



# 1199SEIU

Greater New York Pension Fund

SUMMARY PLAN DESCRIPTION  
OF YOUR PENSION BENEFITS

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March 2017

**Dear Pension Fund Participants and Retirees:**

We are pleased to provide you with this Summary Plan Description or “SPD,” which explains your pension benefits under the 1199SEIU Greater New York Pension Fund, referred to in this booklet as the “Pension Fund” or “Fund.” The Pension Fund is administered by a Board of Trustees, which consists of both Employer and Union representatives. Their names and addresses are listed at the end of this SPD. Under various Collective Bargaining Agreements with your Union, 1199SEIU United Health Care Workers East, Employers make contributions to this Pension Fund to provide pension benefits to you and other Employees covered by the Pension Fund.

The SPD is a non-technical explanation of your pension benefits. It is written to make it easier for you to understand your rights and responsibilities under the Plan. The rules and regulations of the Fund are set forth in its Plan Document and related documents (collectively called the “Plan”). Please understand that no general explanation can adequately give you all of the details of the Plan. This general explanation does not change or expand, or otherwise interpret the terms of the Plan. To the extent that any of the information contained in this SPD is inconsistent with the official Plan documents, the provisions set forth in the official Plan documents will govern in all cases. To obtain additional information about the operation of the Plan, visit the Pension Fund at 330 West 42nd Street, 10th Floor, New York, NY, 10036, or call (646) 473-8666. Outside New York City, please call (800) 575-7771.

Any words that have an initial capital letter are defined terms in the Plan Document.

**Telephone conversations and other oral statements can easily be misunderstood. Therefore, you should rely on the information provided in the SPD and Plan Document rather than any oral explanation of the Plan’s provisions. Your rights and duties under the Plan are determined solely by referring to the Plan Document and Trust Agreement, as amended.**

The Plan is effective as of December 12, 1963, and amended as of **January 1, 2015** (except as specifically provided). The Plan has been amended for certain legislative changes, such as the Pension Protection Act of 2006 (PPA). Any Participant who retired or separated from service before January 1, 2015, should refer to the SPD in effect at the time of his or her retirement or separation from service.

Upon written request to the Pension Fund at 330 West 42nd Street, 10th Floor, New York, NY 10036, you may obtain copies of the Plan, the Trust Agreement and other applicable Plan documents, including applicable Collective Bargaining Agreements and the Rehabilitation Plan. These documents are also available for your examination at the Pension Fund during regular business hours, upon written request.

We urge you to read this SPD carefully and keep it in a safe, accessible place, so that it will be available for future reference. **Pension Fund Counselors are available to answer your questions, and we urge you to call for an appointment three to six months prior to your planned retirement. They will explain your pension benefit and options, and help you through the application process.** If you have any questions, or want to make an appointment with a Pension Fund Counselor, call (646) 473-8666. Outside New York City, please call (800) 575-7771.

## **The Board of Trustees**

### **NEED HELP WITH THE SUMMARY PLAN DESCRIPTION (“SPD”)?**

This SPD contains a summary in English of your Plan rights and benefits under the 1199SEIU Greater New York Pension Fund.

If you have difficulty understanding any part of this SPD, contact the Pension Fund at:

**1199SEIU Greater New York Pension Fund  
330 West 42nd Street, 10th Floor  
New York, NY 10036**

You may also call the Pension Fund at (646) 473-8666 from 8:00 am to 6:00 pm, Monday through Friday, or you may visit the Pension Fund from 8:00 am to 5:00 pm, Monday through Friday, for assistance. Outside New York City, please call (800) 575-7771.

### **¿NECESITA AYUDA CON EL SUMARIO DE DESCRIPCIÓN DEL PLAN?**

Este folleto es un sumario en inglés de sus derechos y beneficios bajo 1199SEIU Greater New York Pension Fund.

Si usted no entiende este sumario y necesita ayuda, escriba al Fondo:

**1199SEIU Greater New York Pension Fund  
330 West 42nd Street, 10th Floor  
New York, NY 10036**

Puede llamar al Fondo de Pensiones al (646) 473-8666, de 8:00 am a 6:00 pm, de lunes a viernes, o puede visitar el Fondo de Pensiones de 8:00 am a 5:00 pm, de lunes a viernes, para recibir ayuda. Fuera de la ciudad de Nueva York, llame al (800) 575-7771.

## CONTACT THE PENSION FUND

Call **(646) 473-8666** to speak with a Pension Fund Representative or to schedule an appointment with a Pension Fund Counselor. Outside New York City, please call (800) 575-7771.

## VISIT A WALK-IN MEMBER SERVICES CENTER

**Manhattan** 330 West 42nd Street, 3rd Floor  
New York, NY 10036  
Monday through Friday, 8:00 am to 6:00 pm  
Pension Member Services:  
10th Floor  
Monday through Friday, 8:00 am to 5:00 pm  
Or call for an appointment: (646) 473-8666

**Bronx** 2501 Grand Concourse, 3rd Floor  
Bronx, NY 10468  
Monday through Friday, 9:00 am to 5:00 pm  
Pension Member Services:  
Third Thursday of each month, 10:00 am to 5:00 pm  
Or call for an appointment: (718) 561-0234

**Queens** 97-30 64th Road  
Rego Park, NY 11374  
Monday through Friday, 9:00 am to 5:00 pm  
Pension Member Services:  
Third Thursday of each month, 10:00 am to 4:00 pm  
Or call for an appointment: (646) 473-8565

**Brooklyn** 25 Elm Place, 1st Floor  
Brooklyn, NY 11201  
Monday through Friday, 9:00 am to 5:00 pm  
Pension Member Services:  
Third Thursday of each month, 10:00 am to 4:00 pm  
Or call for an appointment: (718) 797-2109

## VISIT A WALK-IN MEMBER SERVICES CENTER

<b>Staten Island</b>	790 Port Richmond Avenue Staten Island, NY 10302 Monday through Thursday, 8:00 am to 7:00 pm Friday, 8:00 am to 4:00 pm  Pension Member Services: Every Wednesday, and the first and third Thursdays of each month, 10:00 am to 4:00 pm Or call for an appointment: (718) 448-7482
<b>Long Island</b>	100 Duffy Avenue, 3rd Floor Hicksville, NY 11801 Monday through Friday, 9:00 am to 5:00 pm  Pension Member Services: Monday through Friday, 8:30 am to 4:30 pm Or call for an appointment: (516) 229-6700
<b>Westchester</b>	Berkeley College Building 99 Church Street, 4th Floor White Plains, NY 10601 Monday, Wednesday and Thursday, 9:00 am to 5:00 pm  Pension Member Services: Monday through Friday, 9:00 am to 5:00 pm Or call for an appointment: (914) 997-2822

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## **SECTION I – PARTICIPATION AND EARNING PENSION CREDITS**

- A. When Am I Eligible to Participate in the Plan?
- B. How Is Pension Credit Accumulated?
- C. How Is Pension Credit Earned for Employment After the Contribution Date (Future Service Credit)?
- D. How Is Pension Credit Earned for Employment Before the Contribution Date (Past Service Credit)?
- E. Can I Receive Pension Credit for Time When I Was Not in Covered Employment?
- F. What Are “Years of Vesting Service”?
- G. What Is a Partial Pension?

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## SECTION I. A

### WHEN AM I ELIGIBLE TO PARTICIPATE IN THE PLAN?

You will become a Participant in the Plan on the earlier of January 1 or July 1 following completion of 870 Hours of Service in Covered Employment. This 870 hours must be worked either during the 12-consecutive-month period immediately following the date you began working in Covered Employment, or during any subsequent calendar year. **“Covered Employment”** means all employment for which an Employer is obligated to contribute to the Pension Fund after the **“Contribution Date”** (i.e., the date that your Employer was first required to make contributions to this Plan on your behalf). Certain employment prior to the Contribution Date in nursing homes in the New York City area, including, but not limited to, work performed in jobs where your Employer is covered by an agreement with the Union may also be counted for Past Service Credit as Covered Employment.

The Contribution Date is the first date your Employer is required to make contributions to the Pension Fund on your behalf. You generally will not be eligible to participate in the Pension Fund before the Contribution Date.

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## SECTION I. B

### HOW IS PENSION CREDIT ACCUMULATED?

Pension Credit is accumulated in two ways, depending on the date it is earned, subject to any “Breaks-in-Service” (see Section II):

- Credit for Covered Employment after the Contribution Date, which is called **“Future Service Credit”**
- Credit for Covered Employment before the Contribution Date, which is called **“Past Service Credit”**

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# SECTION I. C

## HOW IS PENSION CREDIT EARNED FOR EMPLOYMENT AFTER THE CONTRIBUTION DATE (FUTURE SERVICE CREDIT)?

You will receive Pension Credit for the period after the Contribution Date on the basis of your work in Covered Employment in accordance with the following:

### FOR FUTURE SERVICE AFTER DECEMBER 31, 1975

You will receive Pension Credit for the period after December 31, 1975, in accordance with the following:

HOURS OF SERVICE IN COVERED EMPLOYMENT IN A CALENDAR YEAR	PENSION CREDIT
870 or more hours	1.00
653 or more, but less than 870 hours	.75
435 or more, but less than 653 hours	.50
Less than 435 hours	0

Note that in 2008–2009, you were eligible to earn Pension Credits under the Plan for eligibility purposes only. You were not eligible to earn Pension Credits toward the amount of your pension.

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# **SECTION I. D**

## **HOW IS PENSION CREDIT EARNED FOR EMPLOYMENT BEFORE THE CONTRIBUTION DATE (PAST SERVICE CREDIT)?**

### **IF YOU BEGAN WORKING IN COVERED EMPLOYMENT BEFORE JANUARY 1, 2000**

Once your Employer starts making contributions for you, and you earn three years (or 12 quarters) of Pension Credits, you will receive Pension Credit for the period before the Contribution Date on the basis of your work in Covered Employment (all employment in any nursing home in the New York City area) in accordance with the following:

### **FOR PAST SERVICE AFTER DECEMBER 31, 1975**

You will receive Pension Credit for the period after December 31, 1975, in accordance with the following:

<b>HOURS OF SERVICE IN COVERED EMPLOYMENT IN A CALENDAR YEAR</b>	<b>PENSION CREDIT</b>
870 or more hours	1.00
653 or more, but less than 870 hours	.75
435 or more, but less than 653 hours	.50
Less than 435 hours	0

Please see the Plan Document for the rules governing Future Service and Past Service Credits with respect to Covered Employment prior to 1975.

### **SPECIAL RULE FOR FORMER PARTICIPANTS OF THE SOUTHERN FUND**

You will receive Pension Credit for your existing Years of Vesting Service under the Southern Fund.

### **IF YOU BEGAN WORKING IN COVERED EMPLOYMENT ON OR AFTER JANUARY 1, 2000, BUT BEFORE AUGUST 1, 2009**

You will not receive any Pension Credit for periods before the Contribution Date unless, on the date your Employer was first obligated to make contributions to the Pension Fund for your bargaining unit, you were an Employee of a



new Contributing Employer or an Employee of a new unit or classification of employment not previously covered by a Collective Bargaining Agreement. If you are working for a new Contributing Employer or in a new unit or classification, you will receive Past Service Credit in accordance with the table in this section for service with such Contributing Employer.

If you began working in Covered Employment on or after August 1, 2009, you will not be entitled to any Past Service Credit.

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## SECTION I. E

### CAN I RECEIVE PENSION CREDIT FOR TIME WHEN I WAS NOT IN COVERED EMPLOYMENT?

There are certain periods of absence when an Employee who is not actually employed in Covered Employment may receive Pension Credit just as if he or she were employed in Covered Employment. Periods of absence from Covered Employment are to be credited if the period of absence was:

- The result of a disability for which weekly benefits were paid under the disability insurance coverage of a Contributing Employer of the 1199SEIU Greater New York Benefit Fund (up to a maximum of ½ a Pension Credit) or pursuant to the Workers' Compensation law (up to a maximum of 1 Pension Credit); or
- While you are on a leave of absence for "Qualified Military Service" as defined under the Plan and federal law.

For additional information, please refer to the Plan or contact the Pension Fund at (646) 473-8666. Outside New York City, please call (800) 575-7771.

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## SECTION I. F

### WHAT ARE "YEARS OF VESTING SERVICE"?

In order to be eligible for a pension, an Employee must become "vested in the Plan." Once an Employee becomes vested, he or she has a non-forfeitable right to a pension upon retirement.

"Years of Vesting Service" are used to determine your non-forfeitable right to a pension from this Pension Fund. After you have accumulated five Years of Vesting Service on or after September 1, 1998 (10 Years of Vesting Service if

you separated from service prior to September 1, 1998), you are eligible for a pension from this Pension Fund regardless of whether you continue to work in Covered Employment or not. One Year of Vesting Service is credited for each calendar year after the Contribution Date in which you worked in Covered Employment for 870 hours or more, and Vesting Service may be granted for Past Service. Unlike **“Pension Credits”** (which determine the amount of pension benefits you will be entitled to receive upon your retirement), you may not earn or accumulate partial Years of Vesting Service.

In addition, after December 31, 1975, if you work for a Contributing Employer in a job not covered by this Plan and that non-Covered Employment is continuous with (immediately before or after) employment with the same Employer in Covered Employment, your hours of work after (or before) the Contribution Date in that non-covered job will also be counted toward Years of Vesting Service.

Note that in 2008–2009, you were eligible to earn Years of Vesting Service, but you were not eligible to earn Pension Credits under the Plan toward the amount of your pension.

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## **SECTION I. G**

### **WHAT IS A PARTIAL PENSION?**

If you do not have sufficient Years of Vesting Service to be entitled to a benefit under this Plan, but would be if your Vesting Service could be combined with service credited under the 1199SEIU Health Care Employees Pension Fund (“HCEPF”), the former Local 144 Hospital Plan (which merged into the HCEPF) and/or the Local 144 Associated Hotels Pension Plan (“Related Plans”), then this Fund will provide you with a Partial Pension. For purposes of determining your eligibility for, and the amount of, your Partial Pension, no more than one Year of Pension Credit will be counted within any calendar year. See Section III.J of this SPD for rates and benefit amounts.

**For example:**

Suppose an Employee began working in 2005 and earned three Years of Vesting Service from the HCEPF. The Employee will not yet be vested in the HCEPF. Immediately after that in 2008, the Employee began working for a Contributing Employer to this Pension Fund and earned three more Years of Pension Credits as a Participant in this Plan. Similarly, the Employee will not be vested in this Plan. However, on a combined basis, the six Years of Vesting Service that the Employee earned from both plans will be treated as combined Years of Vesting Service under this Plan, and would entitle him or her to a pension benefit under the rules of this Plan. Each Fund will pay the Participant a benefit. The amount of the benefit payable from each Fund will be determined based on the terms of such Fund's Plan, and the Participant's actual service with each Fund.

If you believe you are eligible for a Partial Pension, contact the Pension Fund at (646) 473-8666 for more information. Outside New York City, please call (800) 575-7771.





## **SECTION II – BREAKS-IN-SERVICE**

- A. Can Pension Credit Be Lost or Cancelled Through a Break-in-Service Before I Am Vested?
- B. What Happens If I Retire After Incurring a Break-in-Service?
- C. What Happens If I Am Vested, Incur a Temporary Break-in-Service, Earn Additional Pension Credit and Then Retire?

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## SECTION II. A

# CAN PENSION CREDIT BE LOST OR CANCELLED THROUGH A BREAK-IN-SERVICE BEFORE I AM VESTED?

Before you become vested, you may lose Credited Service you've already earned before you become vested, if you stop working in Covered Employment, or don't work enough hours, for long stretches of time. When this happens, you may have a "**Break-in-Service.**"

As described in Section I.F, **up until September 1, 1998**, you were vested after earning 10 Years of Vesting Service. **Effective September 1, 1998**, you are vested after you earn five Years of Vesting Service.

You will have a **One-Year Break-in-Service** in any calendar year you fail to complete at least 435 hours of work in Covered Employment.

You will have a **Temporary Break-in-Service** if you have a series of One-Year Breaks-in-Service that do not result in a Permanent Break-in-Service.

You will have a **Permanent Break-in-Service on or after December 31, 1975, and through December 31, 1984**, if you have consecutive One-Year Breaks-in-Service, including at least one after December 31, 1975, that equal or exceed the number of full Years of Vesting Service with which you were last credited.

**For example**, suppose you earned three Years of Vesting Service and then incurred three or more consecutive One-Year Breaks-in-Service. At that point, your previous credit is permanently cancelled.

**Effective January 1, 1985, and through August 31, 1998**, your consecutive One-Year Breaks-in-Service must equal the greater of five or the number of Years of Vesting Service with which you were last credited, including at least one after December 31, 1984, before you have a Permanent Break-in-Service. Therefore, in the above example, you would not have a Permanent Break-in-Service after 1985.

**Effective September 1, 1998, you will have a Permanent Break-in-Service** if you have five consecutive One-Year Breaks-in-Service, meaning five years in a row in which you don't earn more than 435 hours per Year of Vesting Service.

**A Permanent Break-in-Service means that you lose all Credited and Vesting Service earned before your Temporary Breaks-in-Service.** If you later return to work in Covered Employment, the Pension Fund will treat you as a new Participant. In other words, you will have no accrued Vesting or Credited Service when you restart participation in the Plan.

Please see the Plan Document for the rules governing Breaks-in-Service with respect to Covered Employment prior to 1975.

## **WHAT IS NOT A BREAK-IN-SERVICE**

You will not have a One-Year Break-in-Service if your absence from Covered Employment is the result of:

- **Family and Medical Leave Act (FMLA) Absences.** If you are absent from Covered Employment for any reason recognized under the Family and Medical Leave Act of 1993, any hours of work in Covered Employment that would normally have been credited to you (but for such absence) shall be credited up to a maximum of 435 hours for each such reason. You may be required to submit information sufficient to show that your absence is for one of the reasons and the number of hours for which such absence occurred.
- **Qualified Military Service.** As indicated previously in Section I.E, you may also receive credit for a leave of absence for Qualified Military Service.

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## **SECTION II. B**

### **WHAT HAPPENS IF I RETIRE AFTER INCURRING A BREAK-IN-SERVICE?**

Your eligibility for a pension and the amount of the pension will be based on the terms of the Plan in effect on the date you last worked in Covered Employment.

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## **SECTION II. C**

### **WHAT HAPPENS IF I AM VESTED, INCUR A TEMPORARY BREAK-IN-SERVICE, EARN ADDITIONAL PENSION CREDIT AND THEN RETIRE?**

If you experience a Temporary Break-in-Service and then return to Covered Employment and earn additional Pension Credits before you retire, the amount of your pension benefit will be calculated by applying the benefit rate in effect on your last day of Covered Employment for all credits earned before and after the Temporary Break-in-Service.







## **SECTION III – TYPES OF PENSIONS**

- A. When Am I Eligible for a Regular Pension?
- B. How Is a Regular Pension Calculated?
- C. When Am I Eligible for an Early Retirement Pension?
- D. How Is an Early Retirement Pension Calculated?
- E. How Is Total and Permanent Disability Defined?
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- I. Can an Early Retirement Pension Be Converted to a Disability Pension?
- J. How Is My Pension Credit Rate Determined?
- K. What Is the Rehabilitation Plan?
- L. How Will the Rehabilitation Plan Schedules Affect My Pension Calculation?

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## SECTION III

# TYPES OF PENSIONS

**THERE ARE FOUR TYPES OF PENSIONS PROVIDED UNDER THE PLAN:**

- A Regular Pension
- An Early Retirement Pension
- A Disability Pension
- A Partial Pension

For all pension types, the monthly benefit shall be rounded up to the nearest multiple of \$0.50.

There are four types of pensions currently available under the Plan: Regular (unreduced pension), Early Retirement (reduced pension), Disability and Partial.

**NOTE:** If you leave Covered Employment and do not begin to receive your pension immediately, you may jeopardize your eligibility for retiree health benefits through the 1199SEIU Greater New York Benefit Fund. If you are considering delaying the commencement of your pension, please call the Pension Fund at (646) 473-8666 or discuss this with a Pension Fund Counselor. Outside New York City, please call (800) 575-7771.

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## SECTION III. A

# WHEN AM I ELIGIBLE FOR A REGULAR PENSION?

You are eligible to retire on a Regular Pension if you are age 65 or older, and either:

- Have earned at least five Years of Vesting Service (at least 10 Years of Vesting Service if you separated from service prior to September 1, 1998); or
- Have earned at least 15 Pension Credits and attained age 50 or older while actively working in Covered Employment.

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## **SECTION III. B**

### **HOW IS A REGULAR PENSION CALCULATED?**

Your Regular Pension amount is determined by multiplying your Pension Credits by the Applicable Pension Credit Rate. Your Applicable Pension Credit Rate will depend on the date you last worked in Covered Employment and other factors. See Section III.J of this SPD for rates and benefit amounts.

#### **IF YOU LEAVE COVERED EMPLOYMENT AFTER JANUARY 1, 2011**

Here is an example of how a single Participant who is 65 years old before January 1, 2011, and whose last Contributing Employer was subject to the Preferred Schedule of the Rehabilitation Plan, may have her Regular Pension calculated. See Section III.K of this SPD for a description of the Rehabilitation Plan.

**For example:**

A Participant with 25 Pension Credits terminates employment on June 28, 2010, and submits an application on June 30, 2010. The Participant will begin receiving a Regular Pension, effective July 1, 2010 (at age 65). The Participant's monthly benefit is \$925, or 25 (maximum) Pension Credits multiplied by \$37.

Here is an example of how a single Participant who is 65 years old after January 1, 2011, and whose last Contributing Employer was subject to the Preferred Schedule of the Rehabilitation Plan, may have her Regular Pension calculated. See Section III.K of the SPD for a description of the Rehabilitation Plan.

**For example:**

A Participant with 27 Pension Credits terminates employment on June 28, 2011. The Participant begins receiving a Regular Pension on July 1, 2011 (at age 65). The Participant's monthly benefit is \$1,000, or 27 (maximum) Pension Credits multiplied by \$37. Note that the last credit is multiplied by \$37 plus one additional dollar.

## HERE IS AN EXAMPLE OF HOW A MARRIED PARTICIPANT'S REGULAR PENSION MAY BE CALCULATED

Suppose an Employee, age 65, has earned the maximum of 27 Pension Credits and elects a 50% Joint and Survivor Pension option. The Employee has a Spouse who is three years younger, and the Employee last worked in Covered Employment in June 2011. The Employee's Regular Pension is calculated as follows:

**STEP 1:** 26 Pension Credits x \$37/Pension Credit = \$962

**STEP 1A:** 1 Pension Credit x \$38/Pension Credit = \$38

**STEP 1B:** \$962 + \$38 = \$1,000

**STEP 2:** \$1,000 x 91.8% [93% - (0.4 x 3 years)] = \$918

**STEP 3:** Upon the Employee's death, the Spouse will receive \$459 (\$918/2) per month.

The Employee's final monthly benefit will be \$918.

Note that in Step 2, the amount by which the Employee's benefit is reduced depends on the difference between the Employee's age and the Spouse's age. See Section V for a description of the 50% Joint and Survivor Pension.

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## SECTION III. C

### WHEN AM I ELIGIBLE FOR AN EARLY RETIREMENT PENSION?

You are eligible to retire on an Early Retirement Pension if you are:

- At least 55 years of age; and
- Have earned at least 15 Pension Credits.

---

## SECTION III. D

### HOW IS AN EARLY RETIREMENT PENSION CALCULATED?

The Early Retirement Pension is the amount you would be eligible to receive under a Regular Pension reduced by 1/2% for each month that you are younger than age 65. **For example**, suppose a Participant is 62 years old, and retires with the maximum of 27 Pension Credits. The Participant last worked on or after January 1, 2005.

**THE PARTICIPANT'S MONTHLY BENEFIT WILL BE COMPUTED AS FOLLOWS:**

(Assuming) Regular Pension = \$1,000

36 (months younger than 65) x 1/2% = 18%

18% x \$1,000 = \$180

\$1,000 – \$180 = \$820

In this example, the Early Retirement Pension amount would be \$820 per month.

However, if the Default Schedule described in Appendix A of this SPD is in effect with respect to your last Contributing Employer as of the date your pension payments are scheduled to begin, your Early Retirement Pension will be determined as shown in Appendix A.

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## SECTION III. E

### HOW IS TOTAL AND PERMANENT DISABILITY DEFINED?

You will be deemed totally and permanently disabled based upon a determination by the Social Security Administration that you are entitled to a Social Security Disability pension. You may be required at any time to submit evidence of your continued entitlement to Social Security Disability benefits.

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## **SECTION III. F**

### **WHEN AM I ELIGIBLE FOR A DISABILITY PENSION?**

You are eligible to retire on a Disability Pension if:

- You have at least 15 Pension Credits; and
- You are totally and permanently disabled as described in Section III.E; and
- You worked in Covered Employment for an Employer contributing to the Fund for at least 436 hours within the 24 months before you became totally and permanently disabled; and
- Your disability is the result of a condition or event which occurred while you were working in Covered Employment and your total and permanent disability has continued for a period of six months; and
- You file an application for a Disability Pension within 18 months after the disability commenced or within six months of receiving a determination of disability from the Social Security Administration, whichever is later.

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## **SECTION III. G**

### **WHEN DOES MY DISABILITY PENSION BEGIN?**

Your Disability Pension will begin after you have filed a completed application for a Disability Pension with the Pension Fund within 18 months after the date your disability commenced or within six months after the date you received a Social Security Disability Award from the Social Security Administration, whichever is later.

Your Disability Pension will be effective beginning with the seventh month of your disability, as set forth in your Social Security Disability Award.

If you were eligible for a Disability Pension on or after January 1, 1996, but failed to file the application within the later of 18 months after the date your disability commenced or within six months after the date you received a Social Security Disability Award from the Social Security Administration, the first monthly payment of your Disability Pension shall commence no sooner than the month following the date on which you filed the complete application along with all required documentation.

However, if the Default Schedule described in Appendix B of the Plan is in effect as of the date you became disabled, you will not be entitled to receive a Disability Pension application.

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## **SECTION III. H**

### **HOW IS A DISABILITY PENSION CALCULATED?**

The monthly amount of the Disability Pension is the same as the Regular Pension in effect on the date you became disabled. See Section III.J of this SPD for rates and benefit amounts.

