

**SAN DIEGO ELECTRICAL  
PENSION PLAN DOCUMENT  
AMENDED AND RESTATED  
EFFECTIVE JULY 1, 2010**

**TABLE OF CONTENTS**

**ARTICLE I DEFINITIONS..... 1**

**ARTICLE II PARTICIPATION..... 9**

SECTION 1. INITIAL PARTICIPATION..... 9

SECTION 2. SUSPENSION OF PARTICIPATION..... 9

SECTION 3. LOSS OF PARTICIPATION..... 9

SECTION 4. SUBSEQUENT PARTICIPATION..... 9

SECTION 5. CONTRIBUTIONS IN EXCESS OF JOURNEYMAN'S RATE. .... 9

**ARTICLE III ELIGIBILITY FOR BENEFITS..... 10**

SECTION 1. NORMAL RETIREMENT PENSION..... 10

SECTION 2. EARLY RETIREMENT PENSION..... 10

SECTION 3. DISABILITY RETIREMENT PENSION. .... 11

SECTION 4. PERMANENT AND TOTAL DISABILITY..... 11

SECTION 5. DEATH BENEFITS..... 13

SECTION 6. MAXIMUM BENEFITS. .... 15

SECTION 7. ACTUARIAL COMPUTATIONS..... 16

**ARTICLE IV AMOUNT OF BENEFITS..... 16**

SECTION 1. AMOUNT OF NORMAL RETIREMENT PENSION. .... 16

SECTION 2. AMOUNT OF LATE RETIREMENT PENSION..... 17

SECTION 3. AMOUNT OF EARLY RETIREMENT PENSION. .... 17

SECTION 4. OPTIONAL SUPPLEMENTAL EARLY RETIREMENT  
PAYMENTS. .... 18

SECTION 5. AMOUNT OF DISABILITY RETIREMENT PENSION..... 18

SECTION 6. LUMP-SUM DEATH BENEFIT..... 18

SECTION 7. ADJUSTMENTS TO PAYMENT..... 19

SECTION 8. LUMP-SUM DISBURSEMENT..... 19

SECTION 9. FINAL BENEFIT ADJUSTMENT. .... 19

SECTION 10. BENEFIT CREDIT UPON RE-EMPLOYMENT IN CALIFORNIA. . . 20

SECTION 11. CONTRIBUTIONS FROM OUT-OF-STATE PLANS  
AFTER RETIREMENT..... 20

SECTION 12. ROLLOVER OF QUALIFIED RETIREMENT BENEFITS..... 20

**ARTICLE V FORM OF BENEFITS..... 21**

SECTION 1. JOINT & SURVIVOR PENSION. .... 21

SECTION 2. AMOUNT OF JOINT AND SURVIVOR PENSION. .... 22

SECTION 3. SINGLE-LIFE PENSION..... 22

SECTION 4. 180 MONTH GUARANTEE..... 22

SECTION 5. 120 MONTH GUARANTEE..... 23

SECTION 6. PRE-RETIREMENT SURVIVOR PENSION..... 23

SECTION 7.	QUALIFIED ELECTION.....	24
SECTION 8.	QUALIFIED DOMESTIC RELATIONS ORDER. ....	24
SECTION 9.	CHANGE IN RETIREMENT BENEFITS.....	26
SECTION 10.	DIRECT ROLLOVER OF ELIGIBLE ROLLOVER DISTRIBUTION. 27	
<b>ARTICLE VI</b>	<b>ACCUMULATION AND VESTING OF PENSION CREDITS. ....</b>	<b>28</b>
SECTION 1.	ACCUMULATION OF PAST PENSION CREDITS. ....	28
SECTION 2.	ACCUMULATION OF FUTURE PENSION CREDITS. ....	29
SECTION 3.	VESTING AND PENSION CREDITS. ....	29
SECTION 4.	BREAK-IN-SERVICE AND CANCELLATION. ....	30
SECTION 5.	ACCRUAL OF BENEFITS.....	32
SECTION 6.	CREDIT FOR MILITARY SERVICE.....	32
<b>ARTICLE VII</b>	<b>NON-COVERED ELECTRICAL SERVICE.....</b>	<b>32</b>
SECTION 1.	DEFINITION. ....	32
SECTION 2.	EFFECT OF SERVICE. ....	33
SECTION 3.	GRACE PERIOD.....	33
<b>ARTICLE VIII</b>	<b>APPLICATION AND PAYMENT OF PENSION. ....</b>	<b>34</b>
SECTION 1.	EMPLOYEE INFORMATION. ....	34
SECTION 2.	APPLICATION FOR BENEFITS. ....	34
SECTION 3.	INFORMATION REQUIRED.....	34
SECTION 4.	TIME OF PAYMENT. ....	34
SECTION 5.	PAYMENT BY ELECTRONIC DEPOSIT.....	35
SECTION 6.	DESIGNATION OF BENEFICIARY. ....	35
SECTION 7.	REVIEW OF DENIAL OF BENEFITS.....	36
SECTION 8.	RETIREMENT VOLUNTARY.....	36
SECTION 9.	REQUIRED BEGINNING DATE.....	36
SECTION 10	RESTRAINT ON ALIENATION. ....	37
SECTION 11.	LIMITATION ON INTEREST. ....	38
SECTION 12.	LIMITATION ON LIABILITY. ....	38
<b>ARTICLE IX</b>	<b>RE-EMPLOYMENT OF RETIREE.....</b>	<b>38</b>
SECTION 1.	PROHIBITION AGAINST CERTAIN EMPLOYMENT DURING RETIREMENT. ....	38
SECTION 2.	SUSPENSION OF BENEFITS. ....	40
SECTION 3.	RESUMPTION OF RETIREMENT BENEFITS.....	45
SECTION 4.	OFFSET OF PAST OVERPAYMENTS.....	45
SECTION 5.	REQUEST FOR STATUS DETERMINATION.....	45
<b>ARTICLE X</b>	<b>CLAIM AND APPEAL PROCEDURES. ....</b>	<b>46</b>
SECTION 1.	ADMINISTRATION. ....	46
SECTION 2.	NOTIFICATION OF DENIAL. ....	46

SECTION 3.	CONTENT OF NOTIFICATION. ....	47
SECTION 4.	REVIEW PROCEDURES. ....	47
SECTION 5.	ARBITRATION. ....	49
SECTION 6.	TIMING OF BENEFIT DETERMINATION.. ....	50
<b>ARTICLE XI</b>	<b>AMENDMENT AND TERMINATION. ....</b>	<b>50</b>
SECTION 1.	AMENDMENT. ....	50
SECTION 2.	TERMINATION. ....	51
SECTION 3.	MERGER OR TRANSFER OF ASSETS AND/OR LIABILITIES. ...	51
<b>ARTICLE XII</b>	<b>EFFECTIVE DATES. ....</b>	<b>51</b>
SECTION 1.	GENERAL EFFECTIVE DATE. ....	51
SECTION 2.	EFFECTIVE DATES TO COMPLY WITH APPLICABLE LEGISLATION. ....	52
<b>ARTICLE XIII</b>	<b>REHABILITATION PLAN. ....</b>	<b>52</b>
SECTION 1.	INTRODUCTION. ....	52
SECTION 2.	REHABILITATION PLAN PERIOD. ....	53
SECTION 3.	SCHEDULES. ....	53
SECTION 4.	IMPLEMENTATION OF REMEDIES & SCHEDULES. ....	54
SECTION 5.	RULES DURING THE REHABILITATION PERIOD AND ADOPTION OF THE REHABILITATION PLAN. ....	54
SECTION 6.	ANNUAL UPDATING OF RP. ....	55
SECTION 7.	OTHER ISSUES. ....	56
SECTION 8.	DEFAULT SCHEDULE IMPLEMENTED ON OCTOBER 1, 2012... ..	56
SECTION 9.	CONTRIBUTION. ....	56
<b>SCHEDULE OF PENSION BENEFITS. ....</b>		<b>58</b>

**SAN DIEGO ELECTRICAL  
PENSION PLAN DOCUMENT  
AMENDED AND RESTATED  
EFFECTIVE JULY 1, 2010**

This RESTATEMENT OF THE SAN DIEGO ELECTRICAL PENSION PLAN DOCUMENT effective July 1, 2010 by the Board of Trustees of the SAN DIEGO ELECTRICAL PENSION TRUST at a duly held meeting is made with reference to the following facts:

- A. Article XI, Section 1, of the SAN DIEGO ELECTRICAL PENSION PLAN, as restated effective June 1, 2006, provides that the Trustees shall have the power to amend this Pension Plan.
- B. It is the intent of the Trustees that this amended and restated Pension Plan shall not increase, alter or terminate any of the rights or obligations of the parties hereto or any Employer, Employee, Retiree, Spouse or Beneficiary, unless expressly required by the provisions hereof.
- C. The effective date of any provisions of this SAN DIEGO ELECTRICAL PENSION PLAN, as amended and restated is generally July 1, 2010, with certain earlier and later effective dates as provided in prior Plan documents, amendments thereto as is otherwise set forth in this amended and restated Pension Plan.

IT IS THEREFORE MUTUALLY AGREED as follows:

**ARTICLE I**

**DEFINITIONS**

Unless the context or subject matter otherwise requires, the following definitions shall govern in this Pension Plan:

**SECTION 1:**

The term "Bargaining Employee" means any Participant who is employed in a position covered by a Collective Bargaining Agreement with IBEW 569 or other IBEW Locals covered through Reciprocity Agreements and performing work coming within the jurisdiction of the signatory Union.

**SECTION 2:**

The term "Beneficiary" means any person, other than the Spouse of a Participant or Retiree, who has been designated to receive any benefits which may be payable in the event of the death of the Participant or Retiree.

### SECTION 3:

The terms "Board of Trustees" or "Trustees" mean the Board of Trustees established by the Trust Agreement.

### SECTION 4:

The term "Break-in-Service" means any plan Year in which the Participant has failed to work or earn 125 Hours of Covered Employment before he has become vested. Carry-forward hours under the provision of Article VI, Section 4(a) may be utilized to prevent a "Break-in-Service."

### SECTION 5:

The term "Collective Bargaining Agreement" means and includes any Collective Bargaining Agreement executed between the Employer Association and the Union which provides for the making of Employer contributions to the Trust and any modifications, amendments, extensions or renewals thereof. The term "Collective Bargaining Agreement" shall also mean and include any other Collective Bargaining Agreement, any modifications, amendments, extensions or renewals thereof, executed between an Employer and the Union, which provides for the making of Employer Contributions to the Trust and which qualifies under the Trust Agreement.

### SECTION 6:

The term "Corporate Co-Trustee" means any bank, life annuity company or savings association designated as a Corporate Co-Trustee pursuant to the terms of the Trust Agreement.

### SECTION 7:

The term "Covered Employment" means employment or work covered by a Collective Bargaining Agreement in the electrical construction industry requiring contributions to the Trust. The term "Covered Employment" also means employment with any Employer who is obligated in writing to make contributions to the Trust.

### SECTION 8:

The term "Employee" means the employed person performing work covered by a Collective Bargaining Agreement within the recognized work jurisdiction of the Union and an employed person performing work covered by a Participation Agreement between the Trust and a contributing Employer.

The term "Employee" shall also include employees of any sponsoring Union of the Trust on whose behalf contributions are made to the Plan pursuant to regulations adopted by the Board of Trustees, provided the inclusion of said employees is not a violation of any existing regulation.

The term "Employee" also means employees described above and employees not performing work under any of the collective bargaining agreements but who formerly performed services under any

of the collective bargaining agreements. The Employer must execute a Non-Bargaining Participation Agreement to pay contributions on behalf of collective bargaining unit alumni pursuant to this subsection and pursuant to regulations adopted by the Board of Trustees and provided further that the inclusion of said employees is not a violation of any existing law or regulation.

Employees not performing services under a Collective Bargaining Agreement may only participate in the Plan if no more than five percent (5%) of the Employees covered under the Plan are non-collective bargaining unit employees. Employees who previously participated as collective bargaining unit employees and who continue participation in the Plan as collective bargaining unit alumni pursuant to this Section shall not be treated as collective bargaining unit employees for purposes of the five percent (5%) maximum but shall be considered collective bargaining unit employees to the fullest extent permissible under Internal Revenue Code Section 410, Regulations related to that Section and all related Sections and Regulations. Except as may be required bylaw, collective bargaining unit alumni whose participation is allowed pursuant to this Section of the Plan and other participants not performing services under the Collective Bargaining Agreement participating pursuant to the provisions of this Section of the Plan, shall in no event accrue benefits under the Plan in a fashion more favorable than that applicable to similarly situated Employees who are performing services under the Collective Bargaining Agreement.

In no event may an Employer that wishes to pay contributions to the Plan on behalf of non-collectively bargained unit employees do so without the prior approval of the Trustees. Should an Employer pay such contributions without the prior approval of the Trustees, those contributions less any investment losses but in no event with any investment gains, shall be returned by the Trustees to the Employer. The Trustees shall not permit initial or continued participation pursuant to this Section if such participation would result in the five percent (5%) limitation of this Section being violated.

The term "Employee" does not include any self-employed person, whether a sole proprietor or partner.

#### SECTION 9:

The term "Employer" means any Employer who is required by a Collective Bargaining Agreement to make contributions to the Trust. The term "Employer" may also include the Employer Association, the Union, San Diego Electrical Training Trust, the San Diego Electrical Health & Welfare and Pension Trusts, certain administrative service corporations providing administrative services to the Trust and/or other related entities, as well as those Employers signatory to a participation or subscription agreement with the Trust.

#### SECTION 10:

The term "Employer Association" means the SAN DIEGO COUNTY CHAPTER, NATIONAL ELECTRICAL CONTRACTORS ASSOCIATION, INC.

## SECTION 11:

The term "Employer Contributions" means the payment made to, or to be made to, the Trust by an individual Employer on Covered Employment. The term "Employer Contributions" shall also include payments made to, or to be made to, the Trust by any other Employer who is obligated in writing to make such contributions to the extent such contributions are permitted by law.

## SECTION 12:

- (a) The term "Hours of Covered Employment" for the purpose of determining Vesting Credit and Break-in-Service shall mean:
- (1) Any hours worked in Covered Employment for which a Participant is entitled to receive compensation from his Employer, either directly or indirectly, whether or not such compensation was for the performance of work and whether or not Employer Contributions were required to be paid to the Trust Fund, to the extent required by the regulations of the Department of Labor; and
  - (2) Any hours, not to exceed 501 hours, which a Participant is absent from work: (a) by reason of pregnancy, (b) by reason of the birth of a child, (c) by reason of the placement of a child with the Participant for the purpose of adoption, or (d) by reason of caring for a child for a period immediately following the birth or placement of such child.
- (b) The term "Hours of Covered Employment" for the purpose of determining Pension Credits, shall mean only those hours for which Employer Contributions are due and payable under this Pension Plan and shall not include any hours for which a Participant may or may not be entitled to compensation from an Employer, either directly or indirectly, under a Related Plan.
- (c) For the purpose of determining participation, vesting and benefit accrual, the computation period for Hours of Covered Employment shall be the twelve consecutive month period which comprises the Plan Year, as defined in Section 19 of the "Definitions" Article.
- (d) In the event of a payment which is made or due on account of a period during which a participant performs no duties, and which results in the crediting of Hours of Covered Employment or in the event of an award or agreement for back pay, Hours of Covered Employment shall be determined in accordance with DOL Regulation Section 2530.200b-2 and 3.
- (e) Hours of Covered Employment shall be credited to a Participant during the appropriate computation period to avoid a Break-in-Service if such Participant is absent from work for any reason due to (1) pregnancy of the individual, (2) birth of a child of the individual, (3) placement of a child with the individual in connection with an adoption, or (4) caring for a child described in items (2) or (3) immediately following such birth or placement.



#### SECTION 13:

The term "Non-Bargaining Employee" means any Participant who is an elected or appointed officer or employee of the Union, and/ or employee of an Employer who had been a participant in this Pension Plan, and/or an employee of this or another Electrical Trust Fund established pursuant to the Collective Bargaining Agreement, and/or employee of any administrative services corporation providing administrative services to the Trust or another Trust established pursuant to the Collective Bargaining Agreement whom the Employer had elected to cover pursuant to regulations adopted by the Trustees, and whose participation is permitted pursuant to a duly executed Participation Agreement between the Trustees and the Employer. The term also includes a former bargaining unit employee working in a non-bargaining capacity, also known as "Alumni."

