, 2019, the Elective Contribution Rates are the following:

- i. \$1.00 per Hour of Service

- ii. \$2.00 per Hour of Service
- iii. \$3.00 per Hour of Service
- iv. \$4.00 per Hour of Service
- v. \$5.00 per Hour of Service
- vi. \$7.00 per Hour of Service
- vii. \$9.00 per Hour of Service.

(c) Catch-Up Contributions.

- (1) “Catch-up Contributions” are elective deferrals made to the Plan that are in excess of the otherwise applicable Plan limit and that are made by Participants who are aged 50 or over by the end of their taxable years. Effective January 1, 2018, if a Participant is aged 50 or over by the end of a taxable year, a Participant may elect to make special Catch-up Contributions for that year. The Catch-Up Contribution is in addition to an Elective Contributions provided for in this Section 4.2 and must be elected pursuant to the procedures in Section 4.2(b). The maximum available Catch-Up Contribution amount effective January 1, 2021 is Six Thousand Five Hundred and no/100 (\$6,500) Dollars in any calendar year or such higher amount as may be established from time to time by the Secretary of the Treasury to reflect increases in the cost of living, pursuant to Code Section 402(g)(5). The available Catch-Up Contribution Rates are the following:

- i. \$1.00 per Hour of Service
- ii. \$2.00 per Hour of Service
- iii. \$3.00 per Hour of Service
- iv. \$4.00 per Hour of Service

- (2) Catch-up Contributions are not subject to the limits on annual additions, are not counted in the ADP test and are not counted in determining the minimum allocation under Code Section 416. Catch-up Contributions made in prior years are counted in determining whether the Plan is Top-Heavy.

4.3 Limitation on Benefits

Notwithstanding any provisions of this Plan to the contrary, benefits payable under this Plan shall not exceed the limits of Code Section 415 and the final Treasury Regulations promulgated thereunder, the terms of which are hereby incorporated by reference, provided, however, that:

- (a) any specific Plan provisions and elections with respect to any provision of Code Section 415 as set forth herein that vary from any default rules under the final Treasury Regulations under Code Section 415 shall be applied in addition to the general incorporated Section 415 limitations.

- (b) For purposes of Code Section 415, Annual Compensation means the Compensation described in Code Section 415(c) provided, however, that for Plan Years commencing after December 31, 2007, the term “Compensation” shall also include the following payments if such payments are made by the later of: (1) two and one-half (2 1/2) months following the date of the Participant’s termination of employment; or (2) the end of the Plan Year that includes the date of the Participant’s termination of employment:
 - (1) payments that, absent a termination of employment, would have been paid to the Participant while the Participant continued in employment with his Employer and are regular compensation for services during the Participant’s regular working hours, compensation for services outside the Participant’s regular working hours (such as overtime), commissions, bonuses, or other similar compensation; and
 - (2) payments for accrued vacation, sick leave, and other leave but only if the Participant would have been able to use the vacation, sick leave, and other personal leave if employment had continued.

4.4 Application of Aggregation Rules Under Code Section 415

With respect to all Plan Years commencing after December 31, 2007, for all purposes (including, without limitation, Elective Contributions hereunder) of compliance of this Plan with the aggregation rules of Code Section 415, whenever an Employer maintains a Non-Multiemployer Plan in addition to this Plan:

- (a) pursuant to Treasury Regulations Section 1.415(f)-1(g)(2)(i), only those contributions and/or benefits actually provided by such Employer, pursuant to this Plan may be aggregated to any contributions and/or benefits provided by such Employer to any Non-Multiemployer Plan maintained by such Employer; and
- (b) any disqualification resulting from any violation of such aggregation of the contributions and/or benefits set forth in subsection (a) above, shall first be exercised against the Non- Multiemployer Plan maintained by such Employer, pursuant to Treasury Regulations Section 1.415(g)-1(b)(3)(ii)(A).

4.5 Highly Compensated Employee

As used in this Article, for Plan Years beginning on or after December 31, 1996, a person is considered a Highly Compensated Employee if:

- (a) The Person was at any time a five percent (5%) owner of the Employer. An Employee shall be treated as a five percent (5%) owner for any year if at any time during the year or the preceding twelve (12) month period the Employer was a five percent (5%) owner as defined in Code Section 416(i)(1) with respect to said Employer;

- (b) for the preceding twelve (12) month period, the person received Compensation from the Employer in excess of Eighty Thousand and 00/100 (\$80,000.00) Dollars or such amount as determined by the IRS ; and,
 - (1) the Employee was in the group consisting of the top twenty percent (20%) of Employees when ranked on the basis of compensation paid during such year;
 - (2) the Employee has completed more than six (6) months of service;
 - (3) the Employee normally works seventeen and one-half (17½) or more hours per week;
 - (4) the Employee normally completes six (6) months of service or more in any year;
 - (5) the Employee has attained the age of twenty-one (21) years; and,
 - (6) the Employee is not covered by a Collective Bargaining Agreement.
- (c) A former Employee shall be treated as a Highly Compensated Employee, if:
 - (1) such Employee was a Highly Compensated Employee when such Employee separated from service; or
 - (2) such Employee was a Highly Compensated Employee at any time after attaining age fifty-five (55).
- (d) Employees who are non-resident aliens and who received no earned income (within the meaning of Code Section 911(d)(2) from the Employer constituting United States source income within the meaning of Code Section 861(a)(3) shall not be treated as Employees.
- (e) In determining whether an Employee is a Highly Compensated Employee for a Plan Year beginning in 1997, the amendments to Code Section 414(q) stated above are treated as having been in effect for years beginning in 1996.

4.6 Actual Deferral Percentage (ADP) Test

- (a) Generally – The Administrator, or a designated service provider, shall perform the Actual Deferred Testing described in this Section 4.6 on an annual basis in accordance with Regulation 1.401(k)-2. To satisfy the Actual Deferral Percentage Test of Code Section 401(k)(3), the Plan uses the prior year testing method. For the first Plan Year the actual deferral ratio of the Non-Highly Compensated Employees is deemed to be three (3%) percent.
- (b) Targeted contribution limit - Qualified Non-Elective Contributions (as defined in Regulation Section 1.401(k)-6) cannot be taken into account in determining the Actual Deferral Ratio (“ADR”) for a Plan Year for a Non-Highly Compensated Employee (“NHCE”) to the extent such contributions exceed the product of that NHCE’s Code Section 414(s) compensation and the greater of five percent (5%) or two (2) times the Plan’s “representative contribution rate.”

For purposes of this section:

- (1) The Plan's "representative contribution rate" is the lowest "applicable contribution rate" of any eligible NHCE among a group of eligible NHCEs that consists of half of all eligible NHCEs for the Plan Year (or, if greater, the lowest "applicable contribution rate" of any eligible NHCE who is in the group of all eligible NHCEs for the Plan Year and who is employed by the Employer on the last day of the Plan Year), and
- (2) The "applicable contribution rate" for an eligible NHCE is the sum of the Qualified Non-Elective Contributions ("QNECs") made for the eligible NHCE for the Plan Year, divided by the eligible NHCE's Code Section 414(s) compensation for the same period.

Notwithstanding the above, QNECs that are made in connection with an Employer's obligation to pay prevailing wages under the Davis-Bacon Act (46 Stat. 1494), Public Law 71-798, Service Contract Act of 1965 (79 Stat. 1965), Public Law 89-286, or similar legislation can be taken into account for a Plan Year for an NHCE to the extent such contributions do not exceed 10 percent (10%) of that NHCE's Code Section 414(s) compensation.

4.7 Adjustments to ADP Test

- (a) Correction Method - The Plan can use any correction method set forth in Regulation Section 1.401(k)-2(b). The terms of Regulation Sections 1.401(k)-2(b) are hereby incorporated by reference.
- (b) Distribution of Income attributable to Excess Contributions - Distributions of Excess Contributions must be adjusted for income (gain or loss), including an adjustment for income for the period between the end of the Plan Year and the date of the distribution (the "gap period").
- (c) Method of allocating income - The Administrator shall allocate income to Excess Contributions for the Plan Year by multiplying the income for the Plan Year allocable to the Elective Contributions and other amounts taken into account under the ADP test (including contributions made for the Plan Year), by a fraction, the numerator of which is the Excess Contributions for the Employee for the Plan Year, and the denominator of which is the sum of the:
 - (1) Account balance attributable to Elective Contributions and other amounts taken into account under the ADP test as of the beginning of the Plan Year, and
 - (2) Any additional amount of such contributions made for the Plan Year.
- (d) Corrective contributions - If a failed ADP test is to be corrected by making an Employer contribution, then the provisions of the Plan for the corrective

contributions shall be applied by limiting the contribution made on behalf of any NHCE pursuant to such provisions to an amount that does not exceed the targeted contribution limits of Section 4.7 herein.

4.8 Safe Harbor Approach

- (a)** The Plan may, in the sole discretion of the Trustees, elect to adopt a Safe Harbor approach as an alternative method of satisfying the ADP testing described in Code Section 401(k)(12). If the Trustees duly elect such approach as an alternative method of satisfying the ADP test set forth in Code Section 401(k)(12), the provisions of this Section 4.8 shall apply.
- (b)** Definitions: As used in this Section, the following terms shall have the following meanings:

 - (1)** “ADP Test Safe Harbor” is the method described in this Section 4.8 for satisfying the ADP test of Code Section 401(k)(3).
 - (2)** “ADP Test Safe Harbor Contributions” are Matching Contributions and nonelective contributions described in subsection 4.8(c).
 - (3)** “Compensation” is defined in Section 1.4 of the Plan, except, for purposes of this Section 4.8, no dollar limit, other than the limit imposed by Code Section 401(a)(17), applies to the compensation of a Non-highly Compensated Employee.
 - (4)** “Eligible Employee” means an employee eligible to make Elective Deferrals under the Plan for any part of the Plan Year.
 - (5)** “Matching Contributions” are contributions made by the Employer on account of an Eligible Employee’s Elective Deferrals.
- (c)** Safe Harbor Conditions:

 - (1)** Each Employer will contribute for the Plan Year an ADP Test Safe Harbor Matching Contribution to the Plan on behalf of each Eligible Employee equal to (i) 100% of the amount of the Employee’s Elective Deferrals that do not exceed 3% of the Employee’s Compensation for the Plan Year, plus (ii) 50% of the amount of the Employee’s Elective Deferrals that exceed 3% of the Employee’s Compensation but that do not exceed 5% of the Employee’s Compensation (“Basic Matching Contribution”).
 - (2)** The Participant’s accrued benefit derived from the ADP Test Safe Harbor Contributions is nonforfeitable and is the subject to the same distributions restrictions as apply to Elective Deferrals, and no distribution can be made on account of hardship. In addition, such contributions must satisfy the

ADP Test Safe Harbor without regard to permitted disparity under Section 401(l).

- (d) At least 30 days, but not more than 90 days, before the beginning of the Plan Year, the Plan Administrator will provide each Eligible Employee with a comprehensive notice of the Employee's rights and obligations under the Plan, written in a manner sufficiently accurate and comprehensive to apprise the Employee of such rights and obligations and calculated to be understood by the average Eligible Employee.
- (e) In addition to any other election periods provided under the Plan, each Eligible Employee may make or modify a deferral election during the 30-day period immediately following receipt of the notice described in 4.8(d).

