

# SUMMARY PLAN DESCRIPTION

UPSTATE NEW YORK ENGINEERS PENSION FUND

LOCAL UNIONS 17, 158 & 463  
OF THE  
INTERNATIONAL UNION OF OPERATING ENGINEERS



JULY 1, 2024

# **UPSTATE NEW YORK ENGINEERS PENSION FUND**

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### **EMPLOYER IDENTIFICATION**

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Plan No.: 001

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### **PLAN YEAR**

April 1 through March 31

**UPSTATE NEW YORK ENGINEERS PENSION FUND  
101 INTREPID LANE  
P.O. BOX 100  
SYRACUSE, NEW YORK 13205-0100  
TELEPHONE: (315) 492-1796  
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Dear Participant:

The Upstate New York Engineers Pension Fund has been established to provide you with regular income after retirement through the Upstate New York Engineers Pension Plan (“Plan”). Benefits under the Plan are separate from, and in addition to, your own Social Security and any other private benefits that you may arrange on your own.

The Plan is administered by a Board of Trustees of which half are appointed by the Participating Local Unions and half are appointed by Contributing Employers. The Board of Trustees has the sole power to amend the Plan and interpret the Plan.

The general terms and provisions of the Plan are explained on the following pages. This document, which is referred to as a “summary plan description” (“SPD”), summarizes the provisions of the Plan to you. It is not a complete description of the Plan, which can only be found in the Plan document. A copy of the Plan document is available at the Fund Office for your inspection. In case of any conflict between the provisions of the Plan document and this SPD, the provisions of the Plan document will always control.

You should read all the Articles of this SPD carefully so that you understand the ways in which the Plan may benefit you, as well as all the applicable exclusions and limitations on the receipt of benefits. You will be notified of any changes to this SPD to the extent required by law.

Please remember that no one other than the Fund Office can verify your benefits. Do not rely upon any statement regarding benefits under the Plan made by your Employer, your Union agent or other employees. We have prepared this description in a manner that we hope will be understood by all the Plan Participants. However, should you require further information, please write to the Upstate New York Engineers Pension Fund, 101 Intrepid Lane, P.O. Box 100, Syracuse, New York 13205-0100 or, if you desire you may visit the Fund Office between the hours of 8:00am and 4:00pm Monday through Friday except holidays.

Board of Trustees  
Upstate New York Engineers Pension Fund

## **THE MEANING OF CERTAIN TERMS USED IN THIS DESCRIPTION**

<b><u>TERM(S)</u></b>	<b><u>REFER(S) TO</u></b>
“Contributing Employer” or Employer	Employers that are obligated to make contributions to the Fund pursuant to the terms of a collective bargaining agreement with the Participating local Unions, or special written agreements with the Board of Trustees of the Fund.
“Covered Employment”	Work for which a Contributing Employer is required to contribute to Fund on behalf of an Employee.
“Early Retirement Age”	Attainment of age 55 and at least 10 years of Vesting Service.
“Employee”	Any employee of an Employer, upon whose behalf contributions are required to be made by the Employer to the Fund pursuant to the terms of a collective bargaining agreement or other written agreement with the Trustees. “Employee” does not include any sole proprietor or partner in an unincorporated business.
“Fund”	Upstate New York Engineers Pension Fund
“Fund Office”	The Upstate New York Engineers Pension Fund Office, located at: 101 Intrepid Lane, P.O. Box 100, Syracuse, N.Y. 13205-0100. Telephone: (315) 492-1796, Fax: (315) 492-6618.
“Future Service Pension Credit”	Pension Credit an employee earned or earns for his work in Covered Employment for a Contributing Employer after March 31, 1960.
“Hour of Service”	(i) an hour for which you were paid, or entitled to payment, for the performance of duties for a Contributing Employer; (ii) an hour for which, although no duties were performed, you were paid, or entitled to payment, for instance, vacations, paid holidays, illness, layoff, jury duty or leave of absence, from a Contributing Employer; (iii) an hour for which back pay is awarded or agreed to by the Contributing Employer (of course, if you receive credit for an Hour of Service under (iii), you may not receive credit for the same hour under (i) and/or (ii).
“Normal Retirement Age”	The later of (i) the first day of the month in which the Participant reaches age 62; and (ii) the date the Participant becomes vested.
“Participants”	“Participant” means an Employee or former Employee, who satisfies the requirements for participation in this Plan. Sole proprietors and partners of incorporated businesses are not employees.

“Participating Local Unions”	Local Union Nos. 17, and 158 (formerly 106, 545 and 832) of the International Union of Operating Engineers.
“Past Service Pension Credit”	Pension Credit a Participant earned for his work in Covered Employment for a Contributing Employer prior to April 1, 1960.
“Plan”	The Upstate New York Engineers Pension Plan.
“Trustees”	The Board of Trustees of the Upstate New York Engineers Pension Plan.
“Vested Participant”	A Participant who has earned a non-forfeitable right to a pension from the Fund.
“Vesting Service”	Service that a Participant accumulates by working for a Contributing Employer, which is used to determine his Vesting status
“You”, “Your” and “I”	Participants.

## **TABLE OF CONTENTS**

	<b>Page</b>
<b>ARTICLE A ABOUT THIS SUMMARY PLAN DESCRIPTION</b>	<b>1</b>
<b>ARTICLE B PLAN PARTICIPATION</b>	<b>2</b>
<b>ARTICLE C VESTING</b>	<b>3</b>
<b>ARTICLE D BREAK YEARS AND PERMANENT BREAKS</b>	<b>4</b>
<b>ARTICLE E PENSION CREDIT</b>	<b>6</b>
<b>ARTICLE F NORMAL PENSION</b>	<b>8</b>
<b>ARTICLE G EARLY RETIREMENT PENSION</b>	<b>9</b>
<b>ARTICLE H DEFERRED PENSION</b>	<b>10</b>
<b>ARTICLE I DISABILITY PENSION</b>	<b>10</b>
<b>ARTICLE J SPOUSE BENEFIT PENSION</b>	<b>12</b>
<b>ARTICLE K PRE-RETIREMENT SURVIVOR PENSION</b>	<b>13</b>
<b>ARTICLE L DEATH BENEFITS WHEN NO PENSION IS PAYABLE TO YOUR SURVIVING SPOUSE</b>	<b>13</b>
<b>ARTICLE M VESTED DEATH BENEFIT</b>	<b>13</b>
<b>ARTICLE N NAMING YOUR BENEFICIARY</b>	<b>14</b>
<b>ARTICLE O OPTIONAL FORMS OF PENSION</b>	<b>15</b>
<b>ARTICLE P APPLYING FOR PENSION AND OTHER BENEFITS</b>	<b>16</b>
<b>ARTICLE Q HOW TO APPEAL A DENIAL OF YOUR CLAIM FOR BENEFITS</b>	<b>17</b>
<b>ARTICLE R PENSION PAYMENTS</b>	<b>19</b>
<b>ARTICLE S RE-EMPLOYMENT AFTER RETIREMENT</b>	<b>19</b>
<b>ARTICLE T ASSIGNMENT OF BENEFITS PROHIBITED</b>	<b>21</b>
<b>ARTICLE U PLAN AMENDMENTS, TERMINATION AND INSURANCE</b>	<b>22</b>
<b>ARTICLE V PLAN INTERPRETATION AND DETERMINATION</b>	<b>23</b>
<b>ARTICLE W IMPORTANT INFORMATION ABOUT THE PLAN</b>	<b>23</b>

## **ARTICLE A**

### **ABOUT THIS SUMMARY PLAN DESCRIPTION**

**1. WHAT IS THE PURPOSE OF THIS SUMMARY PLAN DESCRIPTION?** This SPD summarizes the provisions of the Plan but is not the complete Plan. You may examine a copy of the complete Plan at the Fund Office or you may write to the Fund Office to request that a copy be sent to you. In case of any conflicts between the Plan and this SPD, the provisions of the Plan will control. Nothing in this SPD is intended to interpret, extend, or modify the provisions of the Plan. If you have already retired or if you stopped working in Covered Employment at the time this SPD is issued, certain provisions of this SPD may not apply to you. Contact the Fund Office if you have any questions.

**2. WHAT ARE THE PURPOSES OF THE FUND?** The purposes of the Fund are:

- To provide income after you retire; and
- To provide income to your spouse should you predecease her/him; and
- To provide income to you should you become totally and permanently disabled; and
- To provide your spouse and/or your Beneficiary with certain death benefits after you die.

The income you and/or your spouse may receive under the Plan will be in addition to any Social Security benefits you are entitled to. Of course, you must satisfy certain eligibility requirements (summarized below) to receive benefits from the Plan.

**3. WHERE CAN I OBTAIN INFORMATION ABOUT THE PLAN?** The Plan, this Summary Plan Description, the Fund Office, and the Board of Trustees are the only authorized sources of information for you.

The Trustees have not empowered anyone else to speak for them with regard to the Plan. No Employer, Union representative, supervisor, or steward is in a position to discuss your rights under the Plan with authority.

**4. HOW DOES THE PLAN WORK?** In order to more fully understand the provisions of the Plan, you will need to have a general idea of how the Plan works.

The Plan was created by Local Unions of the International Union of Operating Engineers and employers that make contributions to the Plan, pursuant to collective bargaining. The Plan is a multi-union, multi-employer defined benefit pension fund that provides certain benefits to Participants employed by the Contributing Employers. The Participating Local Unions represent you in negotiations with the Contributing Employers.