#### SECTION 14:

The term "Normal Retirement Age" means the later of age 65 or the date in which a Participant is entitled to a normal retirement pension as outlined in Article III, Section 1.

#### SECTION 15:

The term "Participant" means any Individual for whom an Employer is required or permitted to make contributions to the Trust.

#### SECTION 16:

The term "Pension Credit" means the credit which is given for periods of employment which are accumulated and recorded for Participants in accordance with this Pension Plan, for the purpose of calculating a Participant's pension.

- (a) The term "Past Pension Credit" means the credit which is given for the period of continuous Covered Employment prior to October 1, 1964, under a Collective Bargaining Agreement.
- (b) The term "Future Pension Credit" means the credit which is given for Hours of Covered Employment after October 1, 1964, under a Collective Bargaining Agreement.

#### SECTION 17:

The term "Pension Plan" means this Pension Plan and any modifications, amendments, extensions or renewals thereof.

#### SECTION 18:

The term "Permanent Break-in-Service" means when the number of consecutive one-year Breaks-in-Service suffered by a non-vested Participant equals or exceeds the aggregate number of years of service (including partial Vesting Credit) worked under the Plan by the Participant.

#### SECTION 19:

The term "Plan Year" means any period of one year commencing on October 1 and ending on the following September 30.

#### SECTION 20:

The term "Pro-Rata Pension" means any normal, early or disability retirement payment, the eligibility for which depends on Related Credits earned under one or more Related Plans, and for which normal, early or disability retirement payment would not exist without inclusion of such Related Credit.

#### SECTION 21:

The term "Qualified Domestic Relations Order" means a judgment, decree or order issued by a court of competent jurisdiction that relates to child and/or spousal support, rights of a Spouse or former Spouse, child or other dependent of a Participant as more particularly described in Article V, Section 8, herein.

#### SECTION 22:

The term "Related Credit" means service under any other Electrical Construction Industry Pension Plan with which the Trustees have a Pro-Rata Reciprocity Agreement. Related Credit shall be calculated in the same manner as if it were Vesting Credit under this Plan, excepting:

- (a) That the amount of Related Credit to be credited under this Plan shall be calculated strictly in accordance with the terms of, and shall be subject to, the limitations of the Reciprocity Agreement;
- (b) There shall be no duplication of Vesting Credit and Related Credit and no more than one year of Vesting Credit and/or Related Credit may be accumulated in any one Plan Year; and
- (c) There shall be no recognition of Related Credit in the calculation of lump-sum death benefits.

#### SECTION 23:

The term "Related Plan" means any Electrical Construction Industry Pension Plan with which the Trustees have entered into a Pro-Rata Reciprocity Agreement.

#### SECTION 24:

The term "Retiree" means any former Participant who is receiving either a normal, early or disability retirement pension under this Pension Plan.

SECTION 25:

The term "Retirement" means a Participant will no longer be working in, nor be entitled to receive any compensation or monetary gain from, the electrical industry, craft or trade except as permitted in the Suspension of Benefits Rules set forth in Article IX, Section 2 of the Plan.

SECTION 26:

The term "Spouse" means the person who is of the opposite sex to whom a Participant was and still is legally married. A marriage which has been legally consummated shall continue until that marriage has been terminated either by entry of a Judgment of Dissolution, Legal Separation or Annulment.

SECTION 27:

The term "Trust Agreement" means the Trust Agreement establishing the San Diego Electrical Pension Trust and any modifications, amendments, extensions or renewals thereof.

SECTION 28:

The term "Trust Fund" or "Trust" means all of the monies, investments, and other assets held under the Trust Agreement.

SECTION 29:

The term "Union" means the LOCAL UNION NO. 569, INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, AFL-CIO.

SECTION 30:

The term "Vesting Credit" means the credit given for the periods of employment which are accumulated and recorded for Employees for the purpose of determining eligibility for benefits.

- (a) For the period prior to October 1, 1974, it is equal to an Employee's accumulated Pension Credit.
- (b) For the transition year from October 1, 1974 to September 30, 1975 Vesting Credit shall be credited as follows:
  - (1) Any Employee who has at least five years of Pension Credit as of September 30, 1974, shall have the right after that date to make one election to either:
    - (A) Accrue Vesting Credit at the rate of 1/12th of a year of Vesting Credit for each 125 Hours of Covered Employment up to a maximum of 1,500 Hours of Covered Employment per Plan Year; or

- (B) Accrue one year of Vesting Credit for each Plan Year in which he has 1,000 or more Hours Covered Employment.
- (2) Any Participant as of September 30, 1974 shall have the right during the Plan Year from October 1, 1974 to September 30, 1975 to elect to either:
  - (A) Accrue Vesting Credit at the rate of 1/12th of a year of Vesting Credit for each 125 Hours of Covered Employment up to a maximum of 1,500 Hours of Covered Employment; or
  - (B) Accrue one year of Vesting Credit if the Employee has 1,000 or more Hours of Covered Employment.
- (c) For the period from October 1, 1975 to September 30, 1988, a Participant will accrue one year of Vesting Credit for each Plan Year in which he has 1,000 or more Hours of Covered Employment.
- (d) After October 1, 1988, a Participant will accrue one-quarter of a year of Vesting Credit for each full 250 Hours of Covered Employment to a maximum of one year of Vesting Credit for each Plan Year.
- (e) After October 1, 1990, a Participant who has not suffered a permanent Break-in-Service as of September 30, 1990, will be credited with one-quarter of a year of Vesting Credit for each full 250 Hours of Covered Employment from October 1, 1964 to September 30, 1990, to a maximum of one year of Vesting Credit for each Plan Year.

Years of service with the Employer before a Participant entered the Plan, while the Employer is signatory to a collective bargaining agreement requiring contributions to this Plan, including years of service in contiguous uncovered employment will be counted for vesting purposes, unless one of the exceptions noted in IRC section 411(a)(4) applies. A Participant will accrue Vesting Credits only for the period of continuous service immediately preceding the commencement of pension contributions to this Plan as provided for all participants who were working under the Sound Agreement for periods of employment under the Sound Agreement prior to the time when the Sound Agreement first required contributions to this Plan. Vesting Credit granted under this Section shall not be used to compute benefits due but shall only be used to determine eligibility for any type of benefit provided under this Plan and vesting.

For purposes of Article IV, Section 5, if a Participant shall die on or after January 1, 2007 while performing qualified military service (as defined in Code Section 414(u)), Vesting Credit for such participant shall be determined as if he or she had returned to Covered Employment immediately prior to his or her death.

#### SECTION 31:

All provisions of this Article are subject to the limitations and restrictions of Article XIII which govern benefits first commencing after February 1, 2010.

**ARTICLE II**  
**PARTICIPATION**

**SECTION 1. INITIAL PARTICIPATION:**

All Participants who had, as of October 1, 1964, one Hour of Covered Employment are participants in this Pension Plan. Thereafter, an Employee shall be deemed to be a participant in this Pension Plan as of the first day of the Plan Year in which he has accumulated at least 125 Hours of Covered Employment. A non-vested Employee shall remain a participant until the last day of the Plan Year in which he incurs a Permanent Break-in-Service.

**SECTION 2. SUSPENSION OF PARTICIPATION:**

Any Employee who becomes a participant in this Pension Plan and who thereafter suffers an initial Break-in-Service under Article VI, Section 4(a), shall cease to be a participant on the last day of the Plan Year in which he incurred an initial Break-in-Service, and shall not again become a participant until the first day of the Plan Year in which he has accumulated at least 125 Hours of Covered Employment.

A vested participant, or a non-vested participant whose prior service cannot be disregarded under IRC section 410(a)(5), who is re-employed after a break in service(period of severance), will either participate immediately on his or her re-employment commencement date or retroactively, as of his or her date of re-employment, upon completion of a year of service measured by his or her re-employment commencement date.

**SECTION 3. LOSS OF PARTICIPATION:**

Any Employee who becomes a participant in this Pension Plan, and who thereafter suffers a Permanent Break-in-Service under Article VI, Section 4(b), shall lose all right to his accumulated years of participation.

**SECTION 4. SUBSEQUENT PARTICIPATION:**

If Any employee who had lost his accumulated years of participation under Section 3, above, again becomes a participant in this Pension Plan, his years of participation shall only include those Plan years commencing as of the first day of the Plan Year in which he has again accumulated at least 125 Hours of Covered Employment. This provision shall not apply if the participant qualifies under the provisions set forth in Article VI, Section 4(h) of this Plan.

**SECTION 5. CONTRIBUTIONS IN EXCESS OF JOURNEYMAN'S RATE:**

Any and all contributions transmitted to the collecting agent for the Pension Trust which exceed the then-current hourly contribution rate for journeymen electricians in effect as set forth in the Inside Wireman's Agreement shall be deposited into the San Diego Electrical Annuity Plan for the benefit of the individual Participant on whose behalf such contributions were made. No liability for

retirement benefits shall accrue on behalf of the San Diego Electrical Pension Trust with regard to such excess contributions deposited into the San Diego Electrical Annuity Plan under the terms of this provision. This provision applies to hours worked on or after August 1, 1995.

All provisions of this Article are subject to the limitations and restrictions of Article XIII which govern benefits first commencing after February 1, 2010.

### **ARTICLE III**

#### **ELIGIBILITY FOR BENEFITS**

##### **SECTION 1. NORMAL RETIREMENT PENSION:**

A participant shall be eligible to retire on a normal retirement pension upon meeting the following requirements:

- (a) The Participant has attained the later of age 65 or the fifth anniversary of the time he or she became a Participant; and
- (b) (1) For Participants who worked in Covered Employment from October 1, 1979 through September 30, 1992, has accrued ten (10) years of Vesting Credit without a Permanent Break-In-Service; or
- (2) For Participants who worked in Covered Employment on or prior to September 30, 1992 and who had not incurred a Permanent Break-In-Service prior to that date, if the Participant has earned at least five (5) years of Vesting Credit and/or Related Credit while working as either a Bargaining Employee or Non-Bargaining Employee.

A Participant shall receive a late retirement pension if he retires after the first of the month following his Normal Retirement Age provided the Participant satisfies the above applicable criteria to qualify to receive a normal retirement pension.

##### **SECTION 2. EARLY RETIREMENT PENSION:**

A Participant shall be eligible to retire on an early retirement pension if he meets all of the following requirements:

- (a) He has attained age 55; and
- (b) He has at least 10 years of Vesting Credit and/or Related Credit; and
- (c) He has actually worked at least 300 Hours of Covered Employment within the two calendar years immediately following October 1, 1964, or 1,500 Hours of Covered Employment at any time after October 1, 1964.

### SECTION 3. DISABILITY RETIREMENT PENSION:

A Participant shall be entitled to retire on a disability retirement pension if he meets all of the following requirements:

- (a) He has become permanently and totally disabled as hereinafter defined, and has not attained age 65; and
- (b) He has actually worked at least 300 Hours of Covered Employment within the two calendar years immediately following October 1, 1964, or 1,500 Hours of Covered Employment at any one time after October 1, 1964; and
- (c) He has at least 10 years of Vesting Credit and/or Related Credit. However, effective for applications for a disability retirement pension received by the Trust on or after January 1, 2005, this subsection (c) shall no longer be applicable; or
- (d) Effective with applications for a disability retirement pension received by the Trust on or after October 1, 2006, he has accrued at least 5 Vesting or Related Credits, and worked at least 2,000 Hours of Covered Employment during the calendar year in which his or her disability commenced and the immediately preceding two calendar years in the geographic jurisdiction of IBEW Local 569, provided that at least 500 of these hours constitute Hours of Covered Employment worked within the twelve consecutive months in which hours were last reported to the Pension Trust; and
- (e) He has not worked in the electrical industry, trade or craft subsequent to the last hours reported on his behalf to the Trust by a Contributing Employer; and
- (f) He has not worked in Non-Covered Electrical Service as that term is defined in Article VII, Section 1, subsequent to the last hours were reported on his behalf to the Trust by a Contributing Employer.

### SECTION 4. PERMANENT AND TOTAL DISABILITY:

A Participant shall be deemed permanently and totally disabled if it is determined that the Participant is unable to engage in any substantial gainful activity by reason of any physical or mental impairment which can be expected to be of indefinite and long continued duration.

- (a) Definition of Permanent and Total Disability. For the purpose of determining whether a Participant is permanently and totally disabled, the Trustees shall rely upon the following:
  - (1) A Participant shall be considered permanently and totally disabled if he has a disability rated under the Schedule For Rating Permanent Disabilities published by the California Department of Industrial Relations as a permanent disability rating of at least 70%; or

- (2) A participant shall be considered permanently and totally disabled if he has a determination by the Social Security Administration that the Employee is entitled to a Social Security Disability Award.
- (b) Commencement of Disability Retirement Pension. Subject to the approval of the application by the Trustees, payment of the disability retirement pension shall commence on the first day of the month following the submission of the application for disability pension, or on the first day of the sixth month of disability, whichever is later, and shall continue thereafter for so long as such disability continues.
  - (c) Continuation of Disability Retirement Pension. Payment of the disability retirement pension shall continue only so long as the Participant either remains permanently and totally disabled or until he becomes eligible to receive a normal retirement pension.
    - (1) The Trustees may require Participant at anytime, or from time to time, to submit evidence of continued entitlement of a disability retirement pension and may require the Participant to submit to medical examinations as a condition of receiving further benefit payments; and
    - (2) Payment of the disability retirement pension shall terminate upon the Participant's recovery from his disability. Should a Participant fail to disclose the fact that he is no longer permanently and totally disabled, the Trustees shall have a lien on all other benefits due to that Participant under this Pension Plan, to the extent of all payments which were received to which he was not entitled. However, a Participant's disability retirement pension shall continue to be paid under the Plan even if the Participant returns to work during any period of vocational rehabilitation as approved by the Social Security Administration or with the Workers' Compensation Carrier.
  - (d) Conversion to Normal Retirement. When a Participant becomes eligible to receive a normal retirement pension, he will no longer be eligible to receive a disability retirement pension, and his benefit will automatically be converted to a normal retirement pension. Effective for applications for a disability retirement pension received by the Trust on or after January 1, 2005, upon attainment of Normal Retirement Age under the Plan, the Retiree's monthly benefit shall be reduced by \$1.00 and such amount shall thereafter be paid as a normal retirement benefit under the form of benefit originally selected by the Retiree and spouse, if applicable.
  - (e) Conversion from Early Retirement. In the event a Retiree has applied for and is receiving an early retirement pension and later satisfies the criteria for a disability retirement pension as that term is defined in Section 3, above, the Retiree will have the option of converting his early retirement pension to a disability retirement pension if the Retiree is younger than age 62 when he becomes disabled.

In the event of such conversion, the disability retirement pension shall be reduced by the total value of the early retirement pension benefits paid to the Retiree. Any adjustment in benefit payment due the participant for the reduction in monthly benefit payments received under early retirement, compared to those benefits he would otherwise have been eligible to receive under a disability



retirement pension benefit, shall be distributed to the participant in a lump-sum. Conversely, if there has been an overpayment as a result of the conversion due to the original election of a supplemental option form of benefit, or to the extent you have received an overpayment of benefits due to your having previously selected an optimal benefit form, this amount can be repaid to the Trust in order to eliminate a lifetime reduction to the monthly benefit amount.

A Retiree shall not be entitled to change the form of benefits elected at the time he commenced receiving his early retirement pension in the event of such conversion. Furthermore, there shall be no supplemental benefit option available under the provisions of Article IV, Section 3 of this Plan applicable to an early retirement pension pending conversion to a disability pension.

