

N.E.C.A. LOCAL NO. 145 I.B.E.W.

ANNUITY  
AND  
PROFIT SHARING PLAN

As Amended  
and Restated  
Effective June 1, 2001  
(except as otherwise stated)

**N.E.C.A. LOCAL NO. 145 IBEW  
ANNUITY AND PROFIT SHARING PLAN**

**N.E.C.A. LOCAL 145 I.B.E.W. ANNUITY AND PROFIT SHARING PLAN  
As Amended and Restated Effective June 1, 2001  
(except as otherwise stated)**

**PREAMBLE**

The N.E.C.A. Local 145 I.B.E.W. Annuity Plan and its related trust (the "Trust") were established and are currently maintained pursuant to a collective bargaining agreement between the Quad City Electrical Contractors Association and Local 145 of the International Brotherhood of Electrical Workers. On February 5, 2004, the Trustees restated the Annuity Plan and converted it into the N.E.C.A. Local 145 I.B.E.W. Annuity and Profit Sharing Plan (the "Plan") with an effective date of June 1, 2001, with the conversion to a Profit Sharing plan being effective June 1, 2004..

The Plan, as set forth herein, constitutes an amendment and restatement of the Annuity Plan effective as of June 1, 2001, except as certain other effective dates may be specified herein with respect to specific provisions or as may be required under Applicable Law. The Plan, as so amended and restated, is intended to reflect all changes required to be incorporated in the Plan as of the end of the remedial amendment period specified in Code Section 401(b) as it applies to GUST and certain other specified legislation enacted subsequent thereto, as well as all other changes adopted by the Trustees prior to the actual adoption of this amendment and restatement. This amendment and restatement is further intended to reflect, ratify and confirm the administrative practices of the Trustees in operating the Plan in accordance with the purposes of Applicable Law during the period with respect to which retroactive effect is given pursuant to the remedial amendment period referred to in the preceding sentence. Notwithstanding the foregoing, nothing in this amendment and restatement shall be deemed inconsistent with any action taken by the Trustees or the Employer at any time on or after the date of the prior restatement, but prior to the adoption of this amendment and restatement which was taken in accordance with the terms of the Plan as then in effect or in a good faith attempt to administer the Plan in accordance with Applicable Law.

The Plan, as so amended and restated, is intended to continue to qualify as a pension plan trust which meets the qualification and tax exemption requirements of Sections 401(a) and 501(a) of the Internal Revenue Code of 1986, as amended, and any other provisions of Applicable Law.

Unless otherwise expressly provided herein, or as may be required by Applicable Law, the rights of any person whose employment terminated or who retired before the effective date of this amendment and restatement, or the effective date of any particular provision, as provided above, shall be determined solely under the terms of the Plan as in effect on the date of his termination of employment or retirement, unless such person is thereafter reemployed and earns an hour of service on or after the date of this restatement.

**TABLE OF CONTENTS**

**PREAMBLE.....I**

**ARTICLE I- DEFINITIONS..... 1**

SECTION 1.01 - ACCOUNT, ANNUITY SUB-ACCOUNT AND PROFIT SHARING SUB-ACCOUNT..... 1

SECTION 1.02 - ACCRUED BENEFIT ..... 1

SECTION 1.03 - ACTUARIAL EQUIVALENT..... 1

SECTION 1.04 - ADMINISTRATOR ..... 1

SECTION 1.05 - AFFILIATE ..... 1

SECTION 1.06 - APPLICABLE LAW ..... 2

SECTION 1.07 - ASSOCIATION ..... 2

SECTION 1.08 - BENEFICIARY ..... 2

SECTION 1.09 - CODE..... 2

SECTION 1.10 - COLLECTIVE BARGAINING AGREEMENT..... 2

SECTION 1.11 - COMPENSATION AND 415 COMPENSATION ..... 2

SECTION 1.12 - DAILY VALUATION DATE..... 4

SECTION 1.13 - EFFECTIVE DATE..... 4

SECTION 1.14 - ELIGIBLE EMPLOYEE ..... 4

SECTION 1.15 - EMPLOYEE..... 4

SECTION 1.16 - EMPLOYER ..... 4

SECTION 1.17 - EMPLOYER ACCOUNT..... 4

SECTION 1.18 - EMPLOYMENT COMMENCEMENT DATE ..... 5

SECTION 1.19 - ERISA ..... 5

SECTION 1.20 - FISCAL YEAR..... 5

SECTION 1.21 - FORMER PARTICIPANT..... 5

SECTION 1.22 - IRS..... 5

SECTION 1.23 - MILITARY SERVICE ..... 5

SECTION 1.24 - NORMAL RETIREMENT DATE ..... 6

SECTION 1.25 - PARTICIPANT ..... 6

SECTION 1.26 - PLAN ..... 6

SECTION 1.27 - PLAN YEAR ..... 6

SECTION 1.28 - RETIREMENT BENEFIT ..... 7

SECTION 1.29 - ROLLOVER ACCOUNT ..... 7

SECTION 1.30 - ROLLOVER CONTRIBUTION ..... 7

SECTION 1.31 - SPOUSE OR SURVIVING SPOUSE..... 7

SECTION 1.32 - TERMINATION OF EMPLOYMENT ..... 7

SECTION 1.33 - TRUST OR TRUST FUND ..... 7

SECTION 1.34 - TRUST AGREEMENT..... 7

SECTION 1.35 - TRUSTEES ..... 7

SECTION 1.36 - UNION ..... 7

SECTION 1.37 - VALUATION DATE ..... 7

**ARTICLE II -PARTICIPATION ..... 8**

SECTION 2.01 - ELIGIBILITY TO PARTICIPATE. .... 8

|  |           |
|--|-----------|
| SECTION 2.02 - TERMINATION OF PARTICIPATION. ....  | 8         |
| SECTION 2.03 - RESUMPTION OF PARTICIPATION. ....   | 8         |
| <b>ARTICLE III - CONTRIBUTIONS .....</b>   | <b>9</b>  |
| SECTION 3.01 - EMPLOYER CONTRIBUTIONS.....   | 9         |
| SECTION 3.02 - PARTICIPANT CONTRIBUTIONS .....   | 9         |
| SECTION 3.03 - RECIPROCAL CONTRIBUTIONS.....   | 9         |
| SECTION 3.04 - RETURN OF CONTRIBUTIONS TO EMPLOYER.....  | 9         |
| SECTION 3.05 - ROLLOVER CONTRIBUTIONS.....   | 10        |
| SECTION 3.06 - LIMITATION ON BENEFITS. ....  | 10        |
| <b>ARTICLE IV - ACCOUNTS - INVESTMENTS.....</b>  | <b>12</b> |
| SECTION 4.01 - SEPARATE ACCOUNTING .....   | 12        |
| SECTION 4.02 - INVESTMENT ACCOUNTS. ....   | 12        |
| SECTION 4.03 - NOTICE TO PARTICIPANTS. ....  | 13        |
| <b>ARTICLE V -BENEFITS.....</b>  | <b>14</b> |
| SECTION 5.01 - DISTRIBUTION UPON RETIREMENT OR TERMINATION OF EMPLOYMENT. ....                             | 14        |
| SECTION 5.02 - DISTRIBUTION UPON DEATH . ....  | 14        |
| SECTION 5.03 - FORM OF DISTRIBUTION TO PARTICIPANT .....   | 15        |
| SECTION 5.04 - WAIVER OF QUALIFIED JOINT AND SURVIVOR ANNUITY AND PRE-RETIREMENT<br>SURVIVOR ANNUITY. .... | 17        |
| SECTION 5.05 - VESTING.....  | 17        |
| SECTION 5.06 - LIMITATIONS ON DISTRIBUTIONS. ....  | 17        |
| SECTION 5.07 - DIRECT ROLLOVER.....  | 18        |
| <b>ARTICLE VI - DESIGNATION OF BENEFICIARIES .....</b>   | <b>20</b> |
| SECTION 6.01 - BENEFICIARY DESIGNATION.....  | 20        |
| SECTION 6.02 - LACK OF DESIGNATED BENEFICIARY. ....  | 20        |
| <b>ARTICLE VII - MANAGEMENT OF TRUST FUND.....</b>   | <b>21</b> |
| SECTION 7.01 - USE OF TRUST FUND. ....   | 21        |
| SECTION 7.02 - TRUSTEES.....   | 21        |
| SECTION 7.03 - INVESTMENTS.....  | 21        |
| SECTION 7.04 - PAYMENT OF EXPENSES. ....   | 21        |
| <b>ARTICLE VIII -ADMINISTRATION OF THE PLAN .....</b>  | <b>22</b> |
| SECTION 8.01 - THE ADMINISTRATOR.....  | 22        |
| SECTION 8.02 - INDEMNITY.....  | 22        |
| SECTION 8.03 - SERVICES TO THE PLAN. ....  | 22        |
| SECTION 8.04 - ADMINISTRATOR RECORDS. ....   | 22        |
| SECTION 8.05 - CLAIMS PROCEDURE .....  | 22        |
| SECTION 8.06 - CLAIMS REVIEW PROCEDURES .....  | 23        |
| SECTION 8.07 - COMMUNICATIONS.....   | 25        |
| SECTION 8.08 - INFORMATION FROM PARTICIPANT. ....  | 25        |

