

**Office Consolidation of the  
Rules and Regulations of the Nursing Homes  
and Related Industries Pension Plan,  
as restated on March 30, 2015**

**includes Amendment #10**

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**RULES AND REGULATIONS  
OF THE  
NURSING HOMES AND RELATED INDUSTRIES PENSION PLAN**

**ARTICLE 1 - DEFINITIONS**

The following terms used in this Plan shall have the meaning as set out below unless the context otherwise requires. Defined terms are capitalized where they appear in the Plan. Reference to the feminine gender shall be construed to include the masculine gender, and, unless the context clearly indicates otherwise, words in the singular shall be construed as including words in the plural or vice versa.

1.01 Act

“Act” means the *Pension Benefits Act* (Ontario) and the regulations thereunder, as amended from time to time.

1.02 Actuary

“Actuary” means a person who is a Fellow of the Canadian Institute of Actuaries, or a firm or corporation at least one of whose employees is such a person, as may from time to time be retained by the Trustees for the purpose of performing such actuarial services as are required by the Act and generally advising and assisting the Trustees regarding the Plan and its funding.

1.03 Beneficiary

“Beneficiary” means a person or persons designated by a Participant, Former Participant or Pensioner, pursuant to Section 5.08, who is, or shall be, receiving Benefits under this Plan following the death of the Participant, Former Participant or Pensioner, and includes a successor Beneficiary designated pursuant to Section 5.08.

1.04 Benefit

“Benefit” means pension and related benefits, including death benefits, which a Participant has accrued prior to the termination of her participation in the Plan.

1.05 Calendar Year

“Calendar Year” means the fiscal year of the Plan and covers the 12-month period from January 1 to December 31.

1.06 Collective Agreement

“Collective Agreement” means a collective agreement or other written agreement, including a Participation Agreement, enforceable between the Union and or a Local Union and a Contributing Employer together with any modifications or amendments thereto,

which requires Contributions to be made to the Plan in a manner consistent with the Trust Agreement.

#### 1.07 Commuted Value

“Committed Value” means the lump sum amount equal to the actuarial present value of a Benefit determined on an actuarial basis which is recommended for this purpose by the Actuary and adopted by the Trustees and, where the actuarial basis utilizes unisex mortality assumptions, meets any requirements of the Act or the *Income Tax Act* for this purpose.

#### 1.08 Contributions

“Contributions” means payments to the Trust Fund in accordance with the terms of a Collective Agreement or a Participation Agreement.

#### 1.09 Contributing Employer.

(a) “Contributing Employer” means:

(i) any employer who:

(1) is a party to, or bound by a Collective Agreement or a Participation Agreement;

(2) is accepted for participation in the Plan pursuant to Article 2; and

(3) then makes Contributions as required by the Trustees.

(b) An employer shall be considered a Contributing Employer only with respect to those job classifications and places of business which are covered by the first Collective Agreement or Participation Agreement. In the event that additional job classifications or places of business are covered by a subsequent Collective Agreement or Participation Agreement with the employer, or by a modification or amendment to the first Collective Agreement or Participation Agreement, then the employer shall be separately considered as a new Contributing Employer for the additional job classifications or places of business, effective upon acceptance for participation in the Plan of the additional job classifications or places of business, pursuant to Article 2;

(c) The term “Contributing Employer” shall not include an employer whose status as a Contributing Employer has ended pursuant to Article 8.

#### 1.10 Contribution Date

“Contribution Date” means the first day on which a Contributing Employer is obligated by a Collective Agreement or a Participation Agreement to make Contributions.

### 1.11 Contribution Rate

“Contribution Rate” means the rate of contribution stipulated in the Collective Agreement or the Participation Agreement.

### 1.12 Covered Employment

“Covered Employment” means employment with a Contributing Employer for which Contributions are required.

### 1.13 Credited Interest

- (a) “Credited Interest” means the interest to be applied in respect of Employee Contributions or Self-Payments.
- (b) Credited Interest shall be established annually effective the first day of January of each year and calculated on the basis of the average of the yields of five-year personal fixed term chartered bank deposit rates as published monthly in the Bank of Canada Review, over the previous calendar year.

### 1.14 Effective Date

“Effective Date” means January 1, 1989.

### 1.15 Employee

- (a) “Employee” means any person who is employed by a Contributing Employer, and is:
  - (i) covered by a Collective Agreement;
  - (ii) not covered by a Collective Agreement, provided the employee’s special class is accepted for participation by the Trustees pursuant to Section 2.04; or
  - (iii) covered by a Participation Agreement.
- (b) “Employee” shall not include any self-employed person, nor any person who is a partner or proprietor, within the meaning of the *Income Tax Act*, of a business organization if such business is a Contributing Employer.

### 1.16 Employee Contributions

“Employee Contributions” means payments to the Trust Fund which have been deducted from the wages of an Employee by a Contributing Employer and remitted to the Plan on behalf of that Employee in accordance with the terms of a Collective Agreement or a Participation Agreement.

In no event may Employee Contributions be made before the Calendar Year to which the Contributions relate.

#### 1.17 Employer Contributions

“Employer Contributions” means payments to the Trust Fund by a Contributing Employer in accordance with the terms of a Collective Agreement or a Participation Agreement.

#### 1.18 Former Participant

“Former Participant” means a former Employee who has incurred a Break in Service pursuant to Section 4.03 but not transferred her Benefits out of the Plan.

#### 1.19 Local Union

“Local Union” means a Local chartered by or affiliated with a Union.

#### 1.20 Normal Retirement Age

“Normal Retirement Age” means the attainment of age 65.

#### 1.21 Normal Retirement Date

“Normal Retirement Date” means the first of the month coincident with or next following the attainment of Normal Retirement Age.

#### 1.22 Number

Except as the context may specifically require otherwise, use of the singular shall include the plural.

#### 1.23 Participant

“Participant” means an Employee who has satisfied the requirements for participation in the Plan pursuant to Section 2.06, and whose participation has not been terminated pursuant to Section 2.07.

#### 1.24 Participation Agreement

A “Participation Agreement” means an agreement between an employer and the Plan substantially in the form set out in Schedule “B” to the Trust Agreement.

#### 1.25 Pension

“Pension” means a Benefit under the Plan which is payable in monthly instalments.



### 1.26 Pensioner

“Pensioner” means a person to whom a Pension under this Plan is being paid, or who has met all the requirements for a Pension as set forth in these Rules and Regulations, including those related to the filing of an application

### 1.27 Plan

“Plan” means the Nursing Homes and Related Industries Pension Plan as described herein and as may be amended from time to time.

### 1.28 Portable Commuted Value

“Portable Commuted Value” means the Commuted Value of a Former Participant’s Benefits multiplied by the Transfer Ratio.

### 1.29 Related Industry

“Related Industry” means the health care industry and without limiting the generality of the foregoing includes nursing homes, homes for the aged, special care facilities, retirement homes, homecare workers and services similar to or ancillary thereto as determined by the Trustees.

### 1.30 Seniority Date

“Seniority Date “ means:

- (a) for Employees covered by a Collective Agreement, the seniority starting date for each Employee on a seniority list which is calculated pursuant to the Collective Agreement and supplied to the Union or Local Union by the Employer;
- (b) for Employees not covered by a Collective Agreement, the date of hire.

### 1.31 Spouse

“Spouse” means either of two persons who are:

- (a) married to each other; or
- (b) not married to each other and have been living together in a conjugal relationship,
  - (i) continuously for a period of not less than three years, or
  - (ii) in a relationship of some permanence, if they are the parents of a child as set out in section 4 of the *Children’s Law Reform Act* (Ontario).

For the purposes of Section 3.09, "Spouse" shall mean a person who meets the above definition and who, on the date of death of the Participant or Former Participant, is not living separate and apart from the Participant or Former Participant.

For the purposes of Section 6.01, "Spouse" shall mean a person who meets the above definition and who is not living separate and apart from the Participant or Former Participant on the date that payment of the first installment of the Pension is due.

#### 1.32 Standard Rate

"Standard Rate" means the Contribution Rate which the Trustees have decided to be standard for the purposes of determining Past Service Benefit levels in the Plan pursuant to Section 3.02, and which may be amended from time to time.