#### SECTION 5. DEATH BENEFITS:

- (a) Pre-Retirement Survivor Benefits. If a Participant dies before he is eligible to receive a normal or early retirement pension, the Participant's Spouse or designated Beneficiary shall be entitled to receive one of the following death benefits:
- (1) For benefits commencing on or before February 1, 2010, if the Participant has a Spouse, to whom he has been married for a period of at least one year at the time of his death, the Participant's Spouse shall be entitled to received either the pre-retirement survivor pension provided in Article V, Section 6, calculated as if the Participant had applied for retirement benefits the day immediately preceding his death, or the lifetime pension which can be provided by the present actuarial value of the Participant's accrued normal retirement pension, whichever is the greater; or
  - (2) For benefits commencing on or prior to February1, 2010, if the Participant has a Spouse to whom he has been married for a period of at least one year at the time of his death, then the Participant's Spouse has the option of receiving the lump-sum death benefit provided in Article IV, Section 5. If the amount of the lump-sum is less than the actuarial value of the pre-retirement survivor pension provided in Article V, Section 6, then the Spouse will be entitled to receive a lifetime pension which can be provided by the excess of the actuarial value of the pre-retirement survivor pension provided in Article V, Section 6 over the lump-sum death benefit.
  - (3) For benefits commencing on or prior to February1, 2010, if the Participant does not have a Spouse to whom he has been married for at least one year at the time of his death, the Participant's Spouse or designated Beneficiary(ies) shall be entitled to receive the lump-sum death benefit provided in Article IV, Section 5. No benefits are payable for benefits first commencing after Feb 1, 2010, if a participant dies and was not married at the time of his death or was not been married for at least one year at the time of his death.
  - (4) If a former spouse is awarded a portion of the survivor benefit under a Qualified Domestic Relations Order ("QDRO") as an Alternate Payee, then the former spouse shall be paid his or her portion of the benefit to the extent provided for in the QDRO. However, in no event, as a result of a QDRO or otherwise, shall the total Pre-Retirement Survivor Benefits paid to all persons entitled to payment exceed the amount that would

otherwise be paid to a single Spouse in accordance with the provisions of this Section 5(a).

For benefits commencing after February 1, 2010 the pre-retirement survivor pension provided in Article V, Section 6 will still be available to the surviving spouse of the deceased participant; however, the lifetime pension and lump-sum death benefits will no longer be available.

All provisions of this Article are subject to the limitations and restrictions of Article XIII which govern benefits first commencing after February 1, 2010.

- (b) **Post-Retirement Survivor Benefits.** If a Participant dies after becoming eligible to receive a normal, early or disability retirement pension, but prior to the approval of his pending application therefor, the Participant's Spouse or designated Beneficiary shall be entitled to receive one of the following death benefits:
- (1) If the Participant has a Spouse, to whom he has been married for a period of at least one year at the time of his death, the Participant's Spouse shall be entitled to receive either the pre-retirement survivor pension provided in Article V, Section 2(a), calculated as if the Participant had applied for retirement benefits the day immediately preceding his death, or the lifetime pension which can be provided by the present actuarial value of the Participant's accrued normal retirement pension, whichever is the greater; or
  - (2) If the Participant has a Spouse to whom he has been married for a period of at least one year at the time of his death, then the Participant's Spouse has the option of receiving the lump-sum death benefit provided in Article IV, Section 6. If the amount of the lump-sum is less than the actuarial value of the pre-retirement survivor pension provided in Article V, Section 6, then the Spouse will be entitled to receive a lifetime pension which can be provided by the excess of the actuarial value of the pre-retirement survivor pension provided in Article V, Section 6 over the lump-sum death benefit.
  - (3) If the Participant does not have a Spouse to whom he has been married for at least one year at the time of his death, the Participant's Spouse or designated Beneficiary(ies) shall be entitled to receive the lump-sum death benefit provided in Article IV, Section 6.
  - (4) If a former spouse is awarded a portion of the survivor benefit under a QDRO as an Alternate Payee, then the former spouse shall be paid his or her portion of the benefit to the extent provided for in the QDRO. However, in no event, as a result of a QDRO or otherwise, shall the total Post-Retirement Survivor Benefits paid to all persons entitled to payment exceed the amount that would otherwise be paid to a single Spouse in accordance with the provisions of this Section 5(b).
- (c) **Disability Retirement Benefit.** If a Participant who is eligible for a disability retirement pension dies before becoming eligible for an early retirement pension his spouse shall be entitled to benefits as set forth in Paragraph 5(a), above.

- (d) Death Benefit Distribution Rules. All distributions to Participants, their spouses and designated Beneficiaries shall comply with Code section 401(a) (9) and the regulations thereunder, including Treasury Regulation section 1.401(a)(9)-2.

#### SECTION 6. MAXIMUM BENEFITS:

- (a) General Rule. Notwithstanding any other provision of the Plan, the annual retirement benefit to which a Participant shall be entitled to hereunder shall not exceed the maximum amount permitted under Section 415(b) of the Internal Revenue Code, the provisions of which are incorporated herein by reference.
- (b) Adjustment of Dollar Limit for Early or Late Retirement. If a Participant's benefit payments begin before age 62 or after age 65, the dollar limit under this Article III, Section 6.3 (a) is adjusted as referenced by Section 415(b) of the Internal Revenue Code.
- (c) Adjustment for Optional Payment Form. If the Participant's benefit is to be paid in any form other than a single life annuity or a Husband-and-Wife Pension the limitations in this Article III, Section 6 are adjusted as referenced by Section 415(b) of the Internal Revenue Code.
- (d) Plan Aggregation. In applying the limits of this Article III, Section 6, the Plan shall not be combined or aggregated with a non-multiemployer plan for purposes of applying the limit under Section 415(b)(1)(B) of the Internal Revenue Code.
- (e) Limitation Year. The annual limits of this Article shall be applied on a calendar year basis.
- (f) Protection of Prior Benefits.
  - (1) For any year before 1983, the limitations prescribed by Section 415 of the Internal Revenue Code as in effect before enactment of the Tax Equity and Fiscal Responsibility Act of 1982 shall apply, and no benefit earned under this Plan shall be reduced on account of the provisions of this Article III, Section 6 if it would have satisfied those limitations under the prior law.
  - (2) For any year before 1992, the limitations prescribed by Section 415 of the Internal Revenue Code as in effect before enactment of the Tax Reform Act of 1986 shall apply, and no benefit earned under this Plan as of the close of the last Limitation Year beginning before January 1, 1987 shall be reduced on account of the provisions of this Article III, Section 6 if it would have satisfied those limitations under the prior year.
- (g) Interpretation or Definition of Other Terms. The terms used in this Article III, Section 6 that are not otherwise expressly defined in the Plan, shall be defined, interpreted and applied for purposes of this Article III, Section 6 as prescribed in Section 415 of the Internal Revenue Code and the regulations and ruling issued thereunder.

## SECTION 7. ACTUARIAL COMPUTATIONS:

In computing benefits to which a participant maybe entitled upon early retirement, upon the exercise of optional forms of retirement income or upon termination of the plan, and in all other instances in which actuarial computations are required, the actuary shall use the UP1984 Mortality Table (set back 4 years and interest at 6% per annum, provided that the lump sum value of a participant's accrued benefit which is to be paid as the result of a participant's retirement, death or termination of service shall be an amount at least equal to that which would be determined by using the applicable mortality table and the applicable interest rate as defined by the following:

For computation dates prior to October 1, 2008:

- (a) The Applicable Mortality Table means the current mortality table prescribed by the commissioner of the Internal Revenue Service in revenue rulings, notices or other guidance published by the Internal Revenue Service for the calculation of lump sum payments from retirement plans. For distributions with Annuity starting Dates on or after December 31, 2002, any reference in the Plan to the Applicable Mortality Table or the mortality table prescribed in Revenue Ruling 95-6 shall be construed as a reference to the mortality table prescribed in Revenue Ruling 2001-62 for all purposes under the Plan.
- (b) The Applicable Interest Rate, with respect to all distributions made during a plan year, means the annual interest rate on 30-year Treasury securities, for the fourth month preceding the first day of the plan year, as specified by the Commissioner of the Internal Revenue Service for that month in revenue rulings, notices or other guidance published by the Internal Revenue Service.

For computation dates on or after October 1, 2008:

- (a) The Applicable Mortality Table for a plan year is the table prescribed for use in that year under Code Section 417(e)(3).
- (b) The Applicable Interest Rate for a plan year is the rate prescribed for use in that year under Code Section 417(e)(3)(c), namely adjusted three segment rates applied under rules similar to the rules of Code Section 430(h)(2)(c), without regard to the 24 month averaging period provided under Code Section 430(h)(2)(D)(I), for the fourth month preceding the calendar year that contains the Annuity starting date. These three-segment rates are phased in over five years in accordance with the transition rule provided under Code Section 417(e)(3)(D)(ii).

## ARTICLE IV

### AMOUNT OF BENEFITS

#### SECTION 1. AMOUNT OF NORMAL RETIREMENT PENSION:

The monthly amount of the normal retirement pension shall be calculated and provided in the form of a single life pension guaranteed for a period of 180 months. For benefits commencing on or prior to February 1, 2010, the monthly amount of the normal retirement pension shall be calculated and

provided in the form of a single life pension guaranteed for a period of 180 months. For benefits commencing after February 1, 2010, the monthly amount of the normal retirement pension shall be calculated and provided in the form of a single life pension without a guaranteed period.

The amount of such monthly pension shall be computed based upon the total of the following sums:

- (a) Past Pension Credit. The Participant shall be entitled to the sum payable for each 1/4th of a year of Past Pension Credit up to a maximum of 15 years of Past Pension Credit as provided in Article VI, Section 1; plus,
- (b) Future Pension Credit. The Participant shall be entitled to the sum payable for each hour of Future Pension Credit accumulated in accordance with Article VI, Section 2.
- (c) Calculation of Amounts. The calculation of the value of both Past Pension Credit and Future Pension Credit shall be made in accordance with the Schedule of Pension Credits, which is attached hereto, marked Appendix "A", and by this reference incorporated herein as though set forth in full.

All provisions of this Article are subject to the limitations and restrictions of Article XIII which govern benefits first commencing after February 1, 2010.

#### SECTION 2. AMOUNT OF LATE RETIREMENT PENSION:

The monthly amount of the late retirement pension shall be calculated in the same manner as a normal retirement pension and includes Future Pension Credit accumulated after Normal Retirement Age. A Participant's late retirement pension shall not be less than his normal retirement pension, actuarially increased for all months subsequent to his Normal Retirement Age for which he did not engage in an activity which would result in the suspension of monthly pension benefit payments. Such calculation shall be made in accordance with Section 411(b)(1)(H) of the Code and the regulations thereunder, with adjustments in benefits payable as permissible under Proposed Regulation 1.411(b)-2(b)(4)(iii). A Participant who continues employment past his Normal Retirement Age shall be given such notice with respect to suspension of benefits as is required by applicable Department of Labor Regulations.

#### SECTION 3. AMOUNT OF EARLY RETIREMENT PENSION:

The monthly amount of the early retirement pension shall first be determined by calculating the pension that would otherwise be payable to the Participant if he were age 62. The early retirement pension shall then be reduced by the amount of one-quarter of one percent (1/4%) for each month or fraction thereof, that the participant is younger than age 62 on the date on which his early retirement pension benefits are scheduled to commence. There shall be no actuarial reduction for early retirement benefits scheduled to commence on or after the Participant reaches age 62. For benefits commencing on or prior to February 1, 2010, in lieu of the regular early retirement pension provided in Section 2 above, a Participant may elect to increase the monthly amount of the early retirement pension to which he would otherwise be entitled to receive prior to age 62 to either 125% or 150% per month.

These optional forms of benefit are eliminated for benefits first commencing after February 1, 2010.

#### SECTION 4. OPTIONAL SUPPLEMENTAL EARLY RETIREMENT PAYMENTS:

In lieu of the regular early retirement pension provided in Section 2 above, a Participant may elect to increase the monthly amount of the early retirement pension to which he would otherwise be entitled to receive prior to age 62 to either 125% or 150% per month.

- (a) The payment of any such increase will be made only upon the express condition that there will be an actuarial reduction made in the monthly amount of the Participant's early retirement pension effective the first day of the month following the month in which the Participant reaches age 62 to offset the amount of such increased payments.
- (b) If the Participant elects to receive his early retirement pension in a form which provides for a survivor pension after his death, and dies prior to reaching age 62, the actuarial reductions shall be made to the survivor's pension at the time the Participant would otherwise have reached age 62. In the event of a Participant receiving a joint and survivor benefit, and who elected an optional supplemental early retirement pension dies prior to reaching age 62, his survivor shall receive the appropriate percentage of the monthly benefit the Participant would have received had he survived.

All provisions of this Article are subject to the limitations and restrictions of Article XIII which govern benefits first commencing after February 1, 2010.

#### SECTION 5. AMOUNT OF DISABILITY RETIREMENT PENSION:

The monthly amount of disability retirement pension shall be determined in the same manner as though the Participant were eligible to retire on a normal retirement pension on his disability retirement date, and no reduction in the monthly amount of such disability retirement pension shall be made, even though the Participant may be less than age 62 on his disability retirement date.

All provisions of this Article are subject to the limitations and restrictions of Article XIII which govern benefits first commencing after February 1, 2010.

#### SECTION 6. LUMP-SUM DEATH BENEFIT:

The following lump-sum provisions apply for benefits commencing on or prior to February 1, 2010. However the lump-sum benefit is no longer available thereafter:

- (a) Prior to October 1, 1983. The amount of lump-sum death benefits payable upon the death of a Participant shall be a sum equal to \$2,000.00 for each full year of Vesting Credit which the Participant had accrued prior to October 1, 1983; plus,
- (b) After October 1, 1983. A sum equal to the greater of all Vesting Credits earned from hours of service reported under covered employment from the product represented by multiplying the fraction represented with a numerator consisting of the sum of all contributions received

over the denominator of the sum of all hours reported times 1,000, or \$2,000.00 for each full year of Vesting Credit.

- (c) Maximum Benefit. The maximum amount of lump-sum death benefits payable upon the death of a Participant shall not be greater than the amount which results from the calculations utilizing the most recent twenty-five (25) years of Vesting Credits earned from hours of service reported under covered employment which were earned by the Participant immediately preceding his death.
- (d) The maximum of twenty-five (25) years of vesting service set forth in Section 5(c), above, shall be eliminated for the purpose of calculating lump-sum death benefits payable upon the death of an eligible Participant on or after August 1, 1998.

#### SECTION 7. ADJUSTMENTS TO PAYMENT:

- (a) The amount of any monthly pension, survivor pension or annuity benefit payable under this Pension Plan shall be rounded to the next higher multiple of fifty-cents (\$0.50), unless the amount of such monthly pension benefit is already a multiple of fifty cents (\$0.50).
- (b) The full benefits payable under this Plan shall continue to be paid for each month during which the Retiree or beneficiary was alive for any portion of the first day or remainder of the month.

#### SECTION 8. LUMP-SUM DISBURSEMENT:

Notwithstanding any other provisions of this Pension Plan to the contrary, if at the time a normal or early retirement pension is payable to a Participant or a survivor, or a pension annuity is payable to a surviving Spouse or to an Alternate Payee, and the actuarial value of the lifetime payments does not exceed \$5,000.00, the Trustees shall pay to the Participant or surviving annuitant the lump-sum value of that pension or annuity in lieu of monthly payments.

Effective March 28, 2005, in the event of a mandatory distribution greater than \$1,000, if the Participant does not elect to have such distribution paid directly to an eligible retirement plan specified by the Participant or other distributee in a direct rollover or to receive the distribution directly, then the Trustees will pay the distribution in a direct rollover to an individual retirement plan designated by the Board of Trustees.

#### SECTION 9. FINAL BENEFIT ADJUSTMENT

If a Retiree is working during retirement as permitted by the Plan and continues to accrue credited service during post-retirement employment in excess of the minimum 500 hours required for a benefit adjustment, the Retiree shall receive a final benefit adjustment upon the later of a Retiree attaining age 62 or the passage of twelve consecutive calendar months without being credited for hours worked for a Contributing Employer. This Amendment shall be applicable beginning January 1, 1994 for any Retiree who qualifies for a final benefit adjustment under the preceding sentence of this Paragraph on or after January 1, 1994.

## SECTION 10. BENEFIT CREDIT UPON RE-EMPLOYMENT IN CALIFORNIA:

- (a) Any Retiree who, after retiring, again works in Covered Employment in the State of California shall be entitled to accrue additional Pension Credits. Payment of additional retirement benefits for such additional employment shall be subject to the following restrictions:
  - (1) The Retiree must have accrued at least 500 Hours of Covered Employment in this Plan; and
  - (2) The Retiree shall not have any right to change the form of the retirement pension selected by him at the time of his original application for retirement.
- (b) Notwithstanding the provisions of Subsection (a) above, whenever a general pension benefit increase affecting Retirees is granted by the Trustees, any Retiree who had accrued any additional Pension Credits as of or prior to the effective date of such pension benefit increase shall be entitled to receive the increased benefit amount for such additional Pension Credits upon qualifying for an adjustment.

