

**AMERICAN FEDERATION OF MUSICIANS AND
EMPLOYERS' PENSION PLAN**
(As Amended and Restated Effective as of January 1, 2014)

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AMERICAN FEDERATION OF MUSICIANS AND EMPLOYERS'
PENSION PLAN
(Amended and Restated Effective as of January 1, 2014)

INTRODUCTION

The Board of Trustees of the American Federation of Musicians and Employers' Pension Fund (the "Fund"), acting pursuant to the Agreement and Declaration of Trust establishing the Fund, as amended, hereby adopt the following amended and restated American Federation of Musicians and Employers' Pension Plan (the "Plan"), effective as of January 1, 2014 (unless another effective date is otherwise specified herein), for the exclusive benefit of eligible employees of contributing employers to the Fund and their beneficiaries.

This amended and restated Plan document constitutes an amendment, effective as of January 1, 2014 (except as may otherwise be provided herein), to the American Federation of Musicians and Employers' Pension Plan, as Amended and Restated Effective as of June 1, 2010, and all amendments thereto (the "Prior Plan"), and supersedes and replaces the Prior Plan with respect to all benefits under the Plan with a Pension Effective Date on or after January 1, 2014. The provisions governing benefits with a Pension Effective Date before the dates described in the preceding sentence are set forth in the Prior Plan (or such earlier version of the Plan document as described in the Prior Plan), except as may otherwise be required by law or specifically provided herein.

ARTICLE 1
DEFINITIONS

Section 1.01 ACTIVE PARTICIPANT. The term “Active Participant” shall mean an Employee who meets the requirements for participation in the Plan as set forth in Section 2.01 and whose active participation in the Plan has not ceased pursuant to Section 2.03.

Section 1.02 ACTUARIAL EQUIVALENT. The term “Actuarial Equivalent” shall mean a benefit payable under this Plan in accordance with a benefit payment option available herein which is of equivalent actuarial value to the benefit otherwise payable to such Participant. The actuarial factors used to calculate Actuarial Equivalent benefits are the factors set forth in Appendix A, as may from time to time be amended by the Trustees.

Section 1.03 ADMINISTRATIVE COMMITTEE. The term “Administrative Committee” shall mean the Administrative Committee of the Trustees as designated by the Trustees from time to time.

Section 1.04 AFM. The term “AFM” shall mean the American Federation of Musicians of the United States and Canada, and any local unions (and certain related entities) duly affiliated therewith.

Section 1.05 BASIC MONTHLY AMOUNT. The term “Basic Monthly Amount” shall mean the amount determined pursuant to Section 5.03(a).

Section 1.06 BENEFICIARY. The term “Beneficiary” shall mean that natural person entitled to payments following the death of the Participant in accordance with a properly made designation by the Participant on a form provided by the Fund, and subject to the rules set forth below.

- a) For purposes of the Pre-retirement Death Benefit, a Participant may designate up to three individuals (or if greater, the number of the Participant’s natural children or children placed with the Participant for adoption) as primary Beneficiary, and up to three individuals (or if greater, the number of the Participant’s natural children or children placed with the Participant for adoption) as alternate Beneficiary. The designated primary Beneficiary(ies) will be considered to be the Beneficiary for purposes of this subsection (a) except as set forth in subsection (c) below.
 - (1) If more than one primary Beneficiary is designated, any payments under this subsection (a) will be divided ratably among them unless the Participant specified different allocations on the designation form. If any one or more (but not all) dies before the Participant’s death, the Pre-retirement Death Benefit will be divided ratably among the living primary Beneficiaries.

- (2) A person named as an alternate Beneficiary shall become the Beneficiary only if none of the persons named as primary Beneficiary is alive on the date of the Participant's death.
- (b) Designation of Minors. A Participant may designate a minor as a primary or alternate Beneficiary only if such designation is properly made in accordance with the requirements of the designation forms provided by the Plan Administrator for such purpose.
- (c) Spouse as Beneficiary. Notwithstanding anything in this Section to the contrary, to the extent required by Articles 6, 7 and 8, the deceased Participant's surviving Spouse shall automatically be the Beneficiary for all purposes of the Plan regardless of previous designations on file at the Fund Office.
- (d) Joint Annuitant as Beneficiary. Notwithstanding anything in this Section to the contrary, for purposes of Sections 8.06 (Timing and Distribution of Benefits), 8.07 (Forfeiture of Unclaimed Benefits of Lost Participants or Beneficiaries), 10.03 (Information and Proof), 11.05 (Non-Alienation of Benefits), 11.06 (Benefit Overpayments), and 11.15 (Rights in Fund), the term "Beneficiary" shall also include a Joint Annuitant.

Section 1.07 CODE. The term "Code" shall mean the Internal Revenue Code of 1986, as amended, and all regulations promulgated pursuant thereto.

Section 1.08 CONTRIBUTIONS OR EMPLOYER CONTRIBUTIONS. The terms "Contributions" or "Employer Contributions" shall mean the monies required to be paid to the Trust Fund by Employers pursuant to the terms of the Trust Agreement, applicable collective bargaining agreement, participation agreement, or similar agreement acceptable to the Trustees. Contributions or Employer Contributions shall be based solely on Covered Earnings received by Participants for Covered Employment. Notwithstanding the foregoing, the terms "Contributions" or "Employer Contributions" shall, to the extent required by law, also mean contributions credited on behalf of an Employee based on Covered Earnings credited for a Period of Military Service.

Section 1.09 COVERED EARNINGS OR EARNINGS. The terms "Covered Earnings" or "Earnings" shall mean the earnings, not in excess of scale wages, received by an Employee from an Employer for Covered Employment which serve as the basis for which Contributions are required to be paid to the Trust Fund. Notwithstanding the foregoing, "Covered Earnings" or "Earnings" shall include earnings credited to an Employee for a Period of Military Service to the extent required by law, and shall not include any payments made after or in connection with the Participant's termination of employment except for payments that are specifically set forth as pensionable wages under the terms of a collective bargaining agreement, or except to the extent required by law.

For purposes of determining benefit accruals, Covered Earnings or Earnings taken into account for any Employee for any calendar year shall not exceed the lesser of (i) \$200,000, as

adjusted in accordance with Section 401(a)(17) or (ii) \$245,000; provided, however, that this limitation shall apply separately with respect to each Employer from whom an Employee has Covered Earnings or Earnings.

Section 1.10 COVERED EMPLOYMENT. The term “Covered Employment” shall mean the employment of an Employee by an Employer in a position for which the Employer is required to contribute to the Trust Fund, commencing with the first day of employment in such position. Notwithstanding the preceding sentence, the criteria used to establish categories of Covered Employment shall not directly or indirectly impose an age or service requirement, or have the effect of excluding part-time Employees.

Section 1.11 DISABILITY PENSION BENEFIT. The term “Disability Pension Benefit” shall mean the benefit described in Section 5.05 to which a Participant is entitled pursuant to Section 5.04.

Section 1.12 ELIGIBILITY COMPUTATION PERIOD. The term “Eligibility Computation Period” shall mean the twelve consecutive month period beginning on the date an Employee is employed or reemployed by an Employer and each calendar year beginning after such date.

Section 1.13 EMPLOYEES. The term “Employees” shall mean individuals employed by an Employer to render service as musicians pursuant to a collective bargaining agreement, participation agreement or similar agreement acceptable to the Trustees. In addition, if their respective Employers undertake in a written participation or similar agreement acceptable to the Trustees to make contributions to the Trust Fund (including, without limitation, if the Employer is the Trust Fund, written minutes of a meeting of the Trustees), the term “Employees” may also cover and include (i) employees of the Trust Fund itself, (ii) employees of the AFM (including, if applicable, duly elected or appointed officers and representatives of the AFM), and (iii) employees of any other employer acceptable to the Trustees who, with the consent of the Trustees, undertakes to contribute to the Trust Fund pursuant to such written agreement. The term “Employee,” however, shall not cover or include (i) a self-employed person or sole proprietor which is an Employer (including, without limitation, a band leader) who is acting as his or her own employee (or the spouse of such person), (ii) the spouse of a person described in (i); or (iii) a partner of a partnership that is an Employer who is acting as an employee of such partnership; provided, however, that a shareholder of a corporation or an owner of a limited liability company (“LLC”) (including, without limitation, a band leader) that is an Employer that is duly organized and operated under the laws of a State of the United States, who is employed by that corporation or LLC to render service as a musician pursuant to a collective bargaining agreement, participation agreement or similar agreement acceptable to the Trustees, and who was not an owner of an LLC who was a member of the plaintiff class in the *Rochetti* action that was settled in 1991, shall be considered an “Employee”.

Section 1.14 EMPLOYERS OR CONTRIBUTING EMPLOYERS. The terms “Employers” or “Contributing Employers” shall mean (i) any employers acceptable to the Trustees who enter into collective bargaining agreements, participation agreements, or similar agreements acceptable to the Trustees, with the AFM obligating them to contribute to the Plan

and/or the Trust Fund with respect to their Employees, and (ii) any employers acceptable to the Trustees (including, without limitation, the Trust Fund and the AFM) who hereafter may, with the consent of the Trustees, undertake to contribute to the Trust Fund on behalf of their Employees pursuant to a written participation or similar agreement acceptable to the Trustees (including, without limitation, if the Trust Fund is the employer, written minutes of a meeting of the Trustees).

For purposes of Sections 1.12 (Eligibility Computation Period), 1.17 (Hours Credited), 2.02 (Exclusion of Leased Employees), 5.08 (Maximum Benefits), 5.09 (Top-Heavy Determination) and 8.06(b) (Required Beginning Date), and for purposes of the limit on Covered Earnings set forth in Section 1.09, the term "Employer" shall include (i) each corporation that is a member of a controlled group of corporations (as defined in Section 414(b) and the regulations thereunder) that includes an Employer, (ii) any trade or business under common control (as defined in Code section 414(c) and the regulations thereunder) with an Employer, (iii) any member of an affiliated service group (as defined in Code section 414(m) and the regulations thereunder) that includes an Employer, and (iv) any other entity required to be aggregated with an Employer under Code section 414(o) and the regulations thereunder.

For purposes of Sections 1.12 (Eligibility Computation Period), 1.17 (Hours Credited), 1.23 (One-Year Break in Service), 1.45 (Year of Service) and 1.46 (Year of Vesting Service), service with an Employer shall be deemed to include service with all of the Employers to the extent required by Code section 413(b).

Section 1.15 ERISA. The term "ERISA" shall mean the Employee Retirement Income Security Act of 1974, as amended, and all regulations promulgated pursuant thereto.

Section 1.16 FUND OFFICE. The term "Fund Office" shall mean the Fund's administrative office, located at 14 Penn Plaza, Suite 1200, New York, NY 10122.

Section 1.17 HOURS CREDITED. The term "Hours Credited", determined in accordance with the equivalency based on earnings set forth in Section 2530.200b-3(f) of the U.S. Department of Labor regulations, shall mean:

- (a) in the case of an Employee whose compensation is determined on the basis of an hourly rate, the Employee's total earnings for the performance of duties for an Employer during the computation period divided by the Employee's lowest hourly rate of compensation during the computation period; and
- (b) in the case of an Employee whose compensation is determined on a basis other than an hourly rate, (i) the Employee's total earnings for the performance of duties for an Employer during the computation period, divided by (ii) the Employee's lowest rate of compensation during the computation period for a specified period of time divided by the number of hours regularly scheduled for the performance of duties during such period of time.

Notwithstanding the above, for purposes of computing participation and vesting service, Hours Credited shall not be credited for "non-contiguous, non-covered service". "Non-

contiguous, noncovered service” shall mean service with an Employer which (i) is not within a job classification or class of Employees covered under the Plan, and (ii) does not immediately precede or follow a period of service which is within a job classification or class of Employees covered under the Plan without an intervening quit, discharge or retirement.

Section 1.18 50% JOINT AND SURVIVOR ANNUITY. The term “50% Joint and Survivor Annuity” shall mean a monthly annuity for the life of the Participant with a survivor monthly annuity for the life of the Participant’s Joint Annuitant which is equal to 50 % of the amount of the annuity which was payable during the joint lives of the Participant and the Joint Annuitant. After the Pension Effective Date of a Pensioner’s 50% Joint and Survivor Annuity, there shall be no adjustment in the monthly amount of pension benefit payable to the Pensioner due to the Pensioner’s subsequent divorce or the subsequent death of the Pensioner’s Joint Annuitant.

Section 1.19 75% JOINT AND SURVIVOR ANNUITY. The term “75% Joint and Survivor Annuity” shall mean a monthly annuity for the life of the Participant with a monthly survivor annuity for the life of the Participant’s 75% Joint Annuitant which is equal to 75% of the amount of the annuity which was payable during the joint lives of the Participant and the Joint Annuitant. After the Pension Effective Date of a Pensioner’s 75% Joint and Survivor Annuity, there shall be no adjustment in the monthly amount of pension benefit payable to the Pensioner due to the Pensioner’s subsequent divorce or the subsequent death of the Pensioner’s 75% Joint Annuitant.

Section 1.20 JOINT ANNUITANT. The term “Joint Annuitant” shall mean that person designated by the Participant in writing, on the form(s) provided by the Plan Administrator for such purpose, to receive payment of the survivor portion of the 50% Joint and Survivor Annuity or the 75% Joint and Survivor Annuity. Notwithstanding anything in this Section to the contrary, to the extent required by Article 8, the Participant’s Spouse shall be such Participant’s Joint Annuitant.

Section 1.21 MATERNITY OR PATERNITY ABSENCE. The term “Maternity or Paternity Absence” shall mean an absence from work for any period (i) by reason of the pregnancy of the individual, (ii) by reason of the birth of a child of the individual, (iii) by reason of the placement of a child with the individual in connection with the adoption of such child by such individual, or (iv) for purposes of caring for such child for a period beginning immediately following such birth or placement. The Plan Administrator may require from an Employee, as a condition to granting credit for a Maternity or Paternity Absence, such evidence as the Administrative Committee shall deem necessary to establish the cause or duration of the absence.

Section 1.22 NORMAL RETIREMENT AGE. The term “Normal Retirement Age” shall mean the later of:

- (a) the date a Participant attains age 65, provided the Participant is an Active Participant on such date; or

- (b) the fifth anniversary of the date the Participant commenced participation in the Plan (disregarding participation prior to April 1, 1988) or, if earlier, the tenth anniversary of the date the Participant commenced participation in the Plan, provided the Participant is an Active Participant on such applicable anniversary.

For purposes of subsection (b) of this Section, participation preceding a “Permanent Break-in-Service” (as described in Section 4.02) is disregarded.

Section 1.23 ONE-YEAR BREAK IN SERVICE. The term “One-Year Break In Service” shall mean a calendar year during which an Active Participant fails to both (i) earn at least 1/4 year of Pension Credit, and (ii) complete more than 435 Hours Credited in the case of a Participant paid on an hourly basis, or 375 Hours Credited in the case of a Participant not paid on an hourly basis (in accordance with the equivalency set forth in Section 2530.200b-3(f) of the U.S. Department of Labor regulations).

Solely for purposes of determining whether a One-Year Break in Service has occurred for purposes of computing participation and vesting service, an Active Participant who is on a Maternity or Paternity Absence, or who is absent from work on a leave required to be provided under the Family and Medical Leave Act of 1993, shall receive credit for 1/4 year of Pension Credit. The 1/4 year of Pension Credit shall be credited to the calendar year in which such absence begins if the crediting is necessary to prevent the occurrence of a One-Year Break in Service in that period, or in all other cases, to the following calendar year.

A One-Year Break in Service shall not result from a period during which an Employee earns pension credit under the Musicians’ Pension Fund of Canada.

Section 1.24 PARTICIPANT. The term “Participant” shall mean an Active Participant, a Pensioner, or a former Employee who has a right to a pension benefit under this Plan.

Section 1.25 PENSION CREDIT. The term “Pension Credit” shall mean credit granted to a Participant under the Plan during a calendar year for purposes of determining participation and eligibility for benefits.

Pension Credit shall be credited in units of years and 1/4 years in accordance with the following schedule:

Covered Earnings Earned During a Calendar Year from 1977 through 2003:	Covered Earnings Earned During Calendar Year 2004 or Later Year:	Pension Credit Earned For That Calendar Year:
\$1,500 or more at least \$1,125	\$3,000 or more at least \$2,250	1 year
but less than \$1,500 at least \$750	but less than \$3,000 at least \$1,500	¾ year
but less than \$1,125 at least \$375 but less than \$750	but less than \$2,250 at least \$750	½ year
less than \$375	but less than \$1,500 less than \$750	¼ year no Pension Credit

Notwithstanding the preceding schedule, any Participant with three or more Years of Vesting Service as of December 31, 2003 shall have his or her Pension Credit calculated in accordance with the left column of the preceding schedule for 2004 and later unless such Participant incurs a “Permanent Break-In-Service” under the provisions of Section 4.02.

Section 1.26 PENSION EFFECTIVE DATE. The term “Pension Effective Date” shall mean the first day of the first period for which an amount is paid or payable as an annuity or any other form.

Section 1.27 PENSION PLAN OR PLAN. The terms “Pension Plan” or “Plan” shall mean this American Federation of Musicians and Employers’ Pension Plan document, and all rules, regulations and policies adopted by the Trustees pursuant thereto, as hereafter amended from time to time, which Plan shall be funded pursuant to the Trust Agreement.

Section 1.28 PENSIONER. The term “Pensioner” shall mean a person to whom a pension benefit under this Plan is being paid or to whom a pension benefit would be paid but for administrative processing.

Section 1.29 PERIOD OF MILITARY SERVICE. The term “Period of Military Service” shall mean, for an Employee who (i) served as a member of the armed forces of the United States (including the Reserves and National Guard), and (ii) was reemployed at a time when the Employee had a right to reemployment in accordance with seniority rights as protected under Title 38 of the U.S. Code including, without limitation, the provisions of the Uniformed Services Employment and Reemployment Rights Act (or any successor provisions), the period of time from the date the Employee was first absent from active work because of such military duty to the date the Employee was reemployed. An Employee who has a Period of Military Service must notify the Plan Administrator in writing of such upon reemployment and supply the Plan Administrator with such evidence as the Administrative Committee shall require in order to substantiate such claim and determine such Employee’s rights under the Plan.

Section 1.30 PLAN ADMINISTRATOR. The term “Plan Administrator,” as defined in ERISA section 3(14), shall mean the Trustees or the person(s) duly appointed by the Trustees to serve as the Fund Administrator.

Section 1.31 PLAN YEAR. The term “Plan Year” shall mean the fiscal year of the Fund which is each twelve consecutive month period beginning on April 1 and ending on the following March 31.

Section 1.32 PRE-RETIREMENT DEATH BENEFIT. The term “Pre-retirement Death Benefit” shall mean the death benefit described in Section 7.01 or Section 7.02.

Section 1.33 QUALIFIED ELECTION. The term “Qualified Election” shall mean a written waiver, by a Participant who has a Spouse, of a 50% Joint and Survivor Annuity on a form provided by the Plan Administrator, of a 50% Joint and Survivor Annuity on a form provided by the Plan Administrator that satisfies the following requirements:

- (a) the Participant’s Spouse consents in writing to the election;
- (b) the election designates a specific alternate Joint Annuitant, that may not be changed without spousal consent (such change being permissible only prior to the Participant’s Pension Effective Date);
- (c) the election designates a specific form of benefit payment which may not be changed without further spousal consent (such change being permissible only prior to the Participant’s Pension Effective Date);
- (d) the Spouse’s consent acknowledges the effect of the election; and
- (e) the Spouse’s consent is witnessed by a notary public or a Plan representative duly authorized by the Plan Administrator.

Section 1.34 REGULAR PENSION BENEFIT. The term “Regular Pension Benefit” shall mean the benefit described in Section 5.03 to which a Participant is entitled pursuant to Section 5.02.

Section 1.35 RE-DETERMINATION BENEFIT. The term “Re-Determination Benefit” shall mean the benefit described in Section 5.06(d) (or 5.06(c), in the case of an early retirement Disability Pensioner as described therein) that is earned by a Pensioner after Normal Retirement Age.

Section 1.36 RE-RETIREMENT BENEFIT. The term “Re-Retirement Benefit” shall mean the benefit described in Section 5.06(b) (or 5.06(c), in the case of an early retirement Disability Pensioner as described therein) that is earned by a Pensioner prior to Normal Retirement Age.

Section 1.37 RETIREMENT ACCOUNT. The term “Retirement Account” shall mean the Plan account established pursuant to Article 6 for each Employee on behalf of whom Contributions were paid to the Trust Fund prior to January 1, 1968.

Section 1.38 SINGLE LIFE ANNUITY. The term “Single Annuity” shall mean a monthly annuity for the life of the Participant, with no further amounts payable after the Participant’s death.

Section 1.39 SPOUSE. Effective June 26, 2013, and notwithstanding any other provision of the Plan to the contrary, the term “Spouse” shall mean the person to whom the Participant is legally married under applicable law on his or her date of death (in the case of a Pre-retirement Death Benefit), or on his or her Pension Effective Date (in the case of a pension benefit), or on the date of a waiver as described in the following sentence. Notwithstanding the foregoing, a Participant shall be deemed not to have a Spouse if (i) it is established to the satisfaction of the Plan Administrator that the Participant’s Spouse cannot be located, or the Participant and the Participant’s Spouse are legally separated and the Participant has provided the Fund with a court order to that effect, or there is a court order confirming that the Participant’s Spouse has abandoned the Participant, and (ii) the Participant waives the right to a Pre-retirement Retirement Death Benefit with his or her Spouse as Beneficiary, or to the 50% Qualified Joint and Survivor Annuity or 75% Qualified Joint and Survivor Annuity with his or her Spouse as Beneficiary.

Section 1.40 TOTAL DISABILITY. The term “Total Disability” shall mean the total and permanent inability of an Employee, as a result of medically-diagnosed physical or mental disease or injury, to engage in Covered Employment for remuneration as determined in the sole discretion of the Administrative Committee on the basis of medical and any other evidence satisfactory to the Administrative Committee, in accordance with Section 5.04(b).

