

BENEFIT PAYMENTS

7.01 **Benefit Payments Generally.** An Employee who makes application in accordance with the rules and regulations of the Pension Plan, and whom the Board determines to be eligible, in accordance with the Plan and Trust Agreement, shall be entitled upon retirement to receive monthly benefits provided for the remainder of his life, subject, however, to all of the provisions of this Pension Plan. "Benefit Payment" shall be payable as of the first day of the first month which follows the date on which the Employee has fulfilled all of the conditions for entitlement to benefits. "Benefit Payments" shall end with the payment for the calendar month in which death of the Pensioner occurs.

7.02 **Start of Payment.** Unless the Participant otherwise elects by postponing application for benefits, payment of benefits to a Participant entitled thereto shall commence not later than sixty (60) days after the close of the Plan Year during which the Participant reaches his Regular Retirement Date or terminates service with a participating Employer, whichever shall occur later.

7.03 **Deferred Commencement of Benefits.**

- (a) A Participant may elect to defer the commencement of retirement benefits by deferring the filing of his application for benefits and, in such event, the Participant may continue as a Participant in the Plan.

Effective January 1, 1989, in the event that an Employee's pension benefits commence after the first day of the month following his eligibility to retire for a Regular Pension, then at the time the Employee actually retires, his benefits shall be increased to reflect the greater of: (i) the Actuarial Equivalent of the Employee's Regular Pension at his initial eligibility for a Regular Pension under Section 4.01; or (ii) the additional benefit accrued during the period of service after the Employee's initial eligibility date. The increase in the Employee's benefit shall be computed at the end of each Plan Year following his initial eligibility for a Regular Pension and again at the time of his Pension Benefit Starting Date.

- (b) The payment of benefits may not be deferred beyond the later of: (1) the end of the taxable year in which the Participant reaches age 70 1/2, or (2) the end of the taxable year in which the Participant actually retires, or (3) the date specified in Section 7.04(a) hereof.

7.04 **Mandatory Distributions.** Notwithstanding any other Plan provision to the contrary, Plan distributions shall be made in accordance with Code Section 401(a)(9) and the regulations thereunder, including Treasury Regulation §1.401(a)(9)-2.

- (a) **Before Death.** Notwithstanding any other provision of this Plan to the contrary, benefit distributions to Employees who were five percent (5%) owners (as defined in Code Section 416(i)(1)) at any time during the Plan Year ending with or within the calendar year in which such owner attained age 66-1/2 or any subsequent Plan Year must commence by the first day of April of the calendar year in which the Employee attained age 70-1/2. Distributions to Employees other than five percent (5%) owners must commence no later than the first day of April following the calendar year in which the later of termination of employment or attainment of age 70-1/2 occurs; provided, however, that for tax years beginning after December 31, 1988 and only for Employees reaching age 70-1/2 on or after January 1, 1988, distributions must commence not later than the first day of April of the calendar year immediately following the calendar year in which the Employee attained age 70-1/2, and provided, further, that distributions to Employees who attained age 70-1/2 during 1988, 1989, or 1990 must commence not later than April 1, 1991. If an Employee fails to file an application for benefits on a timely basis, the Trustees may direct the commencement of benefits in the form of a joint and survivor annuity (and calculated on the assumption that husband is three years older than the wife) or, if the Employee cannot be located, may direct that the benefits be forfeited, subject to reinstatement if the Employee later appears and demonstrates an entitlement to benefits.

Notwithstanding the foregoing, effective January 1, 1997, and only for Employees (other than five percent (5%) owners) reaching age 70-1/2 on or after January 1, 1996, distributions must commence not later than the first day of April of the calendar year immediately following the calendar year in which the Employee attained age 70-1/2 or retires, whichever is later.

- (b) **After Death.** If an Employee dies after distribution of his interest has commenced, the remaining portion of such interest will continue to be distributed at least as rapidly as under the method of distribution being used prior to the Employee's death.

Effective for tax years beginning after December 31, 1987 for Employees described in Section 2.08(a) and for tax years beginning after December 31, 1984 for Employees described in Section 2.08(b) if the Employee dies before distribution of his interest commences, the Employee's entire interest will be distributed no later than December 31 of the calendar year which contains the fifth anniversary of the Employee's death except to the extent that an election is made to receive

distributions in accordance with (1) or (2) below:

- (1) If any portion of the Employee's interest is payable to a designated beneficiary, distributions may be made in substantially equal installments over the life of the designated beneficiary commencing no later than December 31 of the calendar year immediately following the calendar year the Employee died.
- (2) If the designated beneficiary is the Employee's surviving spouse, the date distributions are required to begin in accordance with (1) above shall not be earlier than December 31 of the calendar year immediately following the calendar year the Employee died or December 31 of the calendar year the Employee would have attained age 70-1/2, if later. If the spouse dies before payments begin, subsequent distributions shall be made as if the spouse had been the Employee (except for the provisions in this subparagraph (2)).

An election under this subparagraph (2) must be made no later than the earlier of (i) December 31 of the calendar year a Plan distribution would have commenced under (1) or (2) above, or (ii) December 31 of the calendar year which contains the fifth anniversary of the Employee's death.

