

TOWN OF KILLINGLY EMPLOYEES' RETIREMENT INCOME PLAN

July 1, 2020 Restatement

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PREAMBLE

The Town of Killingly Employees' Retirement Income Plan, originally effective as of April 1, 1967, is hereby amended and restated in its entirety. The Plan, as amended and restated hereby, is intended to qualify as a defined benefit pension plan under Code Section 401(a) and is a governmental plan under Code Section 414(d). The Plan is maintained for the exclusive benefit of eligible employees and their beneficiaries.

Except as otherwise specifically provided in the Plan, this amended and restated Plan shall be effective as of July 1, 2008, and the rights of any person who did not have an Hour of Service under the Plan on or after July 1, 2008, shall generally be determined in accordance with the terms of the Plan as in effect on the date for which he was last credited with an Hour of Service.

Notwithstanding the foregoing, the following special effective dates shall apply:

- a) The change in the definition of "Actuarial Equivalent" in Section 1.1(d) to the table prescribed by Revenue Ruling 2001-62 is effective for lump sum distributions made on and after December 31, 2002.
- b) The change in the definition of "Earnings" in Section 1.1(m) of the Plan to reflect the increase in the Code Section 401(a)(17) limit under EGTRRA is effective the first day of the first Plan Year beginning on or after January 1, 2002.
- c) The change in the definition of "eligible retirement plan" in Section 11.4 to reflect the provisions of EGTRRA is effective January 1, 2002.
- d) The change in the definition of "eligible retirement plan" in Section 11.4 to provide for rollovers by a Participant and his Spouse or former Spouse to a Roth IRA is effective for distributions made on and after January 1, 2008.
- e) The changes in the 415 provisions in Article XII to comply with EGTRRA are effective the first day of the first limitation year ending after December 31, 2001; provided, however, that any increase in benefits resulting from such change shall apply only with respect to Participants who are active employees on or after that date.
- f) The changes in the 415 provisions in Article XII to comply with final Treasury regulations are effective for limitation years beginning on and after July 1, 2007.
- g) The provisions of the Appendix and other changes to comply with final regulations issued under Code Section 401(a)(9) are effective beginning with the 2003 calendar year.

ARTICLE I DEFINITIONS

1.1 Plan Definitions

As used herein, the following words and phrases, when they appear with initial letters capitalized as indicated below, have the meanings hereinafter set forth:

- a) A Participant's "**Accrued Benefit**" as of any date means the portion of his monthly normal retirement benefit accrued as of that date determined as provided in Article V, based on his years of Credited Service and his Average Annual Earnings determined as of that date.
- b) An "**Active Participant**" means a Participant who is accruing Credited Service under the Plan in accordance with the provisions of Article III.
- c) "**Accumulated Contributions**" as of any date means the total of an Employee's Mandatory Employee Contributions plus interest. Interest on a Participant's Mandatory Employee Contributions shall be credited for each full month from the July 1 following the date the contribution was paid to the Pension Fund to the date of determination at the rate of 4.5 percent per year, compounded each July 1.
- d) The "**Actuarial Equivalent**" of a value means the actuarial equivalent determined using the 1971 Group Annuity Mortality Table for male lives, with ages set back one year for Participants and 5 years for Beneficiaries, and an interest rate of six percent, except that in determining present value for purposes of a single sum payment, the following factors shall be used: (i) the table prescribed in Revenue Ruling 2001-62 and (ii) the annual rate of interest on 30-year Treasury securities for the second calendar month preceding the Plan Year in which the distribution is made.

For a Participant who has reached Normal Retirement Date at the time present value is being determined, the present value of his Accrued Benefit shall be calculated based on the immediate annuity payable to the Participant as of his Annuity Starting Date. For a Participant who has not yet reached Normal Retirement Date at the time present value is being determined, the present value of his Accrued Benefit shall be calculated based on a deferred annuity payable commencing at Normal Retirement Date. For purposes of this paragraph, immediate and deferred annuities will be in the normal form applicable to unmarried Participants under Section 9.1 of the Plan.

- e) The "**Actuary**" means an independent actuary selected by the Employer, who is an enrolled actuary as defined in Code Section 7701(a)(35), or a firm or corporation of actuaries having such a person on its staff, which person, firm or corporation is to serve as the actuarial consultant for the Plan.
- f) The "**Administrator**" means the Employer unless the Employer designates another person or persons to act as such.
- g) An "**Affiliated Company**" means any corporation or business which would be aggregated with the Employer for a relevant purpose under Code Section 414.
- h) A Participant's, or Beneficiary's, if the Participant has died, "**Annuity Starting Date**" means the first day of the first period for which an amount is paid as an annuity or, in the case of a single sum

payment, the first day on which all events have occurred which entitle the Participant, or his Beneficiary, if applicable, to such benefit.

If a Participant whose Annuity Starting Date has occurred is reemployed by the Employer resulting in a suspension of benefits in accordance with the provisions of Section 11.1, for purposes of determining the form of payment of such Participant's benefit upon his subsequent retirement, such prior Annuity Starting Date shall apply to benefits accrued both before and after the Participants reemployment.

- i) A Participant's "**Average Annual Earnings**" shall be defined as the Participant's highest average annual Earnings received during any five consecutive eligible Earnings Computation Periods occurring during the last ten eligible Earnings periods preceding the date the Participant's employment terminates. Only Earning periods in which the participant was making the Mandatory Employee Contribution to the Plan shall be eligible for calculation.

Notwithstanding the foregoing, if a Participant does not have Earnings for five full consecutive Earnings Computation Periods, his Average Annual Earnings shall be determined using Earnings for the full Earnings Computation Periods available. If a Participant does not have Earnings for any full Earnings Computation Period, his Average Annual Earnings shall be determined by multiplying a fraction, the numerator of which is his total Earnings and the denominator of which is his total number of full calendar months of employment as an Employee, by 12.

- j) A Participant's "**Beneficiary**" means any beneficiary who is entitled to receive a benefit under the Plan upon the death of the Participant.
- k) The "**Code**" means the Internal Revenue Code of 1986, as amended from time to time. Reference to a Code section shall include (i) such section and any comparable section or sections of any future legislation that amends, supplements, or supersedes such section and (ii) all rulings, regulations, notices, announcements, and other pronouncements issued by the U.S. Treasury Department, the Internal Revenue Service, and any court of competent jurisdiction that relate to such section.
- l) A Participant's "**Credited Service**" means his period of service for purposes of determines the amount of any benefit for which he is eligible under the Plan, as computed in accordance with the provisions of Article III.
- m) The "**Earnings**" of a Participant for any Earnings Computation Period means basic compensation received from the Employer, excluding overtime, commissions, bonuses, and any other additional compensation. In addition, Earnings excludes reimbursements or other expense allowances, fringe benefits, moving expenses, deferred compensation (other than amounts deferred pursuant to Code Section 457), and welfare benefits.

With respect to an Employee who first becomes a Participant on or after July 1, 1996, in no event, shall the Earnings taken into account under the Plan for an Earnings Computation Period beginning on or after January 1, 2002, exceed the limit in effect under Code Section 401(a)(17) for such Earnings Computation Period (\$230,000 for Earnings Computation Periods beginning on and after January 1, 2008, subject to adjustment annually as provided in Code Section 401(a)(17)(B) and Code Section 415(d); provided, however, that the dollar increase in effect on January 1 of any calendar year, if any, is effective for limitation periods beginning in such calendar year). For

purposes of determining benefit accruals in a Plan Year beginning after December 31, 2001, Earnings taken into account for any prior Earnings Computation Period shall not exceed \$200,000.

- n) An “**Earnings Computation Period**” means each Plan Year.
- o) An Employee’s “**Eligibility Service**” means his period of service for purposes of determining his eligibility to participate in the Plan, as computed in accordance with the provisions of Article IV.
- p) An “**Employee**” means any individual employed by the Employer other than (1) an elected or appointed official of the Employer, (2) any individual employed by the Employer as a teacher, or (3) any selectman.

For purposes of the Plan with respect to the provisions of Code Section 415, any “leased employee,” other than an excludable leased employee, shall be treated as an employee of the Employer; provided, however, that no “leased employee” shall become an Employee or shall accrue a benefit hereunder based on service as a “leased employee”.