Section 1.41 TRUST AGREEMENT. The term “Trust Agreement” shall mean the Agreement and Declaration of Trust establishing the American Federation of Musicians and Employers’ Pension Fund, originally adopted as of October 2, 1959, and as last amended and restated effective as of April 1, 2005, creating the Trust Fund, including any additional amendments thereto or modifications thereof.

Section 1.42 TRUSTEES. The term “Trustees” shall mean collectively the board of trustees of the Trust Fund, designated pursuant to the Trust Agreement, together with their alternates, successors, and assigns designated in the manner provided therein.

Section 1.43 TRUST FUND, FUND, OR PENSION FUND. The terms “Trust Fund”, “Fund”, or “Pension Fund” shall mean the American Federation of Musicians and Employers’ Pension Fund established under the Trust Agreement to hold the assets of the Plan, administered pursuant to the terms and conditions of the Trust Agreement.

Section 1.44 VESTING CREDIT (CANADA). The term “Vesting Credit (Canada)” shall mean vesting credit credited to an Employee under the Musician’s Pension Fund of Canada during a calendar year, which shall be credited in units of years and 1/4 years.

Section 1.45 YEAR OF SERVICE. The term “Year of Service” shall mean, for purposes of determining eligibility to participate in the Plan, an Eligibility Computation Period, or for purposes of determining vesting, a calendar year with respect to which the sum of the following two fractions equals or exceeds 1:

- (a) a fraction, the numerator of which is the amount of the Employee’s Covered Earnings in the applicable period and the denominator of which is the dollar amount of Covered Earnings that corresponds to one year of Pension Credit for the applicable calendar year in accordance with Section 1.25; and
- (b) a fraction, the numerator of which is the number of Hours Credited completed by the Employee during the applicable period for which such Employee did not earn Covered Earnings and the denominator of which is 870 in the case of an Employee paid on an hourly basis, or 750 in the case of an Employee not paid on an hourly basis (in accordance with the equivalency set forth in Section 2530.200b-3(f) of the U.S. Department of Labor regulations).

Credit for Years of Service shall be granted to an Employee for a Period of Military Service to the extent required by law.

Section 1.46 YEAR OF VESTING SERVICE. The term “Year of Vesting Service” shall mean a one-year period of credit for purposes of determining vesting and eligibility for benefits which shall be credited to an Employee for:

- (a) each whole year of Pension Credit earned by such Employee (which may be the sum of fractional years of Pension Credit);
- (b) each Year of Service completed by such Employee;
- (c) to the extent required by Code section 411 and the Treasury regulations promulgated thereunder, each year of service with an Employer prior to the Employer’s commencement of participation in the Plan, up to a maximum of five years, during which the Employee was covered under a ‘predecessor plan’ maintained by the Employer (as that term is defined in section 1.411(a)-5(b)(3)(v) of the Treasury Regulations);
- (d) at the sole and absolute discretion of the Trustees with respect to any Employer, each year of service with the Employer prior to the Employer’s commencement of participation in the Plan, up to a maximum of five years, during which the Employee was covered under an annuity plan described in Code section 403(b) maintained by the Employer, to the extent such service would be required to be credited for vesting purposes under section 1.411(a)-5(b)(3)(v) of the Treasury Regulations had the annuity plan been a ‘predecessor plan’;
- (e) each whole year of Vesting Credit (Canada) earned by such Employee (which may be the sum of fractional years of Vesting Credit (Canada)); and

- (f) each whole year which is the sum of fractional years of Pension Credit and fractional years of Vesting Credit (Canada) earned by such Employee.

Notwithstanding the preceding sentence, no more than one Year of Vesting Service shall be credited to an Employee for any single calendar year.

ARTICLE 2

PARTICIPATION

Section 2.01 ELIGIBILITY TO PARTICIPATE. An Employee who is employed in Covered Employment shall become eligible to participate in the Plan upon completion of either 1/4 year of Pension Credit or one Year of Service.

- (a) An Employee who becomes eligible to participate under subsection (a) shall retroactively become an Active Participant in the Plan as of the first day of the calendar year during which he or she completes the eligibility requirements of subsection (a).

Section 2.02 EXCLUSION OF LEASED EMPLOYEES. To the extent required by Code section 414(n) only, a leased employee (as defined below) shall be treated as an Employee of an Employer. Leased employees shall not be eligible to participate in the Plan, and contributions or benefits provided by the leasing organization which are attributable to services performed for an Employer shall be treated as provided by the Employer. Notwithstanding the foregoing provision, this paragraph shall not apply to any leased employee if leased employees do not constitute more than 20 percent of the recipient's non-highly compensated workforce and such Employee is earning over \$1,000 per year from the leasing organization and is covered by a money purchase pension plan maintained by the leasing organization which provides (i) a non-integrated employer contribution rate of at least ten percent (10%) of compensation, (ii) immediate participation, and (iii) full and immediate vesting. When a leased employee becomes an Employee, his or her period of service as a leased employee and the period during which he or she would have been a leased employee, but for the requirement that services be performed on a substantially full-time basis for a least a year, will be counted for purposes of the Plan's vesting and eligibility requirements.

For purposes of this Section 2.02, the term "leased employee" shall mean any person who is not an employee of an Employer and who provides services to an Employer if: (i) such services are provided pursuant to an agreement between the Employer and any leasing organization; (ii) such person has performed such services for the Employer on a substantially full-time basis for a period of at least one year; and (iii) such services are performed under the primary direction or control of the Employer.

Section 2.03 TERMINATION OF PARTICIPATION. An Active Participant who incurs a One-Year Break in Service shall cease to be an Active Participant as of the last day of the calendar year which constitutes the One-Year Break in Service.

Section 2.04 REINSTATEMENT OF PARTICIPATION. An Employee who has lost his or her status as an Active Participant pursuant to Section 2.03 and is later reemployed by an Employer in Covered Employment, shall again be eligible to participate in the Plan as an Active Participant after completing either 1/4 year of Pension Credit or one Year of Service subsequent to such reemployment. Such Employee shall be retroactively reinstated as an Active Participant as of the first day of the calendar year during which he or she completes the requirements of the previous sentence.

- (a) In the case of a former Active Participant who is not vested in a benefit under the Plan and who is later reinstated as an Active Participant, such Participant's Years of Vesting Service for purposes of vesting shall be calculated under the rules contained in Section 4.02.

ARTICLE 3
CONTRIBUTIONS

Section 3.01 **AGREEMENT TO CONTRIBUTE.** An Employer shall make Contributions or other required payments to the Trust Fund in the amount required by the Trust Agreement, applicable collective bargaining agreement, participation agreement or any similar agreement acceptable to the Trustees. The rate and amount of Contributions shall at all times be governed by said agreements, together with any amendments, supplements, or modifications thereto. Nothing in this Plan shall be deemed to change, alter or amend any of the terms or provisions of any such agreements with respect to such rates or amounts.

Section 3.02 **FAILURE OF EMPLOYER TO CONTRIBUTE.** In the event that an Employer shall fail to make required Contributions or other payments to the Fund, or in other circumstances as set forth in the Trust Agreement, the Trustees may, consistent with the provisions of, and in the manner provided by, the Trust Agreement, terminate, on a prospective basis, (i) the participation of the Employer in the Plan and Fund, and (ii) the crediting of Contributions and/or Pension Credit to Employees of such terminated Employer.

Section 3.03 **EMPLOYEE CONTRIBUTIONS.** No contributions shall be made by any Employee to the Plan or Trust Fund.

ARTICLE 4
VESTING

Section 4.01 VESTED PERCENTAGE IN REGULAR PENSION BENEFIT. A Participant shall be 100% vested in his or her Regular Pension Benefit under the Plan upon satisfaction of one of the following requirements:

- (a) the Participant attains Normal Retirement Age; or
- (b) (1) for those Participants who accrued at least 1/4 Year of Vesting Service during any calendar year beginning on or after January 1, 1987, the Participant earns five Years of Vesting Service, or
- (2) for all other Participants, the Participant earns ten Years of Vesting Service.

Section 4.02 BREAKS IN SERVICE. Years of Vesting Service earned prior to a period of consecutive One-Year Breaks in Service by a Participant with no vested right to a pension benefit under the Plan shall not be counted for purposes of calculating the Participant's vested percentage if the number of the Participant's consecutive One-Year Breaks in Service equals or exceeds the greater of (i) five, or (ii) the aggregate number of the Participant's Years of Vesting Service (not including any years previously disregarded under this rule or any rule regarding Permanent Breaks-in-Service previously in effect) before such period of consecutive One-Year Breaks in Service. This shall be known as a "Permanent Break-in-Service." If a Participant incurs a Permanent Break-In-Service, any Contributions received by the Plan on behalf of the Participant which are attributable to the period prior to or during such break shall not be used in calculating the amount of any benefit to which such Participant may become entitled under the Plan after such break, and shall not be paid to the Participant.

ARTICLE 5
PENSION ELIGIBILITY AND AMOUNTS

Section 5.01 GENERAL. This Article sets for the eligibility conditions and benefit amounts for the pension benefits provided by this Plan. The benefit amounts set forth in this Article 5 are also subject to adjustment if a 50% Joint and Survivor Annuity or a 75% Joint and Survivor Annuity is payable in accordance with the provisions of this Plan.

Section 5.02 REGULAR PENSION BENEFIT ELIGIBILITY. A Participant shall be eligible to receive a Regular Pension Benefit once he or she has (i) attained his or her Normal Retirement Age, or (ii) retired from Covered Employment, attained age 55 and is 100% vested in his or her Regular Pension Benefit in accordance with Section 4.01(b), provided the Plan Administrator receives from the Participant a written application for such a pension benefit which is complete in all respects on the form(s) provided by the Plan Administrator for such purpose. A Participant's failure to file with the Plan Administrator an application for payment of a pension benefit which is complete in all respects shall be deemed to be an election to defer payment of such benefit in accordance with the provisions of Section 8.05 (Commencement of Pension Benefits Generally).

Section 5.03 REGULAR PENSION BENEFIT AMOUNT. Except as otherwise provided elsewhere in this Section 5.03, in Section 5.06 (Re-determination of Pension Benefits) or in Section 5.08 (Maximum Benefits), the amount of an eligible Participant's Regular Pension Benefit shall be the Basic Monthly Amount described in subsection (a) below (plus, for Participants born prior to 1921, the amount of the Past-Service Benefit, if any).

- (a) **Basic Monthly Amount.** The Basic Monthly Amount payable to an eligible Participant age 55 or older shall be the sum of the amounts indicated in the following table for each \$100 of Contributions payable to the Trust Fund on his or her behalf for Contributions earned during the applicable year(s) that such individual was a Participant, except for those disregarded under the provisions of Section 4.02. For purposes of applying this table, total Contributions applicable to each time period covered by a separate column of the table shall be rounded separately to the nearest \$100.

**BASIC MONTHLY AMOUNT PAYABLE AT AN PENSION EFFECTIVE DATE
FOR EACH \$100 OF CONTRIBUTIONS ATTRIBUTABLE TO
CONTRIBUTIONS EARNED**

<u>Attained Age at Pension Effective Date</u>	<u>Before 1/1/2004</u>	<u>On or after 1/1/2004 but before 4/1/2007</u>	<u>On or after 4/1/2007 but before 5/1/2009</u>	<u>On or after 5/1/2009 but before 1/1/2010</u>	<u>On or after 1/1/2010</u>
65 or over	\$4.65	\$3.50	\$3.25	\$2.00	\$1.00
64	4.16	3.13	2.91	\$ 1.79	\$0.90
63	3.75	2.82	2.62	\$ 1.61	\$0.80
62	3.36	2.53	2.35	\$ 1.45	\$0.72
61	3.04	2.29	2.13	\$ 1.31	\$0.65
60	2.75	2.07	1.92	\$ 1.18	\$0.59
59	2.48	1.87	1.74	\$ 1.07	\$0.53
58	2.26	1.70	1.58	\$ 0.97	\$0.49
57	2.05	1.54	1.43	\$ 0.88	\$0.44
56	1.86	1.40	1.30	\$ 0.80	\$0.40
55	1.70	1.28	1.19	\$ 0.73	\$0.37

Notwithstanding the foregoing, the Basic Monthly Amount payable to a Participant who is 100% vested in both his or her Retirement Account balance (as described in Section 6.01) in accordance with Section 6.03(a) and in his or her Regular Pension Benefit in accordance with Section 4.01 shall, except for purposes of calculating the value of a Participant's Retirement Account balance (as described in Section 6.01), be calculated as the sum of:

- (1) the Basic Monthly Amount indicated in the preceding table for each \$100 of Contributions payable to the Trust Fund on behalf of the Participant, except for those credited to the Participant's Retirement Account (in

accordance with Section 6.02) and those disregarded under the provisions of Section 4.02; and

- (2) a monthly amount attributable to Contributions credited to the Participant's Retirement Account (in accordance with Section 6.02), computed as the Actuarial Equivalent of the lump-sum value of the Participant's Retirement Account balance (as described in Section 6.01).
- (b) **Actuarial Adjustment of Deferred Pension Benefit.** Notwithstanding the provisions of subsection (a) above, if a Participant's Pension Effective Date is after the Participant attains Normal Retirement Age, and no Contributions have been made to the Trust Fund on behalf of such Participant after Normal Retirement Age, the amount of the Participant's monthly pension benefit commencing on the Participant's Pension Effective Date shall be the Actuarial Equivalent monthly amount of the monthly pension benefit that would have been payable as of the Pension Effective Date if the benefit had commenced at Normal Retirement Age. All amounts calculated hereunder will be subject to adjustment if the benefit is being distributed in the form of a 50% Joint and Survivor Annuity or a 75% Joint and Survivor Annuity.
- (c) **Calculation of Pension Benefit Commencing Upon Retirement After Normal Retirement Age.** If a Participant continues in Covered Employment beyond Normal Retirement Age and his or her Pension Effective Date is after Normal Retirement Age, the Regular Pension Benefit payable to such Participant commencing on his or her Pension Effective Date shall be the greater of:
- (1) the amount of Regular Pension Benefit calculated in accordance with subsection (a) of this Section taking into account all Contributions received through the Pension Effective Date, or
 - (2) the Actuarial Equivalent of the Participant's "normal retirement benefit" (as described below) which would have been payable the preceding year.

This calculation shall be performed annually for Plan Years ending after the Participant's attainment of Normal Retirement Age in accordance with section 1.411(b)-2(b)(4)(iii) of the Treasury Regulations, or any successor provision thereto. For purposes of paragraph (2), the Participant's "normal retirement benefit" for a particular Plan Year shall be the greater of the amounts determined under paragraph (1) or (2) for the preceding Plan Year.

Section 5.04 DISABILITY PENSION BENEFIT ELIGIBILITY.

- (a) **Eligibility Requirements.** A Participant shall be eligible to receive a Disability Pension Benefit if the Participant ceases all Covered Employment with all Contributing Employers on account of Total Disability (as determined in accordance with subsection (b) below) prior to commencement of the Participant's Regular Pension Benefit, and the Participant has completed 10 Years

of Vesting Service; provided, however, that the Plan Administrator receives from the Participant a written application for such pension benefit which is complete in all respects on the form(s) provided by the Plan Administrator for this purpose.

- (b) **Determination of Total Disability.** The Administrative Committee shall have sole and absolute authority and discretion to determine whether a Participant has a condition of Total Disability and a Participant's entitlement to a Disability Pension Benefit under this Plan pursuant to any procedures that may be adopted by the Administrative Committee or Trustees from time to time. The Administrative Committee may, in its discretion, rely on a certification of a disability benefit award from the Social Security Administration, or on the statements of physicians who shall have examined the Participant. The Plan Administrator may arrange, at the expense of the Trust Fund, for such medical examinations or re-examinations as the Administrative Committee deems appropriate to establish a definitive diagnosis, or to establish a Participant's eligibility for a Disability Pension Benefit or continued entitlement to a Disability Pension Benefit under this Plan.
- (c) **Effective Date of Disability Pension Benefit.** A Disability Pension Benefit shall be payable effective as of the Pension Effective Date of the Disability Pension Benefit as determined in accordance with the provisions of Section 8.05(a).
- (d) **Continued Entitlement to Disability Pension Benefit.** If a Pensioner receiving a Disability Pension Benefit who has not attained Normal Retirement Age shall cease to have a condition of Total Disability, as determined by the Administrative Committee in its sole and absolute discretion in accordance with the provisions of this Section 5.04, payment of his or her Disability Pension Benefit shall cease as soon as is administratively practicable and no benefits shall thereafter be paid until the Participant either (i) again becomes eligible to receive a Disability Pension Benefit due to a new condition of Total Disability, or (ii) becomes eligible to receive a Regular Pension Benefit. A Pensioner receiving a Disability Pension Benefit who has not attained Normal Retirement Age who resumes Covered Employment and earns in excess of \$15,000 of Covered Earnings in a calendar year (which Earnings are attributable to Covered Employment performed during that calendar year) shall be deemed to have ceased his or her condition of Total Disability, and payment of his or her Disability Pension Benefit shall cease as soon as is administratively practicable. No benefits shall thereafter be paid until the Participant either (i) again becomes eligible to receive a Disability Pension Benefit due to a new condition of Total Disability, (ii) becomes eligible to receive a Regular Pension Benefit, or (iii) provides evidence satisfactory to the Administrative Committee, in its sole and absolute discretion, that his or her condition of Total Disability has continued.

Section 5.05 DISABILITY PENSION BENEFIT AMOUNT. The monthly amount of an eligible Participant's Disability Pension Benefit shall equal the Actuarial Equivalent (determined based on the Participant's actual age as of the Pension Effective Date of his or her

Disability Pension Benefit (as determined in accordance with Section 5.04(c) above)) of the Regular Pension Benefit monthly amount such Participant would have received if he or she were age 65 as of the Pension Effective Date of the Participant's Disability Pension Benefit (as determined in accordance with Section 5.04(c) above).

Section 5.06 REDETERMINATION OF PENSION BENEFITS. If a Participant commenced receiving payment of pension benefits under the Plan, and subsequently earns additional Contributions, the pension benefits payable will be redetermined subject to the provisions of subsections (a), (b), (c) and (d) of this Section. For purposes of this Section, the term "Pensioner" shall also refer to a Participant who previously received a lump-sum payment of a pension benefit under the Plan and subsequently earns additional Contributions.

- (a) **Redeterminations With Respect to Contributions Earned Prior to January 1, 1996.** If a Pensioner earns Contributions after his or her Pension Effective Date, the provisions of this subsection (a) shall apply with respect to Contributions earned prior to 1996. The amount of benefits redetermined pursuant to this subsection (a) are subject to adjustment where the pension is being paid in the form of a 50% Joint and Survivor Annuity or a 75% Joint and Survivor Annuity. The redetermination procedures set forth in this subsection (a) shall apply only to the Contributions earned by a Pensioner after his or her Pension Effective Date and shall not apply to any Contributions taken into consideration at the time of the Pensioner's Pension Effective Date. Contributions shall be rounded to the nearest \$100. The amount of any additional pension benefit payable based on Contributions earned after a Pensioner's Pension Effective Date, as determined in accordance with this subsection, shall be added to the Pensioner's monthly pension benefit and commence to be distributed on the July 1 following the calendar year it was accrued. The Pensioner shall be entitled to an additional Basic Monthly Amount based on (i) the Pensioner's attained age as of July 1 of the year following the calendar year in which the Contributions were earned, and (ii) the monthly pension factors indicated in the following table:

ATTAINED AGE	MONTHLY PENSION SUPPLEMENT PER \$100 OF CONTRIBUTIONS:
55	\$.83
56	.86
57	.87
58	.89
59	.90
60	.92
61	.95
62	.97
63	.99
64	1.02
65 or over	the Basic Monthly Amount dollar rate set forth in Section 5.03(a) for a Participant age 65 or over for the calendar year in which the Contributions were earned.

For years preceding attainment of Normal Retirement Age by a Pensioner receiving payment of a Regular Pension Benefit, the additional benefit shall not be less than the amount determined using the applicable Basic Monthly Amount dollar rate set forth in Section 5.03(a) based on the Pensioner's attained age as of July 1 of the year following the calendar year in which the Contributions were earned, reduced by the Actuarial Equivalent of the pension benefits paid to the Pensioner during that calendar year.

- (b) **Reretirement of Regular Pension Benefits With Respect to Contributions Earned on or After January 1, 1996.** The following provisions shall apply with respect to any additional pension benefits that may become payable to a Pensioner who initially retires and commences receiving payment of a Regular Pension Benefit prior to attaining Normal Retirement Age, and then earns additional Contributions in any calendar year after his or her initial Pension Effective Date and on or after January 1, 1996, but prior to his or her attaining Normal Retirement Age, which would otherwise have entitled such Pensioner to a redetermined benefit under the provisions of subsection (a) of this Section (for purposes of this subsection (b) only, referred to as an "early retirement Pensioner").

Any additional pension benefit that may become payable to an early retirement Pensioner with respect to Contributions earned after his or her initial Pension Effective Date and prior to his or her attainment of Normal Retirement Age shall commence to be distributed to such early retirement Pensioner on the first day of the month following his or her attainment of Normal Retirement Age. Such day shall be deemed the Pension Effective Date with respect to the additional monthly benefit payable to the early retirement Pensioner with respect to such Contributions (for purposes of this Section only, referred to as the "later Pension

Effective Date”), and the commencement of this additional pension benefit may not be deferred beyond the later Pension Effective Date.

Subject to adjustment where the early retirement Pensioner’s initial pension benefit is being paid in the form of a 50% Joint and Survivor Annuity or 75% Joint and Survivor Annuity, the amount of the additional monthly pension benefit that will become payable to an early retirement Pensioner commencing on the later Pension Effective Date shall be the greater of the two amounts computed under paragraphs (1) and (2) below.