4.9 Adoption of Final 415 Regulations

- (a) Effective date - The provisions of this section shall apply to limitation years beginning on and after July 1, 2007.
- (b) Section 415 Compensation paid after severance from employment - A Participant's Compensation, as defined in Code Section 415(c)(3) (hereinafter referred to in this section as "Section 415 Compensation"), shall be adjusted for the following types of compensation paid after a Participant's severance from employment with an Employer (or any other entity that is treated as an Employer pursuant to Section 414(b), (c), (m) or (o)). However, amounts described in subsections (1) and (2) below may only be included in Section 415 Compensation to the extent such amounts are paid by the later of 2 1/2 months after severance from employment or by the end of the limitation year that includes the date of such severance from employment. Any other payment of compensation paid after severance of employment that is not described in the following types of compensation is not considered Section 415 Compensation within the meaning of Section 415(c)(3), even if payment is made within the time period specified above.
 - (1) Regular pay - Section 415 Compensation shall include regular pay after severance of employment if:
 - The payment is regular compensation for services during the Participant's regular working hours, or compensation for services outside the Participant's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments; and
 - The payment would have been paid to the Participant prior to a severance from employment if the Participant had continued in employment with the Employer.

- (2) Leave cash-outs and deferred compensation - Leave cash-outs shall be included in Section 415 Compensation, if those amounts would have been included in the definition of Section 415 Compensation if they were paid prior to the Participant's severance from employment, and the amounts are payment for unused accrued bona fide sick, vacation, or other leave, but only if the Participant would have been able to use the leave if employment had continued. In addition, deferred compensation shall be included in Section 415 Compensation if the compensation would have been included in the definition of Section 415 Compensation if it had been paid prior to the Participant's severance from employment, and the compensation is received pursuant to a nonqualified unfunded deferred compensation plan, but only if the payment would have been paid at the same time if the Participant had continued in employment with the Employer and only to the extent that the payment is includible in the Participant's gross income.
- Salary continuation payments for military service participants - Section 415 Compensation does not include payments made to an individual who does not currently perform services for an Employer by reason of qualified military service (as that term is used in Code Section 414(u)(1)) to the extent those payments do not exceed the amounts the individual would have received if the individual had continued to perform services for an Employer rather than entering qualified military service.
 - Salary continuation payments for disabled Participants - Section 415 Compensation does not include compensation paid to a Participant who is permanently and totally disabled (as defined in Code Section 22(e)(3)).
- (c) Administrative Delay ("the first few weeks") Rule - Section 415 Compensation for a limitation year shall include amounts earned but not paid during the limitation year solely because of the timing of pay periods and pay dates, provided: the amounts are paid during the first few weeks of the next limitation year, the amounts are included on a uniform and consistent basis with respect to all similarly situated Participants, and no compensation is included in more than one limitation year.
- (d) Inclusion of certain nonqualified deferred compensation amounts - A Participant's Section 415 Compensation shall include amounts that are includible in the Participant's gross income under the rules of Code Section 409A or Code Section 457(f)(1)(A) or because the amounts are constructively received by the Participant.
- (e) Definition of annual additions - The Plan's definition of "annual additions" is modified as follows:

- (1) Restorative payments - Annual additions for purposes of Code Section 415 shall not include restorative payments. A restorative payment is a payment made to restore losses to a Plan resulting from actions by a fiduciary for which there is reasonable risk of liability for breach of a fiduciary duty under ERISA or under other applicable federal or state law, where Participants who are similarly situated are treated similarly with respect to the payments. Generally, payments are restorative payments only if the payments are made in order to restore some or all of the plan's losses due to an action (or a failure to act) that creates a reasonable risk of liability for such a breach of fiduciary duty (other than a breach of fiduciary duty arising from failure to remit contributions to the Plan). This includes payments to a plan made pursuant to a Department of Labor order, the Department of Labor's Voluntary Fiduciary Correction Program, or a court-approved settlement, to restore losses to a qualified defined contribution plan on account of the breach of fiduciary duty (other than a breach of fiduciary duty arising from failure to remit contributions to the Plan). Payments made to the Plan to make up for losses due merely to market fluctuations and other payments that are not made on account of a reasonable risk of liability for breach of a fiduciary duty under ERISA are not restorative payments and generally constitute contributions that are considered annual additions.
- (2) Other Amounts - Annual additions for purposes of Code Section 415 shall not include: (1) The direct transfer of a benefit or employee contributions from a qualified plan to this Plan; (2) Rollover contributions (as described in Code Sections 401(a)(31), 402(c)(1), 403(a)(4), 403(b)(8), 408(d)(3), and 457(e)(16)); (3) Repayments of amounts described in Code Section 411(a)(7)(B) (in accordance with Section 411(a)(7)(C)) and Code Section 411(a)(3)(D), as well as any Employer restorations of benefits that are required pursuant to such repayments.
- (f) Change of limitation year - The limitation year may only be changed by a Plan amendment. Furthermore, if the Plan is terminated effective as of a date other than the last day of the Plan's limitation year, then the Plan is treated as if the Plan had been amended to change its limitation year.
- (g) Excess Annual Additions - Notwithstanding any provision of the Plan to the contrary, if the annual additions (within the meaning of Code Section 415) are exceeded for any Participant, then the Plan may only correct such excess in accordance with the Employee Plans Compliance Resolution System (EPCRS) as set forth in Revenue Procedure 2013- 12 or any superseding guidance, including, but not limited to, the preamble of the Code Section 415 Final Regulations.

ARTICLE 5
BREAKS IN SERVICE

5.1 Breaks in Service Generally

- (a) A Break in Service shall occur when a Participant fails to earn Five Hundred (500) Hours of Service during a Plan Year. No Vesting Credits or Benefits shall be lost due to a Break in Service except as provided in Section 5.2.
- (b) A Break in Service shall not occur if the Participant fails to earn Five Hundred (500) Hours of Service during a Plan Year due to the Participant:
 - (1) becoming totally disabled so as to be unable to work; or
 - (2) entering into the Armed Forces of the United States, provided the person returns to work in Covered Employment within ninety (90) days of discharge or within ninety (90) days of discharge from a hospital, if the person was hospitalized at the time of separation from the Armed Forces, or such other time period as required by law; or
 - (3) becoming employed in Contiguous Non-Covered Employment; or
 - (4) being absent from work due to maternity or paternity leave as provided in Section 1.22, or
 - (5) being absent from work due to election of leave under the Family Medical Leave Act of 1993 and Department of Labor Regulations, 29 CFR Section 825.100 et seq. (“FMLA”).
- (c) Notwithstanding any provision of this Plan to the contrary, contributions, benefits, and service credit with respect to qualified military service will be provided in accordance with Code Section 414(u). For the purposes of avoiding a Break in Service under the Plan, an Employee who is in qualified military and/or uniformed service will be credited with such Hours of Service as may be required by the Uniformed Services Employment and Reemployment Rights Act of 1994.

5.2 Loss of Credits and Benefits

A Participant who is not vested shall lose all Vesting Credits and all Benefits earned to date (“Forfeiture”) as of the last day of any Plan Year in which the Participant has five (5) or more consecutive Breaks in Service.

5.3 Allocation of Forfeitures

The account balance of a Participant who experiences a Forfeiture shall be first applied to the net annual administrative expenses of the Plan incurred during the Plan Year. If excess amounts remain after the application of all Participant Forfeitures to administrative expenses in a Plan Year, such excess amounts will be allocated pro-rata among the accounts of other Participants.

ARTICLE 6
RETIREMENT

6.1 Right to Retirement Benefits

A Retirement benefit shall be payable only if the Participant satisfies all of the following:

- (1) has a vested right to a retirement benefit;
- (2) has reached the applicable retirement age (below);
- (3) has retired and withdrawn from employment in the Jurisdiction of the Fund for at least 90 days; and
- (4) has filed a claim for retirement benefits as provided in Section 15.3.

6.2 Normal Retirement Age

The normal retirement age shall be sixty-five (65) or the age of the Participant as of the fifth anniversary of the time Participant commenced participation in the Plan, whichever is later.

6.3 Early Retirement Age

- (a) The Early Retirement age shall be fifty-five (55).
- (b) The early retirement age for any Participant who performs employment in the Industry of the Fund that is not covered by a Collective Bargaining Agreement in any Plan Year shall be delayed one (1) year for each Plan Year in which such employment is performed.
- (c) If a Participant elects early retirement and then subsequently has contributions paid on his behalf, the Participant may receive an additional credit for said contributions if all other provisions of this Plan are satisfied to entitle said Participant to such additional credit. However, the Participant shall not be entitled to withdraw such additional credits until he obtains Normal Retirement Age and satisfies of all requirements for normal retirement.

6.4 Late Retirement Age

The late retirement age shall be the age of the Participant who files a claim for Benefits after reaching Normal Retirement Age.

6.5 Retirement Benefit

The Early, Normal and/or Late Retirement Benefit shall be the Participant's total account balance provided in Article 10, as of the Participant's Retirement Date, and shall be paid pursuant to Article 8. Benefit payments will commence the first day of the first month that is not later than ninety (90) days following the Participant's retirement and submission of completed application materials to the offices of the Plan Administrator as further detailed in Section 15.3.

ARTICLE 7
DISABILITY BENEFITS

7.1 Right to Disability Benefits

- (a) A disability benefit shall be payable if the Participant:
 - (1) has earned and retained at least two (2) Vesting Credits;
 - (2) has not at any time after becoming a Participant performed any employment in the Industry of the Fund that was not covered by a Collective Bargaining Agreement;
 - (3) has completely withdrawn from work;
 - (4) has been determined to be totally and permanently disabled under Section 7.2; and
 - (5) the Participant has filed a claim for disability benefits with the Plan.
- (b) No disability benefits shall be payable, if the individual sustained the disability in the course of employment for any employer other than a Contributing Employer.

7.2 Totally and Permanently Disabled

- (a) A Participant shall be deemed to be “Totally and Permanently Disabled” only if the Trustees, in their sole and absolute discretion, find on the basis of medical evidence that the Participant has been totally disabled by bodily injury or a physical or mental condition so as to be prevented from any occupation for wage or profit, and such disability will be permanent and continuous for the remainder of the Participant’s life. However, no Participant shall be deemed to be Totally and Permanently Disabled if the disability was contracted, suffered, or incurred while engaging in a felonious enterprise or as the result of an intentional self-inflicted injury.
- (b) To be considered Totally and Permanently Disabled, a Participant is required to submit to the Board of Trustees either of the following:
 - (1) Written certifications from two medical doctors who are Board-certified and duly licensed to practice in the State in which the Participant is then residing, which provide that the doctor’s professional medical opinion is that the Participant is totally and permanently disabled so as to be prevented from engaging in any kind of work or occupation for wage or profit which would be performed by a person of like age, condition and educational level; or

- (2) An application and award of disability benefits from the United States Social Security Administration.
- (c) The date on which the Participant shall be deemed to be Totally and Permanently Disabled shall be the earlier of either:
 - (1) the date set forth on the written certification from the two medical doctors;
or
 - (2) the date set forth in the certification of disability from the Social Security Administration.

7.3 Disability Benefit

- (a) The standard form of disability benefit shall be the same form as to retirement benefits set forth in Article 8, and shall be at the benefit level provided in Article 10.
- (b) The form of optional disability benefits shall be one of the forms set forth in Section 8.4 with respect to optional forms of retirement benefits unless an optional form is specifically set forth in Section 8.4 to be not available to an Employee who has applied for disability benefits.
- (c) The monthly disability benefit will commence no later than the first day of the six month following the date on which the Participant was deemed to be Totally and Permanently Disabled pursuant to 7.2(c). However, in no event may disability benefits commence prior to the date on which the Participant has filed a claim for disability benefits with the Plan.
- (d) A Participant will stop receiving disability benefits if the Participant works in any occupation for wages or profit, or if the Board of Trustee determines, based on medical evidence, that the Participant has sufficiently recovered such that the Participant could resume work for wages or profit. If the Participant returns to work after having received disability benefits, the Participant is required to notify the Board of Trustees within 30-days and provide information regarding such employment.