A “leased employee” means any person who performs services for the Employer or an Affiliated Entity (the “recipient”) (other than an employee of the recipient) pursuant to an agreement between the recipient and any other person (the “leasing organization”) on a substantially full-time basis for a period of at least one year, provided that such services are performed under the primary direction or control of the recipient. An “excludable leased employee” means any leased employee of the recipient who is (a) covered by a money purchase pension plan maintained by the leasing organization which provides for (i) a nonintegrated employer contribution on behalf of each participant in the plan equal to at least ten percent of compensation (as defined in Code Section 415(c)(3)), (ii) full and immediate vesting, and (iii) immediate participation by employees of the leasing organization or (b) performs substantially all of his services for the leasing organization or (c) whose compensation from the leasing organization in each Plan Year during the four-year period ending with the Plan Year is less than \$1,000. Notwithstanding the foregoing, a person shall not be treated as an excludable leased employee if leased employees (including any individual who would otherwise be considered an excludable leased employee) constitute more than 20 percent of the recipient’s non-highly compensated work force. For purposes of this Section, contributions or benefits provided to a leased employee by the leasing organization that are attributable to services performed for the recipient shall be treated as provided by the recipient.

- q) A Participant’s “**Employee Derived Benefit**” as of any date means the portion of his Accrued Benefit that is attributable to his Mandatory Employee Contributions to the Plan. A Participant’s Employee Derived Benefit shall be determined by multiplying his Accumulated Contributions as of the date of determination by ten percent.
- r) The “**Employer**” means the Town of Killingly.
- s) A Participant’s “**Employer Derived Benefit**” as of any date means the excess, if any, of his Accrued Benefit as of such date over this Employee Derived Benefit as of such date. The Employer Derived Benefit shall be expressed as a single life annuity (without ancillary benefits) payable at Normal Retirement Date (or the determination date, if later). For purposes of determining a Participant’s Employer Derived Benefit, the Participant’s Accrued Benefit and Employee Derived Benefit shall

be adjusted to the Actuarially Equivalent single life annuity payable at Normal Retirement Date (or the determination date, if later).

- t) An Employee's "**Employment Commencement Date**" means the date he first completes an Hour of Service.

- u) An Employee's "**Employment Severance Date**" means the earlier of (a) the date on which he retires, dies, or his employment as an Employee is otherwise terminated or (b) the first anniversary of the date on which he is absent from work with the Employer as an Employee for any other reason; provided however, that the following special rules shall apply:
 1. An Employee's Employment Severance Date shall not occur if he is absent from work with the Employer on account of service with the armed forces of the United States, he is eligible for reemployment rights under the Uniformed Services
 2. Employment and Reemployment Rights Act of 1994, and he returns to work with the Employer within the period during which he retains such reemployment rights, but, if he does not return to work within such period, his Employment Severance Date shall be the earlier of the date which is one year after his absence commenced or the last day of the period during which he retains such reemployment rights.
 3. An Employee's Employment Severance Date shall not occur if he is absent from work because of disability for which he is eligible for or receiving either (i) disability benefits under a benefit program funded by the Employer or (ii) Workers' Compensation benefits, provided that if he ceases to be eligible for or to collect disability benefits under such program prior to his Normal Retirement Date, he returns promptly to work with the Employer.
 4. If the Employee is absent from work with the Employer on account of the birth of a child, pregnancy, the adoption of a child, or the caring for a child for a period beginning following the birth or adoption of such child (a "maternity/paternity absence"), beyond the first anniversary of the first day of such maternity/paternity absence, his Employment Severance Date shall be the second anniversary of the first day of such maternity/paternity absence.

Notwithstanding the foregoing, if a person retires, dies, or his employment as an Employee is otherwise terminated during a period in which he is absent from work with the Employer for any reason other than service with the armed forces of the United States, his Employment Severance Date shall be the date of such retirement, death, or other termination of employment.

- v) An "**Entry Date**" means the first day of each calendar month.

- w) The "**Funding Agent**" means the person or persons which at the time shall be designated, qualified, and acting under the Funding Agreement and shall include (i) any trustee for a trust established pursuant to the Funding Agreement, (ii) any insurance company that issues an annuity or insurance contract pursuant to the Funding Agreement, or (iii) any person holding assets in a custodial account pursuant to the Funding Agreement. The Employer may designate a person or persons other than the Funding Agent to perform any responsibilities of the Funding Agent under the Plan, and the Funding Agent shall not be liable for the performance of such person in carrying out such responsibilities except as otherwise provided by applicable law. The term Funding Agent shall include any delegate of the Funding Agent as may be provided in the Funding Agreement.

- x) The "**Funding Agreement**" means the agreement entered into between the Employer and the Funding Agent relating to the holding, investment, and reinvestment of the assets of the Plan, together with all amendments thereto and shall include any agreement establishing a trust, a

custodial account, an annuity contract, or an insurance contract (other than a life, health or accident, property, casualty, or liability insurance contract) for the investment of assets; provided, however, that any custodial account or contract established hereunder meets the requirements of Code Section 401(f).

- y) An "**Hour of Service**" with respect to any Employee means an hour which is determined and credited as such in accordance with the provisions of Article II.
- z) A Participant's "**Mandatory Employee Contributions**" mean the after-tax contributions required to be made by a Participant to accrue a benefit hereunder.
- aa) A Participant's "**Normal Retirement Date**" means, for purposes of benefit eligibility, the date he attains age 65 and for all other purposes, the first day of the month coinciding with or immediately following such date.
- bb) A "**Participant**" means any person who becomes eligible to participate in the Plan in accordance with the provisions of Article IV and who retains an Accrued Benefit under the Plan.
- cc) The "**Pension Fund**" means the fund or funds maintained under the Funding Agreement for purposes of accumulating contributions made by the Employer and paying benefits under the Plan.
- dd) The "**Plan**" means this Town of Killingly Employees' Retirement Income Plan, established effective April 1, 1967, as amended and restated by this instrument, with all amendments, modifications, and supplements hereafter made.
- ee) A "**Plan Year**" means the 12-consecutive-month period ending each June 30.
- ff) A Participant's "**Required Beginning Date**" means the April 1 following the calendar year in which occurs the later of the Participant's (i) attainment of age 70 1/2 or (ii) the date the Participant retire.
- gg) A Participant's "**Service**" means his period of service for purposes of determining his eligibility for a benefit under the Plan, as computed in accordance with the provisions of Article III.
- hh) A Participant's "**Spouse**" means the person to whom the Participant is legally married in accordance with the laws of the State of Connecticut; provided, however, that as described in the affected Sections of the Plan, for certain purposes a Participant's Spouse must also qualify as a spouse under Federal law.

1.2 Construction

Where required by the context, the noun, verb, adjective, and adverb forms of each defined term shall include any of its other forms. Wherever used herein, the masculine pronoun shall include the feminine, the singular shall include the plural, and the plural shall include the singular.

ARTICLE II HOURS OF SERVICE

2.1 Crediting of Hours of Service

An Employee shall be credited with an Hour of Service under the Plan for each hour for which he is paid, or entitled to payment, for the performance of duties for the Employer as an Employee.

ARTICLE III SERVICE & CREDITED SERVICE

3.1 Service and Credited Service Prior to July 1, 2008

Each person who is an Employee on or after July 1, 2008, shall be credited with Service and Credited Service for purposes of the Plan for periods prior to such date equal to the Service and Credited Service with which he had been credited in accordance with the Plan provisions in effect immediately prior to such date.

3.2 Service and Credited Service On or After July 1, 2008

Each person who is an Employee on or after July 1, 2008, shall be credited with Service and Credited Service with respect to periods of employment on or after such date, for purposes of the Plan as follows:

- a) He shall be credited with Service for the period beginning on the later to occur of (i) July 1, 2008 or (ii) his Employment Commencement Date and ending on his Employment Severance Date. Service shall be computed in completed whole years and full months.
- b) In addition, if an Employee retires or terminates employment and is reemployed by the Employer within the 12-month period following his retirement or termination, Service, but not Credited Service, shall be credited for the period of time he was not employed by the Employer.
- c) Notwithstanding the foregoing, no Service shall be credited to an Employee for periods in which he was eligible, but elected not, to make Mandatory Employee Contributions to the Plan.
- d) Subject to any limitations set forth in Article V, he shall be credited with Credited Service for the period beginning on the later to occur of (i) July 1, 2008 or (ii) his Employment Commencement Date and ending on his Employment Severance Date. Credited Service shall be computed in completed whole years and full months.
- e) Notwithstanding the foregoing, no Credited Service shall be credited to an Employee for the following periods:
 1. his first year of Service.
 2. periods in which he was eligible but elected not to make Mandatory Employee Contributions to the Plan.