- (1) The following amount: (i) the monthly benefit computed using the Basic Monthly Amount dollar rates set forth in Section 5.03(a) applicable to age 65 and all Contributions credited on behalf of the early retirement Pensioner for all periods of time (including such Contributions which were used in calculating his or her original pension benefit), less (ii) the monthly Actuarial Equivalent value of the pension benefits actually paid to such early retirement Pensioner from his or her initial Pension Effective Date up to the end of the month during which he or she attains Normal Retirement Age which are attributable to Contributions credited on behalf of the early retirement Pensioner for all such periods of time, minus (iii) the amount of the monthly pension benefit that was payable to the early retirement Pensioner immediately prior to his or her later Pension Effective Date attributable to Contributions credited on behalf of the early retirement Pensioner for all such periods of time. This calculation shall be performed separately for each period of time set forth as a separate column in the chart in Section 5.03(a).
- (2) The sum of the additional monthly benefits that would have become payable to the early retirement Pensioner annually up to the end of the month during which he or she attains Normal Retirement Age (or through May 31, 2010, if earlier) with respect to Contributions earned from the later of January 1, 1996 and his or her initial Pension Effective Date up to the end of the month during which he or she attains Normal Retirement Age (or through May 31, 2010, if earlier) if those benefits were calculated in accordance with the provisions of subsection (a) of this Section, without regard to the last paragraph of subsection (a).

A Participant or former Participant who retires prior to attaining Normal Retirement Age and receives a lump-sum payment of his or her pension benefit in accordance with the provisions of Section 8.04, and then earns additional Covered Earnings, shall be considered an early retirement Pensioner for purposes of this subsection (b); provided, however, that with respect to such an early retirement Pensioner, the amounts used in the calculation of the additional pension benefit payable as of the later Pension Effective Date under paragraph (1) of this subsection (b), which are based on the monthly value of benefits actually paid to an early

retirement Pensioner, shall be computed as the monthly Actuarial Equivalent value of the lump-sum payment received by the early retirement Pensioner as of his or her initial Pension Effective Date (plus subsequent lump-sum payments received by the early retirement Pensioner with respect to additional benefits based on Contributions earned prior to 1996, calculated in accordance with subsection (a) of this Section, if any).

In the event that an early retirement Pensioner who has earned an additional monthly pension benefit described in this subsection (b) dies prior to his or her later Pension Effective Date, the provisions concerning the amount and distribution of the Pre-retirement Death Benefit shall apply with respect to distribution of the death benefit attributable to Contributions earned after the Pensioner's initial Pension Effective Date.

- (c) **Reretirement and Redetermination of Disability Pension Benefits.** The following provisions shall apply with respect to any additional pension benefits that may become payable to a Pensioner who initially retires and commences receiving payment of a Disability Pension Benefit prior to attaining Normal Retirement Age, and then earns additional Contributions (for purposes of this subsection (c) only, referred to as an "early disability Pensioner").
- (1) The provisions concerning the timing of the payment of an additional pension benefit contained in subsection (b) above shall apply.
 - (2) Subject to adjustment where the additional pension benefit is to be paid in the form of a 50% Joint and Survivor Annuity or a 75% Joint and Survivor Annuity, the amount of the additional monthly pension benefit that will become payable to an early disability Pensioner as of his or her later Pension Effective Date shall be the monthly benefit computed using the Basic Monthly Amount dollar rate set forth in Section 5.03(a) applicable to age 65 as of the later Pension Effective Date as applied to Contributions earned from the initial Pension Effective Date through the end of the month during which the Pensioner attains Normal Retirement Age during each calendar year in which at least \$50 of Contributions were earned.
 - (3) Additional benefits payable to an early disability Pensioner with respect to Contributions earned after attaining Normal Retirement Age shall be calculated in accordance with the provisions of subsection (d) of this Section.
- (d) **Redetermination of Pension Benefits With Respect to Contributions Earned on or After January 1, 1996.** The following provisions shall apply with respect to any additional pension benefits that may become payable to a Pensioner who earns additional Contributions in any calendar year after attaining Normal Retirement Age which would otherwise have entitled such Pensioner to a redetermined benefit under the provisions of subsection (a) of this Section.

The additional benefits that may become payable to a Pensioner based on Contributions earned after attainment of Normal Retirement Age shall be distributed in accordance with the provisions of subsection (a) of this Section. With respect to Contributions earned before January 1, 2004, the amount of the additional monthly benefit shall be calculated in accordance with subsection (a) of this Section. With respect to Contributions earned on or after January 1, 2004, subject to adjustment where the additional pension benefit is to be paid in the form of a 50% Joint and Survivor Annuity or a 75% Joint and Survivor Annuity, the amount of the additional monthly benefit that may become payable to such a Pensioner shall be (i) the amount of the additional monthly benefit that would be payable under the provisions of subsection (a) with respect to Contributions earned during that calendar year (except that "1/1/08" shall be substituted for "4/1/07" in determining the applicable Basic Monthly Amount dollar rate set forth in Section 5.03(a) applicable to such calendar year), minus (ii) the monthly Actuarial Equivalent value of the benefits actually paid to such Pensioner during that same calendar year (i.e., the calendar year in which the additional Contributions were earned) based on Contributions earned on or after January 1, 2004.

If a Pensioner initially commences receiving payment of a Regular Pension Benefit on or after attaining Normal Retirement Age, and thereafter earns additional Contributions, the form of payment of any additional benefits that may become payable to such a Pensioner shall be the same as that of the Pensioner's initial Regular Pension Benefit.

If an early retirement Pensioner or early disability Pensioner earns Contributions after Normal Retirement Age, the form of payment of any additional benefits payable with respect to Contributions earned after attaining Normal Retirement Age shall be the same as that elected by the early retirement Pensioner or early disability Pensioner as of his or her later Pension Effective Date determined under subsection (b) or (c) of this Section, as applicable. If an early retirement Pensioner or early disability Pensioner does not have a later Pension Effective Date because he or she first earned additional Contributions after attaining Normal Retirement Age, the first date that additional benefits become payable under the provisions of this subsection (d) shall be the Pension Effective Date of such additional pension benefit. The form of payment elected at that time shall also apply to all subsequent additional pension benefits that become payable to him or her thereafter, if any.

Section 5.07 NON-DUPLICATION OF PENSION BENEFITS. No person shall be entitled to receive more than one type of pension benefit under the Plan with respect to a single period of Covered Employment.

Section 5.08 MAXIMUM BENEFITS. (a) Notwithstanding anything herein to the contrary, the Plan shall be administered in a manner that will result in its complying with the provisions of Code section 415, which are hereby incorporated into the Plan by reference.

- (b) In addition to other limitations set forth in the Plan and notwithstanding any other provisions of the Plan, the accrued benefit of a Participant, including the right to any optional benefits provided in the Plan and any benefits distributed under the Plan, shall not increase to an amount in excess of the amount permitted under Code section 415 at any time. (To the extent that this Plan is required to be aggregated with another defined benefit plan sponsored by a single Employer, only the benefits under this Plan that are provided by such Employer shall be taken into account for purposes of such aggregation.) The cost-of-living adjustments in both the dollar limit, and, if applicable, the compensation limit provided for in Code section 415(d) are hereby incorporated by reference and shall be automatic, including those for Participants who have incurred a severance from Covered Employment; provided, however, that (i) the annual benefit payable at the initial Pension Effective Date (and including any additional accrual earned thereafter), which is otherwise limited by the dollar limitation under Code section 415(b)(1)(A), shall not be increased under Code section 415(d) after the initial Pension Effective Date and (ii) notwithstanding anything herein to the contrary, this Section 5.08 shall be applied as if the dollar limitation set forth in Code section 415(b)(1)(A) (as adjusted) is no more than \$195,000.
- (c) For purposes of this Section, “limitation year” shall mean the calendar year. A limitation as adjusted under section 415(d) will apply to limitation years ending with or within the calendar year for which the adjustment applies.
- (d) For purposes of applying the limitations of Code section 415, compensation (hereinafter “415 Compensation”) shall mean the employee’s wages within the meaning of Code section 3401(a) and all other payment of compensation to an Employee by an Employer (in the course of the Employer’s trade or business) for which the Employer is required to furnish to the Employee a written statement under Code sections 6041(d), 6051(a)(3) and 6052. 415 Compensation includes amounts that would be included in wages but for an election under Code sections 125(a), 132(f)(4), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b).

415 Compensation shall be included in a limitation year only if actually paid or made available during such limitation year, but also 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 employees, and no compensation is included in more than one limitation year.

415 Compensation for a limitation year shall also include compensation paid no later than the later of 2-1/2 months after a Participant’s severance from Covered Employment or the end of the limitation year that includes the date of the Participant’s severance from Covered Employment. In such instances, compensation shall be included as 415 Compensation only 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 absent a severance from employment, the payments would have been paid to the Participant while the Participant continued in Covered Employment. In addition, 415 Compensation shall include vacation and sick leave payouts that are paid no later than the later of 2-1/2 months after a Participant's severance from Covered Employment or the end of the limitation year that includes the date of the Participant's severance from Covered Employment. Notwithstanding the foregoing, the provisions of this paragraph shall not apply to payments to an individual who does not currently perform services in Covered Employment by reason of qualified military service (as defined in Code section 414(u)) to the extent those payments do not exceed the amount the individual would have received had he or she continued in Covered Employment rather than entering military service.

- (e)(1) Notwithstanding the foregoing, any higher limits, or any lower limits, provided for in this Section 5.08 as in effect prior to January 1, 2008 are hereby grandfathered to the extent permitted by applicable law. With respect to benefits accrued prior to January 1, 2008, the maximum benefit limits of Code Section 415 and this Section 5.08 shall be applied separately to each Contributing Employer. For limitation years beginning on or after January 1, 2008, a Participant's maximum benefit under Code Section 415 and this Section 5.08 shall not be less than such Participant's maximum benefit as of December 31, 2007.
- (2) For purposes of applying the limitations of Code Sections 415(b) and 415(e), for an individual who was a Participant as of the first day of the first limitation year beginning after December 31, 1986 in a defined benefit plan which was in existence on May 6, 1986, and whose accrued benefit, as of the close of the 1986 limitation year, exceeds the dollar limitation of Code section 415(b), as amended by the Tax Reform Act of 1986, then the Participant's applicable dollar limitation is the Participant's accrued benefit as of the close of the last limitation year beginning prior to December 31, 1986 (determined as if the individual separated from service as of the end of that year and without regard to any changes in the terms of the Plan or cost of living increases occurring after May 6, 1986).
- (3) The accrued benefit of any Participant which exceeds the benefit limitations under Code Section 415, as amended by Tax Reform Act of 1986 (including the protected current accrued benefit described in Q&A 12 of Notice 87-21), is reduced as of the first day of the first limitation year beginning after December 31, 1986, to the level permitted under Tax Reform Act of 1986.

Section 5.09 TOP HEAVY DETERMINATION.

- (a) **Definitions.** Wherever used in this Section 5.09, the following words and phrases shall have the following meanings:

- (1) **Aggregated Plans:** All plans of a Contributing Employer satisfying the requirements of Code section 401(a)(i) which are required to be aggregated with the Plan pursuant to Code section 416(g)(2)(A)(i), including each plan which must be considered with such plan in order for such plan to meet the requirements of Code section 401(a)(4) or Code section 410, and (ii) which the Trustees elect to aggregate with the Plan pursuant to Code section 416(g)(2)(A)(ii), including any other plan as elected by the Trustees that satisfies the requirements of Code sections 401(a)(4) and 410 when considered together with the plans required to be aggregated as described above. A terminated or frozen plan shall be treated as an Aggregated Plan only in accordance with Treasury Department regulations.
- (2) **Average Pay:** The compensation of a Participant averaged over the 5 consecutive Plan Years which produces the highest average prior to such Participant's retirement, death or other termination of employment. The term "compensation" as used in this Section 5.09 shall mean the Employee's compensation on his Form W-2 for the calendar year that ends with or within the applicable Plan Year and shall include amounts excluded from taxable income under Code section 125, 402(g)(3), 457, and 132(f)(4). For purposes hereof, the term "compensation" shall not include such compensation after the last Plan Year in which a Plan is a Top-Heavy Plan.
- (3) **Determination Date:** The date as of which it is determined if a plan is to be a Top-Heavy Plan for a Plan Year. The Determination Date with respect to a plan shall be the last day of the immediately preceding plan year or, in the case of a new plan for the first plan year, the last day of such plan year.
- (4) **Key Employee:** Any individual (and the beneficiary of such individual) described in Code section 416(i)(1) and the Treasury Regulations thereunder.
- (5) **Present Benefit Value —**
 - (A) With respect to a defined benefit plan which is included in the Aggregated Plans, the sum of the present values of a Participant's accrued benefits under such plans. The accrued benefit of an Employee other than a Key Employee shall be determined under (1) the method, if any, that uniformly applies for accrual purposes under all plans maintained by a Contributing Employer, or (2) if there is no such method, as if such benefit accrued not more rapidly than the slowest accrual rate permitted under the fractional accrual rate of Code section 411(b)(1)(C). Except as provided in the applicable Treasury Regulations, such accrued benefits shall be

determined as if the Participant had voluntarily terminated employment on the valuation date which is or would be used for computing plan costs for minimum funding purposes pursuant to Code section 412 and which is within the 12-month period ending on the Determination Date. Such present value shall be determined on the basis of the actuarial assumptions in effect under such defined benefit plan and may include cost of living increases (to the maximum benefit then permitted pursuant to Code section 415). Non-proportional subsidies may be taken into consideration in accordance with Treasury Regulations.

- (B) With respect to a defined contribution plan which is included in the Aggregated Plans, the sum of a Participant's account balances attributable to employer and employee contributions under such plans as of the most recent valuation date under the plan ending within the 12-month period ending on the applicable Determination Date and shall be adjusted for contributions due as of such Determination Date. If a plan is not subject to the funding requirements of Code section 412, the adjustment is the amount of contributions actually made after the valuation date and on or before the Determination Date and, in the first plan year of any plan, also shall include contributions allocated as of a date in such plan year but made after the Determination Date. If a plan is subject to the funding requirements of Code section 412, a Participant's account balance shall include contributions not yet required to be contributed, but which would be allocated as of a date not later than the Determination Date, and the adjustment shall reflect any contributions made or due after the valuation date but prior to the expiration of the extended payment period of Code section 412(c)(10).
- (C) Present Benefit Value shall also include any related rollovers and transfers. A determination as to whether a rollover or transfer is related or unrelated shall be made in accordance with applicable Treasury Regulations.
- (D) Present Benefit Value shall also include, to the extent not otherwise included, any amounts distributed to the Participant or the Participant's beneficiary during the Plan Year under the Plan or any Aggregated Plan, during the 1-year period ending on the Determination Date. The preceding sentence shall also apply to distributions under a terminated plan which, had it not been terminated, would have been aggregated with the Plan under Code section 416(g)(2)(A)(i). In the case of a distribution made for a reason other than severance from employment, death, or disability, this provision shall be applied by substituting "5-year period" for

“1-year period.” Present Benefit Value shall not include the present value of any accrued benefit under a defined benefit plan or the account balance under a defined contribution plan with respect to a Participant who has not performed services for an employer maintaining the plan at any time during the 1-year period ending on the applicable Determination Date or with respect to a Participant who is not a Key Employee for a Plan Year, although such person was a Key Employee in a prior Plan Year.

- (6) Top-Heavy Plan: Aggregated Plans in which more than 60% of the sum of all Present Benefit Values is attributable to Key Employees, as determined as of the applicable Determination Date. For this purpose, plans will be aggregated with reference to the Determination Date which occurs within the same calendar year.
- (7) Year of Top-Heavy Service: Each Year of Service which commences in a Plan Year in which the Plan is a Top-Heavy Plan.

(b) **Minimum Benefit.**

- (1) For any Plan Year in which the Plan is a Top-Heavy Plan, the Accrued Benefit for a Participant who is not a Key Employee shall not be less than the Participant’s Average Pay multiplied by the lesser of (i) 2% multiplied by the Participant’s Years of Top-Heavy Service or (ii) 20%.
- (2) If a Participant is also a participant in any other defined benefit plan of a Contributing Employer, the minimum benefit set forth in (1) above shall be reduced by any benefits provided from such other plan with respect to any of the Participant’s Years of Top-Heavy Service.
- (3) If a Participant is also a participant in any defined contribution plan of a Contributing Employer, the minimum benefit set forth in (1) above shall be reduced to the extent permitted by Code section 416 (or any regulations issued thereunder) with respect to any benefits provided under such plans.
- (4) The minimum benefit set forth in (1) above, shall be payable as a life annuity (with no ancillary benefits) commencing at the Participant’s Normal Retirement Age. Any benefit which is payable as other than a life annuity, or which commences at other than the Participant’s Normal Retirement Age shall be adjusted to an amount which is actuarially equivalent to such benefit. For purposes hereof, such actuarially equivalent determination shall be based on such actuarial assumptions set forth in Appendix A.

- (c) **Minimum Vesting.** If the Plan is a Top-Heavy Plan, each Participant shall be fully vested after having completed three Years of Vesting Service. If the Plan ceases to be a Top-Heavy Plan for any future year, the minimum vesting schedule shall not be applicable with respect to any such future Plan Year; provided, however, that such minimum vesting schedule shall continue to apply with respect to the Accrued Benefit of any Participant who had completed 3 or more Years of Service as of the first day of the Plan Year as of which the Plan ceases to be a Top-Heavy Plan.
- (d) **Amendment Not Required.** The foregoing provisions of this Section 5.11 are intended to conform the Plan to the requirements of Code section 416 and any regulations, rulings or other pronouncements issued pursuant thereto, and shall be construed accordingly. In the event that under any statute, regulation or ruling all or a portion of the conditions of this Section are no longer required for the Plan to comply with the requirements of Code section 401 (or any other provisions with respect to qualification for tax exemption of retirement plans and trusts), to the extent possible such conditions shall become void and shall no longer apply without the necessity of an amendment to the Plan.
- (e) **Non-applicability to Collectively Bargained Groups.** The provisions of this Section 5.09 do not apply with respect to any Employee included in a unit of employees covered by a collective bargaining agreement.
- (f) **Minimum Benefits.** For purposes of satisfying the minimum benefit requirements of Code section 416(c)(1) and the Plan, in determining years of service with an Employer, any service with an Employer shall be disregarded to the extent that such service occurs during a Plan Year when the Plan benefits (within the meaning of Code section 410(b)) no Key Employee or former Key Employee.

ARTICLE 6
RETIREMENT ACCOUNT BENEFITS

Section 6.01 RETIREMENT ACCOUNT BALANCE. The balance of a Participant's Retirement Account shall be the amount of Contributions credited to such Participant's Retirement Account through December 31, 1967 in accordance with the terms of the Plan then in effect as described in Section 6.02, plus interest thereon compounded annually at the rate of 5% per annum. Such interest shall be credited at the end of each calendar year until the end of the calendar year immediately preceding the date of payment; provided, however, that with respect to a Retirement Account balance death benefit, interest shall be credited only until the end of the calendar year immediately preceding the date of the Participant's death. Notwithstanding the foregoing, in no event will a Participant's Retirement Account balance as of the date of distribution (or, if earlier, the Participant's date of death) be less than the Actuarial Equivalent lump-sum value of the Regular Pension Benefit calculated with respect to Contributions credited to such Participant's Retirement Account (in accordance with Section 6.02) and the Basic Monthly Amount dollar rates in effect for benefits with an Pension Effective Date of December 1, 2003.

Section 6.02 CREDITS TO RETIREMENT ACCOUNT.

- (a) A Participant is credited in his or her Retirement Account with the Contributions paid to the Trust Fund on his or her behalf prior to January 1, 1968 (including any Contributions credited prior to the Participant's satisfaction of the general Plan participation requirements set forth in Section 2.01) if his or her Covered Earnings amounted to an aggregate of \$1,500 during any five consecutive calendar year period prior to January 1, 1968. Contributions for Covered Earnings prior to the first such five-year period are not credited to the Retirement Account.
- (b) If a Participant has had Covered Earnings on which Contributions were due but not paid, he or she shall not receive credit for such unpaid amounts in his or her Retirement Account, but shall, subject to such nondiscriminatory rules and limitations as the Trustees may establish, be credited with such Covered Earnings for an appropriate calendar year for the sole purpose of meeting the \$1,500 requirement of subsection (a) of this Section. This Section shall only apply to Contributions that were due to the Fund prior to January 1, 1968.

Section 6.03 ELIGIBILITY FOR RETIREMENT ACCOUNT BENEFIT.

- (a) Any Participant who had an aggregate of \$1,500 or more of Covered Earnings during any five consecutive calendar year period prior to January 1, 1968, shall be 100% vested in his or her Retirement Account balance.
- (b) With respect to a Participant who is 100% vested in his or her Retirement Account balance in accordance with subsection (a) of this Section, and who satisfies the eligibility requirements for a Regular Pension Benefit or a Disability

Pension Benefit described in Article 5, the Participant's Regular Pension Benefit, Disability Pension Benefit or death benefit under the provisions of Article 5 or 7, as applicable, shall be calculated based on the Contributions made on behalf of the Participant which are credited to the Participant's Retirement Account (in accordance with Section 6.02), as well as the Contributions which are not credited to his or her Retirement Account, in the manner provided in Section 5.03(a)(2).

- (c) With respect to a Participant who is 100% vested in his or her Retirement Account balance in accordance with subsection (a) of this Section, and who does not satisfy the eligibility requirements for a Regular Pension Benefit or Disability Pension Benefit, the following provisions shall apply:
 - (1) The Participant shall be eligible to receive distribution of his or her Retirement Account balance once he or she has (i) attained his or her Normal Retirement Age, or (ii) retired and attained age 55, provided the Plan Administrator receives from the Participant a written application for such a benefit which is complete in all respects on the form(s) provided by the Plan Administrator for such purpose. Notwithstanding the preceding sentence, no Retirement Account benefit shall be paid to a Participant who received a lump-sum disability award under the provisions of the Plan in effect prior to January 1, 2004. The provisions concerning the distribution of benefits set forth in Article 8 shall apply with respect to the distribution of the Retirement Account balance, except that the monthly benefit payable to a Participant with respect to the Retirement Account balance shall be computed as the Actuarial Equivalent of the lump-sum value of the Participant's Retirement Account balance (as described in Section 6.01).