The Disability Pension will continue for life, provided you remain totally and permanently disabled to age 65. If you cease to be totally and permanently disabled before age 65, your Disability Pension will cease as of the first month following the end of the disability. Thereafter, you may be eligible for an Early Retirement Pension or a Regular Pension, whichever is applicable.

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## **SECTION III. I**

### **CAN AN EARLY RETIREMENT PENSION BE CONVERTED TO A DISABILITY PENSION?**

Yes. If you are receiving an Early Retirement Pension and you become eligible for a Disability Pension, you will be entitled to convert your Early Retirement Pension to a Disability Pension, retroactive to the seventh month of disability, or to the date on which your application was filed, if later than the deadline for filing a Disability Pension as described earlier.

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## **SECTION III. J**

### **HOW IS MY PENSION CREDIT RATE DETERMINED?**

Your pension is calculated based upon your Pension Credits and your Pension Credit Rate. The following tables are used to determine the Pension Credit Rate.

#### **IF YOU LAST WORKED IN COVERED EMPLOYMENT PRIOR TO 2002**

<b>Date You Last Worked in Covered Employment</b>	<b>Applicable Pension Credit Rate (\$ per credit)</b>	<b>Maximum Monthly Regular Pension Benefit</b>
On or after October 1, 1984, but prior to January 1, 1992	\$14	\$350
On or after January 1, 1992, but prior to January 1, 1996	\$17	\$425
On or after January 1, 1996, but prior to January 1, 1998	\$20	\$500
On or after January 1, 1998, but prior to September 1, 2000	\$24	\$600
On or after September 1, 2000, but prior to January 1, 2002	\$26	\$650



If you worked after 2002, and you were employed by an Employer that first executed a Collective Bargaining Agreement on or prior to June 1, 2006, the rates below apply. **These rates only apply if you first became a Covered Employee before August 1, 2009, and your last Contributing Employer is obligated to contribute to the Preferred Schedule described in Section III.L. If your Employer is subject to the Default Schedule, see Section III.L of this SPD.**

<b>OBLIGATED AT PREVAILING RATE</b>		
<b>Last Day in Covered Employment</b>	<b>Applicable Pension Credit Rate (\$ per credit)</b>	<b>Maximum Monthly Regular Pension Benefit</b>
January 1, 2002, through December 31, 2004	\$35	\$875
January 1, 2005, through December 31, 2010	\$37	\$925
January 1, 2011, forward	\$37 per credit. If you earn the maximum of 27 credits, your 27th credit is at \$38.	\$1,000

<b>NOT OBLIGATED AT PREVAILING RATE</b>		
<b>Last Day in Covered Employment</b>	<b>Applicable Pension Credit Rate (\$ per credit)</b>	<b>Maximum Monthly Regular Pension Benefit</b>
January 1, 2002, through December 31, 2004	\$26	\$650
January 1, 2005, through December 31, 2010	\$26	\$650
January 1, 2011, forward	\$26 per credit, with a maximum credit of 27.	\$702

For a Participant who is employed by an Employer that first executed a Collective Bargaining Agreement after June 1, 2006, the rates below apply. **These rates only apply if you were hired as a Covered Employee before August 1, 2009, and your last Contributing Employer is obligated to contribute to the Preferred Schedule described in Section III.L of the SPD. If your Employer is subject to the Default Schedule, see Section III.L of this SPD.** Note that all your Future Service Credit will be taken into account before the Past Service Credit.

<b>OBLIGATED AT PREVAILING RATE</b>		
<b>Last Day in Covered Employment</b>	<b>Applicable Pension Credit Rate (\$ per credit)</b>	<b>Maximum Monthly Regular Pension Benefit</b>
June 1, 2006, through December 31, 2010	Past Service: \$10.70 Future Service: \$37	\$925
On or after January 1, 2011	Past Service: \$10.70 Future Service: \$37 If you earn the maximum of 27 credits, your 27th credit is at \$38.	\$1,000

<b>NOT OBLIGATED AT PREVAILING RATE</b>		
<b>Last Day in Covered Employment</b>	<b>Applicable Pension Credit Rate (\$ per credit)</b>	<b>Maximum Monthly Regular Pension Benefit</b>
June 1, 2006, through December 31, 2010	Past Service: \$10.70 Future Service: \$26	\$650
On or after January 1, 2011	Past Service: \$10.70 Future Service: \$26 per credit, with a maximum credit of 27.	\$702

The Prevailing Rate is the rate payable by an Employer that is obligated to contribute to the Plan at or above the minimum rate and upon the base specified in the Collective Bargaining Agreement (“CBA”) between the Union and the Greater New York Health Care Facilities Association, Inc., (“Association”) for that applicable period of time.

If you first became a Covered Employee on or after August 1, 2009, your Regular Pension amount for credits earned on or after January 1, 2010, will be \$19 per credit, with a maximum of 27 credits, and you will not be entitled to any Past Service Credit.

If you were a Registered Nurse (RN) or a Licensed Practical Nurse (LPN) hired as a Covered Employee on or after August 1, 2009, and your last day in Covered Employment is on or after July 1, 2015, your Regular Pension amount for credits earned on or after January 1, 2010, will be based upon the credit rate indicated below, with a maximum of 27 credits.

<b>First Day in Covered Employment</b>	<b>Applicable Pension Credit Rate (\$ per credit)</b>	<b>Maximum Monthly Regular Pension Benefit</b>
All members hired after August 1, 2009, (including LPNs and RNs who left Covered Employment prior to July 1, 2015)	\$19	\$513
LPNs and RNs hired after August 1, 2009, whose last day of Covered Employment is after July 1, 2015	\$30 per credit, retroactive to date of hire if you earn less than 10 Pension Credits.	\$292.50
	\$37 per credit, retroactive to date of hire if you earn 10 or more Pension Credits. If you earn the maximum of 27 credits, your 27th credit is at \$38.	\$1,000

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## SECTION III. K

### WHAT IS THE REHABILITATION PLAN?

The Pension Protection Act of 2006 (“PPA”) requires the Board of Trustees of a multi-employer pension plan that has been certified by its actuary as being in “critical status” (also known as the “red zone”) to develop a rehabilitation plan that is intended to enable the plan to emerge from critical status by the end of the rehabilitation period. On March 31, 2015, the Plan was certified by its actuary to be in critical status for the Plan Year beginning on January 1, 2015, and ending on December 31, 2015. The Plan was certified to be in critical status because a funding deficiency was projected within four years and the funded percentage was less than 65%.

The Rehabilitation Plan sets forth the actions to be taken by the bargaining parties and the Board of Trustees (the “Trustees”) of the Plan to enable the Plan to cease to be in critical status at the end of the Plan’s Rehabilitation Period. The Rehabilitation Period is the 13-year period beginning on January 1, 2012, and ending on December 31, 2024.

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## SECTION III. L

### HOW WILL THE REHABILITATION PLAN SCHEDULES AFFECT MY PENSION CALCULATION?

The Board of Trustees established two schedules, the “**Preferred Schedule**” and the “**Default Schedule**,” that reflect changes in Employer contributions, adjustable benefits, future benefit accruals and/or other provisions which, based on the actuary’s reasonable assumptions, are designed and intended to enable the Plan to emerge from critical status by the end of the Rehabilitation Period.

The tables in Section III.J are subject to the Preferred Schedule or the Default Schedule, as described in this section.

#### THE PREFERRED SCHEDULE

##### 1) What Is the Preferred Schedule?

The Preferred Schedule is a schedule of contributions under which contributions are made according to the rates set forth for Employers, as such rates may be established by the Trustees from time to time.

2) When Does the Preferred Schedule Become Effective?

The Preferred Schedule will become effective upon the “Effective Date” of a Collective Bargaining Agreement (“CBA”) that adopts a contribution schedule that contains terms consistent with the Preferred Schedule.

3) How Will My Benefits Be Determined Under the Preferred Schedule?

Under the Preferred Schedule, your pension amounts will be determined as shown in the tables in Section III.J.

If your benefit commencement date is on or after April 30, 2009, but you ceased Covered Employment before one of the Schedules becomes effective with respect to your last Contributing Employer, your benefits shall become subject to the Schedule applicable to that last Contributing Employer as of the Preferred Schedule Effective Date or Default Schedule Effective Date, as the case may be.

## **THE DEFAULT SCHEDULE**

1) What Is the Default Schedule?

The Default Schedule is a contribution schedule that is in effect, or goes into effect, due to a CBA or other obligation that requires your Employer to make contributions at less than the applicable rates established by the Trustees in the Preferred Schedule.

2) When Does the Default Schedule Become Effective?

The Default Schedule will become effective upon the later of:

- January 1, 2011; or
- The earlier of:
  - » The Effective Date of a CBA that adopts a contribution schedule that contains terms consistent with this Default Schedule; or
  - » One hundred and eighty (180) days after the expiration date of a CBA providing for contributions under the Plan that was in effect on January 1, 2009, if by such date the bargaining parties have failed to adopt a contribution schedule that contains terms consistent with this Default Schedule or the Preferred Schedule.

### 3) How Will My Benefits Be Determined Under the Default Schedule?

Under the Default Schedule, your pension amounts will be determined as follows:

- The monthly benefit accrual rate that will be applied to all Pension Credits earned if you left Covered Employment before January 1, 2004, is not changed.
- For Pension Credits earned prior to the Effective Date of the Default Schedule if you left Covered Employment after January 1, 2004:

<b>IF THE EMPLOYER IS</b>	<b>APPLICABLE CREDIT RATE</b>
Obligated to contribute to the Pension Fund at the “prevailing rate”	\$35 per Pension Credit
Not obligated to contribute to the Pension Fund at the “prevailing rate”	\$26 per Pension Credit

- For Pension Credits earned after the Effective Date of the Default Schedule (payable as a single life annuity at Normal Retirement Age), the Applicable Credit Rate shall be \$19 per Pension Credit.
- If the Employer for whom you last worked is subject to the Default Schedule, 25 Pension Credits are the maximum number that can be taken into account for a Regular Pension. In calculating your monthly pension payments, the Plan will first count the Pension Credits to which the highest monthly benefit accrual rate applies.

If you are collecting a pension and your last Contributing Employer becomes subject to the Default Schedule after your pension begins, your benefits may be recalculated under the Default Schedule as of that Employer’s “Effective Date.”

Note that if your Employer withdraws from the Plan before either the Default Schedule or the Preferred Schedule goes into effect, your benefits will be recalculated under the Default Schedule as of the later of: (i) January 1, 2011; or (ii) the date that your Employer withdraws from the Plan.

## **REDUCTION AND ELIMINATION OF ADJUSTABLE BENEFITS**

In addition to the reductions in benefit accruals, the following “adjustable benefits” will be eliminated under the Default Schedule if you retire on or after April 30, 2009, and your last Contributing Employer becomes subject to the Default Schedule:

- Early Retirement subsidies;
- Disability Pension;
- 60-month benefit guarantee; and
- \$1,000 lump-sum death benefit.

The reductions of adjustable benefits will take effect on a prospective basis beginning on the Effective Date of the Default Schedule.







## **SECTION IV – WORK AFTER RETIREMENT**

- A. Will I Be Allowed to Work and Still Receive Pension Benefits from the Plan?
- B. How Will My Return to Work Affect My Pension?
- C. Does Receiving My Pension Affect My Social Security?

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## SECTION IV. A

# WILL I BE ALLOWED TO WORK AND STILL RECEIVE PENSION BENEFITS FROM THE PLAN?

If you stop working in Covered Employment before you reach Normal Retirement Age (age 65), your benefits will be suspended for any month or months in which you undertake any Totally Disqualifying Employment.

**“Totally Disqualifying Employment”** generally means employment that is: (i) both (a) in any industry covered by the Plan at the time your pension payments begin or would have begun; and (b) in the geographic area covered by the Plan at the time your pension payments begin or would have begun; and (ii) in any occupation in which you worked while covered by the Plan at the time your pension payments begin or would have begun. However, if you worked in a skilled position, only work done after retirement that involves that skill or craft will cause your benefits to be suspended. Except for these limitations, you will be free to work at anything else, without affecting your pension.

If you retire after reaching Normal Retirement Age, your benefits will be suspended for any month or months in which you work or were paid for 40 hours or more in Totally Disqualifying Employment.

If you are vested and continue to work in Covered Employment (as described in Section I.A of this SPD):

- You are not required to begin receiving your pension by April 1st of the calendar year after the year you reach age 70 1/2; rather, you may elect to receive your pension at any time or any month thereafter.
- You will receive additional credit for each month worked past April 1st of the calendar year after the year you reach age 70 1/2 and an actuarial increase for the same period.

If you are vested and have stopped working in Covered Employment, **EVEN IF YOU ARE WORKING IN TOTALLY DISQUALIFYING EMPLOYMENT**, you will automatically start receiving pension payments by the April 1st of the calendar year after the year you reach age 70 1/2.

If your benefits are suspended for any month or months in which you work in any Totally Disqualifying Employment, you may continue to accrue Pension Credits under the rules described in this SPD.

You are required to report any Totally Disqualifying Employment to the Pension Fund within 15 days.

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## **SECTION IV. B**

### **HOW WILL MY RETURN TO WORK AFFECT MY PENSION?**

If you return to Covered Employment after you retire and do not earn at least one Year of Vesting Service, you may not be entitled to any additional Pension Credits at the time you subsequently retire.

If you return to Covered Employment and earn at least one Year of Vesting Service, you may be entitled to any additional Pension Credits and your pension will be recalculated to account for this additional employment.

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## **SECTION IV. C**

### **DOES RECEIVING MY PENSION AFFECT MY SOCIAL SECURITY?**

No. Your Social Security benefits are not affected by your Plan benefits.





## **SECTION V – BENEFITS TO SURVIVORS**

- A. What Pension Options Are Available When I Retire?
- B. Rules Regarding All Benefit Options
- C. Are There Any Benefits for My Spouse If I Die Before Starting My Pension?
- D. Is There a Lump-sum Death Benefit?

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## SECTION V. A

# WHAT PENSION OPTIONS ARE AVAILABLE WHEN I RETIRE?

This section describes the forms of pension payment the Plan offers and how to select one.

When you apply for your pension, you must choose an option that will determine:

- Your monthly pension payment;
- Whether your Spouse or Beneficiary continues to receive pension payments after you die; and
- The amount of your pension benefit that your Spouse or Beneficiary receives after you die.

It is important that you understand all of your options before choosing one, because once your pension begins, you will not be able to change it except under very limited circumstances. You should make an appointment with a Pension Fund Counselor three to six months before you retire. Your Pension Fund Counselor will:

- Explain each option;
- Help you determine the amount of your pension under each option; and
- Let you know whether or not you need your Spouse's approval.

### YOUR PENSION CHOICES

#### If You Are Not Married: 60-month Guarantee Pension

This means that you will receive monthly pension payments for your lifetime. If you die before 60 months (five years) of payments have been made to you, your Beneficiaries or their estates will receive monthly pension payments until the Pension Fund has made a total of 60 months of payments. **For example**, suppose you die three years and six months (42 months) after starting your pension. Your designated Beneficiary would continue to receive the same monthly pension payments for one year and six months (18 months) ( $42 + 18 = 60$ ).

However, if the Default Schedule described in Appendix B of the Plan is in effect with respect to your last Employer, your benefit will be a straight-life benefit, which means you will receive monthly pension payments until you die with no survivor benefits.

## **If You Are Married: Joint and Survivor Pension**

This means that you will receive monthly pension payments for your lifetime. After your death, your Spouse receives a benefit equal to 50% of your monthly pension amount until he or she dies. After your Spouse dies, no further benefits will be paid. Your monthly pension benefit during your lifetime is reduced by an actuarial amount, based on your age and your Spouse's age when you retire. The younger your Spouse, the lower your monthly pension payment will be during your lifetime.

### **HERE IS AN EXAMPLE OF THE AMOUNTS A MEMBER AND SPOUSE MIGHT RECEIVE UNDER THE 50% JOINT AND SURVIVOR PENSION**

If a member, age 65, is entitled to a Regular Pension of \$925 per month before the reduction for the Joint and Survivor Pension, and if his or her Spouse is also age 65, the reduction is 7%. Therefore, the benefit payable to the member is \$860.50 per month ( $\$925 \times 93\% = \$860.25$ ). Upon the death of the member, the amount to be paid to the surviving Spouse would be \$430.50 per month, which is 50% of the pension that the member had received during his or her lifetime (rounded up to the nearest \$0.50). The surviving Spouse would receive this monthly amount of \$430.50 for the remainder of his or her life.

## **If You Are Married: Qualified Optional Survivor Annuity**

If you are married, another form of payment is a Qualified Optional Survivor Annuity ("QOSA"). This means that you will receive monthly pension payments for your lifetime. After your death, your Spouse receives a benefit equal to 75% of your monthly pension amount until he or she dies. After your Spouse dies, no further benefits will be paid. Your monthly pension benefit during your lifetime is reduced by an actuarial amount, based on your age and your Spouse's age when you retire. The younger your Spouse, the lower your monthly pension payment will be during your lifetime.

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## **SECTION V. B**

### **RULES REGARDING ALL BENEFIT OPTIONS**

- You must submit a completed post-retirement election form provided by the Pension Fund to select a pension option.
- If you are married when you retire, the normal form of payment is the Joint and Survivor Pension, with your Spouse as your Beneficiary. You will be given the opportunity to select the Joint and Survivor Pension or Qualified Optional Survivor Annuity (“QOSA”), or waive the Joint and Survivor Pension or QOSA and receive a 60-month Guarantee Pension. If you choose to waive the Joint and Survivor Pension or QOSA and receive the 60-month Guarantee Pension, you must submit a written, notarized consent of such waiver from your Spouse. A waiver will not be valid unless it is signed by your Spouse, notarized and received by the Pension Fund within 180 days of (but at least 30 days before) your Pension Starting Date. If your Spouse agrees in writing, as witnessed by a Notary Public, you may choose the 60-month Guarantee Pension and you may name anyone as your Beneficiary.
- Once payment of the Joint and Survivor Pension or QOSA begins, the amount will not be changed due to the subsequent death or divorce of your Spouse.

Contact the Pension Fund when you first start thinking about retirement. You may make an appointment to meet with a Pension Fund Counselor, who can help you:

- Understand the pension application process and what information is needed to complete your application;
- Determine the estimated amount of your pension;
- Understand your payment options; and
- Understand what benefits may be provided by the 1199SEIU Greater New York Benefit Fund.



## **ABOUT YOUR SPOUSE**

For Plan purposes, your **“Spouse”** is a person to whom you are legally married (determined in accordance with applicable law) when your pension begins. If you are married as of the date your pension began, you will receive your benefit in the form of a Joint and Survivor Pension or a QOSA unless these options are waived by your Spouse. If, due to death or divorce, you and your Spouse are not married on the first anniversary of the date of your marriage, your pension benefit will be changed to a 60-month Guarantee, as described in Section V.A of this SPD.

Benefits may be paid to your former Spouse if a Qualified Domestic Relations Order (“QDRO”) is timely submitted to the Plan. A QDRO gives your former Spouse a right to receive all or a part of your pension as an “Alternate Payee.”

## **ABOUT SPOUSAL CONSENT**

You must have your Spouse’s written, notarized consent if you elect a form of pension payment other than the Joint and Survivor Pension or the QOSA. If your Spouse cannot be located, contact the Pension Fund to get more information about what steps you must take.

## **ABOUT YOUR BENEFICIARY FOR THE 60-MONTH GUARANTEE**

You may name any person you choose as your Beneficiary (subject to the spousal consent rules if you are married). You may change your Beneficiary designation at any time, whether or not payments have already started (subject, once again, to your Spouse’s notarized consent.) For this option, you may choose more than one Beneficiary. In this case, your primary Beneficiary will be paid the remaining payments up to a total of 60 monthly payments. Should the primary Beneficiary die before a total of 60 monthly payments have been made to both of you, the remaining payments will be paid to your secondary Beneficiary. In the absence of a designation of a secondary Beneficiary, or in the event of the death of the secondary Beneficiary before a total of 60 monthly payments have been made, payment will be made to your estate.

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## **SECTION V. C**

### **ARE THERE ANY BENEFITS FOR MY SPOUSE IF I DIE BEFORE STARTING MY PENSION?**

Your surviving Spouse may be eligible to receive a monthly benefit under the Joint and Survivor Pension if:

- You were vested at the time of your death;
- You were married to your surviving Spouse for at least one year immediately prior to your death; and
- Your Spouse submitted a pension application to the Pension Fund.

Your pension will be calculated as if you had terminated Covered Employment on the day before your death. Your surviving Spouse will be eligible to receive a monthly benefit as of the earliest date following your death when you could have started to receive your pension.

Your surviving Spouse will receive lifetime payments of 50% of the amount that your pension payment would have been under the Joint and Survivor Pension had you retired.

Your Spouse may elect to delay commencement of the Joint and Survivor Pension until a later date but not beyond the December 31st of the year in which you would have attained age 70 1/2, or if later, the December 31st of the year after your death. Monthly benefits to your Spouse end with the month in which your Spouse dies.

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## **SECTION V. D**

### **IS THERE A LUMP-SUM DEATH BENEFIT?**

If you die while receiving pension benefits, a lump-sum payment of \$1,000 will be paid to your designated Beneficiary as a death benefit. This benefit is in addition to any other survivor's benefit that may apply.

However, if the Default Schedule described in Appendix B of the Plan is in effect with respect to your last Employer, you will not be entitled to receive a lump-sum death benefit.



## **SECTION VI – HOME LOANS FROM THE PLAN**

- A. Using Your Pension Benefit to Get a Home Loan
- B. Securing Your Loan
- C. Making Loan Payments

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## SECTION VI

# HOME LOANS FROM THE PLAN

Once you've earned a right to a vested pension, you may be entitled to borrow a limited amount to *purchase or refinance your primary residence*. Whether you are buying a new home or refinancing an existing home, you must be vested in a benefit that has an actuarial present value of at least \$2,000.

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## SECTION VI. A

### USING YOUR PENSION BENEFIT TO GET A HOME LOAN

**If you are buying or refinancing a house, cooperative apartment or condominium as your principal place of residence (primary residence),** you may be able to use a portion of your pension benefit to secure a loan for your home.

**If you are buying your home,** you can borrow between \$1,000 and \$7,500 against your pension to pay the down payment or closing costs if:

- You have been approved for a mortgage by the 1199SEIU Home Mortgage Program;
- This home will be your primary residence;
- Your Employer agrees to make the required payroll deductions and submit them on time to the Pension Fund; and
- The amount of your loan does not exceed 50% of the actuarial value of the pension in which you are vested when you apply for the loan. **For example,** if the actuarial value of your vested benefit is \$2,000, your loan cannot exceed \$1,000. If the actuarial value of your vested benefit is \$10,000, your loan cannot exceed \$5,000. If the actuarial value of your vested benefit is \$20,000, your loan cannot exceed \$7,500. (The maximum amount of a loan is \$7,500.)

**If you are refinancing the mortgage on your home, or if you are selling your current home and purchasing a new one,** you can apply for a new loan and borrow from your pension benefit if:

- You have repaid a previous loan and your repayment record is satisfactory;
- You have been approved for a mortgage by the 1199SEIU Home Mortgage Program;
- This home is your primary residence; and

- You are vested in a pension benefit and your loan does not exceed 50% of the actuarial value.

If you have a current loan from the 1199SEIU Home Mortgage Program which you have not entirely repaid, you will be required to pay the balance due on that loan out of the proceeds of the new loan, so that only one loan is outstanding at any time.

The Plan will charge interest on your loan at the prevailing commercial rate for comparable loans as determined by the Board of Trustees. Because these rates may change, you will be advised of the current interest rate when you apply for a loan.

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## **SECTION VI. B**

### **SECURING YOUR LOAN**

To qualify for a loan, you must agree to secure your loan and any interest on the loan by your pension benefit and your life insurance benefit under the 1199SEIU Greater New York Benefit Fund. If you are married, your Spouse must consent in writing to using your pension benefit as security for the loan.

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## **SECTION VI. C**

### **MAKING LOAN PAYMENTS**

You will be required to sign a payroll deduction form with your Employer so that the monthly loan payments are automatically deducted from your pay. Your Employer must be willing to accept this payroll deduction.

**If the loan is to purchase your home**, it must be repaid in equal monthly installments over a period of time, depending on the amount of the loan:

- 60 months for loans up to \$5,000; or
- 96 months for loans over \$5,000 and up to \$7,500.

**If the loan is to refinance the mortgage on your home**, the repayment period cannot exceed 60 months, even if the loan exceeds \$5,000. If you leave your job for a new job with a different Contributing Employer in Covered Employment, you will have to sign a new payroll deduction form so that your monthly loan payments continue to be automatically deducted from your pay.

If you do not continue to work or take a leave of absence from a Contributing Employer, you must continue to make regular payments to the Pension Plan until your loan is repaid.

**You may pre-pay the loan in whole or in part prior to the final payment date with no penalty.**

**If you don't make a loan payment when it is due**, you will have until the end of the following quarter to make up the late payments before the loan is considered in default. In the event you default, your entire outstanding balance, including interest, will become immediately due and payable, and it will be treated as a benefit payment. As a result, you may have to pay income taxes on the amount of the entire outstanding balance, including interest. The Plan may also institute a collection action in court and deduct any outstanding balance, including interest accrued to the date of retirement from your accrued vested pension benefit before payment. When you retire, your pension will be reduced and you may lose your entire pension.

For more information about this loan program, contact the 1199SEIU Home Mortgage Program by calling the Member Services Department at (646) 473-9200. Outside New York City, please call (800) 575-7771.



## **SECTION VII – OTHER INFORMATION YOU SHOULD KNOW**

- A. Applying for Benefits
- B. Delayed and Retroactive Pension Starting Dates
- C. Appeal of a Denial of Benefits
- D. Assignment of Benefits
- E. How Benefits May be Reduced, Delayed or Lost
- F. Plan Amendment or Termination
- G. Authority of the Plan Administrator
- H. Incapacitation
- I. Compliance with Federal Law
- J. Recovery of Overpayments
- K. Your Disclosures to the Plan
- L. Plan Funding and Administration
- M. Collective Bargaining Agreements/Contributing Employers
- N. Termination Insurance

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## **SECTION VII**

# **OTHER INFORMATION YOU SHOULD KNOW**

This section contains administrative information about the Plan and an explanation of certain rights you have under federal law.