3. periods that he is absent from work because of disability for which he is eligible for or receiving either (i) disability benefits under a non-governmental benefit program funded by the Employer or (ii) Workers' Compensation benefits.

3.3 Transfers

Notwithstanding the foregoing, Service and Credited Service credited to a person shall be subject to the following:

- a) Except as otherwise specifically provided in (c) below, any person who transfers or retransfers to employment with the Employer as an Employee directly from other employment (i) with the Employer in a capacity other than as an Employee or (ii) with any other Affiliated Company, shall be credited with Service and Credited Service beginning on his transfer date.
- b) Except as otherwise specifically provided in (c) below, any person who transfers from employment with the Employer as an Employee directly to other employment with the Employer in a capacity other than as an Employee shall be deemed by such transfer not to lose his Service or Credited Service, and shall be deemed not to retire or otherwise terminate his employment as an Employee until such time as he is no longer in the employment of the Employer, at which time he shall become entitled to benefits if he is otherwise eligible therefore under the provisions of the Plan; provided, however, that up to such time he shall not receive credit for Service or Credited Service under the Plan.
- c) Any person who is absent from employment as an Employee because of service as an elected official of the Employer and who subsequently returns to employment as an Employee shall be credited with Service, but not Credited Service for the period that he serves as an elected official of the Employer. Notwithstanding the foregoing, if upon his termination of employment as an Employee such person received a refund of his Accumulated Contributions as provided in Section 7.4, he shall not be credited with Service under this paragraph (c) unless he elects to repay such distribution as provided in Section 3.4.

3.4 Retirement or Termination and Reemployment

If an Employee retires or otherwise terminates employment with the Employer, his eligibility for and the amount of any benefit to which he may be entitled under the Plan shall be determined based upon the Service and Credited Service with which he is credited at the time of such retirement or other termination of employment. If such retired or former Employee is reemployed by the Employer as an Employee, the Service and Credited Service with which he was credited at the time of such prior retirement or other termination of employment shall be aggregated with the Service and Credited Service with which he is credited following his reemployment.

Notwithstanding the foregoing, if the retired or former Employee received a refund of his Accumulated Contributions as provided in Section 7.4, his Service and Credited Service credited at the time of his prior retirement or termination of employment shall be lost and shall not be aggregated with the Service and Credited Service credited to the retired or former Employee following reemployment unless the retired or former Employee repays to the Plan the full amount of the distribution with interest. For purposes of this paragraph, interest shall accrue annually, beginning on the date of the single sum payment, at the rate applicable for determining a Participant's Accumulated Contributions under Section 1.1(c).

Notwithstanding any other provision of this Section, if a retired or former Employee returns to employment in a capacity other than as an Employee, his period of employment shall be treated for the purposes of the Plan solely in accordance with the transfer provisions of this Article III.

3.5 Finality of Determinations

All determinations with respect to the crediting of Service and Credited Service under the Plan shall be made on the basis of the records of the Employer, and all determinations so made shall be final and conclusive upon Employees, former Employees, and all other persons claiming a benefit interest under the Plan. Notwithstanding anything to the contrary contained in this Article, there shall be no duplication of Service and Credited Service.

ARTICLE IV ELIGIBILITY FOR PARTICIPATION

4.1 Participation

Each Employee who was an Active Participant immediately prior to July 1, 2008, shall continue as an Active Participant hereunder. Each other person shall become an Active Participant as of the Entry Date coinciding with or immediately following the later of (i) the date he becomes an Employee or (ii) the date he completes one year of Eligibility Service.

Notwithstanding the foregoing, no person shall become an Active Participant hereunder unless he elects to make Mandatory Employee Contributions to the Plan as provided in Section 4.2.

4.2 Mandatory Employee Contributions

An Employee who has met the eligibility requirements described above may elect in writing in accordance with rules prescribed by the Administrator to make Mandatory Employee Contributions to the Plan. If the Administrator receives such election in a form acceptable to it within 31 days of the Entry Date the Employee first becomes eligible to participate, the Employee shall become an Active Participant as of such initial Entry Date. Otherwise, an Employee shall become an Active Participant as of the Entry Date following the date the Administrator receives his election to make Mandatory Employee Contributions.

The amount of an Employee's Mandatory Employee Contributions shall be equal to the following, as applicable:

- a) for any Employee who is covered by the collective bargaining agreement between the Employer and its Public Works Union, 5.5% of his Earnings;
- b) for any Employee who is a Board of Education Assistant Superintendent, Board of Education Manager of Business Affairs, or the Board of Education Director of Human Resources and has not elected to participate in the ICMA Plan, 4.5% of his Earnings; and
- c) for any other Employee, 3.0% of his Earnings.

An eligible Employee's written election shall include his authorization for the Employer to withhold from his Earnings an amount equal to the amount of such Mandatory Employee Contributions and to contribute such amounts to the Plan.

4.3 Suspension of Mandatory Employee Contributions

A Participant's Mandatory Employee Contributions shall automatically be suspended for any period during which he is not eligible to accrue Credited Service under the Plan. Such Participant's Mandatory Employee Contributions shall automatically resume as of the date he is once more eligible to accrue Credited Service under the Plan, unless such Participant elects to suspend his Mandatory Employee Contributions as provided in the following paragraph.

An Active Participant who is making Mandatory Employee Contributions to the Plan or whose Mandatory Employee Contributions are scheduled to resume as provided in the preceding paragraph may elect to suspend such contributions at such time or times during the Plan Year as the Administrator may prescribe. A Participant whose Mandatory Employee Contributions are suspended in accordance with the provisions of this paragraph may elect to resume such contributions at such time or times during the Plan Year as the Administrator may prescribe by filing a new election with the Administrator such number of days prior to the date as of which Mandatory Employee Contributions are to be resumed as the Administrator shall prescribe; provided, however, that a Participant who elected to suspend his Mandatory Employee Contributions may not resume Mandatory Employee Contributions hereunder prior to the second anniversary of the date the elected suspension began.

A Participant whose Mandatory Employee Contributions are suspended pursuant to this Section shall not accrue a benefit hereunder for the period such suspension is in effect.

4.4 Crediting Eligibility Service

An Employee shall be credited with Eligibility Service for the period beginning on his Employment Commencement Date and ending on his Employment Severance Date. Eligibility Service shall be computed in completed whole years.

4.5 Loss of Eligibility Service

An Employee's Eligibility Service shall be lost if he retires or if his employment with the Employer terminates for any other reason, and if he thereafter returns to employment as an Employee, he shall be treated for Plan purposes as a new Employee.

4.6 Termination of Participation

A Participant shall remain an Active Participant as long as he continues in employment as an Employee and continues to make Mandatory Employee Contributions to the Plan. A person shall remain a Participant as long as he retains an Accrued Benefit under the Plan.

4.7 Participation Upon Reemployment

If a former Employee is reemployed as an Employee, solely for purposes of determining his eligibility to participate in the Plan under this Article IV, he shall be treated as a new Employee and become an Active Participant upon satisfying the requirements of Section 4.1.

4.8 Finality of Determinations

All determinations with respect to the eligibility of an Employee to become a Participant under the Plan shall be made on the basis of the records of the Employer, and all determinations so made shall be final and conclusive for all Plan purposes. Each Employee who becomes a Participant shall be entitled to the benefits, and be bound by all the terms, provisions, and conditions of the Plan and the Funding Agreement.

ARTICLE V NORMAL RETIREMENT

5.1 Eligibility

Each Participant who retires from employment with the Employer on or after his Normal Retirement Date shall be eligible for a normal retirement benefit.

5.2 Amount

An eligible Participant's monthly normal retirement benefit shall be equal to 1/12th of the following, as applicable:

- a) For any Participant who is covered by the collective bargaining agreement between the Employer and its Public Works Union, the sum of the following:
 1. 1.0% of the Participant's Average Annual Earnings multiplied by the number of his years of Credited Service for employment prior to April 1, 1987; plus
 2. 1.5% of the Participant's Average Annual Earnings multiplied by the number of his years of Credited Service for employment on and after April 1, 1987.
 3. 2.0 percent of the Participant's Average Annual Earnings multiplied by the number of his years of Credited Service for employment after July 1, 2016.