|  |           |
|--|-----------|
| <b>ARTICLE IX - AMENDMENT OR TERMINATION OF THE PLAN AND TRUST .....</b>                         | <b>26</b> |
| SECTION 9.01 - RIGHT OF AMENDMENT OR TERMINATION. ....   | 26        |
| SECTION 9.02 - NOTICE. ....  | 26        |
| SECTION 9.03 - PLAN TERMINATION. ....  | 26        |
| SECTION 9.04 - SUCCESSOR PLAN. ....  | 27        |
| <b>ARTICLE X – PROCEDURES FOR QUALIFICATION OF DOMESTIC RELATIONS<br/>          ORDERS .....</b> | <b>28</b> |
| SECTION 10.01 - PURPOSE.....   | 28        |
| SECTION 10.02 - APPLICATION COMMITTEE .....  | 28        |
| SECTION 10.03 - NOTIFICATION OF FUND COUNSEL .....   | 28        |
| SECTION 10.04 - REQUEST FOR DETERMINATION OF QUALIFICATION .....                                 | 28        |
| SECTION 10.05 - REQUIREMENTS FOR QUALIFICATION .....   | 29        |
| SECTION 10.06 - RESPONSE TO REQUEST .....  | 30        |
| SECTION 10.07 - ADMINISTRATION .....   | 30        |
| <b>ARTICLE XI - GENERAL LIMITATIONS AND PROVISIONS.....</b>                                      | <b>32</b> |
| SECTION 11.01 - RIGHTS OF EMPLOYER .....   | 32        |
| SECTION 11.02 - TRUST AS SOURCE OF BENEFITS. ....  | 32        |
| SECTION 11.03 - INCOMPETENT PAYEE. ....  | 32        |
| SECTION 11.04 - NONALIENATION OF BENEFITS. ....  | 32        |
| SECTION 11.05 - LOST PAYEE. ....   | 32        |
| SECTION 11.06 - INSURANCE CONTRACTS. ....  | 33        |
| SECTION 11.07 - GENDER.....  | 33        |
| SECTION 11.08 - CAPTIONS. ....   | 33        |
| SECTION 11.09 - GOVERNING LAW. ....  | 33        |
| <b>SIGNATURE PAGE.....</b>   | <b>34</b> |

## ARTICLE I- DEFINITIONS

When used herein the following terms shall have the following meanings:

### **Section 1.01 - Account, Annuity Sub-Account and Profit Sharing Sub-Account**

**“Account”** means the Account established and maintained under the Plan on behalf of a Participant in accordance with Section 5.01, including as applicable, his Employer Account and his Rollover Account. As of June 1, 2004, each Account will consist of two (2) sub-accounts, an Annuity Sub-Account and a Profit Sharing Sub-Account. The Annuity Sub-Account shall consist of the balance of the Participant’s Account as of May 30, 2004. The Annuity Sub-Account shall be made up of the Employer contributions credited to a Participant as adjusted for any gains, losses or expenses attributed to such account as of said date. The Annuity Sub-Account shall be subject to the Plan rules in effect at the time the annuity portion of the Plan is frozen on May 30, 2004 and the Plan is converted into a profit sharing plan on June 1, 2004. The Profit Sharing Sub-Account shall consist of all Employer contributions made on or after June 1, 2004, the day after the annuity portion of the Plan is frozen, as well as any gains, losses or expenses attributed to such Sub-Account. The Profit Sharing Sub-Account shall be subject to the Plan rules in effect after the Plan is converted to a profit sharing plan on June 1, 2004.

### **Section 1.02 - Accrued Benefit**

**“Accrued Benefit”** means the balance in a Participant’s Account, including any Sub Accounts, under the Plan, on any date.

### **Section 1.03 - Actuarial Equivalent**

**“Actuarial Equivalent”** means the value of an annuity that can be purchased with the value of the Participant’s Annuity Sub-Account.

### **Section 1.04 - Administrator**

**“Administrator”** means the Trustees or any other person or entity appointed by the Trustees to administer the Plan. The Trustees shall be the named fiduciary of the Plan for purposes of ERISA.

### **Section 1.05 - Affiliate**

**“Affiliate”** means any corporation which is included in a controlled group of corporations (within the meaning of Code Section 414(b)) which includes an Employer, any trade or business (whether or not incorporated) which is under common control with any Employer (within the meaning of Code Section 414(c)), any organization included in the same affiliated service group (within the meaning of Code Section 414(m)) as an Employer and any other entity required to be aggregated with an Employer pursuant to the regulations under Code Section 414(0); except that for purposes of applying the provisions of Section 3.06 with respect to the limitations on benefits, Code Section 415(h) shall apply. An Employer Affiliate may participate in the Plan only after signing a written agreement with the Plan detailing the rules of participation and the contributions to be made, that is approved by the Trustees.

**Section 1.06 - Applicable Law**

“**Applicable Law**” means the Code, ERISA and any other law which governs the operations of this Plan, and any regulations, rulings or other administrative or judicial clarification thereof.

**Section 1.07 - Association**

“**Association**” means the Quad City Electrical Contractors Association, or any successor thereto.

**Section 1.08 - Beneficiary**

“**Beneficiary**” means any person or entity validly designated by a Participant pursuant to Article VI to receive the amount, if any, payable under the Plan upon his death.

**Section 1.09 - Code**

“**Code**” means the Internal Revenue Code of 1986, as now in effect or as hereafter amended. All citations to sections of the Code are to such sections as they may from time to time be amended or renumbered.

**Section 1.10 - Collective Bargaining Agreement**

“**Collective Bargaining Agreement**” means the agreement between the Association and the Union under which the Employers are required to make contributions to the Plan.

**Section 1.11 - Compensation and 415 Compensation**

“**Compensation**” means wages within the meaning of Code Section 3401(a) and all other payments of compensation to the Employee by the Employer (in the course of the Employer’s trade or business) for which the Employer is required to furnish the Employee a written statement under Code Sections 6041(d), 6051(a)(3), and 6052, determined without regard to any rules under Code Section 3401(a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed for the Plan Year. Notwithstanding the foregoing, “Compensation” shall not include income to the Employee for which the Employer is not required to make an Employer contribution, such as Christmas bonuses or performance bonuses.

Notwithstanding the above, Compensation shall also include any amount which is contributed by the Employer pursuant to a salary reduction agreement and which is not includible in the gross income of the Employee under Code Sections 125, 402(a)(8), 402(h), or 403(b).

For years beginning after December 31, 1988, the annual Compensation of each Participant taken into account under the Plan for any year shall not exceed Two Hundred Thousand Dollars (\$200,000). This limitation shall be adjusted by the Secretary at the same time and in the same manner as under Code Section 415(d), except that the dollar increase in effect on January 1 of any calendar year is effective for years beginning in such calendar year and the first adjustment to the Two Hundred Thousand Dollars (\$200,000) limitation is effected on January 1, 1990. For Plan Years beginning on or after January 1, 1994, the annual Compensation of each Participant taken into account under the Plan for any year shall not exceed One Hundred Thousand Dollars (\$150,000), as adjusted by the Commissioner for increases in the cost-of-living in accordance with Section 410(a)(17)(B) of the Code. The cost-of-living adjustment in effect for a calendar year applies to any period, not exceeding twelve (12) months, over which Compensation is

determined (“determination period”) beginning in such calendar year. If a Plan determines Compensation on a period of time that contains fewer than twelve (12) calendar months, then the annual Compensation limit is an amount equal to the annual Compensation limit for the calendar year in which the Compensation period begins multiplied by the ratio obtained by dividing the number of full months in the period by twelve (12). For Plan Years beginning on or after January 1, 2002, the annual Compensation of each Participant taken into account under the Plan for any year shall not exceed Two Hundred Thousand Dollars (\$200,000), as adjusted by the Commissioner for increases in the cost-of-living in accordance with Section 410(a)(17)(B) of the Code.

In determining the Compensation of a Participant for purposes of this limitation, the rules of Code Section 414(q)(6) shall apply, except in applying such rules, the term “family” shall include only the Spouse of the Participant and any lineal descendants of the Participant who have not attained age nineteen (19) before the close of the year.

If, as a result of the application of such rules, the adjusted Compensation limitation is exceeded, then the limitation shall be prorated among the affected individuals in the proportion to each such individual’s Compensation as determined under this Plan Section prior to the application of this limitation.

For Plan Years prior to January 1, 1989, “Compensation” shall mean compensation as governed under the terms of the Plan which this Plan document restates (but only to the extent the corresponding provision follows the requirements of the Code).

**"415 Compensation"** means, with respect to any Participant, such Participant's wages as defined in Code Section 3401(a) and all other payments of compensation by the Employer (in the course of the Employer's trade or business) for a Plan Year for which the Employer is required to furnish the Participant a written statement under Code Sections 6041(d), 6051(a)(3) and 6052. Notwithstanding the foregoing, “Compensation” shall not include income to the Employee for which the Employer is not required to make an Employer contribution, such as Christmas bonuses or performance bonuses. "415 Compensation" must be determined without regard to any rules under Code Section 3401(a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Code Section 3401(a)(2)).

Effective for limitation years beginning after December 31, 1997, for purposes of applying the limitations of Section 415 of the Internal Revenue Code, Compensation paid or made available during such limitation year shall include any elective deferral (as defined in IRC 401(g)(3)), and any amount which is contributed or deferred by the Employer at the election of the Employee and which can be not be included in the gross income of the Employee by reason of IRC Sections 125 or 457.

Effective for limitation years beginning on or after January 1, 2001, for purposes of applying the limitations of IRC 415, Compensation paid or made available during the limitation year shall include any amounts that are not includible in the gross income of the Employee by reason of IRC 132(f)(4).

**Section 1.12 - Daily Valuation Date**

“**Daily Valuation Date**” shall mean each date that the New York Stock Exchange is open for business and is applicable only to the extent that the Participant Accounts or Sub-Accounts are valued on a daily basis.