ARTICLE 7
PAYMENTS ON DEATH

Section 7.01 PRE-RETIREMENT DEATH BENEFIT FOR VESTED PARTICIPANTS.

- (a) **Eligibility for Benefit.** A Participant's Beneficiary shall be eligible to receive the Pre-retirement Death Benefit described in this Section if the Participant dies after he or she is vested in a Regular Pension Benefit in accordance with Section 4.01, but prior to his or her Pension Effective Date for a Regular Pension Benefit or a Disability Pension Benefit, subject to the provisions of Section 7.03. No Pre-retirement Death Benefit is payable if the Participant dies without having designated a primary or alternate Beneficiary, if there is no designated primary or alternate Beneficiary living on the date of the Participant's death, or if the Beneficiary dies prior to the commencement of payment of the Pre-retirement Death Benefit.
- (b) **Form and Amount of Benefit.** The Pre-retirement Death Benefit shall, subject to the provisions of Section 8.04, be an annuity for the life of the Beneficiary which is equivalent (as described in the following paragraph) to the benefit that would have been paid to the Beneficiary if the Participant had retired from Covered Employment immediately prior to his or her death (if he or she had not already retired from Covered Employment), commenced a 50% Joint and Survivor Annuity with the Beneficiary as the Joint Annuitant on the later of (A) the first day of the month following the date the Participant would have attained his or her earliest retirement age under the Plan had the Participant lived until such date and (B) the first day of the month following the Participant's date of death, and died the next day.

In the case of a Pre-retirement Death Benefit commencing before the date the Participant would have attained his or her earliest retirement age under the Plan, the death benefit described in the preceding paragraph shall be reduced to an Actuarial Equivalent based on the attained age (rounded down to the nearest year) that the Participant would have reached as of the date benefits commence. In the case of a Pre-retirement Death Benefit commencing after the later of the dates set forth in (A) and (B) of the preceding paragraph, the death benefit described in the preceding paragraph shall be increased to an Actuarial Equivalent based on the attained age (rounded down to the nearest year) that the Participant would have reached as of the date benefits commence. Notwithstanding the foregoing, in the event that a Pre-retirement Death Benefit commences to be paid under Section 7.03 within six months of the first day of the month following the death of the Participant, it shall be treated as though it commenced on the first day of the month following the death of the Participant, in which case (A) a lump sum payment (without interest) shall be paid to reflect the payments that would have been made between the first of the month following the death of the Participant and actual date of commencement and (B) the actuarial adjustment described in

this paragraph shall be calculated with reference to the first of the month following the death of the Participant, rather than the date benefits commenced.

- (c) **Commencement of Benefit to Beneficiaries Other Than Spouses.** Subject to the provisions of Section 7.03, payment to a Beneficiary who is not a Spouse shall commence as soon as administratively practicable following the death of the Participant.
- (d) **Commencement of Benefit to Spouses.** If the Participant has a Spouse at the time of death, the Participant's Spouse shall be the Beneficiary of the Pre-retirement Death Benefit. If the Participant dies prior to attaining Normal Retirement Age, distribution of the Pre-retirement Death Benefit to the Participant's Spouse shall, subject to the provisions of Section 7.03, commence on the first day of the month immediately following the date the Participant would have attained Normal Retirement Age unless the surviving Spouse files a written election, on the form(s) provided by the Plan Administrator for such purpose, to commence distribution earlier.

Section 7.02 RETIREMENT ACCOUNT DEATH BENEFIT. With respect to a Participant who is 100% vested in his or her Retirement Account balance in accordance with Section 6.03(a), and who dies (i) prior to being vested in a Regular Pension Benefit in accordance with Section 4.01, and (ii) prior to the distribution of his or her Retirement Account balance, such Participant's Beneficiary shall be eligible to receive distribution of the Participant's Retirement Account balance payable in accordance with Section 7.01.

Section 7.03 APPLICATION AND ELIGIBILITY FOR A DEATH BENEFIT. A Participant's Beneficiary shall be eligible to receive the death benefit described in Section 7.01 or Section 7.02, as applicable, if the eligibility requirements set forth in that Section are satisfied, provided the Plan Administrator receives from the Beneficiary a written application for such a death benefit which is complete in all respects on the form(s) and at such time(s) as are provided by the Plan Administrator for such purpose. Except as explicitly provided in Section 7.01(b), no interest on, or adjustment to, the amount of the applicable death benefit shall be due or owing the Beneficiary with respect to the period of time between the Participant's death and the commencement of the death benefit following the Plan Administrator's receipt of the complete application from the Beneficiary.

Section 7.04 ADDITIONAL DEATH BENEFIT RULES.

- (a) Notwithstanding any other provision of this Article 7, if a Participant dies while performing qualified military service (as defined in Code section 414(u)) on or after January 1, 2007, the Participant's Beneficiary shall be entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the Plan had the Participant resumed Covered Employment and then terminated Covered Employment on account of death.

- (b) Notwithstanding any other provision of the Plan, all death benefits shall be based solely on Contributions received before (i) in the case of additional Contributions described in Section 5.06, and the Participant dies on or after July 1, the calendar year in which the Participant dies if the Participant dies on or after July 1, (ii) in the case of additional Contributions described in Section 5.06, the calendar year preceding the year in which the Participant dies if the Participant dies before July 1, or (iii) in all other cases, the date of the Participant's death.

ARTICLE 8
METHOD AND TIMING OF DISTRIBUTION OF BENEFITS

Section 8.01 **NORMAL FORM OF DISTRIBUTION OF PENSION BENEFITS.** The normal form of payment of the Participant's Regular Pension Benefit, Disability Pension Benefit, Retirement Account Benefit or Re-Retirement Benefit, as applicable, shall (subject to the provisions of Section 8.04) be:

- (a) If a Participant has a Spouse as of his or her Pension Effective Date, a 50% Joint and Survivor Annuity with the Participant's Spouse as the Participant's Joint Annuitant.
- (b) If the Participant does not have a Spouse as of his or her Pension Effective Date, a Single Life Annuity.

Section 8.02 **QUALIFIED ELECTION; OPTIONAL FORMS OF PAYMENT.**

- (a) Subject to the provisions of Section 8.04, in lieu of receiving a pension benefit in the normal form of payment provided in Section 8.01(a), a Participant who has a Spouse as of his or her Pension Effective Date may make a Qualified Election (or other election, in the case of the form of payment described in subsection (a)(4) below) at any time during the 180 day period immediately preceding his or her Pension Effective Date, to receive payment of his or her pension benefit in one of the following optional forms:
 - (1) a 50% Joint and Survivor Annuity with a Joint Annuitant other than the Participant's Spouse;
 - (2) a 75% Joint and Survivor Annuity with a Joint Annuitant other than the Participant's Spouse;
 - (3) a Single Life Annuity; or
 - (4) a 75% Joint and Survivor Annuity with the Spouse as the Joint Annuitant, in which case a Qualified Election shall not be required and the Participant may make the election without consent of his or her Spouse on the form(s) provided by the Plan Administrator for such purpose.
- (b) Subject to the provisions of Section 8.04, in lieu of receiving a pension benefit in the normal form of payment provided in Section 8.01(b), a Participant who does not have a Spouse as of his or her Pension Effective Date may, within 180 days prior to his or her Pension Effective Date, elect in writing on the form(s) provided by the Plan Administrator for such purpose, to waive the normal form of payment described in Section 8.01(b) and, in lieu thereof, receive payment of his or her pension benefit in one of the following optional forms:
 - (1) a 50% Joint and Survivor Annuity; or

- (2) a 75% Joint and Survivor Annuity.
- (c) A Participant who makes a Qualified Election or a written election under the provisions of subsection (a) or (b) of this Section, as applicable, may revoke his or her Qualified Election, or written election, as applicable, with the consent of the Spouse in the case of a Qualified Election, at any time prior to his or her Pension Effective Date. The number of revocations shall not be limited. Any consent by a Spouse to a Participant's Qualified Election to waive the 50% Joint and Survivor Annuity may not be revoked and shall be effective only with respect to such spouse.

Section 8.03 NOTICE OF NORMAL FORM OF PAYMENT TO PARTICIPANTS.

No less than 30 days, and no more than 180 days, prior to a Participant's Pension Effective Date, the Plan Administrator shall furnish the Participant, by mail or personal delivery, a written explanation of (i) the terms and conditions of the normal form of payment applicable to the Participant and, with respect to a Participant with an Spouse, the 75% Joint and Survivor Annuity with such Spouse as the Joint Annuitant, as applicable, (ii) the availability of a Qualified Election or a written election to waive the normal form of payment described in Section 8.01(a) or (b), as applicable, (iii) the right of the Participant's Spouse to consent to, or withhold consent from, a Qualified Election, if applicable, (iv) the general financial effect of an election not to receive the applicable normal form of payment, and (v) the eligibility conditions, other material features and relative values of the optional forms of benefit available. Notwithstanding the preceding sentence, distribution may commence fewer than 30 days (but no fewer than seven days) after the written explanation is given, provided that (i) the Plan Administrator clearly informs the Participant that the Participant has a right to a period of at least 30 days to consider whether to waive the normal form of payment and elect an optional form of payment, and (ii) the Participant, after receiving the explanation, affirmatively elects to receive a distribution sooner (with consent of the Participant's Spouse, if applicable) on the form(s) provided by the Plan Administrator for such purpose.

Section 8.04 LUMP-SUM CASH-OUT OF SMALL BENEFITS. Notwithstanding anything contained herein to the contrary, if the Actuarial Equivalent present value of a Participant's entire benefit payable under the Plan does not (and at the time of any prior distribution in the form of a monthly annuity did not) exceed \$5,000 at the time that the Participant satisfies the eligibility requirements for payment of a Regular Pension Benefit, Disability Pension Benefit, Retirement Account benefit, Re-Retirement Benefit or Pre-retirement Death Benefit, as applicable, the Participant's benefit shall be payable only in the form of a single lump sum payment and any such distribution to the Participant or the Participant's surviving Spouse or other Beneficiary, as the case may be, shall not require the consent of the Participant or Spouse or other Beneficiary and shall be in complete discharge of the Plan's obligation with respect to such benefit. Notwithstanding the foregoing, effective March 28, 2005, the lump sum distribution described in the previous sentence will not be paid until such time as the Participant applies for a distribution on the form(s) provided by the Plan Administrator for such purpose.

Section 8.05 COMMENCEMENT OF PENSION BENEFITS GENERALLY.

- (a) **Pension Effective Date.** After a Participant fulfills the applicable eligibility requirements, payment of a Regular Pension Benefit, Disability Pension Benefit, or Retirement Account Benefit, as applicable, shall be effective as of the following date (the “Pension Effective Date”): (i) the first day of the calendar month immediately following receipt by the Plan Administrator from the Participant of an application for pension benefits which is complete in all respects on the forms provided by the Plan Administrator for such purpose (including all necessary election and consent forms) or (ii) the first day of the second calendar month following receipt by the Plan Administrator from the Participant of an application for pension benefits which is complete in all respects on the forms provided by the Plan Administrator for such purpose (including all necessary election and consent forms) if such receipt occurs after the fifteenth day of a calendar month. Payment will be made or commence on the Pension Effective Date or, if the completed application is received by the Fund Office after the monthly payment processing cut-off date, the first day of the following calendar month next following the Pension Effective Date.

If the Actuarial Equivalent lump-sum value of a Participant’s benefit exceeds (or at the time of any prior distribution of a monthly annuity exceeded) \$5,000 and it is distributable prior to the Participant’s Normal Retirement Age, the Participant and the Participant’s Spouse or other Beneficiary must consent to any distribution of such pension benefit in writing within the 180-day period ending on the Pension Effective Date. Notwithstanding the foregoing, only the Participant need consent to the commencement of a 50% Joint and Survivor Annuity or a 75% Joint and Survivor Annuity with the Participant’s Spouse as the Joint Annuitant that is distributable prior to the Participant’s Normal Retirement Age. The consent of neither the Participant nor the Participant’s Spouse shall be required to the extent that a distribution is required to satisfy Section 401(a)(9) or Code section 415.

- (b) Unless a Participant elects to defer the commencement of his or her Regular Pension Benefit or Retirement Account Benefit, the payment of the Participant’s Regular Pension Benefit or Retirement Account Benefit shall commence not later than the sixtieth (60th) day after the close of the Plan Year in which occurs the latest of (i) the date on which the Participant attains age 65, (ii) the date the Participant terminates his service with the Employer, or (iii) the tenth anniversary of the year in which the Participant commenced participation in the Plan. Notwithstanding the foregoing, (i) the failure of a Participant and the Participant’s spouse to consent to a distribution prior to the Participant’s Normal Retirement Age, or (ii) the failure of a Participant to file a written application for payment of a Regular Pension Benefit or Retirement Account Benefit shall be deemed to be an election to defer commencement of such Regular Pension Benefit or Retirement Account Benefit, provided, however, that the deferred commencement date of a Participant’s pension benefit may not be later than the Participant’s Required Beginning Date described in Section 8.06.

Section 8.06 TIMING AND DISTRIBUTION OF BENEFITS.

(a) General Rules.

The provisions of this Section 8.06 will apply for purposes of determining required minimum distributions for calendar years beginning with the 2003 calendar year, and will take precedence over any inconsistent provisions of the Plan. All distributions required under this Section 8.06 will be determined and made in accordance with Code section 401(a)(9), including the incidental death benefit requirements of Code section 401(a)(9)(G), and Treasury Regulation Sections 1.401(a)(9)-2 through 1.401(a)(9)-9. Notwithstanding the other provisions of this Section 8.06, distributions may be made under a designation made before January 1, 1984, in accordance with Section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act (TEFRA) and the provisions of the Plan that relate to Section 242(b)(2) of TEFRA.

(b) Time and Manner of Distribution.

- (1)** 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.
- (2)** 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:
 - (A)** If the Participant's Spouse is the Participant's sole designated Beneficiary, then distributions to the Spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70½, if later.
 - (B)** If the Participant's 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.
 - (C)** 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.
 - (D)** If the Participant's Spouse is the Participant's sole designated Beneficiary and the Spouse dies after the

Participant but before distributions to the Spouse begin, this Section 8.06(b)(2), other than Section 8.02(b)(2)(A), will apply as if the Spouse were the Participant.

For purposes of this Section 8.06(b)(2) and Section 8.06(e), distributions are considered to begin on the Participant's required beginning date (or, if Section 8.06(b)(2)(D) applies, the date distributions are required to begin to the Spouse under Section 8.06(b)(2)(A). If annuity payments irrevocably commence to the Participant before the Participant's required beginning date (or to the Participant's Spouse before the date distributions are required to begin to the Spouse under Section 8.06(b)(2)(A), the date distributions are considered to begin is the date distributions actually commence.

- (3) 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 8.06(c), (d) or (e) hereof. If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Section 401(a)(9) of the Code and the Treasury Regulations. Any part of the Participant's interest which is in the form of an individual account described in Code section 414(k) will be distributed in a manner satisfying the requirements of Code section 401(a)(9) and the Treasury Regulations that apply to individual accounts.
- (c) Determination of Amount to be Distributed Each Year.
- (1) If the Participant's interest is paid in the form of annuity distributions under the Plan, payments under the annuity will satisfy the following requirements:
 - (A) the annuity distributions will be paid in periodic payments made at intervals not longer than one year;
 - (B) the distribution period will be over a life (or lives) or over a period certain not longer than the period described in Sections 8.07(d) or (e);
 - (C) once payments have begun over a period certain, the period certain will not be changed even if the period certain is shorter than the maximum permitted;
 - (D) payments will either be nonincreasing or increase only as follows:

- (i) by an annual percentage increase that does not exceed the annual percentage increase in a cost-of-living index that is based on prices of all items and issued by the Bureau of Labor Statistics in accordance with Q&A 14 of section 1.401(a)(9)-6 of the Treasury Regulations;
 - (ii) to the extent of the reduction in the amount of the Participant's payments to provide for a survivor benefit upon death, but only if the Beneficiary whose life was being used to determine the distribution period described in Section 8.06 dies or is no longer the Participant's Beneficiary pursuant to a qualified domestic relations order within the meaning of Code section 414(p);
 - (iii) to allow a beneficiary to convert the survivor portion of a joint and survivor annuity into a single sum distribution upon the employee's death; or
 - (iv) to pay increased benefits that result from a Plan amendment.
- (2) The amount that must be distributed on or before the Participant's required beginning date (or, if the Participant dies before distributions begin, the date distributions are required to begin under Section 7.01) is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received, e.g., bi-monthly, monthly, semi-annually, or annually. All of the Participant's benefit accruals as of the last day of the first distribution calendar year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the Participant's required beginning date.
- (3) Any additional benefits accruing to the Participant in a calendar year after the first distribution calendar year will be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues.
- (d) Requirements For Annuity Distributions That Commence During Participant's Lifetime.

- (1) If the Participant's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the Participant and a nonspouse Beneficiary, annuity payments to be made on or after the Participant's required beginning date to the designated Beneficiary after the Participant's death must not at any time exceed the applicable percentage of the annuity payment for such period that would have been payable to the Participant using the table set forth in Q&A-2 of section 1.401(a)(9)-6(c)(2) of the Treasury Regulations. If the form of distribution combines a joint and survivor annuity for the joint lives of the Participant and a nonspouse Beneficiary and a period certain annuity, the requirement in the preceding sentence will apply to annuity payments to be made to the designated Beneficiary after the expiration of the period certain.
 - (2) Unless the Participant's Spouse is the sole designated Beneficiary and the form of distribution is a period certain and no life annuity, the period certain for an annuity distribution commencing during the Participant's lifetime may not exceed the applicable distribution period for the Participant under the Uniform Lifetime Table set forth in section 1.401(a)(9)-9 of the Treasury Regulations for the calendar year that contains the Pension Effective Date. If the Pension Effective Date precedes the year in which the Participant reaches age 70, the applicable distribution period for the Participant is the distribution period for age 70 under the Uniform Lifetime Table set forth in section 1.401(a)(9)-9 of the Treasury Regulations plus the excess of 70 over the age of the Participant as of the Participant's birthday in the year that contains the Pension Effective Date. If the Participant's Spouse is the Participant's sole designated Beneficiary and the form of distribution is a period certain and no life annuity, the period certain may not exceed the longer of the Participant's applicable distribution period, as determined under this Section 8.06(d)(2), or the joint life and last survivor expectancy of the Participant and the Participant's spouse as determined under the Joint and Last Survivor Table set forth in section 1.401(a)(9)-9 of the Treasury Regulations, using the Participant's and Spouse's attained ages as of the Participant's and Spouse's birthdays in the calendar year that contains the Pension Effective Date.
- (e) Requirements For Minimum Distributions Where Participant Dies Before Date Distributions Begin.
- (1) If the Participant dies before the date distribution of his or her interest begins and there is a designated Beneficiary, the Participant's entire interest will be distributed, beginning no later

than the time described in Section 8.06(b)(2)(A) or (B)), over the life of the designated Beneficiary or over a period certain not exceeding:

- (A) unless the Pension Effective Date is before the first distribution calendar year, the life expectancy of the designated Beneficiary determined using the Beneficiary's age as of the Beneficiary's birthday in the calendar year immediately following the calendar year of the Participant's death; or
 - (B) if the Pension Effective Date is before the first distribution calendar year, the life expectancy of the designated Beneficiary determined using the Beneficiary's age as of the Beneficiary's birthday in the calendar year that contains the Pension Effective Date.
- (2) 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) If the Participant dies before the date distribution of his or her interest begins, the Participant's Spouse is the Participant's sole designated Beneficiary, and the Spouse dies before distributions to the Spouse begin, this Section 8.06(e) will apply as if the Spouse were the Participant, except that the time by which distributions must begin will be determined without regard to Section 8.06(b)(2)(A)
- (f) Definitions.
- (1) 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 Treasury Regulation Section 1.401(a)(9)-1, Q&A-4.
 - (2) Distribution calendar year. A calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Participant's required beginning date. For distributions beginning after the Participant's death, the first

distribution calendar year is the calendar year in which distributions are required to begin pursuant to Section 8.06(b)(2).

- (3) Life expectancy. Life expectancy as computed by use of the Single Life Table in Section 1.401(a)(9)-9 of the Treasury Regulations.
- (g) Required Beginning Date.
- (1) Each Participant's pension benefit must begin to be distributed not later than his Required Beginning Date, as defined below.
 - (2) The Required Beginning Date of a Participant (other than a 5% owner of an Employer, as defined in Code section 416(i), during the Plan Year ending in the calendar year in which he or she attains age 66 ½ or any later Plan Year), who attained age 70 ½ before January 1, 1988, is April 1 of the calendar year following the calendar year in which the later of retirement or attainment of age 70 ½ occurs.
 - (3) The Required Beginning Date of a Participant who is not a 5-percent owner (as defined in paragraph (2) hereof), who attained age 70 ½ during 1988 and who had not retired as of January 1, 1989, is April 1, 1990.
 - (4) The Required Beginning Date of a Participant who is a 5-percent owner (as defined in paragraph (2) hereof) who attained age 70 ½ before January 1, 1988 is April 1 of the calendar year following the calendar year in which the later of (i) attainment of age 70 1/2, or (ii) the earlier of retirement or becoming a 5-percent owner (as defined in paragraph (2) hereof), occurs.
 - (5) The Required Beginning Date of all other Participants is April 1 of the calendar year following the calendar year in which the Participant attains age 70 1/2.

Section 8.07 FORFEITURE OF UNCLAIMED BENEFITS OF LOST PARTICIPANTS OR BENEFICIARIES.

- (a) When distribution of a benefit is to commence to a Participant or Beneficiary under the Plan, including without limitation pursuant to Section 8.06 above, the Plan Administrator shall use all reasonable efforts to locate and contact the Participant or Beneficiary in accordance with the procedure that the Administrative Committee adopts for such purpose. If a Participant or Beneficiary does not respond to the Plan Administrator and claim his or her benefit within six months after the Plan Administrator, in accordance with procedure, has undertaken all reasonable measures to locate and contact such

individual, such individual shall be deemed to be “lost” as of such six-month anniversary.