Notwithstanding any other provisions of this paragraph (a), no more than 30 years of Credited Service shall be taken into account in determining an eligible Participant's benefit hereunder. If an eligible Participant is credited with more than 30 years of Credited Service and earned Credited Service both prior to and after April 1, 1987, and July 1, 2016 the 30 years used to calculate his benefit shall be allocated between (1) and (2) and (3) above in such manner as shall maximize the benefit to which he is entitled under this paragraph (a).

- b) For any Participant who is a Board of Education Assistant Superintendent, Board of Education Manager of Business Affairs, or the Board of Education Director of Human Resources and has not elected to participate in the ICMA Plan, the sum of the following:

1. 1.0% of the Participant's Average Annual Earnings multiplied by the number of his years of Credited Service for employment prior to July 1, 1991; plus
2. 1.5% of the Participant's Average Annual Earnings multiplied by the number of his years of Credited Service for employment on and after July 1, 1991.

Notwithstanding any other provisions of this paragraph (b), no more than 30 years of Credited Service shall be taken into account in determining an eligible Participant's benefit hereunder. If an eligible Participant is credited with more than 30 years of Credited Service and earned Credited Service both prior to and after July 1, 1991, the 30 years used to calculate his benefit shall be allocated between (1) and (2) above in such manner as shall maximize the benefit to which he is entitled under this paragraph (b).

- c) For any other Participant, the product of the following:
 1. 1.0% of the Participant's Average Annual Earnings; multiplied by
 2. the number of his years of Credited Service, not in excess of 30 years.

In no event will a reduction in a Participant's Average Annual Earnings reduce the normal retirement benefit payable to him below the amount that would have been payable to him under the same form of payment had he retired prior to his Normal Retirement Date when eligible for an early retirement benefit.

5.3 Minimum Benefits

Notwithstanding any other provision of the Plan to the contrary, in no event will the monthly normal retirement benefit payable to a Participant who has a vested Accrued Benefit under the Plan be less than his Employee Derived Benefit.

5.4 Payment

A monthly normal retirement benefit shall be paid to an eligible Participant commencing as of the first day of the month following the month in which he retires.

ARTICLE VI EARLY RETIREMENT

6.1 Eligibility

Each Participant who retires from employment with the Employer at or after age 55, but prior to his Normal Retirement Date and who has at least 10 years of Service shall be eligible for an early retirement benefit.

6.2 Amount

An eligible Participant's monthly early retirement benefit shall be equal to his vested Accrued Benefit on the date of his early retirement; provided, however, that the amount of such benefit shall be reduced by multiplying such amount by the appropriate early commencement factor determined as provided in the

Adjustment Factors Addendum. A Participant's vested interest in his Accrued Benefit shall be determined in accordance with the schedule provided in Section 7.1.

In lieu of an early retirement benefit, an eligible Participant may elect to receive a refund of his Accumulated Contributions as provided in Section 7.4. A Participant who receives such a refund shall forfeit his Accrued Benefit and shall not be entitled to any further benefit under the Plan, unless he is reemployed and repays the full amount of the refund with interest, as provided in Section 7.4.

6.3 Payment

A monthly early retirement benefit shall be paid to an eligible Participant commencing as of the first day of the month following the later of the month in which he retires or the month in which he makes written application for the benefit, but not later than his Normal Retirement Date.

**ARTICLE VII
VESTED RIGHTS**

7.1 Vesting

A Participant's vested interest in his Employee Derived Benefit shall be at all times 100%.

A Participant's vested interest in his Employer Derived Benefit shall be determined in accordance with the following schedule, based upon the number of full years of Service credited to him; provided, however, that a Participant's vested interest in his Employer Derived Benefit shall be 100% if he is employed by the Employer or an Affiliated Company on his Normal Retirement Date, regardless of whether he has completed the number of years of Service required under the schedule for 100% vesting.

Years of Service	Vested Interest
less than 10	0%
10 or more	100%

7.2 Eligibility for Deferred Vested Retirement Benefit

Each Participant who terminates employment with the Employer and all Affiliated Companies, who has a vested interest in his Employer Derived Benefit, and who is not eligible for a normal or early retirement benefit under the Plan shall be eligible for a deferred vested retirement benefit.

7.3 Amount of Deferred Vested Retirement Benefit

An eligible Participant's monthly deferred vested retirement benefit shall be equal to his vested Accrued Benefit on the date of his termination of employment; provided, however, that if the Participant is eligible to elect to begin benefit payments before his Normal Retirement Date as provided in Section 7.5, the amount of such benefit shall be reduced for early commencement in the same way as provided in Section 6.2 with respect to an early retirement benefit.

7.4 Refund of Accumulated Contributions

A Participant who terminates employment with the Employer before he has a vested interest in his Employer Derived Benefit shall receive a refund of his Accumulated Contributions. The Participant may elect to receive such payment at any time following his termination of employment.

A Participant who retires or terminates employment prior to his Normal Retirement Date for reasons other than death and who has a vested interest in his Employer Derived Benefit may elect to receive a refund of his Accumulated Contributions at any time prior to the date payment of his retirement benefit begins.

Any refund hereunder shall be made in a single sum payment and shall be equal to the Participant's Accumulated Contributions as of the date of distribution.

A Participant who receives a refund of his Accumulated Contributions in accordance with this Section shall forfeit his Accrued Benefit and shall not be entitled to any further retirement benefit from the Plan. If a Participant whose Accrued Benefit is forfeited as provided herein returns to employment with the Employer as an Employee, his Accrued Benefit shall be restored if he repays to the Plan the full amount of the refund, with interest. For purposes of this Section, interest shall accrue annually, beginning on the date of the refund, at the rate applicable for determining a Participant's Accumulated Contributions under Section 1.1(c).

7.5 Payment

A monthly deferred vested retirement benefit shall be paid to an eligible Participant commencing as of his Normal Retirement Date; provided, however, that a Participant who has 10 years of Service may elect to begin benefit payments as of the first day of any month following the month in which he attains age 55.

ARTICLE VIII DISABILITY RETIREMENT BENEFIT

8.1 No Disability Retirement Benefits Payable Under Plan

There shall be no disability retirement benefits payable under the Plan.

ARTICLE IX FORMS OF PAYMENT

9.1 Normal Form of Payment

A Participant who is eligible to receive a normal, early or deferred vested retirement benefit under Section 5.1, 6.1, or 7.2 of the Plan shall receive payment of such benefit in the form of a single life annuity. Such Participant shall receive a monthly retirement benefit payable for his lifetime, the last monthly payment being for the month in which his death occurs.

A Participant may waive the normal form of payment applicable to him and elect to receive payment of his benefit in one of the optional forms of payment provided in Section 9.2.

9.2 Optional Forms of Payment

Within the election period prescribed by the Administrator, a Participant who is eligible to receive a normal, early, or deferred vested retirement benefit may elect to receive payment of such benefit in accordance with any one of the following options.

If the Participant's Beneficiary under an optional joint and survivor form of payment dies prior to the Participant's Annuity Starting Date, the election shall become inoperative and ineffective, and benefit payments, if any, shall be made under the normal form of payment provided in Section 9.1, unless the Participant elects another optional form of payment provided under the Plan prior to his Annuity Starting Date. Once a Participant's Annuity Starting Date occurs, however, the optional form of payment elected by the Participant will not change even if the Participant's Beneficiary predeceases him. If a Participant is reemployed by the Employer, any benefits he accrues under the Plan following his reemployment shall be payable in the form elected by the Participant as of his Annuity Starting Date.

The monthly payments made under any optional form of payment hereunder shall be the Actuarial Equivalent of the monthly benefit otherwise payable to the Participant in the single life annuity form described in Section 9.1.