#### 1.33 Terminated Participant

"Terminated Participant" means a former Employee who has incurred a Break in Service pursuant to Section 4.03 and transferred her Benefits out of the Plan in accordance with Section 4.05 or Section 5.05.

#### 1.34 Transfer Ratio

"Transfer Ratio" means the ratio of the plan's solvency assets to its solvency liabilities, as defined by the act and determined by the actuary, to a maximum of 1.

#### 1.35 Trustees

"Trustees" means the Board of Trustees as established and constituted pursuant to the Trust Agreement.

#### 1.36 Trust Agreement

"Trust Agreement" means the Agreement and Declaration of Trust of the Nursing Homes and Related Industries Pension Plan, as restated on September 8, 2005, as amended from time to time.

#### 1.37 Trust Fund

"Trust Fund" means the Nursing Homes and Related Industries Pension Plan Trust Fund as established under the Trust Agreement.

#### 1.38 Union

"Union" means the Service Employees International Union, the Canadian Union of Public Employees, the Ontario Nurses' Association, Unifor and such other unions or associations as may be designated in accordance with the Trust Agreement.

1.39 Year of Employment

“Year of Employment” means 1,950 hours of employment in the nursing home industry or a Related Industry.

1.40 Year’s Maximum Pensionable Earnings or YMPE

“Year’s Maximum Pensionable Earnings” or “YMPE” shall have the same meaning as in the Canada Pension Plan.

1.41 Other Terms

Other terms, not defined, but having the meaning ascribed to them in this Plan, are as follows:

<b>Term</b>	<b><u>Section</u></b>
(a) Normal Pension .....	3.02
(b) Early Retirement Pension .....	3.03
(c) Deferred Pension .....	3.05
(d) Pre-Retirement Survivor Benefit .....	3.07
(e) Pre-Retirement Death Benefit .....	3.09
(f) Past Service Credit .....	4.01
(g) Current Service .....	4.02
(h) Break in Service .....	4.03
(i) Self-Payments.....	4.04
(j) Portability Option.....	4.05
(k) Retirement .....	5.06
(l) Designation of Beneficiary .....	5.08

**ARTICLE 2 - PARTICIPATION**

2.01 Acceptance of an Employer as a Contributing Employer

- (a) An employer may be accepted by the Trustees as a Contributing Employer if:

- (i) the employer has satisfied the requirements for a “Contributing Employer” set out in subsection 1.09(a)(i)(A);
  - (ii) the employer furnishes the necessary employee data;
  - (iii) such acceptance will not adversely affect the Benefit rights of existing Participants, Former Participants and Pensioners, as determined by the Trustees; and
  - (iv) participation in the Plan is compulsory for all Employees.
- (b) A written notice of acceptance from the Trustees constitutes acceptance of an employer as a Contributing Employer.

## 2.02 Standard Language

Any employer accepted as a Contributing Employer pursuant to Section 2.01 shall be required to include standard language, as established by the Trustees, in the Collective Agreement to which the employer is bound or sign a Participation Agreement.

## 2.03 Special Conditions

The Trustees may impose, for the acceptance of an employer as a Contributing Employer, any terms and conditions they consider necessary or advisable to preserve an actuarial balance between the Contributions received from the Contributing Employer and the Benefits provided to Employees of that Contributing Employer, and to preserve the Benefit rights of existing Participants. Such conditions may include, but shall not be limited to, the granting of a lower level of Benefits.

## 2.04 Acceptance of Special Classes of Employees

- (a) The Trustees may accept for participation in the Plan, special classes of employees who are employed by a Contributing Employer, but are not covered by a Collective Agreement, on the following conditions:
- (i) the Contributing Employer is also a Contributing Employer for Employees covered by a Collective Agreement;
  - (ii) the Contributing Employer makes a written application to the Trustees for the participation by the special class of employees;
  - (iii) the description of the special class of employees is sufficiently clear;
  - (iv) the Contribution Rate for the special class of employees is the same as for the Employees who are covered by a Collective Agreement, unless a higher rate of Contributions is necessary to provide the same level of Benefits for the special class of employees as for the Employees who are covered by that Collective Agreement;

- (v) the Contributing Employer agrees to sign a Participation Agreement requiring it to continue remitting Contributions for the special class of employees so long as the Contributing Employer is obligated to remit Contributions on behalf of Employees covered by a Collective Agreement;
  - (vi) the acceptance of the special class of employees will not adversely affect the Benefit rights of existing Participants, as determined by the Trustees; and
  - (vii) participation in the Plan is compulsory for all employees of the special class.
- (b) A written notice of acceptance by the Trustees constitutes acceptance of a special class of employees of a Contributing Employer.

#### 2.05 Termination of Contributing Employer Status

The termination of an employer's status as a Contributing Employer shall be governed by the provisions of Article 8.

#### 2.06 Participant

An Employee shall become a Participant in the Plan on the first day of the month following 975 hours of employment with a Contributing Employer, or such lesser number of hours of employment as may be specified in the applicable Collective Agreement.

#### 2.07 Termination of Participant Status

A Participant shall become a Former Participant on the day that she incurs a Break in Service.

#### 2.08 Reinstatement of Employee Participation

An Employee who has terminated participation in the Plan pursuant to Section 2.07 may again become a Participant by subsequently satisfying the requirement for participation pursuant to Section 2.06.

### **ARTICLE 3 - PENSION ELIGIBILITY AND AMOUNTS**

#### 3.01 Normal Pension – Eligibility

A Participant shall be eligible for a Normal Pension if the Participant has:

- (a) ceased employment in all Covered Employment; and,
- (b) reached her Normal Retirement Age.

#### 3.02 Normal Pension Amount

A Participant who has Contributions made to the Plan at a Contribution Rate equal to the Standard Rate shall be entitled to receive a Pension which consists of a Future Service Benefit and, where eligible, a Past Service Benefit. The standard form of payment for a Pension shall be an equal monthly amount, payable for life, with a minimum of 60 payments.

- (a) The monthly amount of the Past Service Benefit is \$26.60 per year of Past Service Credit to a maximum amount of \$186.20. Past Service Credit is granted pursuant to Section 4.01.
- (b) The monthly amount of the Future Service Benefit is \$1.55 per \$100 of:
  - (i) Contributions received by the Trustees;
  - (ii) Self-payments received by the Trustees pursuant to Section 4.04; and,
  - (iii) amounts credited pursuant to Section 4.06.

Notwithstanding the foregoing, the Benefit amounts payable are subject to the provisions of Section 2.03, where applicable.

### 3.03 Early Retirement Pension – Eligibility

A Participant shall be eligible to retire on an Early Retirement Pension if the Participant has:

- (a) ceased all Covered Employment; and,
- (b) reached the first day of the month after attainment of age 55, but not reached her Normal Retirement Age.

### 3.04 Early Retirement Pension Amount

A Participant shall be entitled to receive a monthly Early Retirement Pension determined as the amount of her Normal Pension reduced by one-half of one percent (1/2%) for each month by which the commencement of the Pension precedes the Participant's Normal Retirement Date. The standard form of payment for an Early Retirement Pension shall be an equal monthly amount, payable for life, with a minimum of 60 payments.

### 3.05 Deferred Pension

- (a) A Former Participant shall be entitled to a deferred Pension if the Former Participant has not transferred the Portable Commuted Value or Commuted Value of her Benefits out of the Plan pursuant to the Portability Option.
- (b) A deferred Pension shall be payable to a Former Participant upon Retirement on or after the date she attains age 55.

### 3.06 Deferred Pension Amount

- (a) **On and after the Normal Retirement Date:** If payment of the deferred Pension begins on or after a Former Participant has reached the Normal Retirement Date, a Former Participant shall be entitled to receive a Pension equal to the amount of the Former Participant's Normal Pension.
- (b) **Before the Normal Retirement Date:** If payment of the deferred Pension begins before a Former Participant reaches the Normal Retirement Date, a Former Participant shall be entitled to receive a Pension equal to the Former Participant's Early Retirement Pension.

### 3.07 Pre-Retirement Survivor Benefit – Eligibility

- (a) The Spouse of a Participant or Former Participant shall be entitled to a Pre-Retirement Survivor Benefit, if the Participant or Former Participant dies before commencement of the payment of the Participant's or Former Participant's Pension.
- (b) The right of the Spouse of a Participant or Former Participant to the Pre-Retirement Survivor Benefit may be waived by filing a written waiver, in the form approved by the Superintendent of Financial Services (Ontario), with the Trustees before payment of the Participant's or Former Participant's Pension commences. If such a waiver is filed with the Trustees, and not revoked before the date of death of the Participant or Former Participant, the Participant or Former Participant shall be considered not to have a Spouse for purposes of the Pre-Retirement Survivor Benefit.