ARTICLE 8
BENEFIT PAYMENTS

8.1 Form of Benefit Payment

A Participant who has a right to receive a retirement or disability benefit shall automatically be paid the standard form of benefit payment described in Section 8.2 unless an optional form of benefit is selected pursuant to Section 8.4. For purposes of this Article 8 any optional form of benefit shall have a present value (also referred to as “actuarial equivalent”) which, for the Plan Years commencing:

- (a) Before January 1, 2008 will be determined in accordance with the requirements of Code Section 417(e)(3); and
- (b) After December 31, 2007 will be determined in accordance with the “applicable interest rate” as defined in Code Section 417(e)(3) in effect for the month before the date of the distribution, consent, waiver, election or other matter for which present value is required to be determined, based upon the applicable mortality table under Code Section 417(e)(3), which is prescribed by Revenue Ruling 2007-67 and any subsequent guidance issued by the Commission of the Internal Revenue Service.

8.2 Standard Benefits

- (a) Married Participants - The standard retirement and disability benefit for Participants who are married to a Qualified Spouse when they retire shall be a Joint and Survivor Annuity, which is a monthly annuity payable for the life of the Participant, and if the Participant dies before the Qualifying Spouse, the Qualifying Spouse will receive a monthly benefit for the spouse’s lifetime. The monthly benefit payable to the Qualifying Spouse shall be sixty-six and two-thirds percent (66 2/3%) percent of the monthly benefit paid during the joint lives of the Participant and the spouse.

Payment in the form of a Joint and Survivor Annuity will result in the monthly benefit amount payable to the Participant being reduced actuarially (from the monthly annuity benefit payable solely for the life of the Participant) to account for the spouse annuity. The annuity will be based upon the lump sum accrued benefit amount calculated in accordance with Article 10.

The Plan may, in the sole discretion of the Trustees, pay said annuity from the Participant’s Account Balance or purchase the annuity from an insurance company licensed to do business in the State of Florida with assets in such amount and ratings of such quality deemed prudent by the Trustees of not less than One Billion Dollars.

- (b) Unmarried Participants - The standard retirement and disability benefit for Participants who are not married shall be a lump sum payment of the accrued

benefit amount calculated as described in Article 10. There is no joint and survivor annuity option available to unmarried Participants.

8.3 Notice of Forms of Retirement and Disability Benefits

- (a) Written notice of the availability of all forms of retirement, death and disability benefits shall be provided to all vested Participants no less than 30 days and no more than 180 days prior to the annuity start date.
- (b) The notice shall contain a written explanation of:
 - (1) the terms and conditions of all forms of benefits;
 - (2) the married Participant's right to make, and the effect of, an election to waive the joint and survivor annuity;
 - (3) the right of the Participant's spouse to consent to a waiver of the joint and survivor annuity;
 - (4) the right to revoke, and the effect of a revocation of, an election to waive the joint and survivor annuity;
 - (5) the right to elect, and to revoke an election of, any other optional form of benefit payment;
 - (6) the relative values of the various optional forms of benefit under the Plan to the extent required by the Code, including the difference in the amount payable under standard payment provided in Subsection 8.2 as compared to the amount otherwise payable; and
 - (7) the right, if any, to defer receipt of a distribution and the consequences of failing to defer receipt of the distribution.

8.4 Optional Benefits; Manner of Election and Revocation

- (a) The following optional forms of benefits may be elected by a Participant using the process described in Section 8.4(b):
 - (1) Lump Sum Payment. Any married Participant may file an election to receive a lump sum payment of the accrued benefit amount calculated as described in Article 10.
 - (2) 75% Joint and Survivor Annuity. Any married Participant may file an election to receive a monthly annuity payable for the life of the Participant with monthly payments continuing for the life of the Participant's Qualified Spouse. The monthly benefit payable to the spouse shall be seventy-five (75%) percent of the monthly benefit paid during the joint lives of the Participant and the Qualified Spouse, at the election of the Participant.

Payment in the form of a Joint and Survivor Annuity will result in the monthly benefit amount payable to the Participant being reduced (from the monthly annuity benefit payable solely for the life of the Participant), actuarially, to account for the spouse annuity. The annuity will be based

upon the lump sum accrued benefit amount calculated in accordance with Article 10.

The Plan may, in the sole discretion of the Trustees, pay said annuity from the Participants Account Balance or purchase the annuity from an insurance company licensed to do business in the State of Florida with assets in such amount and ratings of such quality deemed prudent by the Trustees of not less than One Billion Dollars.

(3) Period Certain Distribution. Effective on or after January 1, 2018, a Participant may file an election to be paid all or a portion of their account balance (as calculated in Article 10) in equal monthly installments over a period certain of at least 120 months, as selected by the Participant, and subject to the approval of the Trustees. The amount designated to be paid over the period certain shall only be invested in a stable value investment to ensure that the amount to be distributed is available throughout the period certain. Amounts not requested in a period certain distribution shall be invested in the full array of investments for all participants in the Plan. Investment gain or loss, after expenses, shall be posted to the Participant's accrued benefit and account balance and adjusted accordingly. Amounts in a Participant's account not selected for a period certain distribution may be distributed pursuant to any other option in this Section.

(4) Part Lump Sum or Periodic Payment. Effective on or after January 1, 2018, a Participant may select, subject to the approval of the Trustees, a portion of his account balance (as calculated in Article 10) to be paid in a lump sum, on a one-time basis, or periodically, but not more frequently than monthly.

(b) Election of Optional Benefits.

(1) Manner of Electing Optional Benefits – Optional forms of benefit payments shall only be payable if a timely election is made within the 180-day period prior to when a Participant's benefits are set to commence. Such election must be in writing, signed by the Participant, on a form provided by the Board of Trustees, and must clearly indicate that an optional form of Benefit has been chosen.

(2) Consent of Spouse – The spouse of a Married Participant must consent to any election to waive the joint and survivor annuity provided in Section 8.2(a). Such consent must be in form and substance satisfactory to the Plan, including without limitation:

- be in writing;
- acknowledge the effect of the waiver and the spouse's consent to it;

- be witnessed by a Plan representative or a Notary Public; and
- be filed with the Plan during the 180-day period ending on the date on which benefits are to commence.

Thereafter, the Participant cannot elect a different form of benefit (other than a Joint and Survivor Annuity) without the written consent of the spouse.

The Board of Trustees may in its sole discretion determine that a consent of spouse is not required if it is established to the satisfaction of the Board of Trustees that such consent may not be obtained because there is no spouse, because the spouse cannot be located, the Participant is legally separated from the spouse, the Participant has been abandoned by the spouse within the meaning of local law and the Participant has a court order to that effect, or for any other circumstances as may be prescribed by regulations of the Secretary of Treasury. Any consent by a spouse (or an election not requiring consent as provided herein) shall only be effective with respect to such spouse.

- (3) Time Limits – Any optional form of benefit must be elected prior to the receipt of the first payment of benefits from this Plan.

(c) Revocation of Election.

- (1) Revocation by Participant – An election of a standard or optional form of benefit payment may be revoked prior to the receipt of the first payment of benefits from this Plan. Such a revocation of any election must be in writing, signed by the Participant, and must clearly indicate that the Participant is revoking the initial election. If an election is revoked, then the standard form of benefit payment shall be paid unless another election of an optional benefit payment is timely made as provided in Subsection 8.4(b).
- (2) Consent of Spouse – The spouse of a married Participant must consent to any revocation of a joint and survivor annuity and election of any other form of benefit including, without limitation, a standard form of benefit in the same manner as provided in Subsection 8.4(b).

8.5 Rollovers

A Participant who is entitled to receive lump sum distribution from the Plan may elect to have any portion of such distribution be paid directly to an eligible retirement plan as provided in Section 13.2. A rollover may also be elected by an alternate payee under a qualified domestic relations order.

ARTICLE 9
REQUIRED PAYMENT OF BENEFITS

9.1 Required Payment of Retirement Benefits After 72

Retirement benefits to and/or on behalf of a Participant shall begin no later than a Participant's Required Beginning Date. Effective January 1, 2020, a Participant's Required Beginning Date shall be April 1 following the later of the calendar year in which the Participant attains or would have attained the age of 72 or the calendar year in which the Participant retires, even if the Participant has not filed a claim for retirement benefits. Pursuant to a federal law passed in 2020 as a result of the COVID-19 pandemic, for the 2020 Plan Year, the Plan adopted a rule that waives the requirement to pay required minimum distribution payments to participants who would otherwise have been required to be paid in 2020.

9.2 General Rules

- (a) Effective Date - The provisions of this article will apply for purposes of determining required minimum distributions for Plan Years beginning after December 31, 2002.
- (b) Coordination with Minimum Distribution Requirements previously in effect - If the total amount of 2002 required minimum distributions under the Plan made to the distributee prior to the effective date of this article equals or exceeds the required minimum distributions determined under this article, then no additional distributions will be required to be made for 2002 on or after such date to the distributee. If the total amount of 2002 required minimum distributions under the Plan made to the distributee prior to the effective date of this article is less than the amount determined under this article, then required minimum distributions for 2002 on and after such date will be determined so that the total amount of required minimum distributions for 2002 made to the distributee will be the amount determined under this article.
- (c) Precedence - The requirements of this article will take precedence over any inconsistent provisions of the Plan.
- (d) Requirements of Treasury Regulations Incorporated - All distributions required under this article will be determined and made in accordance with the Treasury regulations under Code Section 401(a)(9).
- (e) Timing - For purposes of Sections 9.3 – 9.5, unless paragraph 9.3(b)(iv) applies, distributions are considered to begin on the Participant's Required Beginning Date. If paragraph 9.3(b)(iv) applies, distributions are considered to begin on the date distributions are required to be to the surviving spouse under Section 9.3. If distributions under an annuity purchased from an insurance company irrevocably commence to the Participant before the Participant's Required Beginning Date (or to the Participant's surviving spouse before the date distributions are required to begin to the surviving spouse under Section 9.3), the

date distributions are considered to being is the date distributions actually commence.

9.3 Time and Manner of Distribution

- (a) Timing of Distributions to Participants - The Participant's entire interest will be distributed, or begin to be distributed, to the Participant no later than the Participant's Required Beginning Date.
- (b) Death of Participant Before Distributions Begin - If the Participant dies before distributions begin, the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows:
 - (1) If the Participant's surviving spouse is the Participant's sole designated beneficiary, then distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 72, if later.
 - (2) If the Participant's surviving spouse is not the Participant's sole designated beneficiary, then distributions to the designated beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.
 - (3) If there is no designated beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.
 - (4) If the Participant's surviving spouse is the Participant's sole designated beneficiary and the surviving spouse dies after the Participant but before distributions to the surviving spouse begin, this subsection, other than Paragraph 9.3(b)(1), will apply as if the surviving spouse were the Participant.
- (c) Forms of Distribution - Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the Required Beginning Date, as of the first distribution calendar year, distributions will be made in accordance with Sections 9.4 and 9.5 of this article. If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions will be made in accordance with the requirements of Code Section 401(a)(9) and the Treasury regulations.

9.4 **Required Minimum Distributions during Participant's Lifetime**

- (a) Amount of Required Minimum Distribution for Each Distribution Calendar Year - During the Participant's lifetime, the minimum amount that will be distributed for each distribution calendar year is the lesser of:
- (3) the quotient obtained by dividing the Participant's account balance by the distribution period in the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations, using the Participant's age as of the Participant's birthday in the distribution calendar year; or
 - (4) if the Participant's sole designated beneficiary for the distribution calendar year is the Participant's spouse, the quotient obtained by dividing the Participant's account balance by the number in 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 distribution calendar year.
- (d) Lifetime Required Minimum Distributions Continue Through Year of Participant's Death - Required minimum distributions will be determined under this section beginning with the first distribution calendar year and up to and including the distribution calendar year that includes the Participant's date of death.