**Section 1.13 - Effective Date**

“**Effective Date**” of this amendment and restatement means June 1, 2001, except as otherwise stated.

**Section 1.14 - Eligible Employee**

“**Eligible Employee**” means any Employee who is: (A) a member of the Union, (B) included in a unit of employees covered by the Collective Bargaining Agreement, or (C) employed by the Union or any of its affiliated entities, and for whom, in any such case, his Employer is obligated to contribute to the Plan. A person shall also be considered an Eligible Employee to the extent required under a reciprocity agreement between the Trustees and a plan or trust similar to the Plan. An Employee shall not be considered an Eligible Employee for any period during which he maintains his eligibility under another plan pursuant to a reciprocity agreement between the Trustees and such other plan.

**Section 1.15 - Employee**

“**Employee**” means any individual employed by an Employer, as defined below, who is covered by the Collective Bargaining Agreement, or special agreement, for whom the Employer makes contributions to the trust fund, and any individual who may have been so employed but is subsequently laid off, terminated, or retired. The term Employee shall also include any individual or participant whom is both a member of the Union in good standing and is promoted by an Employer to a job classification not covered by the Collective Bargaining Agreement, including but not limited to, estimators, superintendents or general managers. The term Employee shall also include full-time employees of the Union as well as full or part-time Employees of any industry advancement entity provided such individual remains a member of the Local Union in good standing.

**Section 1.16 - Employer**

“**Employer**” means present member-employers of the Association and such other sole proprietorships, and such other entity, sole proprietorship, partnership, limited liability, unincorporated association, corporation, or joint venture, that agrees in writing to be part of the Collective Bargaining Agreement in effect between the Union and the Association. The term Employer shall also mean the Union for the purposes of providing benefits for the full-time Employees of the Union, for whom the Union agrees to contribute to the Pension Fund. The term Employer shall also include any Local 145 sponsored electrical or building trade industry entity working toward the advancement of the electrical union, the electrical trade, and/or the entire union building trade community, for whom said entity agrees to contribute to the Pension Fund.

**Section 1.17 - Employer Account**

“**Employer Account**” means the portion of a Participant's Account, including Sub-Accounts, attributable to contributions made on his behalf in accordance with Sections 3.01 and 3.03.

**Section 1.18 - Employment Commencement Date**

“**Employment Commencement Date**” means the date on which an individual first performs an Hour of Service for the Employer or any Affiliate.

**Section 1.19 - ERISA**

“**ERISA**” means the Employee Retirement Income Security Act of 1974, as now in effect or as hereafter amended.

**Section 1.20 - Fiscal Year**

“**Fiscal Year**” means the twelve (12) month period beginning on June 1 and ending on the following May 31 of each year.

**Section 1.21 - Former Participant**

“**Former Participant**” means a Participant who has terminated his employment as an Eligible Employee, whether or not he has received a distribution of his Account.

**Section 1.22 - IRS**

“**IRS**” means the United States Internal Revenue Service.

**Section 1.23 - Military Service**

“**Military Service**” shall mean service in any branch of the uniformed services of the United States of America for which an honorable discharge is received, the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty for training, or full-time National Guard duty, the Commissioned Corp. of the Public Health Service, and any other category of persons designated by the President of the United States in time of war or emergency including natural disasters and civil disturbances.

- (A) For Military Service on or after December 13, 1994, Participant shall receive the higher of fifty (50) hours of work credit, or one-twelfth (1/12) of the per Participant actuarially calculated Plan Year work hours for each month of Military Service if:
- (1) The Participant worked in covered employment within twelve (12) months of the onset of Military Service (including covered employment under a reciprocal agreement);
  - (2) The Participant worked in covered employment or submitted an application for work in covered employment in accordance with the following schedule (including covered employment under a reciprocal agreement);
    - (a) If the Military Service was less than thirty-one (31) days, beginning with the first full regularly scheduled work period on the first calendar day following discharge from Military Service, plus the expiration of eight (8) hours after reasonable and actual time for transportation back to the Participant’s residence;

- (b) If the Military Service is more than thirty-one (31) days, but less than one hundred eighty-one (181) days, beginning no later than fourteen (14) days following discharge from the Military Service;
- (c) If the Military Service is more than 180 days beginning on the day not later than ninety (90) days after discharge from Military Service;
- (C) Credit for Military Service on or after December 14, 1994, shall not exceed five (5) years of credited service;
- (D) Benefit accrual for Military Service shall be credited as though contributions were made at the rate which was the Fund's average contribution rate at the time of Military Service;
- (E) The Trustees retain the discretion to make exceptions to all of the above rules due to hardship, hospitalization and convalescence from an injury received on active duty in accordance with the Uniformed Services Employment and Re-employment Rights Act (USERRA) and all regulations promulgated thereunder;
- (F) The Trustees may require documentation establishing the timeliness of covered employment prior to Military Service, of application for re-employment in covered employment and the length and character of any Military Service.
- (G) Any costs associated with the crediting of Military Service and/or the benefit accruals related to Military Service shall be considered liabilities of the entire Plan and shall not be the exclusive cost of any single Employer or group of Employers.

It is the intent of the Plan and this amendment to comply with the Uniformed Services Employment and Reemployment Rights Act (USERRA) of 1994 and with §414(u) of the Internal Revenue Code.

**Section 1.24 - Normal Retirement Date**

**“Normal Retirement Date”** means the first day of the month coinciding with or next following the Participant's sixty-first (61<sup>st</sup>) birthday.

**Section 1.25 - Participant**

**“Participant”** means any Employee who participates in the Plan in accordance with Article II.

**Section 1.26 - Plan**

**“Plan”** means the N.E.C.A. Local 145 I.B.E.W. Annuity and Profit Sharing Plan, formerly known as the N.E.C.A. Local 145 I.B.E.W Annuity Plan, as the same may be amended from time to time.

**Section 1.27 - Plan Year**

**“Plan Year”** means the twelve (12) consecutive month period beginning on June 1 and ending on May 31 of the following year.

**Section 1.28 - Retirement Benefit**

“Retirement Benefit” means a pension or any other payment or payments payable under the terms of the Plan to a Participant, Spouse or Surviving Spouse, or Beneficiary.

**Section 1.29 - Rollover Account**

“Rollover Account” means the portion of a Participant's Account attributable to Rollover Contributions.

**Section 1.30 - Rollover Contribution**

“Rollover Contribution” means any contribution made by a Participation in accordance with Section 3.05.

**Section 1.31 - Spouse or Surviving Spouse**

“Spouse or Surviving Spouse” means the individual to whom a Participant or Former Participant is legally married (as determined by the Administrator) on the earliest of: (A) the date on which payment of benefits commence under the Plan, or (B) the date of the Participant's death.

**Section 1.32 - Termination of Employment**

“Termination of Employment”, or words of similar import, means the cessation of an Employee's employment as an Eligible Employee.

**Section 1.33 - Trust or Trust Fund**

“Trust or Trust Fund” means the trust established by agreement between the Association and the Union to provide the benefits under the Plan.

**Section 1.34 - Trust Agreement**

“Trust Agreement” means the agreement entered into between the Association and the Union to establish the Trust.

**Section 1.35 - Trustees**

“Trustees” means the trustee or trustees of the Trust.

**Section 1.36 - Union**

“Union” means Local 145 of the International Brotherhood of Electrical Workers, and any successor thereto.

**Section 1.37 - Valuation Date**

“Valuation Date” means the last day of the Plan Year, and such other dates as the Administrator may establish.

## **ARTICLE II -PARTICIPATION**

### **Section 2.01 - Eligibility to Participate.**

The following rules govern participation in the Plan:

- (A) Each person who was a Participant on May 31, 2001 and who continues as an Eligible Employee thereafter shall continue as a Participant on June 1, 2001. Each other person shall become a Participant on the first date on which he is an Eligible Employee.
- (B) An Employee who is eligible to participate in the Plan in accordance with (A) above shall complete and file the appropriate forms with the Administrator. Such forms shall include a Beneficiary designation and an agreement to be bound by all the terms and conditions of the Plan and Trust and any agreement with any other funding agency, including an insurance company, constituting a part of the Plan and Trust.

### **Section 2.02 - Termination of Participation.**

A Participant shall not be entitled to make Rollover Contributions or to receive Employer Contributions during any period in which he is not an Eligible Employee. However, a Participant shall continue to be a Participant for all other relevant purposes of the Plan until such time as his Account, including Sub-Accounts, is fully distributed to him.

### **Section 2.03 - Resumption of Participation.**

If an Employee resumes employment as an Eligible Employee, he will again become a Participant on the date he is once again an Eligible Employee.

## ARTICLE III - CONTRIBUTIONS

### Section 3.01 - Employer Contributions

The following rules govern Employer contributions:

(A) Amount

Each Employer shall make a contribution to the Plan for each Plan Year on behalf of each Participant who has worked for such Employer as an Eligible Employer during the Plan Year. The amount of such contribution shall be determined from the Collective Bargaining Agreement based upon the number of hours worked by such Participant for such Employer as an Eligible Employee during such Plan Year. As of June 1, 2004, such Employer contributions made shall be credited to the Participant's Profit Sharing Sub-Account only.

(B) Allocation

Employer contributions for each Plan Year shall be allocated to the applicable Employer Sub-Accounts of Participants for whom such contributions were made as soon as practicable after the payment of such contributions to the Trust Fund, but in no event later than the last day of the Plan Year for which such contributions were made. Prior to June 1, 2004, allocations shall be made to the Annuity Sub-Account; on or after June 1, 2004, allocations shall be made to the Profit Sharing Sub-Account.