- (b) Subject to the provisions of subsection (c) of this Section, the unclaimed benefit of a Participant or Beneficiary that has been “lost” for a period of two consecutive years shall be forfeited at the end of such two year period and treated in accordance with other amounts forfeited under the Plan.
- (c) Notwithstanding the provisions of subsection (b) above, a “lost” Participant or Beneficiary shall have the right to claim payment of his or her benefit at any time beyond the two-year period referred to in subsection (b) of this Section, and such benefit shall be paid to such Participant or Beneficiary; provided, however, that (i) such benefit shall be reduced to the extent of any inadvertent overpayment made by the Fund as a result of such Participant or Beneficiary having been deemed “lost,” and (ii) no interest shall be payable with respect to such benefit.

ARTICLE 9
PLAN AMENDMENT AND TERMINATION

Section 9.01 AMENDMENT.

- (a) This Plan may be amended by the Trustees at any time, consistent with the provisions of, and in the manner provided by, the Trust Agreement. However, no amendment may decrease retroactively the accrued benefit of any Participant, except as permitted under Section 1.411(d)-4 of the Treasury Regulations or Code section 432. In the event of any such amendment, no part of the funds held in the Trust Fund shall be used for or diverted to any purpose other than for the exclusive benefit of the Participants or their Beneficiaries, except as may otherwise be permitted by ERISA or the Code.
- (b) No amendment of this Plan may deprive a Participant of any non-forfeitable right to a benefit accrued to the date of such amendment. If an amendment is adopted which has the effect of changing the vesting schedule, each Participant who has credit for at least three (3) Years of Vesting Service at the time the amendment is adopted or effective (whichever is later) may elect to have his or her non-forfeitable accrued benefit computed without regard to such amendment. Such election shall be made during the period commencing on the date the amendment is adopted and ending 60 days after the latest of the following:
 - (1) the date the amendment is adopted;
 - (2) the date the amendment becomes effective; or
 - (3) the date the Participant is furnished written notice of the amendment.

Section 9.02 TERMINATION.

- (a) **Right to Terminate.** The Trustees reserve the right to terminate the Plan, in whole or in part, consistent with the provisions of, and in the manner provided by, the Trust Agreement. In the event of such termination, no part of the funds held in the Trust Fund shall be used for or diverted to any purpose other than for the exclusive benefit of the Participants or their Beneficiaries, except as may otherwise be permitted by ERISA or the Code.
- (b) **Vesting Upon Termination.** Upon termination of the Plan in whole or in part, all affected Participants shall be 100% vested in their benefits accrued to the date of the complete or partial termination to the extent that such benefits are funded.
- (c) **Limitations on Benefits to Highest-Paid Highly Compensated Employees.**
 - (1) In the event of the termination of the Plan, the benefit of any Highly Compensated Employee and former Employee shall be limited to a benefit that is non-discriminatory under Code section 401(a)(4).

- (2) The provisions of this paragraph (2) shall apply to any one of the 25 highest paid Highly Compensated Employees and former Employees of Employers. The annual benefit payments to any such Employee shall be restricted to an amount equal to the payments that would be made on behalf of such Employee under a Single Life Annuity that is the actuarial equivalent of the sum of such Employee's accrued benefit (and the Employee's other benefits) under the Plan. The restrictions in this paragraph do not apply, however, if:
- (A) after payment to such Employee of all of his or her accrued benefits, the value of Plan assets equals or exceeds 110% of the value of current liabilities, as defined in Code section 412(l)(7); or
 - (B) the value of such Employee's accrued benefits is less than one percent of the value of current liabilities; or
 - (C) the value of such Employee's accrued benefits does not exceed the amount described in Code section 411(a)(11)(A).
- (3) For purposes of the Plan, a "Highly Compensated Employee" shall mean each Employee who:
- (A) at any time during the calendar year or the preceding calendar year was a five percent owner of an Employer;
 - (B) for the preceding calendar year received Testing Compensation from an Employer in excess of \$115,000 (or such higher adjusted amount prescribed by the Secretary of the Treasury).

For purposes of this Section, the term "Testing Compensation" means wages, salaries and other amounts received by or made available to an Employee for services rendered to an Employer, including deferred contributions under a cash or deferred arrangement described in Code section 401(k), 125 or 132(f).

ARTICLE 10

ADMINISTRATION

Section 10.01 GENERAL ADMINISTRATION. This Plan is established, operated and administered, and the assets of the Plan held in the Trust Fund are invested, in accordance with the terms of the Trust Agreement.

Section 10.02 AUTHORITY OF TRUSTEES. The Trustees, and any committee of the Trustees designated by the Trustees in accordance with the provisions of, and in the manner provided by, the Trust Agreement, shall have the exclusive right, power, and authority, in its sole and absolute discretion, to administer, apply and interpret the Plan, Trust Agreement and any other Plan documents and to decide all matters arising in connection with the operation or administration of the Plan or the Trust and the investment of Plan assets. Without limiting the generality of the foregoing, the Trustees, and any committee of the Trustees designated by the Trustees in accordance with the provisions of, and in the manner provided by, the Trust Agreement, shall have the sole and absolute discretionary authority to: (1) take all actions and make all decisions with respect to the eligibility for, and the amount of, benefits payable under the Plan; (2) formulate, interpret and apply rules, regulations and policies necessary to administer the Plan in accordance with its terms; (3) decide questions, including legal or factual questions, relating to the calculation and payment of benefits under the Plan; (4) resolve and/or clarify any ambiguities, inconsistencies and omissions arising under the Plan, Trust Agreement or other Plan documents; and (5) process, and approve or deny, benefit claims and rule on any benefit exclusions and determine the standard of proof in any case. All determinations and interpretations made by the Trustees, and any committee of the Trustees designated by the Trustees in accordance with the provisions of, and in the manner provided by, the Trust Agreement, with respect to any matter arising under the Plan, Trust Agreement and any other Plan documents shall be final and binding on all affected Participants, Beneficiaries, and other individuals claiming benefits under the Plan.

Section 10.03 INFORMATION AND PROOF. Benefits under this Plan will be paid only if the Trustees, or any committee of the Trustees designated by the Trustees in accordance with the provisions of, and in the manner provided by, the Trust Agreement, decide, in their discretion, that the claimant is entitled to them.

- (a) Every Participant, Beneficiary or other claimant shall furnish, at the request of the Trustees, any information or proof reasonably required to determine his or her benefit rights under the Plan. Failure on the part of a claimant to comply with such request promptly, accurately, and in good faith shall be sufficient grounds for denying, postponing, or discontinuing benefits under the Plan to such person. If a claimant makes a willfully false statement material to his or her claim or furnishes fraudulent information or proof material to his or her claim, any benefits may be denied, suspended or discontinued. The Trustees shall have the right to recover any benefit payments made in reliance on any false or fraudulent statements, information or proof submitted by a Participant, Beneficiary or other claimant (including the withholding of a material fact) plus interest and costs

(including, without limitation, by recovery through offset of future benefit payments).

- (b) Each Participant and Beneficiary shall provide the Plan Administrator his or her current address in writing and prompt written notification of any change of address. No interest shall be payable with respect to any benefit payment delayed, postponed or discontinued as a result of the Plan Administrator not having correct address information. Any Fund communication addressed to a Participant or Beneficiary at his or her last address filed with the Plan Administrator shall be binding on the Participant and/or his or her Beneficiary. When distribution of a benefit is to commence to a Participant or Beneficiary under the Plan, and such Participant or Beneficiary cannot be reached at his or her last known address, the provisions of Section 8.07 shall apply.

Section 10.04 CLAIMS PROCEDURE.

- (a) All initial claims for benefits under the Plan shall be directed to the attention of the Plan Administrator or its designee. A decision regarding the status of a claim for benefits shall be made by the Plan Administrator or its designee within 90 days from the date the claim is filed.
- (b) If a claim is denied, in whole or in part, the Plan Administrator shall provide the claimant with the reasons for the denial with reference to the specific Plan provisions on which the denial was based, a description of any additional information needed to perfect the claim (including an explanation of why such information is necessary), and a description of the Plan's claims procedures, including a statement of the claimant's right to bring a civil action under ERISA section 502(a) following an adverse benefit determination on review. The Plan Administrator shall notify the claimant in writing of the reasons for the denial within 90 days after the date the claim is filed. If special circumstances require an extension of the time for the Plan Administrator to respond, the Plan Administrator may extend the 90 day period up to an additional 90 days. If this happens, the claimant shall receive written notification explaining the special circumstances which require more time as well as indicating the date by which a final decision is expected.
- (c) If a claim has been denied, the claimant may, within 60 days after receipt of the written notice of denial, request a review of the denial. This request must be in writing to the Administrative Committee and may include written comments, documents, records and other information relating to the claim for benefits. The claimant shall be provided, upon request and free of charge, reasonable access to, and copies of, all documents, records and other information relevant to the claimant's claim for benefits. A decision on review of the denial shall be made by the Administrative Committee at its next regularly scheduled meeting; provided, however, that if the request for a review is received by the Administrative Committee within 30 days prior to its next regularly scheduled meeting, the

decision may be made at the second regularly scheduled meeting of the Administrative Committee following receipt of the request for review. The Administrative Committee's review will take into account all comments, documents, records, and other information submitted by the claimant relating to the claim, without regard to whether such information was submitted or considered in the initial benefit determination. The written decision which shall be sent to the claimant shall specify the specific reason(s) for the denial, the Plan provisions on which the decision is based, a statement that the claimant is entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to the claimant's claim for benefits, as well as a statement of the claimant's right to bring a civil action under ERISA section 502(a). If special circumstances require an extension for time for processing a request for review, the decision of the Administrative Committee may be made at the third meeting following the date the request for review is made; provided, however, that the claimant shall receive written notification explaining the special circumstances which require more time as well as indicating the date by which a final decision is expected.

- (d) The decision of the Administrative Committee concerning an appeal shall be in writing and shall be final and binding on all affected parties.
- (e) No legal action seeking payment of benefits under the Plan, to otherwise enforce rights under the Plan, or to clarify a right to future benefits under the Plan may be commenced by a Participant, Beneficiary or other claimant (or an agent or representative acting on behalf of a Participant, Beneficiary or other claimant) against the Plan, the Fund, the Trustees, or any employee or representative of the Plan or Fund:
 - (1) unless the person claiming the benefits has followed and exhausted the procedures for review by the Administrative Committee that are described in this Section 10.4 and the Administrative Committee has either (i) denied the request for review in whole or in part; or (ii) made no decision within the time period described in Section 10.04(c); or
 - (2) more than one year after the Administrative Committee has made its decision on review with regard to the relevant claim (provided that this provision shall have no effect on the applicable statute of limitations).
- (f) Special Procedures for Applications for a Non-SSA-Based Disability Pension Benefit.
 - (1) Applications for a Disability Pension Benefit that are not based on a disability award issued by the Social Security Administration ("Non-SSA-Based Disability Pension Benefit") shall be subject to all of the general rules described in Section 10.04(a)-(e), except as they are amended by the specific provisions in this subsection.

- (2) The initial decision on an application for a Non-SSA-Based Disability Pension Benefit will be made within 45 days after the application is filed, unless additional time is required due to matters beyond the control of the Fund, in which case the Plan Administrator will notify the Participant before the end of the initial 45 days of an extension of 30 days or less. If this happens, the claimant shall receive written notification explaining the standards on which entitlement to a benefit is based, the unresolved issues that prevent decision on the claim and the additional information needed to resolve those issues. The claimant shall be afforded at least 45 days within which to provide any information so requested. If necessary, the Plan Administrator may notify the Participant of a second extension of 30 days or less, following the same procedure. No additional extensions may be made, except with the Participant's voluntary consent.
- (3) If an adverse decision on the application is based in whole or in part on any internal rule, guideline, or similar criterion, the notice to the Participant of the adverse decision will either set forth the internal rule, guideline, or similar criterion, or will state that such was relied upon and will be provided free of charge to the Participant upon request.
- (4) The Plan will identify any medical or vocational expert whose advice was obtained on behalf of the Plan in connection with an adverse benefit determination, without regard to whether the advice was relied upon in making the benefit determination.
- (5) If a claim has been denied, the claimant may, within 180 days after receipt of the written notice of denial, request a review of the denial.
- (6) The Administrative Committee will consider the appeal *de novo*, without any deference to the initial benefit denial.
- (7) The Administrative Committee will not include any person who participated in the initial benefit denial or who is the subordinate of a person who participated in the initial benefit denial.
- (8) If the initial benefit denial was based in whole or in part on a medical judgment, the Administrative Committee will (i) consult with a health care professional who has appropriate training and experience in the field of medicine involved in the medical judgment, and who was neither consulted in connection with the initial benefit determination nor is the subordinate of any person who was consulted in connection with that determination, and (ii) upon notifying the Participant of an adverse determination on review, include in the written notice either an explanation of the clinical basis 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.

- (g) If any extension of the time for responding to a claimant under this Section 10.04 is due to the claimant's failure to submit information necessary to decide the claim, the period for making the determination will be tolled from the date on which the extension notice is sent to the date on which the Participant responds to the request for information.

Section 10.05 EXCLUSIVE PROCEDURE FOR CORRECTING PLAN RECORDS RELATING TO COVERED EMPLOYMENT.

- (a) If a Participant, Beneficiary or alternate payee under a qualified domestic relations order, as defined in Code section 414(p), contends that the Plan's records of Covered Employment, Covered Earnings or Contributions are inaccurate, a written request for correction of the Plan's records must be provided to the Fund Office on forms provided by the Plan Administrator for such purpose. The person submitting such a request is referred to in this Section 10.05 as the "Applicant."
- (b) The Fund will consider a request for correction of the Plan's records with respect to Covered Employment or Contributions only if the request is received by the Fund Office no later than three years after the end of the calendar year in which the Participant received wages for that Covered Employment. No request that is received more than three years after the end of the calendar year in which the Participant received wages for that Covered Employment will be considered or granted.
- ~~(d)~~ (c) The Plan Administrator or its designee shall notify the Applicant of the decision on each such request for correction of records, following the procedures described in Section 10.04(b). The procedures described in Section 10.04(c), (d), (e) and (g) shall apply to any denial of such a request for correction of records in the same manner as those procedures apply to a denial of a benefit claim.
- ~~(e)~~ (d) This procedure is the exclusive means by which a Participant, Beneficiary or alternate payee under a qualified domestic relations order, as defined in Code section 414(p), may obtain correction of the Plan's records that pertain to the Participant's Contributions, Covered Earnings, or Covered Employment. If the Plan receives no request for correction of those records for any year in accordance with this procedure, the information in the Plan's records for that year shall be final and binding on the Participant and on anyone claiming through the Participant (including a Beneficiary or alternate payee under a qualified domestic relations order, as defined in Code section 414(p)) with regard to Contributions, Covered Earnings, Covered Employment, Hours Credited, Pension Credit, and Years of Vesting Service for that year.

ARTICLE 11
MISCELLANEOUS

Section 11.01 RETURN OF CONTRIBUTIONS. In no event shall any of the corpus or assets of the Pension Fund revert to the Employers or be subject to any claims of any kind by the Employers, except that, in the sole and absolute discretion of the Trustees, Contributions (i) made by an Employer by a mistake of fact or law (including any Contributions inadvertently made on the basis of overscale wages) may be returned to such Employer within six months after the Plan Administrator determines that such Contribution was made by such a mistake, or (ii) which are determined to be non-deductible for tax purposes under Code section 404 may be returned to such Employer within one year following the date of such determination.

Section 11.02 LIMITATION OF LIABILITY. The Plan has been established on the basis of an actuarial calculation which has established to the extent possible, that the Contributions will, if continued, be sufficient to maintain the Plan on a permanent basis, fulfilling the funding requirements of ERISA. Except as otherwise provided by law, (i) nothing in this Plan shall be construed to impose any obligation on an Employer to make payments to the Plan, beyond the Employer's obligation to make Contributions as required by any applicable collective bargaining agreement, participation agreement, or similar agreement acceptable to the Trustees, and (ii) there shall be no liability upon the Trustees, the Plan Administrator, any Employer, or the AFM (either individually or collectively) to provide the benefits established by this Plan if the Fund does not have sufficient assets to pay for such benefits.

Section 11.03 MERGERS, CONSOLIDATIONS AND TRANSFERS OF ASSETS. To the extent required by law, in the case of any merger or consolidation with, or transfer of assets and liabilities to, any other plan, provisions shall be made so that each Participant in the Plan affected thereby would (if the Plan then terminated) receive a benefit immediately after the merger, consolidation or transfer which was equal to or greater than the benefit such Participant would have been entitled to receive immediately prior to the merger, consolidation or transfer (if the Plan had then terminated).

Section 11.04 DIRECT ROLLOVER OF ELIGIBLE ROLLOVER DISTRIBUTIONS.

- (a) **General Rule.** Notwithstanding any provision of the Plan to the contrary that would otherwise limit a Distributee's election under this Section, a Distributee may elect, at the time and in the manner prescribed by the Plan Administrator, to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan specified by the Distributee in a Direct Rollover.
- (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, except that an Eligible Rollover Distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life

expectancy) of the Distributee or the joint lives (or joint life expectancies) of the Distributee and the Distributee's designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under Code section 401(a)(9); any distribution that is made on account of hardship to the Participant; and the portion of any distribution that is not includible in gross income.

- (2) Eligible Retirement Plan: An Eligible Retirement Plan is an individual retirement account described in Code section 408(a), an individual retirement annuity described in Code section 408(b), an annuity plan described in Section 403(a), an annuity contract described in Code section 403(b) and 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 the Plan, or a qualified trust described in Code section 401(a), that accepts the Distributee's Eligible Rollover Distribution. With respect to distributions made on or after January 1, 2008, eligible retirement plan also means a Roth IRA described in Code section 408A.

- (3) Distributee: A Distributee includes an Employee or former Employee. In addition, the Employee's or former Employee's surviving spouse and the Employee's or former Employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Code section 414(p), are Distributees with regard to the interest of the spouse or former spouse. For purposes of this Section 11.4(b)(3), effective for distributions made on or after April 1, 2010, a nonspouse Beneficiary shall be considered a "Distributee," provided that such nonspouse Beneficiary shall only be allowed to elect, at the time and in the manner prescribed by the Plan Administrator, to have any portion of an Eligible Rollover Distribution paid in a Direct Rollover directly to an Eligible Retirement Plan that is (i) either an individual retirement account described in Code section 408(a), an individual retirement annuity described in Code section 408(b), or a Roth IRA described in Code section 408A(b), and (ii) an inherited retirement account or annuity under Code section 408. Effective for distributions made on or after April 1, 2010, a nonspouse Beneficiary shall be considered a "Distributee"; provided that such nonspouse Beneficiary shall only be allowed to elect, at the time and in the manner prescribed by the Plan Administrator, to have any portion of an Eligible Rollover Distribution paid in a Direct Rollover directly to an Eligible Retirement Plan that is (i) either an individual retirement account described in Code section 408(a), an individual retirement annuity described in Code section 408(b), or a Roth IRA described in Code section 408A(b) and (ii) an inherited retirement account or annuity under Code section 408.

- (4) Direct Rollover: A Direct Rollover is a payment by the Plan to the Eligible Retirement Plan specified by the Distributee.

Section 11.05 NON-ALIENATION OF BENEFITS. No Participant or Beneficiary entitled to any benefits under this Plan shall have the right to assign, alienate, transfer, encumber, pledge, mortgage, hypothecate, anticipate, or otherwise impair in any manner his legal or beneficial interest, or any interest in assets of the Fund, or benefits of this Plan. Any such assignment, alienation, transfer, encumbrance, pledge, mortgage, hypothecation, anticipation, or other impairment shall be void and of no effect whatsoever. Such benefit payments or portions thereof shall not in any way be subject to legal process, execution, attachment or garnishment, nor be used for the payment of any legal claim against any such person nor be subject to the jurisdiction of any bankruptcy court or insolvency proceedings by operation of law or otherwise. Nothing in this Section shall prevent the Trustees or the Plan Administrator from complying with an order that is determined to be a qualified domestic relations order (as defined in ERISA section 206(d) and Code section 414(p)) or with any qualified domestic relations order procedures (or similar rules) that may be adopted by the Trustees or Administrative Committee from time to time. Notwithstanding the foregoing, a Participant's benefit under the Plan may be offset by any amount that the Participant is ordered or required to pay to the Plan to the extent permitted by Code section 401(a)(13)(C) and ERISA sections 206(d)(4) and (5).

Section 11.06 BENEFIT OVERPAYMENTS. (a) In the event that any individual receives any payment from the Plan in excess of the amount that he or she is entitled to receive under the Plan (including due to mistake of fact or law, reliance on false or fraudulent statements, information or proof submitted by a claimant, or continuation of payments after the death of a Participant or a Beneficiary) ("Excess Payments"), he or she is obligated to repay such Excess Payments to the Plan upon receipt of a written notice by the Trustees or their designee requesting such repayment.

- (b) The Trustees or their designee shall have full authority, in their sole and absolute discretion, to recover the amount of any Excess Payments (plus interest and costs). That authority shall include, but shall not be limited to, the right to: (i) seek the Excess Payment in a lump sum from the recipient; (ii) the right to reduce benefits payable in the future to the recipient, (iii) the right to reduce benefits payable to a Beneficiary who is, or may become, entitled to receive payments under the Plan following the death of that person, and/or (iv) the right to initiate a lawsuit or take such other legal action as may be necessary to recover any overpayment (plus interest and costs).

Section 11.07 INCOMPETENCE OR INCAPACITY OF PENSIONER OR BENEFICIARY. In the event it is determined to the satisfaction of the Administrative Committee or the Plan Administrator that a Pensioner or Beneficiary is unable to care for his or her affairs because of mental or physical incapacity, any payment due may be made to the legally appointed guardian, committee, or other legal representative appropriate to receive such payments on behalf of the Pensioner or Beneficiary, as determined by the Administrative Committee, in its sole discretion.