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## **SECTION VII. A**

### **APPLYING FOR BENEFITS**

#### **HOW DO I FILE AN APPLICATION FOR A PENSION?**

You must file an application with the Board of Trustees via a form that will be provided to you by the Pension Fund. An application for retirement must be filed in advance of your intended retirement date; however, you are urged to promptly file as soon as you decide on your intended retirement date. You may also complete the application by accessing the Pension Fund's website at [www.1199SEIUBenefits.org](http://www.1199SEIUBenefits.org). But please be advised that the Joint and Survivor Pension waiver cannot be filed more than 180 days before the Pension Starting Date. Early filing will help avoid delays in the processing of your application and payment of benefits.

#### **WHEN DO PENSION BENEFITS BEGIN?**

If you have met all the requirements of the Plan, your pension will begin on the first day of the month following the later of the receipt of your application by the Pension Fund or the last date that you have worked, or as soon as administratively practicable thereafter.

If you are vested and have stopped working in Covered Employment, **EVEN IF YOU ARE WORKING IN TOTALLY DISQUALIFYING EMPLOYMENT**, you will automatically start receiving pension payments by the April 1st of the calendar year after the year you reach age 70 1/2.

If you are vested and continue to work in Covered Employment (as described in Section I.A of this SPD):

- You are not required to begin receiving your pension by April 1st of the calendar year after the year you reach age 70 1/2; rather, you may elect to receive your pension at any time or any month thereafter.



- You will receive additional credit for each month worked past April 1st of the calendar year after the year you reach age 70 1/2 and an actuarial increase for the same period.

If you begin receiving benefits after your Normal Retirement Age, your monthly benefit will be calculated using the rates that were in effect when you terminated employment, and your monthly benefit will be actuarially adjusted (increased) to account for the payments you did not receive since Normal Retirement Age until the date your pension payments begin (except for any time that your benefits were suspended).

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## **SECTION VII. B**

### **DELAYED AND RETROACTIVE PENSION STARTING DATES**

You have at least 30 days to review any pension distribution materials you receive from the Pension Fund and to select a form of payment.

If the date of your first payment is delayed, you will have two choices:

- You can elect to change your Pension Starting Date to the date the first payment can be made and your pension will be actuarially adjusted (increased) to reflect the delay; or
- You may elect to receive your pension based on the Pension Starting Date you originally selected *plus* a retroactive payment covering any pension payment(s) missed during the delay, plus interest. This is sometimes referred to as a Retroactive Annuity Starting Date. If you are married, your Spouse must consent to this retroactive distribution.

Please note that if you are entitled to a pension, the Fund will send you a notice when you approach age 65 that addresses the suspension of pension payments. If you do not file a pension application at age 65, the Fund will presume that you are working in Totally Disqualifying Employment. You must provide proof that you were not working in Totally Disqualifying Employment after your Normal Retirement Age to receive an actuarial increase.

Here is an example of how a single Participant who is 65 years old on or after January 1, 2015, and whose last Contributing Employer was subject to the Preferred Schedule of the Rehabilitation Plan, may have his or her Regular Pension calculated after January 1, 2015.

**For example:**

Suppose the Participant plans to terminate employment on June 28, 2015, and begin receiving a Regular Pension on July 1, 2015 (at age 65). The Participant files a completed application with the Pension Fund on May 15, 2015. The Participant's benefit is calculated and the Fund sends the Participant the explanation of benefits on August 20, 2015. See Section III.J of this SPD for a description of the rates under the Preferred Schedule of the Rehabilitation Plan.

The Participant's options are:

- Elect to receive a benefit of \$1,030 per month ( $\$1,000 \times 1.03$  [or 1% for three months]), payable for the remainder of the Participant's life, based on a Pension Starting Date of October 1, 2015; or
- Elect to receive a benefit of \$1,000 per month, based on a Pension Starting Date of July 1, 2015, payable for the remainder of the Participant's life, with a retroactive payment of \$3,000 plus interest.

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## **SECTION VII. C**

### **APPEAL OF A DENIAL OF BENEFITS**

#### **NOTICE OF DENIAL**

If your claim for pension benefits has been denied, you will normally be notified within 90 days. The notification will include:

- The specific reasons for the denial;
- The specific plan provisions on which the decision was based;
- A description of any additional information required to process your claim and why it is necessary; and
- The additional steps you should take if you wish to submit your claim for review.

In special circumstances, the 90-day period may be extended to 180 days after receipt of your claim. If this happens, you will be notified in writing within the original 90-day period. This written notice will give the reasons for the delay and an estimated date that you can expect a decision. If the extension of time is required because you failed to submit information necessary to decide your claim, the period for making the determination will be extended from the date on which the extension notice is sent to you until the date on which you satisfy the Pension Fund's request for information.

## **YOUR RIGHT TO APPEAL**

If your claim was denied or you believe your pension amount is not correct, you have the right to appeal to the Appeals Committee of the Board of Trustees:

- You must file a written request with the Plan Administrator no later than 60 days after you received notice of the adverse benefit determination. To request an appeal, write to: 1199SEIU Appeals Committee, 1199SEIU Greater New York Pension Fund, 330 West 42nd Street, 10th Floor, New York, NY 10036.
- The Appeals Committee will make a decision on your appeal at its next regularly scheduled quarterly meeting, or, if the request is received within 30 days before that meeting, at the following regularly scheduled quarterly meeting. In special circumstances, the decision may be made at a third regularly scheduled quarterly meeting following receipt of your request. If this happens, you will be notified of the delay, the reasons for the delay and the estimated date when you can expect a decision. If the extension of time is required because you failed to submit information necessary to decide your claim, the period for making the determination will be extended from the date on which the extension notice is sent to you until the date on which you satisfy the Plan Administrator's request for information.
- The decision of the Appeals Committee will be made in writing and will include an explanation of the decision and the specific references to any Plan provisions on which the decision is based.

The Committee's decision is final, binding and conclusive on all parties, subject to your ERISA right to file a suit only in a federal court in New York City if you feel the decision is arbitrary and capricious. The Trustees, including the Appeals Committee, have full power and final authority and discretion to interpret and apply the Plan, determine all questions of fact (including the credibility of any person's statement or other evidence), determine eligibility for benefits and all questions of coverage, and to make final decisions on all claims.

## **LIMITATIONS PERIOD FOR FILING SUIT**

No lawsuits related to a claim for benefits under the Plan may be brought before, or more than one year after, the date on which you fully exhausted the Plan's administrative appeal process. No other lawsuits may be brought against the Plan, the Plan Administrator or any other Plan fiduciary more than one year following the date the claim arose, to the extent permitted by law.

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## **SECTION VII. D**

### **ASSIGNMENT OF BENEFITS**

Benefits under the Plan are for your benefit only. They cannot be sold, transferred or otherwise given to anyone; nor are benefits subject in any manner to attachment, garnishment or other charge. However, the Plan will comply with the following:

- A Qualified Domestic Relations Order (QDRO) that gives someone else a right to a portion of your pension, as described below;
- Any offset permitted under the Internal Revenue Code, as described below; and
- A retiree's revocable request for deductions related to Union dues or political action contributions to 1199SEIU United Healthcare Workers East ("Union").

#### **QUALIFIED DOMESTIC RELATIONS ORDERS (QDRO)**

A Qualified Domestic Relations Order ("QDRO") is a court order or judgment that directs the Plan to pay benefits to your Spouse, former Spouse, child or other dependent in connection with child support, alimony or marital property rights that has been qualified by the Plan Administrator or their designees as complying with the Plan's QDRO policy and processing procedures. The Plan Trustees are required by law to follow the terms of QDROs. In addition, until the Plan has complied with the terms of the QDRO, the Board of Trustees may restrict the pension benefits that are payable to you. These restrictions could also apply during any period when the Board of Trustees is determining whether a written order satisfies the QDRO requirements in the Internal Revenue Code and the Plan's QDRO policy.

You will be notified if the Plan receives a proposed QDRO with respect to your pension. For more information on QDROs, or to receive a free copy of the procedures the Trustees follow in determining if an order is qualified, contact the Pension Fund at (646) 473-8666 (outside New York City, please call [800] 575-7771) or by writing to: 1199SEIU Greater New York Pension Fund, 330 West 42nd Street, 10th Floor, New York, NY 10036.

#### **OFFSETS UNDER THE INTERNAL REVENUE CODE**

Offsets permitted under the Internal Revenue Code generally involve convictions, judgments, settlements and similar dispositions entered on or after August 5, 1997, of breaches or alleged breaches of fiduciary duties under the Employee Retirement Income Security Act of 1974 ("ERISA").

## **UNION DUES OR POLITICAL ACTION CONTRIBUTIONS**

You may agree to allow part of your pension to pay for Union dues and/or political action contributions to 1199SEIU Healthcare Workers East. Contact the Pension Fund for more information at (646) 473-8666. Outside New York City, please call (800) 575-7771.

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## **SECTION VII. E**

### **HOW BENEFITS MAY BE REDUCED, DELAYED OR LOST**

Under certain situations, benefits may be reduced, delayed or lost. These circumstances are spelled out in the preceding pages, but benefit payments also may be affected if any of the following apply to you:

- You or your Beneficiary do not file a claim for benefits properly or on time;
- You or your Beneficiary do not furnish the information required to complete or verify a claim;
- You or your Beneficiary do not have a current address on file with the Pension Fund;
- The Pension Fund is recouping an overpayment;
- The Pension Fund is collecting an outstanding loan payment;
- Benefits are suspended due to Disqualifying Employment; or
- A Qualified Domestic Relations Order (QDRO) is issued.

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## **SECTION VII. F**

### **PLAN AMENDMENT OR TERMINATION**

The Board of Trustees may, from time to time, make changes in the Plan, some of which may affect your benefits. These changes cannot reduce the credits you have already earned, unless permitted by federal law. However, the changes may reduce the benefits you earn in the future.

The Trustees intend to continue the benefits described in this SPD indefinitely. However, the Trustees reserve the right, in their sole and absolute discretion, to modify, amend or terminate the Plan, in whole or in part, at any time and to change or discontinue the type and amount of benefits offered by the Pension Fund. If the Plan is ended, you will be fully vested in any benefit you have accrued to the extent then funded. Plan assets will be applied to provide benefits in accordance with the applicable provisions of federal law.

Retiree health benefits are available only through the 1199SEIU Greater New York Benefit Fund — not the Pension Plan. The Trustees of the 1199SEIU Greater New York Benefit Fund may terminate or otherwise make changes to that plan of benefits, including benefits available to retirees.

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## **SECTION VII. G**

### **AUTHORITY OF THE PLAN ADMINISTRATOR**

Benefits will be paid only if the Plan Administrator decides in its discretion that the applicant is entitled to them under the terms of the Plan and Summary Plan Description (together, the “Plan”). Notwithstanding any other provision in the Plan, and to the full extent permitted by ERISA and the Internal Revenue Code, the Plan Administrator shall have the exclusive right, power and authority, in its sole and absolute discretion:

- To administer, apply, construe and interpret the Plan and any related Plan documents;
- To decide all matters arising in connection with entitlement to benefits, the nature, type, form, amount and duration of benefits, and the operation or administration of the Plan; and
- To make all factual determinations required to administer, apply, construe and interpret the Plan (and all related Plan documents).

The Plan Administrator shall also have the ultimate discretionary authority to:

- (i) Determine whether any individual is eligible for any benefits under this Plan;
- (ii) Determine the amount of benefits, if any, an individual is entitled to under this Plan;
- (iii) Interpret all of the provisions of, and terms used in, the Plan (and all related Plan documents, including this Summary Plan Description);
- (iv) Formulate, interpret and apply rules, regulations and policies necessary to administer the Plan in accordance with its terms;
- (v) Decide questions, including legal or factual questions, relating to the eligibility for, or calculation and payment of, benefits under the Plan;
- (vi) Resolve and/or clarify any ambiguities, inconsistencies and omissions arising under the Plan or other related Plan documents, including the Summary Plan Description;

- (vii) Process and approve or deny benefit claims and rule on any benefit exclusions; and
- (viii) Delegate its authority and responsibilities to one or more committees of the Board of Trustees, as it may determine from time to time.

All determinations made by the Plan Administrator (or any duly authorized designee thereof) and/or the Appeals Committee with respect to any matter arising under the Plan and any other Plan documents shall be final and binding on all parties.

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## **SECTION VII. H INCAPACITATION**

If anyone is entitled to receive benefits from the Plan, and is judged by the Board of Trustees to be physically or mentally incapable of handling personal affairs, the Trustees may pay the benefit to a legal representative or other person, as the Trustees deem in the best interests of the Beneficiary or as may be ordered by a court of law.

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## **SECTION VII. I COMPLIANCE WITH FEDERAL LAW**

The Plan is governed by current federal laws, including regulations and rulings of the U.S. Department of the Treasury and the U.S. Department of Labor. The Plan will always be construed to comply with these regulations, rulings and laws. Generally, federal law takes precedence over state law.

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## **SECTION VII. J RECOVERY OF OVERPAYMENTS**

If you or your Beneficiary are overpaid or otherwise paid in error, the payment must be returned, because it belongs to the Pension Fund. The Pension Fund will have a lien on that portion of the benefit payments that were overpayments or were paid in error. The Board of Trustees will have the right to recover any benefit payments made that were based on false or fraudulent statements, information or proof submitted, as well as benefit payments made in error. Amounts recovered may include interest and costs.

In the event of an overpayment, the Pension Fund will request repayment of the amount of overpayment. If the repayment is not received, the amount of the overpayment will be deducted from future benefits and/or a lawsuit may be started to enforce the terms of the Plan and recover the overpayment. If any Participant, Spouse or other Beneficiary is ordered by a court or the U.S. Department of Labor to repay any amount to the Plan based on a violation of ERISA's fiduciary rules, the Plan may recover that amount by reducing benefits payable to that person in the future.

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## **SECTION VII. K**

### **YOUR DISCLOSURES TO THE PLAN**

The information you give to the Pension Fund, including statements concerning your age and marital status, affects the calculation of your benefits. **If any of the information you provide is false, you must indemnify and repay the Plan for any losses or damages caused by your false statements. In addition, if the Plan makes payments as a result of false statements, the Pension Fund may elect to pursue the matter by pressing civil or criminal charges.**

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## **SECTION VII. L**

### **PLAN FUNDING AND ADMINISTRATION**

The Plan is what the law calls a “defined benefit” pension plan. Benefits are provided in the amounts specified in the Plan and paid out of the Pension Fund’s assets. These assets are accumulated under the provisions of the Trust Agreement and are held in a Trust Fund for the purpose of providing benefits to Participants and defraying reasonable administrative expenses. The Pension Fund is administered by the Board of Trustees, which has been designated Plan Administrator for purposes of federal law.



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## SECTION VII. M

# COLLECTIVE BARGAINING AGREEMENTS/ CONTRIBUTING EMPLOYERS

The Plan is financed by contributions paid to the Pension Fund by Employers as required under the various Collective Bargaining Agreements (CBAs) negotiated with 1199SEIU United Healthcare Workers East. You are not required or permitted to contribute to the Plan.

Copies of the applicable Collective Bargaining Agreements may be obtained upon written request to the Pension Fund, and are also available for examination during normal business hours at the Pension Fund. In addition, a complete list of bargaining units participating in the Pension Fund may be obtained upon written request to the Pension Fund and is available for examination by covered persons and Beneficiaries during normal business hours at the Pension Fund. The Pension Fund may charge the lesser of the actual cost or 25 cents per page for reproduction of records.

Participants and their Beneficiaries may also receive from the Pension Fund, upon written request, information as to whether a particular Employer or Employee organization is participating in the Pension Fund and, if the Employer or Employee organization is participating, its address.

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## SECTION VII. N

# TERMINATION INSURANCE

Your pension benefits under this multi-employer plan are insured by the Pension Benefit Guaranty Corporation (the “PBGC”), a federal insurance agency. A **multi-employer plan** is a collectively bargained pension arrangement involving two or more unrelated Employers, usually in a common industry.

Under the multi-employer plan program, the PBGC provides financial assistance through loans to plans that are insolvent. A multi-employer plan is considered insolvent if the plan is unable to pay benefits (at least equal to the PBGC’s guaranteed benefit limit) when due.

The maximum benefit that the PBGC guarantees is set by law. Under the multi-employer plan program, the PBGC guarantee benefit as of the Effective Date of this SPD equals a Participant's Years of Vesting Service multiplied by: (1) 100% of the first \$11 of the monthly benefit accrual rate; and (2) 75% of the next \$33. The PBGC's maximum guarantee limit is \$35.75 per month multiplied by a Participant's Years of Vesting Service. **For example**, the maximum annual guarantee for a retiree with 30 Years of Vesting Service would be \$12,870. In no event will the PBGC guarantee a benefit higher than what was promised to you under the terms of this Plan.

The PBGC guarantee generally covers: (1) Normal and Early Retirement benefits; (2) Disability benefits if you become disabled before the Plan becomes insolvent; and (3) certain benefits for your survivors.

The PBGC guarantee generally does not cover:

- Benefits greater than the maximum guaranteed amount set by law;
- Benefit increases and new benefits based on Plan provisions that have been in place for fewer than five years, at the earlier of the date the Plan terminates or the time the Plan becomes insolvent;
- Benefits that are not vested because you have not worked long enough;
- Benefits for which you have not met all of the requirements at the time the Plan becomes insolvent; and
- Non-pension benefits, such as health insurance, life insurance, certain death benefits, vacation pay and severance pay.

For more information about the PBGC and the benefits it guarantees, ask the Pension Fund or contact the PBGC's Technical Assistance Division, 1200 K Street, NW, Suite 930, Washington, DC 20005-4026, or call (202) 326-4000 (this is not a toll-free number). TTY/TDD users may call the federal relay service toll-free at (800) 877-8339 and ask to be connected to (202) 326-4000. Additional information about the PBGC's pension insurance program is available through the PBGC's website at [www.PBGC.gov](http://www.PBGC.gov).



## **SECTION VIII – YOUR ERISA RIGHTS**

- A. Getting Information
- B. Finding Out When You Qualify for a Pension
- C. Fiduciary Responsibility
- D. Enforcing Your Rights
- E. Assistance with Your Questions
- F. Important Notice

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# **SECTION VIII**

## **YOUR ERISA RIGHTS**

As a Participant in this Plan, you are entitled to certain rights and protections under the Employee Retirement Income Security Act of 1974 (“ERISA”).

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### **SECTION VIII. A**

#### **GETTING INFORMATION**

You have the right to get information about or documents from the Pension Fund.

- You may examine, without charge, all governing Pension Fund documents at the Pension Fund’s office, including Collective Bargaining Agreements, and copies of the latest annual report (Form 5500 Series) filed by the Pension Fund with the U.S. Department of Labor and available at the Public Disclosure Room of the Employee Benefits Security Administration.
- You may write to the Pension Fund at 330 West 42nd Street, 10th Floor, New York, NY 10036, for copies of all governing Pension Fund documents and other Pension Fund information. The Pension Fund can charge a reasonable fee for copies.
- You are entitled to receive a summary of the Plan’s annual financial report. The Pension Fund is required by law to furnish each Participant with a copy of this summary annual report. You may receive this report through Union and Pension Fund periodicals.
- You are entitled to receive the Pension Fund’s periodic actuarial reports, certain financial reports and applications for amortization extensions within 30 days of your written request. You may only make one such request per year.
- You are entitled to obtain a statement telling you whether you have a right to receive a pension at Normal Retirement Age (age 65) and if so, what your benefits would be at Normal Retirement Age if you stop working under the Plan now. If you do not have a right to a pension, the statement will tell you how many more years you have to work to get a right to a pension. This statement must be requested in writing and is not required to be given more than once every 12 months. The Plan must provide the statement free of charge.

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## SECTION VIII. B

# FINDING OUT WHEN YOU QUALIFY FOR A PENSION

You can get a statement telling you whether or not you may qualify to receive a pension at Normal Retirement Age (age 65), based on information available to the Pension Fund.

- If you are vested for a pension, the statement will give you an estimate of what your benefits will be at the Normal Retirement Age of 65 if you stop working now.
- If you are not vested for a pension, the statement will tell you how many Years of Service you have.

You must request this statement in writing or by accessing the Pension Fund's website at [www.1199SEIUBenefits.org](http://www.1199SEIUBenefits.org) and clicking on "My Account." The Pension Fund must provide it to you free of charge and is only required to provide you with such a statement once a year.

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## SECTION VIII. C

# FIDUCIARY RESPONSIBILITY

In addition to creating rights for Plan Participants, ERISA imposes duties upon the people who are responsible for the operation of the Plan. The people who operate your Plan, called "**fiduciaries**" of the Plan, have a duty to do so prudently and in the interest of you and other Plan Participants and Beneficiaries. No one may fire you or otherwise discriminate against you in any way to prevent you from obtaining a pension benefit or exercising your rights under ERISA.

If your written claim for a pension benefit is entirely or partially denied, you must receive a written explanation of the reason it was denied. You have the right to have the Appeals Committee review and reconsider your claim, using the Appeals Procedure described in Section VII.C.

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## **SECTION VIII. D**

### **ENFORCING YOUR RIGHTS**

Under ERISA, there are steps you can take to enforce your rights. For instance:

- If you request a copy of Plan documents or the latest annual report from the Plan and do not receive them within 30 days, you may file a suit only in a federal court in New York City.
- In such a case, the court may require the Pension Fund to provide materials and pay you up to \$110 a day until you receive the materials, unless the materials were not sent because of reasons beyond the control of the Pension Fund.
- If you have a claim for benefits which is denied or ignored, in whole or in part, you may file a suit only in a federal court in New York City, but only after you have followed the complete appeals procedure, if you believe that the decision against you is arbitrary and capricious or violates ERISA.
- If you disagree with the Pension Fund's decision or lack thereof concerning the qualified status of a domestic relations order, you may file a suit only in a federal court in New York City.
- If the Pension Fund's fiduciaries misuse the Pension Fund's money, or if you are discriminated against for asserting your rights, you may seek assistance from the U.S. Department of Labor, or you may file a suit only in a federal court in New York City.
- The court will decide who should pay court costs and legal fees. If you are successful, the court may order that you be paid these costs and fees. If you lose, the court may require you to pay these costs and fees (for example, if it finds your claim is frivolous).

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## **SECTION VIII. E**

### **ASSISTANCE WITH YOUR QUESTIONS**

If you have any questions about:

- Receiving a pension payment, contact the Pension Fund at (646) 473-8666. Outside New York City, please call (800) 575-7771.
- Your Pension Fund's procedures or the Plan, contact the Pension Fund at (646) 473-8666. Outside New York City, please call (800) 575-7771.

- Your rights under ERISA, or if you need assistance in obtaining documents from the Pension Fund, contact the nearest area of the U.S. Department of Labor, Employee Benefits Security Administration, listed in your telephone directory, or write to:

**Division of Technical Assistance and Inquiries  
Employee Benefits Security Administration  
U.S. Department of Labor  
200 Constitution Avenue, NW  
Washington DC, 20210**

You may also obtain certain publications about your rights and responsibilities under ERISA by calling the publications hotline of the Employee Benefits Security Administration at (866) 444-3272.

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## **SECTION VIII. F IMPORTANT NOTICE**

The rules and regulations of the Plan are set forth in a document called the 1199SEIU Greater New York Pension Plan, and in related documents. This SPD is not legally binding. Your rights to benefits are determined solely under the terms of the Plan documents (including the Trust Agreement establishing the Plan), as interpreted by the Board of Trustees in its sole and absolute discretion. To the extent that any of the information contained in the SPD is inconsistent with the official Plan documents, the provisions set forth in the official Plan documents will govern in all cases.

We strongly urge you to review the full text of the official Plan Document, the Trust Agreement and all related documents, in order to understand the terms of the Plan as they apply to your particular situation.

Please be aware that neither this SPD nor the Plan is a contract of employment; they neither guarantee employment with an Employer nor diminish in any way the right of an Employer to terminate the employment of any Employee. Furthermore, the Board of Trustees reserves the right, in its sole and absolute discretion, to amend or modify the Plan from time to time, and to terminate the Plan and the Fund (in whole or in part) at any time, in accordance with the procedures set forth in the Plan Document and the Trust Agreement, and subject to the Internal Revenue Code and law.







## **SECTION IX – GENERAL INFORMATION**

- A. General Information
- B. Joint Board of Trustees

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# SECTION IX. A

## GENERAL INFORMATION

<b>Plan Name and Address</b>	The 1199SEIU Greater New York Pension Plan 330 West 42nd Street, 10th Floor New York, NY 10036
<b>Employer Identification Number (EIN)</b>	13-6601940
<b>Plan Number</b>	001
<b>Fund's Fiscal Year</b>	January 1 – December 31
<b>Merger or Consolidation of the Plan or Transfer of Plan Assets</b>	If the Plan merges or consolidates with any other Plan, or transfers its assets to any other Plan, your benefits (or accrued benefits) cannot be less than what you would have been entitled to if the Plan were terminated immediately before the merger, consolidation or transfer.
<b>Agent for Service of Legal Process</b>	The name of the individual designated for service of legal process is Chief Pension Officer of the Pension Fund, at the address above for the Plan or on the Board of Trustees at the same address.
<b>Administration</b>	The Fund is self-administered.

<b>Plan Sponsor and Administrator</b>	<p>The 1199SEIU Greater New York Pension Fund is sponsored and administered by a joint Board of Trustees composed of Union Trustees and Employer Trustees. Employer Trustees are elected by the Employers on a geographical basis. Union Trustees are designated by the Union. The names and addresses of the Trustees appear in Section IX.B, although they may be changed from time to time. The Board of Trustees may be contacted at:</p> <p>Board of Trustees  1199SEIU Greater New York Pension Fund  330 West 42nd Street  New York, NY 10036  Phone: (646) 473-8666  Outside New York City, call (800) 575-7771.</p>
<b>Contributing Employers</b>	<p>The 1199SEIU Greater New York Pension Fund will provide you, upon written request, with information as to whether a particular Employer is contributing to the Plan on behalf of Employees, as well as the address of such Employer. Additionally, a complete list of Employers and Union locals sponsoring the Pension Plan may be obtained upon written request to the Pension Fund and is available for examination at the Pension Fund.</p>
<b>Type of Plan</b>	<p>Defined benefit pension plan</p>
<b>Plan Effective Date</b>	<p>The Plan was originally adopted effective December 12, 1963, and has been amended and restated since then. The most recent amendments are as of January 1, 2015.</p>
<b>How the Plan Is Funded</b>	
<p>Payments are made to the Pension Fund by your Employer and other Contributing Employers. Your Employer's contribution rate is set in your Union contract. It is estimated to adequately meet the cost of benefit payments and administration. Since this is a multi-employer fund, costs for Employees of all Contributing Employers are calculated on a pooled basis.</p>	

# SECTION IX. B

## JOINT BOARD OF TRUSTEES

UNION TRUSTEES	
<p>Yvonne Armstrong Senior Executive Vice President 1199SEIU United Healthcare Workers East 310 West 43rd Street New York, NY 10036</p>	<p>Timothy Rodgers Vice President 1199SEIU United Healthcare Workers East 100 Duffy Avenue Hicksville, NY 11801</p>
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## **SECTION X – APPENDIX**

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# APPENDIX A – DEFAULT SCHEDULE

## EARLY RETIREMENT PENSION

If the Default Schedule described in Appendix A of this SPD is in effect with respect to your last Contributing Employer, your Early Retirement Pension will be determined by multiplying your Regular Pension by the factor set forth in the table below that corresponds to your age at your Pension Starting Date.