### 3.08 Pre-Retirement Survivor Benefit – Amount

- (a) The surviving Spouse shall be entitled to receive a Pre-Retirement Survivor Benefit of:
  - (i) a Pension, payable for the life of the surviving Spouse, the value of which is equal to 100% of the Commuted Value of the Participant's or Former Participant's Benefits had the deceased incurred a Break in Service the day immediately prior to her death;
  - (ii) a deferred Pension equal to 100% of the Commuted Value of the Participant's or Former Participant's Benefits had the deceased incurred a Break in Service the day immediately prior to her death; or
  - (iii) a lump sum payment equal to 100% of the Commuted Value of the Participant's or Former Participant's Benefits had the deceased incurred a Break in Service the day immediately prior to her death.

- (b) If the Participant or Former Participant was eligible to retire under Section 3.03 on her date of death, the Commuted Value shall be calculated assuming that the deceased retired on her date of death with the Pension commencing on the first of the month next following the date of death.
- (c) If a surviving Spouse elects a lump sum payment pursuant to subsection 3.08(a)(iii), the surviving Spouse may elect to transfer the Pre-Retirement Survivor Benefit to one of the retirement savings vehicles listed in subsection 4.05(a).
- (d) If a surviving Spouse dies before payments commence to that Spouse as a result of the death of the Participant or Former Participant and the Spouse has not elected to transfer the Pre-Retirement Survivor Benefit to one of the retirement savings vehicles listed in subsection 4.05(a), the Benefits shall be payable as a lump sum to the Spouse's Beneficiary or estate.

### 3.09 Pre-Retirement Death Benefit – Eligibility

- (a) If a Participant or Former Participant has no Spouse on her date of death, or her Spouse has waived entitlement to the Pre-Retirement Survivor Benefit, the Participant's or Former Participant's Beneficiary or estate shall be entitled to receive a Pre-Retirement Death Benefit of a lump sum payment, the value of which is equal to 100% of the Commuted Value of the Participant's or Former Participant's Benefits accrued to the date of death.
- (b) If the Participant or Former Participant was eligible to retire pursuant to Section 3.03 on her date of death the Commuted Value shall be calculated assuming that the deceased retired on her date of death with the Pension commencing on the first of the month next following the date of death.

### 3.10 Pre-Retirement Death Benefit - Amount

The Participant's or Former Participant's Beneficiary or estate shall be entitled to receive a Pre-Retirement Death Benefit of a lump sum payment, the value of which is equal to 100% of the Commuted Value of the Participant's or Former Participant's Benefits accrued to the date of death.

If the Participant or Former Participant was eligible to retire under section 3.03, on her date of death, the Commuted Value shall be calculated assuming that the deceased retired on her date of death with the Pension commencing on the first of the month next following the date of death.

### 3.11 Non-duplication

A person shall be entitled to only one type of Pension under this Plan. However, a Pensioner may also receive a Pension as the surviving Spouse of a deceased Participant, Former Participant or Pensioner.



### 3.12 Whole Dollar Amounts

If the monthly amount of Pension, computed pursuant to this Article, or adjusted pursuant to other applicable provisions of this Plan, is not a whole dollar amount, it shall be rounded up to the next higher whole dollar amount.

### 3.13 Separation from the Plan

The Pension to which a Participant or Former Participant is entitled shall be determined under the terms of the Plan in effect at the date the Participant or Former Participant incurs a Break in Service unless the Plan is subsequently amended to expressly change such entitlement.

### 3.14 Fifty Per Cent Rule

- (a) Employee Contributions plus Credited Interest shall not be used to provide more than 50% of the Commuted Value of a Pension.
- (b) If Employee Contributions plus Credited Interest exceed 50% of the Commuted Value of a Pension, such excess, shall be:
  - (i) used to provide an additional amount of Pension calculated in accordance with the recommendations of the Actuary;
  - (ii) transferred to another pension plan administered pursuant to the Act;
  - (iii) transferred to a registered retirement savings plan established in accordance with the *Income Tax Act*, or
  - (iv) paid to the Former Participant, the Former Participant's surviving Spouse, Beneficiary, or estate, as the case may be, as a lump sum.

### 3.15 Maximum Pension

The amount of Pension payable to a Participant or Former Participant shall be calculated pursuant to Section 3.02, provided, however, that such amount shall be no greater than the maximum amount permitted by the *Income Tax Act* and the regulations thereunder.

## **ARTICLE 4 - ACCUMULATION OF PAST SERVICE CREDIT AND PORTABILITY**

### 4.01 Past Service Credit

- (a) Subject to Section 2.03 and Section 3.02, a Participant, employed by a Contributing Employer which was approved by the Board of Trustees on or before June 1, 2016, or a Participant who was a member of a bargaining unit which on June 1, 2016 was awaiting the release of the arbitration award which awarded participation in the Plan, who is eligible for Past Service Credit and who has accumulated two years of Current Service or attained

Normal Retirement Age, shall be granted one year of Past Service Credit for each Year of Employment prior to the Contribution Date of her first Contributing Employer, to a maximum of seven years, provided she was employed by her first Contributing Employer during the period from her Seniority Date with that first Contributing Employer to that first Contributing Employer's Contribution Date. In no event shall a Participant receive more than seven years of Past Service Credit.

- (b) Subject to subsection 3.02, if a Participant meets the requirements of subsection 4.01(a) to receive Past Service Credit is concurrently employed by another employer while being employed by the first Contributing Employer and the other employer subsequently becomes a Contributing Employer ("second Contributing Employer"), and
  - (i) the Participant was employed by the second Contributing Employer during the period from the Participant's Seniority Date with the second Contributing Employer to the second Contributing Employer's Contribution Date, and
  - (ii) for the period prior to the Contribution Date of the first Contributing Employer, the Participant's number of Years of Employment with the second Contributing Employer is greater than the number of Years of Employment with the first Contributing Employer,

the Participant's Past Service Credit shall instead be based on the Years of Employment with the second Contributing Employer prior to the first Contributing Employer's Contribution Date, to a maximum of seven years.

- (c) Subject to Section 2.03 and Section 3.02, a Participant employed by a Contributing Employer was approved by the Board of Trustees after June 1, 2016, but who was not a member which of a bargaining unit which on June 1, 2016 was awaiting the release of the arbitration award which awarded participation in the Plan, who is eligible for Past Service Credit and has accumulated two years of Current Service or attained Normal Retirement Age, shall be granted two years of Past Service Credit. Such a Participant shall be granted an additional year of Past Service Credit for each subsequent year of Current Service to a maximum of five additional years of Past Service Credit based on employment with her first Contributing Employer during the period from her Seniority Date with her first Contributing Employer to that first Contributing Employer's Contribution Date. In no event shall a Participant receive more than seven years of Past Service Credit.
- (d) Subject to Section 3.02, if a Participant who meets the requirements of subsection 4.01(c) to receive Past Service Credit is concurrently employed by another employer while being employed by the first Contributing

Employer and the other employer subsequently becomes a Contributing Employer (“second Contributing Employer”), and

- (i) the Participant was employed by the second Contributing Employer during the period from the Participant’s Seniority Date with the second Contributing Employer to the second Contributing Employer’s Contribution Date, and
- (ii) for the period prior to the Contribution Date of the first Contributing Employer, the Participant’s number of Years of Employment with the second Contributing Employer is greater than the number of Years of Employment with the first Contributing Employer,

the Participant’s Past Service Credit shall instead be based on her Years of Employment with the second Contributing Employer prior to the first Contributing Employer’s Contribution Date. In such circumstances, a Participant who has accumulated two years of Current Service or attained Normal Retirement Age, shall be granted two years of Past Service Credit. Such a Participant shall be granted an additional year of Past Service Credit for each subsequent year of Current Service to a maximum of five additional years of Past Service Credit based on employment with her second Contributing Employer during the period from her Seniority Date with that second Contributing Employer to that second Contributing Employer’s Contribution Date. In no event shall a Participant receive more than seven years of Past Service Credit.