(C) Payment by Employer

Each Employer shall pay its contributions directly to the Trustees in accordance with and subject to the terms of the Trust Agreement and the Collective Bargaining Agreement.

### Section 3.02 - Participant Contributions

Other than Rollover Contributions, no Participant shall be required or permitted to make contributions to the Trust Fund.

### Section 3.03 - Reciprocal Contributions.

Any amounts transferred to the Trust on behalf of a Participant pursuant to a reciprocity agreement between the Trustees and a trust or plan similar to the Plan shall be treated as a contribution by a Employer made in accordance with and subject to the provisions of Section 3.01.

### Section 3.04 - Return of Contributions to Employer.

Except as otherwise provided in this Section 3.04, all contributions by an Employer shall be irrevocable and shall be transferred to the Trustees and held as provided in Article VII, to be used in accordance with the provisions of this Plan in providing the benefits and paying the expenses hereof. Notwithstanding the provisions of Sections 3.01 and 3.03, to the extent permitted by Applicable Law, contributions shall be returned to an Employer under the following circumstances:

(A) Mistake

If and to the extent that any contribution was made by a mistake of fact, the Administrator may direct the Trustee to return the contribution to the Employer at any time within one (1) year after the payment of such contribution.

(B) Adjustments

Any contribution returned pursuant to this Section 3.04 shall be adjusted to reflect only its proportionate share of the Trust Fund's loss, if any.

(C) Limitation on Rights

Notwithstanding any provision of this Plan to the contrary, the right or claim of any Participant or Beneficiary to any asset of the Trust or to any benefit under the Plan shall be subject to and limited by the provisions of this Section 3.04.

**Section 3.05 - Rollover Contributions.**

In accordance with procedures established by the Administrator and applied in a uniform and nondiscriminatory manner, a Participant may make a Rollover Contribution to the Plan at any time of cash, or such other property as the Administrator may specifically approve in advance, of the taxable portion of an "Eligible Rollover Distribution", as defined in Section 5.07(A), which the Employee received from another qualified pension or profit sharing plan or an individual retirement account within the meaning of Code Section 408(d)(3)(A)(ii) and which is contributed to the Plan in compliance with the requirements for the Employee making a federal income tax free "rollover" contribution under the Code, including the direct transfer of such Rollover Contribution to the Trust Fund from such other plan or account. The Administrator shall obtain such evidence, assurances, opinions and certifications it may deem necessary to establish to its satisfaction that the amounts to be contributed as a Rollover Contribution will not affect the qualification of the Plan or the tax-exempt status of the Trust under Code Sections 401(a) and 501(a). Any Rollover Contribution which is found by the Administrator not to be qualified for tax-free rollover treatment shall be returned to the Participant. Any expense to or liability incurred by the Plan or any fiduciary of the Plan because of a transfer of such disqualified assets to the Trustee shall be borne solely by and charged to the individual who requested the transfer. Rollover Contributions shall be credited to the Participant's Rollover Account. Rollover Contributions made on or after June 1, 2004 shall be credited to the Participant's Profit Sharing Sub-Account. At all times a Participant shall be one hundred percent (100%) vested in the value of his Rollover Account.

**Section 3.06 - Limitation on Benefits.**

The following are the limitations on benefits:

(A) Limits Through And Including December 31, 2001.

Notwithstanding anything contained herein to the contrary, the total Additions made to a Participant's Account for any Plan Year shall not exceed the lesser of:

- (1) Thirty Thousand Dollars (\$30,000), or if greater, twenty-five percent (25%) of the dollar limitation in effect for defined benefit plans under Internal Revenue Code Section 415(b)(A); or

- (2) Twenty-five percent (25%) of the Participant's compensation as defined in Internal Revenue Code Regulation 1.415-2(d)(1)(i) actually paid or includible in gross income during such Plan Year.
- (B) Limits Beginning January 1, 2002.  
Effective for Plan Years beginning after December 31, 2001, the annual addition that may be contributed or allocated to a Participant's Account under the Plan for any Plan Year shall not exceed the lesser of:
  - (1) Forty Thousand Dollars (\$40,000), as adjusted for increases in the cost-of-living under Section 415(d) of the Code, or
  - (2) One hundred percent (100%) of the Participant's compensation, within the meaning of Section 415(c)(3) of the Code, for the Plan Year.
- (C) The compensation limit referred to in this subsection shall not apply to any contribution for medical benefits after separation from service (within the meaning of Section 401(h) or Section 419A(f)(2) of the Code) which is otherwise treated as an annual addition.
- (D) For purposes of subsections (A) and (B) above, the term Additions shall mean the sum of all contributions and forfeitures allocated to a Participant's Account for the Plan Year. However, Additions shall be determined without regard to any rollover contributions received during the year.
- (E) For purposes of this Section, the current Plan and all non-multiemployer defined contribution plans of the employers, whether or not terminated, are to be treated as one (1) defined contribution plan and all non-multiemployer defined benefit plans of the Employers, whether or not terminated, are to be treated as one (1) defined benefit plan.
- (F) Benefits under this Plan shall be reduced as necessary in order to achieve compliance with the limitations of Section 415 of the Code. If benefits are so reduced, the Trustees shall advise affected Participants of any additional limitation required by this paragraph.

The above limitations are intended to comply with the provisions of Section 415 of the Internal Revenue Code, as amended, so that the maximum benefits provided by plans of the Employers shall be exactly equal to the maximum amounts allowed under Section 415 of the Internal Revenue Code and regulations thereunder. If there is any discrepancy between the provisions of this Article VIII and the provisions of Section 415 of the Internal Revenue Code and regulations thereunder, such discrepancy shall be resolved in such a way as to give full effect to the provisions of Section 415 of the Internal Revenue Code.

## ARTICLE IV - ACCOUNTS - INVESTMENTS

### Section 4.01 - Separate Accounting

The following Rules govern the accounting of Accounts:

(A) Accounts

The Administrator shall establish and maintain in respect of each Participant an Account, including the Annuity Sub-Account and the Profit Sharing Sub-Account, showing his interest under the Plan and in the Trust and all other relevant data pertaining thereto. The establishment and maintenance of, or allocations and credits to the Account, including the Sub-Accounts, of any Participant shall not vest in any Participant any right, title or interest in and to any Plan assets or benefits except at the time or times and upon the terms and conditions and to the extent expressly set forth in the Plan and in accordance with the terms of the Trust.

(B) Value of Accounts

The value of any Account, including the Sub-Accounts, as of any date of determination shall be equal to:

- (1) The aggregate amount credited to such Account, including the Sub-Accounts, as of the Valuation Date coinciding with or next preceding such date of determination, after all allocations as of such Valuation Date have been made, plus
- (2) any amounts contributed to or otherwise to be credited to such Account, including the Sub-Accounts, since such Valuation date, less
- (3) any amounts distributed from or otherwise to be charged to such Account, including the Sub-Accounts, since such Valuation Date.

### Section 4.02 - Investment Accounts.

The following rules govern investment accounts:

(A) Investment by Trustees

Except as otherwise provided in (B) below, the Accounts, including the Sub-Accounts, of Participants shall be invested by the Trustees in accordance with the terms of the Trust Agreement.

(B) Investment Funds for Accounts

The Trustees may cause to be established under the Trust separate funds for the investment of assets held in the Trust in order to provide differing investment opportunities for Participants to choose from. Any such separate fund may be established through separate accounting of a portion of the assets of the Trust or through the use of investment products offered by insurance companies, mutual funds or other similar financial institutions. The Administrator shall provide, directly or indirectly through an

investment agent, information to Participants concerning the nature of such separate funds and shall from time to time establish such rules and procedures for implementing the provisions of this Section 5.02(B) as it deems necessary, including without limitation, the use of prescribed forms, the imposition of reasonable time and notice requirements, the imposition of limitations on investment choices and transfers between the separate investment funds and the provision for periodic valuations during the Plan Year. All such rules and procedures shall be established and applied on a uniform and non-discriminatory basis to all persons similarly situated. The Trustees may change the separate funds available to Participants as they deem appropriate.

**Section 4.03 - Notice to Participants.**

Within a reasonable time after each Valuation Date, the Administrator shall notify each Participant (and each Beneficiary entitled to a distribution under Section 5.02) of the balance in such Participant's Account, including the Sub-Accounts, as of such Valuation Date.

## **ARTICLE V –BENEFITS**

### **Section 5.01 - Distribution Upon Retirement or Termination of Employment.**

The following rules govern distribution upon retirement or Termination of Employment:

(A) Entitlement –

Subject to Section 5.04, as applicable, a Participant whose employment terminates for any reason other than death shall be entitled to receive a distribution of the value of his Account, including Sub-Accounts, as of the Valuation Date coinciding with or immediately following the earlier of:

- (1) the date which is two (2) years after the date of his termination of employment,
- (2) the first date on or after his termination of employment as of which he is at least age fifty-five (55), or
- (3) the date as of which he is entitled to a disability pension under the N.E.C.A. Local No. 145 IBEW Pension Fund.

(B) Cash Out –

If at the time he is entitled to a distribution, the value of a Participant's Account, including the Sub-Accounts, does not exceed (or at the time of any prior distribution did not exceed) Five Thousand Dollars (\$5,000), distribution shall be made to the Participant in a single sum payment as soon as practicable after the date on which he is first entitled to a distribution in accordance with (A) above.

