Article 171
Firefighters' Pension Fund

Amended Bill No. 6, Ordinance No. 6, 2026
Amended Bill No. 25, Ordinance No. 21, 2026

City of York Paid Firefighter's Pension Fund

Originally Effective
April 1, 1947

As Amended and Restated:
2008
2016
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Effective January 1, 2008~~8~~23

City of York Paid Firefighter's Pension Fund

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This plan document has been created from the model document developed by **Conrad Siegel** *Actuaries*. For further information regarding the drafter's intended meaning of plan provisions contact **Conrad Siegel** *Actuaries* by letter (P.O. Box 5900, Harrisburg, Pennsylvania 17110-0900) or telephone (717-652-5633). You may also contact us through our website at conradsiegel.com.

PREAMBLE

This amended and restated plan, executed on the date indicated at the end hereof, is made effective as of January 1, 20~~08~~**23,** except as provided otherwise in Section 1.4(b), by City of York, a governmental agency of the Commonwealth of Pennsylvania.

W I T N E S S E T H :

WHEREAS, effective April 1, 1947, the employer established the plan for the paid members of its Fire Department and desires to continue to maintain a permanent qualified plan pursuant to the Third Class City Code in order to provide these employees and their beneficiaries with financial security in the event of retirement; and

WHEREAS, it is desired to amend said plan;

NOW THEREFORE, the premises considered, the original plan is hereby replaced by this amended and restated plan, and the following are the provisions of the qualified plan of the employer as restated herein; provided, however, that each employee who was previously a participant shall remain a participant, and no employee who was a participant in the plan before the date of amendment shall receive a benefit under this amended plan that is less than the benefit he was then entitled to receive under the plan as of the day prior to the amendment.

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ARTICLE I – DEFINITIONS

Any use of a term defined in this article throughout the plan will have the meaning given here unless the context clearly indicates otherwise.

Section 1.1 – References

(a) **Act 205** means the Municipal Pension Plan Funding Standard and Recovery Act, act of December 18, 1984, P.L. 1005 no. 205, as amended, 53 P.S. 895.101, *et seq.*, as enacted by the Commonwealth of Pennsylvania.

(b) **The Third Class City Code** means Act of 1931, P.L. 932, No. 317 – Chapter 43, as amended, as enacted by the Commonwealth of Pennsylvania.

(c) **ERISA** means the Employee Retirement Income Security Act of 1974, as amended.

(d) **IRC** means the Internal Revenue Code of 1986, as it may be amended from time to time.

Section 1.2 – Actuarial Equivalent

(a) The present value of any benefit under the terms of this plan will be the actuarial equivalent of the accrued benefit in the normal form of benefit commencing at **the participant's** normal retirement date.

(b) In compliance with the Third Class City Code, this Plan does not provide optional forms of benefit payment; therefore, no actuarial equivalence for determining optional forms need be determined.

(c) **Limitations on Benefits** – For the purpose of implementing the limitations on benefits of IRC section 415, actuarial equivalence shall be determined based on the following mortality and interest assumptions:

Mortality table:	UP-1984 (-2)
Interest rate:	5.00% per annum compounded annually

For the purpose of applying the limitations on benefits of Section 7.1, the applicable mortality table is the applicable mortality table described in Treasury Regulation section 1.417(e)-1(d)(2) in effect for the plan year that contains the annuity starting date. The applicable interest rate is the annual rate of interest as determined under Treasury Regulation section 1.417(e)-1(d)(3) for the second month preceding the first day of the plan year that contains the annuity starting date.

Section 1.3 – Compensation/Average Annual Compensation

(a) (1) **Compensation** means the sum of the following for the applicable period:

- Base pay
- Longevity pay **(effective January 1, 1990)**

Picked-up contributions under IRC section 414(h)(2) shall be included in the participant's compensation.

Any reference in this plan to compensation shall be a reference to the definition in this Section 1.3, unless the plan reference specifies a modification to this definition. The plan administrator shall take into account only compensation actually paid by the employer for the relevant period. A compensation payment includes compensation by the employer through another person under the common paymaster provisions in IRC sections 3121 and 3306. Compensation from a related employer that is not a participating employer under this plan shall be excluded.

(2) **Exclusions From Compensation** – Notwithstanding the provisions of Section 1.3(a)(1), the following types of remuneration shall be excluded from the participant's compensation:

- Unused vacation, personal day, and sick pay paid on account of termination of employment
- Any lump sum payment made upon termination of employment

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(b) **Limitations on Compensation** – For any plan year beginning after December 31, 2001, the plan administrator shall take into account only ~~the first~~ $200,000 (or beginning January 1, 2003, as adjusted for cost-of-living increases in accordance with IRC section 401(a)(17)(B)) of any participant's annual compensation for determining all benefits provided under the plan for the applicable 12-month period. The compensation dollar limitation in effect for a plan year shall be the limitation amount in effect on January 1 of the calendar year in which the plan year begins. In determining benefits in plan years beginning on or after January 1, 2002, the annual compensation limit for determination periods beginning before January 1, 2002, shall be $150,000 for any determination period beginning in 1996 or earlier; $160,000 for any determination period beginning in 1997, 1998, or 1999; and $170,000 for any determination period beginning in 2000 or 2001. For any plan year beginning after December 31, 1995, the plan administrator shall take into account only ~~the first~~ $150,000 (or beginning January 1, 1995, as adjusted for cost-of-living increases in accordance with IRC section 401(a)(17)(B)) of any participant's compensation for determining all benefits provided under the plan for a determination period. If the plan should determine compensation on a period of time that contains less than 12 calendar months (such as for a short plan year), the annual compensation dollar limitation shall be an amount equal to the otherwise applicable annual compensation dollar limit for the plan year multiplied by the ratio obtained by dividing the number of full months in the period by 12.

Notwithstanding the preceding, in the case of an eligible participant, the annual compensation dollar limitation shall not apply to the extent that the application of the limitation would reduce the amount of compensation that is allowed to be taken into account under the plan below the amount that was allowed to be taken into account under this plan as in effect on July 1, 1993. For this purpose, an eligible participant is an individual who first became a participant in the plan during a plan year prior to the first day of the first plan year beginning after December 31, 1995.

(c) **Average Annual Compensation** means the higher of the average of a participant's annual compensation over the highest 5-consecutive-calendar year period preceding the date of employment termination or the final rate of annual compensation received by the participant immediately preceding the date of employment termination.

The annual compensation taken into account in determining average annual compensation shall be subject to the compensation dollar limitation described in Section 1.3(b) as in effect for each particular year.

Section 1.4 – Dates/Years

(a) **Accounting Date** means the last day of the plan year.

(b) The **Effective Date** of the plan is April 1, 1947.

The effective date of this amendment and restatement is January 1, 200~~8~~**23**; provided, however that the plan provisions required to comply with the Tax Reform Act of 1986 (TRA '86), the Omnibus Budget Reconciliation Act of 1986 (OBRA '86), the Omnibus Budget Reconciliation Act of 1987 (OBRA '87), and the Technical and Miscellaneous Revenue Act of 1988 (TAMRA) shall generally be effective on the first day of the plan year beginning after December 31, 1988, except as specified otherwise in this plan or in TRA '86, OBRA '86, OBRA '87 or TAMRA for a government sponsored plan. The plan provisions required to comply with the 1989 Revenue Reconciliation Act shall generally be effective on the first day of the plan year beginning after December 31, 1989, except as specified otherwise in this plan or in said Act. The plan provisions required to comply with the Unemployment Compensation Amendments of 1992 shall be effective on January 1, 1993, except as specified otherwise for a government sponsored plan. The plan provisions required to comply with the Omnibus Budget Reconciliation Act of 1993 shall generally be effective on the first day of the plan year beginning after December 31, 1993, except as specified otherwise in said Act.

The plan provision required to comply with the Family and Medical Leave Act **of 1993** shall be effective August 5, 1993, the plan provisions required to comply with the Uniformed Services Employment and Re-Employment Rights Act of 1994 shall be effective December 12, 1994, the plan provisions required to comply with the Retirement Protection Act of 1994 shall generally be effective on the first day of the first limitation year beginning after December 31, 1994, the plan provisions required to comply with the Small Business Job Protection Act of 1996 shall generally be effective on the first day of the plan year beginning after December 31, 1996, the plan provisions required to comply with the Taxpayer Relief Act of 1997 shall generally be effective on the first day of the plan year beginning after August 5, 1997, the plan provisions required to comply with the Economic

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Growth and Tax Relief Reconciliation Act of 2001 shall generally be effective on the first day of the plan year beginning after December 31, 2001, the plan provisions required to comply with the Pension Funding Equity Act of 2004 (PFEA) shall be effective for distributions made during the plan year beginning on or after January 1, 2004 and the plan year beginning on or after January 1, 2005, ~~and~~ the plan provisions required to comply with the Pension Protection Act of 2006 that are effective prior to the first day of the first plan year beginning on or after January 1, 2008 shall be effective as of the first day of the first plan year beginning on or after January 1, 2006, the plan provisions required to comply with the Heroes Earnings Assistance and Relief Tax Act of 2008 (HEART) shall be effective for plan years beginning on or after January 1, 2007, the plan provision required to comply with the Workers Retirees and Employers Relief Act of 2008 shall be effective as of January 1, 2009, the plan provision required to comply with the Setting Every Community Up for Retirement Enhancement Act of 2019 (SECURE) shall be effective as of January 1, 2020, the plan provision required to comply with the SECURE 2.0 Act of 2022 shall be effective as of January 1, 2023, and the plan provision required to comply with the Cumulative Lists as published by the Internal Revenue Service with respect to the years 2004 through 2022 shall generally be effective as of the first day of the plan year with respect to which the List was published, except as specified otherwise in this plan or in said Acts for a government sponsored plan.

(c) **Plan Entry Date** means the participation date(s) specified in Article II.

(d) **Plan Year** means the 12-consecutive-month period beginning on January 1 and ending on December 31.

(e) **Limitation Year** means the plan year.

Section 1.5 – Employee

(a) **Employee** means any person employed by the employer. The term employee shall include any employee of the employer maintaining the plan or of any other employer required to be aggregated with such employer under IRC sections 414(b), (c), (m) or (o), as such provisions may be interpreted to apply to a governmental entity by the Internal Revenue Service. The term employee shall also include any leased employee deemed to be an employee of any such employer as provided in IRC sections 414(n) or (o) and as defined in Section 1.5(b).

(b) **Leased Employee** means an individual (who otherwise is not an employee of the employer) who, pursuant to a leasing agreement between the employer and any other person, has performed services for the employer (or for the employer and any persons related to the employer within the meaning of IRC section 414(n)(6)) on a substantially full time basis for at least one year and such services are performed under the primary direction or control of the employer. If a leased employee is treated as an employee by reason of this Section 1.5(b), compensation from the leasing organization that is attributable to services performed for the employer shall be considered as compensation under the plan. 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.

Section 1.6 – Employer

Employer means City of York, a political subdivision of the Commonwealth of Pennsylvania, or any successor entity that may assume the obligations of this plan with respect to its employees by becoming a party to this plan.

Section 1.7 – Fiduciaries

(a) **Chief Administrative Officer** means the person appointed by the employer or the York Paid Firefighter's Pension Fund Board as described in Section 8.2 who has primary responsibility for the execution of the administrative affairs of the plan. the York Fire Pension Fund Association has been appointed as the Chief Administrative Officer and Plan Administrator.

(b) **Plan Administrator** means the Chief Administrative Officer.

(c) **Investment Manager** means a person or corporation other than a trustee appointed for the investment of plan assets.

Section 1.8 – Participant/Beneficiary/Spouse

(a) **Participant** means an eligible employee of the employer who becomes a member of the plan pursuant to the provisions of Article II, or a former employee who has an accrued benefit under the plan.

(b) **Beneficiary** means a person designated by a participant who is or may become entitled to a benefit under

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the plan. The beneficiary may be someone other than the participant's spouse, but only to the extent that this plan provides for a benefit to be payable to a non-spouse beneficiary. A beneficiary who becomes entitled to a benefit under the plan remains a beneficiary under the plan until the trustee has fully distributed his benefit to him. A beneficiary's right to (and the plan administrator's, or a trustee's duty to provide to the beneficiary) information or data concerning the plan shall not arise until he first becomes entitled to receive a benefit under the plan.

(c) **Spouse** means the person married to the participant at the time of the determination as evidenced by a marriage license valid under the laws of the place of issuance.

Section 1.9 – Plan

Plan means City of York Paid Firefighter's Pension Fund as set forth herein and as it may be amended from time to time.

Section 1.10 – Service

(a) **Service** means any period of time the employee is in the employ of the employer, including any period the employee is absent due to vacation, holidays, or sickness. Separation from service means that the employee no longer has an employment relationship with the employer.

(b) **Hour of Service** means each hour for which an employee is paid or entitled to payment for the performance of duties for the employer.

(c) **Break in Service** means any period of severance of at least 12 consecutive months.

