

**GENESIS ALKALI, LLC UNION RETIREMENT PLAN**

**AMENDMENT AND RESTATEMENT**  
**EFFECTIVE AS OF JANUARY 1, 2020**

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**GENESIS ALKALI, LLC UNION RETIREMENT PLAN**  
**INTRODUCTION**

This amendment and restatement of the Genesis Alkali, LLC Union Retirement Plan (the "Plan") is adopted by Genesis Alkali, LLC (the "Sponsor") effective as of January 1, 2020.

The Tronox Alkali Corporation adopted the Tronox Alkali Corporation Union Retirement Plan originally effective as of April 1, 2015 for the purpose of providing retirement benefits for certain eligible employees. Effective as of September 1, 2017, the Sponsor became the sponsor of the Tronox Alkali Corporation Union Retirement Plan and in the changed the name of the Tronox Alkali Corporation Union Retirement Plan to the Genesis Alkali, LLC Union Retirement Plan and made certain corresponding changes to reflect that it is the Sponsor as successor to Tronox Alkali Corporation;

WHEREAS, the Sponsor currently maintains the Plan and has determined that the Plan should be amended and restated at this time to incorporate all prior amendments to the Plan and to make certain other changes required and/or permitted under applicable law; and

WHEREAS, the Plan is intended to be qualified under section 401(a) of the Code, and its associated Trust is intended to be tax exempt under section 501(a) of the Code. The Plan is intended also to meet the requirements of ERISA and shall be construed wherever possible to comply with the terms of the Code and ERISA.

This amendment and restatement of the Plan is effective January 1, 2020 (except as otherwise indicated or required by law.)

## ARTICLE 1

### DEFINITIONS

For purposes of the Plan and any amendments to it, the following terms have the meanings ascribed to them below.

**1.1 "Accrued Benefit"** means a Participant's accrued benefit expressed in terms of a monthly single life annuity beginning at or after his or her Normal Retirement Date determined under the Plan on the basis of the Participant's Years of Credited Service to the date as of which the computation is made.

**1.2 "Actuarial Equivalent"** means a benefit determined to be of equal value to another benefit, computed using the interest and mortality table basis specified below unless otherwise specified in an applicable Supplement.

1.2.1 For purposes of lump sum distributions under Article V, the mortality table used shall be based on the adjusted first, second, and third segment rates determined under Sections 417(e)(3)(C) and (D) of the Code for the November preceding the Plan Year that contains the Annuity Starting Date and the "applicable mortality table" as described in Section 417(e)(3)(B) of the Code.

1.2.2 For purposes of determining the optional form of benefit conversion, the interest rate and the mortality table are set forth in the applicable Supplement.

1.2.3 For all other purposes, the interest rate and the mortality table used shall be based on six percent (6%) interest compounded annually and the 1971 Group Annuity Table (weighted ninety-five percent (95%) male, five percent (5%) female).

**1.3 "Actuary"** means an actuary who has been enrolled by the Joint Board for the Enrollment of Actuaries under Section 3042 of ERISA or a firm of actuaries at least one of whose members is so enrolled. The Actuary shall be appointed by and serve at the discretion of the Committee. The Actuary shall perform such technical and advisory work as the Committee shall request.

**1.4 "Annuity Starting Date"** means the first day of the first period for which an amount is payable in an annuity or other form of benefit. In the case of a lump sum distribution, the Annuity Starting Date is the date payment is actually made.

**1.5 "Beneficiary"** means the person designated by the Participant or by the terms of the Plan, as the party entitled to receive survivor benefits, if any, payable under the Plan. If no Beneficiary has been designated or if the designated Beneficiary is not living when a Plan benefit is to be distributed, the Beneficiary shall be such Participant's Spouse if then-living or, if not then-living or if there is no Spouse, such Participant's estate. A designation of a Beneficiary, or any revocation and change thereof, shall be effective only if it is made in writing in a form acceptable to the Committee and is received by the Committee prior to the Participant's death.

**1.6 "Board"** means the board of directors of the Company.

**1.7 "Break-in-Service" or "One-Year Period of Severance"** means a twelve (12) consecutive month period beginning on an Employee's Severance from Service Date and ending on the first anniversary of such date provided the Employee during such twelve (12) consecutive month period does not perform an Hour of Service.

**1.8 "Code"** means the Internal Revenue Code of 1986, as amended from time to time. Reference to a specific provision of the Code includes that provision, any successor to it and any valid regulation promulgated under the provision or successor provision.

**1.9 "Code Section 414(l) Single Plan"** means a "single plan" within the meaning of section 414(l) of the Code and regulations issued pursuant thereto.

**1.10 "Collective Bargaining Agreement"** means the collective bargaining agreement referred to in the applicable Supplement.

**1.11 "Committee"** means the Genesis Alkali Union Retirement Plan Committee whose composition, authority, and duties are described at Article VII, or its authorized delegate.

**1.12 "Company"** means Genesis Alkali, LLC or any successor thereto.

**1.13 "Compensation"** means, for purposes of applying the limitations on (i) annual benefits under section 415 of the Code, (ii) the minimum benefit requirement if the Plan should become a Top-Heavy Plan, and (iii) determining who is a Key Employee, all wages for Federal income tax withholding as determined under section 3401(a) of the Code (determined without regard to any rules that limit the remuneration included in wages based on the nature or location of the employment or the services performed) paid to the Employee for the Plan Year, and any other payments for which the Participating Employer is required to furnish a written statement to the Employee under sections 6041(d), 6051(a)(3) and 6052 of the Code, plus amounts that would be paid to the Employee during the Plan Year but for the Employee's election under sections 125(a), 132(f)(4), 402(e)(3), 402(h)(1)(B), 402(k) or 457(b) of the Code. Compensation shall exclude severance pay and any other amount paid after severance from employment with the Employer unless such amount is paid by the later of two and one-half (2 1/2) months after severance from employment or the end of the Limitation Year that includes the date of severance from employment and provided such amount would be included in this definition if paid prior to the Employee's severance from employment. The preceding sentence shall not apply, however, to Compensation paid to Participants serving in the United States Armed Forces.

**1.13.1 Maximum Annual Dollar Limit.** The annual Compensation of each Employee taken into account in determining benefit accruals for any Plan Year and for purposes of applying the nondiscrimination rules under sections 401(a)(4), 401(a)(5) and 410(b)(2) of the Code shall not exceed the applicable limit specified for that year under section 401(a)(17) of the Code, as adjusted for cost-of-living increases in accordance with section 415(d) of the Code.

**1.14 "Deferred Vested Benefit"** means the benefit determined pursuant to Section 3.4.

**1.15 "Early Retirement Benefit"** means the benefits determined pursuant to Section 3.2.



**1.16 "Early Retirement Date"** means later of (a) the date on which a Participant attains age fifty-five (55) while actively employed and (b) the date such Participant completes ten (10) Years of Credited Service.

**1.17 "Effective Date"** means January 1, 2020, the effective date of this amendment and restatement. The Plan was originally effective on April 1, 2015.

**1.18 "Eligible Employee"** means, as provided under the applicable Supplement, an Employee of a Participating Employer other than a Leased Employee, who is employed on an hourly basis and covered by an applicable Collective Bargaining Agreement which specifically provides for Plan participation, or to whom coverage under the Plan is extended by the Company or the Committee.

**1.19 "Employee"** means:

1.19.1 an individual who is a common-law employee of the Employer and whose earnings are reported on a Form W-2; and

1.19.2 when required for purposes of crediting Hours of Service, a former Employee.

However, (i) a person who is not a Leased Employee and who is engaged as an independent contractor is not an Employee; and (ii) any person retroactively found to be a common law employee shall not be eligible to participate in the Plan for any period he or she was not an Employee under the Plan.

**1.20 "Employer"** means the Sponsor, and any other Participating Employer that adopts this Plan.

**1.21 "Employment Commencement Date"** means the date on which the Employee first performs an Hour of Service for the Employer.

**1.22 "ERISA"** means the Employee Retirement Income Security Act of 1974, as amended from time to time. Reference to a specific provision of ERISA includes the provision, any successor provision and any valid regulation promulgated under the provision or successor provision.

**1.23 "50% Joint and Survivor Annuity"** means an immediate annuity that is the Actuarial Equivalent of a Participant's normal form of benefit under Section 5.1. After the Participant's death, fifty percent (50%) of the monthly amount the Participant received during his or her life will be paid to the Participant's surviving Spouse for such Spouse's life.

**1.24 "Five-Percent Owner"** means any Employee who owns (or is considered as owning within the meaning of Section 318 of the Code) more than five percent (5%) of the outstanding stock of any Participating Employer or stock possessing more than five percent (5%) of the total combined voting power of all stock of any Participating Employer. For purposes of this Section, Section 318(a)(2)(C) of the Code shall be applied by substituting "5%" for "50%" each time it appears therein.

**1.25 "Highly Compensated Employee"** means, for any Plan Year, an Employee who:

1.25.1 was a Five-Percent Owner at any time during such Plan Year or the preceding Plan Year;

1.25.2 for the preceding Plan Year, had Compensation from his or her Employer in excess of \$120,000 (as adjusted under Section 414(q) of the Code); and

1.25.3 any former Employee if: (a) such Employee was a Highly Compensated Employee when such Employee separated from service, or (b) such Employee was a Highly Compensated Employee at any time after attaining age fifty-five (55).

**1.26 "Hour of Service"** means:

1.26.1 each hour for which an Employee is paid, or entitled to payment, for the performance of duties for the Employer;

1.26.2 each hour for which an Employee is paid, or entitled to payment, with respect to a period of time during which no duties are performed for the Employer or (irrespective of whether the employment relationship has terminated) due to vacation, holiday, illness, incapacity (including disability), lay off, jury duty, military leave or leave of absence; provided that an Employee shall be credited with no more than 501 Hours of Service on account of any single continuous period during which he or she performs no duties;

1.26.3 each hour for which back pay, irrespective of mitigation of damages, is either awarded or agreed to by the Employer provided that an Employee shall be credited with no more than 501 Hours of Service on account of any single continuous period during which he or she performs no duties;

1.26.4 when required by law, each hour during which an Employee is absent on Qualified Military Service, provided that the Employee returns to employment with the Employer within such period during which his right to reemployment is protected by law;

1.26.5 solely for the purpose of determining whether a Break-in-Service has occurred, if an Employee is absent from employment for any period by reason of the:

(a) pregnancy of the Employee,

(i) birth of a child of the Employee,

(ii) placement of a child with the Employee in connection with the adoption of such child by the Employee, or

(iii) provision of care for such child for a period beginning immediately following such birth or placement,

each hour that would normally have been credited to such Employee but for such absence, or if the Plan is unable to determine such hours, eight (8) hours for each working day of such

absence; provided that an individual shall be credited with no more than 501 Hours of Service on account of any single continuous period of absence described above; and

each hour not described above during which an Employee is absent with leave of or at the direction of the Employer in accordance with the Employer's standard personnel practices for any reason other than maternity or paternity leave described above, provided the Employee returns to employment with the Employer when the leave expires; and provided further that an Employee shall be credited with no more than 501 Hours of Service on account of any single period of absence described in this Section.

Hours of Service shall be credited to the Employee for the applicable twelve (12)-month period or periods in which the duties are performed, for which the payment is made, or to which the award, agreement or leave pertains, except that in the case of hours credited with respect to maternity or paternity leave, such hours shall be credited in the year in which the absence from work begins, if necessary to avoid a Break-in-Service in that year, or in any other case, in the following year. Hours of Service under this Section shall be calculated and credited under the provisions of section 2530.200b-2 of Title 29 of the Code of Federal Regulations, issued by the United States Department of Labor, which regulations are incorporated herein by reference.

**1.27 "Individual Life Annuity"** means an immediate annuity that provides equal monthly payments for the Participant's life only.

**1.28 "Leased Employee"** means any person (other than a common-law employee of the Employer) who pursuant to an agreement between the Employer and any other person ("leasing organization") has performed services for the Employer (or for the Employer and related persons determined in accordance with Section 414(n)(6) of the Code) on a substantially full time basis for a period of at least one (1) year, and such services are of a type performed under the primary direction or control of the Employer. Contributions or benefits provided a Leased Employee by the leasing organization that are attributable to services performed for the Employer shall be treated as provided by the Employer. A Leased Employee shall not be considered an Employee of the Employer if (a) such employee is covered by a money purchase pension plan providing: (i) a non-integrated employer contribution rate of at least ten percent (10%) of compensation, as defined in Section 415(c)(3) of the Code, but including amounts contributed pursuant to a salary reduction agreement that are excludable from the employee's gross income under Section 125, Section 402(e)(3), Section 402(h)(1)(B) or Section 403(b) of the Code, (ii) immediate participation, and (iii) full and immediate vesting; and (b) Leased Employees do not constitute more than twenty percent (20%) of the Employer's non-Highly Compensated Employees.

**1.29 "Limitation Year"** means the Plan Year.

**1.30 "Normal Retirement Benefit"** means the benefit determined pursuant to Section 3.1.

**1.31 "Normal Retirement Date"** means the Participant's sixty-fifth (65<sup>th</sup>) birthday.

**1.32 "100% Joint and Survivor Annuity"** means an immediate annuity payable to the Participant during his or her life. After the Participant's death, one hundred percent (100%) of the

monthly amount the Participant received during his or her life will be paid to the Participant's surviving Spouse for such Spouse's life.

**1.33 "Participant"** means an Eligible Employee who has begun but not ended his or her participation in the Plan pursuant to the provisions of Article II.

**1.34 "Participating Employer"** means the Sponsor, any other Employer that adopts the Plan in accordance with Section 10.10, or any other Employer listed in the applicable Supplement.

**1.35 "Period of Service"** means the period commencing on the Employment Commencement Date and ending on the Severance From Service Date. All Periods of Service (whether or not consecutive) shall be aggregated. Notwithstanding the foregoing, if an Employee incurs a Break-in-Service at a time when he or she has no vested interest under the Plan and the Employee does not perform an Hour of Service within five (5) years after the beginning of the Break-in-Service, the Period of Service for vesting purposes prior to such Break-in-Service shall not be aggregated.

**1.36 "Period of Severance"** means the period commencing on the Severance From Service Date and ending on the date on which the Employee again performs an Hour of Service.

**1.37 "Plan"** means the Genesis Alkali, LLC Union Retirement Plan (formerly known as the Tronox Alkali Corporation Union Retirement Plan), as amended from time to time.

**1.38 "Plan Year"** means the twelve (12)-month period beginning on January 1 and ending the next December 31. The initial Plan Year began on April 1, 2015 and ended on December 31, 2015.

**1.39 "Qualified Military Service"** means any service in the "uniformed services" (as defined in Chapter 43 of Title 38 of the United States Code) by any Employee if such Employee is entitled to reemployment rights under such Chapter with respect to the Employer for such service.

**1.40 "Reemployment Commencement Date"** means, in the case of an Employee who has incurred a Severance from Service, the date following such severance on which the Employee first performs an Hour of Service for the Employer.

**1.41 "Required Beginning Date"** means April 1 of the calendar year following the later of: (1) the calendar year in which the Participant reaches age seventy-two (72) (seventy and one-half (70-1/2) for a Participant born before July 1, 1949); or (2) the calendar year in which the Participant terminates employment; provided, that clause (2) shall not apply in the case of a Participant who is a Five-Percent Owner with respect to the Plan Year ending in the calendar year in which the Participant attains seventy-two (72) (seventy and one-half (70-1/2) for a Participant born before July 1, 1949).

**1.42** **"Severance From Service Date"** means the earliest of:

1.42.1 the date on which an Employee voluntarily terminates, retires, is discharged, dies or is placed on permanent layoff;

1.42.2 the first anniversary of the first date of a period in which an Employee remains absent from service (with or without pay) with the Employer for any reason other than voluntary termination, retirement, discharge, permanent layoff or death; or

1.42.3 the second anniversary of the date an Employee is absent pursuant to a maternity or paternity leave of absence; provided, however, that the period between the first and second anniversaries of the first date of such absence shall be neither a Period of Service nor a Break-in-Service.

Notwithstanding the foregoing, a Severance From Service Date shall not be considered to have occurred under the following circumstances:

- (i) during a leave of absence, vacation or holiday with pay;
- (ii) during a leave of absence without pay granted by reason of disability or under the Family and Medical Leave Act of 1993;
- (iii) during a period of Qualified Military Service, provided the Employee makes application to return within ninety (90) days after completion of active service and returns to active employment as an Employee while reemployment rights are protected by law. If the Employee does not so return, the Employee shall have a Severance From Service Date on the first anniversary of the date of entry into military service.

If the Employee violates the terms of a leave of absence, the Employee shall be deemed to have voluntarily terminated as of the date of such violation. In the case of a leave in excess of twelve (12) months, if the Employee fails to return to active employment immediately after such leave, the Employee shall be deemed to have voluntarily terminated as of the last day of the twelfth (12<sup>th</sup>) month of the leave.

A "maternity or paternity leave of absence" means an absence from work by reason of the Employee's pregnancy, birth of the Employee's child, placement of a child with the Employee in connection with the adoption of such child, or any absence for the purpose of caring for such child for a period immediately following such birth or placement.

**1.43** **"Sponsor"** means Genesis Alkali, LLC (successor-in-interest to Tronox Alkali Corporation) or any successor thereto.

**1.44** **"Spouse"** means the person who is legally married to a Participant at the earlier of the date of the Participant's death or the date payment of the Participant's benefits commenced and who is living on the date of the Participant's death. A person of the same sex as the Participant can be a spouse for purposes of the Plan, provided the couple was legally married in a jurisdiction that

authorizes same-sex marriage (even if the couple lives in a jurisdiction that does not recognize same-sex marriage).

**1.45 "Supplement"** means the portion of the Plan providing rules and requirements that apply only to a specific group of Employees or Participants as detailed in the applicable Supplement to the Plan and that override any contrary provision of the Plan.

**1.46 [Reserved].**

**1.47 "Trust"** means the legal entity established by the trust agreement between the Company and the Trustee, fixing the rights and liabilities with respect to controlling and managing the assets of the Plan.

**1.48 "Trustee"** means the trustee or any successor trustee or trustees hereafter designated by the Company and named in the trust agreement or any amendment thereto.

**1.49 "Trust Fund"** means the trust fund established and maintained by the Trustee to hold all assets of the Plan pursuant to the trust agreement.