**5. HOW CAN I DETERMINE WHETHER MY EMPLOYER IS A CONTRIBUTING EMPLOYER?** You may obtain a complete list of the Contributing Employers from the Fund Office, upon written request, or you may examine the list at the Fund Office. You may also obtain information as to whether a particular employer is a Contributing Employer and, if the employer is, the employer's address.

**6. WHO FINANCES THE PLAN?** The Contributing Employers and the Participating Local Unions negotiate collective bargaining agreements, pursuant to which the Plan is maintained. These agreements specify the amounts that Contributing Employers are required to contribute to the Plan on behalf of their Employees. (You may obtain copies of the collective bargaining agreements upon written request to the Trustees, or you may examine the agreements at the Pension Fund Office). Contributions received from Employers are invested by the Trustees and an investment manager. These assets are held in trust by the Trustees for the exclusive benefit of the Plan's Participants and beneficiaries. Participants are not permitted to make any contributions to the Fund on their behalf.

**7. WHAT ARE THE PLAN'S ASSETS USED FOR?** Assets in the Fund are used to provide certain retirement benefits, pre-retirement benefits (including disability benefits) and death benefits, and to defray the Plan's administrative expenses. Benefits will be paid to eligible Participants or their beneficiaries, as described in this SPD.

## **ARTICLE B PLAN PARTICIPATION**

**8. WHEN WILL I BECOME A PARTICIPANT IN THE PLAN?** Once an Employee begins working in Covered Employment for a Contributing Employer, the Employee will become a Participant on the first day of the month after the completion of a 12 consecutive month period during which the Employee works at least 100 "Hours of Service."

If you are a newly organized participant, you will be credited with service for work you performed for that newly organized employer before the employer began contributions to the Plan if the contribution rate from your employer at the date contributions begin on your behalf is at least \$1.00 per hour. Past service credit shall be granted only after the completion of five future years of vesting credit that is earned for work with any Contributing Employer during a period of not more than seven (7) Plan Years. This period of seven Plan Years begins on the date the Contributing Employer was organized and began making contributions to the Plan for newly organized participants.

**9. AFTER I BECOME A PARTICIPANT, CAN MY PARTICIPATION EVER STOP OR CHANGE?** Yes, if you suffer a Permanent Break in Service, then you will cease being a Participant. (Refer to Article D.) In addition, the amount of your pension benefits may be affected by certain situations, such as:

1. if the terms of a Qualified Domestic Relations Order ("QDRO") require the Fund to pay some, or all, of your benefits to an alternate payee, as further described in Article T of this SPD;
2. if any detail regarding your participation under the Plan has been misstated, or a clerical error occurs, which causes your benefits to be overstated, adjustment in your benefit must be made, and any overpayment must be repaid to the Fund to the maximum extent permitted by law, as further described in Article W of this SPD;
3. because current federal law limits the amount of retirement benefits an employee is permitted to receive from one or more qualified retirement plans, it is possible, in unusual circumstances, that your benefits under this Plan may be reduced to comply with this law;



4. under certain circumstances, in accordance with federal law, the Trustees may retroactively reduce benefits; and

5. if the Plan becomes insolvent, your benefits may be reduced consistent with regulations issued by the Pension Benefit Guaranty Corporation.

## **ARTICLE C VESTING**

**10. WHEN WILL I BECOME VESTED?** You will become Vested under the Plan if you satisfy any one of the following alternative requirements:

- You work(ed) at least one Hour of Service in Covered Employment after March 31, 1999, and have earned at least five years of Vesting Service; or
- You earned at least 10 years of Vesting Service prior to April 1, 1999, and a Participating Local Union acted as your collective bargaining representative; or
- You earned at least 5 years of Vesting Service after March 31, 1989, and a Participating Local Union did not act as your collective bargaining representative; or
- You earned at least 10 years of Vesting Service prior to April 1, 1989, and a Participating Local Union did not act as your collective bargaining representative; or
- You participate in the Plan continuously for at least 5 consecutive years (with the last of such years beginning on or after April 1, 1991) provided you celebrate your 65<sup>th</sup> or later birthday during the last of such years, and excluding any participation you have prior to incurring a Permanent Break in Service; or
- You reach the later of: (a) age 65; and (b) the fifth anniversary of the time you began to Participate in the Plan, provided you have not incurred a permanent break-in-service; or
- You earn at least 8 years of Vesting Service, and then enter the Armed Forces and become “totally and permanently disabled” (as defined in the Plan) as a result of your service in the Armed Forces.

Different vesting requirements applied in previous years. Please contact the Fund office if you would like more information on the Plan’s prior vesting requirements.

**11. WHY IS BEING VESTED IMPORTANT?** Once you become Vested, you have earned a non-forfeitable right to a pension from the Fund, which you will receive after you satisfy the eligibility requirements and submit a properly completed application to the Fund Office. If you are Vested, then you cannot suffer a Permanent Break in Service and lose only your rights under the Plan (refer to Article D.)

**12. HOW DO I EARN VESTING SERVICE?** You earn (1.0) year of Vesting Service after March 31, 1975 for each Plan Year in which you work at least 1,000 Hours of Service. You may not earn more than one year of Vesting Service in a Plan Year, even if you worked more than 1,000 Hours of Service. However,

you will earn part of a year of Vesting Service in accordance with the following table if you work more than 100 Hours of Service but less than 1,000 Hours of Service in Covered Employment during a Plan Year.

<b>Your Hours of Service During the Plan Year</b>	<b>The Portion of a Year of Vesting Service that you will earn</b>
Under 100	0
100-199	0.1
200-299	0.2
300-399	0.3
400-499	0.4
500-599	0.5
600-699	0.6
700-799	0.7
800-899	0.8
900-999	0.9
1,000 or more	1.0

If you worked in Covered Employment prior to April 1, 1975, you earned Vesting Service pursuant to a different schedule. For more information contact the Fund Office.

## **ARTICLE D**

### **BREAK YEARS AND PERMANENT BREAKS**

**13. WHEN DO I SUFFER A BREAK YEAR?** You will be charged a Break Year for each Plan Year in which you fail to work at least 100 Hours of Service, except that different rules govern Break Years prior to April 1, 1975. Please contact the Fund Office if you have any questions.

**14. ARE THERE ANY EXCEPTIONS TO THE BREAK YEAR RULE?** Yes. You will not suffer a Break Year for any Plan Year in which you are employed with a Participating Local Union or the International Union of Operating Engineers. If you are in the military service of the United States of America, you will be protected from the Break in Service rules in accordance with Federal law. You will also not suffer a Break Year for a Plan Year in certain cases when you are out of work due to pregnancy, childbirth, or adoption. You may be credited with enough Hours of Service to avoid a Break Year. (Such credit will not count for any other purpose). Finally, you will not suffer a Break Year for any Plan Year in which the critical shortage rules are in effect (see Article S, Q&A 66).

**15. WHAT WILL CAUSE ME TO INCUR A PERMANENT BREAK IN SERVICE?** You suffered a Permanent Break in Service, prior to April 1, 1975, if you were not vested and you suffered three “Break Years” (as defined under the Plan(s) in effect during such period).

You suffered a Permanent Break in Service, after March 31, 1975 and prior to April 1, 1986, if you were not Vested and you suffered consecutive Break Years (as defined under the Plan(s) in effect during such period) equaling or exceeding the number of years of Vesting Service you had earned prior to the first of the consecutive Break Years.

You suffered a Permanent Break in Service after March 31, 1986 and prior to April 1, 1999, if you were not Vested and you suffered consecutive Break Years, (as defined under the Plan(s) in effect during such period) equaling or exceeding the greater of five or the number of years of Vesting Service you had earned prior to the first of the consecutive Break Years.

You will suffer a Permanent Break in Service after March 31, 1999, if you are not Vested and you incur five consecutive Break Years.

**16. WHAT WILL HAPPEN IF I SUFFER A PERMANENT BREAK IN SERVICE?** If you suffer a Permanent Break in Service, then you will lose all your benefit rights under the Plan. That is:

- You will lose all of the years of Vesting Service that you previously earned;
- You will lose all the Pension Credit(s) that you previously earned; and
- You will no longer be a Participant in the Plan. (However, you may again become a Participant by satisfying the requirements specified above in Article B. You will then again begin accruing Pension Credit and Vesting Service beginning on the date of your re-employment. The Vesting Service and Pension Credit you earned prior to your Permanent Break will not be reinstated).

**17. CAN I SUFFER A BREAK YEAR AND/OR A PERMANENT BREAK IN SERVICE IF I AM VESTED?** If you are Vested, then you cannot suffer a Permanent Break in Service.

**18. WHAT IF I LEAVE TO PERFORM QUALIFIED MILITARY SERVICE?** Special rules apply if you are absent because of service in the uniformed forces of the United States. The Uniformed Services Employment and Reemployment Rights Act (“USERRA”) provides reemployment rights and benefits and protection from discriminating to individuals who, either by induction or as a volunteer, have entered military service in any branch of the uniformed forces of the United States. If you satisfy the conditions for protection under USERRA, you will receive credit for all purposes under the Plan, including Vesting Service, Pension Credit, and benefit eligibility.

To be entitled to reemployment rights and pension benefits under USERRA, you must:

- be absent from Covered Employment because of your military service;
- give advance notice of your service to the Plan, unless notice is prevented by military necessity or otherwise is impossible or unreasonable to give under the circumstances;
- be absent from military service for five years or less, unless extended service is required as part of your initial period of obligation or your service is involuntarily extended, such as during war;
- apply for full-time job in Covered Employment within the requisite time period; and
- receive an honorable discharge or satisfactorily complete military service.