9.5 **Required Minimum Distributions After Participant's Death**

- (a) Death On or After Date Distributions Begin
- (1) Participant Survived by Designated Beneficiary - If the Participant dies on or after the date distributions begin and there is a designated beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the longer of the remaining life expectancy of the Participant or the remaining life expectancy of the Participant's designated beneficiary, determined as follows:
 - The Participant's remaining life expectancy is calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.
 - If the Participant's surviving spouse is the Participant's sole designated beneficiary, the remaining life expectancy of the surviving spouse is calculated for each distribution calendar year after the year of the Participant's death using the surviving spouse's age as of the spouse's birthday in that year. For distribution calendar years after the year of the surviving spouse's death, the remaining life expectancy of the surviving spouse is calculated using the age

of the surviving spouse as of the spouse's birthday in the calendar year of the spouse's death, reduced by one for each subsequent calendar year.

- If the Participant's surviving spouse is not the Participant's sole designated beneficiary, the designated beneficiary's remaining life expectancy is calculated using the age of the beneficiary in the year following the year of the Participant's death, reduced by one for each subsequent year.

- (2) No Designated Beneficiary - If the Participant dies on or after the date distributions begin and there is no designated beneficiary as of September 30 of the year after the year of the Participant's death, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the Participant's remaining life expectancy calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.

(b) Death Before Date Distributions Begin

- (1) Participant Survived by Designated Beneficiary - If the Participant dies before the date distributions begin and there is a designated beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the remaining life expectancy of the Participant's designated beneficiary, determined as provided in Paragraph 9.5(a)(1).

- (2) No Designated Beneficiary - If the Participant dies before the date distributions begin and there is no designated beneficiary as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

- (3) Death of Surviving Spouse Before Distributions to Surviving Spouse Are Required to Begin - If the Participant dies before the date distributions begin, the Participant's surviving spouse is the Participant's sole designated beneficiary, and the surviving spouse dies before distributions are required to begin to the surviving spouse under Paragraph 9.5(b)(1), this Subsection 9.5(b) will apply as if the surviving spouse were the Participant.

9.6 Definitions

- (a) Designated Beneficiary - The individual who is designated as the beneficiary under the Plan and is the designated beneficiary under Code Section 401(a)(9) and Section

1.401(a)(9)-1, Q&A-4, of the Treasury regulations.

- (b)** Distribution Calendar Year - A calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Participant's required beginning date. For distributions beginning after the Participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin under Subsection 9.3(b). The required minimum distribution for the Participant's first distribution calendar year will be made on or before the Participant's Required Beginning Date. The required minimum distribution for other distribution calendar years, including the required minimum distribution for the distribution calendar year in which the Participant's required beginning date occurs, will be made on or before December 31 of that distribution calendar year.
- (c)** Life Expectancy - Life expectancy as computed by use of the Single Life Table in Section 1.401(a)(9)-9 of the Treasury regulations.
- (d)** Participant's Account Balance - The account balance as of the last valuation date in the calendar year immediately preceding the distribution calendar year (valuation calendar year); increased by the amount of any contributions made and allocated or forfeitures allocated to the account balance as of dates in the valuation calendar year after the valuation date; decreased by distributions made in the valuation calendar year after the valuation date. The account balance for the valuation calendar year includes any amounts rolled over or transferred to the plan either in the valuation calendar year or in the distribution calendar year if distributed or transferred in the valuation calendar year.

ARTICLE 10
PARTICIPANT ACCOUNTS

10.1 Calculation of Participant Accounts and Benefit Amount

- (a) The Trustees shall establish and maintain for each Participant a Separate Account. However, if a Participant files an Election Form pursuant to Section 4.2, the Trustees shall maintain, on behalf of said Participant, two separate accounts: an Employer Contribution Account and an Elective Contribution Account. Each such account shall be credited or debited to the extent required by this Article. All entries on such individual accounts shall be conclusive and binding upon all parties. Notwithstanding the foregoing, all Contributions paid to the Fund, and the income therefrom, without distinction between principal and income, shall be held and administered, as a single Fund and the Trustee shall not be required to invest separately any share of any Participant in the Fund.
- (b) Beginning with the last day of each Plan Year (the “Valuation Date”), each Participant’s account shall be valued as follows:
- (1) The beginning balance of the Participant’s account as of the prior Valuation Date; plus
 - (2) The amount of Employer Contributions made by Employers for the Plan Year (or the amount of the Elective Contributions made by Employers on behalf of any electing Participant, if applicable); plus
 - (3) Any income and/or losses (including realized and unrealized capital gains) and expenses of the Plan as provided in Section 10.4; less
 - (4) Any withdrawals from the account during the current Plan Year, if permitted.
- (c) A Participant’s Accrued Benefit shall be based upon the value of his account balance(s) as described in this Article 10. If a Participant is eligible to receive a distribution of his account balance(s) in the middle of a Plan Year, the value of such Participant’s account balance(s) will be calculated to the best of the Plan’s ability as of the last day of the month preceding the month in which the Participant’s claim for benefits was received.

10.2 Limitation on Contributions and Allocations to Participants

- (a) Notwithstanding any other provision of the Plan to the contrary, effective for any Limitation Year beginning after December 31, 2001, the Annual Addition, as defined herein, that may be contributed or allocated to a Participant’s Account for any Limitation Year shall not exceed the lesser of:
- (1) Forty Thousand Dollars (\$40,000.00), adjusted for increases in the cost-of-living under Code Section 415(d), or

- (2) One hundred percent (100%) of a Participant's Compensation within the meaning of Code Section 415(d).

All limitations shall be calculated in accordance with Code Sections 415(b)(7) and 415(b)(11). Limitations will be calculated without regard to benefit or Contributions made by a Contributing Employer to any other retirement plan qualified pursuant to Code Section 401.

- (b) In the event the amount allocated to a Participant's Account exceeds the amount permitted in Subsection 10.2(a) such amounts shall be considered "excess amounts". Excess amounts in the Participant's Account shall be allocated and reallocated to the other Participants. If excess amounts remain after such allocation and reallocation, then such amounts shall be held unallocated in a Suspense Account. The amounts in the Suspense Account shall be allocated and reallocated, beginning in the next Plan Year, before any Employer or Employee contributions, which would constitute annual additions, may be made to the Plan.
- (c) In addition to other applicable limitations which may be set forth in the Plan and notwithstanding any other contrary provision of the Plan, compensation taken into account under the Plan shall not exceed Two Hundred Thousand Dollars (\$200,000.00), adjusted for changes in the cost of living as provided in Code Sections 401(a)(17) and 415(d), for the purpose of calculating a Plan Participant's accrued benefit (including the right to any optional benefit provided under the Plan) for any Plan Year commencing after December 31, 1988. However, the accrued benefit determined in accordance with this provision shall not be less than the accrued benefit determined on December 31, 1988.
- (d) The term, "Annual Addition", as used in this Article shall have the meaning provided for pursuant to Code Section 415(c)(2).

10.3 Certification of Allocations

Within 120 days following each Valuation Date, the Trustees shall certify the name of the Participants and the amount allocable to the accounts of each of them and the Trustees shall enter on their records the amount allocated to each Participant and all transactions with respect to the Accounts of such Participant.

10.4 Income and Loss

On an annual basis the Trustees shall allocate and credit the net income or debit the net loss of the Plan for such period to the Accounts of the Participants in the same proportion to which the Accounts of each Participant bear to the amount of the total Accounts of all Participants as the same shall have existed as of the last Valuation Date. All expenses of the Plan and/or the Plan's share of the expenses of the Trust shall be allocated as losses under this Section 10.4.

10.5 Appreciation and Depreciation

The Accounts of all Participants shall be adjusted as of each Valuation Date for any net unrealized appreciation or net depreciation in the assets of the Plan. Such adjustments shall be made in the same proportion, to which the Accounts of each Participant bear to the amount of the total Accounts of all Participants as of the last Valuation Date. The Trustees shall make a written evaluation of the Plan assets on an annual basis which shall be valued as of the Valuation Date of each year. Such evaluation shall be submitted to the Employer and the Trustees within 120 days after the Valuation Date. Plan assets shall always be valued at their fair market value.

10.6 Maximum Benefit Amount

- (a)** A Participant may not receive a retirement or disability benefit which exceeds the lesser of:
 - (1)** 100% percent of the Participant's average Compensation for the highest three (3) consecutive years as Participant in the Plan; or
 - (2)** the maximum amount allowed under Code Section 415, which is incorporated herein by reference.

- (b)** This Section 10.6 shall not apply if:
 - (1)** The Participant's annual benefit under this Plan and all other defined contributions plans of the Participant's Employer does not exceed Ten Thousand Dollars (\$10,000.00); and
 - (2)** The Participant does not participate in a defined benefit plan maintained by the Employer; and
 - (3)** The Participant has been credited with at least ten (10) vesting credits.

- (c)** In addition to other applicable limitations set forth in the Plan, and notwithstanding any other provision of the Plan to the contrary, the annual compensation of each Employee taken into account under the Plan shall not exceed the cost of living in accordance with Section 415(c) of the Internal Revenue Code. The cost-of-living adjustment in effect for a calendar year applies to any period, not exceeding 12 months, over which compensation is determined (determination period) beginning in such calendar year. If a determination period consists of fewer than 12 months, the OBRA '93 (Omnibus Budget Reconciliation Act of 1993) annual compensation limits will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is 12.

If Compensation for any prior determination period is taken into account in determining an Employee's benefits accruing in the current Plan Year, the

Compensation for that prior determination period is subject to the Compensation limit in effect for that prior determination period. For this purpose, for determination periods beginning the first day of the first Plan Year beginning on or after January 1, 1994, the OBRA '93 Annual Compensation limit is One Hundred Fifty Thousand Dollars (\$150,000.00).

ARTICLE 11
EMPLOYMENT AFTER RETIREMENT

11.1 Suspension of Benefits

A Participant receiving retirement or disability benefits under the Plan is subject to the suspension of those benefits if the Participant engages in Disqualifying Employment as defined in this Section, either in Early Retirement Disqualifying Employment, or Normal Retirement Disqualifying Employment.

- (a) A Participant is engaged in Early Retirement Disqualifying Employment if he has elected early retirement, has not yet reached age 65, and is engaged in any:
- (1) Employment of any type anywhere within the pipefitting and/or HVAC/R industry;
 - (2) self-employment anywhere within the pipefitting and/or HVAC/R industry;
 - (3) consulting anywhere within the pipefitting and/or HVAC/R industry;
 - (4) independent contracting anywhere within the pipefitting and/or HVAC/R industry;
 - (5) management of a business or an entity operating anywhere within the pipefitting and/or HVAC/R industry; or
 - (6) ownership of a business or entity operating anywhere within the pipefitting and/or HVAC/R industry.

Employment or ownership in any of the above capacities is Early Retirement Disqualifying Employment regardless of the geographic location of the employment or ownership.