**1.50 "Year of Credited Service"** means the total number of calendar months during the Employee's Period of Service, while the Employee is an Eligible Employee, divided by twelve (12), determined in accordance with the following rules:

1.50.1 a partial month in such Period of Service counts as a whole month;

1.50.2 fractional Years of Credited Service shall be taken into account in determining a Participant's benefits;

1.50.3 Year of Credited Service also includes the following:

- (a) a period of Qualified Military Service to the extent provided under Section 12.1.2;
- (b) such other periods as the Committee recognizes as a Year of Credited Service pursuant to written and nondiscriminatory rules;
- (c) such other periods specified in the applicable Supplement; and
- (d) if the Employee has a Severance From Service Date by reason of a voluntary termination, discharge or retirement and the Employee then performs one (1) Hour of Service within twelve (12) months of the Severance From Service Date, such Period of Severance is included in the Period of Service for purposes of determining a Year of Credited Service. If the Employee has a Severance From Service Date by reason of a voluntary termination, discharge or retirement during an absence from service of twelve (12) months or less for any reason other than a voluntary termination, discharge or retirement, and then performs one (1) Hour of Service within twelve (12) months of the date on which the Employee was first absent from service, such Period of Severance is included in the Period of Service for purposes of Years of Credited Service;

1.50.4 Notwithstanding the foregoing, Years of Credited Service shall not include any leave of absence without pay unless the Employee returns to active employment as an Employee immediately after such leave and abides by all the terms of the leave.

1.50.5 Only to the extent required by Code section 414(a)(1), if the Employer is maintaining the Plan as a plan of a “predecessor employer” (as that term is used in Code section 414(a)(1)), service of the Employee with the “predecessor employer” is service with the Employer for purposes of calculating Years of Credited Service under this Plan.

1.50.6 Notwithstanding any provision of this Plan to the contrary, Years of Credited Service shall not be granted for service for which the Participant had previously received a distribution of his or her entire benefit under the Plan.

1.50.7 Notwithstanding any provision of this Plan to the contrary, Years of Credited Service shall be determined solely under this Section 1.50.7 for anyone receiving long-term disability benefits under the long-term disability plan sponsored by the Employer. In the case of a Participant receiving payments under the Employer’s long-term disability plan, such Participant shall continue to be credited with Years of Credited Service until the earlier of (a) age 65 or (b) the date he or she is no longer disabled (as that term is defined under the Employer’s long-term disability plan).

**1.51 “Year of Vesting Service”** means the total number of calendar months during the Employee's Period of Service divided by twelve (12), determined in accordance with the following rules:

1.51.1 a partial month in the Employee's Period of Service counts as a whole month;

1.51.2 if the Employee has a Severance From Service Date by reason of a voluntary termination, discharge or retirement and the Employee then performs one (1) Hour of Service within twelve (12) months of the Severance From Service Date, such Period of Severance is included in the Period of Service for vesting. If the Employee has a Severance From Service Date by reason of a voluntary termination, discharge or retirement during an absence from service of twelve (12) months or less for any reason other than a voluntary termination, discharge or retirement, and then performs one (1) Hour of Service within twelve (12) months of the date on which the Employee was first absent from service, such Period of Severance is included in the Period of Service for vesting;

1.51.3 Period of Service for vesting also includes the following:

- (a) a period of Qualified Military Service to the extent provided under Section 12.1.2;
- (b) such other periods as the Committee recognizes as a Period of Service for vesting pursuant to written and nondiscriminatory rules; and
- (c) such other periods specified in the applicable Supplement.

1.51.4 If the Employer is a member of a controlled group of employers, a group of entities under common control or an affiliated service group, within the meaning of Code §§414(b), (c), (m) or (o), Years of Vesting Service shall be determined as if all members of the group were a

single employer, excluding, however, employment during periods when the Employer was not a member of the controlled group, except as otherwise provided under the Plan or any Exhibit/Supplement. To the extent required by applicable law, the prior sentence shall be interpreted to apply to a “Leased Employee”.

1.51.5 Only to the extent required by Treas. Reg. Section 1.411(a)-5, if the Employer is maintaining the Plan as a plan of a “predecessor employer” (as that term is used in Treas. Reg. Section 1.411(a)-5), service of the Employee with the “predecessor employer” is service with the Employer for purposes of calculating Years of Vesting Service.



## ARTICLE 2

### PARTICIPATION

**2.1 Eligibility and Commencement of Participation.** Except as otherwise provided in an applicable Supplement, each Eligible Employee shall automatically become a Participant in the Plan as of the date he or she completes one (1) Year of Credited Service. An Employee whose employment has been interrupted by a One-Year Period of Severance and who later is reemployed and receives credit for service under Section 1.35 shall be deemed to be a Participant as of the date of the Employee's reemployment. For purposes of this Section 2.1, a person's date of reemployment shall be the first date following the person's reemployment on which he or she first receives credit for an Hour of Service because of the performance of duties for the Employer.

**2.2 Provision of Information.** Each Participant must make available to the Committee any information it reasonably requests. As a condition of participation in the Plan, an Employee agrees, on his or her own behalf and on behalf of all persons who may have or claim any right by reason of the Employee's participation in the Plan, to be bound by all provisions of the Plan.

**2.3 Termination of Participation.** A Participant ceases to be a Participant when he or she dies or, if earlier, when his or her entire vested benefit accrued under the Plan has been paid to him or her.

## ARTICLE 3

### RETIREMENT BENEFITS

#### **3.1 Normal Retirement Benefits.**

3.1.1 Normal Retirement. A Participant who retires on the Normal Retirement Date shall be entitled to receive a Normal Retirement Benefit determined under Section 3.1.2. Payment of such benefit shall commence as of the first day of the month coincident with or next following the Participant's Normal Retirement Date, unless the Participant elects to defer commencement until a date not later than April 1 of the calendar year following the year in which he or she attains age 72 (70-1/2 for a Participant born before July 1, 1949) subject to Section 3.3. Any such election of a deferred commencement date may be revoked at any time prior to such date and a new date may be elected by giving advance written notice to the Committee in accordance with rules prescribed by the Committee.

3.1.2 Amount of Normal Retirement Benefit. A Participant's monthly Normal Retirement Benefit shall be equal to the amount determined in accordance with the applicable Supplement.

#### **3.2 Early Retirement Benefits.**

3.2.1 Early Retirement. A Participant who retires on or after the Early Retirement Date and before the Normal Retirement Date shall be entitled to receive an Early Retirement Benefit determined under Section 3.2.2. Payment of such benefit shall commence after the Participant retires or, if the Participant elects, as of the first day of any subsequent month, but not later than the April 1 of the calendar year following the year in which he or she attains age 72 (70-1/2 for a Participant born before July 1, 1949). Any such election of a deferred commencement date may be revoked at any time prior to such date and a new date may be elected by giving advance written notice to the Committee in accordance with rules prescribed by the Committee.

3.2.2 Amount of Early Retirement Benefit. Subject to Section 3.2.3, a Participant's monthly Early Retirement Benefit shall be equal to an amount determined pursuant to Section 3.1.2 as in effect on the date the Participant's Years of Credited Service terminate, based on the Participant's Years of Credited Service as of such date.

3.2.3 Early Retirement Reduction Factor. If a Participant's Early Retirement Benefit commences prior to the Participant's Normal Retirement Date, the Participant's Early Retirement Benefit computed pursuant to Section 3.2.2 shall be reduced in accordance with the applicable Supplement.

#### **3.3 Late Retirement Benefits.**

3.3.1 Late Retirement. A Participant who retires after the Normal Retirement Date shall be entitled to receive a Normal Retirement Benefit determined under Section 3.1.2 commencing as of the first day of the month coinciding with or next following the date the Participant actually retires, unless the Participant elects to defer commencement until a date not later than April 1 of the calendar year following the year in which he or she attains age 72 (70-

1/2 for a Participant born before July 1, 1949) subject to Section 5.7. Any such election of a deferred commencement date may be revoked at any time prior to such date and a new date may be elected by giving advance written notice to the Committee in accordance with rules prescribed by the Committee.

3.3.2 To the extent required by applicable law under Section 401(a)(9) of the Code, in the case of a Participant who commences distribution of his or her Accrued Benefit beyond the April 1 of the calendar year following the year in which he or she attains age seventy and one-half (70-1/2) (or such other age required under Section 401(a)(9) of the Code), the Participant's Accrued Benefit shall be actuarially increased using the actuarial factors set forth in Section 1.2.3 to take into account the period after age seventy and one-half (70-1/2) (or such other age required under Section 401(a)(9) of the Code) in which the Participant was not receiving any benefits under the Plan.

### **3.4 Deferred Vested Benefit.**

3.4.1 Benefit. A Participant who has five (5) Years of Vesting Service but who ceases to be an Employee before the Participant's Early Retirement Date for any reason other than death shall be entitled to receive a "Deferred Vested Benefit" determined under Section 3.4.2. Payment of such benefit shall commence on the first day of the month coincident with or next following April 1 of the calendar year following the year in which the Participant attains age seventy-two (72) (seventy and one-half (70-1/2) for a Participant born before July 1, 1949), unless such Participant makes an election under Section 5.5 to commence benefits on an earlier date permitted under this Section 3.4. A Participant may elect to commence benefits on any date during the period beginning with the first day of the month coincident with or next following such Participant's Normal Retirement Date and ending with the first day of the month coincident with or next following April 1 of the calendar year following the year in which such Participant attains age seventy-two (72) (seventy and one-half (70-1/2) for a Participant born before July 1, 1949). If the Participant satisfies the age requirement for an Early Retirement Benefit, the Participant may elect payment of the Actuarial Equivalent of the Participant's Deferred Vested Benefit to commence as of the first day of any month before such Normal Retirement Date and coincident with or following the Participant's Early Retirement Date. Any such election of the earlier Annuity Starting Date shall be made by giving advance written notice to the Committee in accordance with rules prescribed by the Committee. Except as provided in Article VI, no benefits shall be payable to any person if the Participant dies prior to the Annuity Starting Date. A terminated Participant who has no vested interest in the Participant's Accrued Benefit shall be deemed to have received a distribution of the Participant's entire vested benefit. The Committee or its delegate may, in its discretion, fully vest a Participant in the Participant's Accrued Benefit in the event the Participant's employment with the Employer is affected by a transaction undertaken by the Employer.

3.4.2 Amount of Deferred Vested Benefit. A Participant's monthly Deferred Vested Benefit shall be determined pursuant to Section 3.1.2 as in effect on the date his or her Years of Vesting Service terminate based on the Participant's Years of Vesting Service as of such date. If payment of the Participant's Deferred Vested Benefit commences before the Normal Retirement Date, the amount of the monthly benefit shall be reduced in accordance with the applicable Supplement.

**3.5 Limitation on Annual Benefits — Code Section 415.** Notwithstanding the foregoing, the maximum benefit that may be accrued by any Participant for any Limitation Year shall be limited by Section 415 of the Code and the regulations promulgated thereunder, which are incorporated herein by reference. However, as of January 1 of each year, the dollar limitation in section 415(b)(1)(A) of the Code, as adjusted by the Commissioner of Internal Revenue for that calendar year to reflect increases in the cost of living, shall become effective as the maximum dollar limitation under section 415(b)(1) of the Code for the Plan Year ending within that calendar year for Participants terminating in or after such Plan Year.

In no event shall any benefit be payable from this Plan if such benefit would cause the Plan or any other plan maintained by the Employer to violate the limitations of Code Section 415 and the regulations thereunder. For purposes of the Plan's provisions reflecting Code Section 415(b)(3), a Participant's average compensation shall be the average compensation for the three consecutive Years of Credited Service, except that a Participant's compensation for a Year of Credited Service shall not include compensation in excess of the limitation under Code Section 401(a)(17) that is in effect for the calendar year in which such Year of Service begins. If the Participant has less than three consecutive Years of Credited Service, compensation shall be averaged over the Participant's longest consecutive period of service, including fractions of years, but not less than one year. In the case of a Participant who is rehired by the Employer after a severance of employment (as defined in Code Section 415(h)), the Participant's high three-year average compensation shall be calculated by excluding all years for which the Participant performs no services for and receives no compensation from the Employer (the "break period"), and by treating the years immediately preceding and following the break period as consecutive.

Notwithstanding any other provision of the Plan to the contrary, the maximum permissible benefit for a Participant shall be adjusted as provided in Treas. Reg. Section 1.415(b)-1 in the case of a benefit with an Annuity Starting Date that occurs before the Participant attains age sixty-two (62) or after the Participant attains age sixty-five (65).

For adjustments under Section 3.5 of the Plan, Actuarial Equivalence shall be based on the following assumptions, depending on the Participant's Annuity Starting Date:

(A) To calculate the adjusted maximum benefit limitations under Section 3.5 for purposes of Code section 415(b)(2)(C) or (D) or for purposes of Code section 415(b)(2)(B) for any form of benefit not subject to Code section 417(e)(3), Actuarial Equivalence shall be based upon the assumptions specified in (i) or (ii) below, whichever produces a lesser benefit value:

(i) The mortality table and interest rate specified in Section 1.2; or

(ii) The mortality table found in Revenue Ruling 2001-62, or such table as may be published by the IRS or Treasury to replace this table, as of the latest permissible effective date, and an annual interest rate of five percent (5%).

(B) To calculate the adjusted maximum benefit limitations under Section 3.5 for purposes of Code section 415(b)(2)(B) for any form of benefit subject to Code section 417(e)(3), Actuarial Equivalence shall be based upon the assumptions specified in (i), (ii), or (iii) below, whichever produces a lesser benefit value:

- (i) The mortality table and interest rate specified in Section 1.2; or
- (ii) The mortality table prescribed by the Secretary in accordance with Code section 415(b)(2)(E)(v) (such mortality table to be updated in accordance with guidance published by the IRS or Treasury to replace this table, as of the latest permissible effective date), and an annual interest rate of five and one-half percent (5.5%), or
- (iii) The mortality table prescribed by the Secretary in accordance with Code section 415(b)(2)(E)(v) (such mortality table to be updated in accordance with guidance published by the IRS or Treasury to replace this table, as of the latest permissible effective date), and the annual Code section 417(e) rate of interest, as defined below.

The interest rate that shall be used for this purpose shall be the applicable interest rate described by Code section 417(e) after its amendment by the Pension Protection Act of 2006. Specifically, the applicable interest rate shall be the adjusted first, second, and third segment rates applied under the rules similar to the rules of Code section 430(h)(2)(C). For this purpose, the first, second, and third segment rates are the first, second, and third segment rates which would be determined under Code section 430(h)(2)(C) if:

(a) Code section 430(h)(2)(D) were applied by substituting the average yields for the month described in Code section 417(e)(3)(C) for the average yields for the twenty-four (24) month period described in such section, and

(b) Code section 430(h)(2)(G)(i)(II) were applied by substituting section 417(e)(3)(A)(ii)(II) for sections 412(b)(5)(B)(ii)(II), and

(c) the applicable percentage under Code section 430(h)(2)(G) is treated as being 20% in 2008, 40% in 2009, 60% in 2010, 80% in 2011 and 100% thereafter.

## ARTICLE 4

### VESTING

**4.1 Rate of Vesting.** A Participant who has been credited with five (5) Years of Service for vesting shall have a one hundred percent (100%) vested interest in his or her Accrued Benefit.

**4.2 Vesting in Accrued Benefit at Normal Retirement Date.** A Participant's interest in his or her Accrued Benefit shall in any case become one hundred percent (100%) vested if, while employed by the Employer, he or she reaches his or her Normal Retirement Date.

**4.3 Crediting of Years of Service Before a Break-in-Service.** All Periods of Service (whether or not consecutive) shall be aggregated. Notwithstanding the foregoing, if an Employee incurs a Break-in-Service at a time when he or she has no vested interest under the Plan and the Employee does not perform an Hour of Service within five (5) years after the beginning of the Break-in-Service, the Period of Service for vesting purposes prior to such Break-in-Service shall not be aggregated.

## ARTICLE 5

### PAYMENT OF RETIREMENT BENEFITS

**5.1 Normal Form of Benefit.** Except as otherwise provided in an applicable Supplement and subject to Section 5.4, a married Participant's vested benefit shall be paid in the normal form of a one hundred percent (100%) Joint and Survivor Annuity with the Participant's Spouse as joint annuitant if the Participant is married on the Annuity Starting Date, and an unmarried Participant's vested benefit shall be paid in the normal form of an Individual Life Annuity if the Participant is not married on the Annuity Starting Date, unless the Participant elects not to receive payments pursuant to this Section and to receive payments in one (1) of the optional forms permitted under Section 5.2.

**5.2 Optional Forms of Benefit.** A Participant may elect to receive his or her vested benefit in one of the optional forms of benefit provided under the applicable Supplement or this Article. Any such election by a married Participant must be made with spousal consent in accordance with Section 5.5.

5.2.1 Limitations on Optional Forms. Notwithstanding the foregoing, a Participant's election of an optional form of benefit payment under this Article or the applicable Supplement shall be subject to the funding-based limitations of Section 436 of the Code to the extent applicable

**5.3 Voluntary Lump Sum Option.** If the lump sum Actuarial Equivalent value of a vested retirement benefit is greater than \$1,000 and less than \$5,000, then this Section provides an additional optional form of benefit that may be elected by the Participant. Such benefit shall be equal to the Actuarial Equivalent of the Participant's benefit where the Actuarial Equivalent value is calculated using the assumptions specified in Section 1.2.1.

**5.4 Small Benefit Cash-Out.**

5.4.1 If the lump sum Actuarial Equivalent value of a Participant's vested retirement benefit is \$1,000 or less, and the Participant does not elect to have such distribution paid directly to an "eligible retirement plan" in accordance with Section 5.9 or as a cash lump sum in accordance with Section 5.3, such benefit will be distributed in a cash lump sum without his or her consent as soon as practicable following his or her retirement or termination of employment. If the lump sum Actuarial Equivalent value of a Spouse's or Beneficiary's vested benefit is \$5,000 or less, and the Spouse or Beneficiary, as applicable, does not elect to have such distribution paid directly to an eligible retirement plan in accordance with Section 5.9 or as a cash lump sum in accordance with Section 5.3, such benefit will be distributed in a cash lump sum without the Spouse or Beneficiary's, as applicable, consent as soon as practicable following the Participant's death. The Actuarial Equivalent value is calculated using the assumptions specified in Section 1.2.1.

5.4.2 Any Participant who has received a cash-out distribution of his or her vested Plan benefit which was less than the Participant's total Accrued Benefit shall be entitled to make a repayment to the Plan to restore the Participant's Years of Credited Service which otherwise would be disregarded, subject to the following:

(a) All repayments must be made no later than the earlier of the date that is five (5) years after the Participant's date of reemployment or the date that the Participant incurs a period of five (5) consecutive One-Year Periods of Severance commencing after the distribution;

(b) The repayment must be made in cash; and

(c) The amount of the repayment must equal the full amount of the cash-out distribution plus interest through the date of repayment at the rate determined under Code §411(c)(2)(C).

## **5.5 Election of Benefits — Notice and Election Procedures.**

5.5.1 The Committee shall provide each Participant with a written notice containing the following information:

(a) a general description of the normal form of benefit payable under the Plan;

(b) the Participant's right to make and the effect of an election to waive the normal form of benefit;

(c) the right of the Participant's Spouse not to consent to the Participant's election;

(d) the right of Participant to revoke such election, and the effect of such revocation;

(e) the optional forms of benefits available under the Plan and the relative value of the optional forms; and

(f) the Participant's right to request in writing information on the particular financial effect of an election by the Participant to receive an optional form of benefit in lieu of the normal form of benefit.