Years	0 mos.	1 mo.	2 mos.	3 mos.	4 mos.	5 mos.
55	0.3813	0.3842	0.3871	0.3900	0.3929	0.3959
56	0.4172	0.4204	0.4236	0.4268	0.4301	0.4334
57	0.4570	0.4606	0.4641	0.4677	0.4713	0.4750
58	0.5013	0.5052	0.5092	0.5132	0.5172	0.5213
59	0.5505	0.5549	0.5594	0.5638	0.5683	0.5729
60	0.6055	0.6104	0.6154	0.6204	0.6254	0.6305
61	0.6670	0.6726	0.6781	0.6837	0.6894	0.6950
62	0.7360	0.7422	0.7485	0.7548	0.7611	0.7675
63	0.8136	0.8206	0.8276	0.8347	0.8419	0.8491
64	0.9011	0.9090	0.9169	0.9249	0.9330	0.9412

So, using the example in Section III.D of the SPD, if the Default Schedule is in effect when benefits begin, the Early Retirement Pension would be:

**\$1,000 (the assumed Regular Pension benefit) multiplied by 0.7360 (the applicable factor for a Participant who starts receiving benefits at age 62 and 0 months), which results in an Early Retirement Pension of \$736 per month.**

<b>6 mos.</b>	<b>7 mos.</b>	<b>8 mos.</b>	<b>9 mos.</b>	<b>10 mos.</b>	<b>11 mos.</b>
0.3989	0.4019	0.4049	0.4079	0.4110	0.4141
0.4367	0.4400	0.4434	0.4467	0.4501	0.4536
0.4787	0.4824	0.4861	0.4898	0.4936	0.4974
0.5254	0.5295	0.5336	0.5378	0.5420	0.5463
0.5774	0.5820	0.5867	0.5913	0.5960	0.6008
0.6365	0.6407	0.6459	0.6511	0.6564	0.6617
0.7008	0.7065	0.7123	0.7182	0.7241	0.7300
0.7739	0.7804	0.7870	0.7936	0.8002	0.8069
0.8563	0.8637	0.8710	0.8785	0.8859	0.8935
0.9494	0.9576	0.9660	0.9744	0.9829	0.9914





# PLAN DOCUMENT

## THE 1199SEIU GREATER NEW YORK PENSION FUND

As Amended and Restated  
January 1, 2015

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# PREAMBLE

The Board of Trustees of the Local 144 Nursing Home Fund, now known as the 1199SEIU Greater New York Pension Fund (the “Fund”), acting pursuant to the Agreement and Declaration of Trust, effective as of December 12, 1963 and as amended and restated thereafter, have thus adopted this 1199SEIU Greater New York Nursing Pension Plan (the “Plan”). Effective as of September 1, 1989, this Plan was amended and restated to comply with the Tax Reform Act of 1986 and subsequent legislation. The Plan was again amended and restated, effective as of September 1, 2001 to incorporate modifications required by applicable legislative and regulatory changes, including, but not limited to, the Small Business Job Protection Act of 1996, the Uniformed Services Employment and Reemployment Rights Act, and the Taxpayer Relief Act of 1997.

Effective as of January 1, 2008, the Plan was again amended and restated in its entirety to incorporate prior amendments and to make certain additional changes since the Plan’s last restatement that were either required or permitted under recent legislative and regulatory changes including, but not limited to, the Economic Growth and Tax Relief Reconciliation Act of 2001 and the Pension Protection Act of 2006, effective as of January 1, 2008. The Plan is now amended and restated in its entirety to incorporate prior amendments and to make certain additional changes since the Plan’s last restatement that were either required or permitted under recent legislative and regulatory changes including, but not limited to, the Pension Protection Act of 2006, the Heroes Earnings Assistance and Tax Relief Act of 2008, the Worker, Retiree, and Employer Recovery Act of 2008, the Small Business Jobs Act of 2010, the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief of 2010, the Moving Ahead for Progress in the 21st Century Act, and the American Taxpayer Relief Act of 2012, effective as of January 1, 2015 (except where a different effective date is specifically provided herein) and certain additional changes and clarifications as adopted by Trustees. Except as may be otherwise specifically provided herein, the rights, benefits, and obligations of participants (including pensioners and beneficiaries) who retired, died, or terminated their participation under the Plan prior to January 1, 2015, shall be determined under the terms and conditions of the Plan in effect as of such retirement, death or termination of participation (except as may otherwise be provided herein or as may be required by applicable law).

The Plan is a defined benefit pension plan that is intended to comply with the provisions of the Employee Retirement Income Security Act of 1974, as amended (“ERISA”), and with the Internal Revenue Code of 1986, as amended (the “Code”). The Plan is intended to constitute a qualified plan under the Code, and shall at all times be construed, and all ambiguities shall be resolved, in favor of an interpretation consistent with its tax-qualified status.

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## **ARTICLE 1**

### **DEFINITIONS**

**AS USED HEREIN, THE WORDS AND PHRASES BELOW SHALL HAVE THE FOLLOWING MEANING:**

#### **SECTION 1.01 ACTUARIAL EQUIVALENT**

“Actuarial Equivalent” means a benefit of equivalent value when computed on the basis of the rate of interest and the actuarial tables specified in the Plan.

#### **SECTION 1.02 AGREEMENT OR COLLECTIVE BARGAINING AGREEMENT**

“Agreement” or “Collective Bargaining Agreement” means a written collective bargaining agreement, participation agreement or other written agreement between the Union and any Employer (including the Association), which requires contributions on behalf of its Employees to the Fund; provided, however, that the Trustees shall have the power to reject any such Agreement, or the continued participation of an employer pursuant to such an Agreement, if its acceptance, or continuation of participation pursuant to it, would have a material adverse impact on the actuarial soundness of the Plan.

#### **SECTION 1.03 ANNUITY STARTING DATE**

- (a) Subject to Section (b) below, a Participant’s Annuity Starting Date is the first day of the first calendar month starting after the Participant has fulfilled all of the conditions for entitlement to benefits (including the filing of an application for benefits).
- (b) The Annuity Starting Date will not be later than the Participant’s Required Beginning Date as defined in Section 8.06(f).
- (c) A Participant who retires before his or her Normal Retirement Age and then earns additional benefit accruals under the Plan through reemployment will have a separate Annuity Starting Date determined under Subsection (a), above, with respect to those additional accruals.

## **SECTION 1.04 ASSOCIATION**

“Association” means the Greater New York Health Care Facilities Association, Inc.

## **SECTION 1.05 BENEFICIARY**

“Beneficiary” means the person designated by a Participant or Pensioner pursuant to Section 7.02 to receive any monies due or becoming due that Participant or Pensioner at the date of his death under the Plan. “Beneficiary” also means a surviving spouse who is receiving benefits by operation of law. If no Beneficiary has been designated by a Participant or Pensioner and the Participant or Pensioner has no surviving spouse or the designated Beneficiary predeceases the Participant or the Pensioner, Beneficiary means the Participant’s or the Pensioner’s estate.

## **SECTION 1.06 CALENDAR YEAR**

“Calendar Year” means the period from January 1 to the next December 31. The Calendar Year shall serve as the vesting computation period, the benefit accrual computation period, and, after the initial eligibility computation period (as defined in Section 2.01), the computation period for eligibility to participate in the Plan.

## **SECTION 1.07 CODE**

“Code” means the Internal Revenue Code of 1986, as amended from time to time. All references to any specific provision of the Code shall include such provision, any valid regulation promulgated thereunder, and any comparable provision of future legislation that amends, supplements, or supersedes such provision.

## **SECTION 1.08 CONTRIBUTING EMPLOYER OR EMPLOYER**

“Contributing Employer” or “Employer” means, pursuant to acceptance by the Trustees:

- (a) An employer who is a member of the Association and whose Employees are covered by an Agreement in full force and effect;
- (b) An employer who is not a member of the Association, but whose Employees are covered by an Agreement in full force and effect; or
- (c) Any other employer who agrees in writing to contribute to the Fund on behalf of its Employees on a basis acceptable to the Trustees.

Solely for purposes of identifying Highly Compensated Employees and applying the rules on participation, vesting, and statutory limits on benefits under the Plan, the term “Contributing Employer” or “Employer” also means all members of a controlled group of corporations, trade or business under common control, or affiliated service group within the meaning of Sections 414(b), (c), (m) and (o) of the Code.

## **SECTION 1.09 CONTRIBUTION DATE**

“Contribution Date” with respect to each Participant means the first date as of which an Employer was or shall become obligated to make contributions to the Fund for the Participant, provided, however, that the Contribution Date with respect to a Participant who has incurred a Permanent Break-in-Service means the date as of which his Employer first became obligated to make contributions to the Fund after his Permanent Break-in-Service.

## **SECTION 1.10 COVERED EMPLOYMENT**

“Covered Employment” means employment of an Employee by an Employer after the Contribution Date. For periods prior to the Contribution Date, “Covered Employment” shall include work performed in all nursing homes in the New York City metropolitan area, including but not limited to work covered by an Agreement with the Union. Notwithstanding the foregoing, for persons who become Employees on or after January 1, 2000 but before August 1, 2009 (see Section 3.11), Covered Employment shall not include any service prior to the Contribution Date; except that for Employees of a new Contributing Employer or Employees of a Contributing Employer in a unit or classification of employment not previously covered by a Collective Bargaining Agreement, Covered Employment shall include all periods of employment with that Contributing Employer prior to the Contribution Date. For persons who become Employees on or after August 1, 2009, Covered Employment shall not include any service prior to the Contribution Date.

In the event that an Employee leaves Covered Employment to enter the services of the Armed Forces of the United States, a reserve component of the Armed Forces of the United States, or full-time duty as a member of the National Guard, such period of military service shall be credited as Covered Employment to the Employee in accordance with the Uniformed Services Employment and Reemployment Rights Act of 1994 (“USERRA”) and other applicable law. “Covered Employment” shall also be deemed to include periods for which no contributions are required from a Contributing Employer in accordance with (a) a Collective Bargaining Agreement; (b) a resolution adopted or an action taken by the Trustees; or (c) an arbitration award.

## **SECTION 1.11 EFFECTIVE DATE**

The “Effective Date” of the Plan for purposes of Article IV shall mean September 1, 1976.

## **SECTION 1.12 EMPLOYEE**

“Employee” means any individual for whom a Contributing Employer is obligated to make contributions to the Fund under a Collective Bargaining Agreement or other written agreement. An individual performing Covered Employment under a Collective Bargaining Agreement or other written agreement shall also be deemed an “Employee” during such periods for which no contributions are required from a Contributing Employer in accordance with (a) a Collective Bargaining Agreement or other written agreement; (b) a resolution adopted or an action taken by the Trustees; or (c) an arbitration award.

Effective for Plan Years beginning after December 31, 1996, leased employees are not eligible for participation in the Plan. The term leased employee shall mean any person who is not an Employee of a Contributing Employer and who provides services to a Contributing 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 1.13 ERISA**

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended from time to time. All references to any specific provision of ERISA shall include such provision, any valid regulation promulgated thereunder, and any comparable provision of future legislation that amends, supplements or supersedes such provision.

## **SECTION 1.14 GENDER**

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

## **SECTION 1.15 HIGHLY COMPENSATED EMPLOYEE**

The term “Highly Compensated Employee” shall mean any employee who was a 5% owner at any time during the year or the preceding year; or for the preceding year had compensation from the Contributing Employer in excess of \$120,000 (or such higher adjusted amount prescribed by the Secretary of Treasury) and was in the top-paid group of employees for such preceding year.

## **SECTION 1.16 HOUR OF SERVICE**

“Hour of Service” means:

- (a) Each hour for which an Employee is paid, or entitled to payment for the performance of duties for the Employer (with such hours being credited to the Employees for the computation period in which the duties are performed).
- (b) Each hour for which an Employee is paid, or entitled to payment by the Employer on account of a period of time during which the Employee performs no duties, such as vacations, holidays, illness, incapacity (including disability), layoff, jury duty, military duty, or leave of absence, up to a maximum of five hundred one (501) hours during a single continuous period (whether or not such period occurs in a single computation period); provided, however, that except as provided in Section 4.03 an Employee shall not be credited with any such hours if an Employee performed no duties and is directly or indirectly paid, or entitled to payment, under a plan maintained solely for the purpose of complying with applicable workers’ compensation, unemployment compensation, or disability insurance laws (or any similar laws); provided, further, that an Employee shall not be credited with any such hours if the Employee performs no duties and is directly or indirectly paid, or entitled to payment, payment solely to reimburse such Employee for medical or medically-related expenses incurred by the Employee (or his family member). If an Employer does not maintain hourly records with respect to any Employee, such Employee shall be credited with forty-five (45) Hours of Service, for purposes of determining his Years of Vesting Service under Section 4.04, for each week that the Employee is entitled to be credited with an Hour of Service, in accordance with Department of Labor Regulation Section 2530.200(b)-3(e)(1)(ii).
- (c) Each hour for which back pay, irrespective of mitigation of damages, has been awarded or agreed to by the Employer (with such hours credited to the Employee for the computation period or periods to which such award or agreement pertains, rather than to the computation period or periods in which the award, agreement or payment was made); provided, however, that no more than five hundred one (501) hours will be credited for payments of back pay to the extent that such back pay relates to a period during which no duties are performed under Subsection (b).
- (d) In the event that an Employee (other than a temporary Employee) leaves the Employer’s employment to enter the services of the Armed Forces of the United States, a reserve component of the Armed Forces of the United States, or full-time duty as a member of the National Guard, such period of military service shall be credited to the Employee (at a rate equal to the

rate of hours that the Employee had been working during the six (6) month period immediately preceding the date on which he entered such military service) as follows:

- (1) Each hour of active duty service with the Armed Forces of the United States or a reserve component of the Armed Forces of the United States, subject to the following limitations and conditions:
    - (A) The Employee is discharged or released from such duty under honorable conditions;
    - (B) The Employee's total tour of duty does not exceed four (4) years (plus in each case any additional period in which such Employee was unable to obtain orders relieving himself from active duty);
    - (C) The Employee applies for reemployment with an Employer within ninety (90) days after he is relieved from such service (or from hospitalization incident to such duty continuing after such discharge, for a period not to exceed one year); and
    - (D) The Employee is qualified to be and is reemployed by an Employer upon discharge; or
  - (2) Each hour of active duty service with the National Guard, with respect to an Employee who is a member of the National Guard and during the period of such membership is ordered to full-time duty, subject to the following limitations and conditions:
    - (A) The Employee is released from such duty after satisfactory service;
    - (B) The Employee applies for reemployment with an Employer within thirty-one (31) days after he is released from such duty (or discharged from hospitalization incident to such duty continuing after such discharge, for a period not to exceed one year); and
    - (C) The Employee is qualified to be and is reemployed by an Employer upon discharge; or
  - (3) With respect to an Employee who performs military duty other than that specified in this Subsection (d), hours shall be credited only to the extent required by applicable law.
- (e) Notwithstanding any provision of this plan to the contrary, effective as of December 12, 1994, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Section 414(u) of the Code. In the case of an Employee who dies on or after January 1, 2007 while performing qualified military service (as defined in Section 414(u) of the Code), the



survivors of the Employee 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 Employee resumed and then terminated employment with the Employer on account of death, which benefits shall include receiving Hours of Service for purposes of Years of Vesting Service under the Plan for the period of the deceased Employee's qualified military service.

- (f) For purposes of determining hours for periods during which an Employee performs no services, hours shall be computed and credited in accordance with subparagraphs (b) and (c) of 29 C.F.R. Sections 2530.200b-2(b) and (c).
- (g) The same hours shall not be credited more than once under subparagraphs (a) through (f) above.
- (h) To the extent that any federal law requires the crediting of Hours of Service for periods of absence in addition to those credited hereunder, the terms of such law shall govern any such additional credit.

### **SECTION 1.17 NON-BARGAINED EMPLOYEE**

A "Non-Bargained Employee" means an individual whose participation in the Fund is not covered by a Collective Bargaining Agreement between his Employer and the Union.

### **SECTION 1.18 NON-COVERED EMPLOYMENT**

"Non-Covered Employment" means employment of an Employee who is not in Covered Employment.

### **SECTION 1.19 NORMAL RETIREMENT AGE**

The term "Normal Retirement Age" means the later of (a) age sixty-five (65) or (b) the age of the Participant on the fifth anniversary of his commencement of participation in the Plan. Participation before a Permanent Break-in-Service defined in Section 4.05(b) shall be disregarded in applying this Section.

### **SECTION 1.20 PARTICIPANT**

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

## **SECTION 1.21 PENSION CREDIT**

“Pension Credit” means the credit earned for work in Covered Employment for purposes of benefit accrual, which is accumulated and maintained for Participants in accordance with the provisions of Article 4 of the Plan.

## **SECTION 1.22 PENSION FUND OR FUND**

“Pension Fund” or “Fund” means the 1199SEIU Greater New York Pension Fund established under the Trust Agreement.

## **SECTION 1.23 PENSION PLAN OR PLAN**

“Pension Plan” or “Plan” means the 1199SEIU Greater New York Pension Plan as described herein and as amended from time to time by the Trustees pursuant to the procedures set forth in Article 9 and the Trust Agreement.

## **SECTION 1.24 PENSIONER**

“Pensioner” means a person including a Non-Bargained Employee to whom a pension under this Plan is being paid or to whom such a pension would be paid except for time for administrative processing.

## **SECTION 1.25 PLAN ADMINISTRATOR**

“Plan Administrator” means the Trustees, or any committee(s), entity(ies) or person(s) duly appointed by the Trustees to administer the Plan and Trust. Notwithstanding the foregoing, the Board of Trustees shall be the “administrator” as that term is defined in Section 3(16) of ERISA.

## **SECTION 1.26 PLAN YEAR**

“Plan Year” means prior to January 1, 2004, the period from September 1 to the next August. As of January 1, 2004, “Plan Year” means the period from January 1 to December 31.

## **SECTION 1.27 RESTATEMENT EFFECTIVE DATE**

“Restatement Effective Date” means January 1, 2015.

## **SECTION 1.28 RETIREMENT**

- (a) “Retirement” means cessation of employment or engagement in any of the following:
- (1) Employment with a Contributing Employer; or
  - (2) Employment with any employer in the same or related business as any Contributing Employer; or
  - (3) Self-employment in the same or related business as any Contributing Employer in a geographic area covered by the Plan; or
  - (4) Employment, or self-employment in any business which is or may be under the jurisdiction of the Union.
- (b) **Exceptions.** A Participant who has ceased Covered Employment shall be considered Retired after attainment of his Normal Retirement Age, notwithstanding subsequent employment or re-employment of the type described in Subsections (a)(1) or (a)(2) of this Section, if such employment or re-employment is for less than forty (40) hours in any month.
- (c) A Participant who has attained age 70½ in the previous Calendar Year shall be considered Retired for purposes of receiving a pension benefit from this Fund.

## **SECTION 1.29 SPOUSE**

“Spouse” means, effective June 26, 2013, a person to whom the Participant is legally married, as recognized under applicable law, at the commencement of his benefits or to whom he was legally married, as recognized under applicable law, at the time of his death if his death occurs prior to the commencement of his benefit and, if and to the extent provided in a qualified domestic relations order (as defined in Code Section 414(p)) a Participant’s former Spouse.

## **SECTION 1.30 TRUST AGREEMENT**

“Trust Agreement” means the Amended and Restated Agreement and Declaration of Trust establishing the 1199SEIU Greater New York Pension Fund, effective as of August 17, 1995, and as amended and restated as of December 15, 2009, as from time to time amended by the Trustees pursuant to the provisions set forth in the Trust Agreement.

## **SECTION 1.31 TRUSTEES**

“Trustees” means collectively the Board of Trustees of the Fund designated pursuant to and acting under the Trust Agreement, together with their alternates, successors, and assigns designated in the manner provided therein.

## **SECTION 1.32 UNION**

“Union” means 1199SEIU United Healthcare Workers East or any other name by which it may be known, or any successor union thereto.

## **SECTION 1.33 YEAR OF PARTICIPATION**

“Year of Participation” means a Calendar Year in which a Participant has completed 870 Hours of Service.

## **SECTION 1.34 OTHER TERMS**

Other terms are specifically defined as follows:

<b>TERM</b>	<b>SECTION</b>
(a) Breaks-in-Service	4.05
(b) Disability Pension	3.04
(c) Early Retirement Pension	3.03
(d) Joint and Survivor Pension	6.01
(e) Partial Pension	5.01
(f) Pension Credits	4.01, 4.02 and 4.03
(g) Permanent Break-in-Service	4.05
(h) Regular Pension	3.02
(i) Required Beginning Date	8.06
(j) Suspension of Benefits	8.08
(k) Vested Status	8.10
(l) Years of Vesting Service	4.04

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# **ARTICLE 2 PARTICIPATION**

## **SECTION 2.01 PARTICIPATION**

An Employee who was a Participant in the Plan on the Restatement Effective Date shall continue as a Participant in the Plan, provided he is engaged in Covered Employment on that date. Any other Employee who is engaged in Covered Employment after the Restatement Effective Date shall become a Participant in the Plan on the next January 1 or July 1 following completion of at least 870 Hours of Service during the 12-consecutive month computation period commencing with

the Employee's first date of Covered Employment ("initial eligibility computation period"); provided, however, if an Employee fails to complete 870 Hours of Service during the initial eligibility computation period, then, for purposes of determining the completion of at least 870 Hours of Service in a 12-consecutive month period, the second 12-consecutive month computation period shall be the Calendar Year which includes the first anniversary of his employment commencement date, and provided, further, that succeeding 12-consecutive month computation periods shall be computed on the basis of the Calendar Year.

Notwithstanding the foregoing, effective January 1, 2000, an Employee of a new Contributing Employer, or an Employee of a Contributing Employer in a unit or classification of employment not previously covered by a Collective Bargaining Agreement, shall become a Participant in the Plan on his first day in Covered Employment after the Contribution Date, provided that he had at least 870 hours of Covered Employment with his Employer in the twelve-month period preceding the Contribution Date.

For purposes of initial eligibility only, an Employee of a new Contributing Employer or an Employee of a Contributing Employer in a unit or classification of employment not previously covered by a Collective Bargaining Agreement, shall be deemed to be engaged in Covered Employment and shall become a Participant on the Contribution Date if:

- (a) The Employee became disabled or became eligible for worker's compensation within three years prior to the Contribution Date;
- (b) The Employee was unable to work in Covered Employment on the Contribution date because of his/her disability or injury, to be determined in the sole and absolute discretion of the Trustees; and
- (c) The Employee was employed by the Contributing Employer for at least fifteen (15) years at the time the Employee became disabled or became eligible for worker's compensation, as the case may be.

## **SECTION 2.02 TERMINATION OF PARTICIPATION**

An Employee who incurs a One-Year Break-in-Service shall cease to be a Participant as of the last day of the Calendar Year in which the One-Year Break-in-Service occurred, unless such Participant is a Pensioner or has acquired a non-forfeitable right or pension under the Plan, whether immediate or deferred.

## **SECTION 2.03 REINSTATEMENT OF PARTICIPATION**

An Employee who has ceased to be a Participant as specified in Section 2.02, shall again become a Participant by meeting the requirements of Section 2.01, except that the first date of Covered Employment shall be the first date of reemployment in Covered Employment. If such an Employee again meets the requirements of Section 2.01, his participation in the Plan will be reinstated as of the first date of his reemployment in Covered Employment.

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# **ARTICLE 3**

## **PENSION ELIGIBILITY AND BENEFIT AMOUNTS**

### **SECTION 3.01 GENERAL**

This article outlines the eligibility requirements and benefit amounts for the different pensions provided by this Plan. For purposes of calculating the monthly amount of pensions payable under this Plan, a Participant's Retirement shall be the date that the Participant last worked in Covered Employment, regardless of the Participant's Annuity Starting Date.

### **SECTION 3.02 REGULAR PENSION**

#### **(a) Eligibility Requirements**

A Participant shall be entitled to receive a Regular Pension if at the time of his Annuity Starting Date:

- (i) He has attained age sixty-five (65);
- (ii) (A) He has at least five (5) Years of Vesting Service) or has otherwise attained Vested Status in accordance with Section 8.10, below; or  
(B) He is a Non-Bargained Employee who has earned five (5) Years of Vesting Service as a Non-Bargained Employee which have not been disregarded as a result of a Permanent Break-in-Service, or has otherwise attained Vested Status in accordance with Section 8.10, below; or
- (C) He has attained Normal Retirement Age.

(b) **Amount.** The amount of a Participant's monthly Regular Pension payment shall be the product of:

- (i) The number of the Participant's Pension Credits as of his date of Retirement; and

(ii) The Applicable Pension Credit Rate.

The maximum number of Pension Credits to be taken into shall account under Section 3.02(b)(ii), above, shall not exceed twenty-five (25); provided, however, that if the Participant last day in Covered Employment is on or after January 1, 2011, and the Employer for whom the Participant last worked in Covered Employment is not subject to the Default Schedule described in Appendix B, such maximum number of Pension Credits shall not exceed twenty-seven (27).