- (e) Subject to subsection 4.01(f), if an Employee worked for a Contributing Employer which went out of business, and such business was taken over by a Contributing Employer, credit for periods of employment with the Contributing Employer which went out of business may be granted for the purpose of subsections 4.01(a), (b), (c), and (d), if the Trustees, in their sole discretion, are satisfied on the basis of evidence submitted to them, that it is appropriate to treat the Contributing Employer as the successor to the business of the employer which went out of business.
- (f) Notwithstanding subsection 4.01(e), if a Contributing Employer merges with another employer which did not make Contributions to the Plan to form a new entity which is required to make Contributions to the Plan, no Employees of the new entity shall become entitled to Past Service Credit merely as a result of the merger.

#### 4.02 Current Service

A Participant shall be credited with one month of Current Service for each full month of continuous participation in the Plan.

#### 4.03 Break in Service

- (a) A Participant shall incur a Break in Service if no Self Payments or Contributions were received by the Plan or required to be paid to the Plan by or on behalf of the Participant for eight consecutive months.
- (b) The following periods shall not be included in the calculation of the eight consecutive months referenced in subsection 4.03(a):
  - (i) A period during which an Employee, because of illness or disability, remains on the Contributing Employer's payroll for purposes of retaining seniority pursuant to the terms of the applicable Collective Agreement.
  - (ii) A period during which the Employee is on lay-off and subject to recall pursuant to the terms of the applicable Collective Agreement.
  - (iii) A period of pregnancy or parental leave not in excess of the greater of:
    - (1) the period provided for by law; and
    - (2) the period provided for by the applicable Collective Agreement.
  - (iv) A period of up to 24 consecutive months during which no Employee or Employer Contributions are made but during which there is litigation or some other action which may result in Employee or Employer Contributions being made retroactively at some future date for all, or some, of that period.
- (c) Notwithstanding subsections 4.03(a) and (b), a Break in Service shall also occur if:
  - (i) a Participant ceases all Covered Employment and makes application for and establishes entitlement to payment of a Benefit pursuant to subsection 6.02(e); or,
  - (ii) a Participant elects to incur a Break in Service after 24 consecutive months during which no Self Payments or Contributions were paid or required to be paid to the Plan.

#### 4.04 Self-Payments

- (a) A Participant may make Self-Payments directly to the Trust Fund in order to remain a Participant when transferring from employment with one Contributing Employer to employment with another Contributing Employer, and before completion of the 975 hours required for the new Contributing

Employer to begin making Contributions on the Participant's behalf. Such self-payments will be permitted if the Participant:

- (i) terminates employment with a Contributing Employer;
  - (ii) is employed by another Contributing Employer before incurring a Break in Service;
  - (iii) makes written application to the Trustees, in a manner prescribed by the Trustees; and
  - (iv) makes payments at a rate of contribution and for a period of time prescribed by the Trustees, in accordance with the *Income Tax Act* limits.
- (b) A Participant may make Self-Payments directly to the Trust Fund in order to remain a Participant while the Participant is on an approved leave of absence or on lay-off and subject to recall pursuant to the terms of the applicable Collective Agreement, provided the Participant:
- (i) makes a written application to the Trustees, in a manner prescribed by the Trustees; and
  - (ii) makes payments at a rate of contribution and within the time period prescribed by the Trustees, in accordance with the *Income Tax Act* limits.
- (c) A Participant may make written application to the Trustees for authorization to make Self-Payments directly to the Trust Fund so that Participant may remain a Participant in the Plan during a period in which the Participant is absent from the workplace due to a physical or mental impairment that prevents the Participant from performing the duties of the employment in which the Participant was engaged immediately prior to the commencement of the impairment.
- (i) No such application shall be processed by the Trustees until after the Participant has been absent from the workplace for at least 120 consecutive days of employment due to the physical or mental impairment.
  - (ii) When making such an application, the Participant must provide documentation establishing that she is in receipt of long-term disability benefits from the employer, an insurance company, or the Canada Pension Plan, for the period in question. The Trustees shall be the sole and final judges of the sufficiency of such documentation and whether any Participant shall be permitted to make Self-Payments.

- (iii) A Participant electing to make Self-Payments shall do so at a rate and within the time period prescribed by the Trustees, in accordance with the *Income Tax Act* limits.
- (iv) In no event shall the Self-Payments made by a Participant during a period of absence from the workplace due to physical or mental impairment exceed the Employee Contributions that the Participant would have made during the period of absence had the Participant continued to perform the duties of her employment at the same rate of pay as she received immediately prior to the commencement of the Participant's absence from the workplace.

#### 4.05 Portability Option

- (a) Subject to Section 5.05, all Former Participants, except those whose most recent employment with a Contributing Employer ended between October 1, 2015 and June 1, 2016 and those actively transferring their Benefits out of the Plan on June 1, 2016, who are not entitled to an immediate Pension, may become Terminated Participants by transferring their Portable Commuted Value, plus any amount payable to them pursuant to Section 3.14 multiplied by the Transfer Ratio, out of the Plan. A Terminated Participant's Portable Commuted Value shall, at the Terminated Participant's election, be transferred to:
  - (i) another registered pension plan if that other plan permits;
  - (ii) a retirement savings arrangement prescribed by the Act and registered under the *Income Tax Act*, or
  - (iii) purchase a deferred life annuity of the kind permitted by the Act.
- (b) Former Participants, whose most recent employment with a Contributing Employer ended between October 1, 2015 and June 1, 2016 and incur a Break in Service and those actively transferring their Benefits out of the Plan on June 1, 2016, have the Portability Options described in section 4.05 of the rules and regulations of the Plan as it read on May 31, 2016.
- (c) Notwithstanding the above, if a transfer pursuant to subsection 4.05(a) or (b) would impair the funding of the Plan, such a transfer may not be made without the consent of the Superintendent of Financial Services (Ontario).
- (d) A termination of participation pursuant to subsection 4.05(a) shall be effective on the date that the Former Participant's election is received by the Trustees.

#### 4.06 Credit Due to Work-Related Injury

A Participant who is absent from work with an Employer due to a work-related injury for which she is receiving loss of earnings benefits from the Workplace Safety and Insurance Board, or similar work-related-injury benefits from an insurance company retained by her Employer if it is not covered by the Workplace Safety and Insurance Board, shall be credited with the Employer Contributions that would otherwise have been remitted to the Trust Fund on her behalf had she not been injured, for a maximum of 12 months. The amount of the Employer Contributions to be credited shall be based on the Participant's average weekly wage during the last four complete weeks of work prior to the date last worked and the Contribution Rate in effect on that date.

Participants shall be permitted to make Self-Payments during absences from work with an Employer due to a work-related injury for which she is receiving loss of earnings benefits from the Workplace Safety and Insurance Board, or similar work-related-injury benefits from an insurance company retained by her Employer if it is not covered by the Workplace Safety and Insurance Board. In no event shall such Self-Payments exceed the Employee Contributions that the Participant would have made during the period of absence had she continued to perform the duties of her employment at the same rate of pay as that received immediately prior to her absence from the workplace.

### **ARTICLE 5 - APPLICATIONS, BENEFIT PAYMENTS, AND RETIREMENT**

#### 5.01 Applications

Application for a Pension must be made in writing in the form and manner prescribed by the Trustees.

#### 5.02 Information and Proof

Every Participant, Former Participant, Pensioner, Spouse or Beneficiary shall furnish, upon the request of the Trustees, any information or proof required for the administration of the Plan, or for the determination of any matter that the Trustees may have before them. Failure to furnish such information or proof promptly and in good faith shall be sufficient reason for the denial of Benefits for such Participant, Former Participant, Spouse or Beneficiary, or the suspension or discontinuance of Benefits to such Pensioner. The falsity of any statement material to an application or the furnishing of fraudulent information or proof shall be sufficient reason for the denial, suspension, or discontinuance of Benefits, and in any such case the Trustees shall have the right to recover any Benefits paid in reliance thereon.

#### 5.03 Action of Trustees

The Trustees shall be the sole judge of:

- (a) the standard of proof required in any case,

- (b) the application and interpretation of this Plan,
- (c) entitlement to or amount of a Pension or Benefits; and
- (d) the crediting of Past Service and Current Service.

The decisions of the Trustees with respect to any of the foregoing shall be final and binding on all parties.