## SECTION 11. CONTRIBUTIONS FROM OUT-OF-STATE PLANS AFTER RETIREMENT:

Any Participant who, after retiring, works at the Electrical industry, craft or trade outside the State of California, and continues to receive or be credited with contributions from Contributing Employers made on his behalf to this Pension Plan, shall not receive an increase in their retirement benefits for the post-retirement hours worked until he or she attains the age of 62. Upon attaining the age of 62, subject to a 500 hour minimum, a Retiree's benefit will be adjusted to take into account post-retirement contributions received on their behalf. No adjustment shall be made in the Retiree's retirement benefit prior to the attainment of age 62. If a Retiree continues to accrue contributions from an out-of-state plan after the attainment of the age of 62, no further adjustments shall be made until twelve (12) months have passed for which no contributions have been made to the Plan on the Retiree's behalf.

Effective January 1, 2005, employer contributions for all post-retirement hours worked outside of the geographic jurisdiction of IBEW Local 569 that are received by the Trust through reciprocity under the terms and conditions of the International Reciprocal Agreement shall automatically be transferred to an account in the Participant's name under the San Diego Electrical Annuity Plan. A Participant shall be credited for post-retirement hours to qualify for a single final benefit adjustment based on post-retirement hours worked prior to January 1, 2005. However, no benefits shall be payable under the San Diego Electrical Pension Plan for such post-retirement hours worked after January 1, 2005.

## SECTION 12. ROLLOVER OF QUALIFIED RETIREMENT BENEFITS

Commensurate with or subsequent to the effective date of the Participant's retirement, a Participant may elect to have a distribution from a qualified retirement plan paid directly to this Plan. All eligible distributions paid to this Plan under this provision shall be actuarially calculated and distributed pursuant to the original Form of Benefits elected by the Participant under Article V.



## ARTICLE V

### FORM OF BENEFITS

#### SECTION 1. JOINT & SURVIVOR PENSION:

The basic form of monthly pension benefit, for either a normal, early or disability retirement pension, shall be calculated and provided in the form of a single life pension (benefits commencing on or prior to February 1, 2010 are guaranteed for a period of 180 months; benefits commencing after February 1, 2010 are not guaranteed for any period pursuant to the basic form of monthly pension benefit payable in the form of a single life annuity) which shall commence with the payment of the first pension benefit payable after the approval of the Participant's pension application, and shall terminate with the monthly pension benefit payable for the month in which the Participant and/or the survivor dies, whichever is later.

- (a) **Married More Than One Year.** A Participant who has been married for at least one year as of the date upon which either his normal, early or disability retirement pension benefits commence, shall automatically receive such retirement pension in the form of a joint and survivor pension unless an optional form of pension benefit has been selected pursuant to a qualified election. Payment in the joint and survivor pension form shall commence with the payment of the first pension benefit. If the Participant dies after he has commenced to receive the joint and survivor pension benefits, the Spouse to whom he was married for the one year period prior to the receipt of such pension benefits shall be entitled to receive the survivor pension, regardless of whether the Participant and Spouse were still married at the time of the Participant's death, unless the right to such survivor pension has been terminated or modified by the terms of a Qualified Domestic Relations Order. However, if the Participant's spouse dies after he has commenced receiving the joint and survivor benefits, the Participant will continue to receive the current monthly benefit for the remainder of his life, unless the form of benefit chosen provides for an automatic reversion to an alternate form of benefit.
- (b) **Married Less Than One Year.** If a Participant was married less than one year at the time of the commencement of such pension, the Participant shall not be entitled to a joint and survivor pension. Payments may be in the form of another pension benefit provided under this Pension Plan.

Any marriage requirement for the participant and spouse must be limited to the one-year period ending on the earlier of the annuity starting date or the date of death. Nevertheless, the Plan must treat a participant and spouse who are married on the annuity starting date as having been married during the one-year period ending on that date if they remain married for one year. Therefore, the Plan must pay to such a participant the benefit that is to commence on the annuity starting date in the form of a qualified joint and survivor annuity. If the participant and spouse do not remain married for one year, the Plan may provide that the spouse loses any survivor benefit rights and that any amount paid to the participant will not be retroactively corrected.

All provisions of this Article are subject to the limitations and restrictions of Article XIII which govern benefits first commencing after February 1, 2010.

## SECTION 2. AMOUNT OF JOINT AND SURVIVOR PENSION:

- (a) 50% Survivor Benefit. The basic form of monthly pension benefit, payable in the joint and survivor pension form, shall be actuarially calculated to provide a monthly pension benefit payable for the life of the Participant, with a survivor monthly pension benefit payable for the life of the Spouse, in an amount equal to 50% of the Participant's monthly pension benefit.
- (b) Optional 75% Survivor Benefit. A Participant may select, pursuant to a qualified election, to receive payment of a joint and survivor pension in an optional form, which shall actuarially be calculated to provide a monthly pension benefit payable for the life of the Participant, with a survivor monthly pension benefit payable for the life of the Spouse, in an amount equal to 75% of the Participant's monthly pension benefit.
- (c) Optional 100% Benefit. A Participant may select, pursuant to a qualified election, to receive payment of a joint and survivor pension in an optional form, which shall actuarially be calculated to provide a monthly pension benefit payable for the life of the Participant, with a survivor monthly pension benefit payable for the life of the Spouse, in an amount equal to 100% of the Participant's monthly pension benefit.
- (d) Optional Reversionary Benefit. A Participant may select, pursuant to a qualified election, to receive payment of a joint & survivor pension in any of the optional forms set forth above which would provide that if the Participant's spouse predeceased the Retiree, the Retiree's benefit shall be increased effective as of the first month following the death of the spouse in an amount that would have been payable if the Retiree had selected a single life pension on the effective date of his or her retirement.

## SECTION 3. SINGLE-LIFE PENSION:

A Participant who is not married at the time of his application for a normal, early or disability retirement pension, or who files a qualified election (spousal consent form) with the Trust Office, may elect to receive his monthly pension benefit in the form of a single-life only pension benefit. The single-life only form of pension benefit shall commence with the payment of the first pension benefit payable after the approval of the Participant's pension application, and shall terminate with the monthly pension benefit payable for the month in which the Participant dies.

For benefits commencing after February 1, 2010, the single-life form of benefit is the standard benefit offered by this Plan. All guaranteed single-life benefits are actuarially calculated, using the single-life benefit as a basis.

## SECTION 4. 180 MONTH GUARANTEE:

A Participant who is not married at the time of his application for a normal, early or disability retirement pension, or who files a qualified election with the Trust Office, may elect to receive his monthly pension benefit in a form which is actuarially calculated to provide a single-life form of benefit, but which shall guarantee that at least 180 months of pension benefits shall be paid to the Participant, or should he die prior to the receipt of all 180 monthly pension benefits, to his designated

beneficiary(ies). The 180 month guaranteed single-life form of benefit is the standard benefit offered by this Plan. All other guaranteed single-life benefits are actuarially calculated, using the 180 month guaranteed single-life benefit as a basis.

The preceding language applies to benefits first commencing on or before February 1, 2010.

For benefits first commencing after February 1, 2010, a Participant who is not married at the time of his application for a normal, early or disability retirement pension, or who files a qualified election with the Trust Office, may elect to receive his monthly pension benefit in single-life form with a guarantee that at least 180 months of pension benefits shall be paid to the Participant, or should he die prior to the receipt of all 180 monthly pension benefits, to his designated beneficiary(ies). This form is calculated to be actuarially equivalent to the single-life form of benefit. All other guaranteed single-life benefits commencing after February 1, 2010, are actuarially calculated using the single-life benefit as a basis.

#### SECTION 5. 120 MONTH GUARANTEE:

A Participant who is not married at the time of his application for a normal, early or disability retirement pension, or who files a qualified election with the Trust Office, may elect to receive his monthly pension benefit in a form which is actuarially calculated to provide a single-life form of benefit, but which shall guarantee that at least 120 months of pension benefits shall be paid to the Participant, or should he die prior to the receipt of all 120 monthly pension benefits, to his designated beneficiary(ies).

#### SECTION 6. PRE-RETIREMENT SURVIVOR PENSION:

If a Participant, who has a vested right to receive either a normal or early pension dies prior to approval of his application for such a pension, and if the Participant had a Spouse to whom he had been married for a period of at least one year at the time of his death, his surviving Spouse shall be automatically entitled to receive a survivor pension, for the life of the surviving Spouse, in an amount equal to 100% of the Participant's monthly pension benefit computed on the basis of Section 2(c) above.

- (a) **Death Benefit Option.** The survivor pension provided herein and the pre-retirement survivor annuity, provided in Article III, Section 5, are mutually exclusive benefits and the surviving Spouse shall only have the option of selecting one or the other.
- (b) **Commencement of Payment.** The surviving Spouse shall be entitled to commence receiving their survivor pension, effective as of the earliest of the first day of the month following the filing of an application provided the Participant is otherwise eligible by age and service, with the first day of the month following the filing of the application or the date the Participant would have first become eligible to receive either a normal or early pension under this Pension Plan.
- (c) **Deferral of Payment.** If the present actuarial value of the survivor pension is more than \$5,000.00, the surviving Spouse shall have the option to elect to defer receipt of the survivor

pension, to a date later than that provided in Subparagraph (b), by filing a written election with the Administrative Manager and the amount of the monthly pension benefit, which will be payable at the time payments actually commence, shall be actuarially adjusted.

#### SECTION 7. QUALIFIED ELECTION:

A waiver of a qualified joint and survivor pension, and/or of any other interest in the Participant's retirement pension or death benefit, must be in writing and must be consented to in writing by the Participant's Spouse. The consent of the Participant's Spouse to a waiver must be witnessed by either the Administrative Manager or his designated representative, or acknowledged by a Notary Public; provided if the Participant can establish to the satisfaction of the Trustees that the written consent of his Spouse cannot be obtained, because either there is no Spouse or the Spouse cannot be located, the waiver of the Participant may be deemed a qualified election.

#### SECTION 8. QUALIFIED DOMESTIC RELATIONS ORDER:

Notwithstanding the provisions of Article VIII, Section 6, to the contrary, normal, early and disability retirement pension benefits which are payable to a Participant may be paid instead to an Alternate Payee if such payments are made pursuant to the terms of a Qualified Domestic Relations Order.

- (a) Definitions. For the purpose of this Section, the following definitions shall apply:
- (1) "Domestic Relations Order" - means a judgment, decree or order issued by a court of competent jurisdiction that relates to child and/or spousal support, marital property rights of a Spouse or former spouse, child or other dependent of a Participant.
  - (2) "Qualified Domestic Relations Order" - means a Domestic Relations Order which specifies:
    - (A) The names and addresses of each Alternate Payee;
    - (B) The amount or percentage of the Participant's normal or early retirement pension benefit to be paid to the Alternate Payee; and
    - (c) The number of payments or period to which the Order applies; provided, however, that no Domestic Relations Order shall be considered a Qualified Domestic Relations Order which requires this Pension Plan to provide:
      - (I) Any type, form or option of benefit not otherwise provided by this Pension Plan;
      - (ii) Any increased benefits not otherwise provided by this Pension Plan; or
      - (iii) Any benefits to be paid to an Alternate Payee which are already required to be paid to another Alternate Payee.

- (3) "Alternate Payee" - means the Spouse, former spouse, child or other dependent of an Participant.
- (b) Administrative Notice. The Administrative Manager shall promptly notify the Participant and any other Alternate Payee upon receipt of a Domestic Relations Order. The Trustees shall, within a reasonable time thereafter, make a determination as to whether such Domestic Relations Order is a qualified Domestic Relations Order and thereafter the Administrative Manager shall notify the Participant and each Alternate Payee of that determination.
    - (1) Review of Determination. If a Participant or any Alternate Payee disputes the Trustees determination that the Domestic Relations Order is or is not a Qualified Domestic Relations Order, that Participant or Alternate Payee shall immediately notify the Administrative Manager in writing of such dispute. The Administrative Manager shall then notify each party of their rights to seek a review of the determination under Article VIII of the Trust Agreement.
    - (2) Disputed Benefits. If there is a dispute on the issue of whether a Domestic Relations Order is a Qualified Domestic Relations Order, the Administrative Manager shall defer payments and shall separately account for such disputed benefits.
      - (A) If the Domestic Relations Order is determined to be a Qualified Domestic Relations Order, within 18 months after such deferral, the Administrative Manager shall pay the disputed benefits to the person entitled to receive them. If no determination is made within the 18 month period, or if a Domestic Relations Order is determined not to be a Qualified Domestic Relations Order, the Administrative Manager shall pay the disputed benefits as if no Domestic Relations Order had been issued.
      - (B) If the Domestic Relations Order is determined to be a Qualified Domestic Relations Order after the expiration of the 18 month period, it shall be applied prospectively only and the Trust Fund shall not be liable for payments to the Alternate Payee for any payments made prior to such determination.
    - (3) Pending Order. The Administrative Manager may also defer payment of any benefits for a reasonable time as permitted bylaw if the Administrative Manager has received notice that a Participant's Spouse is seeking a Domestic Relations Order.
  - (c) Commencement of Benefits. Payments under a Qualified Domestic Relations Order shall commence on the latter of:
    - (1) The date specified in the Qualified Domestic Relations Order; or
    - (2) The earlier of the date upon which the Participant files an application and becomes eligible to receive either a normal, early or disability retirement pension regardless of whether the Participant may be presently receiving a retirement pension or the Participant's earliest retirement age.

- (d) Computation of Benefits. If the Qualified Domestic Relations Order requires benefits to be paid to the Alternate Payee after the Participant becomes eligible to receive either a normal, early or disability retirement pension, but prior to the date the Participant actually commences to receive either a normal or early retirement pension, the payments to the Alternate Payee shall be computed by taking into account only the amount of normal or early retirement benefits which the Participant had accrued to that date.
- (e) Survivor Benefits. If the Participant dies before becoming eligible to receive either a normal or early retirement pension, the Alternate Payee shall be entitled to receive survivor benefits only if the Qualified Domestic Relations Order requires survivor benefits to be paid to the Alternate Payee and if the Participant and the Alternate Payee had been married for a least one (1) full year as of the date of death. Such survivor benefits shall not commence until the first day of the month upon which the Participant would have first been eligible to receive either a normal or early retirement pension provided application for benefit is made by the Alternate Payee.
- (f) Form of Payment. The amount payable to the Alternate Payee may be payable in any form permitted, or not prohibited by, the Qualified Domestic Relations Order.
  - (1) No payment shall be made in the form of a Joint and Survivor Annuity with respect to the Alternate Payee and the Alternate Payee's Spouse;
  - (2) The total amount of the payments of the Alternate Payee, any other Alternate Payees, and the Participant shall not exceed the actuarial equivalent of a single life annuity for the life of the Participant;
  - (3) With the written consent of the Alternate Payee, the Trustees shall make a lump-sum disbursement to the Alternate Payee of the actuarial value of the Alternate Payee's survivor benefit if the actuarial value of the survivor benefit is less than \$5,000.00;
  - (4) If the Participant is not in pay status, benefit payments shall be made to the Alternate Payee only for the Alternate Payee's lifetime. If the Participant is in pay status, benefit payments shall be made in the form selected by the Participant; and
  - (5) Payments to the Alternate Payee shall be based on the amount of benefit accrued during the parties' marriage and prior to the date of physical separation.

#### SECTION 9. CHANGE IN RETIREMENT BENEFITS:

Once a Participant commences to receive a retirement pension, his election as to the form of retirement pension shall not be changed even though any of the following contingencies should occur:

- (a) The marriage of the Participant and his Spouse is legally terminated;
- (b) His Spouse, Alternate Payee or Beneficiary, under a Qualified Domestic Relations Order,

predeceases him; provided, however, if the form of pension benefit selected was 120 or 180 months guaranteed, a new beneficiary may be designated by the Participant to receive the remainder of the monthly payments due.

#### SECTION 10. DIRECT ROLLOVER OF ELIGIBLE ROLLOVER DISTRIBUTION:

- (a) This Section 10 applies to distributions made on or after January 1, 1993. Notwithstanding any provisions of the Plan to the contrary that would otherwise limit a distributee's election under this Section 10, a distributee may elect, at the time and in the manner prescribed by the Trustees, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover notice.
- (b) For purposes of Section 10, the following definitions shall apply:
  - (1) 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 section 401(a)(9) of the Code; and the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities).
  - (2) An "eligible retirement plan" is an individual retirement account described in section 408(a) of the Code, an individual retirement annuity described in section 408(b) of the Code, an annuity plan described in section 403(a) of the Code, or a qualified trust described in section 401(a) of the Code, that accepts the distributee's eligible rollover distribution. An eligible retirement plan shall also include an annuity contract described in IRC section 403(b) and an eligible plan under IRC section 457(b) which 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 which agrees to separately account for amounts transferred into such plan from this Plan. The definition of eligible retirement plan also shall 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 relation order, as defined in IRC section 414(p).
  - (3) 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 section 414(p) of the Code, are distributees with regard to the interest of the Spouse or former Spouse.
  - (4) A "direct rollover" is a payment by the Plan to the eligible retirement plan specified by the distributee.