- (b) The payment of a Participant's retirement and disability benefits shall be suspended if the Participant has worked in Early Retirement Disqualifying for 40 hours or more in a month. Payment of retirement and disability benefits may resume once the Participant ceases to work in Early Retirement Disqualifying Employment as provided for in this Section and subject to the adjustments required by this Section.
- (c) The Board of Trustees may uniformly waive the provisions of Subsections 11.1(a)-(b) for such periods of time as it deems appropriate, provided that commencing January 1, 2007 that the participant has met the terms and provisions of the Plan then in effect between 2007 and 2016 for such waiver.
- (d) A Participant is engaged in Normal Retirement Disqualifying Employment if he:
- (1) has reached age 65;
 - (2) has elected to retire or receive retirement benefits while working for a contributing employer; and

- (3) is working for a non-Contributing Employer in the Jurisdiction of the Fund and performing the type of work for which contributions have been made to the Plan under the Collective Bargaining Agreement.
- (e) The payment of a Participant's retirement and disability benefits shall be suspended if Participant works in Normal Retirement Disqualifying Employment for 40 hours or more in a month. Employment described in Paragraph 11.1(d)(3) is only Normal Retirement Disqualifying Employment if it is within the geographic jurisdiction covered by the Collective Bargaining Agreement. Payment of retirement and disability Benefits may resume once the Participant ceases to work in Normal Retirement Disqualifying Employment or works in Normal Retirement Disqualifying Employment for less than 40 hours in a month, as further provided for in this Section, and subject to the adjustments set forth in this Section.
- (f) Notwithstanding anything to the contrary in this Section, work for a Contributing Employer within the Jurisdiction of the Fund is not Normal Retirement Disqualifying Employment.

11.2 Notice of Re-Employment

Retired and disabled Participants must notify the Board of Trustees upon returning to any type of work within 30-days after starting work, and shall furnish all information and documents reasonably required by the Board of Trustees regarding such employment. A Participant may request, in writing and on a form provided by the Board of Trustees, an advance determination whether certain work is Disqualifying Employment. A written determination shall be given to the Participant within 60 days of the request, unless special circumstances (such as a hearing) require additional time, not to exceed 120 days from receipt of the request.

A Participant who returns to work for a Contributing Employer after retirement shall receive an additional credit for said Contributions if all other provisions of this Plan are satisfied to entitle said Participant of such additional credits until he or she attains Normal Retirement Age and satisfies all requirements for normal retirement.

11.3 Notice of Re-Retirement

A Participant must notify the Board of Trustees upon re-retirement if the Participant had returned to work after having a claim filed for Pension or Disability Benefits. Notice of re-retirement shall be given on a form provided by the Board of Trustees. Pension and Disability benefits shall otherwise remain suspended until notice of re-retirement is given.

11.4 Verification of Retirement

Retired and disabled Participants may be required to certify, at least on an annual basis, that the Participant has been retired or disabled for the prior 12 months. Verification of retirement and disability shall be made on forms provided by the Board of Trustees. If not submitted timely, Retirement and Disability Benefits may be suspended until such time as the Participant completes

the verification form.

11.5 Resumption of Benefits

- (a) If a Participant's benefit payments are suspended under this Article, benefit payments shall resume by the first day of the third month after receipt of the notice of re-retirement, or verification of such retirement or disability, from the Participant.
- (b) The initial payment upon resumption of payment of benefits shall be an amount computed as follows:
 - (1) the amount of monthly payment scheduled to be made in the calendar month in which the payments resume; plus
 - (2) the amount of all payments which were withheld during the period between the month in which the Employee ceased to perform Disqualifying Employment hereof and the month of resumption of payments.

11.7 Offset of Retirement Benefits Improperly Paid

To the extent necessary to recoup any retirement benefits paid to any Participant during a period in which said Participant performed work of the type and amount described in Section 11.1 hereof, the Board of Trustees shall upon resumption of payment of retirement benefits hereunder deduct from such resumed retirement benefits the following amounts:

- (a) from initial payment an amount up to 100% of said initial payment as may be necessary to recoup the entire amount of retirement benefits erroneously paid;
- (b) from all payments subsequent to the initial payment an amount not in excess of 25% percent of each monthly retirement benefit payment until the amount of the retirement benefit erroneously paid is entirely recouped.

11.8 Notice of Suspension

If a Participant's retirement or disability benefits will be suspended, the Board of Trustees shall provide written notification to the Participant, which shall contain the following information:

- (a) a description of the specific reasons why benefit payments are suspended;
- (b) a general description of the Plan provisions relating to a suspension of benefits and a copy of such provisions;
- (c) a statement that applicable Department of Labor Regulations may be found in Section 2530.203-3 of the Code of Federal Regulation;

- (d) a statement that the Participant has the right to have the determination reviewed in accordance with the claims review procedure may be found in the Summary Plan Description;
- (e) a statement that in order to have benefits resumed a resumption notice must be filed with the Board of Trustees and a copy of the form which must be filed; and
- (f) in the event benefits were inadvertently paid during a period of re-employment that the Plan intends to offset against future benefits payable upon resumption, identification of the specific periods of employment, the suspendable amount subject to offset, and the manner in which the Plan intends to offset suspendable amounts shall also be set forth specifically.

11.9 Computation Amount at Re-Retirement

The benefit amount at re-retirement may take into account any additional credit the Participant may have received associated with Contributions submitted on the Participant's behalf during the suspension of benefits period if all other provisions of this Plan are satisfied to entitle said Participant to such additional credit.

ARTICLE 12
DEATH BENEFITS

12.1 Right to Death Benefits

A death benefit shall be payable upon the death of the Participant if:

- (a) The Participant is not receiving a retirement or disability benefit at the time of death; and
- (b) a timely claim for death benefits is filed as provided in Section 15.3.

12.2 Spouse's Pre-Retirement Survivor Benefits

- (a) Definition of "Earliest Retirement Age" - For purposes of this Subsection 12.2, the term "Earliest Retirement Age" means the earlier of:
 - (1) the date the Participant would have reached early retirement age (age 55), provided the Participant was vested and met the requirements of an early retirement benefit; or
 - (2) the date the Participant would have reached Normal Retirement Age.
- (b) Death Before Earliest Retirement Age – If a vested married Participant has a Qualified Spouse and dies on or before the Earliest Retirement Age, then:
 - (1) The surviving Qualified Spouse shall receive monthly payments for life equal to the same benefit that would have been payable to the spouse if the Participant had retired with a sixty-six and two-thirds (66 2/3%) percent joint and survivor annuity, and had died on the day before separation from service. The reduction in the benefit due to the Participant's early retirement age shall apply in the same manner in calculating the spouse's survivor benefit.
 - (2) The Qualified Spouse's survivor benefit shall not be payable until the first day of the month after the Participant would have reached the Earliest Retirement Age. The Qualified Spouse's survivor benefit will commence within an administratively reasonable time after the surviving spouse applies for payments in the manner prescribed by the Board of Trustees. The surviving spouse may elect in writing, filed with the Board of Trustees, to defer commencement of the survivor annuity until a specified date that is no later than the end of the calendar year in which the Participant would have turned age 72.
 - (3) If the Qualified Spouse dies before the Participant would have reached the Earliest Retirement Age, then no benefits shall be paid whatsoever.

- (c) Death After Earliest Retirement Age - If a vested married Participant with a Qualified Spouse dies after the Earliest Retirement Age and has not yet commenced benefits, then:
- (1) The surviving Qualified Spouse shall receive monthly payments for life equal to the same retirement benefit that would have been payable to the spouse if the Participant had retired with a sixty-six and two-thirds (66 2/3%) percent joint survivor annuity either on the day before the Participant's death or separation from service, whichever is the earlier date. Any adjustment in the benefit due to the Participant's early retirement age shall apply in the same manner in calculating the spouse's survivor benefit.
 - (2) The Qualified Spouse's survivor benefit shall be payable on the first day of the month after the Participant's death, however the surviving Qualified Spouse may not begin receiving such benefits until such administratively reasonable time after the Participant's death and application by the spouse. The surviving spouse may elect in writing, filed with the Board of Trustees, to defer commencement of the survivor annuity until a specified date that is no later than the end of the calendar year in which the Participant would have turned age 72.
- (d) Optional Form of Death Benefit – If a vested married Participant with a Qualified Spouse dies before benefits payments commence, then:
- (1) The Qualified Spouse may file an election to receive an optional form of benefit as provided in Section 8.4 for unmarried participants provided that the total amount of benefit payments is made within one year, which will be paid to the spouse in lieu of the pre-retirement survivor annuities described in 12.2(b) and 12.2(c).
 - (2) Such election must be in writing, signed by the Qualified Spouse with the spouse's signature notarized, and filed with the Plan no later than thirty (30) days prior to the date on which the Plan would have issued the first monthly spouse's pre-retirement survivor annuity benefit payment.
- (e) Non-Vested Participants - The surviving spouse of a Participant who was married at the time of death, but was not vested in his Employer Contributions or otherwise did not qualify for a pre-retirement benefit, shall be entitled to only a lump sum death benefit of the Elective Contributions, if any, as set forth in Section 4.2.

12.3 Unmarried Participant Death Benefits

The death benefit payable upon the death of a non-married vested Participant shall be a lump sum benefit to the Participant's Beneficiary. The lump sum amount shall be the sum of the Participant's vested account balance as of the last day of the month prior to the date the application for the lump sum death benefit is received. However, the Beneficiary may file an election to receive an optional

form of benefit as provided in Section 8.4 for unmarried participants provided that the total amount of benefit payments is made within one year. Payment to a Beneficiary of a lump sum amount shall occur not later than five years following the Participant's death, however the Board of Trustees will endeavor to pay such lump sum amount within one year of the Participant's death.

12.4 Election of Optional Spouse's Survivor Benefits

- (a) Forms of Optional Survivor Benefits – A married, vested Participant who has not retired may file an election to waive the pre-retirement survivor annuity provided in Section 12.2 and instead receive:
 - (1) A Lump Sum Survivor Benefit. This form of benefit shall provide, upon the death of the Participant, a benefit payable to the spouse equal to the benefit described in Section 12.3; or
 - (2) With respect to any Participants who die in any Plan Year commencing after December 31, 2007, a seventy-five (75%) percent monthly spouse annuity which shall provide a benefit payable to the spouse equal to the benefit described in Paragraph 8.4(a)(2).
- (b) Manner of Electing - An optional spouse's survivor benefit shall be elected in writing and signed by the Participant on a form provided by the Board of Trustees. The election may occur at any time and for any number of times before the death of the Participant. The spouse of a married Participant must consent to any such election which will result in a lesser benefit for the spouse. Such spousal consent must comply with the provisions of Section 8.4(b)(2).
- (c) Revocation of Election - An election of the lump sum optional spouse's survivor benefit may be revoked at any time and for any number of times before the death of the Participant. Such revocation must be in writing, signed by the Participant. The spouse must also consent in writing to any revocation of such election in compliance with the provisions of Section 8.4(b)(2).
- (d) Notice of Optional Election - Written notice of the right to elect an optional spouse's survivor benefit shall be provided to all married, vested Participants on an annual basis. Such notice shall contain a written explanation of:
 - (1) the terms and conditions of the standard spouse's pre-retirement survivor benefit and the optional spouse's survivor benefits;
 - (2) the Participant's right to waive, and the effect of, a waiver of the spouse's pre-retirement survivor benefit;
 - (3) the right of the Participant's spouse to consent to a waiver of the spouse's pre-retirement survivor benefit;
 - (4) the right to revoke, and the effect of the spouse's pre-retirement survivor benefit; and,
 - (5) the right to elect, and to revoke an election of, any optional spouse's survivor benefits.