If you satisfy these requirements you will receive full credit for any period of military service of six months or more. For periods of service less than 31 days or an absence due to a fitness exam, you must report back to Covered Employment no later than the first regularly scheduled work period on the first day after an eight hour break and after time for travel back home. For periods of service from 31 to 180 days, you must reapply for Covered Employment within 14 days after military service. For service over 180 days, you must reapply

within 90 days after completion of service. These limits may be extended under USERRA in particular circumstances.

If you otherwise would qualify for reemployment rights under the law, but you are not reemployed because you die while in military service, you will be treated as having returned to Covered Employment on the day before your death, and terminated Covered Employment on the date of your death for the purpose of crediting Vesting Service for your military leave, to the maximum required by law.

## **ARTICLE E**

### **PENSION CREDIT**

**19. WHAT IS A PENSION CREDIT?** Pension Credit is credit you earn for work in Covered Employment and it is used to determine the dollar amount of your pension. In general, the more Pension Credit you earn, the larger your pension will be. Thus, you should make sure that the Fund Office has a complete record of your Hours of Service. If you believe that your Employer has underreported or failed to report your hours of work in Covered Employment, you must present evidence satisfactory to the Trustees, to receive credit for such hours. Therefore, the burden of proof lies with you to show entitlement to underreported or unreported hours of Covered Employment.

**20. HOW DO I EARN PAST SERVICE PENSION CREDIT?** If you are a newly organized participant (as described Q&A No. 8), you will receive past service credit at an accrual rate equal to \$10 per year for each year since your date of hire with your newly organized employer, subject to a maximum of \$100 total past service credit.

**21. HOW DO I EARN FUTURE SERVICE PENSION CREDIT?** For work in Covered Employment from April 1, 1965 through March 31, 1981, you earned Future Service Pension Credit for each Plan Year in accordance with the following Table:

<b>HOURS WORKED IN COVERED EMPLOYMENT DURING THE PLAN YEAR</b>	<b>FUTURE SERVICE PENSION CREDIT EARNED DURING THE PLAN YEAR</b>
Under 120	0
120 – 239	0.1
240 – 359	0.2
360 – 479	0.3
480 – 599	0.4
600 – 719	0.5
720 – 839	0.6
840 – 959	0.7
960 – 1,079	0.8
1,080 – 1,199	0.9
1,200 or more	1.0

The amount of your Future Service earned during each year is multiplied by \$16.00 to determine the amount of your annual accrual for that year.

For work in Covered Employment from April 1, 1981 through March 31, 1990, your accrued Future Service Pension Credit was based on your Hours of Service in Covered Employment and the rate at which your Employer was required to contribute to the Plan on your behalf. Please contact the Fund Office for more information.

Beginning with work on or after April 1, 1990, the amount of your accruals is not based on your Future Pension Credit. Rather, you will earn an annual accrual each year based on the Hours of Service for which your Employer is required to contribute to the Fund on your behalf.

For work in Covered Employment from April 1, 1990 through March 31, 1998, the accrual rate equals 1.8% of the annual dollar contributions that are required to be made to the Plan on your behalf.

#### EXAMPLE

<b>Plan Year</b>	<b>Hours</b>	<b>Contribution Rate</b>	<b>Contributions</b>	<b>Accrual Rate</b>	<b>Annual Accrual For Plan Year</b>
1995	1,500	\$2.50	\$3,750	1.8%	\$67.50

For work in Covered Employment from April 1, 1998 through March 31, 2009, the accrual rate equals 3.3% of the annual dollar contributions that are required to be made to the Plan on your behalf.

#### EXAMPLE

<b>Plan Year</b>	<b>Hours</b>	<b>Contribution Rate</b>	<b>Contributions</b>	<b>Accrual Rate</b>	<b>Annual Accrual for Plan Year</b>
1998	1,500	\$2.25	\$3,375	3.3%	\$118.38

For work in Covered Employment from April 1, 2009 through March 31, 2010, the accrual rate equals 2% of the annual dollar contributions that are required to be made to the Plan on your behalf.

#### EXAMPLE

<b>Plan Year</b>	<b>Hours</b>	<b>Contribution Rate</b>	<b>Contributions</b>	<b>Accrual Rate</b>	<b>Annual Accrual for Plan Year</b>
2009	1,500	\$2.50	\$3,750	2.0%	\$75.00

For work in Covered Employment from April 1, 2010 through June 30, 2019 or such other date specified in your underlying collective bargaining agreement, the accrual rate equals 1% of the annual dollar contributions that are required to be made to the Plan on your behalf.

#### EXAMPLE

<b>Plan Year</b>	<b>Hours</b>	<b>Contribution Rate</b>	<b>Contributions</b>	<b>Accrual Rate</b>	<b>Annual Accrual for Plan Year</b>
2010	1,500	\$4.45	\$6,675	1%	\$66.75

For work in Covered Employment on and after July 1, 2019, or such other date specified in your underlying collective bargaining agreement, the accrual rate equals 1% of the annual dollar benefit bearing contributions that are required to be made to the Plan on your behalf. The amount of your benefit bearing contributions depends on your collective bargaining agreement or participation agreement. Please contact the Fund Office for more information.

### **EXAMPLE**

<b>Plan Year</b>	<b>Hours</b>	<b>Contribution Rate</b>	<b>Benefit Bearing Contributions</b>	<b>Accrual Rate</b>	<b>Annual Accrual for Plan Year</b>
2020	1,500	\$7.35	\$11,025	1%	\$110.25

## **ARTICLE F NORMAL PENSION**

**22. HOW DO I BECOME ELIGIBLE TO RECEIVE A NORMAL PENSION?** First, to become eligible for a Normal Pension:

- You must reach at least age 62 and be Vested; or
- You must have reached the fifth anniversary of the date on which you became a Participant in the Plan and be age 65 or older.

In addition, you may not return to any work with a Contributing Employer within 90 days of the date on which your payments commence. If you return to work with a Contributing Employer within this 90-day period, your pension will be terminated retroactively and all payments you have received will be treated as an overpayment.

**23. HOW MUCH WILL MY NORMAL PENSION EQUAL?** The monthly amount of your Normal Pension will equal your Past Service Pension credit plus the sum of your annual accruals under the Future Pension Credit rules described above.

**24. IS THERE ANY MAXIMUM ON THE AMOUNT OF PENSION I MAY RECEIVE?**

Prior to April 1, 2009, the maximum monthly pension benefit under the Plan was \$1,250.00. If your monthly benefit exceeded this maximum, Employer contributions over this amount were credited to a Cash Balance Account, as described below.

In addition, Section 415 of the Internal Revenue Code limits the amount of benefits that can be paid by the Plan during a Plan Year. Under no circumstances will the Plan pay or be obligated to pay benefits that exceed these limitations. No provisions of this SPD, the Plan, or any other document or instrument governing or impacting the Plan should be interpreted to require the payment of benefits that exceed these limitations.

**25. WHAT IS A CASH BALANCE ACCOUNT?** Your cash balance account is credited with Employer contributions that are required to be made on your behalf in excess of the \$1,250 monthly benefit maximum described above, plus accrued interest. Upon your retirement you may elect to receive your cash balance

account as a lump sum distribution, a roll over to an IRA, or as an annuity that is added to your monthly pension payments. If you die before retiring, your account balance will be paid in full to your surviving spouse (or your named Beneficiary, if you are not married) upon written application.

From April 1, 2009 forward, your cash balance account will be frozen, and no additional contributions will be credited to your cash balance account. When you retire, or if you die before retirement, your accumulated account will generally be distributed under the same terms as existed before April 1, 2009, except that effective as of the date you were notified about the Fund’s initial critical status certification under the Pension Protection Act of 2006, you will no longer be entitled to receive your cash balance account in a lump sum payment or as a roll over distribution. Rather, it will be paid as a monthly annuity.

**ARTICLE G**  
**EARLY RETIREMENT PENSION**

**26. HOW DO I BECOME ELIGIBLE TO RECEIVE AN EARLY RETIREMENT PENSION?**

First you must earn at least ten years of Vesting Service if a Participating Local Union acts as your collective bargaining representative, or five years of Vesting Service if a Participating Local Union does not act as your collective bargaining representative, not including any years that were lost due to a permanent Break in Service (this is referred to as the Minimum Service Requirements).

Second, you must be at least age 55. If you stop working in Covered Employment after satisfying the Minimum Service Requirements but prior to attaining age 55, you will be eligible to apply for and receive a Deferred Pension (as described in Article H) as soon as you attain age 55. However, you may choose to wait until your 62<sup>nd</sup> birthday to apply for a pension in order to avoid application of the early retirement reductions described below. Third, you must submit a properly completed application for an Early Retirement Pension to the Fund Office.

In addition, you may not return to any work with a Contributing Employer within 90 days of the date on which your payments commence. If you return to work with a Contributing Employer within this 90 day period, your pension will terminate retroactively and all payments you have received will be treated as an overpayment.

**27. HOW IS MY EARLY RETIREMENT PENSION CALCULATED?** You start by calculating the amount your monthly pension would be if you were eligible for a Normal Pension. Then you reduce the amount by ½ of 1% (.005) for each calendar month that your retirement date precedes Normal Retirement Age.