- a) **100% Joint and Survivor Annuity.** The Participant shall receive a reduced monthly retirement benefit payable for his lifetime, the last monthly payment being for the month in which his death occurs. If the Participant's Beneficiary survives him, then commencing with the month following the month in which the Participant's death occurs, his Beneficiary shall receive a monthly benefit for his or her remaining lifetime equal to the reduced amount payable during the Participant's lifetime, the last monthly payment being for the month in which the Beneficiary's death occurs.
- b) **66 2/3% Joint and Survivor Annuity.** The Participant shall receive a reduced monthly retirement benefit payable for his lifetime, the last monthly payment being for the month in which his death occurs. If the Participant's Beneficiary survives him, then commencing with the month following the month in which the Participant's death occurs, his Beneficiary shall receive a monthly benefit for his or her remaining lifetime equal to 66 2/3% of the reduced amount payable during the Participant's lifetime, the last monthly payment being for the month in which the Beneficiary's death occurs.
- c) **50% Joint and Survivor Annuity.** The Participant shall receive a reduced monthly retirement benefit payable for his lifetime, the last monthly payment being for the month in which his death occurs. If the Participant's Beneficiary survives him, then commencing with the month following the month in which the Participant's death occurs, his Beneficiary shall receive a monthly benefit for his or her remaining lifetime equal to one-half of the reduced amount payable during the Participant's lifetime, the last monthly payment being for the month in which the Beneficiary's death occurs.
- d) **10-Year Certain and Life Annuity.** The Participant shall receive a reduced monthly retirement benefit payable for his lifetime, the last monthly payment being for the month in which his death occurs. If the Participant's death occurs prior to the end of the 10-year period commencing with his Annuity Starting Date, his Beneficiary shall receive a continued monthly benefit equal to such reduced amount for the remainder of such 10-year period. If the Participant's Beneficiary dies after becoming eligible to receive a benefit hereunder, but prior to the end of the 10-year

period, the unpaid monthly benefit shall be paid to the Beneficiary designated by the Participant to receive payment in such event or, if none, in accordance with the provisions of Section 9.3.

Notwithstanding any other provision of the Plan to the contrary, distribution under an optional form of payment shall be made in accordance with Code Section 401(a)(9) and regulations issued thereunder, including the incidental death benefit requirement, as described in Article XVIII. If a Participant designates a person other than his Spouse as his Beneficiary under an optional form of payment, and if payments under the optional form elected would not meet the incidental death benefit requirement, the election shall be ineffective and benefit payments, if any, shall be made under the normal form of payment provided in Section 9.1, unless the Participant elects another optional form of payment provided under the Plan prior to his Annuity Starting Date.

9.3 Designation of Beneficiary and Beneficiary in Absence of Designated Beneficiary

A Participant's Beneficiary may be any individual or, in the case of a Beneficiary to receive payments for the remainder of a period-certain under the form of payment elected by the Participant, any individuals, trust, or estate, selected by the Participant. If payment is to be made to a Participant's surviving Beneficiary for the remainder of a period-certain under the form of payment elected by the Participant and no Beneficiary survives or the Participant has not designated a Beneficiary, the Participant's Beneficiary shall be the Participant's surviving Spouse or, if none, the Participant's surviving children in equal shares or, if none, the Participant's estate.

9.4 Elections

A Participant may waive or revoke a waiver of the normal form of payment provided in Section 9.1 and elect, modify, or change an election of an optional form of payment provided in Section 9.2 by notice delivered to the Administrator in such form as the Administrator may require at any time during the election period specified by the Administrator.

The form in which a Participant shall receive payment of his retirement benefit shall be determined upon the later of his Annuity Starting Date or the date his election period ends, based upon any waiver and election in effect on such date. Except as otherwise specifically provided in the Plan, in no event shall the form in which a Participant's retirement benefit is paid be changed on or after such date.

9.5 Death Prior to Annuity Starting Date

Except as provided in Section 9.6, should a Participant die prior to his Annuity Starting Date neither he nor any person claiming under or through him shall be entitled to any retirement benefit under the Plan; and no benefit shall be paid under the Plan with respect to such Participant except any refund of Accumulated Contributions under the provisions of Article X.

9.6 Preservation of Election of Optional Form of Payment

If a Participant who continues employment after his Normal Retirement Date and dies before his Annuity Starting Date has elected optional form of payment under Section 9.2 that provides for a survivor benefit, his form of payment shall be given effect and payment shall be made to his Beneficiary in accordance with the provisions of Section 9.2. Any election hereunder must be made by notice delivered to the Administrator in such form as the Administrator may require during the election period specified by the Administrator.

9.7 Effect of Reemployment

Notwithstanding any other provision of the Plan, if a former Employee is reemployed, his prior election of a form of payment hereunder shall become ineffective, unless the Participant's Annuity Starting Date has occurred, in which case such election will continue to apply to benefits accrued both before and after reemployment.

ARTICLE X REFUND OF ACCUMULATED CONTRIBUTIONS UPON DEATH

10.1 Death Prior to Commencement of Payments

If a Participant dies prior to his Annuity Starting Date and no benefit is payable to his Beneficiary under an optional form of payment given effect under the provisions of Section 9.6, then the Participant's death beneficiary shall receive a death benefit, payable in a single sum, that is equal to the Participant's Accumulated Contributions on the Participant's date of death. No death benefit shall be payable hereunder if the Participant previously received a refund of his Accumulated Contributions as provided in Section 7.4.

10.2 Death On or After Commencement of Payments

A Participant's death beneficiary may be eligible for a death benefit as provided below when either of the following requirements is met:

- a) the Participant dies prior to his Annuity Starting Date, a benefit is payable to his Beneficiary under an optional form of payment that is given effect under the provisions of Section 9.6, and the Participant's Beneficiary dies; or
- b) the Participant dies after his Annuity Starting Date and either the form of payment elected by the Participant under the provisions of Article IX does not provide for continued benefits in the event of the Participant's death or his Beneficiary also dies.

The Participant's death beneficiary shall receive a death benefit, payable in a single sum, that is equal to the excess, if any, of (i) the Participant's Accumulated Contributions, determined as of the date benefit payments commenced under the Plan, over (ii) the amount of all benefit payments made under the terms of the Plan to the Participant and/or his Beneficiary under the provisions of Article IX.

No refund shall be made in accordance with this Section if the Participant elected the 10-year certain and life annuity form.

10.3 Designation of Death Beneficiary

Each Participant may designate in writing any one or more persons as his death beneficiary to receive payment of the death benefit provided under this Section. Such designation shall be filed with the Administrator and shall be in such form as the Administrator shall require. A Participant at any time and from time to time, whether before or after his retirement or other termination of employment, may

change the death beneficiary previously designated by him by filing with the Administrator a new designation in such form as it shall require.

If no death beneficiary shall have been designated by a Participant, or if all persons designated by him as death beneficiary shall die before becoming entitled to a death benefit hereunder, then such Participant's death beneficiary shall be his surviving Spouse or, if none, his surviving children in equal shares or, if none, his estate. A death beneficiary designation under this Section shall be separate from any Beneficiary designation under the provisions of Article IX.

ARTICLE XI GENERAL PROVISIONS & LIMITATIONS REGARDING BENEFITS

11.1 Suspension of Benefits

If a Participant continues employment with the Employer or an Affiliated Entity after reaching his Normal Retirement Date or a retired or former Employee is reemployed by the Employer or an Affiliated Entity, any benefits payable to such Participant or retired or former Employee under the Plan shall be suspended during the period of such employment or reemployment, as applicable.

11.2 Non-Alienation of Retirement Rights or Benefits

Except as provided in Section 1.401(a)-13(b)(2) of the Treasury Regulations (relating to Federal tax levies) or as otherwise required by law, no benefit under the Plan at any time shall be subject in any manner to anticipation, alienation, assignment (either at law or in equity), encumbrance, garnishment, levy, execution, or other legal or equitable process; and no person shall have the power in any manner to anticipate, transfer, assign (either at law or in equity), alienate or subject to attachment, garnishment, levy, execution, or other legal or equitable process, or in any way encumber his benefits under the Plan, or any part thereof, and any attempt to do so shall be void. Notwithstanding the foregoing, retirement benefits hereunder may be reduced pursuant to a domestic relations order that meets the requirements for a qualified domestic relations order, as described in Code Section 414(p).

11.3 Payment of Benefits to Others

If the Administrator finds that any individual to whom a benefit is payable hereunder is incapable of attending to his financial affairs because of any mental or physical condition, including the infirmities of advanced age, any payment due may, in the discretion of the Administrator, be paid to such individual's court appointed guardian, to another person with a valid power of attorney, or to another person authorized under state law to receive the benefit.

The monthly payment of a benefit to a person for the month in which he dies shall, if not paid to such person prior to his death, be paid to such person's spouse, parent, brother, sister, or estate, or in accordance with local or state law, as the Administrator shall determine. The Funding Agent shall make any such payments only upon receipt of written instructions to such effect from the Administrator. Any payment made in accordance with the provisions of this Section shall be a complete discharge of any liability of the Plan with respect to the benefit so paid.