5.5.2 The notice shall be provided to the Participant at each of the following times as shall be applicable to him or her:

(a) not more than one hundred and eighty (180) days and not less than thirty (30) days after a Participant who is in the employ of the Employer gives notice of the Participant's intention to terminate employment and commence receipt of the Participant's retirement benefits under the Plan; or

(b) not more than one hundred and eighty (180) days and not less than thirty (30) days after a Participant who is in the employ of the Employer gives notice of the Participant's intention to terminate employment and commence receipt of the Participant's retirement benefits under the Plan; or

(c) not more than one hundred and eighty (180) days and not less than thirty (30) days prior to the attainment of age sixty-five (65) of a Participant (whether or not the Participant has terminated employment) who has not previously commenced receiving retirement benefits.



The election period for a Participant who requests additional information during the election period will be extended until one hundred and eighty (180) days after the additional information is mailed or personally delivered. Any such request shall be made only within one hundred and eighty (180) days after the date the information described above is given to the Participant, and the Committee shall not be obligated to comply with more than one (1) such request. Any information provided pursuant to this Section will be given to the Participant within thirty (30) days after the date of the Participant's request and will be based upon the estimated benefits to which the Participant will be entitled as of the later of the first day on which such benefits could commence or the last day of the Plan Year in which the Participant's request is received. If a Participant files an election (or revokes an election) pursuant to this Section less than sixty (60) days prior to the Annuity Starting Date, such Participant's initial payments may be delayed for administrative reasons. In such event, the payments shall begin as soon as practicable and shall be made retroactively to such date.

5.5.3 A Participant may make the election provided in this Section by filing the prescribed form with the Committee at any time during the election period. The election period shall begin one hundred and eighty (180) days prior to the Participant's Annuity Starting Date. Such election shall be subject to the written consent of the Participant's Spouse, acknowledging the effect of the election and witnessed by a Plan representative or a notary public. Such spousal consent shall not be required if the Participant establishes to the satisfaction of the Committee that the consent of the Spouse may not be obtained because there is no Spouse or the Spouse cannot be located. A Spouse's consent shall be irrevocable. The election provided in this Section may be revoked or changed at any time during the election period but shall be irrevocable thereafter.

5.5.4 Notwithstanding Section 5.5.3:

(a) Distribution of benefits may commence less than thirty (30) days after the notice required pursuant to this Section is provided if

- (i) the Participant elects to waive the requirement that notice be given at least thirty (30) days prior to the Annuity Starting Date; and
- (ii) the distribution commences more than seven (7) days after such notice is provided.

(b) The notice may be provided after the Annuity Starting Date, in which case the applicable election period shall not end before the thirtieth (30<sup>th</sup>) day after the date on which such notice is provided, unless the Participant elects to waive the thirty (30)-day notice requirements pursuant to Subsection (a) above.

5.5.5 Notwithstanding the foregoing, a Participant may elect a "retroactive annuity starting date," as defined in Treasury Regulation Section 1.417(e)-1(b)(3)(iv)(B), in accordance with procedures established by the Committee, provided that:

(a) the Participant's Spouse (including an alternate payee who is treated as the Spouse under a "qualified domestic relations order," as defined in Section 414(p) of the Code),

determined as of the date distributions commence, consents to the distribution in a manner that would satisfy the requirements of Section 417(a)(2) of the Code;

(b) the retroactive annuity starting date does not preclude the earliest date on which the Participant could otherwise have begun receiving benefits;

(c) future periodic payments with respect to the Participant are the same as the future period payments, if any, that would have been paid with respect to the Participant had payments actually begun on the retroactive annuity starting date;

(d) the Participant receives a make-up payment equal to the sum of any missed payments for the period from the retroactive annuity starting date to the date of the actual make-up payment (increased by a reasonable rate of interest on the make-up payment from the dates the missed payments would have been made to the date of the actual make-up payment);

(e) the payments are adjusted to the extent necessary to satisfy the requirements of Treasury Regulation Sections 1.417(e)-1(b)(3)(v)(B) and (C) and Sections 415 and 417(e)(3) of the Code; and the date on which payments actually commence is treated as the Annuity Starting Date for purposes of satisfying the notice and consent requirements of Section 417 of the Code.

**5.6 Default Provisions.** Except as hereinafter provided, unless the Participant elects otherwise in accordance with the terms of the Plan, payment of a Participant's retirement benefits shall begin no later than sixty (60) days after the close of the Plan Year in which the latest of the following events occurs:

5.6.1 the Participant's sixty-fifth (65<sup>th</sup>) birthday;

5.6.2 the tenth (10<sup>th</sup>) anniversary of the year in which the Participant commenced participation in the Plan; and

5.6.3 the Participant terminates employment with the Employer.

If the amount of the payment required to commence on the date determined under this Section cannot be ascertained by such date, or if it is not possible to make such payment on such date because the Committee cannot locate the Participant after making reasonable efforts to do so, a payment retroactive to such date may be made no later than sixty (60) days after the earliest date on which the amount of such payment can be ascertained under this Plan or the date the Participant is located.

**5.7 Required Distributions — Code Section 401(a)(9).** All distributions under this Article 5 shall be determined and made in accordance with Section 401(a)(9) of the Code, including the incidental death benefit requirement in Section 401(a)(9)(G) of the Code and Treasury Regulations thereunder (which are incorporated by reference) as generally described in this Section. The provisions of this Section shall supersede any distribution option otherwise provided in the Plan that is inconsistent with Section 401(a)(9) of the Code. Notwithstanding the foregoing, this Section shall not be construed to create any right to any benefit in addition to or other than those provided in the Plan.

5.7.1 Time and Manner of Distribution.

(a) Required Beginning Date. No later than the Participant's Required Beginning Date as determined under Section 401(a)(9) of the Code, the Participant's entire interest shall be distributed (except as otherwise required by Section 401(a)(9) of the Code and the Treasury Regulations thereunder which are incorporated by reference) over the life of such Participant or over the lives of such Participant and his or her Designated Beneficiary (or over a period not extending beyond the life expectancy of such Participant or the life expectancy of such Participant and his or her Designated Beneficiary).

(b) Death of Participant Before Distributions Begin. If the Participant dies before distributions begin and the Participant's Beneficiary is entitled to receive a death benefit, the Participant's entire interest shall be distributed, or begin to be distributed, no later than as follows:

(i) If the Participant's surviving Spouse is the Participant's sole Designated Beneficiary, then distributions to the surviving Spouse shall begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have reached age seventy two (72) (seventy and one-half (70-1/2) for a Participant born before July 1, 1949), if later.

(ii) If the Participant's surviving Spouse is not the Participant's sole Designated Beneficiary, then distributions to the Designated Beneficiary shall begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.

(iii) If there is no Designated Beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire interest shall be distributed to the Participant's estate by the December 31 of the calendar year containing the fifth (5<sup>th</sup>) anniversary of the Participant's death.

(iv) If the Participant's surviving Spouse is the Participant's sole Designated Beneficiary and the surviving Spouse dies after the Participant but before distributions to the surviving Spouse begin, this Section (b), other than Section (b)(i), shall apply as if the surviving Spouse were the Participant.

For purposes of this Section (b) and Section (iv), distributions are considered to begin on the Participant's Required Beginning Date (or, if Section (b)(iv) applies, the date distributions are required to begin to the surviving Spouse under Section (b)(i)). If annuity payments irrevocably begin to the Participant before the Participant's Required Beginning Date (or to the Participant's surviving Spouse before the date distributions are required to begin to the surviving Spouse under Section (b)(i)), the date distributions are considered to begin is the date distributions actually commence.

(c) Form of Distribution. Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the Required Beginning Date, as of the first Distribution Calendar Year distributions shall be made in accordance with Sections 5.7.2, 5.7.3 and 5.7.4. If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder shall be made

in accordance with the requirements of Section 401(a)(9) of the Code and the regulations thereunder.

5.7.2 Determination of Amount to be Distributed Each Year.

(a) General Annuity Requirements. If the Participant's interest is paid in the form of annuity distributions under the Plan, payments under the annuity shall satisfy the following requirements:

(i) the annuity distributions shall be paid in periodic payments made at intervals not longer than one year;

(ii) the distribution period shall be over a life (or lives) or over a period certain not longer than the period described in Subsections 5.7.3 and 5.7.4;

(iii) once payments have begun over a period certain, the period certain shall not be changed even if the period certain is shorter than the maximum permitted;

(iv) payments shall either be non-increasing or increase only as follows:

(1) by an annual percentage increase that does not exceed the annual percentage increase in a cost-of-living index that is based on prices of all items and issued by the United States Bureau of Labor Statistics;

(2) to the extent of the reduction in the amount of the Participant's payments to provide for a survivor benefit upon death, but only if the Beneficiary whose life was being used to determine the distribution period described in Subsection (c) dies or is no longer the Participant's Beneficiary pursuant to a qualified domestic relations order within the meaning of Section 414(p) of the Code;

(3) to provide cash refunds of employee contributions upon the Participant's death; or

(4) to pay increased benefits that result from a Plan amendment.

(b) Amount Required to be Distributed by Required Beginning Date. The amount that must be distributed on or before the Participant's Required Beginning Date (or, if the Participant dies before distributions begin, the date distributions are required to begin under Subsections 5.7.1(b)(i) or 5.7.1(b)(ii)) is the payment that is required for one (1) payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received, e.g., bi-monthly, monthly, semi-annually, or annually. All of the Participant's benefit accruals as of the last day of the first Distribution Calendar Year shall be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the Participant's Required Beginning Date.

(c) Additional Accruals After First Distribution Calendar Year. Any additional benefits accruing to the Participant in a calendar year after the first Distribution Calendar Year shall be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues.

5.7.3 Requirements For Annuity Distributions That Commence During Participant's Lifetime.

(a) Joint Life Annuities Where the Beneficiary Is Not the Participant's Spouse. If the Participant's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the Participant and a non-Spouse Beneficiary, annuity payments to be made on or after the Participant's Required Beginning Date to the Designated Beneficiary after the Participant's death must not at any time exceed the applicable percentage of the annuity payment for such period that would have been payable to the Participant using the table set forth in Treasury Regulation Section 1.401(a)(9)-6, Q&A-2. If the Annuity Starting Date precedes the year in which the Participant reaches age seventy (70) (or such other age required under Section 401(a)(9) of the Code), the age difference to be used in determining the applicable percentage referred to in the preceding sentence is reduced by the number of years that the Participant is younger than age seventy (70) (or such other age required under Section 401(a)(9) of the Code) on his or her birthday in the calendar year that contains the Annuity Starting Date. If the form of distribution combines a joint and survivor annuity for the joint lives of the Participant and a non-Spouse Beneficiary and a period certain annuity, the requirement in the preceding two (2) sentences shall apply to annuity payments to be made to the Designated Beneficiary after the expiration of the period certain.

(b) Period Certain Annuities. Unless the Participant's Spouse is the sole Designated Beneficiary and the form of distribution is a period certain and no life annuity, the period certain for an annuity distribution beginning during the Participant's lifetime may not exceed the applicable distribution period for the Participant under the Uniform Lifetime Table set forth in Treasury Regulation Section 1.401(a)(9)-9 for the calendar year that contains the Annuity Starting Date. If the Annuity Starting Date precedes the year in which the Participant reaches age seventy (70) (or such other age required under Section 401(a)(9) of the Code), the applicable distribution period for the Participant is the distribution period for age seventy (70) (or such other age required under Section 401(a)(9) of the Code) under the Uniform Lifetime Table set forth in Treasury Regulation Section 1.401(a)(9)-9 plus the excess of seventy (70) (or such other age required under Section 401(a)(9) of the Code) over the age of the Participant as of the Participant's birthday in the year that contains the Annuity Starting Date. If the Participant's Spouse is the Participant's sole Designated Beneficiary and the form of distribution is a period certain and no life annuity, the period certain may not exceed the longer of the Participant's applicable distribution period, as determined under this Section (b), or the joint life and last survivor expectancy of the Participant and the Participant's Spouse as determined under the Joint and Last Survivor Table set forth in Treasury Regulation Section 1.401(a)(9)-9, using the Participant's and Spouse's attained ages as of the Participant's and Spouse's birthdays in the calendar year that contains the Annuity Starting Date.

5.7.4 Requirements For Minimum Distributions Where Participant Dies Before Date Distributions Begin.

(a) Participant Survived by Designated Beneficiary. If the Participant dies before the

date distribution of his or her interest begins and there is a Designated Beneficiary entitled to a death benefit under the Plan, the Participant's entire interest will be distributed, beginning no later than the time described in Subsections 5.7.1(a) or 5.7.1.(b) over the life of the Designated Beneficiary or over a period certain not exceeding:

(i) unless the Annuity Starting Date is before the first Distribution Calendar Year, the Life Expectancy of the Designated Beneficiary determined using the Designated Beneficiary's age as of the Designated Beneficiary's birthday in the calendar year immediately following the calendar year of the Participant's death; or

(ii) if the Annuity Starting Date is before the first Distribution Calendar Year, the Life Expectancy of the Designated Beneficiary determined using the Designated Beneficiary's age as of the Designated Beneficiary's birthday in the calendar year that contains the Annuity Starting Date.

(b) No Designated Beneficiary. If the Participant dies before the date distributions begin and there is no Designated Beneficiary as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(c) Death of Surviving Spouse Before Distributions to Surviving Spouse Begin. If the Participant dies before the date distribution of his or her interest begins, the Participant's surviving Spouse is the Participant's sole Designated Beneficiary, and the surviving Spouse dies before distributions to the surviving Spouse begin, this Section will apply as if the surviving Spouse were the Participant, except that the time by which distributions must begin will be determined without regard to Subsection 5.7.1(b).

#### 5.7.5 Definitions.

(a) Designated Beneficiary. The individual who is designated as the Participant's Beneficiary under the Plan and is the designated beneficiary under Section 401(a)(9) of the Code and Treasury Regulation Section 1.401(a)(9)-1, Q&A-4.

(b) Distribution Calendar Year. A calendar year for which a minimum distribution is required. The first Distribution Calendar Year is the calendar year immediately preceding the calendar year that contains the Participant's Required Beginning Date.

(c) Life Expectancy. Life expectancy as computed by use of the Single Life Table in Treasury Regulation Section 1.401(a)(9)-9, Q&A-1.

### **5.8 Suspension of Benefits.**

5.8.1 Prior to Normal Retirement Date. If a Participant receives retirement benefits under the Plan following a termination of employment prior to the Participant's Normal Retirement Date and again becomes an Employee prior to Normal Retirement Date, no retirement benefits shall be paid during such later period of employment and up to Normal Retirement Date. Any benefits payable under the Plan to or on behalf of the Participant at the time of the Participant's subsequent termination of employment shall be reduced by the Actuarial Equivalent of any benefits paid to

the Participant after the Participant's earlier termination and prior to the Participant's Normal Retirement Date.

5.8.2 After Normal Retirement Date. If (I) a Participant whose employment terminates again becomes an Employee after the Participant's Normal Retirement Date, or again becomes an Employee prior to the Participant's Normal Retirement Date and continues in employment beyond the Participant's Normal Retirement Date, or (II) a Participant continues in employment with the Employer after the Participant's Normal Retirement Date without a prior termination, the following provisions of this Section shall apply to the Participant as of the Participant's Normal Retirement Date or, if later, the Participant's date of reemployment.

(a) For purposes of this Section, the following definitions shall apply:

(i) "Postretirement Date Service" means each calendar month after a Participant's Normal Retirement Date and subsequent to the time that:

- (A) payment of retirement benefits commenced to the Participant if the Participant returned to employment with the Employer, or
- (B) payment of retirement benefits would have commenced to the Participant if the Participant had not remained in employment with the Employer,

if in either case the Participant receives pay from the Employer for any Hours of Service performed on each of eight or more days (or separate work shifts) in such calendar month.

(ii) "Suspendable Amount" means the monthly retirement benefits otherwise payable in a calendar month in which the Participant is engaged in Postretirement Date Service.

(b) Payment shall be permanently withheld on a portion of a Participant's retirement benefits, not in excess of the Suspendable Amount, for each calendar month during which the Participant is employed in Postretirement Date Service.

(c) If payments have been suspended pursuant to Subsection (b) above, such payments shall resume no later than the first day of the third calendar month after the calendar month in which the Participant ceases to be employed in Postretirement Date Service; provided, however, that no payments shall resume until the Participant has complied with the requirements set forth in Subsection (f) below. The initial payment upon resumption shall include the payment scheduled to occur in the calendar month when payments resume and any amounts withheld during the period between the cessation of Postretirement Date Service and the resumption of payment, less any amounts that are subject to offset pursuant to Subsection (d) below.

(d) Retirement benefits made subsequent to Postretirement Date Service shall be reduced by (1) the Actuarial Equivalent of any benefits paid to the Participant prior to the time the Participant is reemployed after the Participant's Normal Retirement Date; and (2) the amount of any payments previously made during those calendar months in which the Participant was engaged in Postretirement Date Service; provided, however, that such reduction under clause (2) above shall

not exceed, in any one month, twenty-five percent (25%) of that month's total retirement benefits (excluding amounts described in Subsection (b) above) that would have been due but for the offset.

(e) Any Participant whose retirement benefits are suspended pursuant to Subsection (b) of this Section shall be notified (by personal delivery or certified or registered mail) during the first calendar month in which payments are withheld that the Participant's retirement benefits are suspended. Such notification shall include:

(i) a description of the specific reasons for the suspension of payments;

(ii) a general description of the Plan provisions relating to the suspension;

(iii) a copy of the provisions;

(iv) a statement to the effect that applicable Department of Labor Regulations may be found at section 2530.203-3 of Title 29 of the Code of Federal Regulations;

(v) the procedure for appealing the suspension, which procedure shall be governed by Section 10.8; and

(vi) the procedure for filing a benefits resumption notification pursuant to Subsection (f) below.

If payments subsequent to the suspension are to be reduced by an offset pursuant to Subsection (d) above, the notification shall specifically identify the periods of employment for which the amounts to be offset were paid, the Suspendable Amounts subject to offset, and the manner in which the Plan intends to offset such Suspendable Amounts.

(f) Payments shall not resume as set forth in Subsection (c) above until a Participant performing Postretirement Date Service notifies the Committee in writing of the cessation of such Service and supplies the Committee with such proof of the cessation as the Committee may reasonably require.

(g) A Participant may request, pursuant to the procedure contained in Section 10.8, a determination whether specific contemplated employment will constitute Postretirement Date Service.