(d) **(1) Period of Severance** means a continuous period of time during which the employee is not employed by the employer and is not credited with an hour of service. Such period begins on the date the employee retires, terminates service, or if earlier, the date on which the employee was otherwise first absent from service.

(2) If the employer is subject to the Family and Medical Leave Act of 1993 due to its employment of fifty employees, in the case of an individual who is absent from work for maternity or paternity reasons, the 12-consecutive-month period beginning on the first anniversary of the first date of such absence shall not constitute a break in service. For purposes of this paragraph, an absence from work for maternity or paternity reasons means an absence: (i) by reason of the pregnancy of the individual, (ii) by reason of the birth of a child of the individual, (iii) by reason of the placement of a child with the individual in connection with the adoption of such child by such individual, or (iv) for purposes of caring for such child for a period beginning immediately following such birth or placement.

(e) **Credit for Military Service** –Any employee who entered into the military service of the United States before employment with the employer shall receive credit for each year of military service or fraction thereof for a period not to exceed three years. Such service shall not be credited if the employee fails to make the required payment. The required payment for such crediting shall be computed by multiplying 10% of the employee's average annual rate of compensation over the first three years of service by the number of years and fractional parts of years of creditable nonintervening military service being purchased together with interest at the rate of 4.75% compounded annually from the date of employment to the date of payment.

No service shall be credited under this Section 1.10(e) if the employee is entitled to receive retirement benefits for such service under a retirement system administered and wholly or partially paid for by any other governmental agency with the exception of an employee eligible to receive military retirement pay earned by a combination of active duty and nonactive duty with a reserve or national guard component of the armed forces which retirement pay is payable only upon attainment of a specified age and period of service under 10 U.S.C. Ch 67 (relating to retired pay for non-regular service).

Effective December 12, 1994, contributions, benefits, and service credit with respect to qualified military service will be provided in accordance with IRC section 414(u) and the applicable Pennsylvania statutes. An employee reemployed after qualified military service shall not be treated as having incurred a break in service, for purposes of vesting and benefit accruals, solely because of an absence due to qualified military service.

Effective with respect to deaths occurring on or after January 1, 2007, in case of a participant who dies while performing military service, the beneficiary(ies) of the participant shall be entitled to any benefits payable under Sections 4.1 and 4.2 that would have been payable had the participant resumed and then

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terminated employment on account of death. Years of vesting service shall be credited under this provision for purposes of determining the amount of any death benefit payable.

(f) **Other Service Credited** – If the employer is a member of an affiliated service group under IRC section 414(m) or a controlled group of corporations under IRC section 414(b), or any other entity required to be aggregated with the employer pursuant to IRC section 414(o) as these Internal Revenue Code provisions are applied to a governmental entity, service shall be credited for any employment for any period of time for any other member of such group. Service shall also be credited for any leased employee who is considered an employee for purposes of this plan under IRC section 414(n) or (o).

(g) (1) **Year of Service** means 12 months of service, excluding any breaks in service. For purposes of determining an employee's initial year of service upon his employment, the initial year of service shall commence on the employee's first day of employment. The first day of employment is the first day the employee performs an hour of service. The first day of re-employment is the first day the employee performs an hour of service following a break in service. An initial year of service shall end on the day immediately preceding the first anniversary of the employee's date of hire or rehire. Any subsequent year of service shall commence on the day following the completion of the immediately preceding year of service.

(2) **Crediting Years of Service** – Service may be credited for the purpose of eligibility to participate, vesting, benefit accrual, or determining the benefit payable under the normal retirement benefit formula. Generally, no service shall be credited for periods during which the employee performs no services for the employer. Further, no more than one year of service will be credited for any 12-consecutive-month period.

(3) **Predecessor Service** – If the employer maintains the plan of a predecessor employer, service with such predecessor employer shall be treated as service for the employer. If the employer does not maintain the plan of a predecessor employer, then service as an employee of a predecessor employer shall not be considered as service under the plan.

Section 1.11 – Trust

(a) **Trust** means the qualified trust created under the employer's plan.

(b) **Trustee** means the person or persons appointed by the employer to be the trustee of the trust, or any duly appointed successor trustee.

ARTICLE II – PARTICIPATION

Section 2.1 – Plan Participation

(a) **Eligibility** – An employee who is a member of the eligible class of employees shall be eligible for plan participation provided that he agrees to make the mandatory contributions as set forth in Section 6.2.

(b) **Eligible Class of Employees** – Employees of the employer who are employed as paid firefighters on a regularly scheduled, full-time basis shall be eligible to be covered under the plan.

(c) **Entry Date** – An eligible employee shall participate in the plan on the first day he performs one hour of service.

Section 2.2 – Termination of Participation

A participant shall continue to be an active participant of the plan so long as he is a member of the eligible class of employees and he does not terminate employment. He shall become an inactive participant immediately if he ceases to be a member of the eligible class of employees or terminates employment. He shall cease participation completely upon the later of his receipt of a total distribution of his nonforfeitable accrued benefit under the plan or the forfeiture of the nonvested portion of the accrued benefit.

Section 2.3 – Re-Participation

(a) If a participant becomes an inactive participant, because he is no longer a member of the eligible class of employees; such inactive participant shall become an active participant immediately upon returning to the eligible class of employees. In the event an employee who is not a member of an eligible class of employees becomes a member of an eligible class, such employee shall participate immediately.

(b) If a participant incurs a break in service, he shall become an active participant immediately upon returning

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to employment.

ARTICLE III – RETIREMENT BENEFITS

Section 3.1 – Service Rules

(a) (1) **Year of Vesting Service** – For purposes of determining the nonforfeitable interest in the participant's accrued benefit, the employee shall receive credit for the aggregate of all time periods commencing with the employee's first day of employment or re-employment as a paid firefighter and ending on the date a break in service begins, except for periods of service disregarded below. The first day of employment or re-employment is the first day the employee performs an hour of service. Fractional periods of a year will be expressed in terms of days. One year of vesting service shall be credited for each 365-day period.

(2) **Break in Service Rules**

(A) **Vested Participant** – A former participant who had a nonforfeitable right to all or a portion of his accrued benefit derived from employer contributions at the time of his termination from service and who did not receive a distribution of his accumulated contributions shall retain credit for all years of vesting service prior to a break in service.

(B) **Nonvested Participant or Employee** – In the case of a former participant or employee who did not have any nonforfeitable right to his accrued benefit derived from employer contributions at the time of his termination from service or who received a distribution of his accumulated contributions, years of vesting service before a break in service shall not be taken into account in computing service, except as provided in Section 5.3.

(b) **Year of Benefit Service** – For the purpose of determining the participant's benefit under the pension benefit formula, the participant shall receive credit for the aggregate of all time periods commencing with the participant's first day of active participation or active reparticipation and ending on the date a break in service begins or the participant is no longer a member of an eligible class of employees, except for periods of service disregarded herein. One year of benefit service shall be credited for each 365-day period. Any years of service disregarded under Section 5.3 Accumulated Contribution Distribution and Restoration shall be disregarded for this purpose.

Section 3.2 – Normal Retirement

(a) (1) **Normal Retirement Age** – The normal retirement age of each participant who is hired on or after January 1, 2018, shall be the day on which he satisfies both of the following requirements:

(A) he attains age ~~50~~ 55; and

(B) he completes 20 years and 6 months of vesting service.

The normal retirement age of a participant who was hired on or after January 1, 1988, but prior to January 1, 2018, shall be the day on which he satisfies both of the following requirements:

(A) he attains age 50; and

(B) he completes 20 years of vesting service and 6 months of vesting service.

~~Notwithstanding the above, the~~ The normal retirement age of a participant who was hired prior to January 1, 1988, shall be the day on which he satisfies both of the following requirements:

(A) he attains age 50; and

(B) he completes 20 years of vesting service.

An actively employed participant's right to his normal retirement benefit shall be 100% vested and nonforfeitable upon attainment of the normal retirement age, notwithstanding the plan's vesting schedule. Date of hire shall be determined by the participant's initial date of hire. A subsequent termination and rehire will not alter the participant's rights hereunder.

(2) **Normal Retirement Date** – The normal retirement date of each participant shall be the first day of the month coincident with or next following the day on which he attains his normal retirement age as defined in Section 3.2(a)(1).

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(b) (1) **Normal Retirement Benefit** – The normal retirement benefit of each participant shall not be less than the largest periodic benefit that would have been payable to the participant upon separation from service at or prior to his normal retirement date under the plan exclusive of social security supplements, premiums on disability or term insurance, and the value of disability benefits not in excess of the normal retirement benefit, but taking into account any decrease in average annual compensation.

(2) **Normal Form of Payment** – The normal form of retirement benefit for each participant shall be a level annual pension payable in monthly installments during the participant's lifetime, with payments commencing on his normal retirement date, and ceasing upon the participant's death.

(c) **Pension Benefit Formula** – For participants hired prior to January 1, 1988, each eligible participant shall receive an annual benefit payable at his normal retirement date equal to 50% of average annual compensation. For participants hired on or after January 1, 1988, but prior to January 1, 2018, each eligible participant shall receive an annual benefit payable at his normal retirement date equal to 52% of average annual compensation. For participants hired on or after January 1, 2018, each eligible participant shall receive an annual benefit payable at his normal retirement date equal to 58% of average annual compensation.

(d) **Service Increment Benefit** – For participants hired prior to January 1, 1988, each eligible participant shall receive an annual service increment benefit equal to 1/40th of the pension benefit computed in Section 3.2(c) for each completed year of benefit service in excess of 20. In computing the service increment benefit, no service completed by the participant after attainment of age 65 shall be included. The total service increment benefit shall not exceed $1,200 per year. This benefit shall be payable in addition to the annual benefit payable under the pension benefit formula, provided the participant is eligible.

(e) **IRC Section 415 Limitation on Benefits** – Notwithstanding the benefits set forth in this Article, the annual benefit otherwise payable to a participant under this plan at any time shall be limited as provided in Section 7.1.

(f) **Postretirement Pension Allowance Increases for Former Employees** – For participants hired prior to January 1, 1988, accruals under the current benefit formula shall be annually increased on the accounting date by 50% of the dollar increase granted to active paid firefighters of the highest pay grade; or participants may elect the accruals be annually increased on the accounting date by 2.5%. Notwithstanding the above, for participants hired prior to January 1, 1988, who retired between January 1, 2003, and January 15, 2003, the annual increase shall be equal to 4.0% of the retirement benefit. The annual increase shall not cause the benefit payable to exceed the maximum permissible defined benefit dollar limit as described in Section 7.1(e)(5) for the calendar year as cumulatively adjusted.

For participants hired on or after January 1, 1988, but prior to January 1, 2018, accruals shall be annually increased on the accounting date by 2.5%. The annual increase shall not cause the benefit payable to exceed the maximum permissible defined benefit dollar limit as described in Section 7.1(e)(5) for the calendar year as cumulatively adjusted.

Notwithstanding the above, no increase shall result in a total retirement benefit in excess of 50% of the salary being paid to paid firefighters of the highest pay grade on the accounting date.

No annual increase will be provided under this Section 3.2(f) for a participant hired on or after January 1, 2018.

Section 3.3 – Accrued Benefit

A participant's accrued benefit at any time equals: (a) the product of the normal retirement benefit determined in accordance with Section 3.2(c) multiplied by a fraction, the numerator of which is the number of years of benefit service at such date, and the denominator of which is the number of years of benefit service the participant would have as of the year containing his normal retirement date if he continues to work until such date; plus (b) any service increment benefit.

If a participant begins receiving benefits at a time other than his normal retirement date, the participant's benefit will be determined in accordance with Section 3.4 if benefits commence after his normal retirement date and in accordance with Section 3.5 if benefits commence before his normal retirement date.

Section 3.4 – Late Retirement

(a) **Nonforfeitability** – If a participant remains employed after his normal retirement date, his benefits shall remain 100% vested and nonforfeitable. Payment of benefits shall not commence until his actual

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retirement date.

(b) **Suspension of Benefits Until Payment** – Payment of normal retirement benefits shall be suspended for each calendar month during which the participant remains employed after his normal retirement date. For this purpose, remains employed means the participant continues to be employed as a full-time paid firefighter with the employer. The amount of benefits that are paid later than his normal retirement date shall be computed under the pension benefit formula, and shall be increased by any service increment benefit. The participant's pension benefit shall be determined on the basis of the participant's years of service for benefit accrual completed before and during the period of suspension; and the participant's compensation with the employer during the period of suspension shall be included in any relevant determination of average annual compensation.

If as a result of additional benefit accruals the accrued benefit of such participant would exceed the IRC section 415 limitations under Section 7.1 of the plan for such year, immediately before the additional benefit accrual that would cause his benefit to exceed the limitations of IRC section 415, such additional benefit accrual for such participant shall be suspended and shall remain suspended for each calendar month thereafter until such time as the additional benefit accrual becomes permissible under Section 7.1.

Section 3.5 – Early Retirement

No early retirement benefit is provided under this plan.