- (c) If a Participant terminates employment on or after his Normal Retirement Age, but elects not to begin receiving benefits under the Plan, and his benefit has not been suspended under Section 8.08, his monthly benefit shall be actuarially increased by 1% per month for the first 60 months after Normal Retirement Age and 1.5 % per month for each month thereafter. A Participant who 1) terminates employment prior to Normal Retirement Age, 2) does not commence receiving his Regular Pension until after Normal Retirement Age, and 3) for whom the timing requirements of Section 6.02(c)(4) cannot be satisfied may elect, on forms prescribed by the Trustees, a retroactive annuity starting date, retroactive to the first of any month coincident with or following the latest of 1) the date that the Participant first became eligible for a Regular Pension, 2) the date that the Participant stopped working in Totally Disqualifying Employment, within the meaning of Section 8.08(d), below, or 3) the date the Participant submitted a fully completed initial application for pension benefits on a form provided by the Trustees for such purpose. Any election of a retroactive annuity starting date must satisfy the requirements of Sections 3.03(c)(3)-(5), below.
- (d) **Effective January 1, 2015.** A Participant who has attained age seventy and one-half (70½) may begin receiving a Regular Pension from this Plan commencing April 1 following the Calendar Year in which he attains age 70½, even if the Participant is in Covered Employment. A Participant who continues to work after the April 1st of the year following the year after attaining age 70½ in Covered Employment, shall have his pension amount recalculated at the beginning of each Calendar Year. Such pension amount shall include any benefit accrual earned in the immediately preceding Calendar Year and be adjusted for any Joint and Survivor Pension option or any other optional form of benefit in accordance with which the benefits of the Participant are payable.

### **SECTION 3.03 EARLY RETIREMENT PENSION**

- (a) **Eligibility Requirements.** A Participant shall be entitled to receive an Early Retirement Pension if as of his Annuity Starting Date:
- (1) He has attained age fifty-five (55); and

(2) He has at least fifteen (15) Pension Credits.

(b) **Amount.** The monthly amount of the Early Retirement Pension is:

- (1) The amount of Regular Pension to which the Participant would be entitled if he were then sixty-five (65) years of age;
- (2) Reduced by one-half of one percent ( $\frac{1}{2}\%$ ) for each month by which the Participant is younger than age sixty-five (65) on the Annuity Starting Date of his Early Retirement Pension; and
- (3) Rounded to the nearest multiple of fifty cents (\$.50).
- (4) Notwithstanding the foregoing, if the Default Schedule described in Appendix B below with respect to the Participant's last Contributing Employer is in effect as of the Participant's Annuity Starting Date, Section 3.03(b)(2) above, shall not apply, and the Participant's Early Retirement Pension shall be determined using the adjustment factors set forth in Appendix B.

(c) **Commencement and Retroactive Annuity Starting Dates**

- (1) The Early Retirement Pension of a Participant shall be determined as of his Annuity Starting Date, and, unless the Participant elects a "retroactive annuity starting date" (as defined in Treasury Regulation § 1.417(e)-1), the Participant shall receive a monthly benefit based on his age at his Annuity Starting Date.
- (2) In lieu of payment of benefits based on his age at his subsequent Annuity Starting Date as set forth in subsection (c)(1) above, a Participant for whom the timing requirements of Section 6.02(c)(4) cannot be satisfied may elect, on forms prescribed by the Trustees, a retroactive annuity starting date, retroactive to the first of any month following the latest of (a) the date that the Participant first became eligible for an Early Retirement Pension, (b) the date that the Participant stopped working in Totally Disqualifying Employment, within the meaning of Section 8.08(d), below, or (c) the date the Participant submitted a fully completed initial application for pension benefits on a form provided by the Trustees for such purpose.
- (3) If the Participant elects a retroactive annuity starting date (with spousal consent, if required), the Participant shall receive a make-up lump sum payment reflecting any missed payment or payments for the period from the retroactive annuity starting date to the date of the actual make-up payment (with an adjustment for interest from the date the missed



payment or payments would have been made to the date of the actual make-up payment), and all future periodic payments made thereafter to the Participant shall be the amount as if the Participant had actually commenced benefits on the retroactive annuity starting date.

- (4) Any distribution (including appropriate interest adjustments) provided based on a retroactive annuity starting date shall satisfy the maximum limitations on benefits of Code Section 415 (as set forth in Section 4.6 hereof), on the retroactive annuity starting date and the date the benefits actually commence. If the benefit is paid in a form of benefit not subject to Code Section 417(e)(3), e.g., life annuity, the distribution shall satisfy Code Section 415 on the retroactive annuity starting date only.
- (5) If a distribution paid pursuant to an election of a retroactive annuity starting date is a form of benefit that would have been subject to Code Section 417(e)(3), e.g., lump sum, if distributions had commenced as of the retroactive annuity starting date, then the present value of such benefit determined as of the retroactive annuity starting date shall be no less than the present value determined as of the actual distribution date.

### **SECTION 3.04 DISABILITY PENSION**

(a) **Eligibility Requirements.** A Participant shall be entitled to receive a Disability Pension if:

- (1) He has become Disabled, as defined in Section 3.05; and
- (2) He has earned at least fifteen (15) Pension Credits; and
- (3) He worked in Covered Employment for at least 436 hours in the twenty-four (24) months preceding the onset of a Disability; and
- (4) The Disability commenced while he was an Employee; and
- (5) He files an application for a Disability Pension within eighteen (18) months after the disability commenced or within six (6) months of receiving a determination of disability from the Social Security Administration, whichever is later.

Except as provided in Subsection (c), the Disability Pension of a Participant who has met the foregoing requirements of this Subsection (a) shall be effective beginning with the seventh (7th) month of the Participant's disability.

Notwithstanding the foregoing, a Participant who became Disabled prior to December 1, 1999 shall not be entitled to receive a Disability Pension unless he had attained age fifty (50) and had otherwise satisfied the foregoing requirements.

(6) Notwithstanding the foregoing, a Participant who became Disabled while the Contributing Employer for whom he most recently performed Covered Employment is subject to the Default Schedule described in Appendix B, below, shall not be entitled to receive a Disability Pension.

- (b) **Amount.** The monthly amount of the Disability Pension is calculated in the same manner as the Regular Pension to which the Participant would have been entitled at age sixty-five (65), had he not become Disabled.
- (c) **Commencement/Duration.** The first monthly payment of a Disability Pension shall commence no sooner than the seventh month of Disability, provided the Participant has filed a completed application for such benefits by that date. The Disability Pension payment shall continue from month to month until terminated by appropriate action of the Trustees.

Effective as of April 16, 1998, notwithstanding the foregoing, in the case of all applications for a Disability Pension filed on or after January 1, 1996, if the Participant otherwise qualifies for a Disability Pension but fails to file the application within eighteen (18) months after the Disability commenced or within six (6) months of receiving a determination of disability from the Social Security Administration, the first monthly payment of a Disability Pension shall commence no sooner than the date on which the application for a Disability Pension is filed.

- (d) **Conversion of Pension Payments.** If a Participant who is in receipt of an Early Retirement Pension pursuant to Section 3.03 of the Plan becomes eligible for a Disability Pension in accordance with subsection (a), above, he shall be entitled to convert the Early Retirement Pension to a Disability Pension retroactive to the seventh month of Disability or the date on which the application is filed, whichever is applicable, pursuant to subsection (c), above.

### **SECTION 3.05 DISABILITY DEFINED**

A Participant shall be deemed Disabled upon determination by the Social Security Administration that he or she is entitled to a Social Security Disability Benefit in connection with his or her Old Age Survivors and Disability Insurance Coverage. The Board of Trustees may, at any time or from time to time, require evidence of continued entitlement to such Social Security Disability Benefits.

If a Participant entitled to a Disability Pension loses entitlement to his or her Social Security Disability Benefit prior to attaining age 65, or otherwise recovers from such disability, such fact shall be reported to the Board of Trustees by the Participant immediately after receipt of notice from the Social Security Administration of such loss or other recovery and the Participant shall no

longer be entitled to receive a Disability Pension from the Plan. The Participant, upon his or her subsequent retirement, shall have his or her pension benefits actuarially reduced to take into account the number of months for which he or she received a Disability Pension from the Plan after he or she received the notice of termination from the Social Security Administration or otherwise no longer was Disabled.

### **SECTION 3.06 RE-EMPLOYMENT OF DISABILITY PENSIONER**

If a Participant's Disability Pension is terminated and such Participant returns to Covered Employment, he shall earn additional Pension Credits and Years of Vesting Service in accordance with the terms of the Plan.

### **SECTION 3.07 DEATH BENEFIT**

A Death Benefit of \$1,000 shall be paid to the designated Beneficiary of a Pensioner upon the Pensioner's death. This Death Benefit shall be in addition to any Regular, Early Retirement, Disability Pension or Partial Pension, as the case may be.

Notwithstanding the foregoing, the designated Beneficiary of a Pensioner who died while the last Contributing Employer for whom the Pensioner performed Covered Employment is subject to the Default Schedule described in Appendix B, below, shall not be entitled to receive the Death Benefit of \$1,000 described in this Section 3.07.

### **SECTION 3.08 NON-DUPLICATION OF PENSIONS**

A Participant shall be entitled to receive only one type of pension under the Plan (other than a Death Benefit), except that a Pensioner who is entitled to a Disability Pension and who subsequently recovers may be entitled to a different type of pension, and a Pensioner in receipt of an Early Retirement Pension may, if eligible, convert to a Disability Pension. A Pensioner may also be entitled to a pension as the spouse of a deceased Pensioner.

### **SECTION 3.09 APPLICATION OF BENEFIT INCREASES**

- (a) The Applicable Pension Credit Rate used to determine the Regular, Early Retirement, Disability Pension or Partial Pension to which a Participant is entitled shall be the Applicable Pension Credit Rate in effect on the last day of Covered Employment, provided that if the person or individual thereafter returns to Covered Employment before incurring a Permanent Break-in-Service, the terms of the Plan in effect on the last day of Covered Employment after the return to Covered Employment shall govern the amount of the Participant's pension entitlement.

**SECTION 3.10 APPLICABLE PENSION CREDIT RATE**

The Applicable Pension Credit Rate used to determine the Regular, Early Retirement, Disability Pension or Partial Pension to which a Participant is entitled shall be as follows:

(a)

<b>IF THE PARTICIPANT'S LAST DAY IN COVERED EMPLOYMENT IS:</b>	<b>APPLICABLE PENSION CREDIT RATE</b>	<b>MAXIMUM MONTHLY REGULAR PENSION BENEFIT</b>
on or after October 1, 1984, but prior to January 1, 1992	\$14 per Pension Credit	\$350
on or after January 1, 1992, but prior to January 1, 1996	\$17 per Pension Credit	\$425
on or after January 1, 1996, but prior to January 1, 1998	\$20 per Pension Credit	\$500
on or after January 1, 1998, but prior to September 1, 2000	\$24 per Pension Credit	\$600
on or after September 1, 2000, but prior to January 1, 2002	\$26 per Pension Credit	\$650

- (i) “2007 Prevailing Rate” shall mean the rate payable by an Employer obligated to contribute to the Plan at or above the minimum rate and upon the base specified in the Collective Bargaining Agreement between the Union and the Association expiring April 30, 2011.
- (ii) “Post-2005 Prevailing Rate” shall mean the rate payable by an Employer obligated to 1) contribute to the Plan at the rate and upon the base specified in the Collective Bargaining Agreement between the Union and the Association expiring April 30, 2008, or 2) increase its rate and/or base to such rate and/or base during the term of the Collective Bargaining Agreement between the Union and the Association expiring April 30, 2008.
- (iii) “Post-2002 Prevailing Rate” shall mean the rate payable by an Employer obligated to 1) contribute to the Plan at the rate and upon the base specified in the Collective Bargaining Agreement between the Union and the Association expiring April 30 2005, or 2) increase its rate and/or base to such rate and/or base during the term of the Collective Bargaining Agreement between the Union and the Association expiring April 30, 2005.

(b)

<b>IF THE PARTICIPANT'S LAST DAY IN COVERED EMPLOYMENT IS:</b>	<b>AND PARTICIPANT'S EMPLOYER AS OF HIS LAST DAY IN COVERED EMPLOYMENT IS:</b>	<b>APPLICABLE PENSION CREDIT RATE</b>	<b>MAXIMUM MONTHLY REGULAR PENSION BENEFIT</b>
on or after January 1, 2002, but prior to January 1, 2005	obligated effective April 1, 2002 to contribute to the Pension Fund at the Post-2002 Prevailing Rate	\$35 per Pension Credit	\$875
on or after January 1, 2002, but prior to January 1, 2005	not obligated to contribute to the Pension Fund at the Post-2002 Prevailing Rate	\$26 per Pension Credit	\$650
*on or after January 1, 2005, but prior to January 1, 2011	obligated to contribute to the Pension Fund at the Post-2005 Prevailing Rate	\$37 per Pension Credit	\$925
*on or after January 1, 2005, but prior to January 1, 2011	not obligated to contribute to the Pension Fund at the Post-2005 Prevailing Rate	\$26 per Pension Credit	\$650
*on or after January 1, 2011	obligated to contribute to the Pension Fund at the 2007 Prevailing Rate	\$37 per Pension Credit plus \$1 additional dollar per month for Participants with 27 Pension Credits	\$1,000
*on or after January 1, 2011	not obligated to contribute to the Pension Fund at the 2007 Prevailing Rate	\$26 per Pension Credit	\$702

\* subject to (c), below.

- (c) Notwithstanding the above, for a Participant who is employed by an Employer that first executed a Collective Bargaining Agreement after June 1, 2006, the Past Service rate was reduced to \$10.70 per Pension Credit calculated pursuant to Section 4.01, plus the Applicable Pension Credit Rate as indicated in Section 3.10(b) above per Pension Credit, calculated pursuant to Section 4.02; provided, however, that all such Participant's Pension Credits calculated pursuant to Section 4.02 shall be taken into account before any of the Participant's Pension Credits calculated pursuant to Section 4.01.

\*\* (Subject to the "Preferred Schedule" or the "Default Schedule" under Section 3.11, below.)

- (d) Notwithstanding the foregoing, persons who first become Participants on or after August 1, 2009, shall not be entitled to any Pension Credits under Section 4.01 with respect to services performed prior to their Employers' Contribution Date.

### **SECTION 3.11 REGULAR PENSION UNDER REHABILITATION PLAN SCHEDULES**

Notwithstanding Section 3.02, above, when a contribution schedule goes into effect pursuant to a plan of rehabilitation described in Section 432 of the Code, a Participant's benefits shall be determined as set forth below.

(a) **Preferred Schedule**

- (1) The Preferred Schedule is a schedule of contributions under which contributions are made according to the rates set forth therein for "parity Employers" and "non-parity Employers" as defined in the Preferred Schedule, as such rates may be established by the Trustees from time to time.
- (2) **Effective Date.** The Preferred Schedule will become effective upon the effective date of a Collective Bargaining Agreement that adopts a contribution schedule that contains terms consistent with the Preferred Schedule.

A participant whose benefit commencement date is on or after April 30, 2009, but who has ceased covered employment before one of the Schedules becomes effective with respect to his or her last contributing employer shall become subject to the Schedule applicable to that last contributing employer as of the Preferred Schedule Effective Date or Default Schedule Effective Date, as the case may be.

(3) **Benefit Accruals**

- (i) Under the Preferred Schedule, the Applicable Pension Credit Rate for Participants who commenced Covered Employment prior to August 1, 2009 shall be determined under Section 3.10 above.

- (ii) The Applicable Pension Credit Rate for new Participants who begin Covered Employment on or after August 1, 2009 under the Preferred Schedule are as follows:

<b>APPLICABLE PENSION CREDIT RATE (PAYABLE AS A SINGLE LIFE ANNUITY AT NORMAL RETIREMENT AGE)</b>	<b>MAXIMUM MONTHLY REGULAR PENSION BENEFIT EFFECTIVE JANUARY 1, 2011</b>
\$19 (to be applied to all Pension Credits earned on or after January 1, 2010)	\$513 (maximum of 27 Pension Credits)

(b) **Default Schedule**

Notwithstanding any other provisions of the Plan to the contrary, in the event that a contribution schedule is in effect, or goes into effect, by virtue of a Collective Bargaining Agreement or other obligation that requires an Employer to make contributions at less than the applicable rates established by the Trustees in the Preferred Schedule, the benefits of a Participant subject to such schedule shall be determined under the Default Schedule described in Appendix B.

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# ARTICLE 4

## PENSION CREDIT FOR BENEFIT ACCRUALS, YEARS OF VESTING SERVICE AND BREAK-IN-SERVICE RULES

### SECTION 4.01 PENSION CREDIT FOR PAST SERVICE BEFORE THE CONTRIBUTION DATE

- (a) Subject to Section 1.10 and subsections (b) and (c) below, Pension Credit for years of past service prior to the Contribution Date with respect to each Participant shall be granted in accordance with the following schedule:
- (1) **Covered Employment before January 1, 1964.** One (1) Pension Credit for each Calendar Year in which a Participant earned at least \$1,000 in Covered Employment.
  - (2) **Covered Employment on or after January 1, 1964, and prior to January 1, 1968:**

WEEKS OF WORK IN COVERED EMPLOYMENT DURING CALENDAR YEAR	QUARTERS (¼) OF PENSION CREDIT
12 - 22 weeks	1
23 - 33 weeks	2
34 - 45 weeks	3
Over 45 weeks	4

Pension Credit may be granted for the Calendar Years from January 1, 1964, to the end of the Calendar Year of the Contribution Date.

- (3) **Covered Employment on or after January 1, 1968, and prior to January 1, 1976:**

SALARY IN COVERED EMPLOYMENT DURING CALENDAR YEAR	QUARTERS (¼) OF PENSION CREDIT
\$ 900 - \$1,724	1
\$1,725 - \$2,549	2
\$2,550 - \$3,374	3
\$3,375 or more	4

Pension Credit may be granted for the Calendar Years from January 1, 1968, to the end of the Calendar Year of the Contribution Date.



(4) **Covered Employment on or after January 1, 1976:**

<b>HOURS OF SERVICE IN A CALENDAR YEAR</b>	<b>QUARTERS (¼) OF PENSION CREDIT</b>
Less than 435	0
435 or more, but less than 653	2
653 or more, but less than 870	3
870 or more	4

Pension Credit may be granted for the Calendar Years from January 1, 1976 to the end of the Calendar Year of the Contribution Date.

- (b) Except as provided below in the following sentence, no Participant whose Contribution Date is after January 1, 1964, shall receive any Pension Credit under paragraphs (2) and (3) of Subsection (a) unless such Participant earns at least twelve (12) quarters of Pension Credit for service after the Contribution Date under Section 4.02. Effective January 1, 2000, Pension Credit for service before the Contribution Date shall be granted to Employees as of the Contribution Date, subject to the definition of “Covered Employment” in Section 1.10 and/or the “Preferred Schedule” or “Default Schedule”, as applicable under Section 3.11.
- (c) No Pension Credit shall be granted for periods of Covered Employment prior to the Contribution Date that precedes a period of two Calendar Years in which the Participant did not earn any Pension Credits.
- Exceptions to this rule shall be granted only if the failure to work in Covered Employment was due to Disability as defined in Section 3.08 and did not exceed one year.
- (d) Notwithstanding the above provisions, Employees of Employers listed in Appendix A shall be granted Pension Credit before the Contribution Date in accordance with Appendix A.

**SECTION 4.02 PENSION CREDIT FOR SERVICE AFTER THE CONTRIBUTION DATE**

(a) Pension Credit for years of service after the Contribution Date with respect to each Participant shall be granted in accordance with the following schedule:

(1) **For service on or after January 1, 1964, but before December 31, 1967:**

<b>WEEKS OF WORK IN COVERED EMPLOYMENT DURING CALENDAR YEAR FOR WHICH CONTRIBUTIONS ARE MADE TO PENSION FUND</b>	<b>QUARTERS (1/4) OF PENSION CREDIT</b>
12 - 22 weeks	1
23 - 33 weeks	2
34 - 45 weeks	3
Over 45 weeks	4

(2) **For service on or after January 1, 1968, but before January 1, 1976:**

<b>SALARY IN COVERED EMPLOYMENT DURING CALENDAR YEAR ON THE BASIS FOR WHICH CONTRIBUTIONS ARE MADE TO THE PENSION FUND</b>	<b>QUARTERS (1/4) OF PENSION CREDIT</b>
\$ 900 - \$1,724	1
\$1,725 - \$2,549	2
\$2,550 - \$3,374	3
\$3,375 or more	4

(3) **For service after December 31, 1975:**

<b>HOURS OF SERVICE IN A CALENDAR YEAR</b>	<b>QUARTERS (1/4) OF PENSION CREDIT</b>
Less than 435	0
435 or more but less than 653	2
653 or more but less than 870	3
870 or more	4

If in a Calendar Year, a Participant has less than 870 Hours of Service in Covered Employment but is credited with a Year of Vesting Service pursuant to Section 4.04(b), he shall be credited with Pension Credit in the ratio of the number of his Hours of Service in Covered Employment to 870.

- (b) Notwithstanding any provision of the Plan to the contrary, Participants shall not accrue, and the Plan shall not grant, any Pension Credits for the period January 1, 2008 through and including December 31, 2009. Participants shall, however, continue to be credited with Years of Vesting Service in accordance with Section 4.04 of the Plan.

### **SECTION 4.03 FOR PERIODS OF NON-EMPLOYMENT**

A Participant may receive Pension Credit for periods of absence from work in Covered Employment in the same manner as for periods of work in Covered Employment if such absences are due to the following:

- (a) Military leave for which Pension Credit is required by USERRA. Pension Credits earned by a Participant while performing qualified military service, as such term is defined in Section 414(u) of the Code, shall be funded by the general assets of the Trust Fund; or
- (b) Disability for which weekly benefits were paid under applicable state law to a maximum of one-half (1/2) of a Pension Credit; or
- (c) Disability compensable under worker's compensation law to a maximum of one (1) Pension Credit.

### **SECTION 4.04 YEARS OF VESTING SERVICE**

#### **(a) General Rule**

- (1) A Participant shall be credited with one (1) Year of Vesting Service for each Calendar Year after the Effective Date of the Plan in which he worked in Covered Employment for 870 Hours of Service or more, subject to subsections (b) and (c) below.
- (2) A Participant shall be credited with one (1) Year of Vesting Service for service in Covered Employment prior to the Effective Date of the Plan in which a full Pension Credit was credited to the Participant, subject to the following subsections.

- (b) **Continuous Service.** If a Participant works for a Contributing Employer in non-Covered Employment and such employment is continuous with his employment with that same Employer in Covered Employment, his Hours

of Service in such non-Covered Employment after January 1, 1976, shall be credited toward his Years of Vesting Service (but not toward his Pension Credit except in accordance with Sections 1.10, 4.01, 4.02 and 4.03). Two periods of employment shall be “Continuous” within the meaning of this Section 4.04(b) if there is no termination of employment between the periods of employment with such an Employer.

- (c) **Exceptions to General Rule.** A Participant shall not be entitled to credit for the following periods in computing his Years of Vesting Service:
- (1) Years before January 1, 1971, unless the Participant is credited with at least three (3) Years of Vesting Service after December 31, 1970.
  - (2) Periods of service prior to January 1, 1976, if the Participant failed to work in 1975, for at least 436 Hours of Service unless such Participant subsequently earns one (1) Year of Vesting Service in any Calendar Year after 1975, and before he incurs a Permanent Break-in-Service as defined in Section 4.05(b).
  - (3) Periods of service prior to January 1, 1976, immediately preceding a Permanent Break-in-Service as defined in Section 4.05(b).
  - (4) Periods of service after December 31, 1975, immediately preceding a Permanent Break-in-Service as defined in Section 4.05(b).

#### **SECTION 4.05 BREAKS-IN-SERVICE AFTER THE CONTRIBUTION DATE**

- (a) If a Participant has a Permanent Break-in-Service before he has:
- (1) Been credited with at least fifteen (15) Pension Credits and attained age fifty (50) while in Covered Employment; or
  - (2) Been credited with ten (10) Years of Vesting Service (effective September 1, 1998, five (5) Years of Vesting Service) while in Covered Employment on or after January, 1976, and
- his participation in the Plan, and his previously credited Years of Vesting Service and Pension Credits are permanently canceled.

Notwithstanding any provision to the contrary in this Section 4.05, a Non-Bargained Employee shall not be subject to cancellation of Pension Credits if such Non-Bargained Employee has been credited with at least five (5) Years of Vesting Service.

**(b) Permanent Break-in-Service**

- (1) Before January 1, 1976, a Participant incurs a Permanent Break-in-Service if, before January 1, 1976, he failed to earn at least one-quarter (1/4) of Pension Credit in any one of two consecutive Calendar Years, provided, however, that a Participant may be allowed a grace period of up to one (1) year if his absence from Covered Employment is due to Disability as defined in Section 3.05.
- (2) **On or after January 1, 1976, but before January 1, 1985.** A Participant has a Permanent Break-in-Service if his number of consecutive One-Year Breaks-in-Service, including at least one One-Year-Break-in-Service after December 31, 1975, equals or exceeds the number of Years of Vesting Service with which he had been credited.
- (3) **After December 31, 1984.** A Participant who is credited with five (5) or fewer Years of Vesting Service incurs a Permanent Break-in-Service if he has five consecutive One-Year Breaks-in-Service including at least one One-Year Break-in-Service after December 31, 1984. A Participant who is credited with at least six (6) but less than ten (10) Years of Vesting Service incurs a Permanent Break-in-Service if the number of consecutive One-Year Break-in-Service that equals or exceeds the number of Years of Vesting Service with which he has been credited. Notwithstanding the foregoing, a Non-Bargained Employee who is credited with five (5) or more Years of Vesting Service shall not incur a Permanent Break-in-Service.
- (4) On and after September 1, 1998, any Employee who is credited with five (5) or more Years of Vesting Service shall not incur a Permanent Break-in Service.

**(c) One-Year Break-in-Service**

- (1) A Participant incurs a One-Year Break-in-Service in any Calendar Year in which he fails to work 436 Hours of Service in Covered Employment.
- (2) A period of service with a Contributing Employer in non-Covered Employment after December 31, 1975, that meets the requirements under Section 4.04(b) shall be credited as if it were Covered Employment in determining whether a One-Year Break-in-Service has occurred.
- (3) A One-Year Break-in-Service is eliminated if, before incurring a Permanent Break-in-Service, the Employee is credited with a Year of Vesting Service.