**5.9 Direct Rollover Option.** Notwithstanding any provision of the Plan to the contrary that would otherwise limit a distributee's election under this Section, a distributee may elect, at the time and in the manner prescribed by the Committee, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

5.9.1 If one or more distributions from the Plan constitutes an "eligible rollover distribution" as defined below, the Participant may elect to have all or a portion (but not less than \$500) of the distribution paid directly to an individual retirement account or annuity (an "IRA"), a plan qualified under section 401(a) or 403(a) of the Code, an annuity contract described in section 403(b) of the Code, a Roth individual retirement account described in section 408A(b) of the Code or an



eligible plan under section 457(b) of the Code that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and that agrees to separately account for amounts transferred into such plan from this Plan (collectively an "eligible retirement plan"). The definition of "eligible retirement plan" shall also apply in the case of a distribution to a surviving Spouse, or to a Spouse or former Spouse who is the alternate payee under a qualified domestic relations order, as defined in section 414(p) of the Code.

In the case of a distribution to a non-Spouse beneficiary who is a "designated beneficiary" within the meaning of 401(a)(9)(E) of the Code, an eligible retirement plan is an IRA established on behalf of the designated Beneficiary that will be treated as an inherited IRA pursuant to the provisions of 402(c)(11) of the Code.

5.9.2 An "eligible rollover distribution" means any distribution to a Participant of all or any portion of the balance to the credit of the Participant excluding any distribution that is one of a series of substantially equal periodic payments made for the life (or life expectancy) of the Participant or the joint lives (or joint life expectancies) of the Participant and his or her Beneficiary or for a specified period of ten (10) years or more, any distribution required under Section 401(a)(9) of the Code, and any hardship distribution described in section 401(k)(2)(B)(i)(IV) of the Code. The Participant may not elect to have portions of an eligible rollover distribution paid directly to more than one eligible retirement plan. In addition, the Participant will not be permitted to elect a direct rollover with respect to eligible rollover distributions that are reasonably expected to total less than \$200 during the year.

5.9.3 The Committee shall make such payment upon receipt from the Participant of the name of the eligible retirement plan to which such payment is to be made, a representation that the receiving plan is an eligible retirement plan as defined above, and such other information and/or documentation as the Committee may reasonably require to make such payment. Except as otherwise provided in Section 5.4 regarding small benefit cash-outs, if a Participant fails to elect whether or not a distribution is to be paid in a direct rollover, the Participant will be deemed to have elected not to have any portion of the distribution paid in a direct rollover.

## ARTICLE 6

### SURVIVOR'S BENEFITS

**6.1 Preretirement Surviving Spouse's Benefit.** If a married Participant who has been credited with five or more Years of Vesting Service by the Employer dies before the Annuity Starting Date and leaves a surviving Spouse to whom the Participant has been married for at least twelve (12) months, the Participant's surviving Spouse shall be entitled to receive a survivor's benefit for life. The amount of such survivor's benefit shall be determined pursuant to Sections 3.2.2 and 3.2.3 based upon the Participant's age and Years of Credited Service on the date of the Participant's death and paid in the form of a one hundred percent (100%) Joint and Survivor Annuity as if the Participant had died on the day preceding Participant's death or the day the Participant would have reached age fifty-five (55), if later. The Participant may, during a qualified election period, make a written waiver of the Qualified Preretirement Survivor Annuity and elect to receive benefits in the Plan's normal form of benefit or in one of the optional forms permitted under the Plan. A Participant's spouse must consent in writing to the waiver (including consent to the Beneficiary or Beneficiaries who will receive benefits payable on the death of the Participant), and the spouse's consent must be notarized or witnessed by a Plan representative. The spouse's consent must acknowledge the effect of the waiver, election and consent and may be limited to consent to the specific form of benefit elected and to the payment of the benefit to the specific Beneficiary designated in the election. For a Qualified Preretirement Survivor Annuity, the "qualified election period" is the period which begins on the first day of the Plan Year in which the Participant attains age thirty-five (35) and ends on the date of the Participant's death. If a Participant separates from service prior to the first day of the Plan Year in which the Participant attains age thirty-five (35), the qualified election period with respect to the Participant's interest in the Plan as of the date of separation shall begin on the date of separation.

**6.2 Timing of Benefit.** Payment of the survivor's benefit shall commence on the first day of the month coincident with or next following the later of the first date the Participant could have commenced an Early Retirement Benefit or the Participant's death, unless the Participant's Spouse elects to commence payment of benefits as of the first day of any subsequent month, but not later than the Participant's Normal Retirement Date.

## ARTICLE 7

### PLAN ADMINISTRATION

#### **7.1 Named Fiduciary and Plan Administrator.**

7.1.1 The Company shall be the named fiduciary of the Plan, within the meaning of Section 402(a)(2) of ERISA, with authority to control and manage the operation and administration of the Plan. The Company shall also serve as the "plan administrator" of the Plan within the meaning of Section 3(16)(A) of ERISA. The Company is authorized to direct the Trustee with respect to the management and control of the assets of the Plan, and to appoint one or more investment managers as defined in Section 3(38) of ERISA. To the extent not directed by the Company or an investment manager, the Trustee shall have authority and control over the assets and management of the Plan. The Company shall review the performance of the Trustee and of any investment manager and shall have authority to terminate them and select a different Trustee or investment manager or managers, or change the scope of the authority delegated to them, to the extent it deems desirable or prudent.

7.1.2 Notwithstanding Section 7.1.1, and unless otherwise explicitly set forth under the terms of the Plan, the Board may designate another named fiduciary and may delegate all of the Company's powers, duties and responsibilities of the Company set forth in Section 7.1.1 from time to time by resolution of the Board or as set forth under the terms of the Plan.

7.1.3 The Board delegates to the Committee all of the powers, duties and responsibilities of the Company set forth in Section 7.1.1.

**7.2 Composition of the Committee.** The Committee may appoint a secretary, who does not need to be a member of the Committee, and such agents, clerical and other service personnel, legal counsel, accountants and actuaries as may be required to administer the Plan. Any person or firm so employed may be a person or firm then, theretofore or thereafter serving any Employer in any capacity. The Committee, any individual member of the Committee, and any agent of the Committee shall be fully protected in relying upon the advice of the following professional consultants or advisors employed by an Employer or the Committee: any attorney insofar as legal matters are concerned, any certified public accountant insofar as accounting matters are concerned, and any enrolled actuary insofar as actuarial matters are concerned.

**7.3 Action by Committee.** A majority of the members of the Committee shall constitute a quorum for the transaction of business and shall have full power to act. Any written memorandum signed by the secretary or any member of the Committee who has been authorized to act on behalf of the Committee shall have the same force and effect as a formal resolution adopted in open meeting. Minutes of all meetings of the Committee and a record of any action taken by the Committee shall be kept in written form by the secretary appointed by the Committee. The Committee shall give to the Trustee any order, direction, consent or advice required under the terms of the Plan or trust agreement, and the Trustee shall be entitled to rely on any instrument delivered to it and signed by the secretary or any authorized member of the Committee as evidencing the action of the Committee.

A member of the Committee may not vote or decide upon any matter relating solely to himself or vote in any case in which his individual claim to any benefit under the Plan is

particularly involved. If, in any case in which any Committee member is so disqualified to act, the remaining members cannot agree or if there is only one individual member of the Committee, the board of directors of Genesis Energy, LLC (as the General Partner of Genesis Energy, L.P.) may appoint a temporary substitute member to exercise all of the powers of the qualified member concerning the matter in which the disqualified member is not qualified to act.

**7.4 Rules and Regulations of Committee.** The Committee shall have the authority to make such rules and regulations and to take such action as may be necessary to carry out the provisions of the Plan. Subject to the provisions of the Plan, the Committee shall decide any questions arising in the administration, interpretation and application of the Plan, which decisions shall be conclusive and binding on all parties. The Committee may delegate any part of its authority and duties as it deems expedient.

**7.5 Powers of Committee.** The Committee shall have the full power and authority to construe and interpret any and all provisions of the Plan, to reconcile any inconsistencies and resolve any ambiguities in the terms of the Plan and to make equitable adjustments for any mistakes or errors made in the administration of the Plan, and all such actions or determinations made by the Committee in good faith shall not be subject to review by anyone. Benefits under the Plan will be paid only if the Committee decides in its discretion that the applicant is entitled to them.

**7.6 Duties of Committee.** As a part of its general duty to supervise and administer the Plan, the Committee shall:

7.6.1 maintain records of the years of service, Years of Credited Service and Years of Vesting Service of each Employee;

7.6.2 give the Trustee specific written directions with respect to:

(a) the distribution of benefit payments, names of the payees, amounts to be paid, and the time or times when such payments shall be made; and

(b) the payment of any other amount which the Trustee is not authorized to make under the trust agreement without a written direction of the Committee;

7.6.3 inform the Trustee of annual estimates of future benefits to be paid from the Trust Fund and furnish the Trustee with such other information as is deemed necessary for the Trustee to carry out the purposes of the trust agreement;

7.6.4 comply with all necessary reporting and disclosure requirements of the ERISA;

7.6.5 establish, carry out and periodically review a funding policy and method consistent with the objectives of the Plan and the requirements of Title I of ERISA;

7.6.6 engage an independent certified public accountant to examine the financial statements and other records of the Plan for the purposes of an annual audit and opinion as to whether the financial statements and schedules in the annual report of the Plan are presented fairly in conformity with generally accepted accounting principles, unless such audit is waived by the Secretary of Labor or his delegate or is otherwise not required; and

7.6.7 engage an enrolled actuary to prepare required actuarial statements, unless this requirement is waived by the Secretary of Labor or his delegate or unless such actuarial statements are otherwise not required.

**7.7 Actuary.** The Actuary will do such technical and advisory work as the Committee may request, including analysis of the experience of the Plan from time to time, preparation of actuarial tables necessary for computations and submission of an actuarial report each year to the Committee. The annual report of the Actuary shall contain an actuarial valuation showing the financial condition of the Plan, a statement of the contributions to be made by the Company or the Participating Employers for the ensuing year, and such other information as may be required by the Committee.

**7.8 Indemnity for Liability.**

7.8.1 Indemnification by the Plan. To the extent permitted by applicable law and subject to the limitations described below in this Section 7.8, each member of the Committee, Employee, officer, director, and agent of the Employer or the Trustee, and all persons formerly serving in such capacity ("Covered Persons") shall be indemnified and saved harmless by the Plan from and against any and all claims of liability arising in connection with the exercise of their duties and responsibilities with respect to the Plan, including all expenses reasonably incurred in the defense of such act or omission, unless (i) it shall be established by final judgment of a court of competent jurisdiction that such act or omission involved a violation of the duties imposed by Part 4 of Title I of ERISA or gross negligence or willful misconduct on the part of such Covered Person; or (ii) in the event of settlement or other disposition of such claim involving the Plan, it is determined by written opinion of independent counsel that such act or omission involved a violation of duties imposed by Part 4 of Title I of ERISA or gross negligence or willful misconduct on the part of such Covered Person. The indemnification provided under this Section 7.8.1 will apply only to claims and expenses not actually covered by insurance.

7.8.2 Indemnification by the Board. To the extent not covered by insurance or reimbursed by the Trust Fund, the Board shall indemnify each member of the Committee, Employee, officer, director, and agent of the Trustee or Employer, and all persons formerly serving in such capacity, acting on behalf of the Plan, against any and all liabilities or expenses, including all legal fees relating thereto, arising in connection with the exercise of their duties and responsibilities with respect to the Plan, provided however that the Company shall not indemnify any person for liabilities or expenses due to that person's own gross negligence or willful misconduct.

**7.9 Limitations on Fiduciary Responsibility.** Except to the extent required by law, no fiduciary of the Plan shall be responsible for any acts or failures by another Plan fiduciary, unless the Plan provides for shared fiduciary responsibility and such shared responsibility was not allocated or delegated as described herein. The Committee and its members, and any other Plan fiduciaries may serve in more than one fiduciary capacity with respect to the Plan.

**7.10 Bonding and Fiduciary Insurance.** To the extent required under Section 412 of ERISA, fidelity bonds covering plan fiduciaries and other parties having authority to handle plan funds shall be purchased at the beginning of each Plan Year. Unless paid by an Employer, Plan funds may be applied, in accordance with Section 410(b) of ERISA, to the purchase of lawful insurance covering the fiduciary obligations of persons who are fiduciaries respecting the Plan

and/or the Trust Fund, and such fiduciaries may purchase, with funds other than Plan funds, waivers of subrogation.

**7.11 Compensation for Committee Members.** A member of the Committee shall serve without compensation for services as such if he is receiving full-time pay from *an* Employer as an Employee. Any other member of the Committee may receive compensation for services as a member, to be paid from the Trust Fund to the extent not paid by the Employer.

## ARTICLE 8

### FUNDING

**8.1 Appointment of Trustee.** The Company or its authorized delegate will appoint the Trustee and may remove it. The Trustee accepts its appointment by executing the trust agreement. A Trustee will be subject to direction by the Committee or its authorized delegate or, to the extent specified by the Committee, by an investment manager, and will have the degree of discretion to manage and control Plan assets specified in the trust agreement. Neither the Committee nor any other Plan fiduciary will be liable for any act or omission to act of a Trustee, as to duties delegated to the Trustee.

**8.2 Actuarial Cost Method.** The Committee or its authorized delegate shall determine the actuarial cost method to be used in determining costs and liabilities under the Plan pursuant to Section 301 et seq., of ERISA and Sections 412 and 430 of the Code. The Committee or its authorized delegate shall review such actuarial cost method from time to time, and if it determines from review that such method is no longer appropriate, then it shall petition the Secretary of the Treasury for approval of a change of actuarial cost method.

**8.3 Cost of the Plan.** Annually the Committee or its authorized delegate shall determine the normal cost of the Plan for the Plan Year and the amount (if any) of the unfunded past service cost on the basis of the actuarial cost method established for the Plan using actuarial assumptions which, in the aggregate, are reasonable. The Committee or its authorized delegate shall also determine the contributions required to be made for each Plan Year by the Company or the Participating Employers in order to satisfy the minimum funding standard (or alternative minimum funding standard) for such Plan Year determined pursuant to Sections 302 through 305 of ERISA and Sections 412 and 430 of the Code.

**8.4 Funding Policy.** The Participating Employers shall, and the Company may, cause contributions to be made to the Plan for each Plan Year in the amount necessary to satisfy the minimum funding standard (or alternative minimum funding standard) for such Plan Year; provided, however, that this obligation shall cease when the Plan is terminated. In the case of a partial termination of the Plan, this obligation shall cease with respect to those Participants, joint annuitants and Beneficiaries who are affected by such partial termination. Each contribution is conditioned upon its deductibility under Section 404 of the Code and shall be returned to the Company or Participating Employers, as applicable, within one year after the disallowance of the deduction (to the extent disallowed). Upon the Company's or a Participating Employer's written request, a contribution that was made by a mistake of fact shall be returned to the Company or Participating Employer, respectively, within one year after the payment of the contribution.

**8.5 Funding-Based Limits On Benefits And Benefit Accruals.** Benefit payments and accruals under the Plan are subject to the funding-based limitations of Section 436 of the Code, as briefly summarized below. The limitations imposed by this Section shall be interpreted and administered in accordance with Section 436 of the Code and Treasury Regulation Section 1.436-1. Except in the case of the limitations on Prohibited Payments, nothing in this Section 8.5 shall

apply to the Plan for the first five (5) Plan Years (unless the Plan was maintained by a predecessor employer).

8.5.1 Definitions. For purposes of this Section, the following words and phrases shall have the following meanings:

(a) "Adjusted Funding Target Attainment Percentage" or "AFTAP" means the fraction (expressed as a percentage):

(i) the numerator of which is the adjusted Plan assets for the Plan Year as determined in accordance with Treasury Regulation Section 1.436-1(j)(1)(ii); and

(ii) the denominator of which is the adjusted Funding Target for the Plan Year as determined in accordance with Treasury Regulation Section 1.436-1(j)(1)(iii).

For purposes of determining whether the limitations on Prohibited Payments apply to payments under a social security leveling option, within the meaning of Section 436(j)(3)(C)(i) of the Code, the AFTAP for a Plan Year shall be determined in accordance with the "Special Rule for Certain Years" under Section 436(j)(3) of the Code and any Treasury Regulations or other published guidance thereunder issued by the Internal Revenue Service. In addition, for purposes of determining whether the limitations on benefit accruals apply to the Plan, the AFTAP for a Plan Year shall be determined in accordance with the "Special Rule for Certain Years" under Section 436(j)(3) of the Code (except as provided under Section 203(b) of the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010, if applicable).

(b) "Annuity Starting Date" means:

(i) the first day of the first period for which an amount is payable as an annuity as described in Section 417(f)(2)(A)(i) of the Code;

(ii) in the case of a benefit not payable in the form of an annuity, the annuity starting date for the qualified joint and survivor annuity that is payable under the Plan at the same time as the benefit that is not payable as an annuity;

(iii) in the case of an amount payable under a retroactive annuity starting date, the date benefit payments actually commence;

(iv) the date of the purchase of an irrevocable commitment from an insurer to pay benefits under the Plan; and

(v) the date of any transfer to another plan maintained by the Employer that is made in order to avoid or terminate the application of any benefit limitations under Section 436 of the Code.

(c) "Funding Target" means the funding target under Treasury Regulation section 1.430(d)-1 without regard to the at-risk rules under Section 430(i) of the Code and Treasury Regulation Section 1.430(i)-1. However, solely for purposes of Sections 436(b)(2)(A) and



436(c)(2)(A) of the Code, the funding target means the funding target under Treasury Regulation Section 1.430(i)-1 if the Plan is in at-risk status for the Plan Year.

(d) "Prohibited Payment" means:

(i) any payment for a month that is in excess of the monthly amount paid under a single life annuity (plus any Social Security supplements described in the last sentence of section 411(a)(9) of the Code), to a Participant or Beneficiary whose Annuity Starting Date occurs during any period a limitation on an accelerated benefit distribution under Section 436(d) of the Code is in effect;

(ii) any payment for the purchase of an irrevocable commitment from an insurer to pay benefits;

(iii) any transfer of assets and liabilities to another plan maintained by the Employer that is made in order to avoid or terminate the application of benefit limitations under Section 436 of the Code; and

(iv) any other amount that is identified as a prohibited payment by the IRS in revenue rulings and procedures, notices and other guidance published in the Internal Revenue Bulletin, or as the Secretary of the Treasury may prescribe by regulations.

"Prohibited Payment" shall not include the payment of a benefit which under Section 411(a)(11) of the Code may be immediately distributed without the consent of the Participant.