Section 11.08 GENDER AND NUMBER. Whenever the masculine pronoun is used in the Plan, it shall also be deemed to include the feminine, and when words are used in the Plan in the singular form, they shall, where appropriate, be construed so as to include the plural.

Section 11.09 APPLICABLE LAW. The terms of the Plan shall be construed under the laws of the State of New York applicable to contracts made and to be performed within the County and State of New York (without regard to any conflict of laws provision), except to the extent that such laws are pre-empted by ERISA or any other applicable laws of the United States.

Section 11.10 NEW EMPLOYERS. If an Employer is sold, merged or otherwise undergoes a change of identity, the successor Employer shall participate in the Plan as to the Employees of such Employer theretofore covered under the Plan just as if it were the original Employer.

Section 11.11 DEFINITIONS. All words and phrases defined in the Trust Agreement shall have the same meaning in this Plan, except as otherwise expressly provided herein.

Section 11.12 SEVERABILITY. If any one or more of the provisions of this Plan (or any amendment hereto) shall be held contrary to any provision of law, or shall for any reason whatsoever be held invalid, then such provisions (or amendments) shall (i) be enforced only to the extent not contrary to law, (ii) be deemed severable from the remaining provisions of this Plan, and (iii) shall in no way affect the validity or enforceability of the other provisions of this Plan or the rights of the parties hereto.

Section 11.13 SUCCESSOR PROVISIONS OF LAW. Any references to a section of ERISA or the Code (or any other statute), or to any regulations or administrative pronouncements thereunder, shall be deemed to include a reference to any successor provision of ERISA or the Code (or of any successor federal law), or to any successor regulations or administrative pronouncements thereunder.

Section 11.14 CONSTRUCTION. Anything in this Plan, or any amendment hereof, to the contrary notwithstanding, no provision of this Plan shall be construed so as to violate the requirements of ERISA, the Code, or other applicable law.

Section 11.15 RIGHTS IN FUND. No Employee, Participant, Beneficiary, or other person or group of persons, nor any organization, nor any person claiming through them (other than the Trustees), shall have any right, title or interest in any of the income or property of any character received or held by or for the account of the Fund (by reason of having been named a Beneficiary or otherwise), and no such person shall have any right to any benefit provided by the Plan (except as otherwise provided herein), nor shall any person be entitled to any payment from the assets of the Fund, unless and until the Trustees determine that he or she fulfills all the requirements for a benefit in accordance with the specific provisions of the Plan.

Section 11.16 PROVISIONS INCONSISTENT WITH QUALIFIED STATUS. This Plan is intended to be a qualified Plan under the Code. Any provision of this Plan that would cause the Plan to fail to comply with the requirements for qualified plans under the Code shall, to the extent necessary to maintain the qualified status of the Plan, be null and void ab initio, and of no

force and effect, and the Plan shall be construed as if the provision had never been inserted in the Plan.

ARTICLE 12
MERGER OF THE FUND STAFF EMPLOYEES' PENSION PLAN

Section 12.01 DEFINITIONS. For purposes of this Article 12, the following definitions shall apply:

- (a) **“Staff Plan”** shall mean the American Federation of Musicians and Employers’ Pension Fund Staff Pension Plan, as restated effective as of January 1, 1989.
- (b) **“Staff Plan Merger Agreement”** shall mean the Agreement of Merger of the American Federation of Musicians and Employers’ Pension Fund Staff Pension Plan into the American Federation of Musicians and Employers’ Pension Fund dated September 30, 1999 and effective as of December 31, 1999.
- (c) **“Staff Plan Pensioner”** shall mean any former participant in the Staff Plan, or a beneficiary of a former participant in the Staff Plan, who, on December 31, 1999, was receiving payment of monthly benefits under the Staff Plan.
- (d) **“Staff Plan Terminated Vested Participant”** shall mean any former participant in the Staff Plan who terminated employment covered under the Staff Plan prior to December 31, 1999, and who had a vested right to a benefit under the Staff Plan as of such date.
- (e) **“Staff Plan Active Participant”** shall mean any former participant in the Staff Plan who, on December 31, 1999, was an active participant under the Staff Plan and who becomes an Active Participant in this Plan effective January 1, 2000.

Section 12.02 MERGER OF THE STAFF PLAN INTO THE FUND. Effective as of December 31, 1999, the Staff Plan merged into the Fund pursuant to the terms of the Staff Plan Merger Agreement. The provisions of this Article 12 shall apply to Staff Plan Pensioners, Staff Plan Terminated Vested Participants and Staff Plan Active Participants and shall be controlling to the extent of any inconsistency with any other provisions of this Plan.

Section 12.03 STAFF PLAN PENSIONERS. Effective on and after January 1, 2000, monthly benefits payable to Staff Plan Pensioners under the Staff Plan shall be paid by the Fund in accordance with the terms and provisions of the Staff Plan as of December 31, 1999. Staff Plan Pensioners and their beneficiaries shall not be considered Pensioners and Beneficiaries for purposes of any provision of this Plan regarding benefit improvements.

Section 12.04 STAFF PLAN TERMINATED VESTED PARTICIPANTS. Effective on and after January 1, 2000, the Fund shall pay to Staff Plan Terminated Vested Participants and their beneficiaries the benefits that they accrued under the Staff Plan as of December 31, 1999; provided, however, that the payment of benefits to Staff Plan Terminated Vested Participants and their beneficiaries shall be governed by the terms and provisions of the Staff Plan as of December 31, 1999, except that Staff Plan Terminated Vested Participants shall be considered Participants under this Plan for purposes of Article 8 (Method and Timing of Distribution of Benefits), Article 9 (Plan Amendment and Termination), Article 10 (Administration) and Article

11 (Miscellaneous). Once receiving payment of monthly benefits, Staff Plan Terminated Vested Participants and their beneficiaries shall not be considered Pensioners and Beneficiaries for purposes of any provision of this Plan regarding benefit improvements.

Section 12.05 STAFF PLAN ACTIVE PARTICIPANTS. Staff Plan Active Participants shall be considered Participants under this Plan and shall be governed by the terms and provisions of this Plan, except as provided in subsections (a) and (b).

- (a) The amount of an eligible Staff Plan Active Participant's monthly Regular Pension Benefit shall be the sum of (i) the amount calculated for such individual under Section 5.03(a) of this Plan with respect to benefits accrued by such individual under this Plan on and after January 1, 2000, and (ii) the amount of such individual's monthly accrued benefit under the Staff Plan as of December 31, 1999 as set forth in Exhibit A to the Staff Plan Merger Agreement. This monthly Regular Pension Benefit amount shall be used in calculating any type of benefit payable to, or on behalf of, a Staff Plan Active Participant under this Plan that is generally based on a Participant's monthly Regular Pension Benefit amount calculated under Section 5.03(a) of this Plan, except for purposes of the calculation contained in Section 5.06 of this Plan which shall be based solely on benefits accrued under this Plan after December 31, 1999.
- (b) For purposes of Section 8.06 (Timing and Distribution of Benefits), the Required Beginning Date for all Staff Plan Active Participants is April 1 of the calendar year following the calendar year in which the later of retirement or attainment of age 70 ½ occurs. The provisions of Code section 401(a)(9) and the final Treasury Regulations promulgated thereunder shall be controlling in the event of any inconsistency between the preceding sentence and such provisions.

ARTICLE 13
MERGER OF THE AFM RETIREMENT PLAN

Section 13.01 DEFINITIONS. For purposes of this Article 13, the following definitions shall apply:

- (a) **“AFM Plan”** shall mean the American Federation of Musicians Retirement Plan, as restated effective April 1, 1989, including all terms and provisions in effect as of March 31, 2000.
- (b) **“AFM Plan Merger Agreement”** shall mean the Agreement of Merger of the American Federation of Musicians Retirement Plan into the American Federation of Musicians and Employers’ Pension Fund dated March 8, 2000, and effective as of April 1, 2000.
- (c) **“AFM Plan Pensioner”** shall mean any former participant in the AFM Plan, or a beneficiary of a former participant in the AFM Plan, who, on March 31, 2000, was receiving payment of monthly benefits under the AFM Plan.
- (d) **“AFM Plan Terminated Vested Participant”** shall mean any former participant in the AFM Plan who terminated employment covered under the AFM Plan prior to March 31, 2000, and who had a vested right to a benefit under the AFM Plan as of such date.
- (e) **“AFM Plan Active Participant”** shall mean any former participant in the AFM Plan who, on March 31, 2000, was an active participant under the AFM Plan and who is an Active Participant in this Plan effective April 1, 2000.

Section 13.02 MERGER OF THE AFM PLAN INTO THE FUND. Effective as of April 1, 2000, the AFM Plan merged into the Fund pursuant to the terms of the AFM Plan Merger Agreement. The provisions of this Article 13 shall apply to AFM Plan Pensioners, AFM Plan Terminated Vested Participants and AFM Plan Active Participants, and shall be controlling to the extent of any inconsistency with any other provisions of this Plan.

Section 13.03 AFM PLAN PENSIONERS. Effective on and after April 1, 2000, monthly benefits payable to AFM Plan Pensioners under the AFM Plan shall be paid by the Fund in accordance with the terms and provisions of the AFM Plan. AFM Plan Pensioners and their beneficiaries shall not be considered Pensioners and Beneficiaries for purposes of any provision of this Plan regarding benefit improvements.

Section 13.04 AFM PLAN TERMINATED VESTED PARTICIPANTS. Effective on and after April 1, 2000, the Fund shall pay to AFM Plan Terminated Vested Participants and their beneficiaries the benefits that they accrued under the AFM Plan as of March 31, 2000; provided, however, that the payment of such benefits to AFM Plan Terminated Vested Participants and their beneficiaries shall be governed by the terms and provisions of the AFM Plan, except that AFM Plan Terminated Vested Participants shall be considered Participants under this Plan for purposes of Articles 8 through 11 of this Plan. Once receiving payment of monthly benefits,

AFM Plan Terminated Vested Participants and their beneficiaries shall not be considered Pensioners and Beneficiaries for purposes of any other provision of this Plan regarding benefit improvements.

Section 13.05 AFM PLAN ACTIVE PARTICIPANTS. AFM Plan Active Participants shall be considered Participants under this Plan and shall be governed by the terms and provisions of this Plan, except as provided in subsections (a) through (e) below.

- (a) The amount of an eligible AFM Plan Active Participant's monthly Regular Pension Benefit shall be the sum of (i) the amount calculated for such individual under Section 5.03(a) of this Plan with respect to benefits accrued by such individual under this Plan (not including the amount of such individual's monthly accrued benefit under the AFM Plan as of March 31, 2000), and (ii) the amount of such individual's monthly accrued benefit under the AFM Plan as of March 31, 2000 as set forth in Exhibit A to the AFM Plan Merger Agreement. Except as provided in subsections (b) through (f) below, this monthly Regular Pension Benefit amount shall be used in calculating any type of benefit payable to, or on behalf of, an AFM Plan Active Participant under this Plan that is generally based on a Participant's monthly Regular Pension Benefit amount calculated under Section 5.03(a) of this Plan.
- (b) If payment of an AFM Plan Active Participant's Regular Pension Benefit is to commence prior to such individual's attainment of Normal Retirement Age, the amount of the benefit shall be the sum of (i) the amount calculated for such individual under Section 5.03(a) of this Plan with respect to benefits accrued by such individual under this Plan, and (ii) the amount of the early retirement benefit to which such individual is entitled under the terms and provisions of the AFM Plan with respect to benefits accrued by such individual under the AFM Plan as of March 31, 2000, but determined using the individual's actual age and total service credit (earned under both the AFM Plan and this Plan) as of the Pension Effective Date of the benefit.
- (c) If an AFM Plan Active Participant commences receiving payment of a pension benefit prior to Normal Retirement Age, and thereafter becomes eligible for an additional benefit under Section 5.06 of this Plan, the portion of the AFM Plan Active Participant's original monthly benefit which is attributable to the benefits accrued under the AFM Plan prior to April 1, 2000 shall not be taken into consideration in calculating the additional benefit under Section 5.06 of this Plan.
- (d) **Benefit Improvements.**
 - (1) No provision of this Plan regarding benefit improvements shall apply to the portion of the monthly benefits paid to AFM Plan Active Participants and their beneficiaries which is attributable to the benefits accrued by the AFM Plan Active Participants under the AFM Plan prior to April 1, 2000.

- (2) Effective each July 1, for AFM Plan Active Participants and their beneficiaries who are receiving payment of monthly benefits as of the previous July, the portion of the monthly benefits which is attributable to benefits accrued under the AFM Plan prior to April 1, 2000 shall be adjusted upward or downward to reflect the percentage change in the Consumer Price Index between March of the year prior to the adjustment year and March of the adjustment year, rounded to the nearest one-tenth of one percent; provided, however, that such portion shall not be adjusted below its value as of the Pension Effective Date under this Plan, or above the sum of (i) its value as of the Pension Effective Date under this Plan, plus (ii) four percent times the number of full years during which the pension has been in effect. For an AFM Plan Active Participant who commenced receiving payment of his or her monthly benefits since July 1 of the preceding year, the portion of such individual's monthly benefits attributable to benefits accrued under the AFM Plan shall receive a pro rata portion of the benefit adjustment described in the preceding sentence.
- (e) With respect to an AFM Plan Active Participant who dies after he or she is vested in a Regular Pension Benefit, but prior to his or her Pension Effective Date under this Plan for a Regular Pension Benefit or Disability Pension Benefit, and who is unmarried at death, the death benefit which shall be payable to his or her Beneficiary shall be (i) the benefit determined under Section 7.01 of this Plan with respect to benefits accrued by such individual under this Plan, and (ii) the lump sum payment of the AFM Plan Active Participant's "Accumulated Contributions" under the AFM Plan, as defined in Section 1.01 of the AFM Plan.

ARTICLE 14

PUERTO RICO EMPLOYEES

Section 14.01. INTRODUCTION. All terms and provisions of the Plan shall apply to the participation in the Plan by Puerto Rico Employees, except that where the terms and provisions of the Plan and this Puerto Rico Supplement conflict, the terms of the Puerto Rico Supplement shall govern the participation in the Plan of Puerto Rico Employees.

Section 14.02. APPLICABILITY OF THIS ARTICLE. This Article 14 amends the provisions of the Plan only to the extent that it is applicable to a Puerto Rico Employee. In no case shall any provision of this Article 14 cause the reduction or elimination of any Employee's accrued benefit (including optional forms of benefit and the manner and timing thereof) in violation of Section 411(d)(6) of the Code or Section 204(g) of ERISA.

Section 14.03. ADDITIONAL DEFINITIONS OF TERMS.

- (a) The term "Puerto Rico Code" means the Puerto Rico Internal Revenue Code of 2011, as amended, or any successor statute enacted in its place.
- (b) The term "Direct Rollover Distribution" means a distribution which constitutes an eligible rollover distribution as defined in Section 1081.01(b)(2)(A) of the Puerto Rico Code and which is rolled over to an eligible retirement plan in accordance with Section 14.04(c) below, as amended herein.
- (c) The term "Highly Compensated Puerto Rico Employee" means any Puerto Rico Employee who (a) is an officer of an Employer; (b) owns more than five percent (5%) of the stock entitled to vote or of the total value of all classes of stock of an Employer; (c) owns more than five percent (5%) of the capital or of the interest in the profits of an Employer; or (d) had Testing Compensation from an Employer for the preceding taxable year in excess of the applicable limits determined for such taxable year under Section 414(q)(1)(B) of the Code, as amended from time to time or as adjusted by the Internal Revenue Service. To determine whether a Puerto Rico Employee owns more than five percent (5%) of the stock, capital or interest in the profits of an Employer, the provisions under Section 1081.01(a)(14)(A) of the Puerto Rico Code shall apply. This definition shall be interpreted consistently with Section 1081.01(d)(3)(e)(iii) of the Puerto Rico Code and any optional rules permitted by Puerto Rico law in identifying Highly Compensated Puerto Rico Employees shall be incorporated into this definition.
- (d) "Puerto Rico Employee" means an Employee who is a bona fide resident of Puerto Rico for purposes of Section 937 of the Code and whose compensation is included in gross income for purposes of Section 1031.01 of the Puerto Rico Code.

Section 14.04. EFFECT OF THIS ARTICLE. The following are amendments to the Plan which apply only to Puerto Rico Employees, as follows:

- (a) The following is added to the end of Section 1.09 of the Plan:

“Effective for Plan Years beginning on or after April 1, 2012, for Puerto Rico Employees, Covered Earnings or Earnings taken into account in any Plan Year shall not exceed the lesser of (i) the Covered Earning or Earnings limit in the paragraph above, or (ii) the compensation limit under Section 1081.01(a)(12) of the Puerto Rico Code.”

- (b) The following is added to the end of Section 1.14 of the Plan:

“Effective for Plan Years beginning on or after April 1, 2012, for purposes of determining the Fund’s qualified status under Section 1081.01(a) of the Puerto Rico Code, the term “Employers” or “Contributing Employers” shall include all corporations, partnerships and other persons that pursuant to Section 1081.01(a)(14)(A) are deemed to be the same employer.”

- (c) The following new Section 11.04(c) is added to the Plan:

“(c) Direct Rollover Distributions For Puerto Rico Employees.

- (1) The following provisions shall apply to distributions from the Plan:

(i) If a Puerto Rico Employee or a Beneficiary of a Puerto Rico Employee (referred to collectively as the “distributee”) is entitled to a distribution under the Plan that constitutes an “eligible rollover distribution” as defined below, the distribution shall be eligible for direct rollover.

(ii) At the written request of such distributee, and upon receipt of the written direction of the Trustees (or a person or committee designated by the Trustees), the Trustees shall make a Direct Rollover Distribution of the amount requested by such distributee in accordance with Section 1081.01(b)(2)(A) of the Puerto Rico Code, to an eligible retirement plan (as defined below).

(iii) For purposes of this Section 11.04(c), an “eligible rollover distribution” is a single lump sum payment, as defined in Section 1081.01(b)(1) of the Puerto Rico Code.

(iv) For purposes of this Section 11.04(c), an “eligible retirement plan” is an individual retirement account described in Section 1081.02(a) of the Puerto Rico Code, an individual retirement annuity described in Section 1081.02(b) of the Puerto Rico Code, or a qualified trust described in Section 1081.01(a) of the Puerto Rico Code that accepts direct rollovers.

- (2) All Direct Rollover Distributions shall be made in accordance with the following:

(i) A Direct Rollover Distribution may be divided and made only between two eligible retirement plans. A Direct Rollover Distribution may not be divided among more than two eligible retirement plans.

(ii) Direct Rollover Distributions shall be made in cash to the trustee of the eligible retirement plan, in accordance with procedures established by the Trustees (or a person or committee designated by the Trustees) to make direct rollovers under Section 1081.01(b)(2)(A) of the Puerto Rico Code.

(iii) Direct Rollover Distribution shall not be made unless the distributee furnishes the Trustees (or a person or committee designated by the Trustees) with such information as the Trustees (or a person or committee designated by the Trustees) shall require and deem to be sufficient.

(iv) Direct Rollover Distributions shall be treated as all other distributions under the Plan. They shall not be treated as a direct trustee-to-trustee transfer of Plan assets and liabilities.

- (d) Effective for Plan Years commencing on or after April 1, 2012, the total annual benefit payable to any Puerto Rico Employee under this Plan and all other qualified defined benefit plans required to be aggregated with this Plan shall not exceed the lesser of (i) the defined benefit limitation on annual benefits provided in Section 5.08(b) above, or (ii) the limitations on such benefits provided under Section 1081.01(a)(11) of the Puerto Rico Code.

APPENDIX A
ACTUARIAL FACTORS

(a) General

The provisions of this Appendix A shall apply to determine actuarial equivalence under the Plan.

Subject to the provisions set forth below, the interest rate generally used to determine actuarially equivalent forms of benefit under the Plan shall be seven and one-half percent. Subject to the provisions set forth below, the mortality rates generally used to compute actuarially equivalent forms of benefit under the Plan shall be the rates contained in the 1971 Group Annuity Mortality 50%/50% blended table.

(b) Cash-outs, Redeterminations, Re-retirements and Pre-retirement Death Benefits

In order to determine the present value of lump-sum benefits subject to Code section 417(e)(3) and to determine actuarial equivalence under Sections 5.06 and 7.01, the following assumptions shall apply:

- (1)(A) Effective for Plan Years ending on or before March 31, 2000, the interest rate used shall be the lower of:
 - (i) the annual interest rate on 30-year Treasury securities which is in effect for the month of February immediately preceding the Plan Year which contains the applicable Pension Effective Date; or
 - (ii) 7.50%.
- (B) Effective for the Plan Year beginning on April 1, 2000, and ending on March 31, 2001, the interest rate used shall be the lower of:
 - (i) the annual interest rate on 30-year Treasury securities which is in effect for either (A) the month of February immediately preceding the Plan Year which contains the applicable Pension Effective Date, or (B) the month of December immediately preceding the Plan Year which contains the applicable Pension Effective Date, whichever rate produces the higher benefit; or
 - (ii) 7.50%.
- (C) Effective for Plan Years beginning on and after April 1, 2001 and ending on or before March 31, 2008, the interest rate used shall be the lower of:

- (i) the annual interest rate on 30-year Treasury securities which is in effect for the month of December immediately preceding the Plan Year which contains the applicable Pension Effective Date; or
 - (ii) 7.50%.
- (D) Effective for Plan Years beginning on or after April 1, 2008, the interest rate to be used shall be the lower of:
- (i) the “applicable interest rate,” as defined in Code section 417(e)(3), for the month of December preceding the Plan Year which contains the applicable Pension Effective Date; or
 - (ii) 7.50%.
- (2) the mortality rates used shall be the rates contained in the mortality table prescribed in Internal Revenue Service Revenue Notice 2008-85 or such other mortality table prescribed by the Secretary of the Treasury under Code section 417(e)(3).

Notwithstanding the foregoing, the present value of a lump sum benefit subject to Section 417(e)(3) which is payable on or after April 1, 1995 shall not be less than the value calculated based on the Participant’s benefit accrued through March 31, 1995 using (i) an interest rate of seven and one-half percent, and (ii) the applicable mortality rate contained in the 1971 Group Annuity Mortality Table for Males (for Participants) and the Table for Females (for Beneficiaries).