- (c) Effective January 1, 2007, a non-spouse beneficiary may receive a distribution in the form of a direct transfer to a Section 408(a) individual retirement account or a Section 408(b) individual retirement annuity but only to the extent permitted by all applicable provisions of the Code and all related regulations.

## **ARTICLE VI**

### **ACCUMULATION AND VESTING OF PENSION CREDITS**

#### **SECTION 1. ACCUMULATION OF PAST PENSION CREDITS:**

- (a) **Amount of Credit.** A Participant shall be entitled to receive 1/4th of a year of Past Pension Credit for each 125 Hours of employment prior to October 1, 1964, to a maximum of not more than 1,500 hours per year and to a maximum of not more than 15 years. Past Pension Credits shall also be granted to a Participant for periods of employment with any Local Union signatory to a Collective Bargaining Agreement, which subsequently became part of this Pension Plan under the same terms and subject to the same limitations of any other Participant, to the extent permitted pursuant to regulations adopted by the Trustees, and to the extent that such Past Pension Credit is not contrary to any applicable law or regulation.
- (b) **Proof of Credit.** Proof of eligibility for Past Pension Credit shall be made on a form approved by the Trustees and signed by the Participant which shall set forth the periods during which the Participant was employed in a capacity entitling him to such credit. The Trustees may require additional evidence of eligibility, however, the Trustees may accept as prima facie evidence of eligibility:
  - (1) A statement in writing by an Employer that the Participant was employed by the Employer in Covered Employment, and the period of such employment;
  - (2) A statement by the Financial Secretary of the Union that the Participant was a member in good standing in the Union as a journeyman or apprentice electrician and was not employed, to the knowledge of the Union official, by an Employer not a party to a Collective Bargaining Agreement with the Union during the period claimed;
  - (3) A W-2 Form or check stub and proof showing the physical location of the work and that the Participant was employed by an Employer and was in Covered Employment;
  - (4) A statement by the Social Security Administration that the Participant was employed by an Employer in Covered Employment;
  - (5) For years since the maintenance of records of contributions to the current San Diego Electrical Health and Welfare Trust, a statement of the months for which contributions were made to the San Diego Electrical Health and Welfare Trust for such Participant under the terms of the Collective Bargaining Agreement; and



- (6) Past Pension Credits shall be granted for periods of absence from Covered Employment because of required military service in the Armed Forces of the United States in time of war or national emergency or pursuant to a national conscription law; provided, the Participant was actively engaged in covered Employment within 60 days prior to his entrance into the Armed Forces, and provided further, the Participant returned to such Covered Employment within 90 days after his release from active duty or 90 days after recovery from a disability sustained while on active duty and continuing after his release from active duty. Periods of voluntary re-enlistment shall be excluded from such computation.

## SECTION 2. ACCUMULATION OF FUTURE PENSION CREDITS:

- (a) Prior to October 1, 1974. Commencing October 1, 1964, through September 30, 1974, a Participant shall receive one Future Pension Credit for each 1,500 or more Hours of Covered Employment in a Plan Year. If the Participant worked less than 1,500 Hours in that Plan Year, he shall receive 1/12th of one Future Pension Credit for each 125 Hours that he worked.
- (b) After October 1, 1974. Commencing October 1, 1974, a Participant shall receive Future Pension Credit for each hour of his Covered Employment in each Plan Year without limitation to the total amount of Future Pension Credit he may earn in that Plan year.

## SECTION 3. VESTING AND PENSION CREDITS:

- (a) Normal Retirement. A Participant shall have a vested nonforfeitable right to receive the normal retirement benefits provided under this Pension Plan, notwithstanding any subsequent Break-in-Service which may be suffered by the Participant, if he or she has:
  - (1) Attained the later of age 65 or the fifth anniversary of the date he or she became a Participant; and
  - (2) Worked in Covered Employment from October 1, 1979 through September 30, 1992 and accrued ten (10) years of Vesting Credit and/or Related Credit while working as a Bargaining Employee without a Permanent Breach in Service; or
  - (3) Worked in Covered Employment and had not incurred a permanent break in service prior to October 1, 1992 and earned at least five (5) years of Vesting Credit and/or Related Credit while working as either a Bargaining Employee or Non-Bargaining Employee; or
  - (4) Worked in Covered Employment as a Bargaining Employee and accrued five (5) years of Vesting Credit and/or Related Credit as a Bargaining Employee, on or after October 1, 1992, without incurring a Permanent Break-In-Service.
- (b) Early Retirement. A Participant shall have a vested nonforfeitable right to receive the early retirement benefits provided under this Pension Plan, notwithstanding any subsequent Break-in-Service which may be suffered by that Participant, if he or she has earned at least ten (10) Vesting Credits and/or Related Credits while working as either a Bargaining Employee or Non-

Bargaining Employee and attained age 55, as more fully defined in Article III, Section 2.

- (c) Termination of Plan. In the event of the termination or partial termination of this Pension Plan, the interest of any affected Participants shall be nonforfeitable to the extent they are vested as of the actual date of termination.
- (d) Nonforfeitable Benefits. A Participant's right to his or her Normal Retirement Benefit is nonforfeitable on attainment of normal retirement age provided there was no prior permanent Break-in-Service.
- (e) The nonforfeitable percentage of each Participant's right to his or her employer derived accrued benefit, because of a change in the vesting schedule, is not less than the Participant's percentage computed under the Plan without regard to such change.
- (f) Each Participant whose nonforfeitable percentage of his or her benefits derived from employer contributions is determined under the amended schedule with respect to any modification to the vesting schedule, and who has completed at least 3 years of service with the employer, may elect, during the election period, to have the nonforfeitable percentage of his or her accrued benefit derived from employer contributions determined without regard to such amendment if his or her nonforfeitable percentage under the plan as amended is, at any time, less than such percentage determined without regard to such amendment.

#### SECTION 4. BREAK-IN-SERVICE AND CANCELLATION:

- (a) Break-in-Service.
  - (1) Effective with the Plan Year beginning October 1, 1991, it will be permissible for any participant accruing in excess of 1,000 hours in any one Plan Year to carry-forward to the next succeeding Plan Year any or all excess hours from the preceding Plan Year for vesting purposes only; provided, the participant worked at least 250 hours, but less than 1,000 hours, in Covered Employment in the succeeding Plan Year into which the excess hours would be carried-forward.
  - (2) In no event may a participant receive credit for greater than 1,000 unit of Vesting Credit in either Plan Year involved in the carry-forward of excess hours.
  - (3) A participant who has failed to have 125 hours of Covered Employment, excluding carry-forward hours in any Plan Year, and who is not vested, shall suffer a Break-in-Service and shall have all of his Vesting Credits suspended as of the end of the Plan Year in which a Permanent Break-in-Service occurs.
- (b) Permanent Break-in-Service. A Participant who is not vested under Section 3, above, and who has suffered a Break-in-Service shall suffer a Permanent Break-in-Service if that Participant fails to accumulate the necessary Hours of Covered Employment specified in Subparagraphs (d), (e), (f) or (g) of this Section. If the Participant suffers a Permanent Break-in-Service, that Participant shall lose all accumulated Pension and Vesting Credit and shall be treated as a new

Participant if that Participant ever again works in Covered Employment.

- (c) Permanent Break-in-Service Prior to October 1, 1975. Prior to October 1, 1975, a Participant who failed to accumulate at least 300 Hours of Covered Employment in any two consecutive calendar years shall suffer a Permanent Break-in-Service.
- (d) Permanent Break-in-Service After October 1, 1975. After October 1, 1975, a Participant shall suffer a Permanent Break-in-Service if the number of consecutive Plan Years in which that Participant had suffered a Break-in-Service was equal to or exceeds the greater of five or the total of that Participant's accumulated Vesting Credit which shall include Partial Vesting Credit and Related Credit.
- (e) Permanent Break-in-Service After October 1, 1992. After October 1, 1992, a Participant who had not suffered a permanent Break-in-Service under Section 4(d) above as of September 30, 1992, shall suffer a Permanent Break-in-Service only if the number of consecutive Plan Years in which that Participant had suffered a Break-in-Service was equal to or exceeds the greater of Five Plan Years.
- (f) Leaves of Absence. Notwithstanding the provisions of Subparagraph (a) of this Section, any Participant shall be granted a leave of absence and exemption from a Break-in-Service if his failure to work is attributable to the Participant being "permanently and totally disabled", as defined in Article III, Section 4, or "temporarily disabled" for a period of ninety days in a Plan Year, or service in the Armed Forces of the United States in time of war or national emergency or pursuant to a national conscription law, excluding periods of voluntary re-enlistment. For the purpose of this Section, the term "temporarily disabled" shall mean that, after October 1, 1991, a Participant is totally disabled so as not to be able to work in the electrical construction industry for a period of at least 90 days in a Plan Year, provided that the disability did not arise from or is totally unrelated to work performed in Non-Covered Employment.
- (g) Additional Exemptions. Upon written application of a Participant, the Trustees may grant additional leaves of absences and exemptions from the provisions of Subparagraphs (d), (e), (f) and (g) of this Section on a nondiscriminatory basis pursuant to such uniform rules and regulations as the Trustees may establish; provided, however, that no such additional exemption shall extend, for more than two Plan Years, the date when the permanent Break-in-Service would otherwise occur.
- (h) Reinstatement of Vesting Credit After Permanent Break-in-Service. Any Participant who previously lost some or all of their Vesting Credits (including Related Credits), due to incurring a Permanent Break-in-Service, may resurrect all such lost Vesting Credits at the corresponding benefit credit rate by virtue of earning at least 5,000 Vesting Credits without incurring another Permanent Break-in-Service commencing with the Plan Year ending September 30, 1988. One Vesting Credit equals 1,000 hours in a Plan Year running from October 1st through the following September 30th. The applicability of Related Credits shall be subject to the exceptions stated in Article I, Section 22.

## SECTION 5. ACCRUAL OF BENEFITS

Benefits as referenced in Article II, Section 5 will not accrue in excess of the contribution rate in effect at the time as set forth in the then existing provisions of the Inside Wireman's Agreement regarding contributions required for journeymen.

## SECTION 6. CREDIT FOR MILITARY SERVICE

Effective January 1, 1994, notwithstanding any provision of the Plan to the contrary, Credited Service and benefit accruals with respect to qualified military service, including voluntary military service, will be provided in accordance with Section 414(u) of the Internal Revenue Code if the Participant was employed in Covered Employment immediately prior to his entry into the Armed Forces and the Participant makes himself available for or attains work in Covered Employment within 90 days after his release from active duty and furnishes such evidence and proof of his availability for work in Covered Employment to the Board of Trustees. Pension Credits accrued under this provision for qualified military service shall be funded by the Trust Fund.

# ARTICLE VII

## NON-COVERED ELECTRICAL SERVICE

### SECTION 1. DEFINITION:

"Non-Covered Electrical Service" means any employment in the electrical industry, craft or trade and within the same geographic area as is covered by the Collective Bargaining Agreement and which is not covered by a Collective Bargaining Agreement requiring contributions to this Pension Plan. For the purposes of this sub-section:

- (a) The term "employment as an electrician" means employment or self-employment which significantly involves that degree of knowledge of the science of electricity which is consistent with the status and training of a journeyman electrician.
- (b) The term "same industry, craft or trade" means that if the Employer's or the self-employed's work was performed on private property for a third party, the work would require that the Employer or self-employed electrician possess a California State Electrical Contractor's License, be that license a C-10 or other specialty electrical contractor's license.
- (c) Non-Covered Electrical Services shall include any work, ownership or involvement as an officer or director of a corporation, sole proprietorship or partner for a firm performing work in the same industry, craft or trade.
- (d) The term "same geographic area" means the State of California and the jurisdiction of any other related plan signatory to a Pro-Rata Reciprocal Agreement with this Plan and/or signatory to the International Reciprocal Agreement.

## SECTION 2. EFFECT OF SERVICE:

If a Participant is or becomes employed in Non-Covered Electrical Service on or after October 1, 1988, and does not return to Covered Employment as provided in Section 3, below, that Participant's eligibility to receive the benefits provided by this Pension Plan will be limited as follows:

- (a) Early Retirement Pension. A Participant shall not be eligible to receive the portion of his Early Retirement Pension, as provided for in Article III, Section 2, accrued on or after June 1, 1989, if that Participant works in Non-Covered Electrical Service subsequent to the last hours reported to the Trust on his behalf by a Contributing Employer.
- (b) Disability Pension. A Participant shall not be eligible to receive a disability retirement pension, as provided for in Article III, Section 3, if that Participant works in Non-Covered Electrical Service subsequent to the last hours reported on Participant's behalf to this Plan.

## SECTION 3. GRACE PERIOD:

- (a) Return to Covered Employment. If a Participant who was employed in Non-Covered Electrical Service terminates all further Non-Covered Electrical Service and returns to Covered Employment on or before September 30, 1989, and thereafter earns at least 125 hours of Credited Service, then no period of prior Non-Covered Electrical Service prior to October 1, 1989, shall be subject to suspension or considered in the determination of eligibility for a disability retirement or death benefit.
- (b) Amnesty. If a Participant who was employed in Non-Covered Electrical Service terminates all further Non-Covered Electrical Service and returns to Covered Employment and earns five (5) Vesting Credits (including five (5) Related Credits) under the Plan following his return to Covered Employment, the Participant shall not be subject to suspension of early retirement benefits. However, should the Participant earn five (5) Vesting Credits after returning to Covered Employment and subsequently work in Non-Covered Electrical Service, the Participant shall again forfeit his right to receive early retirement benefits under the Plan with respect to all previously accrued benefit credit and Vesting Credit. The applicability of Related Credits shall be subject to the exceptions stated in Article I, Section 22.
- (c) Inability To Return. If a Participant who was employed in Non-Covered Electrical Service becomes totally and permanently disabled or dies on or before September 30, 1989, and is thus involuntarily unable to return to Covered Employment, that Participant shall be deemed to have satisfied the requirements of sub-paragraph (a), above, as of the day immediately preceding the onset of his total disability or death.

## **ARTICLE VIII**

### **APPLICATION AND PAYMENT OF PENSION**

#### **SECTION 1. EMPLOYEE INFORMATION:**

Upon request each Participant will be provided with general information concerning his rights to retirement benefits under this Pension Plan. In addition, each Participant may request in writing that the Administrative Manager furnish to him a statement indicating, on the basis of the latest available information, the total benefits which that Participant has accrued, whether or not he is vested, and the earliest date on which such benefits will become vested; provided, that no more than one statement shall be furnished during any one 12 month period.

#### **SECTION 2. APPLICATION FOR BENEFITS:**

A Participant, Retiree, Spouse, Alternate Payee or Beneficiary who qualifies for benefits under this Pension Plan shall submit an application therefor in the form and manner prescribed by the Trustees prior, and as a condition to receiving such benefit. Effective January 1, 2008. Not less than 30 and no more than 180 days prior to the pension commencement date, a Participant, Spouse, Alternate Payee, or Beneficiary shall be provided with written notice setting forth the terms and conditions of the pension, including eligibility requirements, the rights of such person to the pension, the relative value of the optional forms of benefit (if any), any rights to defer payment of the pension, and any other information relevant to the Participant, Spouse, Alternate Payee, or Beneficiary. Notwithstanding the foregoing, such written notice may also be furnished within 30 days of the pension commencement date provided that the Participant has at least 30 days following receipt of the written notice to make an election. Distribution of a pension may commence after 7 days have elapsed from the date that the Board distributes the written notice provided that the Participant, Spouse, Alternate Payee or Beneficiary has received information that clearly indicates his right to at least 30 days to consider the contents of the notice and the individual affirmatively elects distribution.

#### **SECTION 3. INFORMATION REQUIRED:**

Each Participant, Retiree, Spouse, Alternate Payee and Beneficiary shall furnish to the Trust Office any information or proof requested by the Administrative Manager, such as evidence of date of birth and marital status, which is reasonably required to administer the Pension Plan. In the event such proof is not supplied promptly and in good faith, the Trustees shall have the power to deny, suspend or discontinue benefits to such Participant, Retiree, Spouse or Beneficiary in whole or in part. If the Participant, Retiree, Spouse or Beneficiary willfully makes a false statement material to their claim for benefits, the Trustees shall be entitled to recover all amounts paid to such Participant, Retiree, Spouse or Beneficiary to which they were not entitled under the provisions of this Pension Plan.