(e) "Section 436 Contribution" means any contribution to the Plan described in Sections 436(b)(2), 436(c)(2) and 436(e)(2) of the Code which is made in accordance with Treasury Regulation Section 1.436-1(f)(2) in order to avoid or terminate the application of a Code Section 436 limitation for a Plan Year and is designated as such by the Sponsor at the time the contribution is made. Section 436 Contributions are separate from any minimum required contributions under Section 430 of the Code and are disregarded in determining the maximum addition to the prefunding balance under Section 430(f)(6) of the Code and Treasury Regulation Section 1.430(f)-1(b)(1)(ii).

(f) "Section 436 Measurement Date" means the date that is used to determine when the limitations of Sections 436(d) and 436(e) of the Code apply or cease to apply, and is also used for calculations with respect to applying the limitations of Sections 436(b) and 436(c) of the Code in accordance with the rules prescribed in Treasury Regulation Section 1.436-1(h).

(g) "Unpredictable Contingent Event" means:

(i) a plant shutdown (whether full or partial) or similar event; or

(ii) an event (including the absence of an event) other than the attainment of any age, performance of any service, receipt or derivation of any compensation, or the occurrence of death or disability.

(h) "Unpredictable Contingent Event Benefit" means any benefit or increase in

benefits to the extent the benefit or increase would not be payable but for the occurrence of an Unpredictable Contingent Event.

#### 8.5.2 Limitations On Shutdown Benefits And Other Unpredictable Contingent Event Benefits.

(a) If a Participant is entitled to an Unpredictable Contingent Event Benefit payable with respect to an Unpredictable Contingent Event occurring during any Plan Year, such benefit will not be paid if the AFTAP for such Plan Year:

(i) is less than sixty percent (60%); or

(ii) would be less than sixty percent (60%) if the AFTAP were redetermined by applying an actuarial assumption that the likelihood of occurrence of the Unpredictable Contingent Event during the Plan Year is one hundred percent (100%).

(b) This Subsection shall cease to apply effective as of the first day of the Plan Year in which the Sponsor makes a Section 436 Contribution to the Plan equal to:

(i) if the AFTAP is less than sixty percent (60%), the amount of the increase in the Funding Target of the Plan for the Plan Year attributable to the Unpredictable Contingent Event; and

(ii) if the AFTAP would be less than sixty percent (60%) taking into account the occurrence of the Unpredictable Contingent Event, the amount sufficient to result in an AFTAP of sixty percent (60%).

(c) If an Unpredictable Contingent Event Benefit with respect to an Unpredictable Contingent Event that occurs during the Plan Year is not permitted to be paid after the occurrence of the event because of the limitation set forth above, but is permitted to be paid later in the same Plan Year (as a result of additional contributions or pursuant to the enrolled actuary's certification of the AFTAP for the Plan Year that meets the requirements of Treasury Regulation Section 1.436-1(g)(5)(ii)(B)), then that Unpredictable Contingent Event Benefit shall be paid, retroactive to the period that benefit would have been payable under the terms of the Plan (determined without regard to such limitation). If the Unpredictable Contingent Event Benefit does not become payable during the Plan Year in accordance with the preceding sentence, then the Plan is treated as if it does not provide for that benefit.

#### 8.5.3 Limitations On Plan Amendments Increasing Liability For Benefits.

(a) No amendment which has the effect of increasing liabilities of the Plan by reason of increases in benefits, establishment of new benefits, changing the rate of benefit accrual, or changing the rate at which benefits become nonforfeitable may take effect during a Plan Year if the AFTAP for such Plan Year is:

(i) less than eighty percent (80%); or

(ii) would be less than eighty percent (80%) if the benefits attributable to the amendment were taken into account in determining the AFTAP.

Notwithstanding the foregoing, this Subsection shall not apply to any amendment which provides for an increase in benefits under a formula which is not based on a Participant's Compensation, but only if the rate of such increase is not in excess of the contemporaneous rate of increase in average wages of Participants covered by the amendment.

(b) This Subsection shall cease to be effective as of the first day of the Plan Year (or if later, the effective date of the amendment), in which the Sponsor makes a Section 436 Contribution to the Plan in an amount equal to:

(i) if the AFTAP is less than eighty percent (80%), the amount of the increase in the Funding Target of the Plan for the Plan Year if the liabilities attributable to the amendment were included in the determination of the Funding Target, and

(ii) if the AFTAP would be less than eighty percent (80%) taking into account the liability attributable to the amendment, the amount sufficient to result in an AFTAP for the Plan Year of eighty percent (80%) if the Section 436 Contribution (and any prior Section 436 Contributions made for the Plan Year) were included as part of the Plan assets and the Funding Target were to take into account the adjustments described in Treasury Regulation Section 1.436-1(g)(2)(iii)(A), 1.436-1(g)(3)(ii)(A) or 1.436-1(g)(5)(i)(B), whichever applies.

(c) If a Plan amendment does not take effect as of the effective date of the amendment because of the limitation on amendments set forth above or the limitation on benefit accruals in Subsection 8.5.5(a), but is permitted to take effect later in the same Plan Year (as a result of additional contributions or pursuant to the enrolled actuary's certification of the AFTAP for the Plan Year that meets the requirements of Treasury Regulation Section 1.436-1(g)(5)(ii)(C)), then the Plan amendment must automatically take effect as of the first day of the Plan Year (or, if later, the original effective date of the amendment). If the Plan amendment cannot take effect during the same Plan Year, then it shall be treated as if it were never adopted, unless the Plan amendment provides otherwise.

#### 8.5.4 Limitations On Prohibited Payments.

(a) AFTAP Less Than 60 Percent. If the Plan's AFTAP for a Plan Year is less than sixty percent (60%), a Participant or Beneficiary shall not be permitted to elect an optional form of benefit that includes a Prohibited Payment, nor will the Plan pay any Prohibited Payment, with an Annuity Starting Date on or after the applicable Section 436 Measurement Date, and the Plan shall not make any payment for the purchase of an irrevocable commitment from an insurer to pay benefits or any other payment or transfer that is a Prohibited Payment.

(b) Bankruptcy. A Participant or Beneficiary shall not be permitted to elect an optional form of benefit that includes a Prohibited Payment, nor will the Plan pay any Prohibited Payment, with an Annuity Starting Date that occurs during any period in which the Sponsor is a debtor in a case under Title 11, United States Code, or under a similar Federal or state law, except in the case of a Prohibited Payment with an Annuity Starting Date that occurs on or after the date on which the Plan's enrolled actuary certifies that the Plan's AFTAP for the Plan Year is not less

than one hundred percent (100%). In addition, during such period in which the Sponsor is such a debtor, the Plan shall not make any payment for the purchase of an irrevocable commitment from an insurer to pay benefits or any other payment or transfer that is a Prohibited Payment, except for payments that occur on a date within a Plan Year that is on or after the date on which the Plan's enrolled actuary certifies that the Plan's AFTAP for that Plan Year is not less than one hundred percent (100%).

(c) Limited Payment if AFTAP Is At Least 60 Percent But Less Than 80 Percent.

(i) If the Plan's AFTAP for a Plan Year is at least sixty percent (60%) but less than eighty percent (80%), a Participant or Beneficiary shall not be permitted to elect an optional form of benefit that includes a Prohibited Payment, nor will the Plan pay any Prohibited Payment, with an Annuity Starting Date on or after the applicable Section 436 Measurement Date, and the Plan shall not make any payment for the purchase of an irrevocable commitment from an insurer to pay benefits or any other payment or transfer that is a Prohibited Payment, unless the present value, (determined in accordance with Section 417(e)(3) of the Code), of the portion of the benefit that is being paid in a Prohibited Payment does not exceed the lesser of:

(A) fifty percent (50%) of the present value (determined in accordance with section 417(e)(3) of the Code) of the benefit payable in the optional form of benefit that includes the Prohibited Payment; or

(B) the present value (as determined under guidance prescribed by the Pension Benefit Guaranty Corporation, using the interest and mortality assumptions under Section 417(e) of the Code) of the maximum benefit guarantee with respect to the Participant under Section 4022 of ERISA for the year in which the Annuity Starting Date occurs.

(ii) In the case of a Participant with respect to whom a payment is made pursuant to this Subsection, no additional payment under this Subsection may be made with respect to such Participant during any period of consecutive Plan Years to which the limitations of this Section apply. In addition, for purposes of this Subsection, benefits provided with respect to a Participant and any Beneficiary of the Participant (including an alternate payee as defined in Section 414(0)(8) of the Code) shall be aggregated. If the Accrued Benefit of a Participant is allocated to such an alternate payee and one or more other persons, the amount under this Subsection shall be allocated among such persons in the same manner as the Accrued Benefit is allocated unless the qualified domestic relations order (as defined in Section 414(p)(1)(A) of the Code) provides otherwise.

(iii) If an optional form of benefit under the Plan is not available as of the Annuity Starting Date because of the limitations of this Subsection, the Participant or Beneficiary may elect to:

(A) receive the unrestricted portion of that optional form of benefit at that Annuity Starting Date, determined by treating the unrestricted portion of the benefit as if it were the Participant's or Beneficiary's entire benefit under the Plan. The 'unrestricted portion' of a Participant's benefit is fifty percent (50%) of the amount payable under the optional form of benefit, or, in the case of an optional form of benefit that is a Prohibited Payment on account of a social security leveling feature (as defined in Treasury Regulation

Section 1.411(d)-3(g)(11)) or a refund of employee contributions feature (as defined in Treasury Regulation Section 1.411(d)-3(g)(1)), the 'unrestricted portion' of the benefit is the optional form of benefit that would apply if the Participant's (or Beneficiary's) Accrued Benefit were fifty percent (50%) smaller. In all cases, the unrestricted portion of the benefit shall be reduced, to the extent necessary, so that the present value (determined in accordance with Section 417(e) of the Code) of the unrestricted portion of that optional form of benefit does not exceed the Pension Benefit Guaranty Corporation maximum benefit guarantee under Section 4022 of ERISA for the year in which the Annuity Starting Date occurs;

(B) commence benefits with respect to the Participant's or Beneficiary's entire benefit under the Plan in any other optional form of benefit available under the Plan at the same Annuity Starting Date; or

(C) defer commencement of the payments to the extent permitted under the terms of the Plan and in accordance with applicable law (including but not limited to Sections 411(a)(11) and 401(a)(9) of the Code).

(iii) If a Participant or Beneficiary elects payment of the unrestricted portion of the benefit as described above, the Participant or Beneficiary may elect payment of the remainder of his benefit under the Plan in any optional form of benefit at that Annuity Starting Date available under the Plan that would not have included a Prohibited Payment if that optional form applied to the entire benefit. The rules of Treasury Regulation Section 1.417(e)-1 are applied separately to the separate optional forms for the unrestricted portion of the benefit and the remainder of the benefit.

(d) Payments Pursuant To Plan Termination. The limitations of Section 436(d) of the Code shall not apply to any Prohibited Payments that may be made to carry out the termination of the Plan in accordance with applicable law.

(e) Certified AFTAP. The limitations of this Subsection apply for distributions with Annuity Starting Dates on and after the date the Plan's enrolled actuary issues a certification using the certified AFTAP of the Plan for the Plan Year.

(f) If a limitation on Prohibited Payments applied as of a section 436 measurement date (as defined in paragraph (j)(8) of Treas. Reg. section 1.436-1), but that limit no longer applies to the Plan as of a later section 436 measurement date, then the limitation on Prohibited Payments does not apply to benefits with annuity starting dates (as defined in paragraph (j)(2) of Treas. Reg. section 1.436-1) that are on or after that later section 436 measurement date.

#### 8.5.5 Limitations On Benefit Accruals During Severe Funding Shortfalls.

(a) If the AFTAP for a Plan Year is less than sixty percent (60%), benefit accruals under the Plan shall cease as of the applicable Section 436 Measurement Date.

(b) If the Plan is required to cease benefit accruals under this Subsection, then the Plan may not be amended to increase the liabilities of the Plan by reason of an increase in benefits or establishment of new benefits, regardless of whether an amendment would otherwise be permissible under Subsection 8.5.3.

(c) Notwithstanding the foregoing, this Subsection shall cease to apply effective as of the first day of the Plan Year in which the Sponsor makes a Section 436 Contribution to the Plan equal to the amount sufficient to result in an AFTAP for the Plan Year of sixty percent (60%) if the Section 436 Contribution (and any prior Section 436 Contributions made for the Plan Year) were included as part of the Plan assets and the Funding Target were to take into account the adjustments described in Treasury Regulations Section 1.436-1(g)(2)(iii)(A) or 1.436-1(g)(5)(i)(B), whichever applies.

(d) Any prohibition on accruals under this Section as a result of the Plan's enrolled actuary's certification that the AFTAP for the Plan Year is less than sixty percent (60%) is effective as of the date of the certification. If a limitation on benefit accruals under this Subsection applied to the Plan as of a Section 436 Measurement Date, but that limit no longer applies to the Plan as of a later Section 436 Measurement Date, then benefit accruals shall resume prospectively and such limitation does not apply to benefit accruals that are based on service on or after the later Section 436 Measurement Date, except as otherwise provided under the Plan. The Plan shall comply with the rules relating to partial years of participation and the prohibition on double proration under Department of Labor regulation Sections 2530.204-2(c) and (d) of Title 29 of the Code of Federal Regulations.

#### 8.5.6 Rules Of Operation For Periods Prior To And After AFTAP Certification.

(a) Section 436(h) of the Code and Treasury Regulation Section 1.436-1(h) set forth a series of presumptions that apply (i) before the Plan's enrolled actuary issues a certification of the Plan's AFTAP for the Plan Year and (ii) if the Plan's enrolled actuary does not issue a certification of the Plan's AFTAP for the Plan Year before the first day of the tenth (10<sup>th</sup>) month of the Plan Year (or if the Plan's enrolled actuary issues a range certification for the Plan Year pursuant to Treasury Regulation Section 1.436-1(h)(4)(ii) but does not issue a certification of the specific AFTAP for the Plan by the last day of the Plan Year). For any period during which a presumption under Section 436(h) of the Code and Treasury Regulation Section 1.436-1(h) applies to the Plan, the limitations under Section 436 of the Code are applied to the Plan as if the AFTAP for the Plan Year were the presumed AFTAP determined under the rules of Section 436(h) of the Code and Treasury Regulation Section 1.436-1(h)(1), (2), or (3). These presumptions are set forth below.

(b) If a limitation under Section 436 of the Code applied to the Plan on the last day of the preceding Plan Year, then, commencing on the first day of the current Plan Year and continuing until the Plan's enrolled actuary issues a certification of the AFTAP for the Plan for the current Plan Year, or, if earlier, the date paragraph (c) or (d) below applies to the Plan:

- (i) The AFTAP of the Plan for the current Plan Year is presumed to be the AFTAP in effect on the last day of the preceding Plan Year; and
- (ii) The first day of the current Plan Year is a Section 436 Measurement Date.

(c) If the Plan's enrolled actuary has not issued a certification of the AFTAP for the Plan Year before the first day of the fourth (4<sup>th</sup>) month of the Plan Year and the Plan's AFTAP for the preceding Plan Year was either at least sixty percent (60%) but less than seventy percent (70%) or at least eighty percent (80%) but less than ninety (90%), or is described in Treasury Regulation

Section 1.436-1(h)(2)(ii), then, commencing on the first day of the fourth (4<sup>th</sup>) month of the current Plan Year and continuing until the Plan's enrolled actuary issues a certification of the AFTAP for the Plan for the current Plan Year, or, if earlier, the date paragraph (d) below applies to the Plan:

- (i) The AFTAP of the Plan for the current Plan Year is presumed to be the Plan's AFTAP for the preceding Plan Year reduced by ten (10) percentage points; and
- (ii) The first day of the fourth (4<sup>th</sup>) month of the current Plan Year is a Section 436 Measurement Date.

(d) If the Plan's enrolled actuary has not issued a certification of the AFTAP for the Plan Year before the first day of the tenth (10<sup>th</sup>) month of the Plan Year (or if the Plan's enrolled actuary has issued a range certification for the Plan Year pursuant to Treasury Regulation Section 1.436-1(h)(4)(ii) but has not issued a certification of the specific AFTAP for the Plan by the last day of the Plan Year), then, commencing on the first day of the tenth (10<sup>th</sup>) month of the current Plan Year and continuing through the end of the Plan Year:

- (i) The AFTAP of the Plan for the current Plan Year is presumed to be less than sixty percent (60%); and
- (ii) The first day of the tenth (10<sup>th</sup>) month of the current Plan Year is a Section 436 Measurement Date.

(e) During any period in which none of the preceding presumptions under apply to the Plan and the Plan's enrolled actuary has not yet issued a certification of the Plan's AFTAP for the Plan Year, the limitations under Subsection 8.5.2 and Subsection 8.5.3 shall be based on the inclusive presumed AFTAP for the Plan, calculated in accordance with the rules of Treasury Regulation Section 1.436-1(g)(2)(iii). For this purpose, the inclusive presumed AFTAP has the meaning under Treas. Reg section 1.436-1(g)(2)(iii).

8.5.7 Notwithstanding anything in the Plan to the contrary, the Plan will not accept rollovers from a defined contribution plan to provide additional annuity benefits when the Plan's AFTAP for the Plan Year is less than sixty percent (60%).

**8.6 Cash Needs of the Plan.** The Committee or its authorized delegate from time to time shall estimate the benefits and administrative expenses to be paid out of the Plan during the period for which the estimate is made and shall also estimate the contributions to be made to the Plan during such period by the Company or the Participating Employers. The Committee or its authorized delegate shall inform the Trustees of the estimated cash needs of and contributions to the Plan during the period for which such estimates are made. Such estimates shall be made on an annual, quarterly, monthly or other basis, as the Committee shall determine.

**8.7 Public Accountant.** The Committee or its authorized delegate shall engage an independent qualified public accountant to conduct such examinations and to render such opinions as may be required by Section 103(a)(3) of ERISA. The Committee or its authorized delegate in its discretion may remove and discharge the person so engaged, but in such case it shall engage a successor independent qualified public accountant to perform such examinations and to render such opinions.

**8.8 Basis of Payments to the Plan.** All contributions to the Plan shall be made by the Company or the Participating Employers and no contributions shall be required of or permitted by Participants. From time to time the Participating Employer shall make such contributions to the Plan as the Participating Employer determines to be necessary or desirable in order to fund the benefits provided by the Plan and any expenses thereof which are paid out of the Trust Fund and in order to carry out the obligations of the Company and the Participating Employers set forth in Section 9.4. All contributions to the Plan shall be held by the Trustee in accordance with the trust agreement.

**8.9 Basis of Payments from the Plan.** All benefits payable under the Plan shall be paid by the Trustee out of the Trust Fund pursuant to the directions of the Committee or its authorized delegate and the terms of the trust agreement. The Trustee shall pay all proper expenses of the Plan and the Trust Fund out of the Trust Fund, except to the extent paid by the Company or Participating Employers.