Section 3.6 – Disability Retirement

If an actively employed participant who has completed 10 years of vesting service suffers a service connected disability and is unable to perform his normal duties prior to his normal retirement date, he may receive a disability benefit under the plan. Such disabled participant shall be entitled to an annual disability benefit equal to 30% of average annual compensation at the time the disability was incurred, plus 2% of average annual compensation at the time the disability was incurred multiplied by the number of years of benefit service completed by the participant in excess of 10, up to a maximum disability benefit of 50% of average annual compensation at the time the disability was incurred.

If an actively employed participant who has completed 10 years of vesting service suffers a non-service connected disability and is unable to perform his normal duties prior to his normal retirement date, he may receive a disability benefit under the Plan. Such disabled participant shall be entitled to an annual disability benefit equal to 30% of average annual compensation at the time the disability was incurred, plus 2% of average annual compensation at the time the disability was incurred multiplied by the number of years of benefit service completed by the participant in excess of 10, up to a maximum disability benefit of 50% of average annual compensation at the time the disability was incurred. The disability retirement benefit otherwise payable under this plan shall be offset by any Workers' Compensation, Heart and Lung, or any other occupational disease benefits received by the participant for the same injuries.

Disability benefit payments shall cease upon death or upon recovery from disability prior to the date on which the disabled participant would have reached his normal retirement date if he had continued as an active participant under the plan. If disability benefits cease due to death before the participant's attainment of his normal retirement date, the death benefit payable shall be the appropriate preretirement death benefit described in Section 4.2, without any reduction with respect to disability payments that have been made. For the purpose of determining whether there has been a recovery, the Board may require evidence of continued disability. Such evidence may include examination by two practicing physicians selected by the Board. The participant's refusal to submit to medical examinations shall render him ineligible for disability benefits.

If disability continues until attainment of normal retirement date, the disability benefit shall continue until death.

Disability means inability to perform the duties of a paid firefighter by reason of any medically determinable physical or mental impairment that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than 12 months.

The permanence and degree of the impairment shall be supported by medical evidence. The Board shall determine whether the participant is disabled as defined hereunder after consultation with two practicing physicians chosen by the Board. The physicians shall examine the participant at the participant's place of residence or at a place mutually agreed upon. In the administration of this Section, all employees shall be treated in a uniform manner in similar circumstances.

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Section 3.7 – Benefit Distribution

(a) **Commencement of Benefits** – Subject to the limitations of this plan, the benefit distribution shall commence as soon as administratively feasible after the later of the participant's termination of employment or his satisfaction of the normal retirement date requirements, provided that he files a written application for the retirement benefit.

(b) **Form of Payment** – A participant shall receive distribution of his accrued benefit as an annual pension payable in monthly installments as long as the participant lives.

(c) **General Payment Provisions**

(1) If any person entitled to receive benefits hereunder is physically or mentally incapable of receiving or acknowledging receipt thereof, and if a legal representative has been appointed for him, the plan administrator may direct the benefit payment to be made to such legal representative.

(2) At the direction of the plan administrator, the trustee may make pension payments directly from the fund or may take such steps as may be required to purchase an annuity contract from an insurance company for the participant, provided that the annuity contract purchased on behalf of such participant shall be sufficient to provide the benefits to which the participant is entitled. The ownership of the annuity contract shall remain with the trustee, unless the plan administrator determines otherwise. Any annuity contract distributed herefrom shall be non-transferable. The application and directions to the insurance company for such annuity contract shall be made by the plan administrator. The terms of any such annuity contract purchased by the plan shall comply with the requirements of this plan. Any dividend, refund or recovery on an annuity contract shall be used to reduce subsequent employer contributions.

(3) The benefits due any participant on account of his most recent period of employment shall not duplicate any benefits due the same participant under this plan on account of previous employment with the employer.

Section 3.8 – Suspension of Benefits

Subject to the requirements of Section 7.2, benefits in pay status shall be suspended if a participant returns to employment as a full-time paid firefighter with the employer. If the participant accrues an additional benefit, the plan shall offset the actuarial value of the distributions made to the participant by the last day of the preceding plan year against the retirement benefit as of such date. However, to determine the benefit payable to the participant on or after his succeeding termination of employment, the plan shall offset the actuarial value of such benefit distributions that are made to the participant by the date of his succeeding termination of employment against his retirement benefit determined as of such date.

Section 3.9 – Domestic Relations Orders

Nothing contained in this plan prevents the trustee, in accordance with the direction of the plan administrator, from complying with the provisions of an acceptable domestic relations order that creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to receive all or a portion of the benefits payable with respect to a participant under the plan.

A distribution under an acceptable domestic relations order will not be made to an alternate payee until the participant is entitled to a distribution under this plan and commences such distribution. Nothing in this Section permits the alternate payee to receive a form of payment not otherwise permitted under the plan.

The plan administrator shall establish reasonable procedures to determine the acceptability of a domestic relations order in accordance with IRC section 414(p). Upon receiving a domestic relations order, the plan administrator promptly will notify the participant and any alternate payee named in the order, in writing, of the receipt of the order and the plan's procedures for determining the acceptability of the order. Within a reasonable period of time after receiving the domestic relations order, the plan administrator shall determine the acceptability of the order and shall notify the participant and each alternate payee, in writing, of its determination. The plan administrator shall provide notice under this paragraph by mailing to the individual's address specified in the domestic relations order.

If any portion of the participant's nonforfeitable accrued benefit is payable during the period the plan administrator is making its determination of the acceptability of the domestic relations order, the plan administrator shall make a separate accounting of the amounts payable. If the plan administrator determines the order is an acceptable domestic relations order within 18 months of the date amounts first are payable following receipt of the order, it shall direct the trustee to distribute the payable amounts in accordance with the order. If the plan administrator does not make its determination of the acceptability of the order within the

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18-month determination period, it shall direct the trustee to distribute the payable amounts in the manner the plan would distribute if the order did not exist and will apply the order prospectively if it later determines the order is an acceptable domestic relations order.

ARTICLE IV – DEATH BENEFITS

Section 4.1 – Death Benefit With Respect to Employee Contributions

(a) **Benefit Payable** – If a participant dies prior to his annuity starting date (as defined in Section 7.1(e)(12)) and if no death benefit is payable under Section 4.2, an amount equal to the participant's accumulated contributions as determined under Section 6.2 shall be payable to the participant's designated beneficiary in one lump sum after compliance with the notice requirements of Section 6.2(d).

(b) **Beneficiary Designation** – The participant shall have the right to designate his beneficiaries, including a contingent beneficiary, and shall have the right at any time to change such beneficiaries. The designation shall be made in writing on a form supplied by the plan administrator. No designation shall be effective until filed with the plan administrator. If the participant fails to designate a beneficiary, or if the designated person or persons predeceases the participant, "beneficiary" shall mean the surviving spouse. If there is neither a named beneficiary nor a surviving spouse, then the benefit shall be payable to any eligible child (or children) of the participant. In the case of multiple eligible children, the benefit payable shall be divided equally among the children. If there is no named beneficiary, no surviving spouse, and no eligible child, the benefit shall be payable to the estate of the participant.

(c) **Eligible Child** – For purposes of this Article IV, an eligible child is a child of the participant who is under the age of 18. Child shall include the adopted child of the participant.

Section 4.2 – Survivor Benefit

If a retired or disabled participant who is receiving a pension benefit dies or if an active participant dies after meeting the eligibility requirements for normal retirement, the participant's surviving spouse shall receive a benefit equal to 100% of the retirement benefit that the participant was receiving or would have been receiving if the participant had been retired on the date of death.

If an active participant dies prior to meeting the eligibility requirements for normal retirement, the participant's surviving spouse shall receive an annual benefit equal to 30% of average annual compensation at the time of the participant's death, plus 2% of average annual compensation at the time of the participant's death multiplied by the number of years of benefit service completed by the participant in excess of 10, up to a maximum benefit of 50% of average annual compensation at the time of the participant's death.

Payment shall be in the form of a pension (without actuarial adjustment with respect to the age of the beneficiary) and shall commence as of the first day following the date of the participant's death. Payment to the surviving spouse shall cease upon the death of the surviving spouse.

If there is no surviving spouse or if the surviving spouse dies (thereby ceasing to be the surviving spouse of the participant), then the benefit shall be payable to any eligible child (or children) of the participant as defined in Section 4.1(c). In the case of multiple eligible children, the benefit payable shall be divided equally among the children. Payment shall cease upon the earlier of death or attainment of age 18.

The participant's spouse cannot waive receipt of this benefit. In the case of an unmarried participant who has no children under the age of 18, no death benefit shall be payable under this Section 4.2, but a death benefit may be payable under Section 4.1. The death benefit payable shall not be less than the benefit payable under Section 4.1. In the event that there is no spouse or child eligible to receive the death benefit payable under this Section 4.2, the death benefit provided under Section 4.1 shall be paid as described therein. The distribution shall comply with the Distribution Requirements of Section 7.2(d)(2).

If there is an acceptable domestic relations order in force with respect to the participant, the alternate payee shall receive a portion of the death benefit to the extent provided in the order, but only if the alternate payee has not died. However, no order shall be accepted if it provides that the alternate payee shall be the surviving spouse creating a right to a death benefit under this Section 4.2 as the death benefit payable hereunder is only payable with respect to a widow or widower or an eligible child.

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ARTICLE V – TERMINATION OF EMPLOYMENT BENEFITS

Section 5.1 – Vesting

If a participant hired prior to January 1, 1988, separates from the service of the employer after he has been credited with 20 years of vesting service, or if a participant hired on or after January 1, 1988, separates from the service of the employer after he has been credited with 20 years and 6 months of vesting service, he shall be entitled to a vested deferred pension payable at age 50 (age 55 in the case of a participant who is hired on or after January 1, 2018) equal to the normal retirement benefit based upon his average annual compensation at the date of termination, if the participant continues to make contributions to the Plan after termination until he ~~attains age 50~~ meets his normal retirement age requirement in an amount equal to the amount he was contributing at the date of termination. For participants hired prior to January 1, 1988, this continued contribution obligation shall not include the service increment portion if the participant has not completed more than 20 years of benefit service.

If a participant separates from the service of the employer other than by retirement or disability, he shall forfeit any benefit accrued under Section 3.3 unless he has been credited with 10 years of vesting service. A participant who has been credited with 10 years of vesting service shall be entitled to a vested deferred pension if he files with the Chief Administrative Officer ~~Association~~ a written notice of his intention to vest within 30 days of the date he terminates employment or ceases to be a member of the eligible class of employees. Such vested deferred pension shall be equal to the benefit accrued to the date of termination.

Section 5.2 – Payment of Benefits

(a) **Payment as of Normal Retirement Date** – If the participant terminates his employment on or before his normal retirement date, payment of the vested accrued pension may begin at his normal retirement date. If payments do not commence until after his normal retirement date, distribution must begin by the required beginning date for minimum required distributions and the amount of the benefit payable shall be determined as provided in Section 3.4.

(b) **Payment Prior to Normal Retirement Date** – No accrued benefit is payable before the normal retirement date, except in the event of death or disability. Nevertheless, if the participant is not eligible to receive his benefit accrued under Section 3.3 at the time of his termination of employment, he shall receive an amount equal to his accumulated contributions as soon as administratively possible after severance of employment as provided in Section 6.2.

(c) **Death Before Retirement** – If a participant terminates employment and dies before beginning to receive retirement benefits, a pre-retirement death benefit may be payable, to the extent provided under Article IV.

(d) **Forfeiture for Malfeasance** – Notwithstanding any other provision of this plan, a participant who is convicted or pleads guilty to engaging in criminal misconduct which constitutes a "crime related to public office or public employment," as that phrase is defined in Pennsylvania Pension Forfeiture Act, 43 P.S. 1311-1314 and interpreted thereunder, shall forfeit his right to receive a pension benefit under this plan. In such a case, the participant shall only be entitled to receive the contributions, if any, he made under Section 6.2, without interest.

Section 5.3 – Accumulated Contribution Distribution and Restoration

(a) **Accumulated Contribution Distribution** – If an employee receives a distribution of his accumulated contributions under Section 6.2, the employee's vested accrued benefit shall be zero. For purposes of this section, if the value of an employee's accumulated contributions is zero, he shall be deemed to have received a distribution of such vested accrued benefits. In determining the participant's accrued benefit after the occurrence of such a distribution, the plan shall disregard all years of benefit service performed by such employee before the date of distribution.

(b) **Restoration** – If a participant receives a distribution pursuant to this Section and if he resumes covered employment under the plan, he shall have the right to restore his accrued benefit under Section 3.2 upon the repayment to the plan of the full amount of the distribution. In order to make a total or partial repayment, the employee may transfer to the plan the account balance of the individual retirement account or annuity to which the distribution being repaid was transferred, provided that both transfers are accomplished in compliance with IRC section 408(d). Such repayment must be made within 90 days after the participant returns to active participation.

If a participant is eligible to restore his accrued benefit, but such restoration has not been made; then, for the purpose of determining years of benefit service and years of vesting service, years of service before

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the employee's break-in-service shall be disregarded. If an employee is deemed to receive a distribution pursuant to Section 5.3(a), and he resumes covered employment under this plan at any time thereafter, upon the re-employment of such employee the plan shall take into account all years of benefit service performed by such employee before the date of such deemed distribution.