(d) **Family and Medical Leave**

Solely for the purpose of determining whether a One-Year Break has occurred, if a Participant is absent from Covered Employment by reason of (1) her pregnancy, (2) birth of a child of such Participant, (3) placement of a child with such Participant in connection with adoption of such child, (4) the care for such child for a period beginning immediately following such birth or placement, or (5) any other reason recognized under the Family and Medical Leave Act of 1993, any Hours of Service that otherwise would normally have been credited to such Participant (but for such absence) shall be treated as Hours of Service hereunder up to a maximum of 437 Hours of Service for each such pregnancy, birth, placement or other recognized reason. The Hours of Service so credited shall be applied to the Calendar Year in which such absence begins if doing so will prevent the Participant from incurring a One-Year Break-in-Service that year; otherwise such Hours of Service shall be applied to the immediately following Calendar Year. The Trustees may require, as a condition of granting such credit, that the Participant furnish information to the satisfaction of the Trustees that the absence is for one of the reasons specified above and the number of Hours of Service for which such absence occurred.

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## **ARTICLE 5**

### **PARTIAL PENSIONS**

#### **SECTION 5.01 PURPOSE**

Partial Pensions are provided under this Plan for Participants who would otherwise lack sufficient Pension Credits to be eligible for any Pension because their years of employment were divided between employers contributing to one or more of the following pension funds: 1199SEIU Health Care Employees Pension Fund; Greater New York Nursing Home Division of 1199 Pension Fund; Local 144 Hospital Pension Fund; and Local 144 Associated Hotels Pension Fund, or if eligible, whose pensions would be less than the full amount because of such division of employment.

#### **SECTION 5.02 DEFINITIONS**

- (a) **Related Plans.** Related Plans means other pension plans that have executed a Reciprocal Agreement to which this Plan is a party and have been recognized by the Trustees as Related Plans.

- (b) **Related Pension Credits.** Pension Credits earned and credited to a Participant under a Related Plan shall be recognized under this Plan as Related Pension Credits. The Trustees shall compute Related Pension Credits on the basis on which the credit has been earned and credited under the Related Plan and certified as such by the Related Plan to this Plan.
- (c) **Combined Pension Credit.** The total of an Employee's Pension Credit under this Plan and Related Pension Credit together comprise the Participant's Combined Pension Credit. Notwithstanding the foregoing, a Participant shall not be credited with more than one year of Combined Pension Credit for any one Calendar Year. Further, the number of a Participant's Combined Pension Credits under this Plan shall not exceed the maximum number of Pension Credits that would have been available to the Participant had he earned Pension Credits only under this Plan.

### **SECTION 5.03 ELIGIBILITY**

A Participant shall be eligible for a Partial Pension under this Plan if he satisfies all of the following requirements:

- (a) He would be eligible to receive any pension under Article 3 of this Plan if his Combined Pension Credits were treated as Pension Credits under this Plan; and
- (b) He is eligible for a Partial Pension under a Related Plan; and
- (c) He is not eligible to receive a pension under Article 4 of this Plan or under a Related Plan, or is not eligible to receive the full amount of a pension under Article 4 of this Plan or under a Related Plan, unless Article 5 under this Plan or its analog under the Related Plan are given full effect.

### **SECTION 5.04 BREAKS-IN-SERVICE**

Any period of service in which a Participant has earned Related Pension Credit shall be treated as if it were Covered Employment for purposes of determining whether a One-Year Break-in-Service or a Permanent Break-in-Service has occurred.

### **SECTION 5.05 ELECTION OF PENSIONS**

If a Participant meets the requirements for more than one type of pension under this Plan, he shall be entitled to elect the type of pension he is to receive, and a Pensioner in receipt of an Early Retirement Pension may, if eligible, convert to a Disability Pension in accordance with Section 3.04(d) of the Plan.

## **SECTION 5.06 PARTIAL PENSION AMOUNT**

The amount of the Partial Pension shall be:

- (a) The amount of the pension to which the Participant would be entitled under Article 4 of this Plan if his Combined Pension Credits were treated as Pension Credits;
- (b) Multiplied by a fraction the numerator of which is the Participant's Pension Credits under this Plan and the denominator of which is the Participant's Combined Pension Credits.

## **SECTION 5.07 PAYMENT OF PARTIAL PENSION**

The payment of a Partial Pension shall be subject to all of the conditions contained in this Plan applicable to other types of pensions including, but not limited to, Retirement and timely application for pension benefits. A Partial Pension under this Article 5 shall be paid monthly to a Pensioner or his Beneficiary.

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# **ARTICLE 6**

## **JOINT AND SURVIVOR PENSION**

### **SECTION 6.01 GENERAL**

The Joint and Survivor Pension provides a lifetime pension for a married Participant plus, starting after the death of the Participant, a lifetime pension for his surviving spouse. When a Joint and Survivor Pension is in effect, the monthly amount of the Participant's pension is reduced in accordance with the provisions of Section 6.03. The monthly amount paid to the surviving spouse is one-half the monthly amount (reduced in accordance with Section 6.03(e)(1)) paid to the Participant prior to the Participant's death. When a Participant is not eligible for a Joint and Survivor Pension, a single life annuity is payable to the Participant and, upon his death, the Sixty-Month Guaranty Certain is payable in accordance with Article 7. The Joint and Survivor Pension shall be the Actuarial Equivalent of the 60-Month Guaranty Certain; provided however, that if the Sixty-Month Guaranty-Certain Feature is not available because the Default Schedule described in Appendix B is in effect for the Contributing Employer for whom the Participant last performed Covered Employment, the Joint and Survivor Pension shall be the Actuarial Equivalent of a single life annuity.



## **SECTION 6.02 UPON RETIREMENT**

- (a) All Pensions to a married Participant shall be paid in the form of a Joint and Survivor Pension, unless the Participant has filed with the Trustees in writing a timely waiver of that form of Pension, subject to all of the conditions of this Section. In the case of an unmarried Participant, or in the case of a Participant who, with the consent of his Spouse, has waived the Joint-and-Survivor Pension, a pension shall be paid in the form of a single life annuity with a 60-Month Guaranty Certain; provided however, that the 60-Month Guaranty-Certain Feature is not available if the Default Schedule described in Appendix B is in effect for the Contributing Employer for whom the Participant last performed Covered Employment. No waiver shall be effective unless the spouse of the Participant has consented in writing to such waiver, and to the form of benefits and Beneficiary including any class of Beneficiaries, selected by the Participant, or the spouse acknowledges that he or she has the right to limit consent to a specific Beneficiary if the spouse expressly permits the Participant to choose Beneficiary(ies) without consent, and the consent acknowledges the effect of the waiver, and such waiver is witnessed by a Notary Public. If notice has been given in accordance with Section 6.02(c)(4), a Participant and his spouse may waive the Qualified Joint and Survivor Pension at any time within the period starting 180 days, and ending 30 days, before the Annuity Starting Date. A revocation of a prior waiver may be made by a Participant without the consent of his spouse at any time, and any number of times before the Annuity Starting Date. A spouse may not revoke consent once given.
- (b) Effective as of September 1, 2008, a married Participant who is otherwise eligible under the terms of the Plan to apply for the Joint and Survivor Pension, may instead elect a 75% Qualified Optional Survivor Annuity (“75% QOSA”). The 75% QOSA provides a lifetime pension for a married Participant plus, starting after the death of the Participant, a lifetime pension for the surviving spouse. When a 75% QOSA is in effect, the monthly amount of the Participant’s pension is reduced in accordance with the provisions of 6.03(e)(1). The monthly amount paid to the surviving spouse is seventy-five (75%) of the monthly amount (reduced in accordance with Section 6.03(e)(1)) paid to the Participant prior to the Participant’s death. The 75% QOSA shall be the Actuarial Equivalent of the Joint and Survivor Pension.
- (c) (1) Notwithstanding any other provision of the Plan, spousal consent in accordance with Section 6.02(a) is not required if the Participant establishes to the satisfaction of the Trustees:
- (i) That there is no spouse,

- (ii) That the spouse cannot be located,
  - (iii) That the Participant and spouse are legally separated,
  - (iv) That the Participant has been abandoned by the spouse as confirmed by court order, or
  - (v) That the consent cannot be obtained for any other reason permitted under the Code.
- (2) If the spouse is legally incompetent, consent under Section 6.02 may be given by his or her legal guardian, including the Participant if authorized to act as the spouse's legal guardian.
- (3) Any consent by a spouse (or establishment that the consent of a spouse cannot be obtained, under the foregoing sentence) shall be effective only with respect to such spouse and shall be irrevocable by the spouse unless the Participant revokes the waiver to which it relates. A revocation of a prior waiver may be made by a Participant without the consent of his spouse at any time, and any number of times, before the Annuity Starting Date. A spouse may not revoke a consent once given.
- (4) The Trustees shall furnish to each Participant under the Plan, whether known to be married or unmarried, by first class mail, postage prepaid, or personal delivery, at least 30 days and no more than 180 days before the date as of which the first pension payment is to commence (and consistent with such regulations as the Secretary of the Treasury may prescribe) a written explanation of (a) the terms and conditions of the Joint and Survivor Pension, (b) the Participant's right to make, and the effect of, an election to waive the Joint and Survivor Pension, including the relative value of any available optional forms of benefit, (c) the rights of the Participant's spouse referred to above, (d) the right to make, and the effect of, a revocation of any election not to take a Joint and Survivor Pension, and (e) the Participant's rights (if any) to defer commencement of payment, and the consequences of not deferring commencement of payment.

### **SECTION 6.03 DEATH BEFORE RETIREMENT**

- (a) If a Participant dies after achieving Vested Status in accordance with Section 8.10, and, in addition, that Participant upon his death was either (1) at least age 65, or (2) at least age 55 with 15 or more Pension Credits, the surviving spouse shall be paid a survivor's pension as if the Participant had retired on a Joint and Survivor Pension on the day before death. A

surviving spouse may defer receipt of the survivor's pension until the later of December 31st of the Calendar Year in which the Participant would have reached age 70½ or December 31st of the Calendar Year following the year of the Participant's death.

- (b) If, however, a Participant dies after achieving Vested Status, and in addition, that Participant upon his death was less than age 55 or had less than 15 Pension Credits at age 55, the surviving spouse shall be entitled to a Joint and Survivor Pension commencing with the month following the month in which the Participant would have been first eligible for a pension had he lived, and the amount of such pension shall be determined as if (1) the Participant had left Covered Employment on the earlier of the date he last worked in Covered Employment or the date of death, (2) Retired on a Joint and Survivor Pension upon reaching the earliest possible date of Retirement and (3) died on the last day of the month in which that earliest possible Retirement date was reached.
- (c) Notwithstanding Subsections (a) and (b) above, if the Annuity Starting Date for the Joint and Survivor benefit is after the Participant's earliest Retirement date, the amount of the benefit payable to the surviving spouse shall be determined as if the Participant had (1) Retired on the day before the spouse's Annuity Starting Date with a Joint and Survivor Pension and (2) died on the date of the spouse's Annuity Starting Date.

If a surviving spouse dies before the Annuity Starting Date of the Joint and Survivor benefit, that benefit will be forfeited and there will be no payments to any other party.

- (d) Notwithstanding anything to the contrary, payment of the Joint and Survivor Pension must start by no later than December 31st of the Calendar Year in which the Participant would have reached 70½ or, if later, December 31st of the Calendar Year following the year of the Participant's death. If the Trustees confirm the identity and whereabouts of a surviving spouse who has not applied for benefits by that time, payments to that surviving spouse in the form of a single life annuity will begin automatically as of that date.

(e) **Adjustments of Pensions**

(1) **Joint and Survivor Pension Adjustment – Non-Disability**

If payment of a Non-Disability Pension is to be made in the form of a Joint and Survivor Pension, the monthly pension amount otherwise payable to the Participant as a single life annuity shall be adjusted by multiplying such single life annuity monthly amount by the following

percentage: 93 percent minus 0.4 percentage points for each full year that the surviving spouse's age is less than the Participant's age or plus 0.4 percentage points for each full year that the surviving spouse's age is greater than the Participant's age; provided, however, that the resulting percentage shall not be greater than 99 percent. If payment of a Non-Disability Pension is made in the form of a 75% QOSA, the monthly pension amount otherwise payable to the Participant as a single life annuity shall be adjusted by multiplying such single life annuity monthly amount by the following percentage:

<b>SPOUSE AGE DIFFERENCE</b>	<b>FACTOR 50%</b>	<b>FACTOR 75%</b>	<b>SPOUSE AGE DIFFERENCE</b>	<b>FACTOR 50%</b>	<b>FACTOR 75%</b>
-15	0.8700	0.8175	0	0.9300	0.9000
-14	0.8740	0.8230	1	0.9340	0.9055
-13	0.8780	0.8285	2	0.9380	0.9110
-12	0.8820	0.8340	3	0.9420	0.9165
-11	0.8860	0.8395	4	0.9460	0.9220
-10	0.8900	0.8450	5	0.9500	0.9275
-9	0.8940	0.8505	6	0.9540	0.9330
-8	0.8980	0.8560	7	0.9580	0.9385
-7	0.9020	0.8615	8	0.9620	0.9440
-6	0.9060	0.8670	9	0.9660	0.9495
-5	0.9100	0.8725	10	0.9700	0.9550
-4	0.9140	0.8780	11	0.9740	0.9605
-3	0.9180	0.8835	12	0.9780	0.9660
-2	0.9220	0.8890	13	0.9820	0.9715
-1	0.9260	0.8945	14	0.9860	0.9770
			15	0.9900	0.9825

**(2) Joint and Survivor Pension Adjustment – Disability**

If payment of a Disability Pension is to be made in the form of a Joint and Survivor Pension, the monthly Disability Pension amount otherwise payable to a Participant shall be adjusted by multiplying such amount by the following percentage: 78.5 percent minus 0.4 percentage points for each full year that the surviving spouse’s age is less than the Participant’s age or plus 0.4 percentage points for each full year that the surviving spouse’s age is greater than the Participant’s age; provided, however, that the resulting percentage shall not be greater than 99 percent. If payment of a Disability Pension is to be made in the form of a 75% QOSA, the monthly Disability Pension amount otherwise payable to a Participant shall be adjusted by multiplying such amount by the following percentage:

<b>SPOUSE AGE DIFFERENCE</b>	<b>FACTOR 50%</b>	<b>FACTOR 75%</b>	<b>SPOUSE AGE DIFFERENCE</b>	<b>FACTOR 50%</b>	<b>FACTOR 75%</b>
-15	0.7250	0.6350	0	0.7850	0.7100
-14	0.7290	0.6400	1	0.7890	0.7150
-13	0.7330	0.6450	2	0.7930	0.7200
-12	0.7370	0.6500	3	0.7970	0.7250
-11	0.7410	0.6550	4	0.8010	0.7300
-10	0.7450	0.6600	5	0.8050	0.7350
-9	0.7490	0.6650	6	0.8090	0.7400
-8	0.7530	0.6700	7	0.8130	0.7450
-7	0.7570	0.6750	8	0.8170	0.7500
-6	0.7610	0.6800	9	0.8210	0.7550
-5	0.7650	0.6850	10	0.8250	0.7600
-4	0.7690	0.6900	11	0.8290	0.7650
-3	0.7730	0.6950	12	0.8330	0.7700
-2	0.7770	0.7000	13	0.8370	0.7750
-1	0.7810	0.7050	14	0.8410	0.7800
			15	0.8450	0.7850

## **SECTION 6.04 ADDITIONAL CONDITIONS**

- (a) A Joint and Survivor Pension shall be payable to the surviving spouse of a Participant only if the spouse was married to the Participant throughout the 12-month period ending on the earlier of the Participant's death or the Annuity Starting Date, subject to the rights of another Beneficiary pursuant to a qualified domestic relations order within the meaning of Sections 206(d) of ERISA and 414(p) of the Code. Notwithstanding the foregoing, if a Participant marries within one year before the Annuity Starting Date and has been married for at least one year ending on or before the Participant's death, the Participant and his spouse shall be treated as having been married for the one-year period ending on the Annuity Starting Date. No former spouse shall be entitled to the Joint and Survivor Pension unless required by a domestic relations order that is duly determined to be a qualified domestic relations order within the meaning of Sections 206(d) of ERISA and 414(p) of the Code.
- (b) Unless the Trustees have knowledge or information to the contrary, the Trustees shall be entitled to rely on the written and notarized representation last filed by the Participant before the Annuity Starting Date as to whether he or she is married. The determinations of the Trustees shall be final and binding on all parties, and shall discharge the Plan Administrator, the Fund and the Trustees from liability to the extent of the payments made. The Fund shall not be liable under this Article for the payment of duplicate benefits on behalf of, or with respect to, the same Participant, or for the payment of benefits to a surviving spouse in excess of the benefits described in this Section (determined as of the Annuity Starting Date or, if earlier, the date of the Participant's death).
- (c) An election or revocation of a Joint and Survivor Pension must be:
  - (1) Made (or revoked) prior to the Annuity Starting Date of the Pension;
  - (2) Made on forms furnished by the Plan Administrator; and
  - (3) Filed with the Plan Administrator.
- (d) A Joint and Survivor Pension, may not be revoked if payments have begun or are due to begin but for an administrative delay. Nor may the Pensioner's benefits be increased by reason of the subsequent divorce of the spouse and Pensioner or the death of the spouse.

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# **ARTICLE 7**

## **ALTERNATIVE SURVIVORS BENEFIT**

### **SECTION 7.01 POST-RETIREMENT SIXTY-MONTH GUARANTEE CERTAIN**

If a Pensioner and his spouse have waived the Joint and Survivor Pension pursuant to Section 6.02 and elected the Sixty-Month Guarantee Certain, or the Joint and Survivor Pension is not payable for any reason, the following shall apply:

If a Pensioner who is receiving (or would be receiving, but for administrative delay) a Regular, Early Retirement, Disability, or Partial Pension dies before he has received 60 monthly Pension payments, his monthly Pension shall be paid to his Beneficiary until 60 such payments have been made, counting both the payments to the Pensioner and his Beneficiary.

Notwithstanding the foregoing, the Beneficiary designated by a Pensioner who dies while the last Contributing Employer for whom the Pensioner performed Covered Employment is subject to the Default Schedule described in Appendix B, below, shall not be entitled to any monthly Pension payments after the death of the Pensioner.

### **SECTION 7.02 DESIGNATION OF BENEFICIARY**

A Pensioner shall designate a Beneficiary or Beneficiaries to receive any payments due and payable but not actually paid prior to the death of the Pensioner, or any benefits provided in accordance with Section 7.01 on a form acceptable to and received by the Plan Administrator prior to such death. A Pensioner shall have the right to change his designation of Beneficiary with the notarized written consent of his spouse in accordance with Section 6.02, but no change shall be effective or binding unless it is received by the Plan Administrator prior to the time of payment. Unless the Pensioner designates otherwise (with the notarized written consent of his spouse), his spouse shall be his Beneficiary. With respect to unmarried Pensioners or married Pensioners who have properly waived the Joint and Survivor Pension, in the absence of a designation of a Beneficiary, the Pensioner's Beneficiary shall be his estate.

### **SECTION 7.03 WAIVER OF BENEFITS**

Notwithstanding any provision of this Plan to the contrary, a Beneficiary may waive his/her right to receive benefits under the Plan upon the death of an Participant; provided, however, that such waiver must be given in a writing

witnessed by a notary public and in a form provided by the Plan. Any such waiver must be filed with the Plan at least 30 days prior to the earlier of: (a) the date such Beneficiary is scheduled to commence receiving benefit payments, or (b) the death or incapacity of such Beneficiary. Once such a waiver has been received by the Plan, it may not be revoked.

In the event a Beneficiary has filed a waiver with the Plan as set forth above, then the benefit which such Beneficiary would have been entitled to receive shall be payable to the contingent Beneficiary designated by the Participant in writing and filed with the Plan prior to the Participant's death or, if none, in accordance with the applicable provisions of Section 7.02, above, governing the disposition of benefits upon the death of a Participant who does not leave a surviving Beneficiary.

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## **ARTICLE 8**

# **APPLICATIONS, BENEFIT PAYMENTS, RETIREMENT AND BENEFIT SUSPENSIONS**

### **SECTION 8.01 APPLICATIONS**

A Pension must be applied for in writing on a form provided by the Plan Administrator and filed with the Plan Administrator in advance of the Annuity Starting Date.

### **SECTION 8.02 INFORMATION AND PROOF**

Every Participant or Pensioner shall furnish, at the request of the Plan Administrator, any information or proof reasonably required to determine his benefit rights. If the claimant makes a willfully false statement material to his application or furnishes fraudulent information or proof material to his claim, benefits not vested under this Plan may be denied, suspended, or discontinued. The Plan Administrator shall have the right to recover, through legal proceedings, any benefits paid in reliance on any false statement, information, or proof submitted by a claimant (including withholding of material facts), or any payments inadvertently made by mistake of fact or law, plus interest and costs.

### **SECTION 8.03 PLAN ADMINISTRATION**

The Trustees (or a duly authorized committee of Trustees), and/or any Plan fiduciary duly authorized by the Trustees, shall have the exclusive right, power, and authority, in their 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). In the event of a scrivener's error that renders a Plan term inconsistent with the Trustees' intent, the Trustees' intent controls, and any inconsistent Plan term is made expressly subject to this requirement. The Trustees have authority to review objective evidence to conform the Plan term to be consistent with the Trustees' intent. Without limiting the generality of the foregoing, the Trustees (or a duly authorized committee of Trustees), and/or any Plan fiduciary duly authorized by the Trustees, shall have the sole and absolute discretionary authority to:

- (a) Take all actions and make all decisions with respect to the eligibility for, and the amount of, benefits payable under the Plan;
- (b) Formulate, interpret and apply rules, regulations and policies necessary to administer the Plan in accordance with its terms;
- (c) Decide questions, including legal or factual questions, relating to the calculation and payment of benefits under the Plan;
- (d) Resolve and/or clarify any ambiguities, inconsistencies and omissions arising under the Plan, Trust Agreement or other Plan documents; and
- (e) Process, and approve or deny, benefit claims and rule on any benefit exclusions.

All determinations made by the Trustees (or a duly authorized committee of Trustees), and/or any Plan fiduciary duly authorized by the Trustees with respect to any matter arising under the Plan, Trust Agreement and any other Plan documents shall be final and binding on all affected Plan Participants (and their Beneficiaries). Any determination made by the Trustees shall be given deference in the event it is subject to judicial review and shall be overturned only if it is arbitrary and capricious. The Trustees may delegate any of their duties or powers as they deem necessary to carry out the administration of the Plan.

#### **SECTION 8.04 RIGHT OF APPEAL AND LIMITATIONS PERIOD**

Effective January 1, 2002:

- (a) A decision regarding a claim for benefits under the Plan will be made by the Plan Administrator within 90 days from the date the claim is received, unless it is determined that special circumstances require an extension of time for processing the claim, not to exceed an additional 90 days. If such an extension is required, written notice of the extension will be furnished to the claimant prior to expiration of the initial 90-day period. The notice of extension will indicate the special circumstances requiring the extension

of time and the date by which the Plan Administrator expects to make a determination with respect to the claim. If the extension is required 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 claimant until the date on which the claimant responds to the Plan Administrator's request for information.

- (b) A claimant whose application for benefits under the Plan has been denied, in whole or in part, will be provided with written notice of the determination, setting forth: (i) the specific reason(s) for the adverse benefit determination, with references to the specific Plan provisions on which the determination is based; (ii) a description of any additional material or information necessary for the claimant to perfect the claim (including an explanation as to why such material or information is necessary); and (iii) a description of the Plan's review procedures and the applicable time limits, as well as a statement of the claimant's right to bring a civil action under ERISA following an adverse benefit determination on review.
- (c) If an adverse benefit determination is made by the Plan Administrator, the claimant (or his/her authorized representative) may request a review of the determination by the Trustees (or a committee designated by the Trustees). All requests for review must be sent in writing to the Plan Administrator within sixty (60) days after receipt of the notice of denial or other adverse benefit determination. In connection with the request for review, the claimant (or his duly authorized representative) may submit written comments, documents, records and other information relating to the claim. In addition, the claimant will be provided, upon written request and free of charge, with reasonable access to (and copies of) all documents, records and other information relevant to the claim. The review by the Trustees will take into account all comments, documents, records, and other information submitted by the claimant relating to the claim.
- (d) A decision on review will be made by the Trustees (or a committee designated by the Trustees) at its next regularly scheduled meeting (which will be held at least quarterly) following receipt of the request for review, unless the request is filed less than thirty (30) days prior to the next regularly scheduled meeting, in which case a decision will be made by no later than the date of the second regularly scheduled meeting following receipt of such request for review. If special circumstances require an extension of time for processing the request for review, the decision may be made at the third meeting following receipt of such request. The claimant will be notified

in advance of any such extension. The notice will describe the special circumstances requiring the extension, and will inform the claimant of the date as of which the determination will be made. If the extension is required 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 claimant until the date on which the claimant responds to the Plan Administrator's request for information.

- (e) The claimant will be notified in writing of the determination on review within 5 days after the determination is made. If an adverse benefit determination is made on review, the notice will include: (i) the specific reason(s) for the adverse benefit determination, with references to the specific Plan provisions on which the determination is based; (ii) a statement that claimant is entitled to receive, upon request and free of charge, reasonable access to (and copies of) all documents, records and other information relevant to the claim; and (iii) a statement of the claimant's right to bring a civil action under Section 502(a) of ERISA. The decision of the Trustees (or its designated committee) on review shall be final and binding on all parties.
- (f) The decision of the Trustees concerning an appeal shall be final and binding on all affected parties. No legal or equitable action for benefits under the Plan, to enforce the claimant's rights under the Plan, or to clarify the claimant's right to future benefits under the Plan may be brought unless and until the claimant has followed the claims and appeal procedures that are described in this Section 8.04 and the benefits requested by the claimant have been denied in whole or in part, or there is any other adverse benefit determination.

In addition, no legal or equitable action for benefits under the Plan, to enforce the claimant's rights under the Plan, to clarify the claimant's right to future benefits under the Plan, or against the Plan Administrator or any other Plan fiduciary may be brought more than one year following the earlier of: (i) the date that such one-year limitations period would commence under applicable law, (ii) the date upon which the claimant knew or should have known that the claimant did not receive an amount due under the Plan, or (iii) the date on which the claimant fully exhausted the Plan's administrative remedies.

## **SECTION 8.05 BENEFIT PAYMENTS GENERALLY**

- (a) A Participant who is eligible to receive a pension under this Plan and who makes application in accordance with Section 8.01 shall be entitled upon Retirement to receive the applicable monthly pension amount provided for the remainder of his life, subject to the other provisions of this Article and of any other applicable provisions of this Plan.