(C) Regular Distribution –

Subject to Section 5.06, if (B) above does not apply to a Participant at the time he is entitled to a distribution, the Participant may elect, in accordance with procedures established by the Administrator, to receive distribution of his Account, including the Sub-Accounts, in the form provided in Section 5.03 as soon as practicable, or to defer such distribution to any Valuation Date occurring on or after his termination of employment. In particular, Participant, or former Participant who is entitled to receive a distribution of the value of his Account may elect to defer distribution of his Account until age fifty-nine and one-half (59 ½) or Normal Retirement Age, if he so desires, subject to 5.01(B).

### **Section 5.02 - Distribution Upon Death .**

The following rules govern distribution of a Participant's Accounts, including the Sub-Accounts, upon death:

(A) Unmarried Participant

If an unmarried Participant dies while employed by an Employer or an Affiliate or before a distribution to which he is entitled in accordance with Section 5.01 has commenced, the value of his Account, including the Sub-Accounts, as of the Valuation Date coinciding

with or immediately following his death shall be distributed to his Beneficiary in a single sum payment. Such distribution shall be made as soon as practicable following such Valuation Date.

(B) Married Participant

(1) Annuity Sub-Account

Unless waived in accordance with Section 5.04, upon the death of a married Participant while employed by an Employer or an Affiliate, or before a distribution to which he is entitled in accordance with Section 5.01 has commenced, distribution of the value of the Participant's Annuity Sub-Account as of the last Valuation Date of the Plan Year in which the Participant's death occurs shall be paid to the Participant's Surviving Spouse in the form of a Pre-retirement Survivor Annuity. The term "Pre-retirement Survivor Annuity" means a monthly annuity to the Participant's Surviving Spouse, if any, for the life of such Surviving Spouse, that is the Actuarial Equivalent of the value of the Participant's Annuity Sub-Account described in the preceding sentence; provided, that if the Surviving Spouse dies before the total of the payments to her under the Pre-retirement Survivor Annuity equals the value of the Participant's Annuity Sub-Account, such annuity payment shall continue to the Surviving Spouse's Beneficiary until the total of all such monthly payment equals the value of the Participant's Annuity Sub-Account. Payment of a Pre-retirement Survivor Annuity shall commence as soon as practicable following the Valuation Date which coincides with or next follows the date of the Participant's death; provided, however, it shall not commence to be paid prior to the date which would have been the Participant's Normal Retirement Date (had the Participant lived) without the written consent of the Participant's Surviving Spouse. In the absence of such consent, payment of the Pre-retirement Survivor Annuity shall not be made until the earlier of the first day of the month following receipt of the required consent by the Administrator, or the date which would have been the Participant's Normal Retirement Date (had the Participant lived). Prior to the date distribution of the Pre-retirement Survivor Annuity has commenced, the Surviving Spouse may elect, in accordance with procedures established by the Administrator, to receive distribution in a single sum cash payment in lieu of the Pre-retirement Survivor Annuity.

(2) Profit Sharing Sub-Account

The Participant's Profit Sharing Sub-Account shall be distributed in the form of a single sum cash payment. Such distribution shall be made as soon as practicable following the Valuation Date.

**Section 5.03 - Form of Distribution to Participant**

The following forms of distribution available to a Participant are as set forth below:

(A) Annuity Sub-Account

The following rules shall apply to a Participant's Annuity Sub-Account:

(1) Annuity

Unless a different form of payment is elected in accordance with (2) below, distribution to an unmarried Participant shall be payable in the form of a Straight Life Annuity. A "Straight Life Annuity" means a monthly annuity in the amount that is the Actuarial Equivalent of the value of the Participant's Annuity Sub-Account, payable for the life of the Participant and ending with the payment due on the last day of the month coincident with or preceding the date of the Participant's death, provided, that if the Participant dies before the total of the monthly payments made to him equals the value of his Annuity Sub-Account, such monthly payments shall continue to the Participant's Beneficiary until the total of the payments to the Participant and his Beneficiary equals the value of his Annuity Sub-Account.

Unless waived in accordance with Section 5.04, distribution to a married Participant shall be payable in the form of a Qualified Joint and Survivor Annuity. A "Qualified Joint and Survivor Annuity" means a monthly annuity, in an amount that is the Actuarial Equivalent of the value of the Participant's Annuity Sub-Account, payable for the life of the Participant, ending with the payment due on the last day of the month coincident with or preceding the date of the Participant's death and, if the Participant dies leaving a Surviving Spouse, a monthly survivor annuity for the life of such Surviving Spouse equal to fifty percent (50%) of the monthly annuity payable for the life of the Participant, commencing on the last day of the month following the date of the Participant's death and ending with the payment due on the last day of the month coincident with or preceding the date of the Surviving Spouse's death. In the event that the Participant and his Surviving Spouse both die before the total of the monthly payments to both of them equals the value of the Participant's Annuity Sub-Account, monthly payments in the amount payable to the last to die of the Participant and his Surviving Spouse shall continue to the Beneficiary of such last to die until the total of the payments made to all such persons equals the value of the Participant's Annuity Sub-Account.

(2) Optional Forms

In lieu of the methods of payment described in (1) above, an unmarried Participant or a married Participant who has waived the Qualified Joint and Survivor Annuity in accordance with Section 5.04, may elect in accordance with procedures established by the Administrator, to receive distribution of his Annuity Sub-Account in a single sum or in the form of any other annuity that is the Actuarial Equivalent of the value of his Annuity Sub-Account.

(B) Profit Sharing Sub-Account

The following rules apply to a Participant's Profit Sharing Sub-Account:

- (1) An active Participant who has ceased to be an Employee and has attained his Normal Retirement Date shall be deemed to have retired and shall, upon application to the Trustees and approval by the Trustees, be entitled to the Value of his Participant Profit Sharing Sub-Account in a single sum.

**Section 5.04 - Waiver of Qualified Joint and Survivor Annuity and Pre-retirement Survivor Annuity.**

The Employer shall furnish or cause to be furnished to each Participant, to the extent required by Applicable Law, explanations of the Qualified Joint and Survivor Annuity and the Pre-retirement Survivor Annuity under procedures developed by the Administrator in accordance with Applicable Law. A Participant may, with the written consent of his Surviving Spouse (unless the Administrator makes a written determination in accordance with Applicable Law that no such consent is required), elect: (A) to receive distribution of his Annuity Sub-Account in a form described in Section 5.03(A)(2) in lieu of a Qualified Joint and Survivor Annuity, or (B) to have the distribution of his Annuity Sub-Account on his death paid in the form described in Section 5.02(A) in lieu of the Pre-retirement Survivor Annuity provided in Section 5.02(A)(1). An election with respect to distribution upon death must be made within the period beginning on the first day of the Plan Year in which the Participant attains age thirty-five (35) and ending on the date of the Participant's death. Any other election in accordance with this Section 5.04 must be made within the ninety (90) day period ending on his annuity starting date. Any election made pursuant to this Section 5.04 may be revoked by a Participant without spousal consent at any time within which such election could have been made. Such an election or revocation must be made in accordance with procedures developed by the Administrator in accordance with Applicable Law. For purposes of this Section 5.04, a Participant's "annuity starting date" means the first day of the first period for which an amount is payable as an annuity or, in the case of a benefit not payable as an annuity, the first day on which all events have occurred which entitle the Participant to such benefit.

**Section 5.05 - Vesting**

A Participant shall at all times be one hundred percent (100%) vested in his entire Account.

**Section 5.06 - Limitations on Distributions.**

The following are the limitations on distributions:

- (A) Notwithstanding any other provision of the Plan and subject to Section 11.05, unless otherwise provided by law, any benefit payable to a Participant shall commence (in accordance with Code Section 401(a)(9)) no later than the April 1st of the calendar year following the calendar year in which such Participant attains age seventy and one half (70 ½) (the "required beginning date"). If not paid in a single sum payment, such benefits shall be paid, in accordance with Applicable Law, (1) over the life of the Participant, (2) over the life of the Participant and a designated Beneficiary, (3) over a period not extending beyond the life expectancy of the Participant, or (4) over a period not extending beyond the joint life expectancies of the Participant and a designated Beneficiary. The minimum distribution required for the Participant's first distribution calendar year must be made on or before the Participant's required beginning date. The minimum distribution for each other calendar year, including the minimum distribution for the year in which the Participant's required beginning date occurs, must be made on or before December 31<sup>st</sup> of the distribution calendar year. Life expectancies for purposes of this Section 5.06 shall be recalculated annually in accordance with Applicable Law.

- (B) If distribution of a Participant's benefit has commenced prior to a Participant's death, and such Participant dies before his entire benefit is distributed to him, distribution of the remaining portion of the Participant's benefit to his Beneficiary shall be made at least as rapidly as under the method of distribution in effect as of the date of the Participant's death.
- (C) If a Participant dies before distribution of his benefit has commenced, distributions to his Beneficiary shall be made on or before December 31<sup>st</sup> of the calendar year which contains the fifth anniversary of the date of such Participant's death; provided, however, at the Beneficiary's irrevocable election, duly filed with the Administrator before the applicable commencement date set forth in the following sentence, any distribution to a Beneficiary may be made over a period not extending beyond the life expectancy of the Beneficiary. Such distribution shall commence no later than the December 31<sup>st</sup> of the calendar year immediately following the calendar year in which the Participant dies or, in the event such Beneficiary is the Participant's Surviving Spouse, on or before December 31<sup>st</sup> of the calendar year in which such Participant would have attained age seventy and one half (70 ½), if later (or, in either case, on any later date prescribed by Applicable Law). If such Participant's Surviving Spouse dies after the Participant, but before distributions to such Surviving Spouse commence, this subsection (C) shall be applied to require payment of any further benefits as if such Surviving Spouse were the Participant.
- (D) Pursuant to Applicable Law, any benefit paid to a child shall be treated as if paid to a Participant's Surviving Spouse if such amount will become payable to such Surviving Spouse on the child's attaining majority, or other designated event permitted by Applicable Law.
- (E) Notwithstanding the foregoing and subject to Section 11.05, unless the Participant elects a later date, payment of benefits under the Plan shall commence no later than the sixtieth (60<sup>th</sup>) day after the latest of the last day of the Plan Year in which the Participant: (1) attains his Normal Retirement Date, (2) attains his tenth (10<sup>th</sup>) anniversary of Plan membership or (3) terminates his employment.