12.5 Designation of Beneficiary

The Beneficiary shall be the surviving spouse or such other person as the Participant (with the written consent of the spouse as required by this Plan) has designated in writing on a form approved by the Board of Trustees. Notwithstanding the foregoing, only a surviving spouse is entitled to be the survivor beneficiary under a Qualified Joint and Survivor Annuity. Each Beneficiary designation may be revoked by such Participant by signing and filing with the Trustees a new designation of beneficiary form. However, no such change shall be binding on the Trustees unless it is received before the time any payments are made to the Beneficiary whose designation is on file in the Fund office. If all designated beneficiaries predecease the Participant, or if none have been designated, then the Trustees may pay:

- (a) first to the Participant's surviving spouse, if any;
- (b) if the surviving spouse cannot be located, then equally to the Participant's children if all can be located;
- (c) if not all the Participant's children can be located (or if any child pre-deceased the Participant) then, the Plan shall be entitled to petition the appropriate Probate Court to open the estate of the Participant and to appoint an Administrator Ad-Litem to receive the sums to be paid by the Plan; and
- (d) if all the foregoing cannot be accomplished then the Plan may file an Interpleader as set forth in Section 15.7. The Plan shall be reimbursed, as a deduction from the Benefit, for all court costs and attorney fees incurred in connection with Subsections (c) and/or (d).

Upon payment as set forth above, the Plan's obligations will be completely discharged to the extent of such payment.

12.6 Reduction of Death Benefits

For purposes of determining the amount of any qualified pre-retirement survivor annuity and/or any other death benefit, the amount of any sum due to the Plan by the Participant (such as a set-off or reduction in benefits pursuant to the terms of this Plan) shall be taken into account and shall reduce the amount of such death benefit.

ARTICLE 13
PAYMENT OF SMALL AMOUNTS AND ROLLOVER DISTRIBUTIONS

13.1 Payment of Small Amounts

- (a) Upon a Participant's Retirement or failure to work in Covered Employment, if the Present Value of a Participant's Account Balance is between One Thousand (\$1,000) and Five Thousand Dollars (\$5,000.00), the Participant can elect to have such distribution paid directly to an Eligible Retirement Plan specified by the Participant in a Direct Rollover as provided in Section 13.2, or to receive the distribution directly in a lump sum payment. The Plan may, from time to time, notify Participants with such Account Balance present values between \$1,000 and \$5,000 of the options for a Direct Rollover or lump sum distribution. If the Participant does not make either election, the Plan's Administrator will pay the distribution in a Direct Rollover to an individual retirement plan designed by the Plan's Administrator.
- (b) Upon a Participant's Retirement or failure to work in Covered Employment, if the Present Value of a Participant's Account Balance is One Thousand Dollars (\$1,000.00) or less, the Plan's Administrator may make a lump sum cash distribution to the Participant equal to the present value of the Account Balance. The Plan Administrator will make these cash distributions from time-to-time as needed.

13.2 Direct Rollovers

All Lump Sum Distributions from this Plan made after December 31, 1992 which are Eligible Rollover Distributions as described below shall be governed as follows:

- (a) 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 Board of Trustees, but no earlier than the time required under Section 6.1 or Article 7 of this Plan, to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan specified by the Distributee in a Direct Rollover.
- (b) Definitions:
- (1) Eligible Rollover Distribution: An Eligible Rollover Distribution is any distribution of all or any portion of the balance to the credit of the Distributee; provided that such is an "Eligible Rollover Distribution" as defined in Code Sections 402(c)(4), 401(a)(21), and 408(A).
- (2) Eligible Retirement Plan: For Plan Years beginning on or after December 31, 2011, an Eligible Retirement Plan:
- is an individual retirement account described in Code Section

- 408(a)(9),
- an individual retirement annuity described in Code Section 408(b), or
 - a qualified trust described in Code Section 401(a),
 - an annuity plan described in Code Section 403(a),
 - an annuity contract described in Code Section 403(b)
 - an eligible plan under Code Section 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan.
 - 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 Code Section 414(p), which accepts the Distributee's Eligible Rollover Distribution. With respect to a Distributee who is a surviving spouse, an Eligible Retirement Plan is an individual retirement account or an individual retirement annuity.

For purposes of this Paragraph 13.2(b), a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in Code Section 408(a) or (b) or to a qualified defined contribution plan described in Code Sections 401(a) or 403(a) that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

- (3) Distributee: A Distributee includes an Employee or former Employee. In addition, the Employee's or former Employee's surviving spouse and the Employees or former Employee's spouse or former spouse which is the alternate payee under a qualified domestic relations order, as defined in Code Section 414(b). It also includes a designated beneficiary as defined in Code Section 409(a)(9)(E), as Distributees with regard to the interest of the spouse or former spouse.
- (4) Direct Rollover: A Direct Rollover is a payment by the Plan to the Eligible Retirement Plan specified by the Distributee or an Eligible Retirement Plan established for the purpose of receiving an Eligible Rollover Distribution on behalf of a designated beneficiary who is a Distributee.
- (5) Notice Regarding Rollover Distribution: A Plan must provide to a Participant and the Participant's spouse the requirements of Section 417(a) of the Explanation.

13.3 Rollover Distributions and Trustee to Trustee Transfers.

- (a)** Where the Fund has received, or will receive, a distribution from another qualified retirement plan, or rollover account that is exempt from taxation under the Code, the Trustees may accept the amount of said distribution, provided it consists exclusively of pretax contributions and the earnings on those contributions as a Rollover Contribution to the Fund or as a Trustee to Trustee Transfer from the other qualified retirement plan.
- (b)** The Trustees shall not accept a Rollover Contribution unless the Trustees have reason to believe that if the Trustees accept the Rollover Contribution, the Employee will avoid taxation under the Code on the contribution and the Plan will not be required to make available to the Employee any optional form of benefit not currently available to the Employee under the Plan. A Rollover Contribution or Trustee to Trustee Transfer may be accepted from an Employee or another qualified retirement plan only after the Employee becomes a Participant. The Plan may accept rollovers on behalf of an Employee from all permissible sources that contain exclusively pre-tax contributions and the earnings thereon.
- (c)** Rollover Contributions, Trustee to Trustee Transfers and earnings and losses thereon may be segregated into a separate account for accounting purposes. Rollover Contributions or Trustee to Trustee Transfers shall be subject to the same requirements of this Plan as are applicable to Employer Contributions to the Plan on behalf of the Participant.
- (d)** The Trustees may also permit a Participant to rollover his or her Account Balance in this Plan to another United Association-affiliated defined contribution retirement plan prior to retirement, provided the Participant has not worked in the jurisdiction of the Union for at least 24 months.

ARTICLE 14
TOP-HEAVY RULES

14.1 Effective Date

For Plan Years beginning after December 31, 2001, this section shall apply for purposes of determining whether the Plan is a Top-Heavy Plan under Code Section 416(g), and whether the Plan satisfies the minimum benefits requirements of Code Section 416(c) for such years.

14.2 Definitions

For purposes of this Article, the following definitions shall apply:

- (a) Aggregation Group means a "Required Aggregation Group" or a "Permissive Aggregation Group" as defined below:
 - (1) "Required Aggregation Group" - means each plan of the Employer in which a Key Employee is a Participant and each other plan of the Employer, which enables each plan of the Employer in which a Key Employee is a Participant, to meet the requirements of Code Sections 401(a)(4) or 410.
 - (2) "Permissive Aggregation Group" - means any plan not required to be included in an "Aggregation Group", which may be treated as being part of such Aggregation Group is such Aggregation Group would continue to meet the requirements of Code Sections 401(a)(4) or 410 with such Plan being taken into account.
- (b) "Determination Date" – means, with respect to any Plan Year, the last day of the preceding Plan Year or in the case of the final Plan Year for any Employer, the last day of such Plan Year.
- (c) "Key Employee" – means any Employee or Former Employee (including any deceased Employee) who at any time during the Plan Year that includes the Determination Date was or is:
 - (1) an officer of the Employer having Annual Compensation greater than \$130,000 (as adjusted under Code Section 416(i)(1) for Plan Years beginning after December 31, 2002);
 - (2) a 5-percent owner of the Employer; or
 - (3) a 1-percent owner of the Employer having Annual Compensation of more than \$150,000. For this purpose, Annual Compensation means Compensation within the meaning of Code Section 415(c)(3). The determination of who is a Key Employee will be made in accordance with

Code Section 416(i)(1) and the applicable regulations and other guidance of general applicability issued thereunder.

For this purpose, Annual Compensation means Compensation within the meaning of Code Section 415(c)(3). The determination of who is a Key Employee will be made in accordance with Code Section 416(i)(1) and the applicable regulations and other guidance of general applicability issued thereunder.

- (d) “Non-Key Employee” – means any Employee (including his beneficiaries) who is not a Key Employee.
- (e) “Top-Heavy Group” – means any Aggregation Group if, as of the Determination Date, the sum of the present value of the cumulative accrued benefits for Key Employees under any employee retirement plan exceeds sixty (60%) percent of a similar sum determined for all Key Employees and Non-Key Employees combined.
- (f) “Top-Heavy” – means, with respect to any Plan Year, as of the Determination Date, the present value of the cumulative accrued benefits for Key Employees under this Plan exceeds sixty (60%) percent of the present value of the cumulative accrued benefits for all Key Employees and Non-Key Employees combined under this Plan (the “60% Test”). The present values of accrued benefits and the amounts of account balances of an Employee as of the Determination Date, shall be increased by the distributions made with respect to the Employee under the Plan and any Plan with the Plan under Code Section 416(g)(2) during the 1-year period ending on the Determination Date.
- (g) “Valuation Date” – means, with respect to any Plan Year, the same valuation date used by the Plan for computing Plan costs for minimum funding regardless of whether a valuation is performed for such Plan Year and for which purpose the Accrued Benefit for each current Employee must be determined as if the individual terminated service as of such Valuation Date.

14.3 Top Heavy Rules

- (a) For the purpose of determining whether an Employee is a Key Employee an Employee shall never be deemed to be more than one Key Employee even if such Employee is deemed to be a Key Employer under more than one of the preceding definitions of a Key Employee.
- (b) For purposes of determining if this Plan is a Top-Heavy Plan, the following rules shall be applicable:
 - (1) The present values of the cumulative accrued benefits for Key Employees and Non- Key Employees shall be determined as of the most recent respective Valuation Dates for such plans which occur within the

respective 12 month periods ending on the respective Determination Dates for such Plans.

- (2) Notwithstanding the results of the 60% Test, the Plan shall not be considered a Top- Heavy Plan for any Plan Year in which the Plan is a part of a Required or Permissive Aggregation Group (as defined in Code Section 416(g)) which is not Top-Heavy.
- (c) For purposes of determining the present value of the cumulative accrued benefit, the following shall apply:
 - (1) For any Key Employee or Non-Key Employee contributions not made by the Employer shall not be taken into account; and,
 - (2) The accrued benefits and accounts of any individual who has not performed services for an Employer during the 1-year period ending on the Determination Date shall not be taken into account.

14.4 Top Heavy Vesting Requirements

Effective as of the first day of each Plan Year in which the Plan is Top-Heavy, a non-bargaining unit Participant’s Vested Percentage in his Accrued Benefit derived from Employer contributions shall be determined from the regular Vesting Schedule for the Plan or the following vesting schedule, whichever produces the higher Vested Percentage for the Participant. This increased Vesting Percentage shall continue to apply for that Participant (in the manner described in the preceding sentence) thereafter even if this Plan subsequently ceases to be deemed Top-Heavy, unless otherwise amended as provided for in Section 3.4 (Changes in Vesting Schedule).

<u>Vesting Credits</u>	<u>Vesting Percentage</u>
Less than 2	0%
2	20%
3	40%
4	60%
5	80%
6	100%

14.5 Top Heavy Benefit Accrual

If the Plan becomes Top-Heavy, then for all Non-Key Employees who also participate in the MCASF Local 725 Pension Plan, the Top-Heavy minimum benefit requirements of Code Section 416 shall be satisfied under the MCASF Local 725 Pension Plan. Otherwise, a minimum employer contribution of 5% of Annual Compensation shall be made to the Participant’s account under this Plan.