If payment of a benefit is to be made to a minor Beneficiary, the Administrator may, in its discretion, pay the amount to a duly qualified guardian or other legal representative, to the authorized person or entity

(e.g., custodian or guardian) under the applicable state Uniform Gifts to Minors Act or Uniform Transfers to Minors Act, or to a trust that has been established for the benefit of the minor. Any payment made in accordance with the provisions of this Section shall be a complete discharge of any liability of the Plan with respect to the benefit so paid.

11.4 Missing Payees and Unclaimed Benefits

With respect to a Participant or Beneficiary who has not claimed any benefit (the "missing payee") to which such missing payee is entitled, and with respect to any Participant or Beneficiary who has not satisfied the administrative requirements for benefit payment, the Administrator may elect, in its discretion, to do any of the following:

- a) segregate the benefit into an interest bearing account, in which event an annual maintenance fee as may be set from time to time in a policy established by the Employer may be assessed against the segregated account;
- b) subject to a policy established by the Administrator, distribute the benefit at any time in any manner which is sanctioned by the Internal Revenue Service and/or the Department of Labor, which may include (but not be limited to) (1) distributing the benefit in an automatic direct rollover to an individual retirement plan designated by the Administrator; such individual retirement plan, as defined in Code Section 7701(a)(37), may be either an individual retirement account within the meaning of Code Section 408(a) or an individual retirement annuity within the meaning of Code Section 408(b); or (2) distributing the benefit to any authorized Federal Department or agency;
- c) distribute the benefit to any person or entity who is appointed under State (or Commonwealth) law to act as a duly authorized guardian, legal representative, conservator, or power of attorney; or
- d) treat the entire benefit as a forfeiture.

If a missing payee whose benefit has been forfeited is located, or if a payee whose benefit has been forfeited for failure to satisfy the administrative requirements for benefit payment subsequently satisfies such administrative requirements and claims his benefit, and if the Plan has not terminated (or if the Plan has terminated, all benefits have not yet been paid), then the benefit will be restored. The Administrator, on a case by case basis, may elect to restore the benefit by the use of earnings from non-segregated assets of the Pension Fund, by Employer contributions, or by any combination thereof. However, if any such payee has not been located (or satisfied the administrative requirements for benefit payment) by the time the Plan terminates and all benefits have been distributed from the Plan, then the forfeiture of any such unpaid benefit will not be restored.

11.5 Direct Rollovers

Notwithstanding any other provision of the Plan to the contrary, in lieu of receiving a single sum payment as provided in Section 7.4, a "qualified distributee" may elect in writing, in accordance with rules prescribed by the Employer, to have any portion or all of such payment that is an "eligible rollover distribution" paid directly by the Plan to the "eligible retirement plan" designated by the "qualified distributee"; provided, however, that this provision shall not apply if the total distribution is less than

\$200 and that a "qualified distributee" may not elect this provision with respect to any partial distribution that is less than \$500. Any such payment by the Plan to another "eligible retirement plan" shall be a direct rollover.

The Administrator shall provide a "qualified distributee" with a notice describing his right to make a direct rollover of his "eligible rollover distribution." A "qualified distributee" shall have a period of at least 30 days after receiving such notice to determine whether or not to roll over his "eligible rollover distribution." A Participant may waive this 30-day period if:

- a) the Administrator clearly informs the Participant of his right to consider whether to make a direct rollover for a period of at least 30 days following his receipt of the explanation; and
- b) the Participant, after receiving the explanation, affirmatively elects an early Annuity Starting Date.

For purposes of this Section, the following terms have the following meanings:

- c) An "**eligible retirement plan**" means any of the following: (i) an individual retirement account described in Code Section 408(a), (ii) an individual retirement annuity described in Code Section 408(b), (iii) an annuity plan described in Code Section 403(a) that accepts rollover, (iv) a qualified trust described in Code Section 401(a) that accepts rollovers, (v) an annuity contract described in Code Section 403(b) that accepts rollovers, (vi) an eligible plan under Code Section 457(b) that is maintained by a state or political subdivision of a state and that agrees to separately account for amounts transferred into such plan from the Plan, or (vii) a Roth IRA, as described in Code Section 408A. The portion of an "eligible rollover distribution" that is attributable to a Participant's Mandatory Employee Contributions may only be rolled over to one of the following: (A) an individual retirement account or annuity described in Code Section 408(a) or (b) or a Roth IRA, as described in Code Section 408A; (B) a qualified defined contribution plan described in Code Section 401(a) or 403(a) or a defined contribution annuity contract described in Code Section 403(b); or (C) a qualified defined benefit plan described in Code Section 401(a) or a defined benefit annuity contract described in Code Section 403(b), provided that the plan or annuity contract described in (C) agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

An "eligible retirement plan" with respect to a "qualified distributee" other than the Participant, his surviving Spouse, or his Spouse or former Spouse who is an alternate payee under a qualified domestic relations order means either an individual retirement account described in Code Section 408(a) or an individual retirement annuity described in Code Section 408(b) (including any such individual retirement account or annuity designated as a Roth IRA pursuant to Code Section 408A) (an "IRA"). Such IRA must be treated as an IRA inherited from the deceased Participant by the "qualified distributee" and must be established in a manner that identifies it as such.

- d) An "**eligible rollover distribution**" means any distribution of all or any portion of a Participant's Accrued Benefit or a distribution of all or any portion of a survivor benefit under Article X; provided, however, that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments made not less frequently than annually

for the life or life expectancy of the qualified distributee or the joint lives or joint life expectancies of the qualified distributee and the qualified distributee's designated beneficiary, or for a specified period of 10 years or more; and any distribution to the extent such distribution is required under Code Section 401(a)(9).

- e) A "**qualified distributee**" means a Participant, a Participant's surviving Spouse, or his Spouse or former Spouse who is an alternate payee under a qualified domestic relations order, as defined in Code Section 414(p), or a Participant's non-Spouse Beneficiary who is his designated beneficiary within the meaning of Code Section 401(a)(9)(E).

Notwithstanding any other provision of the Plan to the contrary, for purposes of this Section, a Participant's "Spouse" must also qualify as a spouse under Federal law.

11.6 Limitations on Commencement

Notwithstanding any other provision of the Plan to the contrary, payment of a Participant's retirement benefit shall commence not later than his Required Beginning Date.

Distributions required to commence under this Section shall be made in accordance with Code Section 401(a)(9) and regulations issued thereunder, as provided in Article XVIII. If payment of a Participant's retirement benefit does not commence until his Required Beginning Date, his Required Beginning Date shall be considered his Annuity Starting Date for all purposes of the Plan.

Subject to the requirements of Code Sections 401(a)(9) and 411(d)(6), no benefit payments shall commence under the Plan until the Participant, or his surviving Spouse, if applicable, makes written application therefore on a form satisfactory to the Administrator. If the amount of a monthly retirement benefit payable to a Participant cannot be determined for any reason (including lack of information as to whether the Participant is still living or his marital status) on the date payment of such benefit is to commence under this Section, payment shall be made retroactively to such date no later than 60 days after the date on which the amount of such monthly retirement benefit can be determined.

ARTICLE XII MAXIMUM RETIREMENT BENEFITS

12.1 Definitions

For purposes of this Article XII, the following terms have the following meanings.

- (a) An "**affiliated employer**" means any corporation or business, other than the Employer, which would be aggregated with the Employer for a relevant purpose under Code Section 414 as modified by Code Section 415(h).
- (b) A Participant's "**aggregate annual retirement benefit**" means the sum of his "annual

retirement benefit" under the Plan and his "annual retirement benefit" if any, under any and all other "defined benefit plans" (whether or not terminated) maintained by the Employer, any "affiliated employer", or a "predecessor employer" that are required to be aggregated with the Plan in accordance with the provisions of Treasury Regulations Section 1.415(f)-1.