(c) **Forfeitures**

(1) Time of Forfeiture – If a participant terminates employment before his accrued benefit under Section 3.2 is fully vested, his accrued benefit shall be forfeited on the earlier of:

(A) The date the participant receives his entire vested accumulated contributions.

(B) The date the participant terminates employment or ceases to be a member of the eligible class of employees.

(2) Disposition of Forfeiture – Forfeitures shall serve to reduce subsequent employer contributions under the plan.

ARTICLE VI – CONTRIBUTIONS

Section 6.1 – Contributions Other Than Employee Contributions

(a) **Application of Certain Receipts** – The amounts of the payments made by the Treasurer of the Commonwealth from the monies received from taxes paid upon premiums by foreign casualty insurance companies and foreign fire insurance companies, that are determined by the employer to be deposited in the fund, shall become part of the fund.

Any other monies paid into the fund including gifts, grants, devises or bequests granted to the trust fund shall become part of the fund.

(b) **Employer Contributions** – The Chief Administrative Officer of the plan shall determine the financial requirements of the plan on the basis of the most recent actuarial report and shall determine the minimum obligation of the employer with respect to funding the plan for any given plan year. The Chief Administrative Officer shall submit the financial requirements of the plan and the minimum obligation of the employer to the employer (or its governing body) annually and shall certify the accuracy of such calculations and their conformance with Act 205. To the extent that the payments received under Section 8.4(a)(2) do not exceed the employer's annual obligation for future service cost, as determined by the actuary in accordance with Act 205, the employer shall be obligated to make such contribution to the trust by annual appropriations.

Section 6.2 – Mandatory Employee Contributions

(a) **Mandatory Contribution Amount** – As a condition of participation in this Plan, each active participant must contribute, on an after-tax basis, a percentage of his compensation as established each year.

For participants hired prior to January 1, 1988, the mandatory contribution shall be 5.00% of the participant's compensation. In addition, each active participant shall contribute 0.5% of compensation, up to a maximum of $1.00 per month, to fund the service increment benefit. The contribution for the service increment benefit shall not be required after the participant has attained age 65.

For participants hired on or after January 1, 1988, and prior to January 1, 2007, the mandatory contribution shall be 5.00% of the participant's compensation.

For participants hired on or after January 1, 2007, the mandatory contribution shall be 6.00% of the participant's compensation.

(b) **Employee Contributions** – Effective January 1, 1991, the employer shall contribute an amount equal to the mandatory employee contribution amount set forth in Section 6.2(a) as a pick-up contribution (pursuant to IRC section 414(h)(2)) in lieu of the prior mandatory employee contribution. The contribution shall be made on a pre-tax basis, and there shall be a corresponding reduction in compensation paid to the participant.

(c) **Determination of Accumulated Contributions** – The participant's accumulated contributions shall be equal to his mandatory employee contributions. A participant shall be 100% vested in his accumulated contributions.

(d) **Withdrawal of Accumulated Contributions** – Upon termination of employment, a participant who is not

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vested in his benefit accrued under Section 3.3 shall receive an amount that is equal to his total accumulated contributions. The withdrawal shall be payable in one lump sum. Thereafter, the former participant shall have no further right to any benefit under this plan.

In no event may any amount be withdrawn or distributed until the participant's retirement, disability, death or termination of employment, regardless of the income tax accounting treatment required by IRC section 72(e)(8)(D).

(1) **Eligible Rollover Distribution** – Effective for distributions made on or after January 1, 1993, a distributee may elect, at the time and in the manner prescribed by the plan administrator, to have any eligible portion of a lump sum distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover payment.

(A) **Eligible Rollover Distribution** – An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under IRC section 401(a)(9) and the portion of any distribution that is not includable in gross income; and any other distribution(s) that is reasonably expected to total less than $200 during a year.

A portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includable in gross income. However, such portion may be transferred only to: (A) a traditional ~~an~~ individual retirement account or annuity described in IRC section 408(a) or (b) (traditional IRA) or a Roth IRA or annuity described in IRC section 408A (Roth IRA); (B) ~~for taxable years beginning after December 31, 2001 and before January 1, 2007, to a qualified defined contribution plan described in IRC section 401(a) or 403(a) that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includable in gross income and the portion of such distribution which is not so includable; or (C) for taxable years beginning after December 31, 2006, to~~ a qualified trust or to an annuity contract described in IRC section 403(b), if such trust or contract provides for separate accounting for amounts so transferred (including interest thereon), including separately accounting for the portion of such distribution which is includable in gross income and the portion of such distribution which is not so includable.

(B) **Eligible Retirement Plan** – An eligible retirement plan is a traditional IRA, a Roth IRA, ~~an individual retirement account described in IRC section 408(a), an individual retirement annuity described in IRC section 408(b),~~ an annuity plan described in IRC section 403(a), an annuity contract described in IRC section 403(b), a qualified plan described in IRC section 401(a), that accepts the distributee's eligible rollover distribution, a SIMPLE IRA within the meaning of Code section 408(p), or an eligible plan under IRC section 457(b) 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 pla~~n, or a qualified plan described in IRC section 401(a), that accepts the distributee's eligible rollover distribution.~~ 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 IRC section 414(p).

~~Effective for distributions made on or after January 1, 2008, an eligible retirement plan includes a Roth individual retirement account (Roth IRA) described in IRC section 408A. However, for distributions before January 1, 2010, a distributee shall not be allowed to make a qualified rollover contribution to a Roth IRA from the plan if, for the taxable year of the distribution to which such contribution relates the distributee's adjusted gross income exceeds $100,000, or the distributee is a married individual filing a separate return.~~

(C) **Distributee** – A distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in IRC section 414(p), are distributees with regard to the interest of the spouse or former spouse. Effective for death benefit distributions made on or after January 1, 2007, a distributee shall include a nonspouse beneficiary but only with respect to a direct transfer to an inherited individual retirement account or annuity that is established on his behalf and that will be treated as

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an inherited traditional IRA or Roth IRA established on his behalf for the purpose of receiving the distribution. ~~individual retirement account or annuity pursuant to the provisions of IRC section 402(c)(11).~~

(D) **Direct Rollover** – A direct rollover is a payment by the plan to the eligible retirement plan specified by the distributee.

(2) **Special Rule Relating to Time for Written Explanation**

Effective for distributions made on or after January 1, 1993, for any distribution in excess of $200 that may be paid in the form of a lump sum, the plan administrator shall give the participant written notice of his eligible rollover distribution rights as required under IRC section 402(f) no less than 30 days and no more than 180 days (90 days for notices issued before January 1, 2007) before the annuity starting date with respect to the distribution. Effective for distributions made on or after January 1, 1994, such distribution may commence less than 30 days after the notice is given, provided that:

(A) The participant is provided with information that clearly states that the participant has a right to a period of at least 30 days after receiving the written explanation and notice to consider the decision of whether or not to elect a distribution;

(B) The participant, after receiving the written notice, affirmatively elects a distribution.

(e) **Forfeiture** – If a death benefit is payable under Section 4.1, it shall not be less than the participant's accumulated contributions.

Section 6.3 – Rollover/Transfer Contributions

Rollover and transfer contributions shall not be permitted under this plan and there shall be no rollover/transfer account.

ARTICLE VII – ADDITIONAL QUALIFICATION RULES

Section 7.1 – Limitation on Benefits Under IRC Section 415

The limitations of this Section 7.1 shall apply in limitation years beginning on or after July 1, 2007, except as otherwise provided herein.

(a) **Annual Benefit Limitation**

The annual benefit otherwise payable to a participant at any time under the plan shall not exceed the maximum permissible benefit.

(b) **Limitations on Employee Contributions**

If a participant has made mandatory employee contributions, under the terms of this plan, the amount of such contributions shall be treated as an annual addition to a qualified defined contribution plan. If the mandatory employee contribution the participant would otherwise make in a limitation year would exceed

the maximum permissible annual addition, the contribution shall be limited to a contribution that does not exceed the maximum permissible annual addition.

(1) Prior to determining the participant's actual compensation for the limitation year, the employer may determine the maximum permissible annual addition for a participant on the basis of a reasonable estimation of the participant's compensation for the limitation year, uniformly determined for all participants similarly situated.

(2) As soon as is administratively feasible after the end of the limitation year, the maximum permissible annual addition for the limitation year will be determined on the basis of the participant's actual compensation for the limitation year.

(c) **Combined Limitations: Other Defined Benefit Plans**

(1) If a participant is, or has ever been, a participant in another qualified defined benefit plan maintained by the employer or a predecessor employer, the sum of the participant's annual benefits from all such plans may not exceed the maximum permissible benefit. If the maximum permissible benefit is exceeded solely due to the benefit payable under a frozen or terminated defined benefit plan, the

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annual benefit otherwise payable under this plan shall be reduced so that the maximum permissible benefit is not exceeded.

(2) Where the participant's employer-provided benefits under all qualified defined benefit plans ever maintained by the employer (determined as of the same age) would exceed the maximum permissible benefit applicable at that age, the method by which the plans will limit a participant's annual benefit otherwise payable in such cases shall be as provided in Section 3.2~~(f)~~(e).

(d) **Protection of Accrued Benefit**

In the case of an individual who was a participant in one or more defined benefit plans of the employer as of the first day of the first limitation year beginning after December 31, 1986, the application of the limitations of IRC section 415 shall not cause the maximum permissible benefit amount for such individual under all such defined benefit plans to be less than the individual's Tax Reform Act of 1986 (TRA '86) accrued benefit. The preceding sentence applies only if all such defined benefit plans met the requirements of IRC section 415, for all limitation years beginning before January 1, 1987.

The application of the provisions of this Section 7.1 shall not cause the maximum permissible benefit for any participant to be less than the participant's accrued benefit under all the defined benefit plans of the employer or a predecessor employer as of the end of the last limitation year beginning before July 1, 2007 under provisions of the plans that were both adopted and in effect before April 5, 2007. The preceding sentence applies only if the provisions of such defined benefit plans that were both adopted and in effect before April 5, 2007 satisfied the applicable requirements of statutory provisions, regulations, and other published guidance relating to IRC section 415 in effect as of the end of the last limitation year beginning before July 1, 2007, as described in Treasury Regulation section 1.415(a)-1(g)(4).

(e) **Definitions (IRC Section 415 Limitations)**

(1) **Annual Additions** – The sum of the following amounts credited to a participant's account for the limitation year: (A) employer contributions; (B) employee contributions; (C) forfeitures; (D) allocations under a simplified employee pension; and (E) amounts allocated, after March 31, 1984, to an individual medical account that is part of a pension or annuity plan maintained by the employer. Also amounts derived from contributions paid or accrued after December 31, 1985 (in taxable years ending after such date), that are attributable to post-retirement medical benefits, allocated to the separate account of a key employee (as defined in IRC section 419A(d)(3)) under a welfare benefit fund.

For limitation years beginning before January 1, 1987, employee contributions shall only be taken into account for this purpose up to the lesser of the amount of employee contributions in excess of 6% of compensation for the limitation year, or one-half of the employee contributions for that year. Picked-up contributions under IRC section 414(h)(2) shall not be included as an annual addition with respect to a participant.

(2) **Annual Benefit** – A benefit under the plan that is payable annually in the form of a straight life annuity. The annual benefit shall include any picked-up contributions made by the employer under IRC section 414(h)(2). Except as provided below, where a benefit is payable in a form other than a straight life annuity, the benefit shall be adjusted to an actuarially equivalent straight life annuity that begins at the same time as such other form of benefit and is payable on the first day of each month, before applying the limitations of this Section 7.1. For a participant who has or will have distributions commencing at more than one annuity starting date, the annual benefit shall be determined as of each such annuity starting date (and shall satisfy the limitations of this Section 7.1 as of each such date), actuarially adjusting for past and future distributions of benefits commencing at the other annuity starting dates. For this purpose, the determination of whether a new starting date has occurred shall be made without regard to Treasury Regulation section 1.401(a)-20, Q&A 10(d), and with regard to Treasury Regulation section 1.415(b)-1(b)(1)(iii)(B) and (C).

No actuarial adjustment to the benefit is required for (A) survivor benefits payable to a surviving spouse under a qualified joint and survivor annuity to the extent such benefits would not be payable if the participant's benefit were paid in another form; (B) benefits that are not directly related to retirement benefits (such as a qualified disability benefit, preretirement incidental death benefits, and postretirement medical benefits); and (C) the inclusion in the form of benefit of an automatic benefit increase feature, provided the form of benefit is not subject to IRC section 417(e)(3) and would otherwise satisfy the limitations of this Section 7.1, and the plan provides that the amount payable under the form of benefit in any limitation year shall not exceed the limits of this Section 7.1 applicable at the annuity starting date, as increased in subsequent years pursuant to IRC section 415(d). For this purpose, an automatic benefit increase feature is included in a form of benefit if the form of

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benefit provides for automatic, periodic increases to the benefits paid in that form.