If you retire on or after March 31, 1983, but before the date the Preferred Schedule from the Rehabilitation Plan dated June 7, 2010 first applies to you, if it applies to you at all, and after working at least 120 Hours of Service after March 31, 1976, then the reduction referred to in the previous paragraph will be subject to the following maximums.

<b>The Number of Years of Vested Service you Earned</b>	<b>Maximum Reduction Per Twelve Calendar Months</b>
Under 15	6%

15-19	5%
20-24	4%
25-29	3%
30-34	2%
35-39	1%
40 or more	0%

If you retire after the date of the Preferred Schedule from the Rehabilitation Plan dated June 7, 2010 first applies to you (or August 1, 2010 for inactive Participants, meaning for this purpose, Participants who do not earn at least 120 Hours of Service under a collective bargaining agreement that adopts terms consistent with one of the Schedules of such Rehabilitation Plan) and after working at least 120 Hours of Service after March 31, 2010, then the reduction referred to in the previous paragraphs will be subject to the following maximums.

<b>The Number of Years of Vested Service you Earned</b>	<b>Maximum Reduction Per Twelve Calendar Months</b>
10-34	6%
35-39	3%
40 or more	0%

## **ARTICLE H DEFERRED PENSION**

**28. HOW DO I BECOME ELIGIBLE TO RECEIVE A DEFERRED PENSION?** If you terminate employment with all Contributing Employers after you have satisfied the Minimum Service Requirements, you will be eligible to receive a Deferred Pension upon the attainment of age 55. If you did not meet the Minimum Service Requirements but are vested at the time you terminate Covered Employment, you will become eligible for a Deferred Pension upon the attainment of age 62. In addition, you may not return to any work with a Contributing Employer within 90 days of the date on which your payments commence. If you return to work with a Contributing Employer within this 90-day period, your pension will be terminated retroactively and all payments you have received will be treated as an overpayment.

**29. HOW MUCH WILL MY DEFERRED PENSION EQUAL?** If you are Vested and you apply for a Deferred Pension after attaining age 55 but before attaining age 62, then your monthly Deferred Pension will be calculated in the same manner as the Early Retirement Pension. If you apply for Deferred Pension after attaining age 62, your benefit will be calculated in the same manner as the Normal Pension.

If your benefits commence after Normal Retirement Age, your benefit will be actuarially adjusted for each month between your attainment age of Normal Retirement Age and your benefit commencement date during which you did not work in Prohibited Employment (as defined in Article S).

## **ARTICLE I DISABILITY PENSION**

**30. WHAT REQUIREMENTS MUST I SATISFY TO RECEIVE A DISABILITY PENSION?**



First, you must prove to the Trustees that you are “totally and permanently disabled”. To do so, you must receive a determination of disability from the U.S. Social Security Administration.

Second, your disability must be such that it causes you to cease work in Covered Employment before you attain the age of 55.

Third, you must have accumulated at least 10 years of Vesting Service if a participating Local Union acts as your Collective Bargaining representative, or five years of Vesting Service if a Participating Local Union does not act as your collective bargaining representative; or you have earned at least eight years of Vesting Service and then enter the Armed Forces and become “totally and permanently disabled” (as defined in the Plan) as a result of your service in the Armed Forces. Years that were lost due to a permanent Break in Service are not included in the service requirements.

Fourth, you must have been employed within the six-month period preceding your disability by a Contributing Employer who was obligated to make contributions to the Fund in an amount that was no less than the amount in effect on February 1, 1994 for that Contributing Employer.

Fifth, you must not have worked in any substantial gainful employment outside of Covered Employment at the time you became disabled.

Sixth, you must not have applied for an Early Retirement Pension or received any Early Retirement Pension payments.

**31. WHAT DO I NEED IN ORDER TO BE CONSIDERED “TOTALLY AND PERMANENTLY DISABLED”?** You will be considered “totally and permanently disabled” only if you have received a determination of disability by the U.S. Social Security Administration. You must submit a copy of such determination to the Fund Office as part of your application.

**32. WHAT PROOF MUST I SUBMIT TO CONTINUE RECEIVING A DISABILITY PENSION?** In order to continue receiving a Disability Pension, you may be required to submit proof of your continuing total and permanent disability on an annual, semiannual or other periodic basis. The Trustees may appoint a physician of their choice to examine you at such time.

**33. WHEN WILL MY DISABILITY PENSION BEGIN?** If you are eligible for a Disability Pension, your Disability Pension will begin on the first day of the month following the later of: (1) the date your properly completed application is received by the Fund Office or, (2) the date you are determined to be disabled by the Social Security Administration. If the date of your Social Security Disability Award is after the date of your application, you will receive up to a maximum of six (6) months of payments retroactive to the date of your application, assuming the Social Security Administration determined that you were disabled during the time period for which such retroactive payments would be made.

**34. HOW MUCH WILL MY DISABILITY PENSION EQUAL?** If you are entitled to a Disability Pension, the monthly amount will be calculated as if you applied for an Early Retirement Pension at age 55. If you die and your spouse survives you, your spouse will be entitled to receive a survivor annuity in the amount of 50% of the monthly amount that was payable to you immediately prior to your death.

**35. CAN MY DISABILITY PENSION EVER BE TERMINATED?** Yes. Your Disability Pension will end on the earliest of the following dates:

- The date on which you are no longer totally and permanently disabled;
- The date on which you refuse to undergo a medical exam that is required by the Trustees;
- The date you engage in substantial gainful employment of any type;
- Your attainment of Early Retirement Age.

## **ARTICLE J**

### **SPOUSE BENEFIT PENSION**

**36. WHAT FORM OF PAYMENT WILL I RECEIVE IF I AM MARRIED WHEN I RETIRE?** You will receive your Pension in the form of a Qualified Joint and Survivor Annuity if you are married on the date your benefits commence. However, you (with your spouse's written consent) may waive receipt of your pension in this form.

**37. HOW DOES THE QUALIFIED JOINT AND SURVIVOR ANNUITY WORK?** You will receive a lifetime monthly benefit that is reduced from the amount you would otherwise have received as a Single Life Annuity to reflect the surviving spouse benefit that will be paid upon your death. Starting with the first month after your death, your spouse will receive 50% of the monthly benefit you were receiving for her lifetime.

If, however, your spouse predeceases you, your monthly benefit will be recalculated so that your future monthly payments equal the amount that you would have received had you selected a Single Life Annuity instead of a Qualified Joint and Survivor Annuity. This is referred to as a "Pop-Up". The increased monthly benefit will be paid for your lifetime, beginning with the first month after your spouse's death but in no event retroactive to any date before January 1, 1999. However, to be eligible for the pop-up benefit, you must have a minimum of ten (10) years Vesting Credit.

**38. WHAT IF I AM NOT MARRIED?** If you are not married, your benefit will be paid in the form of a Single Life Annuity. Under this form of payment, you will receive a monthly benefit for your lifetime that will end on your death.

**39. MAY I CHOOSE NOT TO RECEIVE MY PENSION AS A QUALIFIED JOINT AND SURVIVOR ANNUITY?** Yes. You may elect to receive your monthly pension in the form of a Single Life Annuity or in one of the optional forms described in Article O, but only if your spouse consents in writing. To accomplish this, both you and your spouse must complete and sign a Qualified Election Form before a Plan Representative or a Notary Public and submit the form to the Fund Office.

**40. HOW CAN MY SPOUSE AND I OBTAIN MORE INFORMATION CONCERNING THE JOINT AND SURVIVOR ANNUITY?** At least 180 days before your retirement date, or, if you are receiving a disability pension, the date you reach age 55 or, if later, the date on which benefits begin, the Fund Office will send you and your spouse an explanation of the Qualified Joint and Survivor Annuity, your right to waive this form of payment (with your spouse's consent), an explanation of your spouse's rights, and an explanation of your right to revoke a previous election to waive the Qualified Joint and Survivor Annuity.

**41. IF I RECEIVE MY PENSION IN THE QUALIFIED JOINT AND SURVIVOR FORM MUST MY SPOUSE SATISFY ANY REQUIREMENTS TO RECEIVE HER SPOUSE PENSION BENEFIT AFTER I DIE?** If you and your spouse were married on the effective date of your pension, then your spouse will receive the surviving spouse benefit as described above, even if you subsequently divorce.

## **ARTICLE K PRE-RETIREMENT SURVIVOR PENSION**

**42. IF I DIE BEFORE I RETIRE, WILL MY SPOUSE BE ENTITLED TO ANY PENSION?**

If you are Vested, and you die before you retire, or you are receiving a disability pension and you die before you reach age 55 OR, if later, the date on which benefits begin on your behalf, then your spouse may be entitled to receive a Pre-Retirement Survivor Pension. The monthly amount of the pre-retirement spouse benefit will equal 50% of the monthly pension you would have been eligible to receive had you separated from service on the date of your death, survived to the earliest date on which benefits would begin on your behalf, and retired with a 50% Qualified Joint and Survivor Annuity. In addition, any Cash Balance Account will be paid to your spouse in monthly payments.

Your eligible spouse can elect to begin receiving this monthly lifetime pension as early as the first day of the month following the month in which you die. Your spouse's benefit will be actuarially adjusted based on the Participant's age at the time the spouse's payments commence, but if such commencement occurs before the participant would have attained his earliest retirement date under the Plan, then the spouse's benefit will be calculated as if the participant had attained his earliest retirement date under the Plan at the time of his death. After the Fund Office receives notice of your death, it will send your spouse an explanation of this preretirement surviving spouse benefit. Your spouse will be entitled to receive this benefit, provided you and your spouse were married for at least one year before the date of your death.