14.6 Maximum Annual Compensation

The maximum annual compensation to be taken into account under this Plan during any Plan Year in which the Plan is Top-Heavy for any Participant shall not exceed the sums set forth in Subsections 10.2(c) or (d), whichever is applicable, or the higher dollar amount for the Plan Year established by regulations or determined by the Commissioner of Internal Revenue to be effective as of January 1 or each calendar year (but no earlier than January 1, 1988) and which applies to the Plan Year ending with or within the calendar year.

ARTICLE 15
ADMINISTRATION AND CLAIMS

15.1 Board of Trustees and Interpretation of Plan

- (a) The Board of Trustees shall administer and control the operation of this Plan in accordance with the provisions of this Plan and the Trust Agreement. The Board of Trustees, or any other person to whom the Board of Trustees may allocate or delegate such authority, shall, from time to time, establish rules for the interpretation, application and administration of the Plan. In making any such determination or rule, the Board of Trustees shall pursue uniform policies and shall not unreasonably discriminate in favor of, or against, any person or group of persons.
- (b) The terms and conditions of this Plan shall be construed subject to the purposes and provisions of the Trust Agreement establishing the Trust Fund, and subject to ERISA, the Code and all other applicable laws.
- (c) The Board of Trustees is vested with sole and exclusive authority to construe and interpret the provisions of the Plan, including without limitation, eligibility and payment of benefits. All such constructive interpretations and rulings adjudged by the Board of Trustees, in good faith, shall be binding and conclusive upon all parties, including, without limitation, the Union, Employers, Employees, Participants and Beneficiaries. The discretion granted to the Board of Trustees under this provision shall include the discretion to decide between beneficiary claimants on a case-by-case basis. All factual determinations made by the Board of Trustees shall be presumed to be correct unless it is found that there is no basis for the determination, or an absolute lack of any basis from which the Board of Trustees could make such a factual determination. In the absence of any evidence as to any facts whatsoever, all presumptions of fact, assumptions of fact, or other projections of fact by the Board of Trustees shall be entitled to deference, unless shown to have been made in bad faith.

15.2 Claims, Notices and Inquiries

All claims for benefits, elections (or revocations of election) for a specific form of benefit, requests to increase benefits after returning to work, notices of re-employment, notices of re-retirement, verification of retirement, advance determinations of prohibited work, notices of mailing address, notices of appeal, and all other inquiries and matters concerning the Plan shall be submitted to the Board of Trustees addressed as follows:

Board of Trustees
MCASF Local 725 Defined Contribution Retirement Plan
15800 Pines Boulevard, Suite 201
Pembroke Pines, FL 33027

All inquiries shall be answered promptly. The Board of Trustees shall be the sole judge of the standards of proof required for any claim of benefits or other inquiries concerning the Plan. In the application and interpretation of this Plan, the decisions of the Board of Trustees shall be final and binding on the Participants and beneficiaries, the Associations, the Employers, the Union, and all other persons. The final decision for approval of benefits shall be made by the Board of Trustees.

15.3 Applications for Benefits

- (a) Advance Claim Required - In order to receive a benefit under this Plan, a claim for benefits must be submitted, in writing, and shall be made on a duly prescribed form containing the information required in this section. The claim for benefits should be filed at least three months before the Participant's expected date of retirement. A claim for benefits must be filed before any benefits are payable. After a Participant dies, a claim for death benefits (or survivor benefits if applicable) must be filed within one year of the death of the Participant. If a retired Participant returns to work and earns additional Benefit Credits, then the Participant must file a written request to increase the amount of retirement benefits within three months of re-retirement.
- (b) Information Required - All Participants and beneficiaries shall furnish such information and documentation as the Board of Trustees considers necessary or desirable for the purposes of administering the Plan. This shall typically include:
- (1) Participant's birth certificate;
 - (2) Spouse's birth certificate;
 - (3) Marriage Certificate or Divorce Decree;
 - (4) Qualified Domestic Relations Order, if any;
 - (5) State-issued ID for Participant and Spouse;
 - (6) Retirement Declaration with the expected date of retirement and an Affidavit of Employment regarding recent employment;
 - (7) Date and proof of death (i.e., Death Certificate) if a claim is filed for a survivor annuity or a death benefit.

If the above documents cannot be provided, other information or documentation may be used if the Board of Trustees deems it reliable in the Trustees' sole discretion. Any adjustment to benefits required by reason of lack of proof, or misstatement of age, shall be made in such a manner as the Board of Trustees deems equitable. Benefits provided under this Plan are conditioned upon the furnishing of such true and complete information as may be needed. If necessary, the Board of Trustees and any other persons involved in the administration of the Plan shall be entitled to rely upon any certification, statement, or representation made by a Participant or beneficiary with respect to age, marital status, death of the Participant, or other facts required to be determined under any of the provisions of the Plan. The Board of Trustees shall not be liable on account of the payment of any monies or the commission of any act or failure to act, in

reliance thereon.

15.4 Multiple Claims Prohibited

Once a claim for benefits has been approved by the Board of Trustees, no further claims for a retirement or a disability benefit shall be permitted.

15.5 Notification of Mailing Address

- (a) All Participants and beneficiaries shall file with the Board of Trustees, from time to time, in writing, their mailing address and each change of address. Failure to submit such mailing address may result in the payment of benefits being delayed.
- (b) Any check representing payment hereunder, and any communication addressed to a Participant, beneficiary or other person, at the last address on the records of the Board of Trustees, shall be binding on such persons for all purposes of this Plan.
- (c) If the Board of Trustees is in doubt whether payments are being received by the person entitled to them, it may notify such person, by certified mail at the last known address, that all payments of benefits shall be withheld until the Board of Trustees is provided such information it deems necessary.

15.6 Benefits Payable to Minors and Incompetents

- (a) In the event a Beneficiary is a minor child under the age of 18 and is entitled to receive payment(s) under this Plan, the distribution shall be made to a duly appointed conservator, guardian, or other legal representative appropriate to receive such payments on behalf of the minor child.
- (b) Any Participant or Beneficiary receiving benefits shall be presumed to have been competent unless the Trustees receive written notice in a form and manner acceptable to them that such Participant or Beneficiary is an incompetent for whom a guardian or other person legally vested with his care has been appointed. In such instance, any future benefits to which such Participant or Beneficiary is entitled shall be paid to such guardian or other person legally vested with his care.
- (c) Any payments made pursuant to the provisions of this Section 15.6 shall be a complete discharge of any liability of the Plan to such Participant or Beneficiary and shall be a complete settlement of any claim, right, or interest in and to such benefits.

15.7 Interpleader

In the event of any controversy under and/or regarding the Trust and Plan including, without limitation, questions or controversies of whatever character, arising in any manner or between any persons or entities in connection with the Trust Fund or the operation thereof, or which are

related to any claim for any benefit by any Participant or any other person, the Board of Trustees may file an interpleader action or any action of judicial determination and declaratory judgment in any court of competent jurisdiction to determine the rights, duties, and/or obligations of the Plan, Trust, and Participant's Beneficiary, and/or Trustees. The court costs and all professional fees and costs of an interpleader action may be deducted from the sums deposited with the court or disbursed pursuant to the Order of such Court.

15.8 Reliance on Experts

With respect to any and all determinations and decisions required and/or permitted to be made by the Board of Trustees pursuant to the terms of this Plan, including, without limitation all determinations and decisions to which the Board of Trustees are entitled to exercise discretion in interpreting the provisions of this Plan, determinations of eligibility for benefits, termination of eligibility, medical, physical, and/or health conditions of any person, the Board of Trustees shall be entitled to rely upon, accept, and based on its decisions or determinations upon, the opinion of any expert engaged by the Board of Trustees to review and evaluate such matters. Such possible experts include any licensed health care professional (including, without limitation, a licensed nurse, nurse practitioner, medical doctor, chiropractor or other physician). It is specifically the right of the Board of Trustees to not grant special deference, weight or authority to the opinion or evaluation of the treating physician of any individual and the Board of the Trustees is not required to afford the opinion or evaluation of such treating physician of any individual over the opinion and/or evaluation of any referred physician to which the Board of Trustees has submitted the matter for evaluation and opinion.

15.9 Payment of Expenses for Administration

All expenses incurred with respect to preparation of Trust and/or Plan documents, design, administration, operation, and compliance of the Trust and Plan with all applicable legal requirements, including, without limitation, amendments to the Trust, Plan, and/or related documents, and compliance with applicable law, as such law may be enacted, amended or modified, (including, without limitation, by action or decision of any court having applicability to the Trust and/or Plan) from time to time, shall and are hereby declared and determined to be, activities and expenses undertaken and incurred by the Board of Trustees in their capacity as fiduciaries to the Trust and Plan (and not in any other capacity), in accordance with ERISA and Department of Labor Field Assistance Bulletin 2002-2 and shall be expenses to be paid by the Trust.

ARTICLE 16
CLAIM DENIALS AND APPEALS

16.1 Notice of Denial of Benefits

- (a) Generally - If any claim for benefits is denied, suspended, or terminated, in whole or in part, then the claimant shall be furnished with a Notice of denial, suspension or termination no later than 90 days after the final decision has been made (or 45-days for disability claims). The Notice shall be provided in writing and shall set forth:
- (1) the specific reasons for the denial, suspension or termination of benefits;
 - (2) the specific references to the pertinent provisions of the Plan upon which the action is based, along with a copy of the Plan provisions;
 - (3) a description of any additional material or information necessary for the claimant to perfect the claim, along with an explanation of why such material or information is necessary;
 - (4) in the event of a suspension of benefits, reference to Department of Labor Regulations, 29 CFR Section 2530.203(c);
 - (5) an explanation of the Claims Review Procedure;
 - (6) for a disability claim, the specific rule, guideline, protocol, or other similar criterion, if any, which was relied upon in making the adverse determination, or a statement that such a rule, guideline, protocol, or other similar criterion was relied upon in making the determination and that a copy of such will be provided free of charge upon request;
 - (7) for a disability claim, if the determination is based on a medical necessity or experimental treatment or similar exclusion or limit, either an explanation of the scientific or clinical judgment for the determination, applying the terms of the plan to the claimant's medical circumstances, or a statement that such explanation will be provided free of charge upon request; and
 - (8) a statement of the claimant's right to bring a civil action in accordance with Section 502(a) of ERISA if the claimant's claim is denied upon review.
- (b) Additional Time - In special circumstances, the Plan may require an additional 90-days (30 days for a disability claim) to make a decision and must provide notice to the Participant prior to the end of the original 90-day period (45-day period for disability claims) that explains the special circumstances involved and the date by which the Plan expects to make its decision.

16.2 Appeals of a Denied Claim

- (a) Requests for Review - If a claim for benefits is denied, suspended or terminated, in whole or in part, then the claimant may appeal to the Board of Trustees for a full and fair review. In order to file an appeal, a written Notice of Appeal must be submitted within 60 days after the Notice of denial, suspension or termination is received by the claimant (or within 180 days for a disability claim). The Notice of Appeal shall briefly describe the grounds upon which the appeal is based and shall be signed by the claimant. The claimant shall be allowed to review all pertinent documents during normal business hours, and shall be permitted to submit comments and a statement of issues for consideration by the Board of Trustees.
- (b) Representation - A claimant may designate an attorney, or any other duly authorized person, to act as his or her representative at any stage of the Claims Review Procedure. Any rights provided to the claimant during the Claims Review Procedure shall automatically extend to the representative designated by the claimant. A designation of representative shall be signed by the claimant and the representative, and shall be submitted in writing.
- (c) Claims Review Board - The Board of Trustees shall rule on all appeals brought under this section. A decision to grant or deny an appeal shall be based solely on the record before the Board of Trustees, unless the Board of Trustees determines, in its sole discretion, that hearing is necessary for the proper resolution of the appeal. The Board of Trustees shall decide, by majority vote, to grant or deny an appeal. The final decision shall be made by the Board of Trustees, in writing, and shall be made no later than 60 days after receipt of the Notice of Appeal (or 45 days for a disability claim). If special circumstances require an extension of time for reviewing the claim, the Board of Trustees will provide a written or electronic notice of the extension prior to the end of the initial 60-day (45-day period for a disability claim) period. The extension notice will indicate the special circumstances requiring an extension of time and the date by which the Plan expects to make its decision. The Board of Trustees may take an additional 60 days (45 days for a disability claim) to review the claim, or a total of 120 days (90 days for a disability claim) from the day the appeal was received.