The determination of the annual benefit shall take into account social security supplements described in IRC section 411(a)(9) and benefits transferred from another defined benefit plan, other than transfers of distributable benefits pursuant Treasury Regulation section 1.411(d)-4, Q&A-3(c), but shall disregard benefits attributable to employee contributions or rollover contributions.

Effective for distributions in plan years beginning after December 31, 2003, the determination of actuarial equivalence of forms of benefit other than a straight life annuity shall be made in accordance with Section 7.1(e)(2)(A) or Section 7.1(e)(2)(B).

(A) **Benefit Forms Not Subject to IRC Section 417(e)(3)** – The straight life annuity that is actuarially equivalent to the participant's form of benefit shall be determined under this Section 7.1(e)(2)(A) if the form of the participant's benefit is either (i) a nondecreasing annuity (other than a straight life annuity) payable for a period of not less than the life of the participant (or, in the case of a preretirement survivor annuity, the life of the surviving spouse), or (ii) an annuity that decreases during the life of the participant merely because of (a) the death of the survivor annuitant (but only if the reduction is not below 50% of the annual benefit payable before the death of the survivor annuitant), or (b) the cessation or reduction of Social Security supplements or qualified disability payments (as defined in IRC section 401(a)(11)).

(i) **Limitation Years beginning before July 1, 2007** – For limitation years beginning before July 1, 2007, the actuarially equivalent straight life annuity shall be equal to the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the participant's form of benefit computed using whichever of the following produces the greater annual amount: (a) the interest rate and the mortality table stated in Section 1.2(c); and (b) a 5% interest rate assumption and the applicable mortality table defined in Section 1.2(c) for that annuity starting date.

(ii) **Limitation Years beginning on or after July 1, 2007** – For limitation years beginning on or after July 1, 2007, the actuarially equivalent straight life annuity is equal to the greater of: (a) the annual amount of the straight life annuity (if any) payable to the participant under the plan commencing at the same annuity starting date as the participant's form of benefit; and (b) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the participant's form of benefit, computed using a 5% interest rate assumption and the applicable mortality table defined in Section 1.2(c) for that annuity starting date.

(B) **Benefit Forms Subject to IRC Section 417(e)(3)** – The straight life annuity that is actuarially equivalent to the participant's form of benefit shall be determined under this paragraph if the form of the participant's benefit is other than a benefit form described in Section 7.1(e)(2)(A). In this case, the actuarially equivalent straight life annuity shall be determined as follows:

(i) **Annuity Starting Date in Plan Years Beginning After 2005** – If the annuity starting date of the participant's form of benefit is in a plan year beginning after December 31, 2005, the actuarially equivalent straight life annuity shall be equal to the greatest of: (a) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the participant's form of benefit, computed using the interest rate and the mortality table stated in Section 1.2(c); (b) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the participant's form of benefit, computed using a 5.5% interest rate assumption and the applicable mortality table defined in Section 1.2(c); and (c) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the participant's form of benefit, computed using the applicable interest rate and the applicable mortality table as defined in Section 1.2(c), divided by 1.05.

(ii) **Annuity Starting Date in Plan Years Beginning in 2004 or 2005** – If the annuity starting date of the participant's form of benefit is in a plan year beginning in 2004 or 2005, the actuarially equivalent straight life annuity shall be equal to the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the participant's form of benefit, computed using whichever of the following produces the greater annual amount: (a) the interest rate and the mortality table stated in Section 1.2(c); and (b) a 5% interest rate assumption and the applicable mortality table as defined in Section 1.2(c).

Notwithstanding the preceding, if the annuity starting date of the participant's benefit is on or

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after the first day of the first plan year beginning in 2004 and before December 31, 2004, the application of this Section 7.1(e)(2)(B)(ii) shall not cause the amount payable under the participant's form of benefit to be less than the benefit calculated under the plan, taking into account the limitations of this Section 7.1, except that the actuarially equivalent straight life annuity shall be equal to the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the participant's form of benefit, computed using whichever of the following produces the greatest annual amount:

a. the interest rate and the mortality table stated in Section 1.2(c);

b. the applicable interest rate and the applicable mortality table as defined in Section 1.2(c); and

c. the applicable interest rate defined in Section 1.2(c) (as in effect on the last day of the last plan year beginning before January 1, 2004) and the applicable mortality table defined in Section 1.2(c).

(3) **Compensation** – A participant's earned income and any earnings reportable as W-2 wages for federal income tax withholding purposes that are paid by the employer. W-2 wages means wages as defined in IRC section 3401(a) but 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. Picked-up contributions under IRC section 414(h)(2) shall not be included in the participant's compensation.

For limitation years beginning after December 31, 1991, for purposes of applying the limitations of this Section 7.1, compensation for a limitation year is the compensation actually paid or includable in gross income during such limitation year. Compensation for a limitation year shall include amounts earned but not paid during the limitation year solely because of the timing of pay periods and pay dates, provided the amounts are paid during the first few weeks of the next limitation year, the amounts are included on a uniform and consistent basis with respect to all similarly situated employees, and no compensation is included in more than one limitation year.

In order to be taken into account for a limitation year, compensation must be paid or treated as paid prior to severance from employment with the employer. Back pay, within the meaning of Treasury Regulation section 1.415(c)-2(g)(8), shall be treated as compensation for the limitation year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included under this definition. Further, effective for limitation years beginning on or after January 1, 2008, compensation in excess of the limitations of Section 1.3(b) shall not be taken into account.

For limitation years beginning after December 31, 1997, compensation shall include elective contributions. Elective contributions are amounts excludable from the employee's gross income and contributed by the employer, at the employee's election to a cafeteria plan excludable under IRC section 125, a IRC section 401(k) arrangement (excludable under IRC section 402(e)(3)), a simplified employee pension (excludable under IRC section 402(h)), a tax sheltered annuity (excludable under IRC section 403(b)), a deferred compensation plan (excludable under IRC section 457(b)), a IRC section 501(c)(18) plan, or a IRC section 132(f)(4) qualified transportation fringe benefit plan.

Elective contribution amounts under a cafeteria plan excludable under IRC section 125 shall include any amounts not available to a participant in cash in lieu of group health coverage because the participant is unable to certify that he has other health coverage (deemed section 125 compensation). An amount will be treated as an amount under IRC section 125 only if the employer does not request or collect information regarding the participant's other health coverage as part of the enrollment process for the health plan.

In order to be taken into account for a limitation year, compensation must be paid or treated as paid prior to severance from employment with the employer. Effective for limitation years beginning on or after July 1, 2007, an includable payment shall be treated as paid prior to severance from employment if it is paid by the later of 2½ months after severance or the last day of the calendar year that includes the severance date. For this purpose, includable payments are those that, absent severance, would have been paid and are regular compensation for services during regular working hours or outside working hours (such as overtime or shift differential), commissions, bonuses, or other compensation. Includable payments include compensation as defined in Section 1.3 if paid prior to the employee's severance from employment. Any payments not described herein as an includable payment shall not be considered compensation if paid after severance from employment, even if they are paid by the

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later of 2½ months after the date of severance from employment or the end of the limitation year that includes the severance date. For limitation years beginning after December 31, 2008, compensation for a limitation year shall include amounts paid as shift differential wages to a participant on qualified military service leave of more than 30 days and other wise meeting the requirements of IRC section 3401(h)(2).

(4) **Projected Annual Benefit** – The annual benefit as defined in Section 7.1(e)(2), to which the participant would be entitled under the terms of the plan assuming:

(A) the participant will continue employment until his normal retirement date under the plan (or current age, if later); and

(B) the participant's compensation for the current limitation year and all other relevant factors used to determine benefits under the plan will remain constant for all future limitation years.

Straight life annuity means an annuity payable in equal installments for the life of the participant that terminates upon the participant's death.

(5) **Defined Benefit Dollar Limitation** – Effective for limitation years ending after December 31, 2001, the defined benefit dollar limitation is $160,000, automatically adjusted under IRC section 415(d), effective January 1 of each year, in such manner as the Secretary of the Treasury shall prescribe, and payable in the form of a straight life annuity. The new limitation shall apply to limitation years ending with or within the calendar year for which the adjustment applies, but a participant's benefits shall not reflect the adjusted limit prior to January 1 of that calendar year. The automatic annual adjustment of the defined benefit dollar limitation under IRC section 415(d) shall apply to participants who have had a separation from employment.

(6) **Employer** – For purposes of this Section 7.1, employer shall mean the employer that adopts this plan and any entity required to be aggregated with the employer pursuant to regulations.

(7) **Excess Annual Addition** – The excess of the participant's annual additions for the limitation year over the maximum permissible annual addition.

(8) **Limitation Year** – The 12-consecutive-month period defined in Section 1.4(e).

(9) **Maximum Permissible Annual Addition** – The maximum annual addition that may be contributed or allocated to a participant's account under a plan for any limitation year shall not exceed the lesser of:

(A) the defined contribution dollar limitation, that is $40,000, as adjusted under IRC section 415(d) for limitation years beginning after December 31, 2002; or

(B) 100% of the participant's compensation for the limitation year.

If a short limitation year is created because of an amendment changing the limitation year to a different 12-consecutive-month period, the maximum permissible annual addition will not exceed the defined contribution dollar limitation multiplied by the following fraction:

$$\frac{\text{Number of months in the short limitation year}}{12}$$

(10) **Maximum Permissible Benefit** – The maximum permissible benefit is the defined benefit dollar limitation.

(A) **Adjustment for Less Than 10 Years of Participation or Service** – If the participant has less than 10 years of participation in the plan, the defined benefit dollar limitation shall be multiplied by a fraction: (i) the numerator of which is the number of years (or part thereof, but not less than one year) of participation in the plan, and (ii) the denominator of which is 10.

This Section 7.1(e)(10)(A) shall not apply to disability benefit paid in accordance with Section 3.6 or to benefits payable under Article IV.

(B) **Adjustment of Defined Benefit Dollar Limitation for Benefit Commencement Before Age 62 or After Age 65** – Effective for benefits commencing in limitation years ending after December 31, 2001, the defined benefit dollar limitation shall be adjusted if the annuity starting date of the participant's benefit is before age 62 and the participant has not completed 15 years of service or if the annuity starting date is after age 65. If the annuity starting date is before age 62, the defined benefit dollar limitation shall be adjusted under Section 7.1(e)(10)(B)(i), as modified by Section 7.1(e)(10)(B)(iii). If the annuity starting date is after age 65, the defined benefit dollar

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limitation shall be adjusted under Section 7.1(e)(10)(B)(ii), as modified by Section 7.1(e)(10)(B)(iii).

(i) **Adjustment of Defined Benefit Dollar Limitation for Benefit Commencement Before Age 62**

a. **Limitation years beginning before July 1, 2007** – If the annuity starting date for the participant's benefit is prior to age 62 and occurs in a limitation year beginning before July 1, 2007 and the participant has not completed 15 years of service, the defined benefit dollar limitation for the participant's annuity starting date is an annual amount of a benefit payable in the form of a straight life annuity commencing at the participant's annuity starting date that is the actuarial equivalent of the defined benefit dollar limitation (adjusted under Section 7.1(e)(10)(A) for years of participation less than 10, if required) with actuarial equivalence computed using whichever of the following produces the smaller annual amount: (1) the interest rate and the mortality table (or the tabular factor) specified in Section 1.2 for an early retirement benefit; or (2) a 5% interest rate assumption and the applicable mortality table as defined in Section 1.2(c).

b. **Limitation years beginning on or after July 1, 2007**

1. **Plan does not have immediately commencing straight life annuity payable at both age 62 and the age of benefit commencement** – If the annuity starting date for the participant's benefit is prior to age 62 and occurs in a limitation year beginning on or after July 1, 2007, the participant has not completed 15 years of service, and the plan does not have an immediately commencing straight life annuity payable at both age 62 and the age of benefit commencement, the defined benefit dollar limitation for the participant's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the participant's annuity starting date that is the actuarial equivalent of the defined benefit dollar limitation (adjusted under Section 7.1(e)(10)(A) for years of participation less than 10, if required) with actuarial equivalence computed using a 5% interest rate assumption and the applicable mortality table for the annuity starting date as defined in Section 1.2(c) (and expressing the participant's age based on completed calendar months as of the annuity starting date).
2. **Plan has immediately commencing straight life annuity payable at both age 62 and the age of benefit commencement** – If the annuity starting date for the participant's benefit is prior to age 62 and occurs in a limitation year beginning on or after July 1, 2007, the participant has not completed 15 years of service, and the plan has an immediately commencing straight life annuity payable at both age 62 and the age of benefit commencement, the defined benefit dollar limitation for the participant's annuity starting date is the lesser of the limitation determined under Section 7.1(e)(10)(B)(i)b.1. and the defined benefit dollar limitation (adjusted under Section 7.1(e)(10)(A) for years of participation less than 10, if required) multiplied by the ratio of the annual amount of the immediately commencing straight life annuity under the plan at the participant's annuity starting date to the annual amount of the immediately commencing straight life annuity under the plan at age 62, both determined without applying the limitations of this Section 7.1.

c. This Section 7.1(e)(10)(B)(i) shall not apply to disability benefit paid in accordance with Section 3.6 or to benefits payable under Article IV.