(c) Post Normal Retirement Age

In order to calculate monthly benefits that commence after Normal Retirement Age under Section 5.03(b) and Section 5.03(c), the Actuarial Equivalent of the Participant’s monthly pension benefit shall be the amount that would have been payable as of Normal Retirement Age, increased by the applicable factor.

Age/ Month	0	1	2	3	4	5	6	7	8	9	10	11
65	1.000	1.008	1.015	1.023	1.030	1.038	1.045	1.053	1.060	1.068	1.075	1.083
66	1.090	1.098	1.107	1.115	1.123	1.132	1.140	1.148	1.157	1.165	1.173	1.182
67	1.190	1.199	1.208	1.218	1.227	1.236	1.245	1.254	1.263	1.273	1.282	1.291
68	1.300	1.310	1.320	1.330	1.340	1.350	1.360	1.370	1.380	1.390	1.400	1.410
69	1.420	1.433	1.445	1.458	1.470	1.483	1.495	1.508	1.520	1.533	1.545	1.558
70	1.570	1.583	1.597	1.610	1.623	1.637	1.650	1.663	1.677	1.690	1.703	1.717
71	1.730	1.745	1.760	1.775	1.790	1.805	1.820	1.835	1.850	1.865	1.880	1.895
72	1.910	1.928	1.947	1.965	1.983	2.002	2.020	2.038	2.057	2.075	2.093	2.112
73	2.130	2.150	2.170	2.190	2.210	2.230	2.250	2.270	2.290	2.310	2.330	2.350

74	2.370	2.394	2.418	2.443	2.467	2.491	2.515	2.539	2.563	2.588	2.612	2.636
75	2.660	2.688	2.715	2.743	2.770	2.798	2.825	2.853	2.880	2.908	2.935	2.963
76	2.990	3.023	3.055	3.088	3.120	3.153	3.185	3.218	3.250	3.283	3.315	3.348
77	3.380	3.419	3.458	3.498	3.537	3.576	3.615	3.654	3.693	3.733	3.772	3.811
78	3.850	3.897	3.943	3.990	4.037	4.083	4.130	4.177	4.223	4.270	4.317	4.363
79	4.410	4.466	4.522	4.578	4.633	4.689	4.745	4.801	4.857	4.913	4.968	5.024
80	5.080											

(d) 50 % Joint and Survivor Annuity and 75% Joint and Survivor Annuity Options

In order to compute a 50% Joint and Survivor Annuity or a 75% Joint and Survivor Annuity, the amount of the monthly payment that would otherwise be payable to the Participant shall be adjusted by multiplying it by the following percentage, as applicable:

- (1) 50 % Joint and Survivor Annuity - Regular Pension Benefit: 93.2% minus .50% for each full year that the Joint Annuitant's date of birth is later than the Participant's date of birth or plus .50% for each full year that the Joint Annuitant's date of birth precedes the Participant's date of birth, up to 99%; or
- (2) 50 % Joint and Survivor Annuity - Disability Pension Benefit: 89.6% minus .40% for each full year that the Joint Annuitant's date of birth is later than the Participant's date of birth or plus .40% for each full year that the Joint Annuitant's date of birth precedes the Participant's date of birth, up to 99%; or
- (3) 75% Joint and Survivor Annuity - Regular Pension Benefit: 90.2% minus .60% for each full year that the Joint Annuitant's date of birth is later than the Participant's date of birth or plus .60% for each full year that the 75% Joint Annuitant's date of birth precedes the Participant's date of birth, up to 99%; or
- (4) 75% Joint and Survivor Annuity - Disability Pension Benefit: 84.5% minus .50% for each full year that the 75% Joint Annuitant's date of birth is later than the Participant's date of birth or plus .50% for each full year that the Joint Annuitant's date of birth precedes the Participant's date of birth, up to 99%.

(e) Disability Pension Benefit

In order to determine the Disability Pension Benefit under Section 5.05, the following factors shall apply to the Regular Pension Benefit monthly amount a Participant would receive if he or she were age 65 based upon his or her attained age as of the Pension Effective Date of the Participant's Disability Pension Benefit (as determined in accordance with Section 5.04(c):

Attained Age		Actuarial Equivalent Factor
30		0.0470
31		0.0507
32		0.0547
33		0.0591
34		0.0639
35		0.0690
36		0.0746
37		0.0807
38		0.0872
39		0.0944
40		0.1022
41		0.1107
42		0.1200
43		0.1301
44		0.1412
45		0.1533
46		0.1666
47		0.1811
48		0.1971
49		0.2146
50		0.2340
51		0.2552
52		0.2788
53		0.3047
54		0.3335
55		0.3655
56		0.4011
57		0.4407
58		0.4850
59		0.5346
60		0.5903
61		0.6531
62		0.7240
63		0.8043
64		0.8957

IN WITNESS WHEREOF, the undersigned have executed this American Federation of Musicians and Employers Pension Plan on this 30th day of December, 2014.

By: /s/ Raymond M. Hair, Jr.
Raymond M. Hair, Jr., Co-Chair

By: /s/ Alan H. Raphael
Alan H. Raphael, Co-Chair

**AMENDMENT NUMBER ONE TO THE
AMERICAN FEDERATION OF MUSICIANS AND EMPLOYERS' PENSION PLAN
(As Amended and Restated Effective as of January 1, 2014)**

WHEREAS, the Board of Trustees (the "Board") of the American Federation of Musicians and Employers' Pension Fund (the "Fund") adopted the American Federation of Musicians and Employers' Pension Plan, as amended and restated effective as of January 1, 2014 (the "Plan"); and

WHEREAS, pursuant to Article 9, Section 9.01 of the Plan, the Board reserves the right to amend the Plan at any time; and

WHEREAS, the Board has agreed to amend the Plan as requested by the Internal Revenue Service in connection with the Plan's request for a favorable determination on its continued tax-qualified status;

NOW, THEREFORE, the Plan is hereby amended, effective as of the January 1, 2014 amendment and restatement date, to delete Article A (Puerto Rico Employees) and adopt a new Addendum A (Puerto Rico Employees) as follows:

**ADDENDUM A
PUERTO RICO EMPLOYEES**

Section A.01. INTRODUCTION. All terms and provisions of the Plan shall apply to the participation in the Plan by Puerto Rico Employees, except that where the terms and provisions of the Plan and this Puerto Rico Supplement conflict, the terms of the Puerto Rico Supplement shall govern the participation in the Plan of Puerto Rico Employees.

Section A.02. APPLICABILITY OF THIS ARTICLE. This Article A amends the provisions of the Plan only to the extent that it is applicable to a Puerto Rico Employee. In no case shall any provision of this Article A cause the reduction or elimination of any Employee's accrued benefit (including optional forms of benefit and the manner and timing thereof) in violation of Section 411(d)(6) of the Code or Section 204(g) of ERISA.

Section A.03. ADDITIONAL DEFINITIONS OF TERMS.

- (a) The term "Puerto Rico Code" means the Puerto Rico Internal Revenue Code of 2011, as amended, or any successor statute enacted in its place.
- (b) The term "Direct Rollover Distribution" means a distribution which constitutes an eligible rollover distribution as defined in Section 1081.01(b)(2)(A) of the Puerto

Rico Code and which is rolled over to an eligible retirement plan in accordance with Section A.04(c) below, as amended herein.

- (c) The term “Highly Compensated Puerto Rico Employee” means any Puerto Rico Employee who (a) is an officer of an Employer; (b) owns more than five percent (5%) of the stock entitled to vote or of the total value of all classes of stock of an Employer; (c) owns more than five percent (5%) of the capital or of the interest in the profits of an Employer; or (d) had Testing Compensation from an Employer for the preceding taxable year in excess of the applicable limits determined for such taxable year under Section 4A(q)(1)(B) of the Code, as amended from time to time or as adjusted by the Internal Revenue Service. To determine whether a Puerto Rico Employee owns more than five percent (5%) of the stock, capital or interest in the profits of an Employer, the provisions under Section 1081.01(a)(A)(A) of the Puerto Rico Code shall apply. This definition shall be interpreted consistently with Section 1081.01(d)(3)(e)(iii) of the Puerto Rico Code and any optional rules permitted by Puerto Rico law in identifying Highly Compensated Puerto Rico Employees shall be incorporated into this definition.
- (d) “Puerto Rico Employee” means an Employee who is a bona fide resident of Puerto Rico for purposes of Section 937 of the Code and whose compensation is included in gross income for purposes of Section 1031.01 of the Puerto Rico Code.

Section A.04. EFFECT OF THIS ARTICLE. The following are amendments to the Plan which apply only to Puerto Rico Employees, as follows:

- (a) The following is added to the end of Section 1.09 of the Plan:

“Effective for Plan Years beginning on or after April 1, 2012, for Puerto Rico Employees, Covered Earnings or Earnings taken into account in any Plan Year shall not exceed the lesser of (i) the Covered Earning or Earnings limit in the paragraph above, or (ii) the compensation limit under Section 1081.01(a)(12) of the Puerto Rico Code.”
- (b) The following is added to the end of Section 1.14 of the Plan:

“Effective for Plan Years beginning on or after April 1, 2012, for purposes of determining the Fund’s qualified status under Section 1081.01(a) of the Puerto Rico Code, the term “Employers” or “Contributing Employers” shall include all corporations, partnerships and other persons that pursuant to Section 1081.01(a)(14)(A) are deemed to be the same employer.”
- (c) The following new Section 11.04(c) is added to the Plan:

“(c) Direct Rollover Distributions For Puerto Rico Employees.

- (1) The following provisions shall apply to distributions from the Plan:
 - (i) If a Puerto Rico Employee or a Beneficiary of a Puerto Rico Employee (referred to collectively as the “distributee”) is entitled to a distribution under the Plan that constitutes an “eligible rollover distribution” as defined below, the distribution shall be eligible for direct rollover.
 - (ii) At the written request of such distributee, and upon receipt of the written direction of the Trustees (or a person or committee designated by the Trustees), the Trustees shall make a Direct Rollover Distribution of the amount requested by such distributee in accordance with Section 1081.01(b)(2)(A) of the Puerto Rico Code, to an eligible retirement plan (as defined below).
 - (iii) For purposes of this Section 11.04(c), an “eligible rollover distribution” is a single lump sum payment, as defined in Section 1081.01(b)(1) of the Puerto Rico Code.
 - (iv) For purposes of this Section 11.04(c), an “eligible retirement plan” is an individual retirement account described in Section 1081.02(a) of the Puerto Rico Code, an individual retirement annuity described in Section 1081.02(b) of the Puerto Rico Code, or a qualified trust described in Section 1081.01(a) of the Puerto Rico Code that accepts direct rollovers.
- (2) All Direct Rollover Distributions shall be made in accordance with the following:
 - (i) A Direct Rollover Distribution may be divided and made only between two eligible retirement plans. A Direct Rollover Distribution may not be divided among more than two eligible retirement plans.
 - (ii) Direct Rollover Distributions shall be made in cash to the trustee of the eligible retirement plan, in accordance with procedures established by the Trustees (or a person or committee designated by the Trustees) to make direct rollovers under Section 1081.01(b)(2)(A) of the Puerto Rico Code.
 - (iii) Direct Rollover Distribution shall not be made unless the distributee furnishes the Trustees (or a person or committee designated by the Trustees) with such information as the Trustees

(or a person or committee designated by the Trustees) shall require and deem to be sufficient.

- (iv) Direct Rollover Distributions shall be treated as all other distributions under the Plan. They shall not be treated as a direct trustee-to-trustee transfer of Plan assets and liabilities.
- (d) Effective for Plan Years commencing on or after April 1, 2012, the total annual benefit payable to any Puerto Rico Employee under this Plan and all other qualified defined benefit plans required to be aggregated with this Plan shall not exceed the lesser of (i) the defined benefit limitation on annual benefits provided in Section 5.08(b) above, or (ii) the limitations on such benefits provided under Section 1081.01(a)(11) of the Puerto Rico Code.

IN WITNESS WHEREOF, the undersigned have executed this Amendment Number

One on this 11th day of February, 2016.

/s/ Christopher Brockmeyer
Christopher Brockmeyer, Co-Chair

/s/ Raymond M. Hair, Jr.
Raymond M. Hair, Jr., Co-Chair

AMENDMENT NUMBER TWO TO THE
AMERICAN FEDERATION OF MUSICIANS AND
EMPLOYERS' PENSION PLAN
(As Amended and Restated Effective as of January 1, 2014)

WHEREAS, the Board of Trustees (the "Board") of the American Federation of Musicians and Employers' Pension Fund (the "Fund") adopted the American Federation of Musicians and Employers' Pension Plan, as amended and restated effective as of January 1, 2014 (the "Plan"); and

WHEREAS, pursuant to Article 9, Section 9.01 of the Plan, the Board reserves the right to amend the Plan at any time; and

WHEREAS, the Board has agreed to amend the Plan to clarify that employer contributions may be made on other than scale wages provided that any such contributions will not be taken into account in determining any benefit payable under the Plan; and

WHEREAS, the Board has authorized the undersigned to execute this Amendment Number Two to memorialize its agreement;

NOW, THEREFORE, the Plan is hereby amended as follows:

1. Article 3 ("CONTRIBUTIONS") of the Plan is amended by adding a new Section 3.04 to read as follows:

Section 3.04 CONTRIBUTIONS ON OTHER THAN SCALE WAGES. In addition to the Contributions otherwise described herein, the Trust Fund may also accept contributions required in accordance with a collective bargaining agreement (or settlement of a claim under a collective bargaining agreement), participation agreement or similar agreement acceptable to the Trustees that provides for contributions to be made on a basis other than scale wages if that agreement provides that any such contributions made on such basis will not be taken into account in determining any benefit payable under the Plan. Such

contributions will not be taken into account in determining any benefit payable under the Plan, including without limitation, the amount of such benefit or whether a Participant is vested in such benefit.

2. Article 11 (“MISCELLANEOUS”) of the Plan is amended by deleting the existing text of Sections 11.01 and 11.02 and replacing it with the following:

Section 11.01 RETURN OF CONTRIBUTIONS. In no event shall any of the corpus or assets of the Pension Fund revert to the Employers or be subject to any claims of any kind by the Employers, except that, in the sole and absolute discretion of the Trustees, contributions (i) made by an Employer by a mistake of fact or law (including any contributions mistakenly made on the basis of overscale wages) may be returned to such Employer within six months after the Plan Administrator determines that such contribution was made by such a mistake, or (ii) which are determined to be non-deductible for tax purposes under Code section 404 may be returned to such Employer within one year following the date of such determination.

Section 11.02 LIMITATION OF LIABILITY. Except as otherwise provided by law, (i) nothing in this Plan shall be construed to impose any obligation on an Employer to make payments to the Plan, beyond the Employer’s obligation to make contributions as required by any applicable collective bargaining agreement, participation agreement, or similar agreement acceptable to the Trustees, and (ii) there shall be no liability upon the Trustees, the Plan Administrator, any Employer, or the AFM (either individually or collectively) to provide the benefits established by this Plan if the Fund does not have sufficient assets to pay for such benefits.

IN WITNESS WHEREOF, the undersigned have executed this Amendment

Number Two on this 16th day of February 2017.

 /s/Christopher Brockmeyer
Christopher J.G. Brockmeyer, Co-Chair

 /s/ Raymond M. Hair, Jr
Raymond M. Hair, Jr., Co-Chair

AMENDMENT NUMBER THREE
TO THE
AMERICAN FEDERATION OF MUSICIANS
AND EMPLOYERS' PENSION PLAN
(As Amended and Restated Effective as of January 1, 2014)

WHEREAS, the Board of Trustees (the "Board") of the American Federation of Musicians and Employers' Pension Fund (the "Fund") adopted the American Federation of Musicians and Employers' Pension Plan, as amended and restated effective as of January 1, 2014 (the "Plan"); and

WHEREAS, pursuant to Article 9, Section 9.01 of the Plan, the Board reserves the right to amend the Plan at any time; and

WHEREAS, the Board has authorized the undersigned to execute this Amendment Number Three to memorialize its agreement;

NOW, THEREFORE, the Plan is hereby amended by adding a new subsection (h) to Article 10.04, as follows:

(h) No legal action of any sort seeking any remedy against the Plan, the Fund, the Trustees, or any employee or representative of the Plan or Fund may be brought except in the United States District Court for the Southern District of New York; if it is determined that such federal court lacks jurisdiction over the matter or for any other reason the matter is heard before a state court, the matter shall be brought in the appropriate New York State Court that resides in the district of such federal court.

IN WITNESS WHEREOF, the undersigned have executed this Amendment Number Three on this 16th day of February 2018.

/s/ Christopher Brockmeyer
Christopher J.G. Brockmeyer, Co-Chair

/s/ Raymond M. Hair, Jr
Raymond M. Hair, Jr., Co-Chair

AMENDMENT NUMBER FOUR
TO THE
AMERICAN FEDERATION OF MUSICIANS
AND EMPLOYERS' PENSION PLAN
(As Amended and Restated Effective as of January 1, 2014)

WHEREAS, the Board of Trustees (the “Board”) of the American Federation of Musicians and Employers’ Pension Fund (the “Fund”) adopted the American Federation of Musicians and Employers’ Pension Plan, as amended and restated effective as of January 1, 2014 (the “Plan”); and

WHEREAS, pursuant to Article 9, Section 9.01 of the Plan, the Board reserves the right to amend the Plan at any time; and

WHEREAS, the Board has authorized the undersigned to execute this Amendment Number Four to memorialize its agreement effective for claims filed on or after April 1, 2018 with respect to Section 10.04(f) and June 1, 2018 with respect to Sections 1.40 and 5.04(a);

NOW, THEREFORE, Sections 1.40, 5.04(a), and 10.4(f) of the Plan are hereby deleted in their entirety and replaced with the following:

1.40 TOTAL DISABILITY. The term “Total Disability” shall mean the total and permanent inability of an Employee, as a result of medically-diagnosed physical or mental disease or injury, to engage in Covered Employment for remuneration, and shall also mean terminal illness, as determined in the sole discretion of the Administrative Committee on the basis of medical and any other evidence satisfactory to the Administrative Committee, in accordance with Section 5.04(b).

5.04(a) Eligibility Requirements. A Participant shall be eligible to receive a Disability Pension Benefit if the Participant (i) ceases all Covered Employment with all Contributing Employers on account of Total Disability (as determined in accordance with subsection (b) below) (ii) is not eligible, at the time of his or her Pension Effective Date under Section 8.05(a), for a Regular Pension Benefit under Section 5.02 (if he or she retired and submitted all necessary documentation), (iii) has earned at least 1 Year of Vesting Service in the three calendar year period immediately preceding the Pension

Effective Date, (iv) has completed 10 Years of Vesting Service, and (v) has provided to the Plan Administrator a written application for such pension benefit which is complete in all respects on the form(s) provided by the Plan Administrator for this purpose.

10.04(f) Special Procedures for Applications for a Disability Pension Benefit.

- (1) Applications for a Disability Pension Benefit shall be subject to all of the general rules described in Section 10.04(a)-(e), except as they are amended by the specific provisions in this subsection.
- (2) The claimant will be notified of the initial decision on an application for a Disability Pension Benefit within a reasonable period of time, but no later than 45 days after the application is filed, unless additional time is required due to matters beyond the control of the Fund, in which case the Plan Administrator will notify the claimant before the end of the initial 45 days of an extension of 30 days or less. If this happens, the claimant shall receive written notification explaining the circumstances requiring the extension of time, the standards on which entitlement to a benefit is based, the unresolved issues that prevent decision on the claim and the additional information needed to resolve those issues, and the date by which the Plan expects to render a decision. If necessary, the Plan Administrator may notify the claimant of a second extension of 30 days or less, following the same procedure, with notification to be provided prior to the expiration of the first 30-day period. No additional extensions may be made, except with the claimant's voluntary consent. If any extension of the time for responding to a claimant under this Section 10.04(f) is due to the claimant's failure to submit information necessary to decide the claim, the claimant shall be afforded at least 45 days within which to provide any information so requested, and the period for making the determination will be tolled from the date on which the extension notice is sent to the date on which the claimant responds to the request for information.
- (3) For claims for a Disability Benefit that are filed after April 1, 2018, notice to the claimant of an adverse benefit determination shall be provided in a culturally and linguistically appropriate manner and must include, in addition to information described in Section 10.04(b), the following:
 - A. The internal provisions of the Plan, if any, which were relied upon in making the adverse determination, or, alternatively, a statement that such provisions of the Plan do not exist;

- B. A discussion of the decision, including an explanation of the basis for disagreeing with or deciding not to follow:
 - (i) The views presented by the claimant to the Plan of health care professionals treating the claimant and vocational professionals who evaluated the claimant;
 - (ii) The views of medical or vocational experts whose advice was obtained on behalf of the Plan in connection with a claimant's adverse benefit determination, without regard to whether the advice was relied upon in making the benefit determination; and
 - (iii) A disability determination regarding the claimant presented by the claimant to the Plan made by the Social Security Administration;
- C. If the adverse benefit determination is based on a medical necessity or experimental treatment or similar exclusion or limit, either an explanation of the scientific or clinical judgment for the determination, applying the terms of the Plan to the claimant's medical circumstances, or a statement that such explanation will be provided free of charge upon request;
- D. The Plan will identify any medical or vocational expert whose advice was obtained on behalf of the Plan in connection with an adverse benefit determination, without regard to whether the advice was relied upon in making the benefit determination.
- E. If based in whole or in part on any internal rule, guideline, or similar criterion, the notice to the claimant of the adverse decision will either set forth the internal rule, guideline, or similar criterion, or will state that such was relied upon and will be provided free of charge to the claimant upon request.
- F. A statement that the claimant is entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to the claimant's claim for benefits.