**Section 5.07 - Direct Rollover.**

Solely to the extent required under Applicable Law and regulations, and notwithstanding any provision of the Plan to the contrary that would otherwise limit a Distributee's election under this Section 5.07, a Distributee may elect, at the time and in the manner prescribed by the 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.

For purposes of this Section 5.07, the following terms shall have the following meanings:

- (A) Eligible Rollover Distribution  
Solely to the extent required under Applicable Law and regulations, an Eligible Rollover Distribution is any distribution of all or any portion of the balance to the credit of the Distributee, except that an Eligible Rollover Distribution does not include: any distribution that is one (1) 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 (10) years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Code; and the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities). An Eligible Rollover Distribution shall not include any amount that is distributed on account of hardship and the Distributee may not elect to have any portion of such a distribution paid directly to an Eligible Retirement Plan.

(B) Eligible Retirement Plan

An Eligible Retirement Plan is 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 401(a) of the Code, that accepts the Distributee's Eligible Rollover Distribution. However, in the case of an Eligible Rollover Distribution to a surviving spouse, an Eligible Retirement Plan is an individual retirement account or individual retirement annuity.

Effective for distributions made after December 31, 2001, an Eligible Retirement Plan shall also mean an annuity contract described in Section 403(b) of the Code and an eligible plan under 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 and which agrees to separately account for amounts transferred into such plan from this Plan. The definition of Eligible Retirement Plan shall also apply in the case of a distribution to a surviving Spouse, or to a Spouse or former Spouse who is the alternate payee under a Qualified Domestic Relation Order, as defined in Section 414(p) of the Code.

(C) Distributee

A Distributee includes an employee or former employee. In addition, 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.

(D) Direct Rollover

A Direct Rollover is a payment by the Plan to the Eligible Retirement Plan specified by the Distributees.

## **ARTICLE VI - DESIGNATION OF BENEFICIARIES**

### **Section 6.01 - Beneficiary Designation.**

Each Participant (and if applicable, each Surviving Spouse) shall file with the Administrator a written designation of one (1) or more persons as the Beneficiary who shall be entitled to receive the amount, if any, payable under the Plan from his Annuity Sub-Account and/or his Profit Sharing Sub-Account, as applicable, upon his death. Subject to the requirements of Article V, a Participant (or if applicable, the Surviving Spouse) may from time to time revoke or change his Beneficiary designation without the consent of any prior Beneficiary by filing a new designation with the Administrator. Notwithstanding the foregoing, if the Participant is married, his Spouse must consent in writing to the designation by the Participant of a Beneficiary other than the Participant's Spouse for his Annuity Sub-Account (unless the Administrator makes a written determination in accordance with Applicable Law that no such consent is required). The last such designation received by the Administrator shall be controlling; provided, however, that no designation, or change or revocation thereof, shall be effective unless received by the Administrator prior to the Participant's (or, if applicable, the Surviving Spouse's) death, and in no event shall it be effective as of a date prior to such receipt.

### **Section 6.02 - Lack of Designated Beneficiary.**

If no valid Beneficiary designation is in effect at the time of a Participant's (or, if applicable, the Surviving Spouse) death, or if no validly designated Beneficiary survives the Participant (or, if applicable, the Surviving Spouse) or if each surviving validly designated Beneficiary is legally impaired or prohibited from taking, then the Participant's Beneficiary shall be his Surviving Spouse, if any, or if the Participant has no Surviving Spouse, then his estate, and the Surviving Spouse's Beneficiary shall be her estate. If the Administrator is in doubt as to the right of any person to receive such amount, it may direct the Trustees to retain such amount, without liability for any interest thereon, until the rights thereto are determined, or the Administrator may direct the Trustees to pay such amount into any court of appropriate jurisdiction and such payment shall be a complete discharge of the liability of the Plan and the Trust therefor.

## **ARTICLE VII - MANAGEMENT OF TRUST FUND**

### **Section 7.01 - Use of Trust Fund.**

The Trust Fund shall be used to provide the benefits and pay the expenses of this Plan and of the Trust Fund and, except as otherwise provided in Section 3.04, no part of the corpus or income shall be used for or diverted to purposes other than for the exclusive benefit of Participants and their Beneficiaries and the payment of expenses of this Plan.

### **Section 7.02 - Trustees.**

The Trust Fund shall be held in trust by the Trustees appointed from time to time under the Trust Agreement with such powers and duties in the Trustees as shall be provided in the Trust Agreement between the Trustees and the Association. Subject to the provisions of the Trust Agreement, the Trustees shall be the named fiduciary with respect to the control or management of the assets of the Plan.

### **Section 7.03 - Investments.**

The investment of the Trust Fund shall be in accordance with the provisions of the Trust Agreement between the Trustees and the Association.

### **Section 7.04 - Payment of Expenses.**

The administrative and other expenses of the Plan shall be paid out of the Trust Fund unless paid by the Employers. All expenses shall be divided evenly among all existing Participants' Accounts, including Sub-Accounts, in proportion to the Sub-Account which generated the expense, at the time of the Trustees' approval of any expense.

## **ARTICLE VIII -ADMINISTRATION OF THE PLAN**

### **Section 8.01 - The Administrator.**

The Plan shall be administered by the Trustees or by a person or committee appointed by the Trustees. The Administrator shall have general responsibility for the administration and interpretation of the Plan (including, but not limited to, complying with applicable reporting and disclosure requirements, establishing and maintaining Plan records, issuing instructions to the Trustees regarding the benefits that are to be paid from the Trust Fund to Participants and Beneficiaries and adopting amendments to the Plan as described in Section 10.01) and the exercise such other rights and powers, as may be specifically granted to it herein or by the Trust Agreement.

### **Section 8.02 - Indemnity.**

To the maximum extent permitted by law, no person acting in the capacity of Administrator (including each member of any committee acting as such) shall be personally liable by reason of any contract or other instrument executed by him or on his behalf in such capacity nor for any mistake of judgment made in good faith.

### **Section 8.03 - Services to the Plan.**

The Administrator may arrange for the engagement of such legal counsel, and make use of such agents, professional and clerical or other personnel as they each shall require or may deem advisable for purposes of the Plan. The Administrator may rely upon the written opinion of such counsel and any actuary and accountants engaged by the Administrator and may delegate to any such agent or its authority to perform any act hereunder, including without limitation those matters involving the exercise of discretion, provided that such delegation shall be subject to revocation at any time at the discretion of the Administrator. The Administrator shall report to the Trustees, at such times as shall be specified by the Trustees, with regard to the matters for which it is responsible under the Plan.

### **Section 8.04 - Administrator Records.**

The Administrator shall appoint an individual who shall cause to be kept full and accurate accounts of receipts and disbursements of the Plan, and shall cause to be deposited all funds of the Plan to the name and credit of the Plan, in such depositories as may be designated by the Administrator. All demands for money of the Plan shall be signed by such person or persons as the Administrator may from time to time designate in writing.

### **Section 8.05 - Claims Procedure**

The following are the Plan's claims procedures:

- (A) All claims for benefits under the Plan shall be submitted to, and within a reasonable period of time, decided in writing by the Administrator. Written notice of the decision on each such claim shall be furnished reasonably promptly to the claimant. If the claim is wholly or partially denied, written notice of the denial shall be furnished within ninety (90) days after receipt of the claim; provided, however, that, if special circumstances require an extension of time for processing the claim, an additional ninety (90) days from the end of the initial period shall be allowed for processing the claim, in which event the

claimant shall be furnished with a written notice of the extension prior to the termination of the initial ninety (90)-day period indicating the special circumstances requiring an extension.

Such notice of denial shall include:

- (1) The specific reason or reasons for the denial;
- (2) Reference to the specific Plan provisions on which the determination is based;
- (3) A description of any additional material or information necessary for the claimant to perfect the claim and an explanation of why such material or information is necessary; and
- (4) A description of the Plan's review procedures and the time limits applicable to such procedures, including a statement of the claimant's right to bring a civil action under Section 502(a) of ERISA following an adverse benefit determination on review,

For all purposes under the Plan, such decisions on claims (where no review is requested) and decisions on review (where review is requested) shall be final, binding and conclusive on all interested persons as to any matter of fact or interpretation relating to the Plan. The Trustees shall have full discretion and authority to interpret and apply provisions of the Plan and matters pertaining to its administration, and their decisions thereon shall be final. Benefits under this Plan will be paid only if the Plan Administrator decides in its discretion that the applicant is entitled to them.