- (b) A Participant's pension shall be payable starting on the Annuity Starting Date. A Participant may, however, elect in writing, filed with the Trustees, to receive benefits starting at a later month, but not beyond the Participant's Required Beginning Date as defined in Section 8.06(f).

The Pension shall last be payable for the month in which the death of the Pensioner occurs except as provided in accordance with a Joint and Survivor Pension or any other provision of this Plan for payments after the death of the Pensioner.

- (c) Payment of benefits may begin sooner but shall begin no later than the later of:
- (1) 60 days after the end of the Calendar Year in which the Participant attained Normal Retirement Age; or
  - (2) 60 days after the end of the Calendar Year in which the Participant terminates his Covered Employment and Retires.

A Participant may, however, elect (in writing filed with the Plan Administrator) to receive benefits first payable for a later month, provided that no such election may postpone the commencement of benefits to a date later than April 1 of the Calendar Year following the Calendar Year in which he attains 70½. Failure to file an application for benefits shall constitute an election to defer benefits but such election cannot defer payment beyond the Required Beginning Date.

- (d) (1) If the Annuity Starting Date is after the Participant's Normal Retirement Age, the monthly benefit will be the accrued benefit at Normal Retirement Age, actuarially increased for each complete calendar month between Normal Retirement Age and the Annuity Starting Date for which benefits were not suspended under Section 8.08, and then converted as of the Annuity Starting Date to the Joint and Survivor Pension (or, if waived, to the single annuity form), unless the pension is payable in some other form as provided for under the Plan.
- (2) If a Participant first becomes entitled to additional benefits after Normal Retirement Age, whether through additional service or because of a benefit increase, there will be a similar actuarial adjustment for such benefits in the event that the Annuity Starting Date is delayed beyond the date they would first have been payable.
- (3) The actuarial increase will be 1% per month for the first 60 months after Normal Retirement Age and 1.5 % per month for each month thereafter.

- (e) Any additional benefits earned by a Participant in Covered Employment after Normal Retirement Age will be determined at the end of each Calendar Year and will be payable as of February 1 following the end of the Calendar Year in which it accrued, provided payment of benefits is not suspended pursuant to Section 8.08 or postponed due to the Participant's election under Section 8.05(b).
- (f) Additional benefits described in Subsection (e) that are not suspended or postponed will be paid in the payment form in effect for the Participant as of the Annuity Starting Date most recently preceding the date the additional benefits became payable.

## **SECTION 8.06 MANDATORY COMMENCEMENT OF BENEFITS**

- (a)
  - (1) 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.
  - (2) The requirements of this Section 8.06 will take precedence over any inconsistent provisions of the Plan.
  - (3) All distributions required under this Section 8.06 will be determined and made in accordance with the Treasury Regulations under Section 401(a)(9) of the Code.
  - (4) Notwithstanding the other provisions of this Section 8.06, other than subsection (a)(3), 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 surviving Spouse is the Participant's sole designated Beneficiary, then distributions to the surviving Spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70½, if later.

- (B) If the Participant's surviving Spouse is not the Participant's sole designated Beneficiary, then distributions to the designated Beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, unless the Beneficiary elects to have the Participant's entire interest distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.
  - (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 surviving Spouse is the Participant's sole designated Beneficiary and the surviving Spouse dies after the Participant but before distributions to the surviving Spouse begin, this subsection (b), other than subsection (b)(2)(A), will apply as if the surviving Spouse were the Participant.
  - (E) For purposes of this subsection (b)(2) and subsection (e), distributions are considered to begin on the Participant's Required Beginning Date (or, if subsection (b)(2)(D) applies, the date distributions are required to begin to the surviving Spouse under subsection (b)(2)(D)). If annuity payments irrevocably commence to the Participant before the Participant's Required Beginning Date (or to the Participant's surviving Spouse before the date distributions are required to begin to the surviving Spouse under subsection (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 subsections (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 Section 414(k) of the Code will be distributed in a manner satisfying the requirements of Section 401(a)(9) of the Code and the Treasury Regulations that apply to individual accounts.

**(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 subsections (d) or (e) hereof;
  - (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;
    - (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 subsection (d) hereof 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 provide cash refunds of employee contributions upon the Participant'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 subsection (b)(2)(A) or (B)) 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)-6T 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 Annuity Starting Date. If the Annuity Starting Date precedes the year in which the Participant reaches age 70, the applicable distribution period for the Participant is the distribution period for age 70 under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury Regulations plus the excess of 70 over the age of the Participant as of the Participant's birthday in the year that contains the Annuity Starting Date. If the Participant's Spouse is the Participant's sole designated Beneficiary and the form of distribution is a period certain and no life annuity, the period certain may not exceed the longer of the Participant's applicable distribution period, as determined under this subsection (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 Annuity Starting Date.



(e) **Requirements for Minimum Distributions Where Participant Dies Before Date Distributions Begin**

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

(f) **Definitions**

- (1) **Beneficiary.** The individual who is designated as the beneficiary under Article I of the Plan and is the designated beneficiary under Code Section 401(a)(9) and Treasury Regulation Section 1.401(a)(9)-4, Q&A-1.
- (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 subsection (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.
- (4) **Required Beginning Date.** Effective January 1, 2015, the April 1 following the later of:
  - (i) The Calendar Year in which the employee attains age 70½; or
  - (ii) The Calendar Year in which the employee retires.

The preceding subsection (ii) above, shall not apply if the employee is a 5% owner as defined in the regulations under Section 401 (a) (9) of the Code).

(A) The form of benefit payments specified here will be irrevocable once payments begin, with the sole exception that the form may be changed to a single life annuity if the Participant proves to the satisfaction of the Plan Administrator that he did not have a Spouse (including an alternate payee under a qualified domestic relations order, as defined in Sections 206(d) of ERISA and 414(p) of the Code) on the Required Beginning Date; also, the amounts of future benefits will be adjusted based on the actual age difference between the Participant and spouse, if proven to the satisfaction of the Plan Administrator to be different from the foregoing assumptions.

(B) Federal, state and local income tax, and any other applicable taxes will be withheld from the benefit payments as required by law.

- (g) For purposes of this Section, and in accordance with applicable Treasury regulations, any death benefit to a Participant's child shall be treated as if it had been paid to such Participant's surviving spouse if such amount will become payable to such surviving spouse upon such child's reaching the age of majority (or upon the occurrence of such other event as may be designated by applicable Treasury regulations).

## **SECTION 8.07 DIRECT ROLLOVER**

- (a) 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. Notwithstanding anything herein to the contrary, any distribution which is made upon hardship of a Participant shall not be eligible for a rollover into another retirement plan.

## (b) Definitions

- (1) For purposes of this Section, “eligible rollover distribution” means any distribution of all or any portion of the balance to the credit of the distributee, excluding: (a) 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; (b) any distribution to the extent such distribution is required under section 401(a)(9) of the Code; and (c) prior to January 1, 2002, any portion of a distribution that is not included in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities). In the case of a non-Spouse Beneficiary, an eligible rollover distribution is a direct trustee-to-trustee transfer of any portion of a distribution from an eligible retirement plan to an individual retirement plan described in Section 408(a) of the Code or an individual retirement account (IRA) that is established on behalf of a designated beneficiary who is a non-Spouse Beneficiary.
- (2) Eligible retirement plan means an individual retirement account described in section 408(a) of the Code, an individual retirement annuity described in section 408(b) of the Code, an annuity plan described in section 403(a) of the Code, or a qualified trust described in section 403(a) of the Code, a qualified trust described in section 401(a) of the Code, an annuity contract described in Section 403(b) of the Code and a plan described in section 457(b) of the Code (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, which agrees to separately account for amounts transferred into such plan from this Plan) that accepts the distributee’s eligible rollover distribution. Effective with respect to distributions made after December 31, 2007, an “eligible retirement plan” shall also mean a Roth IRA described in Code Section 408A. This definition of eligible retirement plan shall also apply, in the case of an eligible rollover distribution to a surviving Spouse or to a Spouse or former Spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Code. In the case of an eligible rollover distribution to a non-Spouse Beneficiary, an eligible retirement plan is an individual retirement account described in Section 408(a) of the Code or an individual retirement annuity described in Section 408(b) of the Code that was established for the purpose of receiving the distribution on behalf of such non-Spouse distributee. In order for such eligible retirement plan to

accept a Non-spouse Rollover on behalf of a non-Spouse distributee, (1) a direct trustee-to-trustee transfer must be made to such eligible retirement plan, which shall be treated as an eligible rollover distribution for purposes of the Code, (2) the individual retirement plan shall be treated as an inherited individual retirement account or individual retirement annuity (within the meaning of Section 408(d)(3)(C) of the Code) for purposes of the Code, and (3) Section 401(a)(9)(B) of the Code (other than clause (iv) thereof) shall apply to such plan.

- (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 section 414(p) of the Code, are distributees with regard to the interest of the Spouse or former Spouse. A Participant's designated Beneficiary who is not the Participant's Spouse or former Spouse is a distributee with regard to his or her interest.
- (4) **Direct Rollover.** A direct rollover is payment by the plan to the eligible retirement plan specified by the distributee.

## **SECTION 8.08 SUSPENSION OF BENEFITS**

- (a) **Before Normal Retirement Age.** The monthly benefit shall be suspended for any month (before the Participant has attained Normal Retirement Age) during any part of which the Participant is employed in any Totally Disqualifying Employment. "Totally Disqualifying Employment" is as defined in Subsection 8.08(d).
- (b) **After Normal Retirement Age.** If the Participant has attained Normal Retirement Age, his monthly benefit shall be suspended for any month during any part of which he worked or was paid for at least forty (40) hours in Totally Disqualifying Employment. Paid non-work time shall be counted toward the forty (40) hours if paid for vacation, holiday, illness or other incapacity, layoff, jury duty, or other leave of absence. However, time compensated under a workers' compensation or temporary disability benefits law shall not be so counted. A Participant shall be considered as paid for a day if he is paid for at least one hour of work or non-work time, as described herein, performed on or attributed to that day. In all respects, paid non-work time shall be credited in accordance with Department of Labor Regulation 2530.200b-2.

(c) **No Suspension After Required Beginning Date.** No benefits shall be suspended under this Article on or after the April 1 of the year following the Calendar Year the Participant attains age 70½. If the Participant continues working in Covered Employment after the April 1 of the year following the Calendar Year the Participant attains age 70½, the Participant shall receive both the actuarial increase for the period following that April 1 and the additional accrued benefit under the Plan.

(d) **Definitions**

- (1) “Suspension of Benefits” for a month means non-entitlement to benefits for the month. If benefits were paid for a month for which benefits were later determined to be suspended, the overpayment shall be recoverable through deductions from future pension payments, pursuant to Subsection (g).
- (2) “Totally Disqualifying Employment” means employment that is (a) both in an industry and in a geographic area covered by the Plan when the Participant’s pension payments began, and (b) in any occupation in which the Participant worked at any time or any occupation covered by the Plan at the time the Participant’s pension payments began. However, if a Participant worked in Covered Employment only in a skilled trade or craft, employment or self-employment shall be Totally Disqualifying only if it is in work that involves the skill or skills of that trade or craft directly or indirectly (including without limitation supervisory work). In any event, work for which contributions are required to be made to the Plan shall be deemed Totally Disqualifying Employment. The term “industry covered by the Plan,” means the health care industry and any other industry in which Employees covered by the Plan were employed when the Participant’s pension began or, but for suspension under Section 8.08, would have begun. The geographic area covered by the Plan is the Metropolitan New York City area including Long Island, Northern New Jersey and Connecticut and any other area covered by the Plan when the Participant’s pension began or, but for suspension under this Article, would have begun. If a Pensioner returns to Covered Employment to an extent sufficient to cause a suspension of benefits under Section 8.08, and his pension payments are subsequently resumed under Section 8.09, the industry and area covered by the Plan “when the Participant’s pension began” shall be the industry and area covered by the Plan when his pension was resumed.

(e) **Notices**

- (1) Upon commencement of pension payments or upon attainment of Normal Retirement Age, the Trustees shall notify the Pensioner or the Participant of the Plan rules governing suspension of benefits, including identity of the industries and area covered by the Plan. If benefits have been suspended and payment resumed, new notification shall, upon resumption, be given to the Participant, if there has been any material change in the suspension rules or the identity of the industries or area covered by the Plan.
- (2) A Pensioner shall notify the Plan Administrator in writing within fifteen (15) days after starting any work of a type that is or may be Totally Disqualifying Employment regardless of the number of hours of such work. If a Pensioner has worked in Totally Disqualifying Employment in any month and has failed to give timely notice to the Plan of such employment, the Trustees shall presume that he worked for at least forty (40) hours in such month and any subsequent months until the Participant gives notice that he has ceased Totally Disqualifying Employment. The Participant shall have the right to overcome such presumption by establishing to the satisfaction of the Trustees that his work was not Totally Disqualifying Employment.

The Trustees shall inform all Pensioners at least once every twelve (12) months of the re-employment notification requirements and the presumptions set forth in this Section 8.08.

- (3) A Pensioner whose pension has been suspended shall notify the Plan when Totally Disqualifying Employment has ended. The Trustees shall have the right to hold back benefit payments until such notice is filed with the Plan Administrator.
- (4) A Participant may ask the Plan Administrator whether a particular employment will be Totally Disqualifying Employment. The Plan shall provide the Participant with its determination.
- (5) The Trustees shall inform a Participant (including a Participant who has never retired but who has attained Normal Retirement Age) of any suspension of his benefits by notice given by personal delivery or first class mail during the first calendar month in which his benefits are withheld. Such notice shall include a description of the specific reasons for the suspension, a copy of the relevant provisions of the Plan, reference to the applicable regulations of the U.S. Department

of Labor, and a statement of the procedure for securing a review of the suspension. In addition, the notice shall describe the procedure for the Participant to notify the Plan when his “Totally Disqualifying Employment” ends. If the Plan intends to recover prior overpayments by offset, the suspension notice shall explain the offset procedure and identify the amount expected to be recovered, and the periods of employment to which they relate.

- (f) **Review.** A Participant shall be entitled to a review of a determination suspending his benefits by written request filed with the Trustees within 180 days of the notice of suspension.

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

- (g) Notwithstanding any provisions to the contrary, the Trustees may, from time to time, adopt by resolution objective standards under which benefits will not be suspended for engaging in specified types or categories of Totally Disqualifying Employment, for the period specified in the resolution granting the exemption.

(h) **Resumption of Benefit Payments**

- (1) **Pension Resumption Date.** Payments shall be resumed once a Participant no longer works in Totally Disqualifying Employment, with payments beginning no later than the first day of the third calendar month after the last calendar month for which the Participant’s benefit was suspended, provided the Participant has complied with the notification requirements of Subsection 8.08(e)(3).
- (2) **Recoupment of Overpayment.** Overpayments attributable to payments made for any month for which the Participant had Totally Disqualifying Employment shall be deducted from pension payments otherwise paid or payable after the suspension. A deduction from a monthly benefit for a month after the Participant attained Normal Retirement Age shall not exceed 25 percent of the pension amount (before deduction), except that the Plan may withhold up to 100 percent of the first pension payment made upon resumption after a suspension. If a Pensioner dies before recoupment of overpayments has been completed, deductions shall be made from the benefits payable to his Beneficiary or Spouse receiving a pension subject to the 25 percent limitation on the rate of deduction. A Pensioner shall be given notice of any such offset prior to the Fund making the offset.

## SECTION 8.09 BENEFIT AMOUNTS FOLLOWING SUSPENSION

- (a) The monthly pension amount resumed after suspension shall be determined under Section 8.09(a)(1) and adjusted for any optional form of payment in accordance with Section 8.09(a)(2) below. Any benefit increase or adjustment effective after the Participant's initial Retirement shall not affect the Participant's resumed pension amount, except as provided under other provisions of the Plan.
- (1) **Resumed Amount.** Subject to Section 8.09(b), if the pension was first payable after Normal Retirement Age, resumption shall be at the same monthly amount. Otherwise the amount shall be determined as if it were then being determined for the first time, but on the basis of an adjusted age. The "adjusted age" shall be the age of the Participant at the beginning of the first month for which payment is resumed, reduced by (a) the months for which he had received the pension to which he was entitled and (b) the months for which his pension was suspended because of Totally Disqualifying Employment. This amount shall be determined before adjustment, if any, for pension accrual based on re-employment, for changes in the Plan adopted after the Participant first retired, and for any offset because of prior overpayments.
- (2) The amount determined under the above paragraphs shall be adjusted for any Joint and Survivor Pension or any other optional form of benefit.
- (b) A Pensioner who returns to employment with a Contributing Employer for an insufficient period of time to complete a Year of Vesting Service, shall not, on subsequent termination of employment, be entitled to a recomputation of pension amount based on the additional service or a higher accrual rate. If a Pensioner who returns to employment with a Contributing Employer completes a Year of Vesting Service, he shall, upon his subsequent retirement, be entitled to a recomputation of his pension amount, based on any additional Pension Credits at the accrual rate then in effect for those Pension Credits and subject to the provisions of Article 3 for prior Pension Credits. The additional amount attributable to the additional service shall be computed without adjustment pursuant to Subsection 8.09(a) for prior benefit payments or suspensions.
- (c) A Joint and Survivor Pension in effect immediately prior to suspension of benefits and any other benefit following the death of the Pensioner shall remain effective if the Pensioner's death occurs while his benefits are in suspension. If a Pensioner who was receiving a Regular Pension returns to employment with a Contributing Employer, he shall not be entitled to a



new election unless after that return, he had sufficient additional service to earn at least three (3) consecutive Years of Vesting Service. If a Pensioner who was receiving an Early Retirement or Disability Pension returns to employment with a Contributing Employer, he shall be entitled to make a different election as to the Joint and Survivor Pension or any other optional form of benefit only with respect to any Pension Credits earned after his return to employment with a Contributing Employer.

- (d) In no event, however, shall any adjustments of benefit amount under this Section result in forfeiture of a Participant's pension in violation of Section 203(a)(3)(B) of ERISA.

### **SECTION 8.10 VESTED STATUS OR NONFORFEITABILITY**

- (a) A Participant who is an Employee acquires a vested nonforfeitable right to a Regular Pension ("Vested Status") upon five (5) Years of Vesting Service exclusive of Years of Vesting Service not taken into account because of a Permanent Break-in-Service, or upon attainment of Normal Retirement Age, if earlier. A Non-Bargained Employee will acquire Vested Status after completion of five (5) Years of Vesting Service (except for Years of Vesting Service that are not taken into account because of a Permanent Break-in-Service). Once an Employee attains Vested Status, he will no longer be subject to the Permanent Break-in-Service rules.
- (b) A Participant acquires a vested nonforfeitable right to a Regular Pension upon his earning fifteen (15) Pension Credits and actively working in Covered Employment on or after having attained age 50, or upon his attainment of Normal Retirement Age while actively working in Covered Employment.
- (c) ERISA provides certain limitations on any plan amendment that may change the Plan's vesting schedule. In accordance with those legal limitations, no amendment of this Plan may take away a Participant's Vested Status if he has already earned it at the time of the amendment. Also, an amendment may not change the schedule on the basis of which a Participant acquires Vested Status, unless each Participant who has at least three (3) Years of Vesting Service at the time the amendment is adopted or effective (whichever is later) is given the option of achieving Vested Status on the basis of the pre-amendment schedule. That option may be exercised within 60 days after the latest of the following dates:
  - (1) When the amendment was adopted;
  - (2) When the amendment became effective; or
  - (3) When the Participant was given written notice of the amendment.

## **SECTION 8.11 INCOMPETENCE OR INCAPACITY OF A PENSIONER OR BENEFICIARY**

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

## **SECTION 8.12 NON-ASSIGNMENT OF BENEFITS**

No Participant, Pensioner or Beneficiary entitled to any benefits under this Pension Plan shall have the right to assign, alienate, transfer, encumber, pledge, mortgage, hypothecate, anticipate, or impair in any manner his legal or beneficial interest, or any interest in assets of the Pension Fund, or benefits of this Plan, except as permitted in accordance with Title 26 U.S. Code Section 401(a)(13), and the Internal Revenue Service Regulations promulgated thereunder. Neither the Pension Fund, nor any of the assets thereof, shall be liable for the debts of any Participant, Pensioner or Beneficiary entitled to any benefits under this Plan, nor be subject to attachment or execution or process in any court or action or proceeding. Notwithstanding the foregoing, benefits shall be paid in accordance with the applicable requirements of any qualified domestic relations order as defined in Section 414(p) of the Code.

Notwithstanding the foregoing, with respect to judgments, orders, decrees issued and settlement agreements entered into on or after August 5, 1997, a Participant's benefit may be reduced if a court order or requirement to pay arises from: (1) a judgment of conviction for a crime involving the Plan, (2) a civil judgment (or consent order or decree) that is entered by a court in an action brought in connection with a breach (or alleged breach) of fiduciary duty under ERISA; or (3) a settlement agreement entered into by the Participant and either the Secretary of Labor or the PBGC in connection with a breach of fiduciary duty under ERISA by a fiduciary or any other person. The court order, judgment, decree, or settlement agreement must specifically require that all or part of the amount to be paid to the Plan be offset against the Participant's Plan benefits.

## **SECTION 8.13 BENEFIT OVERPAYMENTS**

- (a) **Obligation to Pay Excess Amounts.** A Participant, Spouse, or Beneficiary who receives any payment from the Plan in excess of the amount which such individual is entitled to receive under the Plan (including, without limitation, due to mistake of fact or law, reliance on false or fraudulent statements, information or proof submitted by a claimant, or the unwarranted continuation of payments after the death of a Participant, Spouse, or beneficiary) (“Excess Payments”), shall be obligated to repay such Excess Payments to the Plan upon receipt of a written notice by the Trustees (or the Plan Administrator or any other designee duly authorized by the Trustees) requesting such repayment.
- (b) **Recovery by Plan.** The Trustees shall have full authority, in their sole and absolute discretion, to recover the amount of any Excess Payments (plus interest and costs) paid by the Plan to or on behalf of any Participant, Spouse, or Beneficiary. Such authority (either individually or in combination) shall include, but shall not be limited to, the right to:
- (i) Seek the Excess Payment in a lump sum from such individual;
  - (ii) Reduce future benefits payable to the individual who received the overpayment;
  - (iii) Reduce future benefits payable to a surviving Spouse or other Beneficiary who is, or may become, entitled to receive payments under the Plan following the death of such individual, and/or
  - (iv) Initiate legal action or take such other legal action as may be necessary or appropriate to recover any overpayment (plus interest and costs).

## **SECTION 8.14 NO RIGHT TO ASSETS**

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

## **SECTION 8.15 MAXIMUM LIMITATIONS**

Anything herein to the contrary notwithstanding, the Plan shall be administered in a manner which will result in its complying with the provisions of Code Section 415, which are incorporated herein by reference.

In addition to other limitations set forth in the Plan and notwithstanding any other provisions of the Plan, the accrued benefit of any Participant, including the right to any optional benefits provided in the Plan (and all other defined benefit plans required to be aggregated with this Plan under the provisions of Code Section 415), 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 Contributing Employer, only the benefits under this Plan that are provided by such Contributing 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 Section 415(d) of the Code are hereby incorporated by reference and shall be automatic, including those for Participants who have incurred a severance from Covered Employment; provided, however, that the annual benefit payable to a terminated Participant, 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 Annuity Starting Date. For purposes of applying this Section 8.15 “limitation year” means the calendar year. The actuarial assumptions required to be utilized by the Plan for testing the Code Section 415(b) maximum limitation, for Plan Years on or after January 1, 2008, shall be the applicable interest and mortality table as determined under Code Section 417(e)(3).

Notwithstanding the foregoing, any higher limits, or any lower limits, provided for in this Section 8.15 of the Plan as in effect prior to the effective date of the final Section 415 regulations are hereby grandfathered to the extent permitted by applicable law.

Notwithstanding any provision of the Plan to the contrary, effective for Plan Years beginning after December 31, 2007, all benefits, benefit accruals, and distributions of benefits under the Plan shall be subject to the rules contained in Section 432 of the Code (for plans in endangered or critical status), to the extent those rules apply, and the actions of the Trustees to comply therewith.

## **SECTION 8.16 MERGERS**

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

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# ARTICLE 9

## AMENDMENTS

### SECTION 9.01 AMENDMENT

This Plan may be amended at any time by the Trustees in their sole and absolute discretion, consistent with the provisions of the Trust Agreement. However, no amendment may decrease the accrued benefit of any Participant, except:

- (a) As necessary to establish or maintain the qualification of the Plan or the Trust Fund under the Code and to maintain compliance of the Plan with the requirements of ERISA and the Code; or
- (b) If the amendment satisfies the requirements of section 412(d)(2) of the Code and the regulations thereunder. In addition, any amendment to the Plan shall be subject to and in compliance with the restrictions on amendments contained in Section 432 of the Code (for plans in endangered or critical status), to the extent those rules apply.

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# ARTICLE 10

## MISCELLANEOUS

### SECTION 10.01 NON-REVERSION

It is expressly understood that this Pension Fund is expressly for the benefit of the Participants and their Beneficiaries and that in no event shall any of the corpus or assets of the Fund revert to the Employers or be subject to any claims of any kind or nature by the Employers, except for the return of a contribution (a) made by a mistake of fact or law, (b) conditioned on the initial qualification of the Plan under Sections 401 or 501 of the Code, and if the Plan receives an adverse determination with respect to its qualification, or (c) conditioned upon the deductibility thereof under Section 404 of the Code, and all or a part of such deduction has been disallowed; then the Trustees may, in their sole discretion, return such contribution (or the value thereof, if less) to the Employer prior to the expiration of (1) six months after a determination by the Trustees as to (a) above, (2) one year following the adverse determination under (b) above, or (3) the disallowance of the deduction under (c) above (but only to the extent of the disallowance).

## **SECTION 10.02 LIMITATION OF LIABILITY**

Except for liabilities which may result from provisions of ERISA, nothing in this Plan shall be construed to impose any obligation on the Employer to contribute beyond its obligation to make contributions as required under its Collective Bargaining Agreement or other agreements. There shall be no liability upon the Trustees individually, or collectively, or upon the Union to provide the benefits established by this Pension Plan, if the Pension Fund does not have assets to make the payments required hereunder.