- 7.05 **Incompetence or Incapacity of a Pensioner.** In the event that it is determined to the satisfaction of the Board of Trustees that a Pensioner is unable to care for his affairs because of mental or physical incapacity, any payment due will be applied in the discretion of the Board of Trustees to the maintenance and support of such Pensioner in the manner decided by the Board (except that no payment shall be made to a governmental institution or facility if the Pensioner is not legally required to pay for his care and maintenance), unless prior to such payment, claims shall have been made for such payment by a legally appointed guardian, committee or other legally appointed representative.
- 7.06 **Duplication of Pension.** A Pensioner shall not be entitled to the payment under this Plan of more than one type of pension at any one time. Notwithstanding any other provisions of this Plan, there shall be no duplication of benefits allowed with respect to any period of service completed by any Participant.
- 7.07 **Non-Assignment of Benefits.** Each Employee or Pensioner under the Pension Plan is hereby restrained from selling, transferring, anticipating, assigning, hypothecating or otherwise disposing of his pension, prospective pension or any other rights or interest under the Plan, and the Board of Trustees shall not recognize, or be required to recognize, any such sale, transfer, anticipation, assignment, hypothecation or other disposition. Any such pension, prospective pension, right or interest shall not be subject in any manner to voluntary transfer by operation of law or otherwise, and shall be exempt from the claims of creditors or other claimants, and from all orders, decrees, garnishments, executions or other legal or equitable process or proceedings to the fullest extent permissible by law.
- 7.08 **Consent to Receive Benefits Prior to Regular Retirement Age.** If the present value of an Employee's vested benefit exceeds \$5,000 (\$3,500 prior to January 1, 1998), the Employee and the Employee's spouse (or where either the Employee or the spouse has died, the survivor) must consent to any distribution of such accrued benefit prior to the earlier of the Employee's Regular Retirement Date or the date specified in Section 6.05(b). The consent must be obtained in writing within the 90 day period ending with the Pension Benefit Starting Date. The Trustees shall notify the Employee and Employee's spouse of the right to defer any distribution until the date specified above, and such notification shall be given no less than 30 and no more than 90 days prior to the Pension Benefit Starting Date and shall otherwise comply with the requirements of Section 8.06. Notwithstanding the foregoing, only the Employee need consent to the commencement of a distribution in the form of a Joint and Survivor Annuity prior to the date specified above. Neither the consent of the Employee nor the spouse shall be required if a distribution is required to satisfy Code Sections 401 (a) (9) or 415. The present value of an Employee's benefit shall be determined in accordance with Section 2.01(c).
- 7.09 **Qualified Domestic Relations Order.**
- (a) Section 7.07 above shall not apply to the creation, assignment, or recognition of a right to any interest payable hereunder with respect to an Employee pursuant to a qualified domestic relations order, as defined in Section 414 (p) of the Internal Revenue Code. In the case of a domestic relations order entered into before January 1, 1985, the Board shall treat such order as a qualified domestic relations order, if the Plan is paying benefits pursuant to such order on such date. In addition, the Board may treat any other such order entered into before January 1, 1985, as a qualified domestic relations order, even if such order does not meet the requirements of ERISA and the Internal Revenue Code as amended by the Retirement Equity Act of 1984.
 - (b) The Board of Trustees shall promptly notify an Employee and any alternate payee (as defined in Section 414 (p) (8) of the Internal Revenue Code) of the receipt of a qualified domestic relations order as defined in Section 414 (p) (1) of the Internal Revenue Code and of the Board of Trustee's procedures for determining the qualified status of such order. Within

a reasonable period after receipt of such order, the Board shall determine whether such order is a qualified domestic relations order and notify the Employee and each alternate payee of such determination. The Board shall establish reasonable procedures (i) to determine the qualified status of a domestic relations order and (ii) to administer distributions under such order. No legal action for a determination of the qualified status of a domestic relations order or for a review of a determination by the Plan as to the qualified status of a domestic relations order or for a review of a determination by the Plan as to the qualified status of a domestic relations order shall be brought until:

- (1) The order has been submitted to the Board for a determination of its qualified status;
 - (2) The Board has made a determination or the time in which to make such determination has expired; and
 - (3) All administrative remedies available under the procedures established by the Board for review of the determination have been exhausted.
- (c) Effective January 1, 1985, in the event that the Employee is treated as having two or more surviving spouses, the total amount to be paid as a survivor benefit under either the Qualified Joint and Survivor Annuity or the Qualified Pre-Retirement Survivor Annuity shall not exceed the amount that would be paid if there were only one surviving spouse; provided, however, that the amount payable shall be paid as an annuity based on the life of each such spouse.
- 7.10 **Unable to Locate Participant.** If a Participant to whom Vested benefits must be distributed pursuant to Section 7.04 of this Plan cannot be located, and reasonable efforts have been made to locate such Participant, the benefits of such Participant shall be forfeited, and need not be separately accounted for or segregated from the other assets of the Plan. If a Participant whose benefit has been forfeited in accordance with this Section 7.10 subsequently returns or makes a claim for benefits, his forfeited benefit shall be reinstated.