#### **Section 8.06 - Claims Review Procedures**

The following are the Plan's claims review (or appeal) procedures:

- (A) The claimant shall have sixty (60) days following receipt of a notification of a denial within which to appeal the denial;
- (B) The claimant shall have the opportunity to submit written comments, documents, records, and other information relating to the claim for benefits;
- (C) The claimant shall be provided, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to the claimant's claim for benefits;
- (D) The review on appeal shall take into account all comments, documents, records, and other information submitted by the claimant relating to the claim, without regard to whether such information was submitted or considered in the initial benefit denial;
- (E) The Trustees shall be empowered to hold a hearing at which such applicant shall be entitled to present the basis of his/her claims for review and at which he/she may be

represented by counsel;

- (F) The Trustees shall make a benefit determination no later than the date of the meeting of the Trustees that immediately follows the Plan's receipt of a request for review, unless the request for review is filed within thirty (30) days preceding the date of such meeting. In such case, a benefit determination may be made by no later than the date of the second meeting following the Plan's receipt of the request for review. If special circumstances (such as the need to hold a hearing) require a further extension of time for processing, a benefit determination shall be rendered not later than the third meeting of the Trustees following the Plan's receipt of the request for review. If such an extension of time for review is required because of special circumstances, the Fund Administrator shall provide the claimant with written notice of the extension, describing the special circumstances and the date as of which the benefit determination will be made, prior to the commencement of the extension. The Fund Administrator shall notify the claimant of the benefit determination as soon as possible, but not later than five (5) days after the benefit determination is made.
- (G) The period of time within which a benefit determination on review is required to be made shall begin at the time an appeal is filed in accordance with the reasonable procedures of a Plan, without regard to whether all the information necessary to make a benefit determination on review accompanies the filing. In the event that a period of time is extended as permitted pursuant to subsection F. of this Section due to a claimant's failure to submit information necessary to decide a claim, the period for making the benefit determination on review shall be tolled from the date on which the notification of the extension is sent to the claimant until the date on which the claimant responds to the request for additional information, unless otherwise denied.
- (H) In the case of a denial on review, the Fund Administrator shall provide such access to, and copies of, documents, records, and other information described in subsections (I)(3) (4) or (5) of this Section as is appropriate.
- (I) The Fund Administrator shall provide a claimant with written or electronic notification of a Plan's benefit determination on review. Any electronic notification shall comply with the standards imposed by law. In the case of a denial, the notification shall set forth, in a manner calculated to be understood by the claimant--
  - (1) The specific reason or reasons for the denial;
  - (2) Reference to the specific Plan provisions on which the benefit determination is based;
  - (3) A statement that the claimant is entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to the claimant's claim for benefits; and
  - (4) A statement of the claimant's right to file suit under ERISA Section 502(a).

**Section 8.07 - Communications.**

Any notice, election, application, instruction, designation or other form of communication required to be given or submitted by any Participant, other Employee or Beneficiary shall be in such form as is prescribed from time to time by the Administrator, sent by first class mail or delivered in person, and shall be deemed to be duly given only upon actual receipt thereof by the Administrator. Any notice, statement, report and other communication from the Administrator to any Participant, other Employee or Beneficiary required or permitted by the Plan shall be deemed to have been duly given when delivered to such person or mailed by first class mail to such person at his address last appearing on the records of the Administrator. Each person entitled to receive a payment under the Plan shall file in accordance herewith his complete mailing address and each change therein. A check or communication mailed to any person at his address on file with the Administrator shall be deemed to have been received by such person for all purposes of the Plan, and no employee or agent of the Administrator shall be obliged to search for or ascertain the location of any such person except as required by ERISA. If the Administrator is in doubt as to whether payments are being received by the person entitled thereto, it may, be registered mail addressed to such person at his address last known to the Administrator notify such person that all future payments will be withheld until such person submits to the Administrator his proper mailing address and such other information as the Administrator may reasonably request.

**Section 8.08 - Information From Participant.**

Each Participant shall file with the Administrator such pertinent information concerning himself and his Beneficiary, and each Beneficiary shall file with the Administrator such information concerning himself, as the Administrator may specify, and in such manner and form as the Administrator may specify or provide, and no Participant or Beneficiary shall have the right or be entitled to any benefits or further benefits under the Plan unless such information is filed by him or on his behalf.

## **ARTICLE IX - AMENDMENT OR TERMINATION OF THE PLAN AND TRUST**

### **Section 9.01 - Right of Amendment or Termination.**

The following rules govern the Trustees right to amend or terminate the Plan:

- (A) Subject to (B) and (C) below, the Trustees reserve the right at any time to amend, suspend or terminate the Plan., any contributions thereunder, the Trust or any contract issued by an insurance carrier forming a part of the Plan, in whole or in part and for any reason and without the consent of any Participant, Beneficiary or Surviving Spouse; provided, however, that the Administrator may adopt amendments which do not materially affect the cost of the Plan and which may be necessary or appropriate to facilitate the administration, management or interpretation of the Plan or to conform the Plan thereto, to qualify or maintain the Plan and Trust as a plan and trust meeting the requirements of Code Sections 401(a) and 501(a) or any other provision of Applicable Law, and may exercise such additional powers and authority as may be granted by the Trustees from time to time.
- (B) No amendment or modification shall be made which would retroactively impair any rights to any benefit under the Plan which any Participant, Beneficiary or Surviving Spouse would otherwise have had at the date of such amendment by reason of the contributions theretofore made, except to such extent as may be necessary or appropriate to qualify or maintain the Plan and Trust as a plan and trust meeting the requirements of Code Sections 401(a) and 501(a) or any other provision of Applicable Law, or make it possible for any part of the funds of the Plan (other than such part as is required to pay taxes, if any, and administrative expenses as provided in Section 7.04) to be used for or diverted to any purposes other than for the exclusive benefit of Participants and their Beneficiaries and Surviving Spouses prior to the satisfaction of all liabilities with respect thereto.
- (C) Any amendment, modification, suspension or termination of any provisions of the Plan may be made retroactively if necessary or appropriate to qualify or maintain the Plan and Trust as a plan and trust meeting the requirements of Code Sections 401(a) and 501(a) or any other provision of Applicable Law, as now in effect or hereafter amended or adopted.

### **Section 9.02 - Notice.**

Notice of any amendment, modification, suspension or termination of the Plan shall be given by the Trustees or the Administrator, whichever adopts the amendment, to the other and to the Union and the Association and, where and to the extent required by law, to Participants and other interested parties.

### **Section 9.03 - Plan Termination.**

The following rules apply in the event the Plan is terminated:

- (A) Upon termination of the Plan, no amount shall thereafter be payable under the Plan to or in respect of any Participant except as provided in this Article IX, and to the maximum

extent permitted by ERISA, transfers or distributions of the assets of the Plan as provided in this Article IX shall constitute a complete discharge of all liabilities under the Plan. The Administrator shall remain in existence and all of the provisions of the Plan which in the opinion of the Administrator are necessary for the execution of the Plan and the distribution or transfer of the assets of the Plan shall remain in force.

All determinations and notifications referred to in this Article IX shall be in form and substance satisfactory to counsel for the Plan.

- (B) Upon the termination of the Plan, the Account, including Sub-Accounts, of each Participant shall be determined promptly and, if not already fully vested, shall become fully vested and nonforfeitable. Distribution to the Participants thereafter shall be made in one (1) of the manners and on the appropriate date or dates described in Article V. In the sole discretion of the Administrator, a Participant's Account, including Sub-Accounts, may be distributed to the Participant in any manner described in Article V on any date prior to the date or dates which otherwise would be applicable under the preceding sentence. Until fully distributed, each Account, including Sub-Accounts, shall continue to be revalued in accordance with the provisions of Article IV, as applicable.

**Section 9.04 - Successor Plan.**

No transfer of the Plan's assets and liabilities to a successor employee benefit plan (whether by merger or consolidation with such successor plan or otherwise) shall be made unless each Participant would, if either the Plan or such successor plan then terminated, receive a benefit immediately after such transfer which (after taking account of any distributions or payments to them as part of the same transaction) is equal to or greater than the benefit he would have been entitled to receive immediately before such transfer if the Plan had then been terminated. The Administrator may also request appropriate indemnification from the employer or employers maintaining such successor plan before making such a transfer.

## **ARTICLE X – PROCEDURES FOR QUALIFICATION OF DOMESTIC RELATIONS ORDERS**

### **Section 10.01 - Purpose**

Section 414(p) of the Internal Revenue Code and Section 206(d) of ERISA require benefit plans which are subject to the provisions of the Retirement Equity Act of 1984 (REA) to adopt and implement procedures for qualifying Domestic Relations Orders. The following are the procedures to be used by the Plan to determine the qualified status of Domestic Relations Orders pursuant to Section 414(p) of the Internal Revenue Code and Section 206(d) of ERISA.

### **Section 10.02 - Application Committee**

The Trustees delegate to the Application Committee the authority to make final decisions on all matters relating to the qualification of Domestic Relations Orders and the interpretation of Qualified Domestic Relations Orders.

### **Section 10.03 - Notification of Fund Counsel**

The Fund Office shall notify Fund Counsel immediately upon the receipt of a request for information to be utilized in a domestic relations case and/or upon the receipt of a subpoena to produce documents or to testify in a domestic relations proceeding. The Fund Office shall consult with Fund Counsel prior to responding to any request for information and/or subpoena relating to a domestic relations case.

### **Section 10.04 - Request for Determination of Qualification**

Any Domestic Relations Order or proposed Order which involves the division of pension benefits shall be forwarded to the Fund Office by the Participant, Alternate Payee, or their representative(s), with a request that a determination of qualification be made.

Upon receipt of any Domestic Relations Order or proposed Order involving the distribution of benefits, the Fund Office shall promptly notify the Participant, each Alternate Payee and Fund Counsel of the receipt of such Order. A copy of these procedures for determining the qualified status of the Domestic Relations Order shall be attached to the letter notifying the Participant, Alternate Payee or their representatives of the receipt of the Domestic Relations Order.