## **SECTION 10.03 NEW EMPLOYERS**

- (a) No new employer may be admitted to participation in the Pension Fund and this Pension Plan except upon approval by the Trustees. The participation of any such new employer shall be subject to such terms and conditions as the Trustees may lawfully prescribe including, but not limited to, the imposition of waiting periods in connection with the commencement of benefits, requirement for retroactive contributions, or the application of modified benefit conditions and amounts. In adopting applicable terms, or conditions, the Trustees shall take into account such requirements as they, in their sole discretion, may deem necessary to preserve the actuarial soundness of the Pension Fund and to preserve an equitable relationship with the contributions required from other participating Employers and the benefits provided to their Employees.
- (b) If an Employer is sold, merged or otherwise undergoes a change of company identity, the successor company may participate as to the Employees theretofore covered in the Pension Plan just as if it were the original company, if it remains an Employer as defined in Section 1.08.

## **SECTION 10.04 TERMINATED EMPLOYER**

If an Employer's participation in the Fund with respect to a bargaining unit terminates, the Trustees shall cancel any obligation of the Trust Fund that is maintained under the Trust Agreement with respect to that part of any pension for which a person was made eligible on the basis of employment in such bargaining unit prior to the Contribution Period with respect to that unit, if determined necessary by the Fund's actuary to maintain the actuarial soundness of the Pension Fund. Neither shall the Trustees, the Employers who remain as Contributing Employers, nor the Union be obliged to make such payments.

## **SECTION 10.05 TERMINATION**

The Trustees shall have the right to discontinue or terminate this Plan in whole or in part. In the event of a termination of this Plan, the rights of all affected Participants to benefits then accrued, to the extent then funded, shall thereupon become 100% vested and nonforfeitable. Upon a termination of the Plan, the Trustees shall take such steps as they deem necessary or desirable to comply with Sections 4041A and 4281 of ERISA.

## **SECTION 10.06 ZERO-DOLLAR CASHOUT**

If a Participant terminates employment without a vested benefit under the Plan, he or she shall be entitled to no benefits under the Plan, but he shall be deemed to constructively receive a distribution of \$0 upon his termination from employment and to constructively have repaid the amount of such distribution to the Plan in the event the Participant is rehired before incurring five consecutive One-Year Breaks-in-Service.

## **SECTION 10.07 ANTIDISCRIMINATION**

In no event shall any of the provisions of this Plan discriminate in favor of any Highly Compensated Employees in violation of the non-discrimination requirements relating to the amounts of contributions and benefits under Section 401(a)(4) of the Code.

## **SECTION 10.08 NO RIGHT TO EMPLOYMENT**

Nothing in this Plan shall be interpreted as giving any Employee the right to be retained as an Employee by the Employer, or as limiting or affecting the rights of an Employer to control its Employees or to terminate the employment of any Employee at any time and for any reason, subject to any Agreement.

## **SECTION 10.09 SITUS**

The Plan shall have and maintain a principal office in the New York City metropolitan area, and the Trustees shall be deemed to be located at that address.

## **SECTION 10.10 CHOICE OF LAW**

The Plan shall be construed, regulated, enforced and administered in accordance with the internal laws of the State of New York applicable to contracts made and to be performed within New York (without regard to any conflict of law provisions), to the extent that such laws are not preempted by the provisions of ERISA (or any other applicable laws of the United States).

## **SECTION 10.11 COUNTERPARTS**

This Plan may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which shall be considered the same instrument. The signature of any party on any counterpart of this Plan shall be sufficient evidence of his execution thereof.

## **SECTION 10.12 TITLES AND PLURALS**

Titles, headings, and subheadings for sections and paragraphs are inserted for the convenience of reference only, and this Plan shall not be construed by reference to them. Wherever required by context, the singular of any word used in this Plan shall include the plural and the plural may be read in the singular.

## **SECTION 10.13 DEFINITIONS**

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

## **SECTION 10.14 SEVERABILITY**

If any one or more of the provisions or terms of this Plan (or any amendment hereto), shall cause the Plan to fail to comply with the requirements for qualified plans under the Code, or be held contrary to any provision of law, or shall for any reason whatsoever be held invalid, then such provisions or terms (or amendments) shall:

- (a) Be enforced only to the extent not inconsistent with the requirements for qualified plans under the Code, contrary to law or invalid;
- (b) Be deemed severable from the remaining provisions or terms of this Plan; and
- (c) Shall in no way affect the validity or enforceability of the other provisions of this Plan.

## **SECTION 10.15 SUCCESSOR PROVISIONS OF LAW**

Any references to a section of ERISA or the Code, 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 10.16 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.



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# ARTICLE 11

## TOP-HEAVY PROVISIONS

### SECTION 11.01 APPLICATION OF TOP-HEAVY PROVISIONS

On each Determination Date, the Trustees shall determine whether the Plan is Top Heavy, as defined in Section 416(g) of the Code, and the regulations promulgated thereunder. In the event that the Plan is found to be Top Heavy, the provisions of this Article shall apply to the Plan during the following Plan Year, to the exclusion of all other inconsistent provisions contained herein.

### SECTION 11.02 DEFINITIONS

- (a) “Aggregation Group” shall mean the group composed of each qualified retirement plan of the Employer or an Affiliate in which a Key Employee is a Participant and each other qualified retirement plan of the Employer or an Affiliate which enables a plan of the Employer or an Affiliate in which a Key Employee is a Participant to satisfy the standards of Sections 401(a)(4) or 410 of the Code. In addition, the Employer may choose to treat any other qualified retirement plan not required to be included in the Aggregation Group as a member of the Aggregation Group if such Aggregation Group will continue to satisfy the standards of Code Sections 401(a)(4) ~~or~~ and 410 of the Code.
- (b) “Average Covered Compensation” shall mean the average of a Participant’s W-2 Compensation for the period of consecutive years (not exceeding 5) during which the Participant had the greatest such compensation. W-2 Compensation earned during a year ending in a Plan Year beginning before January 1, 1984, during a year which begins after the close of the last year in which the Participant did not earn a Year of Service for vesting purposes shall be disregarded for purposes of determining Average Covered Compensation.
- (c) “Code” means the Internal Revenue Code of 1986 as amended.
- (d) “Covered Compensation” shall mean W-2 Compensation up to \$200,000 (as adjusted for increases in the cost of living in accordance with regulations promulgated under Section 401(a)(17) of the Code).
- (e) “Determination Date” shall mean, for any Plan Year, the last day of the preceding Plan Year, beginning with September 1, 1984.
- (f) “Key Employee” shall mean any employee who, at any time during the Plan Year or any of the four preceding Plan Years, however, for Plan Years

beginning on or after January 1, 2002, a “Key Employee” shall mean any employee who, at any time during the Plan Year, is or was:

- (1) An officer of the Employer or an Affiliate having W-2 Compensation greater than \$130,000 (as indexed) for any such Plan Year;
- (2) A 5-percent owner (within the meaning of Section 416(i)(1)(B)(i) of the Code) of the Employer; or
- (3) A 1-percent owner (within the meaning of Section 416(i)(1)(B)(ii) of the Code) of the Employer who received W-2 Compensation from the Employer or an affiliate of more than \$150,000.

For purposes of determining who is an officer of the Employer or an Affiliate, no more than the lesser of (1) 50 employees or (2) the greater of 3 or 10% of the employees, shall be treated as officers. For purposes of determining who is one of the ten employees owning the largest interests in the Employer or an Affiliate, if two employees have the same interest in the Employer or an Affiliate, the employee having greater annual W-2 Compensation shall be treated as having a larger interest. For purposes of this Article, corporations, sole proprietorships, partnerships, associations, trusts and labor organizations may have officers.

- (g) (1) “Top-Heavy Group” shall mean any Aggregation Group if, as of the Determination Date,
- (i) The sum of the present value of the cumulative accrued benefits for all Key Employees under all defined benefit plans included in the Aggregation Group, and the aggregate of the accounts of the Key Employees under all defined contribution plans included in such Aggregation Group exceeds 60 percent of
  - (ii) The sum of the present values of the cumulative accrued benefits for all employees under all defined benefit plans included in the Aggregation Group, and the aggregate of the accounts of all employees under all defined contribution plans included in the Aggregation Group.

The present values referred to above shall be determined as of the most recent valuation date occurring within the twelve-month period ending on the Determination Date, computed as if the employee voluntarily terminated service as of the valuation date (except as otherwise provided in regulations of the Secretary of the Treasury), assuming, in the case of a Joint and Survivor Pension, that the spouse of a Participant is the same age as the Participant, and otherwise in accordance with regulations of the Secretary of the Treasury. The aggregate of the accounts referred to

above shall be determined as of the most recent valuation date occurring within the twelve-month period ending on the Determination Date, with an adjustment for contributions due as of the Determination Date, in accordance with regulations of the Secretary of the Treasury.

- (2) If plans not required to be included in a Permissive Aggregation Group are included, and such Permissive Aggregation Group is Top Heavy, the plans not required to be included in such Permissive Aggregation Group will not be treated as Top-Heavy plans. If the Aggregation Group is not a Top-Heavy Group, no plan included in the Aggregation Group will be a Top-Heavy plan.
- (3) In determining whether an Aggregation Group is a Top-Heavy Group or the Plan is a Top-Heavy plan, the following rules shall apply:
  - (i) For purposes of determining the present value of the cumulative accrued benefits or the amount of the account of any Employee, such present value or account shall include the amount in dollar value of the aggregate distributions made with respect to each such Employee under the applicable plan during the one-year period ending on the Determination Date, unless such amount is reflected in the value of the accrued benefits or account balances as of the most recent valuation date.
  - (ii) Except to the extent provided in Section 416 of the Code or in regulations promulgated thereunder, if a rollover (or similar transfer) is initiated by the Employee and made to a plan maintained by the Employer or an Affiliate, the plan receiving such distribution will not include it in determining whether such plan is a Top-Heavy Plan or whether an Aggregation Group is a Top-Heavy Group.
  - (iii) If an individual was not a Key Employee with respect to any plan for any plan year, but such individual was a Key Employee with respect to such plan for any prior plan year, any accrued benefit for such Employee (and the account of such Employee) shall not be taken into account.
  - (iv) If any individual has not received any W-2 Compensation from any Employer or an Affiliate maintaining the plan (other than benefits under the plan) at any time during the one-year period ending on the Determination Date, any accrued benefit for such individual (and the account of such individual) shall not be taken into account.
- (h) “Top-Heavy Plan” shall mean a plan which benefits primarily Key Employees as determined in accordance with the provisions hereof.

- (i) “W-2 Compensation” means 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, for Plan Years beginning on or after September 1, 1998, amounts excluded from taxable income under Sections 125, 402(g)(3) and 457 of the Code, and for Plan Years beginning on or after September 1, 2001, Section 132(f)(4) of the code.

**SECTION 11.03 TOP-HEAVY ANALYSIS**

(a) This Plan shall be considered Top Heavy if as of the Determination Date either:

- (1) The present value of the cumulative accrued benefits under the Plan for Key Employees exceeds sixty percent (60%) of the present value of the cumulative accrued benefits of all employees, such present values to be determined in the same manner as set forth in the definition of a “Top-Heavy Group” herein; and taking into account all distributions made during a 1-year period ending on the most recent determination date and not taking into account any accrued benefit or account balance of an individual who has not performed services for the employer during a 1-year period ending on the determination date, except that 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”, or
- (2) The Plan is part of a Top-Heavy Group.

If the Trustees, using the provisions of the immediately preceding paragraphs, determine that the Plan is Top Heavy as of the Determination Date, Sections (b)-(d) below shall apply to the Plan during the following Plan Year.

(b) **Vesting.** If the Plan is determined to be Top Heavy with respect to any Plan Year, a Participant’s nonforfeitable portion of his accrued benefit derived from Employer contributions shall be determined under the following vesting schedule, in lieu of any other vesting schedule provided herein:

Less than 2 years	0%
2	20%
3	40%
4	60%
5	100%

- (c) **Minimum Benefits.** If the Plan is determined to be Top Heavy with respect to any Plan Year, a minimum retirement benefit for such year derived from Employer contributions (hereinafter referred to as the “Defined Benefit Minimum”) shall be provided for each Participant who is not a Key Employee which is not less than the applicable percentage of the Participant’s Average Covered Compensation, where the applicable percentage is the lesser of (i) 2% multiplied by the number of Weeks of Service with the Employer or an Affiliate or (ii) 20%. For purposes of clause (i), Weeks of Service shall not include any Weeks of Service completed in a Plan Year beginning prior to September 1, 1984 or any Weeks of Service if the Plan was not Top Heavy for any Plan Year ending during such Weeks of Service. The minimum retirement benefit means a benefit in the form of a single life annuity with no ancillary benefits, beginning at normal retirement date. Benefits under the Social Security Act or any other Federal or State law shall not be taken into account in applying the provisions of this Subsection (c). If the benefit is in a form other than a single life annuity or commences at a time other than the Participant’s Normal Retirement Age, the actuarial equivalent of such benefit must be provided.
- (d) **Maximum Covered Compensation Taken Into Account.** If the Plan is determined to be Top Heavy in respect to any Plan Year, the annual compensation for each Employee, which is taken into account under the Plan, shall not exceed his Covered Compensation.

## **SECTION 11.04 COLLECTIVE BARGAINING PROVISIONS**

For purposes of this Article, multiemployer plans described in Section 414(f) of the Code to which an Employer makes contributions on behalf of its Employees shall be treated as plans of that Employer to the extent that benefits under the plan are provided to Employees of the Employer because of service with the Employer. The requirements of Sections (b) through (d) of Section 11.03 shall not apply with respect to any Employee included in a unit of Employees covered by an agreement with the Secretary of Labor finds to be a collective bargaining agreement between employee representatives (as defined in the Code) and one or more Employers if there is evidence that retirement benefits were the subject of good faith bargaining between such employee representatives and such Employer.

## **SECTION 11.05 NONFORFEITABLE BENEFITS**

If, on any Determination Date following the first Determination Date on which the Plan was determined to be Top Heavy, the Plan is found not to be Top Heavy, all the other Articles of the Plan other than this Article shall prevail; provided, however, that any portion of the accrued benefit that was nonforfeitable before

the Plan ceased to be Top Heavy must remain nonforfeitable and any Employee with 3 or more Years of Service must be given the option of remaining under the Top-Heavy vesting schedule by making an election in accordance with the provisions hereof dealing with Plan amendments.

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## ARTICLE 12

### HOME MORTGAGE LOANS

#### SECTION 12.01 LOANS TO PURCHASE A PRINCIPAL PLACE OF RESIDENCE OR REFINANCE THE MORTGAGE ON A PRINCIPAL PLACE OF RESIDENCE

- (a) **Eligibility Requirements for Original Loan.** Effective as of January 1, 1999, a Participant who has been approved for a mortgage by the Fund and whose accrued vested benefit under the Plan has an actuarial value of at least \$2,000, may, for the purpose of securing funds for a down payment and/or closing costs in connection with the purchase of his principal residence, borrow up to the lesser of  $\frac{1}{2}$  of the actuarial value of his accrued vested pension benefit under the Plan or \$7,500, but in no event less than \$1,000, provided that, in advance of the loan, the Participant:
- (i) Secures the loan (including interest thereon) by his accrued vested benefit under the Plan and, to the extent permitted by law, an assignment to the Plan of his life insurance benefit under the Greater New York Nursing Home Division of 1199 Benefit Fund;
  - (ii) Executes a payroll deduction on the terms and in the amount required by the Plan, for purposes of repayment of the loan (including interest thereon), which his Employer agrees to implement; and
  - (iii) If married, secures his spouse's notarized consent to the use of his accrued vested benefit as a security for the loan.
- (b) **Effect of New Employment on Eligibility.** In the event a Participant with an outstanding loan becomes employed by a new Employer, the Participant shall execute a new payroll deduction, on the terms and in the amount required by the Plan, for the purpose of repaying the balance of the loan (including interest thereon). A Participant with an outstanding loan who ceases employment with an Employer, shall make periodic payments to the Plan, on the terms and in the amount required by the Trustees, for the purpose of repaying the balance of his loan (including interest thereon).

- (c) **Eligibility for a Subsequent Loan.** A Participant who has an outstanding loan or has fully satisfied a loan under either Section 12.01(a) or (b) and whose record of payment with respect to such loan is satisfactory, may, for the purpose of (i) refinancing the mortgage on his principal place of residence, or (ii) selling his current principal place of residence and financing the purchase of a new principal residence, receive a subsequent loan, subject to the limits and requirements set forth in Section 12.01(a), provided, however, that any outstanding balance (including interest thereon) on the Participant's prior loan must be satisfied by the proceeds of the loan obtained under this Section 12.01.
- (d) **Interest.** The Plan shall charge interest on the loans at the prevailing commercial rate for comparable loans as determined by the Trustees.
- (e) **Loan Term and Prepayment.** The loan term shall vary, depending upon the amount of principal borrowed. If the principal does not exceed \$5,000, the loan (including interest thereon) shall be repaid over a period not to exceed sixty (60) equal monthly installments. If the principal exceeds \$5,000, the loan (including interest thereon) shall be repaid in ninety-six (96) equal monthly installments, provided, however, that if the loan is for the purpose of refinancing the mortgage on a Participant's principal place of residence, the term of the loan may not exceed sixty (60) months. Nothing herein shall prevent a Participant from prepaying, in whole or in part, the principal balance on his loan prior to the date upon which it is due without penalty.
- (f) **Application and Approval.** Application for any loan shall be made on the appropriate form, which must be submitted to the Trustees for approval within such time as is prescribed by the Trustees. The amount of the loan, if any, and the date of payment of loan proceeds to the Participant shall be at the sole discretion of the Trustees.
- (g) **Default.** The Participant shall end until the end of the following quarter to repay late payments before the loan is considered to be in default. In the event of a default in repayment, the amount due on the loan shall become due and payable, and shall be deemed to have been distributed to the Participant for the purposes of Section 72 of the Internal Revenue Code. Notwithstanding the foregoing, the Trustees shall take such steps as they deem necessary and appropriate to secure and satisfy any outstanding indebtedness, which shall include charging back indebtedness together with any interest accrued thereon, against the Participant's accrued vested benefit at the time payment of pension benefits commences.
- (h) The Trustees may adopt such other rules and regulations as they deem appropriate to administer the provisions of this Section.

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# APPENDIX A

## **PAST SERVICE CREDIT FOR PARTICIPANTS EMPLOYED BY CLEARVIEW NURSING HOME, SHORE VIEW NURSING HOME, SEA CREST HEALTH CARE CENTER, FORT TRYON NURSING HOME, FRANKLIN NURSING HOME AND FRIEDWALD HOUSE.**

Except as otherwise indicated in these Rules and Regulations, effective January 1, 1996, all Participants employed by the above named facilities shall be granted Pension Credit for all years of service with the facilities prior to their Contribution Date at the applicable rate in effect for the Local 144 Nursing Home Pension Fund.

## **PAST SERVICE CREDIT FOR PARAPROFESSIONAL PARTICIPANTS EMPLOYED BY QUEENS NASSAU NURSING HOME.**

Except as otherwise indicated in these Rules and Regulations, effective May 1, 1997, all Paraprofessional Participants employed by Queens Nassau Nursing Home as of May 1, 1997, shall be granted Pension Credit for all years of service with Queens Nassau Nursing Home prior to their Contribution Date at the applicable rate in effect for the Local 144 Nursing Home Pension Fund.

Effective as of the date of the merger of the Southern Fund into this Fund, all Participants employed by facilities formerly covered by the Southern Fund shall be granted Pension Credit for all years of service with such facilities formerly prior to their Contribution Date at the applicable rate in effect for this Fund.



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# APPENDIX B

## DEFAULT SCHEDULE UNDER REHABILITATION PLAN

- (1) **Effective Date.** The Default Schedule will become effective upon the later of:
- (i) January 1, 2011; or
  - (ii) The *earlier of*:
    - (a) The effective date of a collective bargaining agreement that adopts a contribution schedule that contains terms consistent with this Default Schedule; or
    - (b) 180 days after the expiration date of a collective bargaining agreement providing for contributions under the Plan that was in effect on January 1, 2009, *if* by such date the bargaining parties have failed to adopt a contribution schedule that contains terms consistent with this Default Schedule or the Preferred Schedule.

If the last Contributing Employer of a Pensioner whose Annuity Starting Date was prior to April 30, 2009, becomes subject to the Default Schedule, the benefits of such Pensioner shall be recalculated under the Default Schedule as of its effective date with respect to such Contributing Employer.

If the last Contributing Employer of such a Pensioner withdraws from the Fund before either the Default Schedule or the Preferred Schedule goes into effect, the benefits of such Pensioner shall be recalculated under the Default Schedule as of the later of (i) January 1, 2011, or (ii) the date such Contributing Employer withdraws from the Plan.

For the purposes of applying the Schedules contained herein, a participant whose benefit commencement date is on or after April 30, 2009, but who has ceased covered employment before one of the Schedules becomes effective with respect to his or her last contributing employer shall become subject to the Schedule applicable to that last contributing employer as of the Preferred Schedule Effective Date or Default Schedule Effective Date, as the case may be.

- 2) **Benefits.** Once the Default Schedule becomes effective with respect to a Participant, the Participant’s Applicable Pension Credit Rate shall be determined as follows:

The monthly benefit accrual rate that will be applied to all Pension Credits earned for Participants who left Covered Employment before January 1, 2004, is not changed.

For Pension Credits earned prior to the Effective Date of the Default Schedule for participants who left Covered Employment after January 1, 2004:

<b>IF THE EMPLOYER IS:</b>	<b>APPLICABLE CREDIT RATE</b>
obligated to contribute to the Pension Fund at the “prevailing rate”	\$35 per Pension Credit
not obligated to contribute to the Pension Fund at the “prevailing rate”	\$26 per Pension Credit

For Pension Credits earned after the Effective Date of the Default Schedule, the Applicable Pension Credit Rate shall be \$19 per Pension Credit.

Under the Default Schedule, the maximum number of Pension Credits that can be earned by a Participant is 25, and all such Participant’s Pension Credits earned prior to the Effective Date of the Default Schedule shall be taken into account before any of the Participant’s Pension Credits earned after the effective date of the Default Schedule.

If payment of a Non-Disability Pension is to be made in the form of a Joint and Survivor Pension, the monthly pension amount otherwise payable to the Participant as a single life annuity shall be adjusted by multiplying such single life annuity monthly amount by the following percentage: 91 percent minus 0.4 percentage points for each full year that the surviving spouse’s age is less than the Participant’s age or plus 0.4 percentage points for each full year that the surviving spouse’s age is greater than the Participant’s age; provided, however, that the resulting percentage shall not be greater than 99 percent. If payment of a Non-Disability Pension is made in the form of a 75% QOSA, the monthly pension amount otherwise payable to the Participant as a single life annuity shall be adjusted by multiplying such single life annuity monthly amount by the following percentage:

<b>SPOUSE AGE DIFFERENCE</b>	<b>FACTOR 50%</b>	<b>FACTOR 75%</b>	<b>SPOUSE AGE DIFFERENCE</b>	<b>FACTOR 50%</b>	<b>FACTOR 75%</b>
-15	0.8500	0.7975	0	0.9100	0.8800
-14	0.8540	0.8030	1	0.9140	0.8855
-13	0.8580	0.8085	2	0.9180	0.8910
-12	0.8620	0.8140	3	0.9220	0.8965
-11	0.8660	0.8195	4	0.9260	0.9020
-10	0.8700	0.8250	5	0.9300	0.9075
-9	0.8740	0.8305	6	0.9340	0.9130
-8	0.8780	0.8360	7	0.9380	0.9185
-7	0.8820	0.8415	8	0.9420	0.9240
-6	0.8860	0.8470	9	0.9460	0.9295
-5	0.8900	0.8525	10	0.9500	0.9350
-4	0.8940	0.8580	11	0.9540	0.9405
-3	0.8980	0.8635	12	0.9580	0.9460
-2	0.9020	0.8690	13	0.9620	0.9515
-1	0.9060	0.8745	14	0.9660	0.9570
			15	0.9700	0.9625

**Other Benefits.** As of the Default Schedule Effective Date, certain other benefits will be reduced. These reductions will include the following:

- (i) Elimination of Early Retirement subsidies provided under the Early Retirement Pension;
- (ii) Elimination of the Disability Pension;
- (iii) Elimination of the 60-month benefit guarantee; and
- (iv) Elimination of the \$1,000 lump-sum death benefit.

These reductions will only apply to participants whose benefit commencement date is on or after April 30, 2009, and will only take effect on a prospective basis beginning on the Default Schedule Effective Date.

- 3) **Early Retirement.** If the Default Schedule is in effect for the Contributing Employer for whom the Participant last performed Covered Employment, the Participant’s Early Retirement Benefit shall be the amount of the larger Pension to which the Participant would be entitled if he were then sixty-five (65) years of age, as determined under Section 2 of this Appendix B, multiplied by the factor in the following table that corresponds to the Participant’s age of the Annuity Starting Date:

Years	0 mos.	1 month	2 mos.	3 mos.	4 mos.	5 mos.
55	0.3813	0.3842	0.3871	0.3900	0.3929	0.3959
56	0.4172	0.4204	0.4236	0.4268	0.4301	0.4334
57	0.4570	0.4606	0.4641	0.4677	0.4713	0.4750
58	0.5013	0.5052	0.5092	0.5132	0.5172	0.5213
59	0.5505	0.5549	0.5594	0.5638	0.5683	0.5729
60	0.6055	0.6104	0.6154	0.6204	0.6254	0.6305
61	0.6670	0.6726	0.6781	0.6837	0.6894	0.6950
62	0.7360	0.7422	0.7485	0.7548	0.7611	0.7675
63	0.8136	0.8206	0.8276	0.8347	0.8419	0.8491
64	0.9011	0.9090	0.9169	0.9249	0.9330	0.9412

6 mos.	7 mos.	8 mos.	9 mos.	10 mos.	11 mos.
0.3989	0.4019	0.4049	0.4079	0.4110	0.4141
0.4367	0.4400	0.4434	0.4467	0.4501	0.4536
0.4787	0.4824	0.4861	0.4898	0.4936	0.4974
0.5254	0.5295	0.5336	0.5378	0.5420	0.5463
0.5774	0.5820	0.5867	0.5913	0.5960	0.6008
0.6365	0.6407	0.6459	0.6511	0.6564	0.6617
0.7008	0.7065	0.7123	0.7182	0.7241	0.7300
0.7739	0.7804	0.7870	0.7936	0.8002	0.8069
0.8563	0.8637	0.8710	0.8785	0.8859	0.8935
0.9494	0.9576	0.9660	0.9744	0.9829	0.9914



**NOTES** \_\_\_\_\_

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