#### **SECTION 4. TIME OF PAYMENT:**

A Participant, Retiree, Spouse, Alternate Payee or Beneficiary who makes a final application for benefits under this Pension Plan, and whom the Trustees determine to be eligible, shall be entitled,

upon approval of that application, to receive the monthly benefits provided for herein, subject, however, to all of the provisions of this Pension Plan.

#### SECTION 5. PAYMENT BY ELECTRONIC DEPOSIT:

All Participants, Retirees, Spouses, alternate Payees and Beneficiaries who become initially entitled to any of the benefits provided under this Pension Plan as of January 1, 2005, shall receive all benefit payments in the form of an electronic deposit.

Benefit payments shall be payable commencing with the first day of the month following the date on which the Participant, Retiree, Spouse or Beneficiary has established his eligibility to benefits and has submitted his final application therefore.

However, in no event, unless the Participant elects otherwise, shall the payment of benefits begin later than the 60th day after the later of the close of the Plan Year in which:

- (a) The Participant attains Normal Retirement Age, or
- (b) The Participant terminates his employment with a Contributory Employer and retires.

In the event the Participant's benefit payments commence subsequent to the first day of the month following the Participant's satisfaction of the eligibility for a Normal Retirement Pension as set forth in Article III, Section 1(a) and (b) and Article VI, Section 3(a)(1) or (2), the monthly benefit will be the accrued benefit payable upon having satisfied such eligibility criteria, actuarially increased for each complete calendar month between such date and the date upon which benefits commence, provided that the benefits were not suspendible for such months pursuant to Article IX, Section 2(b) of the Plan.

#### SECTION 6. DESIGNATION OF BENEFICIARY:

A Participant may designate, in the manner required by the Trustees, anyone he chooses as his Beneficiary to receive certain selected forms of retirement pension benefits, or to receive his death benefits. To be valid, the standard Enrollment Card providing for a Designation of Beneficiary must be signed by the Participant under penalty of perjury and filed with the Trust Office.

- (a) Change of Beneficiary. The Participant may change their Enrollment Card at any time by merely filing a new Enrollment Card with the Trust Office.
- (b) Spousal Consent. If the Participant is married, and if the Beneficiary named on the original or any subsequent Enrollment Card is anyone other than the Participant's Spouse, the Participant must have the Spouse's written consent pursuant to Article V, Section 7 to be valid. If the Participant does not have the Spouse's written consent, the designation is void and the provisions of this Pension Plan will determine the method of payment of any benefits without regard to such attempted designation.

- (c) Lack of Designation. If the Participant does not designate a Beneficiary or the designation is invalid because the Participant does not have his Spouse's written consent, or because the Participant's Beneficiary died before he did, any benefit which might still remain payable, and for which the provisions of this Pension Plan do not otherwise determine the method of payment, will be paid in accordance with the laws of succession of the State of California.
- (d) In the absence of an Enrollment Card filed with the Pension Trust, the Trust will consider any enrollment card on file with the San Diego Electrical Health & Welfare Trust and/or any related or reciprocal Trusts.

If after designating a spouse as beneficiary of any benefits that may be payable under the Plan, the Participant is divorced or his marriage to such spouse is annulled, the divorce or annulment revokes the designation of beneficiary of the spouse, unless, by operation of a QDRO, the former spouse retains a right to survivor benefits or by virtue of a subsequent marriage, the Participant is married to such spouse for at least one year at the time of his death.

#### SECTION 7. REVIEW OF DENIAL OF BENEFITS:

Should a Participant, Retiree, Spouse, Alternate Payee or Beneficiary have their written application denied by the Trustees, the Trustees shall, by written correspondence, detail the reasons for such denial and forward said correspondence to the Employee, Retiree, Spouse or Beneficiary, while also directing their attention to the Review Procedures. The Participant, Retiree, Spouse or Beneficiary will be entitled to demand a hearing under the procedures set forth in Article VIII of the Trust Agreement.

#### SECTION 8. RETIREMENT VOLUNTARY:

Retirement under this Pension Plan is voluntary. However a Participant may continue to work beyond their retirement, subject to certain Plan limitations. Article IV, Sections 9 and 10 of the Plan permits accrual of additional Pension credit for work under covered employment.

#### SECTION 9. REQUIRED BEGINNING DATE:

Notwithstanding any other provision in this Article VIII, the following required distribution rules apply to distributions beginning before a Participant's death:

- (a) Notwithstanding any inconsistent provision of the Plan, all distributions under the Plan shall be made in accordance with Code section 401(a)(9), including the incidental death benefit requirement of Code section 401(a)(9)(G), and Treasury Regulations sections 1.401(a)(9)-1 through 1.401(a)(9)-9. Specifically, distribution of the Participant's interest shall:
  - (1) be completed no later than the Required Beginning Date; or
  - (2) commence not later than the Required Beginning Date with distribution to the Participant made over the life of the Participant or joint lives of the Participant and a designated beneficiary or a period not longer than the life expectancy of the Participant or the joint



life expectancies of the Participant and a designated beneficiary.

For purposes of this Section 9, Required Beginning Date shall mean April 1 of the calendar year following the later of the calendar year in which the Participant attains age 70½ or the calendar year in which the Participant retires; provided, however, if the Participant is a five-percent owner (as defined in Code section 416), the Required Beginning Date shall be April 1 of the calendar year following the calendar year in which the Participant attains age 70½, regardless of the date that the five-percent owner retires.

If the Participant opts to defer commencement of benefits under this Section until after actual retirement, the Participant shall file an election form with the Administrative Office of the Trust fund.

In the case of a Participant who retires in a calendar year after the calendar year in which he attains age 70½ and who has not commenced payments as of the first day of such later calendar year, the Plan benefit accrued by the Participant shall be actuarially increased, to the extent required by regulations, to take into account the period (commencing on the April 1 of the calendar year following the calendar year in which the Participant attains age 70½ and ending on the date payment commences) during which the Participant did not receive benefit payments from the Plan; provided, however, in the event that the benefits accrued during the period of such actuarial increase results in a benefit greater than the actuarially increased benefit, the benefit based on the continued accruals shall be paid.

In the event that a Participant dies prior to the date that distribution commences:

- (1) any portion of the Participant's interest that is not payable to a designated beneficiary shall be distributed not later than the end of the calendar year which includes the fifth anniversary of the date of the Participant's death; and
  - (2) any portion of the Participant's interest that is payable to a designated beneficiary shall be distributed in accordance with subsection (I) above or over the life of the designated beneficiary (or over a period not extending beyond the life expectancy of the beneficiary), commencing not later than the end of the calendar year following the calendar year of the Participant's death or, if the beneficiary is the Participant's surviving spouse, commencing not later than the last day of the later of the calendar year in which the Participant would have attained age 70-1/2 or the calendar year following the calendar year which includes the date of the Participant's death.
- (b) If a distribution is considered to have commenced in accordance with the Regulations before the participant's death, the remaining interest will be distributed at least as rapidly as under the method of distribution being used as of the date of the Participant's death.

#### SECTION 10. RESTRAINT ON ALIENATION:

The benefits provided in this Pension Plan may not be sold, transferred, anticipated, or assigned, in whole or in part, and the Trustees shall not recognize any such sale, transfer, anticipation, assignment

or other distribution. No retirement pension, prospective retirement pension, right or interest shall be subject in any manner to voluntary transfer, transfer by operation at law or otherwise, and shall be exempt from the claims of creditors or other claimants, other orders, decrees, garnishments, executions or other legal or equitable process (except a Qualified Domestic Relations Order) to the fullest extent permitted by law.

#### SECTION 11. LIMITATION ON INTEREST:

Neither the Employer Association, any Employer, the Union, the Trustees, any individual Participant, or Beneficiary shall have any right, title or interest in or to the Trust Fund, other than as set forth in the Trust Agreement or in this Pension Plan.

#### SECTION 12. LIMITATION ON LIABILITY:

- (a) The Trust Fund shall not be liable for any debts of the Employer Association, any Employer, the Union or any Participant or Retiree.
- (b) No Employer shall have any liability or obligation for any other Employer under this Pension Plan or Trust Agreement. Each Employer shall be discharged of all obligations to contribute under this Pension Plan upon making the contributions required by its Collective Bargaining Agreement or as required by the Trust Agreement.
- (c) Neither the Employer Association, the Union or any individual Employer can guarantee the payment under this Pension Plan. It is specifically understood that such pension benefits shall be paid only to the extent that funds are available in the Trust Fund.
- (d) Neither the Employer Association, any individual Employer, the Union, nor their officers or agents, shall incur any liability for any decision or action, committed in good faith even though erroneous, nor for any error or miscalculation arising in connection with this Pension Plan or Trust Agreement, unless such decision, action, error or miscalculation is the result of fraud or the deliberate disregard of any provision of this Pension Plan or Trust Agreement.

### **ARTICLE IX**

#### **RE-EMPLOYMENT OF RETIREE**

##### SECTION 1. PROHIBITION AGAINST CERTAIN EMPLOYMENT DURING RETIREMENT:

- (a) Early Retirement. To be considered eligible to continue to receive an early or normal retirement pension under this Pension Plan, a Retiree must either:
  - (1) (I) Effective for Retirees who retired prior to November 1, 2009 and for Participants who are Participants in the Plan prior to November 1, 2009, a Retiree must be retired and refrain from being gainfully employed in Covered Employment within the State of California for forty hours or more in a calendar month. However, a Retiree will be permitted to work an unlimited number of hours in Covered

Employment outside the State of California and in any employment in the “same industry” and in the “same trade or craft” covered by this Pension Plan, as the terms are defined in Section 1(b) below. However, for Retirees who have not attained age 65, in the event the Retiree works one or more hours in the State of California in Covered Employment, all pension benefits accrued on or after January 1, 2010, shall be suspended for each and every calendar month until the month in which the Retiree attains age 65;

- (ii) Effective for all Participants who first commence participation in the Pension Plan on or after November 1, 2009, an Early Retiree must be retired and refrain from being gainfully employed in Covered Employment for one hour or more in a calendar month within the State of California. In the event an Early Retiree who first commences participation in the Pension Plan on or after November 1, 2009 works in the State of California in Covered Employment for one hour or more, all early retirement benefits will be suspended and no further early retirement benefits shall be payable until the month following the month in which the Retiree attains age 65. However, a Retiree will be permitted to work an unlimited number of hours in Covered Employment outside the State of California in any employment in the “same industry,” in the “same trade or craft,” and in the “same geographic area” covered by this Pension Plan, as the terms are defined in Section 1(b) below.
  - (2) Withdraw completely and refrain from any employment coming within the jurisdiction of the International Brotherhood of Electrical Workers which significantly involves that degree of knowledge of the science of electricity which is consistent with the status and training of a journeyman electrician regardless of the location of such employment or whether such employment is covered by any Collective Bargaining Agreement.
  - (3) Refrain from any work, ownership or involvement as an officer or director of a corporation, sole proprietorship or partner for any firm performing work within the same industry, craft or trade and in the same geographic area as defined in Section (b)(1) below.
- (b) Normal Retirement Pension. To be considered retired and eligible to continue to receive a normal retirement pension, under this Pension Plan, a Retiree must refrain from being gainfully employed in either Covered Employment or Non-Covered Electrical Service as that term is defined in Article VII, Section 1 for forty (40) or more hours in a calendar month, in the same industry, in the same trade or craft, and in the same geographic area covered by this Pension Plan. For the purposes of this subsection:
- (1) The term "same industry" means any business activity of any Employer, which was covered by this Pension Plan at the time of the approval of the Retiree's application for pension benefits.
  - (2) The terms "same trade or craft" means any occupation in which the Retiree was employed at any time under the coverage of this Pension Plan, any occupation utilizing the same skill(s) required of a journeyman electrician to perform any occupation covered

by this Pension Plan, and any self-employment or supervisory employment related to the same skill(s) as were involved in such occupation(s).

- (3) The term "same geographic area" means the State of California.
- (c) Permissible Employment During Retirement. The following types of employment during retirement will not affect a Retiree's ability to continue receiving his or her retirement pension under this Pension Plan:
- (1) Employment as a licensed Electrical Inspector for a public agency or a private entity which enforces code, including, but not limited to, employment as an electrical inspector CalTrans as well employment as a licensed or certified electrical inspector;
  - (2) Employment in an electrical wholesale supply house or hardware establishment, provided the business entity does not similarly provide electrical services(s) covered by a Collective Bargaining Agreement to which IBEW Local 569 is a party. However, benefits accrued on and after January 1, 2006 will be subject to a month-to-month suspension for each and every month in which a retiree works at an electrical wholesale supply house;
  - (3) Instructor for the San Diego Electrical Training Trust or any administrative corporation providing services to the San Diego Electrical Training Trust; or
  - (4) Electrical maintenance work performed outside of San Diego, Imperial, Orange, Los Angeles, Riverside and San Bernardino counties. Such employment may only consist of routine, recurring and customary services intended exclusively for maintaining the premise(s) in a good and safe working order. Such service(s) shall not include participation in any form of electrical construction (new or re-construction).
  - (5) Effective for months of employment commencing May 1, 2009 and ending June 30, 2010, employment for any IBEW-NECA sponsored training trust or their affiliated administrative corporation within the State of California.

## SECTION 2. SUSPENSION OF BENEFITS:

- (a) Early Retirement Pension. If a Retiree, who is receiving an early retirement pension, subsequently becomes re-employed his monthly pension benefits shall be suspended as follows:
  - (1) If the Retiree is re-employed in Non-Covered Electrical Service as that term is defined in Article VII, Section 1, the Retiree's pension benefits accrued on or after January 1, 1989 shall be suspended until the Retiree reaches Normal Retirement Age. At the time monthly pension benefits are resumed, the amount of such monthly pension benefits shall be adjusted to provide the actuarial equivalent of what the pensioner would have otherwise received but for this suspension of benefits; and
  - (2) (A) For Retirees who retired prior to November 1, 2009, for benefits accrued prior to

January 1, 2010, the following is applicable except as otherwise provided herein: if the Retiree is re-employed for forty (40) or more hours in a calendar month prior to attainment of age 62 within the meaning of Section 1(a)(1)-(3) of this Article IX, the Retiree's right to receive future early retirement pension benefits shall be suspended for any calendar month in which the Retiree works as described in Section 1(a)(1)-(3) and thereafter until the month following the month in which the Retiree reaches age 62, unless the Retiree continues to work forty(40) or more hours per calendar month within the meaning of Section 1(a)(1)-(3) of this Article IX after attainment of age 62 in which event the provisions of Section 1(b) of this Article IX shall then become applicable. However, in the event that a Retiree works forty (40) or more hours in a calendar month as described in Section 1(a)(1)-(3) prior to attainment of age 62, the Retiree's benefits will be suspended for that month and he will receive a one-time warning about his violation of the provisions of Section 1(a)(1)-(3) . If the Retiree works forty (40) or more hours in more than one calendar month as described in Section 1(a)(1)-(3) prior to attainment of age 62, the Retiree's benefits shall be suspended until the later of attainment of age 65 or the month in which the Retiree ceases working as set forth in Section 1(a)(1)-(3), but in no event will the Retiree's pension benefits commence before the Retiree reaches age 62.

- (B) For Retirees who retired prior to November 1, 2009, in the event the Retiree returns to Covered Employment, all benefits accrued on and after January 1, 2010 shall be suspended for each and every calendar month until the first month following the month in which the Retiree attains age 65.
- (C) For Participants who are participants in the Plan prior to November 1, 2009 and who have not retired as of November 1, 2009, for benefits accrued prior to January 1, 2010, the following is applicable except as otherwise provided herein: if the Retiree is re-employed for forty (40) or more hours in a calendar month, per month prior to attainment of age 62 within the meaning of Section 1(a)(1)-(3) of this Article IX, the Retiree's right to receive future early retirement pension benefits shall be suspended for any calendar month in which the Retiree works as described in Section 1(a)(1)-(3) and thereafter until the month following the month in which the Retiree reaches age 62, unless the Retiree continues to work forty (40) or more hours per month within the meaning of Section 1(a)(1)-(3) of this Article IX after attainment of age 62 in which event the provisions of Section 1(b) of this Article IX shall then become applicable. However, in the event that a Retiree works forty (40) or more hours in a single month as described in Section 1(a)(1)-(3) prior to attainment of age 62, the Retiree's benefits will be suspended for that month and he will receive a one-time warning about his violation of the provisions of Section 1(a)(1)-(3) . If the Retiree works forty (40) or more hours in more than one month as described in Section 1(a)(1)-(3) prior to attainment of age 62, the Retiree's benefits shall be suspended until the later of the age 65 or the calendar month in which the Retiree ceases working as set forth in Section 1(a)(1)-(3), but in no event will the Retiree's pension benefits commence before the Retiree reaches age 62.
- (D) Additionally, if the Retiree is re-employed for one hour or more but less than forty

in a calendar month prior to attainment of age 65 within the meaning of Section 1(a)(1)-(3) of this Article IX, the Retiree's right to receive future early retirement pension benefits based on those hours accrued in Covered Employment on or after January 1, 2010 after retirement shall be suspended for each and every calendar month until the month following the month in which the Retiree reaches age 65.