(c) An "**annual addition**" with respect to a Participant for a "limitation year" means the sum of the following amounts made by the Participant or allocated to the Participant's account for the "limitation year":

1. his Mandatory Employee Contributions to the Plan
2. all employer contributions allocated to the Participant's account under any qualified "defined contribution plan" maintained by the Employer or an "affiliated employer", including "elective contributions" and amounts attributable to forfeitures applied to reduce the employer's contribution obligation, but excluding "catch-up contributions"
3. all "employee contributions" allocated to the Participant's account under any qualified "defined contribution plan" maintained by the Employer or an "affiliated employer" or any qualified "defined benefit plan" maintained by the Employer or an "affiliated employer"
4. all forfeitures allocated to the Participant's account under any qualified "defined contribution plan" maintained by the Employer or an "affiliated employer"
5. all amounts allocated to an individual medical benefit account, as described in Code Section 415(1)(2), established for the Participant as part of a pension or annuity plan maintained by the Employer or an "affiliated employer"
6. if the Participant is a key employee, as defined in Code Section 419A(d)(3), all amounts derived from contributions paid or accrued after December 31, 1985, in taxable years ending after that date, that are attributable to post-retirement medical benefits allocated to the Participant's separate account under a welfare benefit fund, as defined in Code Section 419(e), maintained by the Employer or an "affiliated employer"
7. all allocations to the Participant under a simplified employee pension

For purposes of defining "annual addition", a "catch-up contribution" means any elective deferral, as defined in Code Section 414(v)(2)(C), that is treated as a catch-up contribution in accordance with the provisions of Code Section 414(v). Any repayment of contributions (including interest) made to a governmental plan (as defined under Code Section 414(d)) to reinstate an amount previously refunded upon forfeiture of service credit under such plan or under another governmental plan maintained by a State or local government employer within the same State shall not be treated as an "annual addition" hereunder.

- (d) A Participant's **"annual retirement benefit"** means the amount of retirement benefit attributable to Employer contributions (including benefits attributable to contributions picked up by the Employer, as described in Code Section 414(h)(2), if any) which is payable to him annually under the Plan adjusted to the actuarially equivalent single life annuity form using the factors prescribed in the following paragraphs if such benefit is to be paid in a manner other than to the Participant for his life only. A Participant's "annual retirement benefit" includes Social Security supplements described in Code Section 411(a)(9) and benefits transferred from another "defined benefit plan", other than transfers of distributable benefits pursuant to Treasury Regulations Section 1.411(d)-4, Q&A-3(c), but shall not include the following: (A) benefits attributable to a Participant's "employee contributions;" (B) any repayment of contributions made by a Participant to the Plan with respect to an amount previously refunded upon the forfeiture of service credits under the Plan or another governmental plan maintained by a State or local governmental employer within the same State; or (C) benefits provided under a "qualified governmental excess benefit arrangement," as defined in Code Section 415(m)(3). If a Participant's retirement benefit under the Plan includes Mandatory Employee Contributions, the portion of the Participant's retirement benefit attributable to Employer Contributions is the excess of the Participant's retirement benefit over the actuarially equivalent single life annuity attributable to the Participant's Mandatory Employee Contributions, determined assuming interest accrues on such contributions at the rate prescribed under Code Section 411 and converting to the annuity form using the "applicable mortality table" and the 11417(e) interest rate" determined as of the second calendar month preceding the Plan Year in which the distribution is made.

For purposes of determining a Participant's "annual retirement benefit", the following shall apply:

1. If payment is to be made in a form other than to the Participant for his life only, and such form is not subject to the requirements of Code Section 417(e)(3), the actuarially equivalent single life annuity shall be the greater of:
 - a) the annual amount of single life annuity, if any, payable to the Participant under the Plan commencing at the same Annuity Starting Date as the Participant's form of payment; or
 - b) the annual amount of single life annuity commencing at the same Annuity Starting Date that has the same actuarially equivalent present value as the Participant's form of payment computed using the "applicable mortality table" and an interest rate of 5%.
2. If payment is to be made to the Participant in a form that is subject to the requirements of Code Section 417(e)(3), the actuarially equivalent single life annuity form shall be determined using the following, whichever provides the greatest annual amount:
 - a) the mortality table and interest rate otherwise used under the Plan for purposes of determining Actuarial Equivalence of such optional form;
 - b) the "applicable mortality table" and an interest rate of 5.5%; or

- c) the "applicable mortality table" and the 11417(e) interest rate" determined as of the second calendar month preceding the Plan Year in which the distribution is made, divided by 1.05.
3. A form of payment is not subject to the requirements of Code Section 417(e)(3) if the form of payment is either (A) a nondecreasing annuity (other than a single life annuity) payable for a period not less than the life of the Participant (or in the case of a qualified preretirement survivor annuity (as defined in Code Section 417(c)), the life of the Participant's Spouse) or (B) an annuity that decreases during the life of the Participant merely because of (I) the death of the Participant's Beneficiary under a joint and survivor annuity, but only if the reduction is not below 50% of the benefit payable before the death of the Beneficiary or (II) cessation or reduction of Social Security supplements or qualified disability payments, as defined in Code Section 401(a)(11).
- (4) No actuarial adjustment shall be made hereunder for (A) survivor benefits payable to a surviving Spouse under a qualified joint and survivor annuity, as defined in Code Section 417(b), to the extent such benefits would not be payable if the Participant's benefit were paid in another form, (B) benefits that are not directly related to retirement benefits (such as qualified disability benefits, preretirement incidental death benefits, and post-retirement medical benefits), or (C) the inclusion in the form of payment of an automatic benefit increase feature, provided that (I) the form of payment is not subject to Code Section 417(e)(3) and would otherwise satisfy the limitations of this Article XII and (II) the Plan provides that the amount payable under the form of payment in any "limitation year" shall not exceed the limits of this Article XII applicable as of the Annuity Starting Date, increased in subsequent years pursuant to Code Section 415(d). For purposes of clause (C), an automatic benefit increase feature is included in a form of payment if the form of payment provides for automatic, periodic increases to benefits paid in that form.
- (5) If a Participant has or will have distributions commencing at more than one Annuity Starting Date, the "annual retirement benefit" shall be determined as of each Annuity Starting Date (and shall satisfy the limitations of this Article XII as of each such date), actuarially adjusting for past and future distributions of benefits commencing as of other Annuity Starting Dates. For purposes of this paragraph (5), the determination of whether a new Annuity Starting Date has occurred shall be made without regard to Treasury Regulations Section 1.401(a)-20, Q&A 10(d), but with regard to Treasury Regulations Sections 1.415(b)-1(b)(1)(iii)(B) and (C).
- (e) The "**applicable mortality table**" means the applicable Code Section 417(e)(3) mortality table.
- (f) "**Defined benefit plan**" and "**defined contribution plan**" have the meanings given such terms in Code Section 415(k).
- (g) The "**defined benefit dollar limitation**" means \$160,000, as adjusted, effective January 1 of each year, under Code Section 415(d) in such manner as the Secretary of the Treasury shall

prescribe, and payable in the form of a single life annuity. A limitation adjusted under Code Section 415(d) will apply to "limitation years" ending with or within the calendar year for which the adjustment applies.

The "defined benefit dollar limitation" shall be adjusted as follows:

1. If the Participant has fewer than 10 years of participation in the Plan, the "defined benefit dollar limitation" shall be multiplied by a fraction, (i) the numerator of which is the number of years (or part thereof, but not less than 1) of participation in the plan and (ii) the denominator of which is 10. For purposes of this paragraph (1), a Participant is credited with a "year of participation" (computed to fractional years) for each year (or fraction of a year) of Credited Service with which he is credited under the Plan, provided that (A) he is included as a Participant under the eligibility provisions of the Plan for at least one day of each such year (or fraction of a year) and (B) the Plan is established no later than the last day of such year (or fraction of a year). No more than 1 year of participation shall be credited for any 12-consecutive-month period.

The adjustment provided in this paragraph (g)(l) shall not apply to the following:

- a) benefits payable to a Participant or his Beneficiary as a pension, annuity, or similar allowance as a result of the recipient becoming disabled due to personal injury or illness; or
 - b) benefits payable to a Participant's Beneficiary as a result of the death of the Participant.
2. If the benefit of a Participant begins prior to age 62, the "defined benefit dollar limitation" applicable to the Participant at such earlier age is an annual benefit payable in the form of a single life annuity beginning at the Participant's Annuity Starting Date that is the following, as applicable:
 - a) If the plan does not provide an immediately commencing single life annuity commencing at both age 62 and the Participant's age at his Annuity Starting Date, the actuarial equivalent of the "defined benefit dollar limitation" (adjusted under (1) above, if required) determined using the "applicable mortality table" (expressing the Participant's age based on completed calendar months as of the Annuity Starting Date) and an interest rate of 5%.
 - b) If the plan does provide an immediately commencing single life annuity commencing at both age 62 and the Participant's age at his Annuity Starting Date, the lesser of: (a) the amount determined under (A) above or (b) the "defined benefit dollar limitation" (adjusted under (1) above, if required) multiplied by the ratio of the annual amount of the immediately commencing single life annuity under the Plan at the Participant's Annuity Starting Date to the annual amount of the immediately commencing single life annuity under the Plan at age 62, both determined without applying the limitations of this Article XII.