#### 5.04 Benefit Payments

- (a) A Normal Pension, or a deferred Pension that is payable on or after the Normal Retirement Date shall first be payable on the later of:
  - (i) the month following the month in which the Participant or Former Participant attains Normal Retirement Age; or
  - (ii) the month following the month in which the Participant or Former Participant last worked in Covered Employment.

Notwithstanding the foregoing, a Normal Pension or a deferred Pension that is payable on or after Normal Retirement Age shall commence no later than December 1<sup>st</sup> of the Calendar Year in which the Participant or Former Participant attains age 71.

- (b) An Early Retirement Pension, or a deferred Pension that is payable before the Normal Retirement Date, shall first be payable on the latest of:
  - (i) the month following the month in which the application is received;
  - (ii) the month following the month in which the Participant or Former Participant last worked in Covered Employment; or
  - (iii) the month for which the Participant or Former Participant has elected to begin receiving the Pension.
- (c) A Pre-Retirement Survivor Benefit shall first be payable for the month following the month of death of the Participant or Former Participant.
- (d) Payment of a Pension, which is not a Joint and Survivor Pension, shall end with the payment for the month of death of the Pensioner unless a standard form or optional form of Pension with a minimum number of payments was elected. If a standard form or an optional form of Pension with a minimum number of payments was elected pursuant to Article 6, the Commuted Value of any outstanding payments shall be paid as a lump sum to the Beneficiary or estate of the deceased Pensioner.

#### 5.05 Commutation of Small Pension



If the Pension payable at Normal Retirement Age would be less than \$100 per month, the Trustees shall pay to the Participant or Former Participant the Portable Commuted Value of the Pension, plus any amount payable to her pursuant to Section 3.14 multiplied by the Transfer Ratio, as a lump sum in full settlement of any and all Benefits to which the Participant or Former Participant or is entitled.

Upon the election of the recipient, such a lump sum payment may be transferred to a registered retirement savings plan to the extent that such a transfer is permitted by the *Income Tax Act*.

#### 5.06 Retirement Defined

- (a) A Participant or Former Participant is considered to be retired:
  - (i) upon attainment of retirement age, cessation of employment in all Covered Employment and her application for a Pension; or
  - (ii) December 1<sup>st</sup> of the Calendar Year in which the Participant or Former Participant attains age 71.
  
- (b) A Pensioner who has not yet attained age 65 must not engage in Covered Employment. If such a Pensioner does so, the Pension of that Pensioner shall be immediately suspended:
  - (i) for the duration of such Covered Employment;
  - (ii) until the Participant attains age 65 and makes an election pursuant to subsection 5.06(c)(i) below;
  - (iii) or until December 1<sup>st</sup> of the Calendar Year in which the Participant or Former Participant attains age 71, whichever occurs first.
  
- (c) If a Pensioner, who has attained age 65, engages in Covered Employment, such Pensioner must immediately elect to:
  - (i) continue to receive her Pension and accrue no further Benefits in the Plan; or
  - (ii) direct the Trustees to immediately suspend her Pension for the duration of such employment, or until December 1<sup>st</sup> of the Calendar Year in which she attains age 71, whichever occurs first, and thus resume accruing Benefits in the Plan.

If such a Pensioner fails to immediately make an election, her Pension shall be suspended for: the duration of such employment; until such an election

is made; or until December 1<sup>st</sup> of the Calendar Year in which she attains age 71, whichever occurs first.

- (d) No Employee or Participant shall accrue additional Benefits based on employment with a Contributing Employer after December 1st of the Calendar Year in which the Employee or Participant attains age 71.
- (e) The Plan will not accept Contributions or Self payments, by or on behalf of a Pensioner receiving a Pension, or Contributions or Self Payments, which relate to hours worked by an Employee or Participant after December 1st of the Calendar Year in which that Employee or Participant attained age 71.

#### 5.07 Benefit Payments Following Suspension

- (a) A Pensioner who returns to Covered Employment for an insufficient period of time to accumulate at least \$100 of additional Contributions shall not be entitled to a higher Pension on subsequent termination of employment.
- (b) A Pensioner who returns to Covered Employment and accumulates at least \$100 of additional Contributions shall, upon subsequent retirement, be entitled to a re-computation of her Pension. This re-computation shall be based on all additional Contributions, the Pensioner's attained age upon resumption of the Pension, and the reduction of the Pensioner's age by the number of months for which a Pension was previously received.

#### 5.08 Designation of Beneficiary

- (a) A Participant, Former Participant or Pensioner may designate a Beneficiary, or Beneficiaries, to receive Benefits pursuant to sections 3.09, 6.01 and 6.02. The Participant, Former Participant or Pensioner may also designate a successor Beneficiary in the event that the Beneficiary predeceases the Participant, the Former Participant or the Pensioner.
- (b) A Participant, Former Participant or Pensioner shall have the right to change or revoke the Beneficiary designation, but no change or revocation shall be effective or binding upon the Trustees unless notice of the change is received by the Trustees in writing prior to the time any payments are made to the Beneficiary whose designation is on file with the Trustees.

#### 5.09 Incompetence or Incapacity of a Pensioner, Spouse or Beneficiary

In the event that it is determined under the provisions of applicable legislation that a Pensioner, surviving Spouse or Beneficiary is unable to care for her affairs because of mental or physical incapacity, the Trustees may pay the Benefits due such Pensioner, surviving Spouse or Beneficiary to the respective legal guardian, committee, or legal representative of that Pensioner, surviving Spouse or Beneficiary. Payment by the Trustees to such legal guardian, committee or legal representative shall operate to

discharge the Trustees from any liability to such Pensioner, surviving Spouse or Beneficiary or to anyone representing their interests.

#### 5.10 Non-Assignment of Benefits

No Employee, Participant, Former Participant, Pensioner or Spouse shall have the right to assign, charge, alienate, transfer, sell, hypothecate, mortgage, give as security, encumber, pledge, commute, surrender, or anticipate any Benefits, Pension payments or portions thereon and any such act or similar transaction shall be void and of no effect, and any such arrangements shall not be binding on the Trustees.

Notwithstanding the foregoing, the following shall not be considered as violation of the provisions of this Section:

- (a) assignment pursuant to a decree, order or judgement of a competent tribunal or a written agreement in settlement of rights arising as a consequence of the breakdown of a spousal relationship or other conjugal relationship between a person and the person's spouse or former spouse;
- (b) assignment by the legal representative of a deceased person for the distribution of the person's estate; and
- (c) reduction of Benefits to avoid the revocation of registration of the Plan under the *Income Tax Act*.

#### 5.11 Division of Benefits Upon Termination of a Spousal Relationship

If a Participant, Former Participant or Pensioner obtains a divorce, annulment or separation, the allocation of her Benefits or their Commuted Value, and the method of payment, shall be subject to the restrictions imposed by the Act and the *Family Law Act* (Ontario). The Plan shall charge the maximum amount permitted by the Act to effect such an allocation.

In no case may the actuarial present value of the Benefits paid to the Participant, Former Participant, or Pensioner and her former Spouse be greater than what would have been payable had the spousal relationship not terminated.

### **ARTICLE 6 - STANDARD AND OPTIONAL FORMS OF PAYMENT**

#### 6.01 Standard Form

- (a) For a Participant or a Former Participant Who Does Not Have a Spouse

For a Participant or a Former Participant who does not have a Spouse, the standard form of payment for a Pension shall be an equal monthly amount for life with a minimum of 60 payments.

If a Pensioner who is receiving a Pension dies after the effective date of the Pension, but before receiving 60 monthly payments, the Commuted Value of the outstanding payments shall be paid to the Beneficiary. If no Beneficiary has been named, or the last named Beneficiary has pre-deceased the Pensioner, the Commuted Value of the outstanding payments shall be paid to the estate of the Pensioner.

In lieu of the minimum 60 Payments, a Participant entitled to a Pension may elect one of the optional forms of Pension set out below subject to the conditions therein.