## ARTICLE 9

### PLAN AMENDMENT OR TERMINATION

**9.1 Amendment of Plan.** Subject to the limitations set out below and any Collective Bargaining Agreement, the Company does hereby expressly and specifically reserve the sole and exclusive right at any time to modify or amend the Plan, in whole or in part, prospectively or retroactively, at any time, for any reason. The Company's right of amendment shall not be subject to the consent or concurrence of any other Employer, the Trustee, any Participant or any other interested party. In general, Genesis Energy, L.P. (the sole owner of the Sponsor), by duly adopted written resolution by the Board of Directors of Genesis Energy, LLC (as the General Partner of Genesis Energy, L.P.) or other corporate action permitted under applicable law, is authorized to amend the Plan on behalf of the Company. Any amendment that increases the amount of benefits payable to Participants under the Plan may be adopted by Genesis Energy, L.P. (the sole owner of the Sponsor), unless the amendment increases benefits merely on account of an increase in an applicable statutory limitation. The officers of the Company or Genesis Energy, L.P. (or its designee) may take all actions necessary or appropriate to implement or effectuate any Plan amendment. Any amendment shall be evidenced by a written instrument duly executed and/or certified by an officer of the Company or Genesis Energy, L.P. (or its designee).

9.1.1 No amendment shall result in or permit the return or repayment to the Company or any Participating Employer of any property held or acquired by the Trustee, or result in or permit the distribution of any such property for the benefit of anyone other than the Participants and their Beneficiaries or joint pensioners, except to the extent provided in the Plan with respect to expenses of administration and termination of the Plan and with respect to contributions that are returnable to the Company or a Participating Employer because they are made by a mistake of fact or are disallowed as a tax deductible expense under Section 404 of the Code or because the Plan is denied qualification under Section 401(a) of the Code.

9.1.2 No amendment shall change the duties or responsibilities of the Trustee without its written consent.

9.1.3 No amendment shall be effective to the extent it eliminates or reduces any Plan benefits or rights that are protected under Section 411(d)(6) of the Code unless such protected benefits or rights are preserved with respect to benefits accrued to the date of such amendment or unless such reduction or elimination is otherwise permitted by the Internal Revenue Service.

Subject to the foregoing limitations, any amendment may be made retroactively which, in the judgment of the Company or the Committee, as applicable, is necessary or advisable; provided, such retroactive amendment does not deprive a Participant, without his consent, of a right to receive benefits which have already vested and matured, except such amendments as are necessary to comply with any laws or regulations of the United States or of any state to qualify this as a tax exempt plan and trust

Participation in the Plan by Participating Employers shall not limit the power of the Sponsor under the foregoing provisions. Amendments by the Company or the Committee shall be binding upon all Participating Employers. Subject to consent of the Company or the Committee, each

Participating Employer may modify the provisions of the Plan, only as it pertains to its own Employees, by the adoption, in the manner described in Section 10.11, of a Supplement to the Plan specifying such modifications and upon approval by the Company or, if the Committee would otherwise have the power to adopt such amendment, the Committee.

Any Supplement to the Plan adopted by a Participating Employer or Participating Employers shall apply only to the Employees of the Participating Employer or Participating Employers adopting such Supplement and shall not affect the continued operation of the Plan with respect to any other Participating Employer.

Notwithstanding any other provision of the Plan, for a period of five (5) years after the date of any Change of Control the Plan cannot be completely or partially terminated, merged, consolidated, nor can assets of the Trust Fund be transferred or used to engage in any transaction involving or relating to the Plan where such transaction would or could cause assets of the Trust Fund (including assets in excess of the Plan's then liabilities) to be used to provide benefits to persons who were not prior to Change of Control either (i) Participants, Beneficiaries of Participant or eligible to participate in the Plan or (ii) a Beneficiary of a person described at (i). During the five (5) year period after a Change of Control, the Plan shall not be amended in any manner which would or could have the effect of weakening or eliminating the effect of the preceding sentence which is intended to preserve the assets of the Trust Fund (including excess assets) for the benefit of persons identified at (i) and (ii) above.

A "Change of Control" shall be deemed to have occurred if any person ("Person") as defined in Section 3(a)(9) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and as used in section 13(d) and 14(d) thereof, including a "group" as defined in section 13(d) of the Exchange Act, but excluding the Sponsor and any subsidiary and any employee benefit plan sponsored or maintained by the Sponsor or any subsidiary (including any trustee of such plan acting as trustee), directly or indirectly, becomes the "beneficial owner" (as defined in rule 13d-3 under the Exchange Act) of securities of the Sponsor representing twenty-five percent (25%) or more of the combined voting power of the Sponsor's then outstanding securities (other than indirectly as a result of the Sponsor's redemption of its securities).

**9.2 Termination of Plan.** In the event of the termination or partial termination of the Plan, the rights of each affected Participant to benefits accrued to such date of termination or discontinuance, to the extent then funded, shall be nonforfeitable. Such benefits shall be determined and distributed as provided in Section 9.4 hereof. If the participation in the Plan is terminated with respect to one or more but not all Employers that are members of a group of Employers with respect to which the Plan represents a Code Section 414(1) Single Plan, the Plan shall not be considered to have been terminated for the purposes of this Section 9.2 (although a partial termination of the Plan may result because of such termination of participation). Unless specifically required otherwise by law or by rules or regulations of the Internal Revenue Service, the nonforfeitable rights granted to Participants under the provisions of this Section shall not apply with respect to (i) any benefits (or portions thereof) that have been paid in a lump sum, whether voluntarily or involuntarily, under the provisions hereof and that have not been reinstated (by repayment or by the reinstatement of Years of Credited Service accrued prior to the date of such lump sum payment) in accordance with the provisions hereof prior to the date of the termination or partial termination of the Plan or (ii) any non-vested benefits that are deemed cashed out and forfeited at the date of termination of service

of a terminated or retired Participant whose service was terminated prior to the date of termination or partial termination of the Plan.

The Plan may be terminated by the Company at any time in the manner described in Section 10.11, on the part of each Employer then a party to the Plan specifying that the Plan is being terminated, the date as of which the termination is to be effective. Any successor business to a Participating Employer may provide for continuation of the Plan, is so authorized by the Company, in the manner set forth at Section 10.11. The Plan may be terminated with respect to one, but less than all, of the Participating Employers and the Plan continued for the remaining Participating Employers. The Plan shall automatically terminate as to a particular Participating Employer only upon dissolution of such Participating Employer or upon its liquidation, merger or consolidation without provision being made by its successor, if any, for the continuation of the Plan.

In the event of termination of the Plan, the death benefits provided under Article 6 shall not be payable on behalf of any Participant whose death occurs on or after the date of termination of the Plan; provided, however, if the death of the Participant occurs after the date of termination of the Plan and prior to (i) the date as of which an annuity is purchased on his behalf to provide the benefit to which he is entitled as a result of the termination of the Plan or (ii) the date as of which distribution is made on his behalf in some other manner as a result of the termination of the Plan, as the case may be, the amount required to provide the distribution to which he is entitled as a result of termination of the Plan shall be used to provide a benefit to his Spouse or other eligible Beneficiary; and provided further, however, the minimum qualified preretirement survivor annuity required under Section 417 of the Code shall be available on behalf of any such Participant who is married and whose death occurs prior to his Annuity Starting Date and on or after the date on which an annuity has been purchased to provide the benefit to which he is entitled as a result of termination of the Plan.

**9.3 Effect of Plan Termination.** Upon termination of the Plan, each Participant's rights to benefits accrued hereunder shall be vested and nonforfeitable, and the Trust shall continue until the Trust Fund has been distributed as provided in Section 9.4. Any other provision hereof notwithstanding, the Participating Employers shall have no obligation to continue making contributions to the Plan after termination of the Plan. Except as otherwise provided in ERISA, the Company, Participating Employers or any other person shall not have any liability or obligation to provide benefits hereunder after such termination in excess of the value of the Trust Fund. Upon such termination, Participants and Beneficiaries shall obtain benefits solely from the Trust Fund. Upon partial termination of the Plan, this Section shall apply only with respect to such Participants and Beneficiaries as are affected by such partial termination.

**9.4 Allocation of Trust Fund on Termination.** On termination of the Plan, the Trust Fund shall be allocated by the Committee on an actuarial basis among Participants and Beneficiaries in the manner prescribed by Section 4044 of ERISA. Any residual assets of the Trust Fund remaining after such allocation shall be distributed to the Company or the Participating Employers if (a) all liabilities of the Plan to Participants and Beneficiaries have been satisfied and (b) such a distribution does not contravene any provision of law. The benefit of any Highly Compensated Employee shall be limited to a benefit that is nondiscriminatory under Section 401(a)(4) of the Code. In the event of a partial termination of the Plan, the Committee shall arrange for the division of the Trust Fund, on a nondiscriminatory basis to the extent required by Section

401 of the Code, into the portion attributable to those Participants and Beneficiaries who are not affected by such partial termination and the portion attributable to such persons who are so affected. The portion of the Trust Fund attributable to persons who are so affected shall be allocated in the manner prescribed by Section 4044 of ERISA.

## **9.5 Provision To Prevent Discrimination.**

9.5.1 Purpose. To prevent discrimination in favor of Highly Compensated Participants, the provisions of this Section shall be applicable notwithstanding anything elsewhere contained in the Plan to the contrary.

9.5.2 Definitions. In this Section, the following terms shall have the meaning stated below:

(a) "Benefit" shall include among other benefits under the Plan, loans in excess of the amounts set forth in Section 72(p)(2)(A) of the Code, any periodic income, any withdrawal values payable to a living or former Employee, and any death benefits under the Plan not provided for by insurance on the Employee's or former Employee's life.

(b) "Social Security Supplement" shall have the meaning set forth in Treasury Regulation Section 1.411(a)-7(c)(4)(ii).

### **9.5.3 Limitations.**

(a) In the event of termination of the Plan, the Benefit of any Highly Compensated Employee (and any former Highly Compensated Employee) is limited to a Benefit that is nondiscriminatory under Section 401(a)(4) of the Code.

(b) The annual payments under the Plan to or on behalf of any Employee described in Section 9.5.4 are restricted to an amount in each taxable year of the Employee equal to the payments that would be made to or on behalf of the Employee under:

- (i) a straight life annuity that is the Actuarial Equivalent of the accrued benefit and other Benefits to which the Employee is entitled under the Plan (other than a Social Security Supplement), and
- (ii) the amount of the payments that the Employee is entitled to receive under a Social Security Supplement.

(c) The restrictions in paragraph (b) above do not apply, if any of the following requirements is satisfied:

- (i) after payment to or on behalf of an Employee described in Section 9.5.4 of all Benefits payable to or on behalf of the Employee, the value of Plan assets equals or exceeds one hundred and ten percent (110%) of the Plan's funding target liability,

- (ii) the value of Benefits payable to or on behalf of an Employee described in Section 9.5.4 is less than one percent (1%) of the Plan's funding target liability before distribution, or
- (iii) the value of the Benefits payable to or on behalf of an Employee described in Section 9.5.4 does not exceed the amount described in Section 411(a)(11)(A) of the Code.

9.5.4 Employees Whose Benefits are Restricted. The Employees whose Benefits are restricted on distribution include all Highly Compensated Employees and former Highly Compensated Employees.

A Highly Compensated Employee or former Highly Compensated Employee is not subject to restriction under this Article if he or she is not one of the twenty-five (25) (or larger number chosen by the Employer) excludable Employees and former Employees of the Employer with the largest amount of Earnings in the current or in any prior Plan Year.

9.5.5 Reasonable Method. Any reasonable and consistent method selected by the Committee may be used to determine the Plan's funding target liability and Plan assets.

## ARTICLE 10

### MISCELLANEOUS PROVISIONS

**10.1 Subsequent Changes.** All benefits to which any Participant may be entitled hereunder shall be determined under the Plan in effect when the Participant ceases to be an Eligible Employee and shall not be affected by any subsequent change in the provisions of the Plan, unless the Participant again becomes an Eligible Employee.

**10.2 Plan Mergers.** The Plan shall not be merged or consolidated with any other plan, and no assets or liabilities of the Plan shall be transferred to any other plan, unless each Participant would receive a benefit immediately after such merger, consolidation or transfer (if the Plan then terminated) which is equal to or greater than the benefit such Participant would have been entitled to receive immediately before such merger, consolidation or transfer (if the Plan had then been terminated).

**10.3 No Assignment of Property Rights.** The interest or property rights of any person in the Plan, in the Trust Fund or in any payment to be made under the Plan shall not be assignable nor be subject to alienation or option, either by voluntary or involuntary assignment or by operation of law, including (without limitation) bankruptcy, garnishment, attachment or other creditor's process, and any act in violation of this Section shall be void. This provision shall not apply to a "qualified domestic relations order" defined in Section 414(p) of the Code. The Employer shall establish a written procedure to determine the qualified status of domestic relations orders and to administer distributions under such qualified orders.

In addition, the prohibition of this Section will not apply to any offset of a Participant's benefit under the Plan against an amount the Participant is ordered or required to pay to the Plan under a judgment, order, decree or settlement agreement that meets the requirements as set forth in this Section. The Participant must be ordered or required to pay the Plan under a judgment of conviction for a crime involving the Plan, under a civil judgment (including a consent order or decree) entered by a court in an action brought in connection with a violation (or alleged violation) of Part 4 of Subtitle B of Title I of ERISA, or pursuant to a settlement agreement between the Secretary of Labor and the Participant in connection with a violation (or alleged violation) of that Part 4. This judgment, order, decree or settlement agreement must expressly provide for the offset of all or part of the amount that must be paid to the Plan against the Participant's benefit under the Plan. In addition, if a Participant is entitled to receive a 100% Joint and Survivor Annuity under Section 5.1 or a surviving Spouse's Benefit under Section 6.1, and the Participant is married at the time at which the offset is to be made, the Participant's Spouse must consent to the offset in accordance with the spousal consent requirements of Section 5.5.3, an election to waive the right of the Spouse to the 100% Joint and Survivor Annuity (made in accordance with Section 5.5) or the surviving Spouse's Benefit under Section 6.1, must be in effect, the Spouse is ordered or required in the judgment, order, decree, or settlement to pay an amount to the Plan in connection with a violation of Part 4 of Subtitle B of Title I of ERISA, or the Spouse retains in the judgment, order, decree, or settlement the right to receive the survivor annuity under the 100% Joint and Survivor Annuity or under the surviving Spouse's Benefit, determined in the following manner: the Participant terminated employment on the date of the offset, there was no offset, the Plan permitted the commencement of benefits only on or after

Normal Retirement Age, the Plan provided only the minimum-required qualified joint and survivor annuity, and the amount of the surviving Spouse's Benefit under the Plan is equal to the amount of the survivor annuity payable under the minimum-required qualified joint and survivor annuity. For purposes of this Section the term "minimum-required qualified joint and survivor annuity" means a qualified joint and survivor annuity which is the Actuarial Equivalent of the Participant's Accrued Benefit and under which the survivor's annuity is 50% of the amount of the annuity which is payable during the joint lives of the Participant and the Participant's Spouse.

**10.4 Benefits Payable to Minors, Incompetents and Others.** If any benefit is payable to a minor, an incompetent, or a person otherwise under a legal disability, or to a person the Committee reasonably believes to be physically or mentally incapable of handling and disposing of his or her property, whether because of his or her advanced age, illness, or other physical or mental impairment, the Committee has the power to apply all or any part of the benefit directly to the care, comfort, maintenance, support, education, or use of the person, or to pay all or any part of the benefit to the person's parent, guardian, committee, conservator, or other legal representative, wherever appointed, to the individual with whom the person is living or to any other individual or entity having the care and control of the person. The Plan, the Committee and any other Plan fiduciary will have fully discharged all responsibilities to the Participant or Beneficiary entitled to a payment by making payment under the preceding sentence.

**10.5 Employment Rights.** Nothing in the Plan shall be deemed to give any person a right to remain in the employ of the Employer or affect any right of the Employer to terminate a person's employment with or without cause.

**10.6 Proof of Age and Marriage.** Participants and Beneficiaries shall furnish proof of age and marital status satisfactory to the Committee at such time or times as it shall prescribe. The Committee may delay the disbursement of any benefits under the Plan until all pertinent information with respect to age or marital status has been furnished and then make payment retroactively.

**10.7 Applicable Law.** Unless superseded by federal law, the Plan shall be construed, enforced, and administered according to the laws of the State of Delaware.

**10.8 Claims Procedure.**

10.8.1 Filing a Claim. A Participant, Beneficiary or alternate payee (or an authorized representative) may make a claim for benefits under the Plan by filing a written claim, identified as a claim for benefits, with the Committee. In addition, the Committee may treat any writing or other communication received by it as a claim for benefits under these procedures, even if the writing or communication is not identified as a claim for benefits. The Committee will send the claimant a letter acknowledging the receipt of any communication that is treated as a claim for benefits. If the claimant fails to receive such an acknowledgement within sixty (60) days after making a claim, the claimant should contact the Committee to determine whether the claim has been received and identified as a claim for benefits.

10.8.2 Denial of Claim. If a claim is denied in whole or in part, the Committee shall notify the claimant of its decision by written notice, in a manner calculated to be understood by the claimant. The notice shall set forth:

- (a) the specific reasons for the denial of the claim;
- (b) a reference to specific provisions of the Plan on which the denial is based;
- (c) a description of any additional material or information necessary to perfect the claim and an explanation of why such material or information is necessary; and
- (d) an explanation of the procedure for review of the denied or partially denied claim set forth below, including the claimant's right to bring a civil action under Section 502(a) of ERISA following an adverse benefit determination on review.

Such notification shall be given within ninety (90) days after the claim is received by the Committee. If special circumstances (such as for a hearing) require a longer period, the claimant will be notified in writing, prior to the expiration of the ninety (90)-day period, of the expected decision date and the reasons for an extension of time; provided, however, that no extensions will be permitted beyond ninety (90) days after expiration of the initial ninety (90)-day period. A claim is considered approved only if its approval is communicated in writing to a claimant. If a claimant does not receive a response to a claim for benefits within the applicable time period, the claimant may proceed with an appeal under the procedures described in Section 10.8.3 below.

10.8.3 Review of Denial. Upon denial of a claim in whole or in part, a claimant (or his authorized representative) shall have the right to submit a written request to the Committee for a full and fair review of the denied claim, and shall have, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to the claimant's claim for benefits and may submit issues and comments in writing. The review shall take into account all comments, documents, records, and other information submitted by the claimant relating to the claim, without regard to whether such information was submitted or considered in the initial benefit determination. A request for review of a claim must be submitted within sixty (60) days of receipt by the claimant of written notice of the denial of the claim (or, if the claimant has not received a response to the initial claim, within one hundred and fifty (150) days of the filing of the initial claim).

If the claimant fails to file a request for review within sixty (60) days of the denial notification, the claim will be deemed abandoned and the claimant precluded from reasserting it. If the claimant does file a request for review, his request shall include a description of the issues and evidence he deems relevant. Failure to raise issues or present evidence on review will preclude those issues or evidence from being presented in any subsequent proceeding or judicial review of the claim.