The Fund Office shall immediately transmit the Domestic Relations Order and all correspondence to Fund Counsel for an initial review and determination as to its qualification.

Within a reasonable period of time, Fund Counsel shall make an initial determination as to whether such Order or proposed Order is qualified and shall notify the Participant, each Alternate Payee and/or their representatives and Fund Office of such determination. Such determination shall be made no later than eighteen (18) months following the date on which the first payment would be required to be made under the Domestic Relations Order. If said Domestic Relations Order is not qualified, Fund Counsel shall attempt to resolve the existing issues which prevent qualification of the Order with the Participant, Alternate Payee, and/or their representatives.

### **Section 10.05 - Requirements for Qualification**

A Domestic Relations Order shall meet the following requirements in order for it to be a Qualified Domestic Relations Order:

- (A) The Order shall be a judgment, decree, or order (including approval of a property settlement agreement) which relates to the provision of child support, spousal support payments, or marital property rights of an Alternate Payee, and shall be made pursuant to a State's domestic relations law (including community property law); and
- (B) The Order shall assign to an Alternate Payee the right to receive all or a portion of the benefits payable to a Participant. The term "Alternate Payee" means any spouse, former spouse, child or other dependent of a Participant who is recognized by a Domestic Relations Order as having a right to receive all, or a portion of, the pension benefits payable under the Plan to such Participant.
- (C) The Plan Administrator will not fail to consider an Order 'qualified' in the event that the Order permits the value of any benefits assigned to an "Alternate Payee" under the Order to be payable immediately in a lump sum, if such distribution is requested in writing by the Alternate Payee at the time of the "qualification" of the Order or at a subsequent date on a form to be provided by the Trustees.
- (D) All Orders shall meet the requirements of paragraphs (1) through (8) below:
  - (1) The Order shall specify the name and the last known mailing address of the Participant and the name and mailing address of each Alternate Payee covered by the Order;
  - (2) The Order shall specify the Social Security numbers of the Participant and each Alternate Payee;
  - (3) The Order shall specify the amount or percentage of the Participant's benefits to be paid by the Fund to each such Alternate Payee, or the manner in which such amount or percentage is to be determined;
  - (4) The Order shall specify the number of payments or period of time to which the Order applies;
  - (5) The Order shall state the proper legal name of each plan (or predecessor plan) to which such Order applies;
  - (6) The Order shall not require the Fund to provide any type or form of benefit, or any option, not otherwise provided under the Plan;
  - (7) The Order shall not require the Plan to provide benefits in excess of the benefits to which the Participant would otherwise be entitled under the Plan, and

- (8) The Order shall not require the payment of benefits to an Alternate Payee which are required to be paid to another Alternate Payee under another Order previously determined to be a Qualified Domestic Relations Order.

#### **Section 10.06 - Response to Request**

Upon making an initial determination that a Domestic Relations Order is qualified, Fund Counsel shall transmit the Domestic Relations Order or proposed Order to the Fund Consultant and/or actuary for a benefits report, an actuarial analysis and a determination as to whether the Order conforms to the provisions of the Plan.

Within a reasonable period of time after receipt of the Domestic Relations Order or proposed Order, not to exceed eighteen (18) months, the fund consultant and/or actuary shall issue a benefits report which shall include a calculation of benefits to be paid to the Participant and/or Alternate Payee, an actuarial analysis and a determination as to whether the Order conforms to the provisions of the Plan. The fund's consultant and/or actuary shall notify Fund Counsel, in writing, of its determination.

Upon receipt of the fund consultant's and/or actuary's report, Fund Counsel shall notify the Fund Office, Participant and Alternate Payee and/or their representatives of the fund consultant's and/or actuary's determinations. If the Order cannot be qualified, Fund Counsel shall consult with the appropriate parties to attempt to resolve the issues which prevent the qualification of the Order. Fund Counsel shall obtain, in writing, the position of the Participant and Alternate Payee and/or their representatives with regard to the accuracy of the fund consultant's and/or actuary's interpretation of the Order, the calculation of benefits and other issues as determined by the fund consultant and/or actuary.

Upon receipt of the parties' written positions, Fund Counsel shall issue an opinion as to whether the Domestic Relations Order or proposed Order is qualified or whether any further action is necessary to obtain a qualified Order. If, in the opinion of Fund Counsel, the Order is qualified, Fund Counsel shall advise the Fund Office and the Application Committee of this determination; the Application Committee shall issue the final determination as to the qualification of the Domestic Relations Order.

#### **Section 10.07 - Administration**

Upon the entry of the Qualified Domestic Relations Order by the Court, two (2) certified copies of said Order shall be transmitted to the Fund Office. The Fund Office shall establish a separate benefits file for the Alternate Payee and a certified copy of the Order shall be permanently retained in the Fund Office in the files for both the Participant and the Alternate Payee.

During the period that the Domestic Relations Order is being considered for qualification, the Fund Administrator shall not distribute benefits to either the Participant and/or Alternate Payee, except that, upon approval by the Application Committee, the Fund Office shall distribute benefits to the Participant which are not in dispute.

Subsequent to the entry of a Qualified Domestic Relations Order, the Fund Office shall submit all requests for distributions pursuant to the Order and/or all inquiries concerning the interpretation of,

or benefits to be paid pursuant to the Order, to the Application Committee for a decision. The Committee shall have the authority to interpret, construe and apply the provisions of the Qualified Domestic Relations Order and make all decisions concerning the Participant's and/or Alternate Payee's entitlement to benefits.

## **ARTICLE XI - GENERAL LIMITATIONS AND PROVISIONS**

### **Section 11.01 - Rights of Employer.**

Nothing contained in the Plan shall give any Employee the right to be retained in the employment of an Employer or any Affiliate or affect the right of any such Employer to dismiss any Employee. The adoption and maintenance of the Plan shall not constitute a contract between an Employer and any Employee or consideration for, or an inducement to or condition of, the employment of any Employee.

### **Section 11.02 - Trust as Source of Benefits.**

Any and all rights or benefits accruing to any persons under the Plan shall be subject to the terms of the Trust Agreement. The Trust shall be the sole source of benefits under the Plan and, except as otherwise required by ERISA, the Trustees and the Administrator assume no liability or responsibility for payment of such benefits, and each Participant, Surviving Spouse, Beneficiary or other person who shall claim the right to any payment under the Plan shall be entitled to look only to the Trust for such payment and shall not have any right, claim or demand therefor against the Trustees, or the Administrator or any member thereof.

### **Section 11.03 - Incompetent Payee.**

If the Administrator shall be notified that any person to whom any amount is payable under the Plan is found by a court of competent jurisdiction unable to care for his affairs because of illness or accident, or is a minor, or has died, then any payment due him or his estate (unless a prior claim therefor has been made by a duly appointed legal representative) may, if the Administrator so elects, be paid to his Spouse, a child, a relative, an institution maintaining or having custody of such person, or any other person deemed by the Administrator to be a proper recipient on behalf of such person otherwise entitled to payment. Any such payment shall be a complete discharge of the liability of the Plan and the Trust therefor.

### **Section 11.04 - Nonalienation of Benefits.**

Except insofar as may be otherwise be required by law or pursuant to the terms of a Qualified Domestic Relations Order, no amount payable at any time under the Plan and the Trust shall be subject in any manner to alienation by anticipation, sale, transfer, assignment, bankruptcy, pledge, attachment, charge or encumbrance of any kind nor in any manner be subject to the debts or liabilities of any person and any attempt to so alienate or subject any such amount, whether presently or thereafter payable, shall be void. For purposes of the Plan, a "Qualified Domestic Relations Order" means any judgment, decree, or order (including approval of a property settlement agreement) which has been determined by the Administrator in accordance with procedures established under the Plan, to constitute a qualified domestic relations order within the meaning of Code Section 414(p)(1).

### **Section 11.05 - Lost Payee.**

If the Administrator cannot ascertain the whereabouts of any person to whom a payment is due under the Plan, including an alternate payee under a Qualified Domestic Relations Order, as provided in Section 11.04, and if, after three (3) years from the date such payment is due, a notice of such payment due is mailed to the last known address of such person, as shown on the records of the Administrator or the Employer, and within three (3) months after such mailing

such person has not made written claim therefore, the Administrator, if it so elects, after receiving advice from counsel to the Plan, may direct that such payment be escheated to the applicable State and that all remaining payments otherwise due to such person be canceled on the records of the Plan, and upon such cancellation, the Plan and the Trust shall have no further liability therefor.

**Section 11.06 - Insurance Contracts.**

If the payment of any benefit under the Plan is provided for by a contract with an insurance practice, the payment of such benefit shall be subject to all the provisions of such contract.

**Section 11.07 - Gender.**

Whenever used in the Plan, the masculine gender includes the feminine.

**Section 11.08 - Captions.**

The captions preceding the Sections of the Plan have been inserted solely as a matter of convenience and in no way define or limit the scope or intent of any provisions of the Plan.

**Section 11.09 - Governing Law.**

The Plan and all rights thereunder shall be governed by and construed in accordance with ERISA and the laws of the State of Illinois.

**SIGNATURE PAGE**

IN WITNESS WHEREOF, the Trustees have caused this Plan to be executed this the 5<sup>th</sup> day of February, 2004.

**TRUSTEES OF THE N.E.C.A. LOCAL NO. 145 I.B.E.W. ANNUITY AND PROFIT-SHARING PLAN**

**EMPLOYER TRUSTEES**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**UNION TRUSTEES**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**NECA/QUAD CITIES CHAPTER**

\_\_\_\_\_

**LOCAL 145 BUSINESS MANAGER**

\_\_\_\_\_