- (b) For a Participant or a Former Participant Who has a Spouse - Joint and Survivor Pension

For a Participant or a Former Participant who has a Spouse, the standard form of Pension shall be a Joint and Survivor Pension in which the monthly amount of the Pension is reduced from the full amount otherwise payable so that 60% of the reduced monthly Pension will continue to be paid after the Pensioner's death for the lifetime of the Pensioner's Spouse. The reduction of the Pension shall be determined by the Trustees on the advice of the Actuary so that the expected cost of the Joint and Survivor Pension is the actuarial equivalent of a single life Pension with a minimum of 60 payments. This form of Pension may be waived if the Participant or Former Participant files with the Trustees a written waiver, in the form approved by the Superintendent of Financial Services (Ontario), that is signed by the Participant or Former Participant and the Spouse of the Participant or Former Participant. Such Waiver must be filed with the Trustees during the 12-month period immediately preceding the first payment of the Pension.

Payment of the 60% Joint and Survivor Pension shall be subject to the following conditions;

- (i) The 60% Joint and Survivor Pension is payable for the lifetime of the Pensioner and the surviving Spouse and does not terminate on the remarriage of the surviving Spouse.
- (ii) The Trustees shall be entitled to rely on the written representation provided by the Participant or Former Participant with her application for a Pension as to whether or not the Participant or the Former Participant has a Spouse. This reliance shall include the right to deny Benefits to a person claiming to be the Spouse of a Participant or Former Participant in contradiction to the written representation on file.
- (iii) If the Spouse dies prior to the first month for which a Pension is payable to the Pensioner, the Joint and Survivor Benefit will not be

operative and the Pensioner will be treated as if she did not have a Spouse.

- (iv) Once the Pension becomes payable, the monthly amount shall not be increased upon the subsequent breakdown of the spousal relationship or should the Pensioner's Spouse predecease the Pensioner.
- (v) If the Participant or Former Participant is not living on the first day of the first month for which a Pension is payable, the Joint and Survivor Pension shall not be operative and Pre-Retirement Survivor Benefit or the Pre-Retirement Death Benefit, whichever is applicable, shall then apply.

## 6.02 Optional Forms of Pension

- (a) A Participant or Former Participant may elect to receive an optional form of Pension in lieu of the standard form provided that:
  - (i) the standard form of Pension is not mandatory for the Participant or Former Participant under the terms of the Plan or the Act; and
  - (ii) the Participant or Former Participant has elected the optional form prior to the first payment of Pension to the Participant or Former Participant.
- (b) The amount of Pension under each optional form of payment shall be adjusted from the amount payable under the standard form in accordance with formulas adopted by the Trustees to ensure the equivalence of the expected actuarial cost of each option and the standard form.
- (c) The optional forms of payment are:
  - (i) **Life Only Pension:** a Pension payable for the Pensioner's lifetime.
  - (ii) **Life Pension with 10 Years Certain:** a Pension payable for the Pensioner's lifetime with a minimum of 120 payments. If a Pensioner who is receiving a Life Pension with 10 Years Certain Pension dies after the effective date of the Pension, but before receiving 120 monthly payments, the Commuted Value of the outstanding payments shall be paid to her Beneficiary. If no Beneficiary has been named, or the last named Beneficiary has pre-deceased the Pensioner, the Commuted Value of the outstanding payments shall be paid to the estate of the Pensioner.
  - (iii) **Life Pension with 15 Years Certain:** a Pension payable for the Pensioner's lifetime with a minimum of 180 payments. If a Pensioner who is receiving a Life Pension with 15 Years Certain Pension dies

after the effective date of the Pension, but before receiving 180 monthly payments, the Commuted Value of the outstanding payments shall be paid to her Beneficiary. If no Beneficiary has been named, or the last named Beneficiary has pre-deceased the Pensioner, the Commuted Value of the outstanding payments shall be paid to the estate of the Pensioner.

- (iv) **Joint and Survivor Pension:** a Pension payable for the Pensioner's lifetime, with the provision that after the Pensioner's death, 50%, 75%, or 100%, as elected by the Pensioner, shall be payable to and during the lifetime of the Spouse, if such Spouse is surviving at the date of the Pensioner's death.

(d) Conditions of Election

- (i) Election of a Life Only Pension, a Life Pension with a minimum number of monthly payments, or a 50% Joint and Survivor Pension shall be subject to the following conditions:
  - (1) For a Participant or Former Participant who has a Spouse, receipt of a Life Only Pension, a Life Pension with a minimum number of monthly payments or a 50% Joint and Survivor Pension is only available if the Participant or Former Participant provides the Trustees with a written waiver in accordance with the requirements of subsection 6.01(b).
  - (2) The election must be made in writing on a form prescribed by the Trustees and filed with the Trustees prior to the first payment of the Pension.
  - (3) Once an optional form of Pension begins to be paid, it may not be revoked.
  - (4) Election of any of these options is in lieu of the 60 minimum monthly payments provided for in Section 6.01(a).
- (ii) If the Spouse dies before the Joint and Survivor Pension becomes effective, the election will be void and the Participant or Former Participant will be treated as if no such election had been made. However, if the Spouse dies after the Joint and Survivor Pension becomes effective, the election shall remain in effect and the Pensioner shall continue to receive payments in the amount provided for by the Joint and Survivor Pension.

(e) Amount of Pension Payable to Disabled Person

If a Participant, Former Participant or Pensioner has a mental or physical disability that is certified by a medical practitioner to likely shorten her life

expectancy to less than two years, that Participant, Former Participant or Pensioner may elect to receive the Commuted Value of her Benefits as a lump sum.

A Participant or Former Participant who has a Spouse, or a Pensioner who had a Spouse on the effective date of the Pension, may only make such an election if the Trustees have received statements from the Participant, Former Participant or Pensioner and the Spouse, which includes all the information required by the Act, including, but not limited to a statement from the Spouse that the Spouse is aware of the Plan's spousal entitlement and waives those entitlements. This statement must be signed by the Spouse no more than 60 days prior to its receipt by the Trustees.

## **ARTICLE 7 - AMENDMENT, TERMINATION AND GENERAL PROVISIONS**

### **7.01 Amendments**

The Trustees may amend or modify this Plan at any time in accordance with the Trust Agreement including, but not necessarily limited to, changes in Benefit amounts, types of Benefits and conditions of eligibility. No amendment or modification may enable any of the assets of the Trust Fund to be returned or paid to a Contributing Employer, a Union or a Local Union.

Notwithstanding the amount of Benefits payable under the terms of the Plan, if the assets of the Plan and expected Contributions are, in the estimation of the Actuary, insufficient to pay the level of Benefits provided for by the Plan, the Trustees may reduce the Benefits payable, provided such reduction is applied equitably, and provided such reduction is no greater than that required to reduce Benefits to a level which can be supported by the assets and Contributions.

Furthermore, the Trustees may amend this Plan to reduce the Benefits accrued by a person to the extent that such reduction is required to avoid the revocation of the registration of the Plan under the *Income Tax Act*.

In the event that there is a windup deficiency upon the full wind up of the Plan, the Trustees shall amend this Plan to reduce the Benefits accrued by affected Participants, Former Participants and Pensioners to the extent that such reduction is required to eliminate the windup deficiency.

### **7.02 Non-Reversion**

It is expressly understood that in no event shall any of the corpus or assets of the Trust Fund revert to the Contributing Employers or be subject to any claims of any kind or nature by any Contributing Employers, except for the return of erroneous Contributions where, in the opinion of the Trustees, there is no prejudice to the Trust Fund and an application for refund is made within 12 months of the remittance of the erroneous Contributions, or the return of Employer Contributions is required to avoid revocation of registration of the Plan under the *Income Tax Act*.

### 7.03 Limitation of Liability

This Plan has been adopted on the basis of actuarial calculations which established that the Contributions will, if continued, be sufficient to maintain the Plan on a permanent basis. However, it is recognized that the Benefits provided by the Plan can be paid only to the extent that the Plan has sufficient resources to pay those Benefits.

No Contributing Employer or Employee has any liability, directly or indirectly, to provide the Benefits established by this Plan beyond the obligation of to make Contributions pursuant to the applicable Collective Agreement or Participation Agreement. In the event that at any time the Trust Fund does not have sufficient assets to permit continued payments under this Plan, nothing contained in the Plan or the Trust Agreement shall be construed as obligating a Contributing Employer or an Employee to make Contributions other than the Contributions for which a Contributing Employer or Employee is required to make pursuant to a Collective Agreement, or other documents or agreements. There shall be no liability upon the Trustees individually or collectively, or upon a Contributing Employer, or a Union or Local Union to provide the Benefits established by this Plan if the Trust Fund does not have sufficient assets to pay such Benefits.