(ii) **Adjustment of Defined Benefit Dollar Limitation for Benefit Commencement After Age 65**

a. **Limitation years beginning before July 1, 2007** – If the annuity starting date for the participant's benefit is after age 65 and occurs in a limitation year beginning before July 1, 2007, the defined benefit dollar limitation for the participant's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the participant's annuity starting date that is the actuarial equivalent of the defined benefit dollar limitation (adjusted under Section 7.1(e)(10)(A) for years of participation less than 10, if required) with actuarial equivalence computed using whichever of the following produces the smaller annual amount: (1) the interest rate and

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the mortality table (or other tabular factor) specified in Section 1.2(b) for a late retirement benefit; or (2) a 5% interest rate assumption and the applicable mortality table as defined in Section 1.2(c).

b. **Limitation years after July 1, 2007**

1. **Plan does not have immediately commencing straight life annuity payable at both age 65 and the age of benefit commencement** – If the annuity starting date for the participant's benefit is after age 65 and occurs in a limitation year beginning on or after July 1, 2007, and the plan does not have an immediately commencing straight life annuity payable at both age 65 and the age of benefit commencement, the defined benefit dollar limitation at the participant's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the participant's annuity starting date that is the actuarial equivalent of the defined benefit dollar limitation (adjusted under Section 7.1(e)(10)(A) for years of participation less than 10, if required), with actuarial equivalence computed using a 5% interest rate assumption and the applicable mortality table for that annuity starting date as defined in Section 1.2(c) (and expressing the participant's age based on completed calendar months as of the annuity starting date).

2. **Plan has immediately commencing straight life annuity payable at both age 65 and the age of benefit commencement** – If the annuity starting date for the participant's benefit is after age 65 and occurs in a limitation year beginning on or after July 1, 2007, and the plan has an immediately commencing straight life annuity payable at both age 65 and the age of benefit commencement, the defined benefit dollar limitation at the participant's annuity starting date is the lesser of the limitation determined under Section 7.1(e)(10)(B)(ii)b.1. and the defined benefit dollar limitation (adjusted under Section 7.1(e)(10)(A) for years of participation less than 10, if required) multiplied by the ratio of the annual amount of the adjusted immediately commencing straight life annuity under the plan at the participant's annuity starting date to the annual amount of the adjusted immediately commencing straight life annuity under the plan at age 65, both determined without applying the limitations of this Section 7.1. For this purpose, the adjusted immediately commencing straight life annuity under the plan at the participant's annuity starting date is the annual amount of such annuity payable to the participant, computed disregarding the participant's accruals after age 65 but including actuarial adjustments even if those actuarial

adjustments are used to offset accruals; and the adjusted immediately commencing straight life annuity under the plan at age 65 is the annual amount of such annuity that would be payable under the plan to a hypothetical participant who is age 65 and has the same accrued benefit as the participant.

(iii) Notwithstanding the other requirements of this Section 7.1(e)(10)(B), no adjustment shall be made to the defined benefit dollar limitation to reflect the probability of a participant's death between the annuity starting date and age 62, or between age 65 and the annuity starting date, as applicable, if benefits are not forfeited upon the death of the participant prior to the annuity starting date. To the extent benefits are forfeited upon death before the annuity starting date, such an adjustment shall be made. For this purpose, no forfeiture shall be treated as occurring upon a participant's death if the plan does not charge participants for providing a qualified preretirement survivor annuity upon the participant's death.

(C) **Minimum Benefit Permitted** – Notwithstanding anything else in this Section to the contrary, the benefit otherwise accrued or payable to a participant under this plan shall be deemed not to exceed the maximum permissible benefit if:

(i) The retirement benefits payable for a plan year under the actuarially equivalent straight life annuity with respect to such participant under this plan and under all other defined benefit plans (regardless of whether terminated) ever maintained by the employer does not exceed $10,000 multiplied by a fraction: (1) the numerator of which is the participant's number of years (or parts thereof, but not less than one year) of benefit service (not to exceed 10) with the employer; and (2) the denominator of which is 10; and

(ii) The employer (or a predecessor employer) has not at any time maintained a defined contribution plan in which the participant participated. For this purpose, mandatory employee

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contributions shall not be considered a separate defined contribution plan maintained by the employer. Similarly, individual medical accounts under IRC section 401(h) and accounts for postretirement medical benefits established under IRC section 419A(d)(1) shall not be considered a separate defined contribution plan.

(11) **Year of Participation** – For the purpose of this Section 7.1, a participant shall be credited with a year of participation (computed to fractional parts of a year) for each accrual computation period for which the following conditions are met: (1) the participant is credited with at least the period of service for benefit accrual purposes, required under the terms of the plan in order to accrue a benefit for the accrual computation period, and (2) the participant is included as a participant under the eligibility provisions of the plan for at least one day of the accrual computation period. If these two conditions are met, the portion of a year of participation credited to the participant shall equal the amount of benefit accrual service credited to the participant for such accrual computation period. A participant who is permanently and totally disabled within the meaning of IRC section 415(c)(3)(C)(i) for an accrual computation period shall receive a year of participation with respect to that period. In addition, for a participant to receive a year of participation (or part thereof) for an accrual computation period, the plan must be established no later than the last day of such accrual computation period. In no event will more than one year of participation be credited for any 12-month period.

(12) **Annuity Starting Date** – The first day of the first period for which an amount is paid as an annuity or in any other form.

Section 7.2 – Distribution Requirements

The requirements of this Section 7.2 shall apply to any distribution of a participant's interest. With respect to distributions under the plan made on or after January 1, 2005 for calendar years beginning on or after January 1, 2005, the plan will apply the minimum distribution requirements of IRC section 401(a)(9) as set forth in this Section 7.2. Distributions made prior to January 1, 2005 are subject to the provisions of the plan as in effect before this amendment and restatement of the plan.

(a) **Time and Manner of Distribution**

(1) **Required Beginning Date** – The entire interest of a participant must be distributed or begin to be distributed no later than the participant's required beginning date.

(2) **Limits on Distribution Periods** – As of the first distribution calendar year, distributions to a participant, if not made in a single-sum, may only be made over one of the following periods (or a combination thereof):

(A) the life of the participant,

(B) the joint lives of the participant and a designated beneficiary,

(C) a period certain not extending beyond the life expectancy of the participant, or

(D) a period certain not extending beyond the joint life and last survivor expectancy of the participant and a designated beneficiary.

(3) **Death of Participant Before Distributions Begin** – If the participant dies before distributions begin, the participant's entire interest will be distributed, or begin to be distributed, no later than as follows:

(A) If the participant's surviving spouse is the participant's sole designated beneficiary, then distributions to the surviving spouse will 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 attained the applicable age ~~age 70½~~, if later. If this plan provides in Article IV for a lump sum death benefit in excess of $5,000 and the surviving spouse so elects, the participant's entire interest will be distributed to such designated beneficiary by December 31 of the calendar year containing the fifth anniversary of the participant's death.

(B) If the participant's surviving spouse is not the participant's sole designated beneficiary, then distributions to the designated beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the participant died. If this plan provides in Article IV for a lump sum death benefit in excess of $5,000 and the designated beneficiary so elects, the participant's entire interest will be distributed to such designated beneficiary by December 31 of the calendar year containing the fifth anniversary of the participant's death.

(C) If there is no designated beneficiary as of September 30 of the year following the year of the

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participant's death or if a lump sum death benefit is otherwise payable, the participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the participant's death.

(D) 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 7.2(a)(3), other than Section 7.2(a)(3)(A), will apply as if the surviving spouse were the participant if this plan otherwise provides for the payment of a death benefit.

For purposes of this Section 7.2(a)(3) and Section 7.2(d), distributions are considered to begin on the participant's required beginning date (or, if Section 7.2(a)(3)(D) applies, the date distributions are required to begin to the surviving spouse under Section 7.2(a)(3)(A)). If annuity payments irrevocably commence 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 7.2(a)(3)(A)), the date distributions are considered to begin is the date distributions actually commence.

If the deceased designated beneficiary is not the participant's surviving spouse, distribution shall be completed by the December 31 of the fifth year following the participant's date of death. If the deceased designated beneficiary is the participant's surviving spouse, distribution shall be completed by the December 31 of the fifth year following the beneficiary's date of death.

(4) **Forms 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 will be made in accordance with Section 7.2(b), (c), and (d). If the participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of IRC section 401(a)(9) and Treasury Regulation section 1.401(a)(9)-6.

Any part of the participant's interest that is in the form of an individual account shall be distributed in a manner satisfying the requirements of IRC section 401(a)(9) and the regulations thereunder. To the extent the participant has accumulated contributions containing after-tax contributions for which there is separate accounting, such funds shall be distributed first before any taxable distribution is made to satisfy the minimum distribution requirement.

(b) **Determination of Amount to Be Distributed Each Year**

(1) **General Annuity Requirements** – If the participant's interest is to be paid in the form of annuity distributions under the plan, payments under the annuity shall satisfy the following requirements:

(A) The annuity distribution must be paid in periodic payments made at intervals not longer than one year;

(B) The distribution period must be over a life (or lives) or over a period certain not longer than the period described in Section 7.2(c) or (d).

(C) Once payments have begun over a period certain, the period certain may not ~~only~~ be changed ~~as permitted under Regulation section 1.401(a)(9)-6, A-13~~;

(D) Payments must either be nonincreasing or increase only as follows:

(i) 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 Bureau of Labor Statistics;

(ii) to provide cash refunds of employee contributions upon the participant's death;

(iii) to pay increased benefits that result from a plan amendment; or

(iv) to the extent increases are permitted in accordance with Treasury Regulation section 1.401(a)(9)-6(o)~~, A-14(c) or (d)~~.

(2) **Amount Required to be Distributed by Required Beginning Date and Later Payment Intervals** –

(A) 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 Section 7.2(a)~~(1) or~~ (3)(A) or (B) shall be ~~is~~ the payment that is required for one

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 will 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.

(B) In the case of a lump sum distribution of the participant's accrued benefit on or before the participant's required beginning date, the minimum required distribution shall be determined by expressing the participant's benefit as a pension payable in the normal form of payment with an annuity starting date as of the first day of the distribution calendar year and multiplying the monthly benefit by 12. If the distribution is being made before the April 1 required beginning date but in such year, both the first and second years required minimum distribution shall be determined and shall not be eligible for rollover.

(3) **Additional Accruals After First Distribution Calendar Year** – Any additional benefits accruing to the participant in a calendar year after the first distribution calendar year will be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues.

(c) **Requirements For Annuity Distributions That Commence During Participant's Lifetime** – The participant's interest cannot be distributed in the form of a joint and survivor annuity under the terms of this plan. Further, no death benefit can be paid in the form of a period certain annuity.

(d) **Requirements For Minimum Distributions Where Participant Dies Before Date Distributions Begin**

(1) **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, the participant's entire interest will be distributed, beginning no later than the time described in Section 7.2(a)(3)(A) or (B), over the life of the designated beneficiary or over a period certain not exceeding:

(A) unless the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year immediately following the calendar year of the participant's death; or

(B) if the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year that contains the annuity starting date.

(2) **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.

(3) **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 7.3(d) 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 Section 7.3(a)(3)(A).

(e) **Definitions (IRC Section 401(a)(9) Requirements)**

(1) **Designated Beneficiary** – The individual who is designated as the beneficiary of the participant's interest under the plan and is the designated beneficiary under IRC section 401(a)(9) and Treasury Regulation section 1.401(a)(9)-4.

(2) **Distribution Calendar Year** – A calendar year for which a minimum distribution is required. For distributions beginning before the participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year that contains the participant's required beginning date. For distributions beginning after the participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin pursuant to Section 7.2(a)(3).

(3) **Life Expectancy** – Life expectancy as computed by use of the Single Life Table in Regulation section 1.401(a)(9)-9.

(4) **Required Beginning Date** – The required beginning date of a participant is the later of: (i) the first

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day of April of the calendar year following the calendar year in which the participant attains the applicable age ~~age 70½~~ and (ii) the first day of April of the calendar year following the calendar year in which the participant retires.

(5) **Applicable Age** – Applicable age means:

(A) Age 70 ½ with respect to participants born on or before June 30, 1949 or dying before January 1, 2020;

(B) Age 72 with respect to participants who attain age 72 after December 31, 2019 and before January 1, 2023;

(C) Age 73 with respect to participants who attain age 72 after December 31, 2022 and age 73 before January 1, 2033; and

(D) Age 75 with respect to participants who attain age 74 after December 31, 2032.

ARTICLE VIII – ADMINISTRATION OF THE PLAN

Section 8.1 – Fiduciary Responsibility

(a) **Management and Control of Plan Assets** – The governing body of the employer shall designate the persons responsible for the management and control of plan assets. Such persons shall discharge their duties with respect to the plan in accordance with the documents and instruments governing the plan insofar as such documents and instruments are consistent with the applicable provisions of the Internal Revenue Code.