## **ARTICLE L DEATH BENEFITS WHEN NO PENSION IS PAYABLE TO YOUR SURVIVING SPOUSE**

**43. IS MY BENEFICIARY ENTITLED TO A DEATH BENEFIT WHEN I DIE?** When you die, if you are not married, or if you are married and your spouse is not eligible to receive a surviving spouse benefit, then your Beneficiary (as defined in Article N) will be entitled to receive a Lump Sum Death Benefit, provided you last worked in Covered Employment for a Contributing Employer that was obligated to contribute to the Fund in an amount that was no less than the amount in effect on February 1, 1994, for that Contributing Employer.

**44. HOW MUCH DOES THIS LUMP SUM DEATH BENEFIT EQUAL?** This Death Benefit is equal to \$200.00 times the number of years of Pension Credit you earned after March 31, 1960, up to a maximum of \$3000.00. However, the amount will be reduced by any monthly pension payments you received before you died.

## **ARTICLE M VESTED DEATH BENEFITS**

**45. WHAT IS A VESTED DEATH BENEFIT?** A vested Death Benefit is a \$1,500.00 death benefit payable to your Beneficiary, provided you satisfy certain requirements, and provided you last worked in

Covered Employment for a Contributing Employer that was obligated to make contributions to the Fund in an amount that was no less than the amount in effect on February 1, 1994 for that Contributing Employer, or the Fund's actuary has certified that the Participant has accrued the maximum benefit payable by the Fund to the Participant pursuant to Section 415 of the Internal Revenue Code. This benefit is in addition to any other death benefit to which your spouse or Beneficiary may be entitled.

**46. WHAT REQUIREMENTS MUST I SATISFY IN ORDER FOR MY BENEFICIARY TO BE ELIGIBLE FOR A VESTED DEATH BENEFIT?** You must be Vested with at least ten (10) years of Vesting Service earned within the Plan's geographical jurisdiction, and you must have been receiving a pension, or contributions to the Plan on your behalf must have been made for at least 200 hours within the 3 years before your death.

## **ARTICLE N NAMING YOUR BENEFICIARY**

**47. HOW DO I NAME MY BENEFICIARY?** You must specify who your Beneficiary is on your Enrollment Card. Your Enrollment Card must be filed with the Fund Office at the time you first became a Participant in the Fund. You may name anyone you like to be your Beneficiary.

You may also change your Beneficiary at any time by notifying the Fund Office so that your Enrollment Card can be changed. New Enrollment Cards may be obtained at your Local Union Office or at the Fund Office. The Fund will recognize the Enrollment Card it has on file with the latest date for the purpose of determining who your Beneficiary is. Any Beneficiary designation, or change in Beneficiary designation, received by the Fund Office after your death will not be honored.

A Beneficiary also may be designated in an entered court order, if the order contains a clear designation of rights. A Beneficiary designation in a court order meeting this requirement will govern over any prior subsequent conflicting designation filed with the Fund.

A Beneficiary may waive his or her rights as a Beneficiary under the Plan in an entered court order, provided that such order contains a clear waiver of rights. A waiver in a court order meeting this requirement will govern over a prior conflicting designation that has been filed with the Fund. If such a waiver is on file with the Fund Office and no new Beneficiary designation has been made, the Fund will pay your death benefit in accordance with the same procedures that apply to Participants who die without a designated beneficiary.

**48. WHY SHOULD I HAVE A BENEFICIARY?** Provided you are eligible, certain death benefits are payable to your Beneficiary, as specified above in Articles L and M. In addition, your Beneficiary may be entitled to certain pension benefits if you elect to receive your benefit in the form of a Ten-Year Certain (refer to Q&A No. 53). You must name your Beneficiary in order for the Fund Office to know who to pay your benefit(s) to.

**49. WHAT HAPPENS IF I DO NOT NAME A BENEFICIARY OR A BENEFICIARY I NAME DIES BEFORE I DO?** If your Beneficiary predeceases you, or if you do not name a Beneficiary, then the benefit(s) otherwise payable to your Beneficiary will be paid as follow:

- First - To your widowed spouse, or if your widowed spouse is not living, then;

- Second - To your children in equal shares, or, if you do not have any children, then;
- Third - To your parents in equal shares, or to your brothers and sisters in equal shares, if your parents are deceased, then;
- Fourth – To your estate.

If your designated Beneficiary is a minor, your benefit(s) may be paid, at the option of the Trustees, to such person as is, in the opinion of the Trustees, caring for and supporting him.

## **ARTICLE O**

### **OPTIONAL FORMS OF PENSION**

**50. MAY I RECEIVE MY PENSION IN A FORM DIFFERENT THAN THE FORMS DESCRIBED ABOVE?** Yes, provided you are eligible for a Normal Pension, an Early Retirement Pension, or a Deferred Pension. However, you must elect to receive an optional form of payment no more than one hundred and eighty (180) days before your pension begins. In addition, if you are married, then, you must complete, sign and submit a Qualified Election Form waiving the Qualified Joint and Survivor Annuity, as described in Article J. In addition, your spouse must consent (before a Plan Representative or Notary Public) to your waiver of the Qualified Joint and Survivor Annuity, if you wish to receive your pension in the form of a Ten-Year Certain.

If you elect an optional form of payment, but later change your mind, then you may revoke such election, provided your pension payments have not begun.

**51. WHAT ARE THE OPTIONAL FORMS?** There are two optional forms of payment:

- The Life Annuity Continuance to Surviving Spouse; and
- The Ten-Year Certain.

**52. HOW DOES THE LIFE ANNUITY WITH CONTINUANCE TO SURVIVING SPOUSE WORK?** This optional form of payment provides you with an actuarially reduced pension for life. Then, when you die, your surviving spouse is eligible to receive a lifetime monthly benefit equal to either:

- 66 <sup>2</sup>/<sub>3</sub>% of your monthly pension; or
- 75% of your monthly pension; or
- 100% of your monthly pension.

This form works the same way as the Qualified Joint and Survivor Annuity described in Article J, except the surviving spouse benefit equals 66 <sup>2</sup>/<sub>3</sub>%, 75%, or 100% of the monthly pension you were receiving prior to your death, rather than the 50% provided under the Qualified Joint and Survivor Annuity. To compensate for the increased benefit your spouse will receive, your pension is actuarially reduced more than it would have been under the Qualified Joint and Survivor Annuity. You may choose whether your spouse will

receive a 66  $\frac{2}{3}$ %, 75% or 100% surviving spouse benefit. Of course, the greater the percentage of your spouse's benefit, the greater the actuarial reduction will be in your pension.

This optional form of payment is only available if you have been legally married to your spouse for at least one year prior to your pension commencement or death, and if you submit an acceptable written application for a Life Annuity with Continuance to Surviving Spouse option to the Fund Office.

**53. HOW DOES THE TEN-YEAR CERTAIN PENSION WORK?** To elect this optional form of payment, you must be at least age 62, you must have earned at least ten (10) years of Vesting Credit and you must be eligible for a Normal Pension.

This form of payment provides you with an actuarially reduced monthly benefit for life. If you die before you receive 120 monthly payments, then monthly payments will continue to be paid to your Beneficiary until a total of 120 monthly payments have been made to you and your Beneficiary combined.

If, after payments begin, both you and your Beneficiary die before 120 monthly payments are made, your remaining benefit may be paid in a lump sum to your estate or to your Beneficiary's estate, depending on who dies last.

**54. WHAT IF I ELECT TO RECEIVE AN OPTIONAL FORM OF PAYMENT AND MY SPOUSE OR BENEFICIARY PREDECEASES ME?** If you elect to receive an optional form of payment, and your spouse or Beneficiary dies prior to your benefit commencement date, then your election will be canceled and your pension will be paid as though you had not elected an optional form of payment. However, if your spouse or Beneficiary predeceases you after you have started receiving pension payments, then your pension will not be adjusted and you will continue receiving an actuarially reduced benefit. If, however, your spouse predeceases you and you are receiving a Life Annuity with Continuance to Survivor Spouse, you will receive a pop-up benefit (as described in Q&A No. 37), provided you have earned a minimum of ten (10) years Vesting Credit.

## **ARTICLE P**

### **APPLYING FOR PENSION AND OTHER BENEFITS**

**55. IS IT NECESSARY TO FILE AN APPLICATION FOR A PENSION OR FOR OTHER BENEFITS AVAILABLE UNDER THE PLAN?** Yes. Although you, your surviving spouse, and/or your Beneficiary may be eligible to receive a benefit from the Fund, payment will not be made unless a properly completed application is submitted to the Fund Office, along with a copy of all additional documents required by the Fund. The only exception to this rule is that if you have reached your Required Beginning Date (see Q&A 56) and you have not completed a benefit application, your pension will automatically start consistent with the provisions described in Q&A 56.

**56. WHEN MAY I START MY PENSION?** You may elect to commence receiving your benefit at any time after you have terminated employment with all Contributing Employers and satisfy the eligibility requirements for one of the types of pensions offered under the Plan. However, you may not delay your benefit beyond April 1 of the calendar year following the calendar year in which you attain age 70  $\frac{1}{2}$ . This is referred to as your "Required Beginning Date".

If you are required to start your benefit, as described above, or if you file an incomplete application that indicates that you are married, but does not include your spouse's age, the Fund will establish a benefit effective date for you and will pay benefits to you in the form of a Qualified Joint and Survivor Annuity based on the assumption that you are 3 years older than your spouse. If you later provide information to the satisfaction of the Trustees indicating that you were not married on your benefit commencement date or that your spouse's actual age is different from the Fund's assumption, the Fund will adjust the benefit payable to you going forward based on your spouse's actual circumstances.