In the event of an appeal of a denied claim for a disability benefit, the review of the denied claim must not afford deference to the initial adverse determination, and must be reviewed by a plan fiduciary who had no role in the initial adverse determination and who is not a subordinate of a fiduciary who had a role in the initial determination. In addition, in deciding an appeal of an adverse determination regarding a claim for disability benefits which was based in whole or in part on a medical judgment, the plan fiduciary shall consult with a health care professional who has appropriate training and experience in the field of medicine involved in the medical judgment (other than any health care

professionals who were consulted in connection with the initial adverse determination, or their subordinates) and identify for the claimant the medical or vocational experts whose advice was obtained on behalf of the plan in connection with the claimant's adverse determination, regardless of whether the advice was relied upon in making the determination.

(d) Notice of Denial - If an appeal is denied, in whole or in part, then the claimant will promptly be provided a written notice and a copy of the decision, which shall set forth the following:

- (1) the specific reasons for the decision;
- (2) the specific references to the pertinent Plan provisions upon which the decision was made;
- (3) an explanation of the Participant's right to request access to or copies of all information relevant to the claim, free of charge, without regard to whether such records were considered or relied upon in making the appeal decision, including any reports, and the identities, of any experts whose advice was obtained;
- (4) a statement of the claimant's right to bring a civil action in accordance with Section 502(a) of ERISA; and

In the event of a denial of an appeal for disability benefits, in whole or in part, in addition to the information described in (1), (2), (3), and (4) above, the notice of denial shall also include:

- (5) the specific rule, guideline, protocol, or other similar criterion, if any, which was relied upon in making the adverse determination, or a statement that such a rule, guideline, protocol, or other similar criterion was relied upon in making the determination and that a copy of such will be provided free of charge upon request;
- (6) if the determination is based on a medical necessity or experimental treatment or similar exclusion or limit, either an explanation of the scientific or clinical judgment for the determination, applying the terms of the plan to the claimant's medical circumstances, or a statement that such explanation will be provided free of charge upon request; and
- (7) the following statement: "You and your plan may have other voluntary alternative dispute resolution options, such as mediation. One way to find out what may be available is to contact your local U.S. Department of Labor Office."

The decision of the Board of Trustees shall be final and binding upon any and all

claimants, including but not limited to participants and their beneficiaries, and any other individuals making a claim through or under them.

16.3 Exhaustion of Claims Review Procedure

No action in law or in equity shall be brought to contest a denial, suspension or termination or benefits until the claimant has complied with the procedures provided in Section 16.2 (Claims Review Procedure), unless the Board of Trustees fails to render a decision within one hundred and twenty (120) days after receipt of the Notice of Appeal (or 90 days for a disability claim) then an action in law or in equity may be brought. In no case, however, shall any action be brought unless instituted within one (1) year from the time the claimant received the initial Notice of denial, suspension or termination provided in Section 16.1.

16.4 Notices to Participants and Beneficiaries Regarding Certain Distribution Options

Notwithstanding any other provision of the Plan, the Board of Trustees will provide Participants and Beneficiaries the notice and explanation required by Section 205 of ERISA and/or Code Sections 402(f), 411(a)(11), and 417(a). Such notice will not be provided earlier than one hundred eighty (180) days nor later than thirty (30) days prior to the commencement of any distribution, the date of which any covenant or election that is required or permitted by ERISA or the Code with respect to Distributions to such Beneficiaries and/or Participants.

16.5 Right to Inspect or the Request of Certain Documents

The Plan Administrator shall provide and/or make available to Participants, Beneficiaries, and other specified individuals such documents and information consistent with the requirements of 29 CFR 2520.104b-1.

ARTICLE 17
FUNDING

17.1 Funding Policy and Method

The Board of Trustees shall establish a funding policy and method, and shall review, at least annually, such funding policy and method in order to promote the purpose of the Trust Fund and to insure compliance with ERISA. All actions taken with respect to such funding policy and method, and the reasons therefore, should be recorded in the minutes of the meeting of the Trust Fund.

17.2 Change of Funding Method

If the funding method is to be changed, the new funding method shall not be used to determine assets or liabilities under the Plan until the change is approved by the Secretary of Treasury.

ARTICLE 18
QUALIFIED DOMESTIC RELATIONS ORDERS

18.1 Assignment of Benefits Upon Divorce

The prohibition against assignment, alienation and transfer of benefits provided in Section 19.1 shall also apply to a domestic relations order, unless such order is determined to be a "qualified" domestic relations order as defined in the Code and Section 414(p) of ERISA (i.e., a "QDRO").

18.2 Alternate Payee

The term "alternate payee" means any spouse, former spouse, child or other dependent of a Participant who is recognized by a QDRO as having a right to all, or a portion or a benefit payable under this Plan with respect to the Participant. Pursuant to Section 206(d)(3)(J) of ERISA, any person who is an alternate payee under a QDRO is considered a beneficiary for purposes of ERISA under the Plan.

18.3 Filing of Claims

All claims for benefits under a domestic relations order shall be filed, in writing, with the Board of Trustees along with a copy of the domestic relations order.

18.4 Designation of Representative

The Participant and the alternate payee(s) may designate an attorney or other representative to receive notices and communications from the Plan instead of the Participant or the alternate payee. This designation must be in writing and must be signed by the Participant or by the alternate payee.

18.5 Standards for Qualification

- (a) A domestic relations order is generally deemed to be a QDRO if it clearly and with specificity sets forth the plan to which it relates; the name and last known mailing address of the Participant and alternate payee; the amount or percentage to be paid by the Plan to each such alternate payee, or the manner in which such amount or percentage is to be determined; and the number of payments or period to which such Order applies.
- (b) A QDRO cannot require the Plan to provide any type or form of benefits or any option not otherwise provided under the Plan and cannot provide for a form of joint and survivor annuity with respect to the alternate payee and his or her subsequent spouse. Additionally, a QDRO cannot require the Plan to permit the former spouse of a Participant to be treated as the spouse for purposes of a joint and survivor annuity with respect to the portion of the Participant's benefit which is not assigned to the former spouse as alternate payee pursuant to the terms of said Order.

- (c) A QDRO can permit a distribution to be made to an alternate payee as of the Participant's earliest retirement age (the earliest date on which the Participant could begin receiving benefits under the Plan if the Participant separated from service), even if the Participant has not yet separated from service.

18.6 Review Procedures

- (a) Within 30 days of receipt of a domestic relations order, the Plan will notify the Participant, the alternate payee(s) and/or their respective legal counsel of receipt of the domestic relations order and the procedures for determining whether the order is a "qualified" domestic relations order.
- (b) The Plan shall utilize legal counsel to review all domestic relations orders submitted for review to determine whether the domestic relations order is "qualified" under Section 206(d)(3) of ERISA. The determination of whether an order is a QDRO shall be made no later than 120 days after receipt of the order, unless circumstances require more time.
- (c) If an order is determined to be a QDRO, the former spouse of such Participant shall, to the extent provided in the QDRO, be treated as being entitled to all rights and privileges of a spouse or surviving spouse for purposes of any joint and survivor annuity and/or pre-retirement survivor annuity as may be provided for under this Plan or any amendments hereto. In addition, if so provided in the QDRO and if married for at least one year, the former spouse may be treated as satisfying the requirements of Section 205(f) of ERISA as added by the Retirement Equity Act of 1984.
- (d) If a domestic relations order is deemed not "qualified", the notice of denial of the claim shall be provided to the parties. A party may file an appeal regarding a QDRO decision by filing a Notice of Appeal within 60 days after receipt of the Trustees' decision. The appeal shall be governed by the procedures provided in Sections 16.2 and 16.3.

The Plan may implement additional written procedures to supplement these provisions for determining with a domestic relations order is a QDRO and for the administration of distributions under QDROs.

18.7 Separate Accounting Pending Review

During the period of time in which the Trustees are determining whether a domestic relations order is "qualified" under Section 18.6, the Plan shall separately account for the amounts that would be payable to the alternate payee during the determination period (and any subsequent appeal) as if the order was a QDRO in accordance with Section 206(d)(3)(H) of ERISA.

18.8 Interpleader

The Board of Trustees may file an interpleader action to assist in its determination whether an domestic relations order is a QDRO. The professional fees and costs of an interpleader action may be deducted from the sums deposited with the Court.

18.9 Forfeiture

During any period in which an alternate payee cannot be located, the Plan may not forfeit amounts which would have been paid to said alternate payee unless the Plan will fully reinstate said amounts forfeited when an alternate payee is located.

ARTICLE 19
MISCELLANEOUS

19.1 Benefits Not Assignable

This Plan and the Trust described herein shall be deemed to be a Spendthrift Trust. The right of any person to any payment under this Plan shall not be subject to assignment, alienation, or voluntary or involuntary transfer. Further, to the fullest extent permitted by law, this Plan and Trust shall not be subject to attachment, execution, garnishment, sequestration or other legal or equitable process. In the event any person attempts to assign, transfer or dispose of such right, or if an attempt is made to subject said right to such process, such assignment, transfer, or disposition shall be null and void. Notwithstanding the foregoing, this section does not apply to any assignments that may be required by a Qualified Domestic Relations Order as provided in Article 18.

19.2 Merger

This Plan shall not merge or consolidate with nor transfer any assets or liabilities to any other multiemployer plan, unless each Participant, retiree, vested former Participant, Spouse, or Beneficiary would, if the resulting Plan were then terminated, receive a benefit immediately after the merger, consolidation or transfer which is equal to or greater than the benefit he or she would have been entitled to receive immediately before the merger, consolidation or transfer if the Plan had then terminated.

19.3 Termination of the Plan

In the event of termination of the Plan, the Board of Trustees shall follow the procedures contained in the Trust Agreement, ERISA, the Internal Revenue Code, and all other applicable laws. In the event there are any funds remaining after paying benefits earned by the Participants, then such remaining funds shall not revert to the Employers.

19.4 Incorporation by Reference

This Plan is maintained for the exclusive purpose of providing benefits to Participants and beneficiaries, and is intended to satisfy all the requirements of Section 302(c) of the National Labor Relations Act of 1947, ERISA and the Code. In the event any requirements of such laws have been omitted, they shall be deemed to be incorporated herein by reference.

19.5 Amendment of the Plan

This Plan may be amended at any time by majority vote of the Board of Trustees, prospectively or retroactively, provided that such amendment complies with the Code, ERISA, all other applicable laws, and the purposes as set forth in the Trust Agreement. Additionally, and not by way of limitation, the Board of Trustees may amend this Plan when it is deemed necessary to maintain its tax exempt status, or to preserve compliance with the Code, ERISA, and all other applicable laws. A copy of each amendment to this Plan shall be made available to the Union, the Associations, the Employers, the Participants and their beneficiaries.

SIGNATURE PAGE

IN WITNESS WHEREOF, the Board of Trustees of the MCASF Local 725 Defined Contribution Retirement Trust Fund hereby adopt this Amended and Restated MCASF Local 725 Defined Contribution Retirement Plan to be effective July 1, 2021.

UNION TRUSTEES

EMPLOYER TRUSTEES