(b) A fiduciary of this plan is required to exercise the judgment and care under the circumstances then prevailing that men of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital.

(c) **Allocation of Responsibility**

(1) When the plan administrator is required to follow the directions of the trustee or the trustee is required to follow the directions of the plan administrator, they shall not be deemed to share such responsibility. Instead, the responsibility of the person giving the directions shall be deemed to be his sole responsibility and the responsibility of the person receiving directions shall be to follow those directions insofar as such instructions on their face are proper under applicable law.

(2) The plan administrator or trustee under this plan may employ one or more persons, including independent accountants, attorneys, and actuaries to render advice with regard to any responsibility such person has under the plan.

(d) **Liability and Indemnification** – Subject to Act 205, no past, present, or future officer of the employer nor of any participating employer shall be personally liable to any participant, beneficiary, or other person under any provision of the plan or trust or any insurance policy or contract issue pursuant thereto. No individual fiduciary shall be liable for any act or omission of any other fiduciary. Unless resulting from the gross negligence, willful misconduct or lack of good faith on the part of the fiduciary, the employer shall indemnify and save harmless such fiduciary from, against, for and in respect of any and all damages, losses, obligations, liabilities, liens, deficiencies, costs, and expenses, including without limitation, reasonable attorney's fees and other costs and expenses incident to any suit, action, investigation, claim or proceedings suffered in connection with his acting as a fiduciary under the plan.

Section 8.2 – Administration by York Paid Firefighter's Pension Fund Board

(a) **Establishment of York Paid Firefighter's Pension Fund Board** – The governing body of the employer shall establish a York Paid Firefighter's Pension Fund Board to be responsible for the administration of the plan.

(b) **Composition and Term** – The York Paid Firefighter's Pension Fund Board shall consist of the Mayor; City Treasurer; Business Administrator; two residents of the City, one of whom shall be chosen by the Mayor and one of whom shall be chosen by the paid firefighters of the City, who shall serve for a period of four years, or until their successors are named; two persons to be selected from among the paid firefighters of the City to serve for a period of two years and to be chosen by the paid firefighters of the City, who are active participants of the Plan. The Mayor shall be the President, the Business Administrator shall be the Secretary, and the City Treasurer shall be the Treasurer of the Board. A single

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alternate Board member may be selected for each Board seat in the same manner in which the seat is filled or by designation in the case of the ex officio seats. Alternates may attend all meetings of the Board but are not eligible to participate in discussion or cast a vote unless seated as a full member of the Board when replacing an absent or disqualified member. (Bill No. 6, Ordinance No. 6, 2026)

In addition to the Board described above, there shall also be a Board of Trustees appointed pursuant to the provisions of Act 205 and in accordance with the resolution of the Board.

(c) **Secretary for Board** – The Secretary of the Board shall keep minutes of the Board's proceedings and all dates, records, and documents pertaining to the Board's administration of the Plan.

(d) **Appointment of Chief Administrative Officer**

The governing body of the employer shall appoint the chief administrative officer and shall review at regular intervals the performance of the person appointed to be the chief administrative officer and shall re-evaluate the appointment of such chief administrative officer. The Board may delegate such of its duties and powers to the chief administrative officer as it determines to be appropriate.

(e) **Duties and Powers of Board**

The Board shall have the following duties and discretionary powers and such other duties and discretionary powers as relate to the administration of the plan:

(1) To determine in a non-discriminatory manner all questions relating to the eligibility of employees to become participants.

(2) To determine in a non-discriminatory manner eligibility for benefits and to determine and certify the amount and kind of benefits payable to participants.

(3) To authorize all disbursements from the fund.

(4) To appoint or employ, upon approval of the employer, any independent person to perform necessary plan functions and to assist in the fulfillment of administrative responsibilities as it deems advisable, including the retention of a third party administrator, custodian, auditor, accountant, actuary, or attorney.

(5) When appropriate, to select an insurance company and annuity contracts that, in its opinion, will best carry out the purposes of the plan.

(6) To construe and interpret any ambiguities in the plan and to make, publish, interpret, alter, amend or revoke rules for the regulation of the plan that are consistent with the terms of the plan and with the applicable provisions of the Internal Revenue Code.

(7) To prepare and distribute, in such manner as determined to be appropriate, information explaining the plan.

(8) To make rules and regulations for the governance of the affairs of the Board to better enable it to carry out its powers and duties imposed hereunder.

(f) **Miscellaneous Provisions**

(1) **Meetings** – The Board shall meet at least four times in each calendar year and at other times at the call of the President of the Board.

(2) **Board Actions** – The actions of the Board shall be determined by the vote or other affirmative expression of a majority of its members. All actions of the Board shall be certified by its President and attested to by its Secretary. A member of the Board who is a participant shall not vote on any question relating specifically to himself. If the remaining members of the Board, by majority vote thereof, are unable to come to a determination of any such question, the employer shall appoint a substitute member who shall act as a member of the Board for the special vote.

(3) **Expenses** – The members of the Board shall serve without compensation for service as such. All reasonable expenses of the Board shall be paid by the Plan.

(4) **Bonding** – The Treasurer shall give and maintain a surety bond to the City in a sum not less than double the probable amount of money and securities that comes into his hands, for the faithful performance of his duties. The premium on such bond shall be paid from the Fund. However, the surety bond shall not be required to cover nonnegotiable registered securities which are duly registered in the name of the Board on the records of the issuers of the securities. Other members of the Board shall serve without bond.

(5) **Examination of Records** – The Board shall make available to any participant for examination during

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business hours such of the plan records as pertain only to the participant involved.

(6) **Information to the Board** – To enable the Board to perform the administrative functions, the employer shall supply full and timely information to the Board on all participants as the Board may require.

(7) **Report to City Council** – It shall be the duty of the Board each year at the time of making up the general appropriation ordinance, to prepare a full and detailed statement of the assets of the fund and the amount which it is required to pay as well as any other information City Council may request and to present the same to City Council together with a statement of the amount of money required to enable the Board to pay the pensions in full. The Board shall issue certificates signed by its President and Secretary to the participant entitled to retirement and pension under the Plan, the amount of money ordered paid to such participant of the fund, which certification shall state for what purposes such payment is made. Upon all questions of fact relating to the administration of the fund, such certificate shall be conclusive.

Section 8.3 – Claims Procedure

(a) **Notification of Claim Determination** – The chief administrative officer shall notify each participant in writing of his determination of benefits. If the chief administrative officer denies any benefit, such written denial shall include:

- The specific reasons for denial;
- Reference to provisions on which the denial is based;
- A description of and reason for any additional information needed to process the claim; and
- An explanation of the claims procedure.

(b) **Appeal** – The participant or his duly authorized representative may:

- Request a review of the participant's case in writing to the York Paid Firefighter's Pension Fund Board;
- Review pertinent documents;
- Submit issues and comments in writing.

The written request for review must be submitted no later than 60 days after receiving written notification of denial of benefits.

(c) **Review** – The Board must render a decision no later than 60 days after receiving the written request for review, unless circumstances make it impossible to do so; but in no event shall the decision be rendered later than 120 days after the request for review is received.

(d) **Limitation on Time Period for Litigation of a Benefit Claim** – Following receipt of the written rendering of the Board's decision under Section 8.3(c), the participant shall have 365 days in which to file suit in the appropriate court. Thereafter, the right to contest the decision shall be waived.

Section 8.4 – Trust Fund

(a) **Creation and Maintenance of the Fund** – The trust fund shall be created and maintained in the following manner:

(1) All funds on deposit and held for pension or retirement benefits of the participants shall continue to be part of the trust fund created and maintained hereby subject to any liabilities that may exist against such fund.

(2) The employer shall allocate to the fund the payments made by the Treasurer of the Commonwealth of Pennsylvania from monies received from taxes paid upon premiums by foreign casualty insurance companies and foreign fire insurance companies pursuant to the General Municipal Pension System State Aid Program.

(3) The employer shall also allocate to the fund any mandatory employee contributions received in accordance with the plan.

(4) The fund shall accept and maintain any payments made by other bequests, legacies, gifts, or donations made thereto, all sums subscribed by the public, lost, abandoned, unclaimed, or stolen money or property in the possession of the Fire Department, unless otherwise prohibited by state law

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for a period of one year, and for which there is no lawful claimant, as well as all net income resulting from games, dances, sports, entertainments, or any and all other sources of income conducted by or under the supervision of the Fire Department. The fund shall accept and maintain gifts, grants, devises, or bequests of any money, real estate, personal property, or other valuable things from whatever source, for the purposes of the fund, and there shall also be turned over and paid into the fund all rewards that may be paid or given for or on account of any services by the Fire Department or by any paid firefighter who is a participant of the Plan.

(5) The employer shall contribute to the fund such other payments as may, from time to time, be authorized to be made from the general revenue of the employer.

All such payments received shall be part of the trust fund and shall not be applied to any other account or disbursed in any manner except as provided by this plan. Payments required under the plan shall be a charge only upon the trust fund and not upon other monies or funds of the employer.

(b) **Appointment of Trustee**

The Board of Trustees shall be responsible for the proper care and custody of all funds, securities and other properties in the trust, and for investment of plan assets (or for execution of such orders as it receives from an investment manager appointed for investment of plan assets). The duties and powers of the trustee shall be set forth in a trust agreement executed by the employer, that is incorporated herein by reference. The employer shall review at regular intervals the performance of the trustee and shall re-evaluate the appointment of such trustee. After the employer has appointed the trustee and has received a written notice of acceptance of its responsibility, the responsibility with respect to the proper care and custody of plan assets shall be considered as the responsibility of the trustee. Unless otherwise allocated to an investment manager, the responsibility with respect to investment of plan assets shall likewise be considered as the responsibility of the trustee.

(c) **Appointment of Corporate Custodian**

The employer, or its delegee, may appoint a corporate custodian to hold and invest the fund. The corporate custodian shall carry out its responsibilities in accordance with the terms of the custodial agreement and the investment policy and guidance as the employer shall, from time to time, provide. The employer shall review at regular intervals no less frequently than annually, the performance of such corporate custodian and shall re-evaluate the appointment of such corporate custodian.

(d) **Appointment of Investment Manager**
The employer, or its delegee, may appoint an investment manager who is other than the trustee, which investment manager may be a bank or an investment advisor registered with the Securities and Exchange Commission under the Investment Advisors Act of 1940. Such investment manager, if appointed, shall have sole discretion in the investment of plan assets, subject to the funding policy. The employer shall review at regular intervals no less frequently than annually, the performance of such investment manager and shall re-evaluate the appointment of such investment manager. After the employer has appointed an investment manager and has received a written notice of acceptance of his responsibility, the responsibility with respect to investment of plan assets shall be considered as the responsibility of the investment manager.

(e) **Funding Policy**

The employer, or its delegee, shall determine and communicate in writing to the person responsible for investment of plan assets the funding policy for the plan. The funding policy shall set forth the plan's short-range and long-range financial needs, so that said person may coordinate the investment of plan assets with the plan's financial needs.

(f) **Valuation of the Fund**

The fund shall be valued by the trustee as of the last day of each plan year and as of any interim accounting date determined by the plan administrator. The valuation shall be made on the basis of the current fair market value of all property in the fund.

Section 8.5 – Actuarial Valuation and Funding

(a) **Actuarial Valuation** – In compliance with Act 205, the actuarial valuation report shall be prepared and filed under the supervision of the chief administrative officer of the municipality or of the association of municipalities cooperating pursuant to the Intergovernmental Cooperation Act and named as the sponsoring employer of this plan. The actuary shall perform an actuarial valuation at least biennially.

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Each biennial actuarial valuation report shall be made as of the beginning of such plan year and shall be prepared and certified by an approved actuary. An approved actuary means a person who has at least five years of actuarial experience with public pension plans and who is either enrolled as a member of the American Academy of Actuaries or enrolled as an actuary pursuant to ERISA.

If the employer is applying or has applied for Supplemental State Assistance pursuant to Section 603 of the Act, the actuarial valuation report shall be made annually.

(b) **Allowable Administrative Expenses** – The expenses attributable to the preparation of any actuarial valuation report or investigation required by Act 205 or any other expense that is permissible under the terms of Act 205 and that are directly associated with administering the plan shall be an allowable administrative expense payable from the assets of the trust.

(c) **Benefit Modifications** – Prior to the adoption of any benefit plan modification by the employer, the chief administrative officer shall provide to the employer a cost estimate of the proposed benefit plan modification prepared by an approved actuary. Such estimate shall disclose to the employer the impact of the proposed benefit plan modification on the future financial requirements of the plan and the future minimum obligation of the employer with respect to the plan.

ARTICLE IX – AMENDMENT AND TERMINATION OF PLAN

Section 9.1 – Right to Discontinue and Amend

It is the expectation of the employer that it will continue this plan indefinitely and make the payments of its contributions hereunder, unless permitted to terminate under the provisions of the Third Class City Code.