### 7.04 Termination of Obligation to Contribute

If a Union or Local Union and a Contributing Employer should enter into a Collective Agreement requiring Contributions, and then fail to renew such agreement, the Trustees have the authority to take such action as is necessary to maintain the financial soundness of the Trust Fund.

If subsequent to the conclusion of a Collective Agreement between a Contributing Employer and the Union or a Local Union, the Contributing Employer and the Union or Local Union enter into an agreement which does not require the continuation of Contributions, the Trustees shall have the right to terminate or reduce any Benefits payable to Employees and former Employees of the Contributing Employer if the total amount received from the Contributing Employer and its current and former Employees is less than the Commuted Value of the Benefits paid to former Employees and owing to Employees and former Employees of that Contributing Employer. In addition, the Trustees have the right to adjust the Benefits of any such current and former Employees to maintain a financially sound relationship between the Contributions received on their behalf and the Benefits they have accrued.

### 7.05 Plan Termination or Wind-up.

- (a) Notwithstanding anything contained herein, the Trustees may wind-up or terminate the Plan in accordance with the Trust Agreement, the Act and any other applicable legislation, or modify or amend any or all of these provisions for any reason at any time.
- (b) If, upon the winding-up of the Plan, in whole or in part, there are not sufficient assets in the Trust Fund to pay all such Benefits, Benefits shall be reduced *pro rata*, or as otherwise determined by the Trustees in an



equitable manner, so that there is no liability on the Union or any Contributing Employer to contribute to the Plan any amount which is in excess of the amounts required of a Contributing Employer by an applicable Collective Agreement.

- (c) As of the date of wind-up, the Trustees shall:
  - (i) provide for payment from the Trust Fund of any and all obligations of the Plan, including the provision of Pensions and other Benefits to Participants, Former Participants, Pensioners and estates accrued up to the date of termination in an equitable manner determined by the Trustees in accordance with Act and all expenses incurred up to the date of wind-up and all expenses incidental to such termination including those incurred after the date of wind-up;
  - (ii) arrange for a final audit and report of their transactions and accounts, for the purpose of termination of their Plan, the Trust Fund and their Trusteeship; and
  - (iii) give any notice and prepare and file any reports which may be required by the Act or other applicable legislation.

#### 7.01 Administrative Interpretation

The Trustees may, at their sole discretion, adopt such administrative interpretations of this Plan as they consider necessary to carry out the intent and purpose of the Plan, and provide for its prudent administration.

#### 7.02 Application of Amendments

Unless specifically provided for in the amendment, no amendment to this Plan will be deemed to grant new or improved Benefits or rights nor reduce the Benefits accrued by a person who has ceased to be a Participant or has become a Pensioner prior to the effective date of the amendment.

### **ARTICLE 8 - TERMINATION OF EMPLOYER PARTICIPATION**

#### 8.01 Cause of Termination

The participation of a Contributing Employer shall terminate:

- (a) when the Contributing Employer is no longer obligated by a Collective Agreement or other documents or agreements to make Contributions on the basis required by the Trustees; or
- (b) when the Contributing Employer fails to pay an amount due the Trust Fund, and termination is deemed appropriate by the Trustees; or

- (c) when the Contributing Employer fails to comply with administrative procedures adopted by the Trustees, and termination is deemed appropriate by the Trustees.

## 8.02 Short-Term Contributing Employers

If the participation of a Contributing Employer terminates within 180 months of its Contribution Date, the Trustees shall apply the amount attributable to Contributions from the former Contributing Employer and Participants, Former Participants and Pensioners, currently or formerly employed by the Contributing Employer, less Benefits already paid to such Former Participants and Pensioners, together with interest credited at the rate of the net investment return of the Plan during the period of the former Contributing Employer's participation, to the provision of Benefits accrued by such Participants, Former Participants and Pensioners in respect of their Covered Employment with that former Contributing Employer. Subject to the requirements of the Act, if such amount is less than the Commuted Value of the Benefits accrued by such Participants, Former Participants and Pensioners while performing Covered Employment for the former Contributing Employer, the Trustees may reduce the Benefits of Participants, Former Participants and Pensioners, who were employed at any time by the former Contributing Employer, in such manner as the Trustees consider necessary to preserve an actuarially equivalent relationship between the liability for Benefits accrued by such Participants, Former Participants and Pensioners and the Contributions received on their behalf.

The above paragraph shall not apply should multiple affiliated Contributing Employers, or a Union representing Participants employed by multiple Contributing Employers, elect to terminate the participation of Participants employed by multiple Contributing Employers for any reason. Unless the Trustees determine otherwise, in such circumstances all affected Participants, including those entitled to an immediate Pension, may transfer their Portable Commuted Value, plus any amount payable to them pursuant to Section 3.14 multiplied by the Transfer Ratio, out of the Plan. Subject to Section 5.05, a Terminated Participant's Portable Commuted Value shall, at the Terminated Participant's election, be transferred to:

- (i) another registered pension plan if that other plan permits; or
- (ii) a retirement savings arrangement prescribed by the Act and registered under the *Income Tax Act*; or
- (iii) to an insurance company to purchase a life annuity of the kind permitted by the Act.

## **ARTICLE 9 - PROVISIONS FOR INDIVIDUALS SUBJECT TO NON-ONTARIO LAW**

### 9.01 Individuals Subject to the Non-Ontario Law

These Rules and Regulations have been written to comply with the provisions of the Act. For individuals subject to the pension law of a province other than Ontario, the applicable

pension law of that other province shall apply, but only to the extent that the law of such province is contrary to these Rules and Regulations.

## 9.02 Individuals Subject to the Pension Law of Alberta

Without limiting the generality of Section 9.01, and notwithstanding the provisions of Articles 1 to 8 of these Rules and Regulations, the following provisions shall apply for individuals subject to the pension law of Alberta, and the provisions of Articles 1 to 8 shall be considered to be amended with respect to such individuals.

### 1. Additional Definitions

The following additional definitions shall apply in regard to individuals subject to the pension law of Alberta.

**“Going Concern Commuted Value”** means the actuarial present value of benefits that a Former Participant is or may become entitled to receive determined in accordance with the actuarial assumptions used in the most recently filed actuarial valuation report to determine the going concern liabilities of the Plan using the method recommended by the Actuary and approved by the Trustees.

**“Going Concern Funded Ratio”** means the ratio of the Plan’s going concern assets to its going concern liabilities as determined by the Actuary to a maximum of 1.

**“Portable Going Concern Commuted Value”** means the Going Concern Commuted Value of a Former Participant’s Benefits, including any amounts payable under Section 3.14, multiplied by the Going Concern Funded Ratio.

### 2. Section 1.03 Beneficiary

For individuals subject to the pension law of Alberta, Section 1.03 shall read as follows:

#### **Section 1.03 – Beneficiary**

**“Beneficiary”** when used in reference to a Participant or Former Participant subject to the pension law of Alberta means an individual designated pursuant to subsection 71(2) of the *Wills and Succession Act* (Alberta) to receive a Benefit from the Plan upon the death of the Participant or Former Participant.

3. **Section 1.28** Portable Commuted Value shall have no application to individuals subject to the pension law of Alberta.

### 4. Section 1.31 - Definition of Spouse

For individuals subject to the pension law of Alberta, Section 1.31 shall read as follows:

#### **Section 1.31 – Spouse**

"Spouse" when used in reference to an individual subject to the pension law of Alberta means:

- (b) a person who, at the relevant time, was married to the Participant or Former Participant and had not been living separate and apart from the Participant or Former Participant for a continuous period longer than three years; or
- (c) if there is no person to whom (a) above applies, a person who, immediately preceding the relevant time, had lived with the Participant or Former Participant in a conjugal relationship for a continuous period of at least three years, or of some permanence if there is a child of the relationship by birth or adoption.

For the purposes of Section 3.09, "Spouse" shall mean a person who meets the above definition and who, on the date of death of the Participant or Former Participant, is not living separate and apart from the Participant or Former Participant.

For the purposes of Section 6.01, "Spouse" shall mean a person who meets the above definition and who is not living separate and apart from the Participant or Former Participant on the date that payment of the first installment of the Pension is due.