- (4) If a claim has been denied, the deadline for the claimant to request review under Section 10.04(c) will be 180 days after receipt of the written notice of the denial.
- (5) The Administrative Committee will consider the appeal *de novo*, without any deference to the initial benefit denial.
- (6) The Administrative Committee will not include any person who participated in the initial benefit denial or who is the subordinate of a person who participated in the initial benefit determination.
- (7) If the initial benefit denial was based in whole or in part on a medical judgment, the Administrative Committee will consult with a health care professional who has appropriate training and experience in the field of medicine involved in the medical judgment, and who was neither consulted in connection with the initial benefit determination nor is the subordinate of any person who was consulted in connection with that determination
- (8) Before the Plan issues the notice of an adverse benefit determination on review, the Administrative Committee shall provide the claimant, free of charge, with any new or additional evidence considered, relied upon, or generated by the Administrative Committee or any new or additional rationale relied upon by the Administrative Committee. The information must be provided as soon as possible and sufficiently in advance of the date on which the notice of adverse benefit determination on review is required to be provided to give the claimant a reasonable opportunity to respond prior to that date.
- (9) The notice of an adverse determination on review must be provided in a manner to satisfy paragraph (f)(3) of this Section and Section 10.04(c). In addition, it will contain a description of any applicable contractual limitations period that applies to the claimant's right to file the claim in court, including the date on which the contractual limitations period expires for the claim.

IN WITNESS WHEREOF, the undersigned have executed this Amendment Number Four on this 24th day of May 2018.

/s/ Christopher Brockmeyer
Christopher J.G. Brockmeyer, Co-Chair

/s/ Raymond M. Hair, Jr
Raymond M. Hair, Jr., Co-Chair

AMENDMENT NUMBER FIVE
TO THE
AMERICAN FEDERATION OF MUSICIANS
AND EMPLOYERS' PENSION PLAN
(As Amended and Restated Effective as of January 1, 2014)

WHEREAS, the Board of Trustees (the “Board”) of the American Federation of Musicians and Employers’ Pension Fund (the “Fund”) adopted the American Federation of Musicians and Employers’ Pension Plan, as amended and restated effective as of January 1, 2014 (the “Plan”); and

WHEREAS, pursuant to Article 9, Section 9.01 of the Plan, the Board reserves the right to amend the Plan at any time; and

WHEREAS, the Board has authorized the undersigned to execute this Amendment Number Five to reflect the relevant portions of the 2018 Update to the Rehabilitation Plan, effective August 1, 2018;

NOW, THEREFORE, the Plan is amended as follows:

1. The flush language of Section 5.03 and Section 5.03(a) is hereby deleted its entirety and replaced with the following:

REGULAR PENSION BENEFIT AMOUNT. Except as otherwise provided elsewhere in this Section 5.03, in Section 5.06 (Re-determination of Pension Benefits) or in Section 5.08 (Maximum Benefits), the amount of an eligible Participant’s Regular Pension Benefit shall be the Basic Monthly Amount described in subsection (a) below (plus, for Participants born prior to 1921, the amount of the Past-Service Benefit, if any).

(a) **Basic Monthly Amount.**

- (1) The Basic Monthly Amount payable to an eligible Participant age 55 or older shall be the sum of the amounts indicated in the following table for each \$100 of Contributions payable to the Trust Fund on his or her behalf for Contributions earned during the applicable year(s) that such individual was a Participant, except for those disregarded under the provisions of Section 4.02. For

purposes of applying this table, total Contributions applicable to each time period covered by a separate column of the table shall be rounded separately to the nearest \$100.

- (2) Notwithstanding the foregoing paragraph (1), the Contributions used to determine the Basic Monthly Amount under the table set forth below shall not include the amount of any contribution increase required by the 2018 Update to the Plan's Rehabilitation Plan or any other contributions that the 2018 Update to the Plan's Rehabilitation Plan provides will not be used for the purposes of calculating benefits. This Section shall apply for purposes of the Basic Monthly Amount, any Disability Pension Benefit calculated pursuant to Section 5.05 and any Re-retirement benefit and Re-determination benefits calculated pursuant to Section 5.06 below.

**BASIC MONTHLY AMOUNT PAYABLE AT AN PENSION EFFECTIVE DATE
FOR EACH \$100 OF CONTRIBUTIONS ATTRIBUTABLE TO
CONTRIBUTIONS EARNED**

<u>Attained Age at Pension Effective Date</u>	<u>Before 1/1/2004</u>	<u>On or after 1/1/2004 but before 4/1/2007</u>	<u>On or after 4/1/2007 but before 5/1/2009</u>	<u>On or after 5/1/2009 but before 1/1/2010</u>	<u>On or after 1/1/2010</u>
65 or over	\$4.65	\$3.50	\$3.25	\$2.00	\$1.00
64	\$4.16	\$3.13	\$2.91	\$1.79	\$0.90
63	\$3.75	\$2.82	\$2.62	\$1.61	\$0.80
62	\$3.36	\$2.53	\$2.35	\$1.45	\$0.72
61	\$3.04	\$2.29	\$2.13	\$1.31	\$0.65
60	\$2.75	\$2.07	\$1.92	\$1.18	\$0.59
59	\$2.48	\$1.87	\$1.74	\$1.07	\$0.53
58	\$2.26	\$1.70	\$1.58	\$0.97	\$0.49
57	\$2.05	\$1.54	\$1.43	\$0.88	\$0.44
56	\$1.86	\$1.40	\$1.30	\$0.80	\$0.40
55	\$1.70	\$1.28	\$1.19	\$0.73	\$0.37

Notwithstanding the foregoing, the Basic Monthly Amount payable to a Participant who is 100% vested in both his or her Retirement Account balance (as described in Section 6.01) in accordance with Section 6.03(a) and in his or her Regular Pension Benefit in accordance with Section 4.01 shall, except for purposes of calculating the value of a Participant's Retirement Account balance (as described in Section 6.01), be calculated as the sum of:

- (3) the Basic Monthly Amount indicated in the preceding table for each \$100 of Contributions payable to the Trust Fund on behalf of the Participant, except for (i) those credited to the Participant's Retirement Account (in accordance with Section 6.02); (ii) those disregarded under the provisions of Section 4.02; (iii) those contributions required by the 2018 Update to the Plan's Rehabilitation Plan; and (iv) any other contributions that the 2018

Update to the Plan's Rehabilitation Plan provides will not be used for the purposes of calculating benefits contributions; and

- (4) a monthly amount attributable to Contributions credited to the Participant's Retirement Account (in accordance with Section 6.02), computed as the Actuarial Equivalent of the lump-sum value of the Participant's Retirement Account balance (as described in Section 6.01).

2. Section 5.03(c)(1) is hereby deleted and replaced with the following:

- (1) the amount of Regular Pension Benefit calculated in accordance with subsection (a) of this Section taking into account all Contributions received through the Pension Effective Date (other than those disregarded in determining the Basic Monthly Amount), or

IN WITNESS WHEREOF, the undersigned have executed this Amendment Number Five on this 8th day of November 2018.

/s/ Christopher Brockmeyer
Christopher J.G. Brockmeyer, Co-Chair

/s/ Raymond M. Hair, Jr.
Raymond M. Hair, Jr., Co-Chair

AMENDMENT NUMBER SIX
TO THE
AMERICAN FEDERATION OF MUSICIANS
AND EMPLOYERS' PENSION PLAN

(As Amended and Restated Effective as of January 1, 2014)

WHEREAS, the Board of Trustees (the "Board") of the American Federation of Musicians and Employers' Pension Fund (the "Fund") adopted the American Federation of Musicians and Employers' Pension Plan, as amended and restated effective as of January 1, 2014 and as thereafter amended (the "Plan"); and

WHEREAS, pursuant to Article 9, Section 9.01 of the Plan, the Board reserves the right to amend the Plan at any time; and

WHEREAS, the Board has authorized the undersigned to execute this Amendment Number Six to clarify certain provisions of the Plan;

NOW, THEREFORE, the Plan is amended as follows:

Section 5.02 of the Plan shall be restated in its entirety to read as follows:

Section 5.02 REGULAR PENSION BENEFIT ELIGIBILITY.

- (a) A Participant shall be eligible to receive a Regular Pension Benefit once he or she has (i) attained his or her Normal Retirement Age, or (ii) retired from Covered Employment, attained age 55 and is 100% vested in his or her Regular Pension Benefit in accordance with Section 4.01(b), provided the Plan Administrator receives from the Participant a written application for such a pension benefit which is complete in all respects on the form(s) provided by the Plan Administrator for such purpose. A Participant's failure to file with the Plan Administrator an application for payment of a pension benefit which is complete in all respects shall be deemed to be an

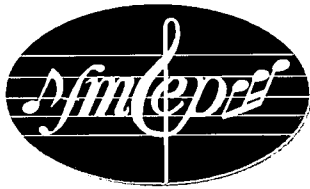
election to defer payment of such benefit in accordance with the provisions of Section 8.05 (Commencement of Pension Benefits Generally).

- (b) Whether a Participant is “retired from Covered Employment” for purposes of this Section 5.02 shall be determined in accordance with the Plan’s Early Retirement Verification Procedures set forth in Appendix B, as same may be amended from time to time by the Trustees (“Verification Procedures”). Any Pensioner who shall become entitled to payment for Hours Credited (Section 1.17) (or otherwise was employed by a Contributing Employer) within the applicable two-month period following his or her annuity starting date shall not be considered to have retired, in which case the Pensioner shall have his or her Regular Pension Benefit suspended and shall be required to repay benefits received with interest, in accordance with the Verification Procedures.

IN WITNESS WHEREOF, the undersigned have executed this Amendment Number Six on this 13th day of February 2020.

/s/ Christopher Brockmeyer
Christopher J.G. Brockmeyer, Co-Chair

/s/ Raymond M. Hair, Jr.
Raymond M. Hair, Jr., Co-Chair



AMERICAN FEDERATION OF MUSICIANS AND EMPLOYERS'
PENSION FUND

EARLY RETIREMENT PROCEDURES - PARTICIPANT NOTICE

To comply with federal law, the Plan requires that a Participant may begin receiving a pension benefit before Normal Retirement Age (generally age 65) only if he or she retires from all employment with any Employers contributing to the Fund. These Early Retirement Procedures – Participant Notice (“Procedures”) set forth the Plan’s rules for determining whether a Participant has retired and is therefore eligible to begin receiving an early retirement pension. Please keep in mind that the Procedures were adopted by the Fund’s Board of Trustees to comply with federal tax law and avoid jeopardizing the tax treatment of every Participant’s pension benefits.

1. WHAT IS RETIREMENT

You will be considered to be retired only if you meet **all** of the following requirements:

- You have stopped all work with all Employers who contribute to the Fund as of your Pension Effective Date, whether or not pension contributions are payable for such work;
- You have no intention or expectation to work after your Pension Effective Date with any Employer who contributes to the Fund;
- You have no right under a Collective Bargaining Agreement or any other contractual right to employment after your Pension Effective Date with any Employer who contributes to the Fund;
- You perform **no work of any kind** for an Employer participating in the Fund during the first two calendar months following your actual Pension Effective Date (which may be later than your requested Pension Effective Date); and
- If you retire from steady employment with an Employer that has seasonal breaks in work at the end of a season, you perform **no work of any kind** for that Employer in the first two calendar months following the beginning of that Employer’s new season.

Your **Pension Effective Date** is the first day of the first month for which you receive your pension benefit.

- Your earliest Pension Effective Date is the first day of the first month following the month in which we receive from you a complete Part 2 of the Pension Application (Choice of Benefit Payment Option form and spousal consent form, if required) if we receive these forms *on or before* the 15th day of the month or, if we receive the forms *after* the 15th day of the month, your Pension Effective Date is the first day of the second month following our receipt of the forms.
- You may choose a later Pension Effective Date.
- Your Pension Effective Date will not change if there is an administrative delay in processing your benefits. In that case, you will receive retroactive benefits back to your Pension Effective Date.

Please refer to the accompanying article, *Applying for Your Pension Benefit – The Two-Part Application*, for more information.

Two calendar months is the period of time from the Pension Effective Date (always the first day of a month) through the end of the second month following the Pension Effective Date. *Example: if the Pension Effective Date is February 1, the first two calendar months following that date end March 31 (regardless of the actual number of days between these dates).*

Special Note: For Participants retiring from steady employment with an Employer that has seasonal breaks, **two calendar months** is also the period of time from the beginning of the new season following retirement through the end of the day before that calendar date two months later. *Example: if the season begins September 15, the first two calendar months following that date end on November 14.*

2. HOW THE FUND WILL CONFIRM RETIREMENT

The Fund will confirm your retirement in three ways:

- by your statement on Part 1 - Preliminary Information form of the Pension Application,
- by the representations of your Employer(s) for whom you are employed in steady employment, and
- by the contributions made on your behalf after your Pension Effective Date.

These processes are described below. Bear in mind that *each* process will be used if it applies to your situation; they are not alternative ways to show that you are retired.

The Pension Application

Part 1 - Preliminary Information form of the Pension Application requires a signed statement that:

- you will have stopped **all** work with all Employers who contribute to the Fund as of your Pension Effective Date, including any work for which no pension contributions are payable (such as administrative services);
- you have no intention or expectation to work after your Pension Effective Date with any Employer who contributes to the Fund; and
- you have no right under a Collective Bargaining Agreement or any other contractual right to employment after your Pension Effective Date with any Employer who contributes to the Fund.

Confirmation of Retirement with Your Employer

If you are employed in steady employment, the Fund will contact your Employer(s) before your Pension Effective Date to confirm that you have actually retired, and that you have no further right, understanding or expectation of future employment. Examples of steady employment include:

- employment for the run of a Broadway show;
- employment in a house band for a network variety show;
- employment with the AFM or its local unions (including employment as an elected officer);
- employment under an orchestra Collective Bargaining Agreement; or
- employment with AFM-related funds such as the Film Musicians Secondary Markets Fund, the Sound Recording Special Payments Fund or the Music Performance Trust Fund.

This is not an exhaustive list of types of steady employment. There may be other situations in which you work on a steady basis that will be considered steady employment for the purposes of these Early Retirement Procedures.

Requirements Following Your Pension Effective Date

After your Pension Effective Date, the Fund will confirm the statements made on Part 1 of the Pension Application and by your Employer(s) by monitoring any additional pension contributions made on your behalf. If the Fund finds that you performed any work for an Employer participating in the Fund during the first two calendar months following your Pension Effective Date, you will be considered not to have retired.

In addition, if you retire from steady employment with a symphonic Employer or other Employer that has seasonal breaks in work at the end of a season, and the Fund finds that you performed any work for that Employer in the first two calendar months following the beginning of that Employer's new season, you will be considered not to have retired.

3. CONSEQUENCES OF FUND'S DETERMINATION THAT NO RETIREMENT HAS OCCURRED

If you begin an early retirement pension but the Fund determines that you did not retire in accordance with these Early Retirement Procedures, your pension will be stopped immediately. For example, your pension will be stopped if you return to work (even a very small amount of work) before the end of the applicable two calendar months described above, or if the Fund discovers that you had future musical engagements scheduled prior to your Pension Effective Date (even if those engagements are outside the applicable two calendar months).

If your pension is stopped because the Fund determines that you did not retire, you will be required to repay to the Fund any pension payments that were made and you will need to reapply to receive a pension in the future. Any decision by the Fund that you have not in fact retired may be appealed under the claims and appeals procedures described in the 2013 Summary Plan Description.

4. RETURNING TO WORK AFTER YOUR EARLY RETIREMENT PENSION EFFECTIVE DATE

If you return to work after your early retirement Pension Effective Date, you will continue to receive your early retirement pension unless you returned to work before the applicable two calendar months described above, or unless the Fund otherwise determines that you were not in fact retired as of your Pension Effective Date.

5. MORE INFORMATION ABOUT THE PROCEDURES

If you have questions about these Early Retirement Procedures, please contact the Fund in writing or via the Fund's website using the "Contact Us" feature. This will enable the Fund Office to review your questions before responding so that you can receive a more thorough, considered response than if you were to ask your questions over the telephone. We understand that time may be of the essence

and we will do our best to ensure that you receive a prompt answer to any question that you raise by mail or via the website. Please direct your questions to American Federation of Musicians and Employers' Pension Fund, PO Box 2673, New York, New York 10117-0262 Attn: Pension Dept. – Early Retirement or using Contact Us on the Fund's website at www.afm-epf.org

AMENDMENT NUMBER SEVEN
TO THE
AMERICAN FEDERATION OF MUSICIANS
AND EMPLOYERS' PENSION PLAN

(As Amended and Restated Effective as of January 1, 2014)

WHEREAS, the Board of Trustees (the "Board") of the American Federation of Musicians and Employers' Pension Fund (the "Fund") adopted the American Federation of Musicians and Employers' Pension Plan, as amended and restated effective as of January 1, 2014 and as thereafter amended (the "Plan"); and

WHEREAS, pursuant to Article 9, Section 9.01(a) of the Plan, the Board reserves the right to amend the Plan at any time; and

WHEREAS, the Board has authorized the undersigned to execute this Amendment Number Seven to amend the Plan to defer the required beginning date to age 72 as permitted under the Setting Every Community Up for Retirement Enhancement Act of 2019;

NOW, THEREFORE, the Plan is amended, all effective as of January 1, 2020, as follows:

- I. Section 8.06(b)(2)(A) shall be amended by replacing the numeral "70½" stated in the section with the numeral "72".
- II. Section 8.06(g)(5) shall be deleted in its entirety and restated to read as follows:
 - (5) Effective January 1, 2020, the Required Beginning Date of all other Participants is April 1 of the calendar year immediately following the calendar year in which the Participant attains age 72. For Plan Years that ended prior to January 1, 2020, the Required Beginning Date of all other Participants was April 1 of the calendar year immediately following the calendar year in which the Participant had attained age 70½.

III. Section 12.05(b) shall be amended by replacing the numeral “70½” stated in the section with the numeral “72”.

IN WITNESS WHEREOF, the undersigned have executed this Amendment Number

Seven on this 5th day of November 2020.

/s/ Christopher Brockmeyer
Christopher J.G. Brockmeyer, Co-Chair

/s/ Raymond M. Hair, Jr.
Raymond M. Hair, Jr., Co-Chair

AMENDMENT NUMBER EIGHT
TO THE
AMERICAN FEDERATION OF MUSICIANS
AND EMPLOYERS' PENSION PLAN

(As Amended and Restated Effective as of January 1, 2014)

WHEREAS, the Board of Trustees (the "Board") of the American Federation of Musicians and Employers' Pension Fund (the "Fund") adopted the American Federation of Musicians and Employers' Pension Plan, as amended and restated effective as of January 1, 2014, and as thereafter amended (the "Plan"); and

WHEREAS, the Board has applied to the Pension Benefit Guaranty Corporation ("PBGC") under section 4262 of the Employment Retirement Income Security Act of 1974, as amended ("ERISA"), and 29 C.F.R. § 4262 for special financial assistance for the Plan; and

WHEREAS, 29 C.F.R. § 4262.6(e)(1) requires that the plan sponsor of a plan applying for special financial assistance amend the written instrument governing the plan to require that the plan be administered in accordance with the restrictions and conditions specified in section 4262 of ERISA and 29 C.F.R. part 4262 and that the amendment be contingent upon approval by PBGC of the plan's application for special financial assistance; and

WHEREAS, pursuant to Article 9, Section 9.01 of the Plan, the Board reserves the right to amend the Plan at any time; and

WHEREAS, the Board has agreed to amend the Plan in the manner set forth herein; and

WHEREAS, pursuant to Section 5.15 of the Agreement and Declaration of Trust Establishing the Fund, dated April 1, 2005, as thereafter amended, the undersigned Co-Chairs of the Fund are authorized to execute Plan amendments reflecting action taken by the Board;

NOW, THEREFORE, The Plan is amended by adding a new Article 10, Section 10.06 to read as follows:

10.06 SPECIAL FINANCIAL ASSISTANCE ADMINISTRATION. Beginning with the SFA measurement date selected by the Plan in the Plan's application for special

financial assistance, notwithstanding anything to the contrary in this or any other document governing the Plan, the Plan shall be administered in accordance with the restrictions and conditions specified in section 4262 of ERISA and 29 CFR part 4262. This amendment is contingent upon approval by the PBGC of the Plan's application for special financial assistance.

IN WITNESS WHEREOF, the undersigned have executed this Amendment Number Eight on this 2nd day of March 2023.

/s/ Christopher Brockmeyer
Christopher J.G. Brockmeyer, Co-Chair

/s/ Raymond M. Hair, Jr.
Raymond M. Hair, Jr., Co-Chair

**AMENDMENT NUMBER NINE
TO THE
AMERICAN FEDERATION OF MUSICIANS
AND EMPLOYERS' PENSION PLAN**

(As Amended and Restated Effective as of January 1, 2014)

WHEREAS, the Board of Trustees (the "Board") of the American Federation of Musicians and Employers' Pension Fund (the "Fund") adopted the American Federation of Musicians and Employers' Pension Plan, as amended and restated effective as of January 1, 2014, and as thereafter amended (the "Plan"); and

WHEREAS, pursuant to Article 9, Section 9.01 of the Plan, the Board reserves the right to amend the Plan at any time; and

WHEREAS, at its November 9, 2022 meeting, the Board amended the Plan to change the Plan Year to the calendar year and authorized the Co-Chairs of the Fund to execute an amendment memorializing such action; and

WHEREAS, pursuant to Section 5.15 of the Agreement and Declaration of Trust Establishing the Fund, dated April 1, 2005, as thereafter amended, the undersigned Co-Chairs of the Fund are authorized to execute Plan amendments reflecting action taken by the Board;

NOW, THEREFORE, The Plan is amended, effective December 31, 2022, as follows:

- I. Section 1.31 shall be deleted in its entirety and restated to read as follows:

Section 1.31 PLAN YEAR. The term "Plan Year" shall mean the fiscal year of the Fund, which is each twelve consecutive month period beginning on January 1 and ending on the following December 31.

IN WITNESS WHEREOF, the undersigned have executed this Amendment Number Nine:

/s/ Christopher Brockmeyer
Christopher J.G. Brockmeyer, Co-Chair

/s/ Raymond M. Hair, Jr.
Raymond M. Hair, Jr., Co-Chair