Any decrease in the "defined benefit dollar limitation" determined in accordance with paragraph (2)(A) shall not reflect a mortality decrement if benefits are not forfeited upon the death of the Participant. If any benefits are forfeited upon death, the full mortality decrement is taken into account. For this purpose, no forfeiture is treated as occurring upon the Participant's death if the Plan does not charge Participants for providing a qualified preretirement survivor annuity (as defined in Code Section 417(c)).

The adjustment provided in this paragraph (g)(2) shall not apply to the following:

- c) benefits payable to a Participant or his Beneficiary as a pension, annuity, or similar allowance as a result of the recipient becoming disabled due to personal injury or illness; or
 - d) benefits payable to a Participant's Beneficiary as a result of the death of the Participant; or
 - e) benefits payable to any "qualified participant", as defined herein. A "qualified participant" means any Participant whose period of service under the Plan includes at least 15 years as (A) a member of the Armed Forces and/or (B) a full-time employee of a police or fire department organized and operated by the Employer to provide police protection, firefighting services, or emergency medical services for an area within the jurisdiction of such Employer.
3. If the benefit of a Participant begins after the Participant attains age 65, the "defined benefit dollar limitation" applicable to the Participant at the later age is an annual benefit payable in the form of a single life annuity beginning at the Annuity Starting Date that is the following, as applicable:
- a) If the plan does not provide an immediately commencing single life annuity commencing at both age 65 and the Participant's age at his Annuity Starting Date, the actuarial equivalent of the "defined benefit dollar limitation" (adjusted under (1) above, if required) determined using the "applicable mortality table" (expressing the Participant's age based on completed calendar months as of the Annuity Starting Date) and an interest rate of 5%.
 - b) If the plan does provide an immediately commencing single life annuity commencing at both age 65 and the Participant's age at his Annuity Starting Date, the lesser of: (a) the amount determined under (A) above or (b) the "defined benefit dollar limitation" (adjusted under (1) above, if required) multiplied by the ratio of the annual amount of the adjusted immediately commencing single life annuity under the Plan at the Participant's Annuity Starting Date to the annual amount of the adjusted immediately commencing single life annuity under the Plan at age 65, both determined without applying the limitations of this Article XII. The adjusted immediately commencing single life annuity at the Participant's Annuity Starting Date is the annual amount of such annuity payable to the Participant computed disregarding accruals after

age 65, but including actuarial adjustments even if those adjustments are used to offset accruals and the adjusted immediately commencing single life annuity under the Plan at age 65 is the annual amount of such annuity that would be payable to a hypothetical Participant who is age 65 and has the same Accrued Benefit as the Participant.

Any adjustment to the "defined benefit dollar limitation" determined in accordance with paragraph (3)(A) shall not reflect a mortality decrement if benefits are not forfeited upon the death of the Participant . If any benefits are forfeited upon death, the full mortality decrement is taken into account. For this purpose, no forfeiture is treated as occurring upon the Participant's death if the Plan does not charge Participants for providing a qualified preretirement survivor annuity (as defined in Code Section 417(c)).

- (h) An "**employee contribution**" means any employee after-tax contribution contributed by a Participant under any qualified plan of the Employer or an "affiliated employer", including mandatory employee contributions, as defined in Code Section 411(c)(2)(C).
- (i) A Participant's "**415 compensation**" with respect to a "limitation year" means the Participant's remuneration for services, including his wages, salaries, fees for professional service, and all other amounts received (without regard to whether such amounts are paid in cash) for personal services actually rendered in the course of employment with the Employer or an "affiliated employer" paid to him for such period, to the extent the amounts would have been received and includable in gross income, including, but not limited to, commissions paid to salesperson, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips, bonuses, fringe benefits, and reimbursements or other expense allowances under a nonaccountable plan described in Treasury Regulations Section 1.62-2(c), but excluding (i) contributions (other than elective contributions described in Code Section 402(e)(3), 408(k)(6), 408(p)(2)(A)(i), or 457(b)) made on behalf of the Participant by the Employer or an "affiliated employer" to a plan of deferred compensation (including a simplified employee pension described in Code Section 408(k) or a simple retirement account described in Code Section 408(p)), whether or not qualified, to the extent that, before application of the limitations of Code Section 415 to such plan, the contributions are not includable in the gross income of the Participant for the taxable year in which contributed, (ii) any distributions from a plan of deferred compensation, whether or not qualified, (except amounts received pursuant to an unfunded non-qualified plan in the year such amounts are includable in the gross income of the Participant), (iii) amounts realized from the exercise of a non-qualified option or when restricted stock or other property held by the Participant either becomes freely transferable or is no longer subject to substantial risk of forfeiture, (iv) amounts received from the sale, exchange or other disposition of stock acquired under a qualified stock option, (v) any other amounts that receive special tax benefits, such as premiums for group term life insurance (but only to the extent that the premiums are not includable in the gross income of the Participant and are not salary reduction amounts that are described in Code Section 125), and (vi) other items that are similar to the items listed in (i) through (v) above.

"415 compensation" includes (i) any elective deferral, as defined in Code Section 402(g)(3) and (ii) any amount contributed or deferred by the Employer at the Participant's election which is not includable in the Participant's gross income by reason of Code Section 125, 132(t)(4), or 457.

If a Participant has a severance of employment (as defined in Treasury Regulations Section 1.415(a)-1(f)(5)) with the Employer and all "affiliated employers", "415 compensation" does not include amounts received by the Participant following such severance of employment except amounts paid before the later of (a) the close of the "limitation year" in which the Participant's employment terminates or (b) within 2 1/2 months of such severance if such amounts:

- (1) would otherwise have been paid to the Participant in the course of his employment and are regular compensation for services during the Participant's regular working hours, compensation for services outside the Participant's regular working hours (such as overtime or shift differential pay), commissions, bonuses, or other similar compensation
- (2) are payments for accrued bona fide sick, vacation or other leave, but only if the Participant would have been able to use such leave if his employment had

continued and such amounts would have been includable in 11415 compensation" if his employment had continued

- (3) are received by the Participant pursuant to a non-qualified, unfunded deferred compensation plan, but only if the Participant would have received such payments at the same time if he had continued in employment and only to the extent the payments are includable in the Participant's gross income

For purposes of this subsection, a Participant will not be considered to have incurred a severance from employment if his new employer continues to maintain the plan with respect to such Participant.

If a Participant is absent from employment as an Employee to perform service in the uniformed services (as defined in Chapter 43 of Title 38 of the United States Code), his "415 compensation" will include any differential pay, as defined hereunder, he receives or is entitled to receive from the Employer. For purposes of this paragraph, "differential pay" means any payment made to the Participant by the Employer with respect to a period during which the Participant is performing service in the uniformed services while on active duty for a period of more than 30 days that represents all or a portion of the wages the Participant would have received if he had continued employment with the Employer as an Employee.

In no event, however, shall the compensation of a Participant taken into account under the Plan for any "limitation year" exceed the Code Section 401(a)(17) limit in effect for such "limitation year" (\$255,000 for the "limitation year" beginning in 2013, subject to adjustment annually as provided in Code Section 401(a)(17)(B) and Code Section 415(d)).

To be included in a Participant's "415 compensation" for a particular "limitation year", an amount must have been received by the Participant (or would have been received, but for the Participant's election under Code Section 125, 132(f)(4), 401(k), 402(h)(1)(B), 403(b), 408(p)(2)(A)(i), or 457) within such "limitation year".

- (j) The "417(e) interest rate" means the adjusted first, second and third segment rates applied under Code Section 430(h)(2)(C), computed without regard to a 24 month average.

- (k) The "limitation year" means the calendar year.

(l) A "predecessor employer" means (1) any former employer with respect to which the Employer or "affiliated employer" maintains a plan that provides benefits that the Participant accrued while performing services for such other employer or (2) a former entity that antedates the Employer or an "affiliated employer" if under the facts and circumstances the Employer or "affiliated employer" constitutes a continuation of all or a part of the trade or business of the former entity.