## **5. Section 2.06 - Participant**

For individuals subject to the pension law of Alberta, Section 2.06 shall read as follows:

### **Section 2.06 – Participant**

An Employee subject to the pension law of Alberta shall become a Participant on the first day of the month following the earlier of: the Employee's completion of 975 hours of employment with a Contributing Employer, or such lesser number of hours of employment as may be specified in the applicable Collective Agreement; or the Employee having earned from Covered Employment with one or more Contributing Employers not less than at 35% of the YMPE in each of two consecutive Calendar Years.

## **6. Subsection 3.07(b) – Pre-Retirement Survivor Benefit – Eligibility**

For individuals subject to the pension law of Alberta, subsection 3.07(b) shall read as follows:

- 3.07(b) The right of the Spouse of a Participant or Former Participant to the Pre-Retirement Survivor Benefit may be waived by providing a waiver, in the form prescribed by the *Employment Pension Plans Act* (Alberta), to the Trustees before or after the Participant's or Former Participant's death but before the payment of any Benefits. If such a waiver is filed with the Trustees, and not revoked, the Participant or Former Participant shall be considered not to have a Spouse for purposes of the Pre-Retirement Survivor Benefit and the Pre-retirement Death Benefit provisions shall apply. Furthermore, if the Participant or Former Participant has designated or designates that Spouse as her

Beneficiary, then the wavier also applies with respect to any Benefits that the Spouse would otherwise have received as Beneficiary.

#### **7. Subsection 3.08(c) - Pre-Retirement Survivor Benefit - Amount**

Subsection 3.08(c) has no application to the surviving Spouse of a deceased Participant or deceased Former Participant subject to the pension law of Alberta.

#### **8. Break in Service**

The following subsection 4.03(d) shall apply to individual subject to the pension law of Alberta.

4.03(d) In addition to the circumstances described in subsections 4.03(a) and (c), a Participant shall incur a Break in Service at the end of any period of two consecutive Calendar Years in which the Participant does not complete a total of 350 hours of Covered Employment with one or more Contributing Employers for which Contributions were required to be remitted to the Plan on her behalf.

#### **9. Subsection 4.05(a) – Portability Option**

For individuals subject to the pension law of Alberta, subsection 4.05(a) shall read as follows:

##### **Section 4.05 – Portability Option**

- (a) Subject to Section 5.05, a Participant subject to the pension law of Alberta who becomes a Former Participant and is not eligible to receive an immediate Pension, or the surviving Spouse of a deceased Participant or deceased Former Participant may elect to transfer the Portable Going Concern Commuted Value of her accrued Benefits to:
  - (i) the pension fund of another registered plan provided that the eventual payment from that other plan will be in a form permitted by the *Employment Pension Plans Act* (Alberta), and the regulations thereunder; or
  - (ii) a locked-in retirement account under the conditions prescribed by the *Employment Pension Plans Act* (Alberta), and the regulations thereunder.

#### **10. Section 4.06 - Credit Due to Work Related Injury**

The provisions of Section 4.06 are modified with respect to a Participant subject to the pension law of Alberta by deleting the words "Workplace Safety and Insurance Board of Ontario" wherever they appear and replacing them with the words "Workers' Compensation Board - Alberta".

#### **11. Section 5.05 – Commutation of a Small Pension**

For individuals subject to the pension law of Alberta, Section 5.05 shall read as follows:

## **Section 5.05 – Commutation of a Small Pension**

If the Pension payable at Normal Retirement Age would be less than \$100 per month, the Trustees shall pay to the Participant, Former Participant, Pensioner or surviving Spouse, the Portable Going Concern Commuted Value of the Pension as a lump sum in full settlement of any and all Benefits to which the Participant, Former Participant, Pensioner or surviving Spouse is entitled.

Notwithstanding the foregoing, if the Portable Going Concern Commuted Value of the Pension payable at Normal Retirement Age is less than 20% of the YMPE for the Calendar Year in which the Participant incurs a Break in Service, retires or dies, but greater than the amount described in the paragraph immediately above, the Participant, Former Participant or surviving Spouse may elect to receive the Portable Going Concern Commuted Value of the Pension as a lump sum in full settlement of any and all Benefits to which the Participant, Former Participant or surviving Spouse is entitled.

Upon the election of the recipient, such a lump sum payment may be transferred to a registered retirement savings plan to the extent that such a transfer is permitted by the *Income Tax Act*.

## **12. Section 5.11 – Division of Benefits Upon Termination of a Spousal Relationship**

For individuals subject to the pension law of Alberta, Section 5.11 shall read as follows:

### **Section 5.11 – Division of Benefits Upon Termination of a Spousal Relationship**

If a Participant, Former Participant or Pensioner, subject to the pension law of Alberta, obtains a divorce, annulment or separation, the allocation of her Benefits or their Commuted Value, and the method of payment, shall be subject to the restrictions imposed by the *Employment Pension Plans Act* (Alberta) and the *Matrimonial Property Act* (Alberta). The Plan shall charge the maximum amount permitted by the *Employment Pension Plans Act* (Alberta) to effect such an allocation.

In no case may the actuarial present value of the Benefits paid to the Participant, Former Participant, or Pensioner and her former Spouse be greater than what would have been payable had the spousal relationship not terminated.

## **13. Subsection 6.01(b) - For A Participant or Former Participant who has a Spouse - Joint and Survivor Benefit Waiver**

For individuals subject to the pension law of Alberta, the second paragraph of subsection 6.01(b) shall read as follows:

For a Participant or a Former Participant who has a Spouse, the standard form of Pension shall be a Joint and Survivor Pension in which the monthly amount of the Pension is reduced from the full amount otherwise payable so that 60% of the reduced monthly Pension will continue to be paid after the Pensioner's death for the lifetime of the Pensioner's Spouse. The reduction of the Pension shall be determined by the Trustees

on the advice of the Actuary so that the expected cost of the Joint and Survivor Pension is the actuarial equivalent of a single life Pension with a minimum of 60 payments. This form of Pension may be waived if the Participant or Former Participant files with the Trustees a written waiver in a form prescribed under the *Employment Pension Plans Act* (Alberta) and the regulations thereunder, that is signed by the Spouse of the Participant or Former Participant in the presence of a witness within 90 days of the first payment of the Pension.

#### **14. Subsection 6.02(a)(i) – Optional Forms of Pension**

For individuals subject to the pension law of Alberta, subsection 6.02(a)(i) shall read as follows:

6.02(a)(i) the standard form of Pension is not mandatory for the Participant or Former Participant under the terms of the Plan or the *Employment Pension Plans Act* (Alberta); and

#### **15. Subsection 6.02(e) - Amount of Pension Payable to Disabled Person**

For individuals subject to the pension law of Alberta, subsection 6.02(e) shall read as follows:

6.02(e) If a Participant or Former Participant, who is not in receipt of a Pension, has an illness or disability that is certified by a medical practitioner to be terminal or to likely shorten the Participant's or Former Participant's life considerably, that Participant or Former Participant may elect to convert all or part of her Benefits on the prescribed basis to a series of payments for a fixed period of time or to withdraw as a lump sum an amount equal to the Portable Going Concern Commuted Value of the Benefits or any lesser amount that the Participant or Former Participant may elect.

A Participant or Former Participant who has a Spouse may only make such an election if the Trustees have received a statement from the Spouse, in the form prescribed by the *Employment Pension Plans Act* (Alberta), stating that the Spouse is aware of the Plan's spousal entitlements and waives those entitlements. This statement must have been signed by the Spouse in the presence of a witness and outside the presence of the Participant or Former Participant.

#### **16. Subsection 6.02(f) Non-Residency**

The following additional subsection 6.02(f) applies to Former Participants subject to the pension law of Alberta:

6.02(f) Upon providing the Trustees with written evidence that the Canada Revenue Agency has confirmed her status as a non-resident for the purposes of the *Income Tax Act* (Canada), a Former Participant may transfer the Portable Going Concern Commuted Value of her Benefits out of the Plan as a lump sum.

A Former Participant, who has a Spouse, may only make such an election if the Trustees have received a statement from the Spouse, in the form prescribed by the *Employment Pension Plans Act* (Alberta), stating that the Spouse is aware of the spousal entitlements of the Plan and waives those entitlements. This statement must have been signed by the Spouse in the presence of a witness and outside the presence of the Former Participant.

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