- (E) For Participants who commence participation in the Pension Plan on or after November 1, 2009, the following shall apply: Except as otherwise provided herein, if the Retiree is re-employed for one or more hours in a calendar month prior to attainment of age 65 within the meaning of Section 1(a)(1)-(3) of this Article IX, the Retiree's right to receive future early retirement pension benefits shall be suspended for each and every calendar month until the month following the month in which the Retiree reaches age 65.
- (3) This Subsection is added as a reforming remedial Amendment in accord with Revenue Procedure 2005-23. Effective June 1, 2004, all provisions of the Plan requiring suspension of Early retirement Benefits until Normal Retirement Age and/or ineligibility for Early Retirement Benefits due to Non-Covered Electrical Service shall apply solely to benefits accrued on and after January 1, 1989. The provisions of Article IX, Section 2(a), providing for a month-to-month suspension of benefits for Suspendible Employment, shall continue to apply to all benefit accruals and to the remedial payments under this Subsection.

For purposes of interest to be added to some remedial payments under this Subsection, the rates of interest shall be per annum and at the rate in effect at the time of the remedial payment for pensions with a retroactive annuity starting date.

- (A) Early retirement pensioners with pre-January 1, 1989 benefit accruals who did not attain Normal Retirement Age as of June 1, 2004, and whose June, 2004 and/or later monthly benefit was suspended solely due to Non-Covered Electrical Service on or After January 1, 1989: Not later than January 1, 2006, the following actions shall be completed in terms of these Early Retirement Pensioners. First, they shall be identified by the Plan. Second, their January 1, 1989 Early Retirement Pension benefit accrual in the form of pension previously elected shall be calculated. Third, for each month on and after June, 2004, for which their benefit was not otherwise subject to monthly suspension, they shall receive a monthly payment equal to that pre-January 1, 1989 monthly benefit accrual portion of their Early Retirement Pension. Fourth, for any such monthly payment not paid on the first day of the month in the month due, they shall also receive appropriate interest through the date of actual payment. Fifth, they shall be advised that any post January 1, 1989 benefit accrual portion of their Early retirement Pension, if any, shall be payable upon their attainment of Normal Retirement Age unless some other provision of the Plan requires an earlier payment.
- (B) Active Vested Participants and Inactive Vested Participants with pre-January 1, 1989 benefit accruals who had not obtained Normal Retirement Age as of June 1, 2004

who were previously determined ineligible to commence receipt of any Early Retirement Benefit solely due to their having engaged in Non-Covered Electrical Service on or After January 1, 1989: Not later than January 1, 2007, the following actions shall be completed in terms of these participants who were not receiving a benefit as of June 1, 2004. First, they shall be identified by the Plan. Second, their pre-January 1, 1989 benefit accrual shall be calculated. Third, they shall be advised that, subject to all other requirements of the Plan, this remedial Amendment permits them to commence receipt of an Early Retirement Pension based upon their pre-January 1, 1989 benefit accruals, with a retroactive annuity starting date as early as June 1, 2004, plus payment of appropriate interest or, in the alternative, an appropriate later annuity starting date of their choice which may or may not include interest depending upon the date they elect. Fourth, they shall be advised the balance of an Early Retirement Pension elected reflecting benefits accrued on and after January 1, 1989 shall be suspended until Normal Retirement Age unless an earlier payment is required by other provisions of the Plan. Fifth, they shall be advised any Early Retirement Pension they elect shall be subject to the month-to-month suspension of benefit provisions of the Plan. Sixth, they shall be supplied with a pension application contemporaneous with the aforesaid notice. Seventh, they shall be advised that should they desire a June 1, 2004 retroactive annuity starting date, they must file an application within six (6) months of the Plan's mailing of notice of this Amendment.

- (C) Active Vested Participants and Inactive Vested Participants with pre-January 1, 1989 benefit accruals who have not attained Normal Retirement Age as of June 1, 2004 and who have not previously applied for an Early Retirement Pension due to their having engaged in Non-Covered Electrical Service: These participants shall receive a copy of this Amendment. They shall be advised those who file an application within six (6) months of the Plan's mailing of notice of this Amendment and who meet all other requirements of the Plan shall be offered, as to their pre-January 1, 1989 benefit accrual, the same annuity starting date options, including if applicable interest, as are provided under Part (2) of this Subsection.

All other terms and conditions of the Plan shall remain in full force and effect. This new Subsection shall be construed and interpreted to assure good faith compliance with Revenue Procedure 2005-23. No provision has been included for non-pensioners for periods of post-Normal Retirement Age work of 40 hours or more per month in Non-Covered Electrical Service because such activity prior to the mandatory commencement date of pension benefits has, at all relevant times, always constituted Suspendible Employment under the Plan. No actuarial increase for delayed retirement beyond Normal Retirement Age is available for any month in which the participant engaged in an activity which would result in the suspension of monthly pension benefit payments.

- (b) Normal Retirement Pension. If a Retiree, who is receiving a normal retirement pension, subsequently becomes re-employed within the meaning of Section 1(b), the Retiree's right to receive future normal pension benefits shall be suspended for any calendar month in which he is so employed. After that period, his monthly retirement pension shall again become payable.

- (c) Notice of Suspension. The Administrative Manager shall notify a Retiree of any suspension of retirement pension benefits by written notice, delivered personally or by first class mail, during the first calendar month in which benefits are withheld. Any notice of suspension shall:
- (1) Describe the specific reasons for the suspension;
  - (2) Describe and enclose a copy of the Pension Plan provisions relating to suspension of retirement benefits;
  - (3) Identify applicable regulations of the U.S. Department of Labor;
  - (4) Describe the procedure for securing a review in accordance with the provisions of the Plan as set forth in Article X;
  - (5) Describe the procedures and enclose any necessary forms to be filed before retirement pension benefits can be resumed; and
  - (6) Identify any period of re-employment during retirement which will cause retirement pension benefits previously paid to be offset against future retirement pension benefits, state the amount of retirement pension benefits to be offset and describe the manner in which the offset will be accomplished.
- (d) Notification by Retiree. If a Retiree becomes re-employed within the meaning of Section 1, the Retiree shall notify the Trust Office, in writing, within 30 days following commencement of such employment.
- (e) Failure to Notify. If notice of re-employment is not timely given by the Retiree, the Retiree shall be subject to further provisions as follows:
- (1) If the Retiree is receiving a pension benefit, and if the Trustees become aware that the Retiree is or has been employed in work of the type described in Section 1(b), the Trustees may act upon the following presumptions, unless and until the Retiree provides convincing evidence to the contrary:
    - (A) The Retiree was employed forty (40) or more hours during each and every calendar month; and
    - (B) If such employment is at a construction site, the Retiree was employed for as long as the Employer has been engaged at that site.
- (f) Verification of Retirement Status. As a condition to approving a Participant's application for a normal or early retirement pension, a Participant shall provide the Trust with an irrevocable authorization giving the Trust access to the Participant's Social Security earnings records. In addition, a Retiree shall provide the Administrative Manager, upon request, information reasonably necessary to verify the nature, extent of and earnings from any re-employment by the Retiree after the date of commencement of his retirement pension benefits. A Retiree may



be required, at least once each year, to certify on a form acceptable to the Plan that he is still retired within the meaning of this Pension Plan. All responses to requests for information from a Retiree shall be provided to the Administrative Manager within sixty(60) days of the date of the request. If, for any reason, a Retiree fails to furnish such written certification within the time provided by the Plan, the Trustees may suspend payment of the Retiree's benefit until compliance is effected. Any retirement pension benefit(s) otherwise due shall be withheld pending the adequate response by the Retiree to such request. Upon payment of benefits suspended pursuant to this Section, payment shall not include any interest.

- (g) Notification of Cessation of Employment. A Retiree whose pension has been suspended because of re-employment shall notify the Administrative Manager in writing when disqualifying re-employment has ended. Retirement benefit payments shall be withheld until such notice is filed with the Trustees.
- (h) Review. The Trustees shall review a suspension of retirement pension benefits upon written request filed by a Retiree in accordance with the provisions of Article VIII of the Trust Agreement.

### SECTION 3. RESUMPTION OF RETIREMENT BENEFITS:

Retirement pension benefits payable to a Retiree who has ended his disqualifying re-employment shall be resumed beginning no later than the first day of the third month after the last calendar month for which his retirement pension benefit was suspended; provided, the Retiree furnishes written notice to the Trust Office that he is once again retired under the provisions of this Plan. A Participant may resume retirement benefits only one time prior to age 62. To resume retirement benefits under this Section, the Participant must submit an application therefor to the Trust and any resumed pension benefits will be in the same form of benefit as originally elected by the Participant.

### SECTION 4. OFFSET OF PAST OVERPAYMENTS:

If a Retiree received retirement pension benefits to which he was not entitled in accordance with Section 2, above, the Trustees may recover the amount of such payments by deducting the amount of the overpayments from the Retiree's future monthly retirement benefit payments until such overpayment is fully recovered. If a Retiree is eligible to receive an early, normal or disability retirement pension, the amount of such offset shall be limited to 100% of the amount due to the Retiree for the first payment upon resumption of normal retirement benefits and 25% of the monthly normal retirement pension benefit amount thereafter until the full amount of overpayment is recovered. This provision shall not limit the Trustees' right to recover an overpayment by means other than by deduction from the Retiree's pension benefits.

### SECTION 5. REQUEST FOR STATUS DETERMINATION:

A Participant or Retiree may file a written request for a determination as to whether certain contemplated employment will be disqualifying employment for purposes of causing a suspension of retirement benefits under Section 2(a) or 2(b) above. A determination by the Trustees shall be subject to review in accordance with the provisions of the Plan as set forth in Article X.

## **ARTICLE X**

### **CLAIM AND APPEAL PROCEDURES**

#### **SECTION 1. ADMINISTRATION**

In order to establish and maintain reasonable claims procedures, the Plan will be administered in accordance with the following rules:

- (a) The Plan will not administer the claims and appeals procedures in anyway that unduly inhibits or hampers the initiation or processing of claims for benefits.
- (b) The Plan will not require payment of a fee or costs as a condition to making a claim or appeal.
- (c) The Plan will not preclude an authorized representative of a claimant from acting on behalf of such claimant in pursuing a benefit claim or appeal of adverse benefit determination.
- (d) The Plan will follow administrative processes and safeguards to ensure and verify that benefit claim determinations are made in accordance with governing plan documents and that the plan provisions have been applied consistently with respect to similarly situated claimants. In order to do so, the Plan administrator will do the following:
  - (1) Maintain a file of appeals organized based on the governing plan provisions;
  - (2) Provide, upon request, to the Board of Trustees or requesting participants or beneficiaries, a summary of previous determinations on similar issues based on the governing Plan provisions; and
  - (3) Present information regarding benefit determinations and appeals anonymously to parties outside the Plan administrator's office.
- (e) If a participant or beneficiary contacts the Plan administrator and attempts to file an application for benefits, the administrator will inform the participant or beneficiary of the proper procedures for filing an application for benefits.

#### **SECTION 2. NOTIFICATION OF DENIAL:**

If an application submitted by a Participant, Retiree, Spouse, Alternate Payee or Beneficiary is denied, in whole or in part, notice of that decision shall be furnished to the Participant, Retiree, Spouse, Alternate Payee or Beneficiary, within 90 days after the receipt of that application by the Trust Office.

- (a) The Participant, Retiree, Spouse, Alternate Payee or Beneficiary shall be given notice of the denial within 90 days after the receipt of the application by the Trust Office, unless special circumstances require an extension of time for the processing of that application. If the notice of denial is not given, and/or no extension notice is sent, the Participant, Retiree, Spouse,

Alternate Payee or Beneficiary may deem the application denied for the purpose of allowing the Participant, Retiree, Spouse, Alternate Payee or Beneficiary to request a review under Section 4 below.

- (b) If an extension of time for processing the application is required, written notice of the extension shall be given to the Participant, Retiree, Spouse, Alternate Payee or Beneficiary prior to the expiration of the initial 90 day period.
  - (1) The extension notice shall specify the special circumstances requiring an extension of time, any additional information which might assist in the evaluation of the application and the date by which the Trustees expect to render their determination.
  - (2) The period for the extension of time for special circumstances shall not exceed 90 days beyond the end of the original 90 day period.

### SECTION 3. CONTENT OF NOTIFICATION:

The Administrative Manager shall provide to every Participant, Retiree, Spouse, Alternate Payee or Beneficiary notification of an adverse benefit determination upon initial application that will set forth in a manner calculated to be understood by the claimant:

- (a) The specific reason or reasons for the adverse determination;
- (b) Specific reference to the particular provisions of the Summary Plan Description, the SAN DIEGO ELECTRICAL PENSION PLAN or the Trust Agreement upon which the determination was based;
- (c) A description of any additional material or information necessary for the Participant, Retiree, Spouse, Alternate Payee or Beneficiary to perfect the claim and an explanation of why such material or information is necessary; and
- (d) A description of the Plan's review procedures and the time limits applicable to such procedures, including a statement of the claimant's right to bring civil action under ERISA Section 502(a) following an adverse benefit determination on review.

### SECTION 4. REVIEW PROCEDURES:

The Trustees shall provide every Participant, Retiree, Spouse, Alternate Payee and Beneficiary whose application has been denied, the right to a full and fair review of the denial of such application.

- (a) All requests for a hearing must be in writing, shall state in clear and concise terms the reasons(s) for disputing the Trustees' action, and shall be accompanied by any pertinent documentary material not already furnished to the Trustees. The Participant, Retiree, Spouse, Alternate Payee or Beneficiary must notify the Administrative Manager, in writing, of his request for review of the denial of the application within 60 days of the receipt of the

notification of denial. If a Participant, Retiree, Spouse, Alternate Payee or Beneficiary is physically unable to give such notice within the 60 day period, the Participant, Retiree, Spouse, Alternate Payee or Beneficiary shall have a reasonable time extension to complete such notice.

- (b) Review of an adverse benefit determination upon appeal will take into account all comments, documents, records, and other information submitted by the claimant, regardless of whether the information was submitted or considered in the initial benefit determination.
- (c) The Plan will continue to review benefit determinations upon appeal at regularly scheduled meetings that take place at least quarterly. The Board shall make benefit determinations upon appeal at the meeting that immediately follows the Plan's receipt of a request for review, unless the request is filed withing 30 days of the meeting. In such case, the Board may make a benefit determination upon appeal at the second meeting following the plan's receipt of the request for review.

If special circumstances require a further extension of time for making a determination on appeal, a benefit determination will be rendered no later than the third meeting following the Plan's receipt of the request for review and the Board will provide the claimant with a written notice of the extension, describing the special circumstances and the date by which the benefit determination will be made, prior to the commencement of the extension. The Board will notify the claimant of the benefit determination as soon as possible but not later than 5 days after the benefit determination is made.

- (d) The Participant, Retiree, Spouse, Alternate Payee or Beneficiary shall be notified in writing at least 14 days prior to the date of the hearing, of the date, time and place of such hearing. In addition, the notice will state that the Participant, Retiree, Spouse, Alternate Payee or Beneficiary or his representative, shall be entitled, upon submission of a written request, to:
  - (1) Review all pertinent documents used or relied upon by the Trustees in denying the application;
  - (2) Review all pertinent trust documents; and
  - (3) Submit in writing, at least 7 days prior to the date of the hearing, any issues, comments, or other evidence relied upon by the Participant, Retiree, Spouse, Alternate Payee or Beneficiary to justify approval of the application and overcome the determination made by the Trustees.
- (e) In the event the Trustees or the Benefit Review Committee should desire additional comment or evidence on the issue of the validity of the application, it may request the same from the Participant, Retiree, Spouse, Alternate Payee or Beneficiary; provided, that no continuance of the review hearing shall be allowed without the express written consent of the Participant, Retiree, Spouse, Alternate Payee or Beneficiary, or his representative, to such continuance.
- (f) The Plan administrator shall notify the claimant of the benefit determination as soon as possible after the meeting but not later than 5 days after the benefit determination is made.