**57. CAN MY BENEFITS BE FORFEITED?** Yes, so that you receive the important information about your benefits that the Fund Office sends each year, and so that your benefits are paid on time, you should make sure that your address on file with the Fund is up to date. This is very important because you may be subject to IRS penalties if your benefit does not start by your Required Beginning Date. If the Fund is unable to locate you, your spouse, or your Beneficiary, after making diligent efforts to determine the current address for you, your spouse, or your Beneficiary, your benefit will be forfeited in accordance with the Treasury Department regulations as of your Required Beginning Date. However, your benefit will be reinstated if you, your spouse, or your Beneficiary subsequently file a claim for benefits or if the Fund is able to locate you, your spouse, or your Beneficiary.

## **ARTICLE Q**

### **HOW TO APPEAL A DENIAL OF YOUR CLAIM FOR BENEFITS**

**58. WHAT HAPPENS IF THE PLAN DENIES MY APPLICATION FOR A PENSION OR OTHER BENEFITS?**

**Claims** - If your application is denied, in whole or in part, for any reason, then within 90 days after this Plan receives your application, this Plan will send you written notice of its decision, unless special circumstances require additional time to decide your claim, in which case the Fund will send you written notice of the decision no later than 180 days after the Fund receives your application. If an extension is necessary, you will be given written notice of the extension before the expiration of the initial 90-day period, which will explain the special circumstances requiring the extension of time and the date by which the Fund expects to render the benefit determination.

If your application is denied, you will be advised of the specific reason or reasons for the adverse benefit determination; reference to specific Plan provisions on which the determination is based; a description of any additional material or information necessary for you to complete your application and an explanation of why such material or information is necessary (if applicable); and a description of the Plan's review procedures and the time limits applicable to such procedures, including a statement of your right to bring a civil action under Section 502(a) of the Employee Retirement Income Security Act following an adverse benefit determination on review.

**59. MAY I APPEAL A DENIAL OF MY APPLICATION?** Yes. If you are not satisfied with the reason(s) why your claim was denied, then you may appeal the Fund's decision to Board of Trustees.

**60. HOW DO I APPEAL THE DENIAL OF MY CLAIM?** To appeal, you must write to the Trustees within 60 days after you receive this Plan's initial adverse benefit determination. Your correspondence (or your representative's correspondence) should include the following statement: "I AM WRITING IN ORDER TO APPEAL YOUR DECISION TO DENY ME BENEFITS. YOUR ADVERSE BENEFIT

DETERMINATION WAS DATED \_\_\_\_\_, 20 \_\_\_\_.” If this statement is not included then the Trustees may not understand that you are making an appeal, as opposed to a general inquiry. If you have chosen someone to represent you in making your appeal, then your letter (or representative’s letter) must state that you have authorized him or her to represent you with respect to your appeal, and you must sign such statement. Otherwise, the Fund will not communicate about your situation to someone unless they are sure he or she is your chosen representative.

You may submit written comments, documents, records, and other information related to your claim for benefits. You will also be provided, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to your claim for benefits. A document, record, or other information is relevant to a claim if it was relied upon in making the benefit determination; was submitted, considered, or generated in the course of making the benefit determination, without regard to whether such document, record, or other information was relied upon in making the benefit determination; or, in the case of a disability pension claim only, constitutes a statement of policy or guidance with respect to the plan concerning the denied benefit, without regard to whether such advice or statement was relied upon in making the benefit determination. The review will take into account all comments, documents, records, and other information submitted by the claimant relating to the claim, without regard to whether such information was submitted or considered in the initial benefit determination.

**61. WHAT HAPPENS AFTER I SUBMIT AN APPEAL?** The Trustees at their next regularly scheduled meeting will make a determination on the appeal. However, if the appeal is received less than thirty (30) days before the meeting, the decision may be made at the second meeting following receipt of the appeal. If special circumstances require an extension of time to decide the appeal, then a decision may be made at the third meeting following the date the appeal is made. Before an extension of time commences, you will receive written notice of the extension, describing the special circumstances requiring the extension. The Fund will notify you of the Trustees’ decision regarding your appeal no later than 5 days after the determination is made.

If your appeal is denied, you will receive written notification of the specific reason or reasons for the adverse benefit determination; reference to specific Plan provisions on which the determination is based; a statement that the claimant is entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to your claim for benefits; and a statement of your right to bring a civil action under Section 502(a) of the Employee Retirement Income Security Act.

**62. IS THE TRUSTEES’ DETERMINATION WITH RESPECT TO MY APPEAL FINAL AND BINDING UPON ME?** Yes. The Trustees’ final decision with respect to their review of your appeal shall be final and binding upon you, since the Trustees have exclusive authority and discretion to determine whether you are eligible for a pension (or other benefits) under the Plan, and the amount, if any, you are entitled to receive. Benefits under this Plan will be paid only if the Trustees decide in their discretion that you are entitled to them as described in Q&A No.81 and No.82

**63. WHAT CAN I DO IF I DISAGREE WITH THE TRUSTEES’ DETERMINATION WITH RESPECT TO MY APPEAL?** If you disagree with the final decision of the Trustees with respect to your appeal, and if you wish to challenge the Trustees’ determination, then you may institute a lawsuit against the Plan. However, no legal action may be commenced against the Fund or its Trustees more than 180 days after the Plan Trustees’ final decision on appeal is denied. In addition, any lawsuit against the Fund or its



Trustees must be commenced in either the Northern or Western federal district courts in the State of New York.

## **ARTICLE R PENSION PAYMENTS**

**64. WHAT IF I BECOME UNABLE TO CARE FOR MYSELF?** If you become unable to care for your affairs because of a mental, physical or legal incapacity, then the Trustees may pay your monthly pension to the person or group responsible for your maintenance and support, or to your legal representative.

**65. WHEN I RETIRE, MAY I TAKE A LUMP SUM CASH SETTLEMENT INSTEAD OF MONTHLY PENSION PAYMENTS?** No. The Plan was created to provide monthly pension payments to eligible Participants and surviving spouses. However, if the actuarial value of any monthly benefits payable under the Plan is \$7,000 or less, (or such greater amount as may be hereafter allowed by Internal Revenue Code Section 411(a) (11) governing qualified Retirement Plans), the Trustees will, upon receipt of your application for benefits, pay any such benefits in a lump sum, or as a rollover distribution at the Participant's election.

## **ARTICLE S RE-EMPLOYMENT AFTER RETIREMENT**

**66. WILL MY PENSION BE SUSPENDED IF I RETURN TO WORK AFTER I BEGIN RECEIVING MY PENSION?** Yes, your Pension will be permanently withheld for any month during which you work over 40 hours in Prohibited Employment in the geographical area of the Plan including any state or any province of Canada in which contributions were made or required to be made by or on behalf of an employer and in the remainder of any Standard Metropolitan Statistical Area (SMSA) that falls in part within such state, as of the time your Pension began. However, your pension benefit will not be withheld for any period of Prohibited Employment from April 1, 2022 through March 31, 2025, provided:

- The work is performed in the geographic area of the Union in which you were a member (your "Home Local"); and
- You are dispatched to work by your Home Local; and
- The business Manager of your Home Local certifies to the Pension Fund that there was a critical labor shortage of workers to perform employment and your employment did not result in denying Covered Employment to another individual in the bargaining unit. The Business Manager will inform the Pension Fund when the critical labor shortage of workers period ends, in which event suspension of benefits will immediately apply if you continue to work; and
- You have been retired under the terms of the Plan for at least 90 consecutive days before you return to work.

If these requirements are satisfied, you will continue to receive your monthly pension payments while you work, but only for as long as these requirements are met and provided that the critical labor shortage has not

been declared over by the applicable Business Manager. Once you terminate work under this critical labor shortage rule for at least 90 days, your monthly pension benefit will be recalculated to include the additional accruals you earned for your work during the critical labor shortage period, but only the extent that your additional accruals exceed the value of the benefit you were receiving while working in this post-retirement employment. Any increase in your benefits will take effect on the first day of the Plan Year after you have terminated covered employment for at least 90 days.

**67. WHAT IS PROHIBITED EMPLOYMENT?** Prohibited Employment is employment in the geographical area of the Plan in the same industry in which Plan Participants worked when your pension began, and in the same trade or craft in which you worked for any length of time while you were earning Pension Credit under the Plan, consistent with the applicable regulations issued by the Department of Labor.

**68. IF I AM THINKING ABOUT RETURNING TO WORK, HOW CAN I FIND OUT WHETHER MY PENSION WILL BE SUSPENDED?** If you write to the Fund Office, you will be advised as to whether the employment you are contemplating will cause your pension to be suspended.

**69. IF MY PENSION IS SUSPENDED, WILL I RECEIVE PENSION CREDIT DURING THE PERIOD I AM RE-EMPLOYED?** Yes, provided you are working in Covered Employment for a Contributing Employer who is obligated to contribute to the Fund on your behalf for such work. Then, when you again retire, your pension will be increased to reflect the additional Pension Credit you earned during your period of re-employment. However, your Pension generally will not reflect this increase until you receive your payment for June during the year following the end of the Plan Year during which you work your last day of re-employment. If you were receiving a pension other than the Normal Pension, then all of the reductions and adjustments normally made to your benefits due to receiving your pension in such form will still be made. Also, if you were previously receiving your pension in the form of a Ten-Year Certain, then the amount of the payments will be appropriately increased, but there will be no extension in the number of guaranteed payments (120).