Section 9.2 – Amendments

Except as herein limited, the employer shall have the right to amend this plan at any time to any extent that it may deem advisable. Such amendment shall be stated in writing and shall be by ordinance or resolution of the governing body of the employer. The employer's right to amend the plan shall be limited as follows:

(a) No amendment shall be adopted in violation of the Third Class City Code, nor any other law of the Commonwealth of Pennsylvania.

(b) No amendments shall have the effect of vesting in the employer any interest in or control over any contracts issued pursuant hereto or any other property in the fund.

(c) No amendment to the vesting schedule adopted by the employer hereunder shall deprive a participant of his vested portion of his employer-derived accrued benefit to the date of such amendment.

Section 9.3 – Protection of Benefits in Case of Plan Merger

In the event of a merger or consolidation with, or transfer of assets or liabilities to any other plan, each participant will receive a benefit immediately after such merger, consolidation or transfer (if the plan then terminated) that is at least equal to the benefit the participant was entitled to immediately before such merger, consolidation or transfer (if the plan had terminated).

Section 9.4 – Termination of Plan

(a) **When Plan Terminates** – This plan shall terminate upon the legal dissolution of the employer or the termination of the plan by the amendment action of the employer. Subject to the provisions of the Municipal Pension Plan Funding Standard and Recovery Act (P.L. 1005, Act 205 of 1984) governing financially distressed municipalities, the liability of the employer to make contributions to the plan shall automatically terminate upon liquidation or dissolution of the employer, upon its adjudication as a bankrupt, or upon the making of a general assignment for the benefit of its creditors.

(b) **Allocation of Assets** – Upon termination or partial termination, the accrued benefit of each affected participant who is an active participant or who is not an active participant but has not incurred a one-year break in service shall be 100% vested and nonforfeitable; however, no participant or other individual shall have recourse towards the satisfaction of any benefit accrued under the plan other than from the fund. The amount of the fund assets shall be allocated to participants and beneficiaries subject to provisions for expenses of administration of liquidation. The allocation of assets shall be in accordance with the following (to the extent assets are sufficient).

(1) There shall be allocated an amount equal to that portion of each individual's accrued benefit that is

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derived from the participant's voluntary contributions.

(2) There shall be allocated an amount equal to that portion of each individual's accrued benefit that is derived from the participant's mandatory contributions.

(3) (A) There shall be allocated amounts sufficient to provide the pension of each participant or beneficiary who was receiving such a benefit three years before the date of termination.

(B) There shall likewise be allocated amounts sufficient to provide the normal form of pension for each participant who was eligible to retire three years before the date of termination but had not done so.

In both cases, the benefits shall be based upon the plan provisions in effect during the five years before the date of termination under which such benefits would be the least.

(4) There shall be allocated amounts sufficient to provide all vested benefits due participants.

(5) There shall be allocated amounts sufficient to provide all other benefits of the plan.

If assets are insufficient to provide all benefits within any one of the above paragraphs (1) through (5), they shall be allocated pro rata among the participants or beneficiaries within that paragraph on the basis of the present value of such benefits.

The allocation of assets, when determined by the actuary, may be implemented through the continuation of the existing fund or through the purchase of insurance company annuity contracts, or by a combination of these media.

(c) **Remaining Fund Balance** – Notwithstanding any provision in this plan to the contrary, upon the termination of the plan, but only after all liabilities to the participants and their respective beneficiaries have been satisfied, the employer shall be entitled to any balance of the net assets of the fund that shall remain by reason of erroneous actuarial computations or overpayments during the life of the plan.

However, if any assets of the plan attributable to employee contributions remain after satisfaction of all liabilities described in Section 9.4(b), such remaining assets shall be equitably distributed to the participants who made such contributions or their beneficiaries (including alternate payees). For this purpose, the portion of the remaining assets that are attributable to employee contributions shall be an amount equal to the product derived by multiplying the market value of the total remaining assets, by a fraction – (i) the numerator of which is the present value of all portions of the accrued benefits with respect to participants that are derived from participants' mandatory contributions, and (ii) the denominator of which is present value of all benefits with respect to which assets are allocated under items (2) through (5) of Section 9.4(b). A participant for this purpose shall include an individual who has received, during the 3-year period ending with the termination date, a distribution from the plan of such individual's entire nonforfeitable benefit in the form of a single sum distribution or in the form of irrevocable commitments purchased by the plan from an insurer to provide such nonforfeitable benefit, if all or part of the nonforfeitable benefit with respect to such person is or was attributable to a participant's mandatory contributions.

ARTICLE X – MISCELLANEOUS PROVISIONS

Section 10.1 – Exclusive Benefit – Non-Reversion

The plan is created for the exclusive benefit of the employees of the employer and shall be interpreted in a manner consistent with its being a qualified plan as defined in IRC section 401(a). The corpus or income of the trust may not be diverted to or used for other than the exclusive benefit of the participants or their beneficiaries.

Notwithstanding the above, any contribution made by the employer because of a mistake of fact must be returned to the employer within one year of the contribution. Further, a reversion to the employer is permissible upon plan termination in accordance with Section 9.4(c).

Section 10.2 – Inalienability of Benefits

No benefit or interest available hereunder including any annuity contract distributed herefrom shall be subject to assignment or alienation, either voluntarily or involuntarily. The preceding sentence shall also apply to the creation, assignment, or recognition of a right to any benefit payable with respect to a participant pursuant to a domestic relations order, unless such order is determined to be an acceptable domestic relations order as defined in IRC section 414(p), or any domestic relations order entered before January 1, 1985.

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Section 10.3 – Employer-Employee Relationship

This plan is not to be construed as creating or changing any contract of employment between the employer and its employees, and the employer retains the right to deal with its employees in the same manner as though this plan had not been created.

Section 10.4 – Binding Agreement

This plan shall be binding on the heirs, executors, administrators, successors and assigns as such terms may be applicable to any or all parties hereto, and on any participants, present or future.

Section 10.5 – Inconsistency or Conflict of Prior Ordinances or Resolutions

Any ordinance or resolution with an effective date prior to the adoption date of this amendment and restatement of the plan shall be of no effect.

Section 10.6 – Separability

If any provision of this plan shall be held invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision hereof and this plan shall be construed and enforced as if such provision had not been included.

Section 10.7 – Construction

The plan shall be construed in accordance with the laws of the Commonwealth of Pennsylvania and with the applicable portions of the Internal Revenue Code. It is intended that the plan comply with the interpretations of the Third Class City Code, issued by the judicial and regulatory bodies of the Commonwealth of Pennsylvania. In the event of any conflict between the terms of this plan and the terms of any associated trust, custodial account, or any other documents incorporated by reference, the plan provisions shall control.

Section 10.8 – Copies of Plan

This plan may be executed in any number of counterparts, each of which shall be deemed as an original, and said counterparts shall constitute but one and the same instrument that may be sufficiently evidenced by any one counterpart.

Section 10.9 – Interpretation

Wherever appropriate, words used in this plan in the singular may include the plural or the plural may be read as singular, and the masculine may include the feminine.

ARTICLE XI – DEFERRED RETIREMENT OPTION PLAN

Section 11.1 – Definitions

(a) **"DROP"** means Deferred Retirement Option Plan.

(b) **"Individual DROP Account"** means a self-directed separate account created to accept a DROP participant's monthly pension checks while a DROP participant.

(c) **Beneficiary** – Beneficiary means the individual(s) designated by the participant in accordance with Section 4.1(b) to receive the Individual DROP account balance in the event of the participant's death during a period in which the participant is participating in the DROP, but before the participant separates from employment.

Section 11.2 – Deferred Retirement Option Plan

(a) **Eligibility** – Effective July 1, 2016, participants of the Plan who have not retired prior to the implementation of the DROP may enter into the DROP on the first day of any month following completion of 20 years and 6 months of vesting service and attainment of age 50.

(b) **Written Election** – A participant electing to participate in the DROP must notify the City in writing. The notification shall state the participant's intention to participate in the DROP, and designate the Individual DROP Account, with all applicable information necessary to enable the plan administrator to ensure payment of benefits into the Individual DROP Account; or the election to take a fixed percentage rate of return as designated by the City. The percentage rate of return designated by the City shall be no less

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than 3% per year. The form must be signed by the participant and notarized and submitted to the City prior to the date on which the participant wishes the DROP option to be effective. The DROP option notice shall include an irrevocable notice to the City, by the participant, that the participant shall resign from employment with the York City Department of Fire and Rescue Services effective on a specific date (the "resignation date"). In no event shall the resignation date be less than 12 months and not exceed 36 months from the execution of the notice. A participant shall cease to work as an employed firefighter on the participant's resignation date, unless the employer terminates or honorably discharges the participant prior to the resignation date.

All retirement documents required by the York Fire Pension Fund Association must be filed and presented to the Association for approval of retirement and payment of pension. Once the Association has approved a retirement application, it is irrevocable.

(c) **Limitation on Pension Accrual** – After the effective date of the DROP election, the participant shall no longer earn or accrue additional years of continuous service for pension purposes. No benefit increases that may occur after a DROP participant's commencement of participation in the DROP, including bargained pension enhancements. Mandated pension enhancements through arbitration or pension enhancements mandated by law will increase the frozen DROP pension as calculated and determined in accordance with Section 11.3(d).

(d) **Benefit Calculation** – For all retirement fund purposes, continuous service of a participant participating in the DROP shall remain as it existed on the effective date of commencement of participation in the DROP. Service thereafter shall not be recognized or used for the calculation or determination of any benefits payable by the Fund. The average annual compensation of the member for pension calculation purposes shall remain as it existed on the effective date of commencement of participation in the DROP. Compensation or increases in compensation thereafter shall not be recognized or used for the calculation or determination of any benefits payable by the Fund. The pension benefit payable to a participant shall increase only as a result of cost-of-living adjustments in effect on the effective date of the participant's participation in the DROP or by applicable cost-of-living adjustments granted thereafter.

(e) **Payments to the Individual DROP Account** – The monthly retirement benefits that would have been payable had the participant elected to cease employment and receive a normal retirement benefit, shall, upon the participant commencing participation in the DROP, be paid into the Individual DROP Account established to receive the participant's monthly pension payments. If a participant becomes temporarily incapacitated due to injury or sickness during his participation in the DROP, he shall continue to participate in the DROP program as if he were fully employed.

(f) **Payout** – Upon the termination date set forth in the participant's DROP option notice or such date as the employer separates the participant from employment, the retirement benefits payable to the participant or participant's beneficiary, if applicable, shall be paid to the participant or beneficiary and shall no longer be paid to the participant's Individual DROP Account. Within 30 days following termination of a participant's employment pursuant to his participating in the DROP, the balance in the participant's Individual DROP Account shall be paid to the participant in a single lump sum payment or, at the participant's option, in any fashion permitted by law (subject to the requirements of Section 7.2).

(g) **Death** – If a DROP participant dies before the Individual DROP Account balance is paid, the DROP participant's designated beneficiary shall be entitled to a lump sum payment of the DROP account balance. The beneficiary shall not be permitted to defer receipt of the DROP account. ~~the participant's legal beneficiary shall have the same rights as the participant to withdraw the account balance.~~

(h) **Forfeiture of Benefits** – Notwithstanding a participant's participation in the DROP, a participant who is convicted or pleads guilty to engaging in criminal misconduct which constitutes a "crime related to public office or public employment," as that phrase is defined in Pennsylvania's Pension Forfeiture Act, 43 P.S.

§§ 1311-1314, shall forfeit his right to receive a pension, including any amounts currently deposited in the Individual DROP Account. In such a case, the participant shall only be entitled to receive the contributions, if any, made by the participant to the Fund, without interest.

(i) **Account Manager** – The participant shall designate the Individual DROP Account. The City of York shall not be responsible for any fees pertaining to the account, investment loss incurred in the account, or for the failure of an investment to earn a specific or expected return or to earn as much as any other opportunity, whether or not such other investment opportunity was offered or available to participants in the Plan.

(j) **Cost of Management for DROP** – Any costs or fees associated with the management of the DROP, with

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the exception of those amounts which would have been expended in connection with calculation and payment of a superannuation retirement benefit, shall be paid directly from the Fund and not by the City of York. Any costs or fees associated with the management of an Individual DROP Account shall be paid directly by the participant and not by the City of York.

(k) **Construction of Provisions** – A participant's election to participate in the DROP shall in no way be construed as a limitation on the employer's right to suspend or terminate such participant for just cause or to grant such participant an honorable discharge based upon a physical or mental inability to perform his or her duties.

(l) **Severability** – In the event that the DROP is declared invalid or illegal by a court of competent jurisdiction or through an administrative determination of the Office of the Auditor General, the International Association of Firefighters Local 627 shall have the right to bargain in accordance with Act 111 over deletion of this benefit. It is expressly understood that this shall not involve bargaining over a replacement provision.

IN WITNESS WHEREOF, the Employer has caused this Plan to be executed this _____day of _____, 2026.

City of York

By: _____

Title: _____

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