The Committee shall provide a prompt written decision setting forth:

- (a) the specific reason or reasons for the adverse determination;



(b) a reference to specific Plan provisions on which the adverse determination was made;

(c) a statement that the claimant is entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to the claimant's claim for benefits; and

(d) a statement describing any voluntary appeal procedures offered by the plan and the claimant's right to obtain the information about such procedures and a statement of the claimant's right to bring an action under Section 502(a) of ERISA.

A decision shall be rendered no more than sixty (60) days after the Committee's receipt of the request for review, except that such period may be extended for an additional sixty (60) days if the Committee determines that special circumstances (such as for a hearing) require such extension. If an extension of time is required, written notice of the expected decision date and the reasons for the extension shall be furnished to the claimant before the end of the initial sixty (60)-day period.

To the extent of its responsibility to review the denial of benefit claims, the Committee shall have full authority to interpret and apply in its discretion the provisions of the Plan. The decision of the Committee shall be final and binding upon any and all claimants and any person making a claim through or under them.

**10.8.4 Limits on Right to Judicial Review.** No action at law or in equity shall be brought to recover benefits under the Plan until the mandatory appeal rights described in the Plan have been exercised and the Plan benefits requested in such appeal have been denied in whole or in part. If any judicial proceeding is undertaken to appeal the denial of a claim, challenge the amount of any benefit under the Plan or bring any other action under ERISA other than a breach of fiduciary duty claim, any such judicial proceeding must be filed within the earlier date of the following: (a) ninety (90) days after the final decision on any administrative claim for benefits submitted to the plan administrator; or (b) within three (3) years after the date when the Participant or Beneficiary submits their authorization to commence payment of the Plan benefits at issue in the judicial proceeding. The evidence presented in such a judicial proceeding will be strictly limited to the evidence timely presented to the Committee (or its designee). The statute of limitations set forth in this Section 10.8.4 shall apply in any forum where a claimant initiates such suit or legal action. If a civil action is not filed within this period, the claimant's benefit claim will be deemed permanently waived and abandoned.

**10.8.5 Other Claims.** Any other claims that arise under or in connection with the Plan, even though not claims for benefits, must be filed with the Committee and will be considered in accordance with these claims and appeals procedures.

**10.9 Clerical Errors or Omissions.** Clerical errors or omissions in information provided to a Participant or a Beneficiary of a Participant shall not cause such person to be deprived of his right to receive a benefit or affect the amount of his benefit if he would otherwise be entitled to such benefit under the provisions of this Plan. Conversely, such clerical errors or

omissions shall not cause a Participant or a Beneficiary of a Participant to receive a benefit to which he is not entitled to under the provisions of this Plan.

**10.10 Participation in the Plan by an Affiliate.** Any other corporation, association, joint venture, proprietorship, partnership or other business organization may, in the future, adopt the Plan on behalf of all or certain of its Employees by formal action on its part in the manner described in Section 10.11; provided the Company, by formal action and in the manner described in Section 10.11, and the Committee, both approve such participation.

The administrative powers and control of the Committee or, if applicable and as provided under the terms of the Plan, the Company shall not be deemed diminished under the Plan by reason of the participation of any other Employers in the Plan. Such administrative powers and control specifically granted herein to Genesis Energy, L.P. with respect to the appointment of the Committee, or to the Company or the Committee, as applicable, with respect to amendment of the Plan, and other matters, shall apply with respect all Participating Employers.

The Plan is a Code Section 414(1) Single Plan with respect to all Employers unless the Company or the Committee, by formal action and in the manner described in Section 10.11, specifically provides that the Plan shall be a Code Section 414(1) Single Plan with respect to any Employer or to any division of any Employer or with respect to any group of Employers and/or divisions; provided, if the Plan does not represent a Code Section 414(1) Single Plan with respect to all divisions of any Employer, the division or divisions with respect to which the Plan represents a separate a Code Section 414(1) Single Plan shall be considered for the purposes of this Section and treated under the Plan as one Employer and its other division or divisions shall be considered for the purposes of this Section and treated under the Plan as a separate Employer or, if applicable, as separate Employers.

The contributions of any Employer that is a member of a group of Employers with respect to which the Plan represents a Code Section 414(1) Single Plan shall be available to provide benefits on behalf of any Participants who are Employees of any other Employers that are members of such group but shall not be available to provide benefits on behalf of any Participants who are Employees of any Employers that are not members of such group. The contributions of any Employer with respect to which the Plan represents a Code Section 414(1) Single Plan for only that Employer shall be available to provide benefits on behalf of Participants who are its Employees but shall not be available to provide benefits on behalf of Participants who are Employees of any other Employers.

Any Participating Employer may withdraw from the Plan at any time by formal action and in the manner described in Section 10.11, specifying its determination to withdraw. Any such withdrawing Participating Employer shall furnish the Committee and the Trustee with evidence of the formal action of its determination to withdraw. Any such withdrawal may be accompanied by such modifications to the Plan as such Participating Employer shall deem proper to continue a retirement plan for its Employees separate and distinct from the retirement plan herein set forth. Withdrawal from the Plan by any Participating Employer shall not affect the continued operation of the Plan with respect to the other Participating Employers; provided if an Participating Employer that is a member of a group of Participating Employers with respect to which the Plan represents a Code Section 414(1) Single Plan withdraws from the Plan and

provision is made for the continuation of a retirement plan for its Employees separate and distinct from the retirement plan herein set forth, the share, if any, of the assets of the Trust Fund allocable to such group of Participating Employers that is transferred on behalf of such withdrawing Participating Employer to such other retirement plan shall be equal to the assets, if any, that would have been allocated on behalf of the Employees of such withdrawing Participating Employer under the provisions of Section 9.4 hereof if such withdrawing Participating Employer had terminated its participation in the Plan on the date of such withdrawal; provided, the Sponsor may, in its absolute discretion, direct that an additional amount of assets be transferred on behalf of such withdrawing Participating Employer to such other retirement plan if the transfer of such additional amount of assets would not lower the amount of the distributions that would be made on behalf of the Participants who are Employees of the other Participating Employers that are members of such group of Participating Employers with respect to which the Plan represents a Code Section 414(1) Single Plan if the Plan were terminated as of the effective date of such transfer with respect to all of the Participating Employers that are members of such group of Employers.

10.10.1 The Sponsor, by formal action and in the manner described in Section 10.11, may in its absolute discretion terminate any Participating Employer's participation in the Plan at any time, and the provisions of the Plan shall be applied with respect to such Participating Employer in the same manner as though it had voluntarily withdrawn as a Participating Employer.

**10.11 Action by Employer.** Any written action herein permitted or required to be taken by a Participating Employer shall be:

10.11.1 if a partnership, by written instrument executed by one or more of its general partners or by written instrument executed by a person or group of persons who has been authorized by written instrument executed by one or more general partners as having authority to take such action;

10.11.2 if a proprietorship, by written instrument executed by the proprietor or by written instrument executed by a person or group of persons who has been authorized by written instrument executed by the proprietor as having authority to take such action;

10.11.3 if a corporation, by resolution of its board of directors or other governing board, or by written instrument executed by a person or group of persons who has been authorized by resolution of its board of directors or other governing board as having authority to take such action;  
or

10.11.4 if a joint venture, by action on the part of the joint ventures in the manner described above.

**10.12 Required Information.** Each Participant and his Beneficiaries and joint pensioners shall furnish the Committee such information as the Committee considers necessary or desirable for purposes of administering the Plan. Payments under the Plan are conditioned on prompt provision by the Participant, Beneficiary, or joint pensioner of such true, full and complete information as the Committee may request.

Each Participant shall submit proof of his age and proof of the age of each Beneficiary and joint pensioner designated by him to the Committee at such time as required by the Committee. If such proof of age is not submitted as required, the Committee shall use as conclusive evidence of age such information as it deems to be reliable, regardless of the source of such information. Any adjustment required by reason of lack of proof or misstatement of the age of persons entitled to benefits will be in such manner as the Committee deems equitable.

Any notice or information required by the Plan or rules of the Committee to be filed with the Committee shall be deemed filed at the time that it is actually received by the Committee.

The Employer, the Committee and any person(s) involved in the administration of the Plan shall be entitled to rely any certification, statement, representation, or evidence made or furnished by an Employee, Participant, Beneficiary or joint pensioner as to his age or other facts required to be determined under any of provision of the Plan and shall not be liable due to the payment of any monies or the doing of any act or failure to act in reliance thereon. Any such duly made or furnished certification, statement, representation or evidence shall be conclusively binding upon the person furnishing same, but shall not be binding upon the Employer, Committee or any other person(s) administering the Plan. Nothing in the Plan shall be construed to prevent any such party from contesting any such certification, statement, representation or evidence or to relieve the Employee, Participant, Beneficiary or joint pensioner from the duty of submitting satisfactory proof of any such fact.

**10.13 Notification of Mailing Address.** Each Participant and other persons entitled to benefits shall file in writing with the Committee, from time to time, his post office address and each change of post office address. Any check representing payment hereunder and any communication addressed to a Participant, former Participant, Beneficiary, or pensioner hereunder at his last address filed with the Committee (or, if no such address has been filed, then at his last address as indicated on the records of the Participating Employer) shall be binding on such person for all purposes of the Plan. Neither the Committee nor the Trustee shall be obliged to search for, or ascertain, the location of any such person.

If, for any reason, the Committee is in doubt as to whether retirement income payments are being received by the person entitled thereto, it may, by registered mail addressed to such person and to such person's designated Beneficiary, if any, at their addresses last known to the Committee, notify such person and his Beneficiary that all unmailed and future retirement income payments shall be henceforth withheld until the Committee is provided with evidence of such person's continued life and his proper mailing address or with evidence of such person's death. If such notification is mailed to such person and his designated Beneficiary, the Committee is not furnished within three (3) years of the date such notification was mailed with evidence of such person's continued life and proper mailing address or with evidence of his death, and the Committee is unable to find any person to whom payment is due under the provisions of the Plan within three (3) years of the date such notification was mailed, all retirement income and other benefit payments due shall be forfeited at the end of such three (3) year period following the date such notification was mailed; provided, however, if claim for any forfeited benefit is subsequently made by any such person to whom payment is due under the Plan, such forfeited benefits due such person shall be reinstated.

**10.14 Written Communications Required.** Any notice, request, instruction or other communication to be given or made hereunder shall be in writing and either personally delivered to the addressee or deposited in the United States mail fully postpaid and properly addressed to such addressee at the last address for notice shown on the Committee's records.

## ARTICLE 11

### TOP HEAVY PROVISIONS

**11.1 Top Heavy Definitions.** For purposes of this Article, the terms listed in this Section shall have the meanings ascribed to them below.

11.1.1 "Account Balance" means the sum of:

- (a) the present value, as of the Determination Date, of a Participant's Accrued Benefit;
- (b) the aggregate distributions made with respect to such Participant (or Beneficiary) under the Plan and any plan aggregated with the Plan under Section 416(g)(2) of the Code during the one (1)-year period ending on the Determination Date.

The preceding provision shall also apply to distributions under a terminated plan that, had it not been terminated, would have been aggregated with the Plan under Section 416(g)(2)(A)(i) of the Code. In the case of a distribution made for a reason other than severance from employment, death, or disability, this provision shall be applied by substituting "five-year period" for "one-year period." If a distribution is made in the form of an annuity contract, the amount of such distribution shall be deemed equal to the actuarial value of the contract, determined on the date of distribution. Benefits paid on account of death shall only be included to the extent of the present value of the decedent's Accrued Benefit immediately prior to the date of death.

If any individual is a Non-Key Employee with respect to the Plan for any Plan Year, but such individual was a Key Employee with respect to the Plan for any prior Plan Year, any Accrued Benefit of such individual shall not be taken into account.

The Accrued Benefit of any individual who has not performed services for the Employer during the one (1)-year period ending on the Determination Date shall not be taken into account.

11.1.2 Notwithstanding anything in the Plan to the contrary, each plan of the Employer in which a Key Employee participates (in a Plan Year containing the Determination Date or any of the four (4) preceding Plan Years) and each other plan which, during this period, enables any plan in which a Key Employee participates during the period tested to meet the requirements of Code §401(a)(4) or 410(b), are required to be aggregated for top-heavy testing purposes and are, thereby, considered a "required aggregation group" for top-heavy testing purposes. Notwithstanding anything in the Plan to the contrary, a plan of the Employer is permitted, but not required, to be aggregated with the Plan's required aggregation group for top-heavy testing purposes, and thereby forms a permissive aggregation group for top-heavy testing purposes, if and only if the resulting aggregation group satisfies the requirements of Code §§401(a)(4) and 410 ("Permissive Aggregation Group"). In determining whether any individual is a Key Employee for top-heavy testing purposes, such individual's compensation shall include compensation earned with the Employer and any entity required to be aggregated with the Employer under Code section 414(b), (c), (m) or (o).

11.1.3 "Defined Benefit Plan" means any employee pension plan maintained by the Employer that is a qualified plan under Section 401(a) of the Code and is not a Defined Contribution Plan.

11.1.4 "Defined Contribution Plan" means any employee pension plan maintained by the Employer that is a qualified plan under Section 401(a) of the Code and provides for an individual account for each participant and for benefits based solely on the amount contributed to the participant's account, and any income, expenses, gains, and losses, and any forfeitures from accounts of other participants that may be allocated to such participant's account.

11.1.5 "Determination Date" means:

(a) if the Plan is not included in an Aggregation Group, the last day of the preceding Plan Year; or

(b) if the Plan is included in an Aggregation Group, the Determination Date as determined under the preceding Subsection that falls within the same calendar year as the determination date of each other plan included in such Aggregation Group.

11.1.6 "Former Key Employee" means an Employee or former Employee who is a Non-Key Employee with respect to the Plan for the Plan Year if such individual was a Key Employee with respect to the Plan for any prior Plan Year.

11.1.7 "Key Employee" means an Employee or former Employee (whether living or deceased), who, at any time during the Plan Year containing the Determination Date is (or was):

(a) an officer of the Employer with annual Compensation greater than \$170,000 (as adjusted under Section 416(i)(1) of the Code); provided that in no event shall the number of individuals treated as officers exceed fifty (50) Employees, or, if it would result in a smaller number of officers, the greater of three (3) Employees or ten percent (10%) of the total number of Employees;

(b) a Five-Percent Owner; or

(c) a person who has annual Compensation from the Employer of more than \$150,000 and who would be described as a Five-Percent Owner if "1%" were substituted for "5%" each time it appears in the definition of such term.

The determination of who is a Key Employee will be made in accordance with Section 416(i)(1) of the Code and the applicable regulations and other guidance of general applicability issued thereunder. For purposes of determining ownership in the Employer under this Section, the employer aggregation rules of Section 414 of the Code shall not apply.

11.1.8 "Non-key Employee" means any Participant in the Plan (including a Beneficiary of such Participant) who is not a Key Employee with respect to the Plan for a Plan Year.

11.1.9 RESERVED

11.1.10 "Present Value" means, in calculating a Participant's present value of Accrued Benefits as of a Determination Date, the sum of:

(a) the Actuarial Equivalent present value of Accrued Benefits;

(b) any Plan distributions made within the Plan Year that includes the Determination Date; provided, however, in the case of a distribution made for a reason other than severance from employment, death or disability, this provision shall also include distributions made within the four (4) preceding Plan Years. In the case of distributions made after the valuation date and prior to the Determination Date, such distributions are not included as distributions for top heavy purposes to the extent that such distributions are already included in the Participant's present value of Accrued Benefits as of the valuation date. Notwithstanding anything herein to the contrary, all distributions, including distributions under a terminated plan which if it had not been terminated would have been required to be included in an Aggregation Group, will be counted;

(c) any Employee Contributions, whether voluntary or mandatory. However, amounts attributable to tax deductible Qualified Voluntary Employee Contributions shall not be considered to be a part of the Participant's present value of Accrued Benefits;

(d) with respect to unrelated rollovers and plan-to-plan transfers (ones which are both initiated by the Participant and made from a plan maintained by one employer to a plan maintained by another employer), if this Plan provides for rollovers or plan-to-plan transfers, it shall always consider such rollover or plan-to-plan transfer as a distribution for the purposes of this Section. If this Plan is the plan accepting such rollovers or plan-to-plan transfers, it shall not consider such rollovers or plan-to-plan transfers, as part of the Participant's present value of Accrued Benefits;

(e) with respect to related rollovers and plan-to-plan transfers (ones either not initiated by the Participant or made to a plan maintained by the same employer), if this Plan provides the rollover or plan-to-plan transfer, it shall not be counted as a distribution for purposes of this Section. If this Plan is the plan accepting such rollover or plan-to-plan transfer, it shall consider such rollover or plan-to-plan transfer as part of the Participant's present value of Accrued Benefits, irrespective of the date on which such rollover or plan-to-plan transfer is accepted.

If an individual has not performed services for a Participating Employer within the Plan Year that includes the Determination Date, any Accrued Benefit for such individual shall not be taken into account.

#### 11.1.11 RESERVED

11.1.12 "Top Heavy Group" means an Aggregation Group in which, as of the Determination Date, the sum of:

(a) the aggregate of the Account Balances of Key Employees under all Defined Contribution Plans included in the Aggregation Group; and



(b) the aggregate of the present value of all Accrued Benefit for Key Employees under all Defined Benefit Plans included in the Aggregation Group,

exceeds sixty percent (60%) of a similar sum determined for all Employees included in the Aggregation Group.

11.1.13 A plan is a "Top Heavy Plan" if, as of the Determination Date, the aggregate of the accounts of Key Employees under a defined contribution plan exceeds sixty percent (60%) of the aggregate of the accounts of all employees under such plan or, in the case of a defined benefit plan, the present value of the cumulative Accrued Benefits under the plan for Key Employees exceeds sixty percent (60%) of the present value of the cumulative Accrued Benefits under the plan for all employees, all as adjusted by and determined in accordance with the provisions of Code §416(g). The determination of whether a plan is Top Heavy shall be made after aggregating each Plan of the sponsoring Employer in which at least one Key Employee participates and each other plan of the sponsoring Employer which enables any plan in which at least one Key Employee participates to meet the requirements of Code sections 401(a)(4) or 410, and after aggregating any plan not required to be aggregated by the foregoing if such aggregated group of plans, taking such plan into account, continues to meet the requirements of Code sections 401(a)(4) and 410.

Solely for the purpose of determining if the Plan, or any other plan included in a required aggregation group of which this Plan is a part, is Top Heavy (within the meaning of section 416(g) of the Code) the Accrued Benefit of an Employee other than a Key Employee (within the meaning of section 416(i)(1) of the Code) shall be determined under (a) the method, if any, that uniformly applies for accrual purposes under all plans maintained by the Employers required to be aggregated with the Employer under Code section 414(b), (c), (m) or (o), or (b) if there is no such method, as if such benefit accrued not more rapidly than the slowest accrual rate permitted under the fractional accrual rate of section 411(b)(1)(C) of the Code.