Under no circumstances will the Pension Credits you earned prior to your period of re-employment be affected, or adjusted due to the provisions of this Article. You will not receive any additional pension benefit accruals after you return to work until you earn a minimum of 1,000 Hours of Service prior to returning to retirement.

**70. MUST I BE NOTIFIED IF THE PLAN INTENDS TO SUSPEND MY PENSION?** Yes. Your pension will not be suspended until the Fund Office notifies you in writing that your pension is suspended. This notice will contain:

- A description of the reason your pension is being suspended; and
- A general description of, and a copy of, the Plan's provisions concerning suspensions; and
- A statement that you may appeal the decision to suspend your pension in the manner specified above in Article Q; and
- A statement of where federal regulations dealing with such suspensions may be found; and
- A description of the procedures to resume your benefit.

**71. WHAT IF I RETURN TO WORK WITHOUT NOTIFYING THE PENSION FUND OFFICE?** If you work at all in Prohibited Employment during a month, then the Plan may presume that you worked at least 40 hours in that month unless, within 7 days after the start of such employment, you notify the Fund Office of your employment, and respond to the Plan's request for more information. If you work on a construction site while receiving benefits, the Trustees may presume that you are engaged in Prohibited Employment and may suspend your benefits accordingly. Also, you must verify your employment activities as required by the Trustees from time to time as a condition of receiving benefits. Failure to verify employment status could result in permanent loss of benefits as described in this Article S.

**72. WHEN I CEASE TO BE RE-EMPLOYED, WILL MY PENSION RESUME?** Your monthly pension payments will resume no later than the first day of the third month following the month during which you stop working, provided you notify the Fund Office at such time. Your payments will include any amounts withheld during the period between the date on which you stopped working and the date on which your payments resumed. However, any pension payments you received while you were working in Prohibited Employment will be offset from your future pension payments. Specifically, your future monthly payments will be reduced by 25% for each month until the entire overpayment, plus interest, is repaid (except the first monthly payment after payment resumes is reduced by 100%).

## **ARTICLE T ASSIGNMENT OF BENEFITS PROHIBITED**

**73. CAN MY ACCRUED BENEFITS BE ASSIGNED OR ALIENATED?** No. Your interest in the Plan is not subject to assignment or alienation, whether voluntary or involuntary. Thus, you may not borrow on the pension benefits you are entitled to receive. However, this rule does not apply to a Qualified Domestic Relations Order ("QDRO") or other arrangement permitted by law.

**74. WHAT IS A QUALIFIED DOMESTIC RELATIONS ORDER?** A Qualified Domestic Relations Order, as defined in Section 414(p) of the Internal Revenue Code, is a domestic relations order that fully specifies how another person, known as an "alternate payee", is entitled to a certain portion of your benefits from the Plan. An alternate payee can be a spouse, former spouse, or other dependent of the Participant who is recognized by a court order as having a right to receive all, or a portion of, the Participant's benefits under the Plan.

**75. WHAT HAPPENS WHEN THE PENSION FUND OFFICE RECEIVES A DOMESTIC RELATIONS ORDER?** After the Fund Office receives a Domestic Relations Order, it will forward a copy of the Plan's procedures concerning such order to you, and to each alternate payee named in the Order. The Fund will review the Order and determine whether the Order is a Qualified Domestic Relations Order ("QDRO"). The Fund will promptly write to you and any alternate payee named in the Order to notify you and them whether the Order is a QDRO.

**76. WHAT HAPPENS IF IT IS DETERMINED THAT THE ORDER IS A QUALIFIED DOMESTICSRELATIONS ORDER?** If the Order is a Qualified Domestic Relations Order, then the Fund Office will determine the dollar amount payable to each alternate payee and will thereafter disburse the amounts payable when they are due consistent with the Fund's QDRO Procedures.

## **ARTICLE U**

### **PLAN AMENDMENTS, TERMINATION AND INSURANCE**

**77. CAN THE PLAN BE TERMINATED?** Yes. The Trustees may discontinue or terminate the Plan at any time. However, even if the Plan is entirely or partially terminated, your accrued benefits, to the extent they are funded, will not be forfeited, except to the extent required by law.

**78. CAN THE PLAN BE CHANGED?** Yes. The Trustees, in their sole discretion, may amend or modify all or part of the Plan and/or this SPD, to the extent allowed by law.

**79. HOW WILL THE PLAN'S ASSETS BE DIVIDED IF THE PLAN IS TERMINATED?** Under federal law, if the Plan is terminated, then the Plan's assets will be used for the exclusive benefit of the Participants, surviving spouses and Beneficiaries, in order of priority that is established by law. If the Plan's assets exceed all of the benefits due, then the assets left over will be used to increase everyone's benefits. No Plan assets will ever be given to any Contributing Employer or Participating Local Union.

**80. ARE THE BENEFITS UNDER THE PLAN INSURED?** Yes. Your pension benefits under this multiemployer plan are insured by the Pension Benefit Guaranty Corporation (PBGC), a federal insurance agency. A multiemployer plan is a collectively bargained pension plan involving two or more unrelated employers, usually in a common industry.

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

The maximum benefit that the PBGC guarantees is set by law. Under the multiemployer program, the PBGC guarantee equals a participant's years of service multiplied by (1) 100% of the first \$11 of the monthly benefit accrual rate and (2) 75% of the lesser of \$33, or the accrual rate, if any, in excess of \$11. The PBGC's maximum guarantee limit is \$35.75 per month times a participant's years of service. For example, the maximum annual guarantee for a retiree with 30 years of service would be \$12,870.

The PBGC guarantee generally covers: (1) Normal and early retirement benefits; (2) disability benefits if you become disabled before the plan becomes insolvent; and (3) certain benefits for your survivor(s).

The PBGC guarantee generally does not cover: (1) benefits greater than the maximum guaranteed amount set by law; (2) benefit increases and new benefits based on plan provisions that have been in place for fewer than 5 years at the earlier of: (i) the date the plan terminates or (ii) the time the plan becomes insolvent; (3) benefits that are not vested because you have not worked long enough; (4) benefits for which you have not met all the requirements at the time the plan becomes insolvent; and (5) non-pension benefits, such as health insurance, life insurance, certain death benefits, vacation pay, and severance pay.

For more information about the PBGC and the benefits it guarantees, ask your plan administrator or contact the PBGC's Technical Assistance Division, 1200 K Street, N.W., Suite 930, Washington, D.C. 20005-4026 or call 202-326-4000 (not a toll free number). TTY/TDD users may call the federal relay service toll free at 1-800-877-8339 and ask to be connected to 202-326-4000. Additional information about the PBGC's pension insurance program is available through the PBGC's website on the Internet at <http://www.pbgc.gov>. This statement about the PBGC is required by regulations from the United States Department of Labor. Its

inclusion in this SPD is not offered, and should not be considered as legal advice of any kind. For legal advice, you should consult with a licensed attorney.

## **ARTICLE V**

### **PLAN INTERPRETATION AND DETERMINATIONS**

**81. WHO IS RESPONSIBLE FOR INTERPRETING THE PLAN AND FOR MAKING DETERMINATIONS UNDER THE PLAN?** The Board of Trustees has the sole responsibility for interpreting the provisions of the Plan and for making determinations thereunder. To carry out this responsibility, the Trustees have exclusive authority and discretion to:

- Determine whether you, your surviving spouse, and/or your Beneficiary is eligible for any benefits under the Plan; and
- Determine the amount of benefits, if any, an individual is entitled to under the Plan; and
- Determine or find facts that are relevant to any claim for benefits from the Plan; and
- Interpret all of the provisions of the Plan, this SPD, the Trust Agreement, any collective bargaining agreement, or written participation agreement involving or impacting the Plan; and
- Interpret all of the terms used in the Plan, this SPD, and all of the other previously mentioned agreements, documents, and instructions.

**82. WHAT IMPACT DO THE DETERMINATIONS AND INTERPRETATIONS HAVE?** All the determinations and interpretations made by the Trustees, or their designee, will:

- Be final and binding upon any individual claiming benefit under the Plan and upon all Employees, Employers, the Participating Local Unions and any party who has executed any agreement with the Trustees or the Participating Local Unions; and
- Be given deference in all arbitrations and in all courts of law, to the greatest extent allowed by applicable law; and
- Not be overturned or set aside by any arbitrator or by any court of law, unless the Arbitrator or the Court finds that the Trustees, or their designee, abused their discretion in making such determination or rendering such interpretation. Benefits under this Plan will be paid only if the Trustees decide in their discretion that you are entitled to them.

## **ARTICLE W**

### **IMPORTANT INFORMATION ABOUT THE PLAN**

**83. WHAT IS THE NAME OF THE PLAN?** The name of the Plan is the Upstate New York Engineers Pension Plan.

**84. WHAT IS THE PLAN YEAR?** The Plan Year begins on April 1 and ends on March 31. The Plan Year is important for various reasons. For example, the Plan Year is the period as to which all Plan records are kept for Plan administration.

**85. WHO ADMINISTERS THE PLAN?** The Plan is administered by a joint Board of Trustees, on which the Participating Local Unions and the Contributing Employers are equally represented. Thus, the Board as a whole is the Plan Administrator. As such, the Trustees are responsible for collecting and administering employer contributions to the Plan. The Trustees are also required to develop and administer the provisions of the Plan itself. Of course, the Trustees hire certain professional advisors to assist them in these tasks. The names of some of these advisors are listed at the beginning of this description. If you have any questions about the Plan, you may contact the Trustees by writing to Board of Trustees, Upstate New York Engineers Pension Plan, 101 Intrepid Lane, P.O. Box 100, Syracuse, New York 13205-0100. The telephone number is (315) 492-1796.

**83. AS A PARTICIPANT, WHAT ARE MY RIGHTS WITH RESPECT TO THE PLAN?** As a Participant in the Upstate New York Engineers Pension Plan you are entitled to certain rights and protections under the Employee Retirement Income Security Act of 1974 (ERISA). ERISA provides that all Plan Participants shall be entitled to:

#### RECEIVE INFORMATION ABOUT THE PLAN AND BENEFITS

Examine, without charge, at the Plan Office, all documents governing the Plan, including insurance contracts, collective bargaining agreements, and a copy of the latest annual report (Form 5500 Series) filed by the Plan with the U.S. Department of Labor and available at the Public Disclosure room of the Employee Benefits Security Administration.

Obtain, upon written request to the Plan Administrator, copies of documents governing the operation of the Plan, including insurance contracts and collective bargaining agreements, and copies of the latest annual report (Form 5500 Series) and updated summary plan description. The Plan Administrator may make a reasonable charge for the copies.

Receive a summary of the Plan's annual financial report. The Plan Administrator is required by law to furnish each participant with a copy of the summary annual report.

Obtain a statement telling you whether you have a right to receive a pension at age 62 if eligible and, if so, what your benefits would be at your Normal Pension Date if you stop working under the Plan now. If you do not have a right to a pension, the statement will tell you how many more years you have to work to get a right to a pension. This statement must be requested in writing and is not required to be given more than once every twelve (12) months. The Plan must provide the statement free of charge.

#### PRUDENT ACTIONS BY PLAN FIDUCIARIES

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

## **ENFORCE YOUR RIGHTS**

If your claim for a pension benefit is denied or ignored, in whole or in part, you have a right to know why this was done, to obtain copies of documents relating to the decision without charge, and to appeal any denial, all within certain time schedules.

Under ERISA, there are steps you can take to enforce the above rights. For instance, if you request a copy of plan documents or the latest annual report from the plan and do not receive them within 30 days, you may file a suit in Federal court. In such a case the Court may require the Trustees to provide the materials and pay you up to \$110.00 a day until you receive the materials, unless the materials were not sent because of reasons beyond the control of the Trustees. If you have a claim for benefits which is denied or ignored, in whole or in part, you may file suit in state or Federal court. In addition, if you disagree with the Trustees' decision or lack thereof concerning the qualified status of a domestic relations order, you may file suit in Federal court. If it should happen that Plan fiduciaries misuse the Plan's money, or if you are discriminated against for asserting your rights, you may seek assistance from the U.S. Department of Labor, or you may file suit in Federal court. The Court will decide who should pay court costs and legal fees. If you are successful the court may order the person you have sued to pay these costs and fees. If you lose, the court may order you to pay these costs and fees, for example, if it finds your claim is frivolous.

## **ASSISTANCE WITH YOUR QUESTIONS**

If you have any questions about your Plan, you should contact the Fund Office. If you have any questions about this statement or about your rights under ERISA, or if you need assistance in obtaining documents from the Plan Administrator, you should contact the nearest office of the Employee Benefit Security Administration, U.S. Department of Labor, listed in your telephone directory or the Division of Technical Assistance and Inquiries, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210. You may also obtain certain publications about your rights and responsibilities under ERISA by calling the publication hotline of the Employees Benefit Security Administration.

The Department of Labor requires that this Summary Plan Description contain this description of your ERISA rights. Its inclusion in this SPD is not offered, and should not be considered, as legal advice of any kind. For legal advice, you should consult with a licensed attorney.

**84. WHAT TYPE OF PENSION PLAN IS THE PLAN?** The Plan is a defined benefit plan. A defined benefit plan is a plan that provides a definite and set formula under which the amount of your pension is determined.

**85. WHAT ARE THE TRUSTEES' NAMES AND BUSINESS ADDRESSES?** The names and business addresses of the current Trustees are as follows:

### **UNION TRUSTEES**

Jonathan Lanse I.U.O.E. Local 158  
27 Hannay Lane  
Glenmont, New York 12077

### **EMPLOYER TRUSTEES**

Earl R. Hall  
Construction Employers Association of CNY  
6563 Ridings Road  
Syracuse, New York 13206

Grant Malone  
I.U.O.E. Local 158  
P.O. Box 93310  
Rochester, NY 14624

Douglas May  
Oakgrove Construction  
6900 Seneca Street  
PO BOX 103  
Elma, NY 14059

Karl Button I.U.O.E. Local 158  
5612 Business Ave.  
Cicero, NY 13039

Tom Keeler  
Keeler Construction  
13519 West Lee Road  
Albion, NY 14411

William Fekete  
I.U.O.E. Local 17  
District 545  
5959 Versailles Rd.  
Lakeview, NY 14085

Kim Gaylord  
Construction Industry Association of Rochester  
180 Linden Oaks  
Rochester, NY 14625

Josh Williams  
I.U.O.E. Local 17  
5959 Versailles Road  
Lakeview, NY 14085

Nickolaus Osinski  
Union Concrete & Construction Corp. 435 Meyer Road  
West Seneca, NY 14224

**86. WHO OVERSEES THE PLAN OPERATION?** The Fund Director, who works at the Fund Office oversees the day-to-day operations of the Plan. (We encourage you to make use of the Fund Office, where you will find assistance in understanding the Plan and your benefits).

The Trustees have designated Deborah Spaulding, Fund Manager as the agent for service of legal process. The address at which process may be served is as follows: Deborah Spaulding, Upstate New York Engineers Pension Fund, 101 Intrepid Lane, P.O. Box 100, Syracuse, New York 13205-0100. The telephone number is (315) 492-1796. Service of legal process upon Deborah Spaulding will be deemed to be service upon the Trustees. However, service of legal process may also be made upon any individual Trustee.

**87. ARE THERE ANY CIRCUMSTANCES UNDER WHICH MY PARTICIPATION IN THE PLAN CAN BE PROTECTED IF I WORK OUTSIDE THE PLAN AREA?** Yes. Reciprocity arrangements can protect your participation in the Plan when you work outside the Plan area. The Plan has entered into agreements with certain other pension plans affiliated with International Union of Operating Engineers. In accordance with the terms of these agreements, when a Participant in our Plan works in the area of the other pension plan, contributions are sent by the other plan to our Plan. In such a situation, the Participant receives no credit of any kind under the other pension plan, but receives credit under our Plan as if he had worked in the area of our Plan (adjusted for any difference in contribution rates).

Likewise, if you are not a Participant in our Plan, but work in this Plan's area and are a participant of a pension plan with which this Plan has such a reciprocal agreement, you will receive no credit under our Plan. Your credits for your work here will be determined by the rules of the other pension plan. Please contact the Fund Office if you have any questions about which other plans the Fund has reciprocity agreements with.

**88. WHAT IF I RECEIVE A BENEFIT I AM NOT ENTITLED TO?** If the Fund pays benefits in error, such as when the Fund pays you or your Beneficiary more benefits than you are entitled to under the



Plan, you or your Beneficiary are required to reimburse the Fund in full and the Fund shall be entitled to recover any such benefits, to the maximum extent permitted by law.

The Fund has a constructive trust, lien and/or an equitable lien by agreement in favor of the Fund on any overpaid or advanced payments received by you, your Beneficiary, or a representative of you or your Beneficiary (including an attorney) that is due to the Fund, and any such amount is deemed to be held in trust by you or your Beneficiary for the benefit of the Fund until paid to the Fund. By accepting benefits from the Fund, you and your Beneficiary consent and agree that a constructive trust, lien and/or equitable lien by agreement in favor of the Fund exists with regard to any overpayment or advancement of benefits. In accordance with the constructive trust, lien, and/or equitable lien by agreement, you and your Beneficiary agree to cooperate with the Fund in reimbursing it for all of its costs and expenses related to the collection of those benefits, to the maximum extent permitted by law.

Any refusal by you or your Beneficiary to reimburse the Fund for an overpaid amount will be considered a breach of your agreement with the Fund that the Fund provide benefits available under the Plan and you comply with the rules of the Fund. Further, by accepting benefits from the Fund, you and your Beneficiary affirmatively waive any and all defenses you may have in any action by the Fund to recover overpaid amount or amounts due under any other rule of the Plan, including but not limited to a statute of limitations defense or a preemption defense, to the maximum extent permitted by law.

The Fund may recover overpaid benefits by any and all methods which include but are not necessarily limited to, offsetting future benefits otherwise payable by the Fund on your behalf or on the behalf of your Beneficiaries. For example, if the overpayment was made to you as the Fund Participant, the Fund may offset the future benefits payable by the Fund to you and your Beneficiaries. If the overpayment was made to your Beneficiary, the Fund may offset the future benefits payable by the Fund to you and your Beneficiaries, to the maximum extent permitted by law.

The Fund may also recover any overpaid or advanced benefits by pursuing legal action in any state or federal court that has jurisdiction over the Fund's claim against the party to whom the benefits were paid, to the maximum extent permitted by law.

Upstate NY Engineers  
101 Intrepid Lane  
Syracuse, NY 13205

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