Notwithstanding anything else contained in the Plan, in the event that there is more than one defined benefit plan in the required aggregation group, the present value of benefits used to calculate present values in both this Plan and all other defined benefit plans in the required aggregation group shall be calculated using the actuarial assumptions as determined under Section 1.2 and any applicable Exhibit/Supplement.

**11.2 Top-Heavy Requirements.** Notwithstanding anything in the Plan to the contrary, for any Plan Year that the Plan is a Top-Heavy Plan, the Plan shall meet the requirements of this Article.

**11.3 Minimum Vesting Requirement for Top Heavy Plan.** The vested interest of a Participant who is credited with an Hour of Service after the Plan becomes a Top-Heavy Plan shall be determined under the following schedule:

<u>Years of Service</u>	<u>Percentage Vested</u>
1-2	0%
3	100%

If in any subsequent Plan Year, the Plan ceases to be a Top Heavy Plan, the Employer may, in its sole discretion, elect to continue to apply this vesting schedule in determining the vested portion of any Participant's Accrued Benefit, or revert to the vesting schedule in effect before this Plan became a Top Heavy Plan. Any such reversion shall be treated as a Plan amendment.

The computation of the nonforfeitable percentage of the Participant's interest in the Plan shall not be reduced as the result of any direct or indirect amendment to this Plan. In the event that this Plan is amended to change or modify any vesting schedule, a Participant with at least three (3) Years of Service as of the expiration date of the election period may elect to have the Participant's nonforfeitable percentage computed under the Plan without regard to such amendment. If a Participant fails to make such election, then such Participant shall be subject to the new vesting schedule. The Participant's election period shall commence on the adoption date of the amendment and shall end sixty (60) days after the latest of:

- (a) the adoption date of the amendment,
- (b) the effective date of the amendment, or
- (c) the date the Participant receives written notice of the amendment from the Employer.

#### **11.4 Minimum Benefit Requirement for Top Heavy Plan.**

11.4.1 Minimum Accrued Benefit: Except as otherwise provided in this Section, this Plan shall provide a minimum Accrued Benefit (expressed as an Individual Life Annuity commencing at Normal Retirement Date) for such Plan Year for each Participant who is a Non-Key Employee in an amount equal to product of (a) 1/12th of Compensation averaged over five (5) consecutive Plan Years (or actual number of Plan Years if less) that produce the highest average and (b) the lesser of (i) 2% multiplied by Years of Vesting Service or (ii) 20%. In determining Years of Vesting Service with the Employer, any service with the Employer shall be disregarded to the extent that such service occurs during a Plan Year when the Plan benefits (within the meaning of Section 410(b) of the Code) no Key Employee or Former Key Employee.

11.4.2 For each Participant who is a Non-Key Employee and who also participates in the Genesis Alkali, LLC Savings Investment Plan for a Plan Year during which both plans are top-heavy within the meaning of Section 416(g) of the Code, the Employer shall meet the minimum benefit and contribution requirements of Section 416 of the Code by providing a minimum contribution under the Genesis Alkali, LLC Savings Investment Plan in an amount equal to at least five percent (5%) of such Participant's Compensation for such Plan Year.

11.4.3 The minimum benefit shall not be integrated with Social Security and shall be made for each Participant who is a Non-Key Employee and who has been credited with one thousand (1,000) Hours of Service during the Plan Year, regardless of whether such Non-Key Employee is employed on the last day of the Plan Year in question and regardless of such Non-Key Employee's level of Compensation.

11.4.4 If payment of the minimum Accrued Benefit commences at a date other than Normal Retirement Date, or if the form of benefit is other than on Individual Life Annuity, the minimum Accrued Benefit shall be the Actuarial Equivalent of the minimum Accrued Benefit expressed as an Individual Life Annuity commencing at Normal Retirement Date.

## ARTICLE 12

### VETERANS' REEMPLOYMENT RIGHTS

Notwithstanding any provision of the Plan to the contrary, benefits and service credit with respect to Qualified Military Service will be provided in accordance with Section 414(u) of the Code as summarized below:

#### **12.1 Crediting Service.**

12.1.1 An Employee reemployed by the Employer in accordance with Chapter 43 of Title 38 of the United States Code shall be treated as not having incurred a Break-in-Service with the Employer by reason of such Employee's period of Qualified Military Service.

12.1.2 Upon reemployment by the Employer in accordance with Chapter 43 of Title 38 of the United States code, an Employee's period of Qualified Military Service shall be deemed service with the Employer for purposes of benefit accrual and vesting.

12.1.3 Compensation. An Employee who is in Qualified Military Service shall be treated as receiving Compensation from the Participating Employer during such period of Qualified Military Service equal to:

(a) the compensation the Employee would have received during such period if the Employee were not in Qualified Military Service, determined based on the rate of pay the Employee would have received from the Participating Employer but for absence during the period of Qualified Military Service; or

(b) if the Compensation the Employee would have received during such period was not reasonably certain, the Employee's average Compensation from the Participating Employer during the twelve (12)-month period immediately preceding the Qualified Military Service (or, if shorter, the period of service immediately preceding the Qualified Military Service).

#### **12.2 Treatment of Differential Wage Payments.**

12.2.1 An individual receiving a Differential Wage Payment shall be treated as an Employee of the Employer making the payment and all Differential Wage Payments shall be treated as Compensation.

12.2.2 This provision shall apply only if all Employees of the Employer performing Qualified Military Service are entitled to receive Differential Wage Payments on reasonably equivalent terms and, if eligible to participate in a retirement plan maintained by the Employer, to make contributions based on the payments on reasonably equivalent terms. For purposes of this provision, paragraphs (3), (4) and (5) of Section 410(b) of the Code shall apply.

12.2.3 For purposes of this Article, the term "Differential Wage Payments" means any payment which (i) is made by the Employer to an individual with respect to any period during

which the individual is performing Qualified Military Service and on active duty for a period of more than thirty (30) days, and (ii) represents all or a portion of the wages the individual would have received from the Employer if the individual were performing services for the Employer.

**12.3 Death Benefits.**

If a Participant dies while performing Qualified Military Service, his survivors are entitled to any additional benefits (other than benefit accruals relating to the period of Qualified Military Service) provided under the Plan had the Participant resumed employment with the Employer and then terminated employment on account of death.

To record the adoption of the Plan to read as set forth herein, the Board has caused authorized officer of the Company to execute the same this \_\_\_\_ day of \_\_\_\_\_, 2020.

Genesis Alkali, LLC

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Title: \_\_\_\_\_

## **EXHIBIT A**

### **LIST OF FACTOR TABLES AND EXHIBITS**

- Table 1: Factors to Convert From Life Annuity to 50% Joint and Survivor Annuity Plus Pop-Up on Beneficiary's Death — GREEN RIVER UNION
- Table 2: Factors to Convert From Life Annuity to 100% Joint and Survivor Annuity Plus Pop-Up on Beneficiary's Death — GREEN RIVER UNION
- Table 3: Factors to Convert From Individual Life Annuity to 50% Joint and Survivor Annuity — GREEN RIVER UNION

## SUPPLEMENT 1

### UNITED STEELWORKERS OF AMERICA, LOCAL NO. 13214 Green River, Wyoming

Supplement 1 to the Plan provides additional terms for Eligible Employees as described in Section 1-1(a). Except as otherwise provided in this Supplement, the definitions under Article 1 of the Plan apply to all capitalized terms used in this Supplement. All Section references in this Supplement are to Sections of this Supplement unless otherwise indicated.

Genesis Alkali, LLC is the only Participating Employer for purposes of this Supplement.

#### 1-1. Eligibility and Participant.

(a) Eligible Employees. The following Employees are "Eligible Employees" for purposes of this Supplement.

(i) Employees (A) who, as of March 31, 2015, worked in Green River, Wyoming, were covered by the Collective Bargaining Agreement entered into between FMC Corporation and the United Steelworkers of America, Local No. 13214, were employed by Alkali Holdings Corporation and were participants in the FMC Corporation Employees' Retirement Program Part II Union Hourly Employees' Retirement, and (B) who, on April 1, 2015, were employed by the Sponsor and covered by the Collective Bargaining Agreement previously entered into between FMC Corporation and the United Steelworkers of America, Local No. 13214.

(ii) Employees who are hired by the Sponsor after April 1, 2015 and are covered by the Collective Bargaining Agreement previously entered into between FMC Corporation and the United Steelworkers of America, Local No. 13214.

(iii) Employees who are hired by the Sponsor after July 1, 2016 and are covered by the Collective Bargaining Agreement entered into between Tronox Alkali Corporation and the United Steelworkers of America, Local No. 13214.

(b) Eligibility and Commencement of Participation.

(i) Notwithstanding Section 2.1 of the Plan, each Eligible Employee identified in Section 1-1(a)(i) shall automatically become a Participant on the original Effective Date.

(ii) Each Eligible Employee identified in Section 1-1(a)(ii) and (iii) shall become a Participant after satisfying the requirements set forth in Section 2.1 of the Plan.

#### 1-2. Special Service Rules.

(a) Years of Credited Service. For purposes of this Supplement, Years of Credited Service for an Eligible Employee identified in Section 1-1(a)(i) shall include all periods of service with FMC Corporation or its affiliates completed prior to April 1, 2015 which

are recognized as years of credited service under the FMC Corporation Employees' Retirement Program Part II Union Hourly Employees' Retirement.

(b) Years of Vesting Service. For purposes of this Supplement, Years of Vesting Service for an Eligible Employee identified in Section 1-1(a)(i) shall include all periods of service with FMC Corporation or its affiliates completed prior to April 1, 2015 which are recognized as years of vesting service under the FMC Corporation Employees' Retirement Program Part II Union Hourly Employees' Retirement.

1-3. Actuarial Equivalent.

Actuarial Equivalent for purposes of Section 1.2.2 of the Plan (other than for purposes of the qualified optional survivor annuity described in Section 1-5(b)(iv)) is based on Tables 1 and 2 attached to this Supplement. Actuarial Equivalent for purposes of Section 1.2.2 of the Plan in determining the optional form of benefit conversion for the qualified optional survivor annuity described in Section 1-5(b)(iv) is based on six percent (6%) interest compounded annually and the RP-2000CH Mortality Table (weighted eighty percent (80%) male, twenty percent (20%) female) as set forth in Table 3 attached to this Supplement.

1-4. Retirement Benefits.

(a) Amount of Normal Retirement Benefit. A Participant's Normal Retirement Benefit shall be equal to the amount described in Section 1-4(a)(i) less the amount described in Section 1-4(a)(ii), where:

(i) The product of the benefit rate determined under the following schedule in effect at the termination of the Participant's Years of Credited Service multiplied by the Participant's Years of Credited Service:

<u>Termination Date</u>	<u>Benefit Rate</u>
On or after April 1, 2015 and before July 1, 2015	\$85.00
On or after July 1, 2015 and before July 1, 2016	\$86.25
On or after July 1, 2016 and before July 1, 2017	\$88.25
On or after July 1, 2017 and before July 1, 2019	\$89.25
On or after July 1, 2019 and before July 1, 2020	\$90.25



On or after July 1, 2020 and before July 1, 2021	\$91.25
On or after July 1, 2021 and before July 1, 2022	\$92.25
On or after July 1, 2022 and before July 1, 2023	\$93.25
On or after July 1, 2023	\$94.25

(ii) The Participant's accrued benefit, if any, under the FMC Corporation Employees' Retirement Program Part II Union Hourly Employees' Retirement Plan as of March 31, 2015.

(b) Pension Supplement. A Participant who terminates and retires on or after reaching age sixty (60) or later shall receive a supplemental pension payment each month. This supplement is payable through the month of the Participant's sixty-fifth (65<sup>th</sup>) birthday (unless the Participant's birthday is the first of the month, then the supplement is only payable through the month preceding the Participant's sixty-fifth (65<sup>th</sup>) birthday). The supplement is only payable if the Participant commences benefits immediately. The benefit is the same dollar amount regardless of the payment option elected. In the event of the Participant's death, if the benefit was payable in a joint & survivor optional form, the supplemental benefit continues in the same amount to the Beneficiary (until the Participant would have attained age sixty-five (65)). Otherwise, payment of the supplemental benefit ceases upon the earlier of the death or the sixty-fifth (65<sup>th</sup>) birthday of the Participant. The amount of the supplement is determined based on the termination date and is summarized in the following table:

<b><u>Termination on or After Age 60</u></b>		
<b>On or After</b>	<b>Before</b>	<b>Monthly Supplement</b>
April 1, 2015	July 1, 2018	\$600, offset by the pension supplement, if any, under the FMC Corporation Employees' Retirement Program Part II Union Hourly Employees' Retirement Plan.
July 1, 2018	July 1, 2019	\$700, offset by the pension supplement, if any, under the FMC Corporation Employees' Retirement Program Part II Union Hourly Employees' Retirement Plan.
July 1, 2019		\$800, offset by the pension supplement, if any, under the FMC Corporation Employees' Retirement Program Part II Union Hourly Employees' Retirement Plan.

(c) Early Retirement.

(i) Early Retirement Benefit Reduction Factor (applicable to the benefit calculated in Section 1-4(a)(i)). The following reduction factors shall apply for purposes of Section 3.2.3 of the Plan.

(A) If a Participant has less than thirty (30) Years of Credited Service and his or her Early Retirement Benefit commences prior to age sixty-two (62), his or her Early Retirement Benefit shall be reduced by one-fourth of one percent (1/4%) for each month between his or her Annuity Starting Date and his or her sixty-second (62<sup>nd</sup>) birthday.

(B) If a Participant has thirty (30) or more Years of Credited Service and his or her Early Retirement Benefit commences prior to age sixty-two (62), his or her Early Retirement Benefit shall be reduced by one-sixth of one percent (1/6%) for each month between his or her Annuity Starting Date and his or her sixty-second (62<sup>nd</sup>) birthday.

(C) If a Participant's Early Retirement Benefit commences on or after age sixty-two (62), no reduction shall apply.

(D) The early retirement reduction factor calculated in this Section 1-4(c)(i) is applied to the benefit described in Section 1-4(a)(i), reflecting all Years of Credited Service.

(ii) Early Retirement Reduction Factor (applicable to the benefit offset calculated in Section 1-4(a)(ii)).

(A) An Early Retirement Reduction Factor is calculated in the same manner as in Section 1-4(c)(i), but reflecting only Years of Credited Service under the FMC Corporation Employees' Retirement Program Part II Union Hourly Employees' Retirement Plan as of March 31, 2015.

(B) The Early Retirement Reduction Factor calculated in this Section 1-4(c)(ii) is applied to the accrued benefit, if any, under the FMC Corporation Employees' Retirement Program Part II Union Hourly Employees' Retirement Plan as of March 31, 2015, described in Section 1-4(a)(ii).

(d) Deferred Vested.

(i) Deferred Vested Reduction Factor (applicable to the benefit calculated in Section 1-4(a)(i)). The following reduction factors shall apply for purposes of Section 3.4.2 of the Plan.

(A) If a Participant has less than thirty (30) Years of Credited Service and his or her Deferred Vested Benefit commences prior to age sixty-two (62), his or her Deferred Vested Benefit shall be reduced by one-fourth of one percent (1/4 of 1%) for each month between his or her Annuity Starting Date and his or her sixty second (62<sup>nd</sup>) birthday.

(B) If a Participant has thirty (30) or more Years of Credited Service and his or her Deferred Vested Benefit commences prior to age sixty-two (62), his or her Deferred Vested Benefit shall be reduced by one-sixth of one percent (1/6%) for each month between his or her Annuity Starting Date and his or her sixty-second (62<sup>nd</sup>) birthday.

(C) If a Participant's Deferred Vested Benefit commences on or after age sixty-two (62), no reduction shall apply.

(D) The deferred vested reduction factor calculated in this Section 1-4(d)(i) is applied to the benefit described in Section 1-4(a)(i), reflecting all Years of Credited Service.

(ii) Deferred Vested Reduction Factor (applicable to the benefit offset calculated in Section 1-4(a)(ii)).

(A) A deferred vested reduction factor is calculated in the same manner as in Section 1-4(d)(i), but reflecting only Years of Credited Service under the FMC Corporation Employees' Retirement Program Part II Union Hourly Employees' Retirement Plan as of March 31, 2015.

(B) The deferred vested reduction factor calculated in this Section 1-4(d)(ii) is applied to the accrued benefit, if any, under the FMC Corporation Employees' Retirement Program Part II Union Hourly Employees' Retirement Plan as of March 31, 2015, described in Section 1-4(a)(ii).

(C) The deferred vested benefit for participants, retiring at age fifty-five (55) or later, shall be equal to the benefit calculated in Section 1-4(a)(i) multiplied by the factor calculated in Section 1-4(d)(i) offset by the benefit described in Section 1-4(a)(ii) multiplied by the factor calculated in Section 1-4(d)(ii).

#### 1-5. Payment of Retirement Benefits.

(a) Normal Form of Benefit. For purposes of Section 5.1 of the Plan, if the Spouse of a Participant predeceases him or her after payment of the one hundred percent (100%) Joint and Survivor Annuity has commenced, the Participant's monthly pension will be increased to the amount of the Individual Life Annuity as of the first day of the month following the Committee's receipt of notice of such death.

(b) Optional Forms of Benefit. A married Participant may elect, with spousal consent in accordance with Section 5.5 of the Plan, to receive the Participant's benefits in one of the following forms:

(i) an Individual Life Annuity;

(ii) a fifty percent (50%) Joint and Survivor Annuity (which includes a pop-up benefit upon the Spouse's death as described below); or

(iii) a one hundred percent (100%) Joint and Survivor Annuity (which includes a pop-up benefit upon the Spouse's death as described below).

If the Spouse of a Participant predeceases the Participant after payment of the fifty percent (50%) Joint and Survivor Annuity provided in (ii) above or the one hundred percent (100%) Joint and Survivor Annuity provided in (iii) above has commenced, the Participant's monthly pension will be increased to the amount of the Individual Life Annuity as of the first day of the month following the Committee's receipt of notice of such death.

In addition, a married Participant may elect, with spousal consent and in accordance with Section 5.5 of the Plan, to receive Plan benefits in the following optional form, which shall be the Actuarial Equivalent of the Individual Life Annuity:

(iv) A "qualified optional survivor annuity" in accordance with Section 417(g) of the Code, providing an annuity: for the life of the Participant with a survivor annuity for the life of the Spouse that is equal to fifty percent (50%) of the amount of the annuity that is payable during the joint lives of the Participant and the Spouse. A qualified optional survivor annuity also includes any annuity in a form having the effect of an annuity described in the preceding sentence.