- (g) Should the decision rendered by the Trustees upon review, in whole or in part, be adverse to the application made by the Participant, Retiree, Spouse, Alternate Payee or Beneficiary, the notification of an adverse benefit determination will contain:
- (1) The specific reason or reasons for the adverse determination;
  - (2) Specific reference to the particular provisions of the Summary Plan Description, the SAN DIEGO ELECTRICAL PENSION PLAN or the Trust Agreement upon which the determination is based;
  - (3) A statement that the claimant is entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records and other information relevant to the claimant's claim for benefits; and
  - (4) A statement of the claimant's right to bring a civil action under ERISA Section 502(a).

#### SECTION 5. ARBITRATION:

The decision of the Benefit Review Committee, if any, together with the decision of the Trustees, if the Participant, Retiree, Spouse, Alternate Payee or Beneficiary elects such further consideration, shall be final and binding upon all parties. However, if the Participant, Retiree, Spouse, Alternate Payee or Beneficiary is dissatisfied with the written decision of the Trustees, he or she shall have the right to appeal the matter to arbitration in accordance with the Employee Benefit Plan Rules of the American Arbitration Association, provided that he or she submit a request for arbitration to the Trustees, in writing, within sixty (60) days of receipt of the written decision.

The Plan does not require a claimant to file more than two mandatory levels of appeal prior to bringing a civil action. The Pension Plan does not offer any voluntary levels of appeals.

The Plan requires arbitration in accordance with the Employee Benefit Plan Claim Rules of the American Arbitration Association as the second mandatory level of appeal. The Plan adopts the following provisions to the claims and appeals procedures for arbitration:

- (a) The Plan agrees that any statute of limitations or other defense based on timeliness is tolled during the time that arbitration is pending;
- (b) Arbitration is permitted as the second level of appeal only after exhaustion of the required appeal to the Board of Trustees;
- (c) The Plan will provide to any claimant upon request sufficient information relating to arbitration to enable the claimant to make an informed decision about whether to submit to arbitration, including a statement that the decision to submit or not submit to arbitration has no effect on the claimant's rights to any other benefit under the Plan, information about the rules of arbitration, the claimant's right to representation, a description of the process for selecting a decision maker, and any circumstances that may affect the impartiality of the decision maker; and

- (d) No fees or costs are imposed on the claimant as part of arbitration with the exception of the claimant's attorney's fees, if any, which shall be borne by the claimant.

If an appeal to arbitration is requested, the Trustees shall submit to the arbitrator a copy of the record upon which the Trustees' decision was made. The questions for the arbitrator shall be (1) whether the Trustees were in error upon an issue of law; (2) whether the Trustees acted arbitrarily or capriciously in the exercise of their discretion; and (3) whether the Trustees' findings of fact were supported by substantial evidence. Notwithstanding any provision in the Plan to the contrary, the Plan shall specifically prohibit class arbitration. Additionally, under no circumstances shall any arbitrator or judge have the authority to determine the issue of whether class arbitration is permitted under the Plan. The decision of the arbitrator shall be final and binding upon all parties whose interests are affected thereby.

## **SECTION 6. TIMING OF BENEFIT DETERMINATIONS**

The period of time within which a benefit determination is required to be made, for both disability benefits and other types of benefits under the Plan, will begin at the time the claim is filed in accordance with the reasonable procedures of the Plan, without regard to whether all information necessary to make a benefit determination accompanies the filing. If additional information is necessary to make a benefit determination, the period of time for making the benefit determination shall be tolled from the date the notification for additional information is requested until the claimant responds to the request for additional information.

## **ARTICLE XI**

### **AMENDMENT AND TERMINATION**

#### **SECTION 1. AMENDMENT:**

- (a) The Employer Association and the Union jointly may amend or modify this Pension Plan at any time, or from time to time, in accordance with the terms of the Trust Agreement. The Trustees also may effect amendments or modifications of this Pension Plan; except, that no amendments or modifications may reduce any benefits payable to Retirees who retire prior to the effective date of such amendment or modification as long as funds are available for the payment of such benefits.
- (b) In no event shall any amendments or modifications of this Pension Plan or the terms of the Trust Agreement, prior to the satisfaction of all liabilities of the Trust Fund, cause or result in any portion of the funds reverting to or being recovered by the Employer Association, any individual Employer or the Union, or cause or result in the expenditure of any portion of the funds for any purpose other than the exclusive benefit of Participants and Retirees or their Beneficiaries, and authorized administrative expenses of the Trust Fund; provided, however, that any Employer shall be entitled to recover any payments made by mistake, subject to Section 403 of the Employee Retirement Income Security Act.
- (c) The Trustees, the Employer Association, the Union and any individual Employers, acting

jointly or separately, shall not have the power to amend this Pension Plan or the Trust Agreement in any manner which would conflict with State or Federal laws or regulations, or cause the contributions of any Employer to the Trust Fund to become non-deductible by the Employer on his State or Federal Income Tax Returns, or taxable to the Participants, Retirees or their Beneficiaries.

- (d) No amendment shall be adopted which will impair the actuarial soundness of this Pension Plan.
- (e) In the event any Collective Bargaining Agreement is amended by the Employer Association and the Union, by the insertion or deletion of provisions relating to this Pension Plan or the Trust Agreement, it shall be the power and the duty of the Trustees to amend this Pension Plan and the Trust Agreement to effectuate the intent of the amendments to the extent that they are legally permissible and are not in conflict with the provisions of sub-paragraphs (a), (b), (c) and (d) of this Section.

#### SECTION 2. TERMINATION:

If this Pension Plan is terminated, the assets then remaining in the Trust Fund, after providing for the expenses of the Trust Fund, shall be expended to the extent that they shall be sufficient for the purpose of paying pension benefits based upon Pension Credits accrued to the date of the termination of this Pension Plan, in any order or priority adopted by the Trustees which satisfies the requirements of the Employee Retirement Income Security Act of 1974, including amendments thereto. When the allocations have been made, the funds shall be distributed to the individuals in the form of allocated cash or annuity contracts as determined by the Trustees. The Trust Agreement shall then be terminated. The determinations to be made under the provisions of this Section shall be based on an actuarial study and report by a qualified actuary to be designated by the Trustees.

#### SECTION 3. MERGER OR TRANSFER OF ASSETS AND/OR LIABILITIES:

In the event of the merger of this Pension Plan, with or without the transfer of assets and/or liabilities to another pension plan, Participants will receive benefits after such merger or transfer which, to the extent required by the Pension Benefit Guaranty Corporation, are equal to or greater than the benefits they would have received if this Pension Plan had then terminated.

### **ARTICLE XII**

#### **EFFECTIVE DATES**

##### SECTION 1. GENERAL EFFECTIVE DATE

This amended and restated Pension Plan is effective July 1, 2010, unless otherwise provided in this Pension Plan.

## SECTION 2. EFFECTIVE DATES TO COMPLY WITH APPLICABLE LEGISLATION

To the extent necessary to satisfy the requirements of legislation affecting the tax-qualified status of this Pension Plan, the affected provisions of this Pension Plan are effective retroactive to the applicable effective dates under any such legislation.

### ARTICLE XIII

#### REHABILITATION PLAN

Certain benefits commenced after February 1, 2010 are reduced or eliminated as provided for herein. Certain other benefits commenced on or after March 1, 2010 are reduced or eliminated as provided for herein. Benefits commenced on or prior to February 1, 2010 and as applicable, March 1, 2010 continue to be governed by other applicable provisions of the Plan. Any internal cross-references in the Sections of this Article are for convenience only and are not inclusive or controlling.

#### SAN DIEGO ELECTRICAL PENSION PLAN REHABILITATION PLAN

##### For Plan Year Beginning October 1, 2009

### SECTION 1. INTRODUCTION

The Pension Protection Act of 2006 (“PPA”) as amended by the Worker, Retiree and Employer Recovery Act of 2008 (WRERA), requires the Trustees of a multiemployer pension plan that has been certified by the plan’s actuary as being in Critical status (also known as “Red Zone” status) to develop a Rehabilitation Plan (“RP”). A RP must prescribe actions, including recommended actions to be taken by the bargaining parties that are expected to enable a plan to meet stated financial benchmarks by the end of the Rehabilitation Plan Period, based on reasonably anticipated experience and on reasonable actuarial assumptions. On December 29, 2009, the San Diego Electrical Pension Plan (“Plan”) was certified by its Actuary to be in Critical status for the Plan Year beginning October 1, 2009, pursuant to IRC Section 432(b)(2).

This Rehabilitation Plan:

- (a) Specifies the rehabilitation period and the expected emergence date;
- (b) Includes four schedules (Default Schedule and three Alternative Schedules) of benefit changes and non-benefit contribution changes that will be provided to the bargaining parties, while the plan is in critical status, one of the Alternative Schedules must be implemented as part of future collective bargaining agreements between IBEW Local 569 and contributing employers entered into or renewed after the date of the critical status certification, December 29, 2009; otherwise the Default Schedule will be implemented. Nothing prevents an employer and Union from agreeing to implement a particular schedule prior to the expiration of a “collective bargaining agreement”;



- (c) Provides requirements for meeting the requirements of the Rehabilitation Plan and describes how the Rehabilitation Plan will be updated from time to time; and
- (d) Describes how the Default Schedule will be automatically implemented if there is no agreement between the bargaining parties in a timely manner.

## SECTION 2. REHABILITATION PLAN PERIOD

The Rehabilitation Period for the Plan is the period of 13 Plan Years beginning October 1, 2012. The Board of Trustees of the Plan, on November 17, 2009, elected to extend the 10-year Rehabilitation Period under IRC Section 432(c)(4)(A) to 13 years pursuant to Section 205 of the Worker, Retiree, and Employer Recovery Act of 2008.

The Trustees also determined the Rehabilitation Plan will be effective March 1, 2010. The Fund is expected to emerge from Critical Status by October 1, 2025, based on reasonable assumptions and implementation of this Rehabilitation Plan.

If the Fund Actuary certifies before the end of this period that the Plan is no longer in Critical status for a Plan year, the Rehabilitation Plan Period will end as of the close of the preceding Plan year.

## SECTION 3. SCHEDULES

Based on the projected credit balances calculated for purposes of the Plan Actuary's December 29, 2009 certification that the Plan is in Critical status, the RP must contain schedules of plan changes and/or contribution rate changes that are projected to enable the credit balance to be positive by the end of the Rehabilitation Plan Period. Pursuant to the PPA an RP must include a proposed "default schedule" that identifies the necessary reductions in the amount of future benefit accruals and reduction in adjustable benefits necessary to achieve the applicable benchmarks, assuming no collective bargaining agreement increases contributions to the plan (other than contributions necessary to achieve the benchmark after amendments have reduced future benefit accruals to the maximum extent permitted by law). This schedule has been prepared and is set forth below in the Default Schedule of this RP.

An RP may also provide a proposed schedule providing increases in contributions necessary to achieve the applicable benchmark, assuming no amendments reducing future benefit accruals, nor reduction in adjustable benefits under the Plan. This schedule has been prepared and is set forth below in Alternative Schedule 1 of this RP. Projections by the Fund Actuary, which were based on reasonable assumptions, indicate that the benchmark will be achieved by increasing the contribution rate by \$2.09 an hour effective March 1, 2010. This additional \$2.09 per hour in contributions would result in no benefit accrual, would be devoted solely to improving the funding of the Plan and would cease at the later of emergence from Critical Status or upon action by the Board of Trustees.

The Board of Trustees has determined additional alternative schedules addressing contribution rates and or benefit reductions need to be provided to the bargaining parties as set forth in Schedules 2 and 3 below.

#### SECTION 4. IMPLEMENTATION OF REMEDIES & SCHEDULES

For specific benefit forms as noted (that are restricted under critical status), the current monthly benefit of pensioners and beneficiaries whose actual pension benefit commenced prior to or on February 1, 2010 are not subject to reduction under this Rehabilitation Plan. For other reductions as noted in this Rehabilitation Plan, the current monthly benefit of pensioners and beneficiaries whose actual pension benefit commenced prior to March 1, 2010 are not subject to reduction under this Rehabilitation Plan. Benefits for other participants and deferred benefits of all Participants are determined as follows:

All participants who terminated or will terminate covered employment prior to becoming covered by a Schedule in the Collective Bargaining process, and not in pay status as of March 1, 2010, shall have their benefits determined based on the benefit changes described under the applicable Schedule upon implementation of the applicable Schedule to their former bargaining unit. To the extent provided under the implemented Schedule, the benefits of a Participant who commenced benefits under the current Plan on or after March 1, 2010, shall, to the extent required by the applicable Schedule, see their benefits reduced in accord with the applicable Schedule. These provisions shall take effect on the later of the date the applicable Schedule is implemented for the Participant's former bargaining unit or the date that benefits can be eliminated allowing for legally required advanced notice.

As with any Schedule, the Default Schedule is implemented upon adoption by the Collective Bargaining Parties as the applicable Schedule for a particular bargaining unit. However, should the bargaining parties fail to elect any Schedule within 180 days following the expiration date of a collective bargaining agreement in effect as of December 29, 2009, the Board of Trustees are required by law to unilaterally implement the Default Schedule for that particular bargaining unit.

For non-bargaining unit employee Participants employed by employers who also contribute on behalf of bargaining unit Participants the Schedule and implementation date is the same as the Schedule and implementation date for that employer's bargaining unit employees. For non-bargaining unit employee participants not employed by an employer that contributes pursuant to a collective bargaining agreement their implementation date is the earlier of the employer's adoption of a Schedule or 180 days from October 1, 2010.

#### SECTION 5. RULES DURING THE REHABILITATION PERIOD AND ADOPTION OF THE REHABILITATION PLAN

On and after December 29, 2009, the Board of Trustees may not accept a collective bargaining agreement or participation agreement that provides for: (a) lower contributions for any participants; (b) a suspension of contributions with respect to any period of service; or (c) any new direct or indirect exclusion of younger or newly hired employees from plan participation. During the plan adoption period, the trustees may not amend the plan in any way that increases plan liabilities by reason of an increase in benefits, change in accruals, or change in the vesting rate, unless the amendment is necessary to maintain the plan's qualified status.

Once the RP has been adopted, the Plan may not be amended in a manner that is inconsistent with the RP. In addition, the Plan may not be amended to increase benefits, including future benefit accruals, unless the Fund Actuary certifies that the benefit increase is consistent with the RP and is paid for out of contributions not required by the Rehabilitation Plan to meet the applicable benchmark.

Based on reasonable assumptions, the Fund is expected to emerge from Critical Status by the Plan Year beginning October 1, 2025. The Trustees recognize the possibility that actual experience could be less favorable than the reasonable assumptions. Therefore, the Trustees are establishing the following annual standards to reflect possible actuarial losses and still keep the Fund on target to emerge from Critical Status by the end of the Rehabilitation Period.

#### SECTION 6. ANNUAL UPDATING OF RP

Each year the Fund's Actuary will review and certify the status of the Fund under the PPA funding rules and whether the Fund is or is not making the scheduled progress toward the requirements of the RP. To that end, the chart below provides the projected credit balances for each year of the Rehabilitation Plan. If the Board of Trustees determines that it is necessary in light of updated information they will revise the RP and the schedules recommended under it. Notwithstanding subsequent changes in contribution schedules, a schedule of contribution rates provided by the Board of Trustees and relied upon by the bargaining parties in negotiating a collective bargaining agreement shall remain in effect for the duration of that collective bargaining agreement. However, a collective bargaining agreement that is renewed or extended will need to include terms consistent with one of the Schedules in effect at the time of the renewal or extension. A failure to adopt such an updated Schedule would require the Board of Trustees to unilaterally implement the Default Schedule 180 days subsequent to the expiration of a collective bargaining agreement containing a Schedule.

<b>Plan Year Ending 9/30</b>	<b>Projected Credit Balance</b>
2009	\$ 7,376,098
2010	\$ 15,940,543
2011	\$ 25,424,928
2012	\$ 33,633,501
2013	\$ 39,969,610
2014	\$ 45,865,128
2015	\$ 52,202,810
2016	\$ 59,015,818
2017	\$ 66,339,801
2018	\$ 59,748,951

<b>Plan Year Ending 9/30</b>	<b>Projected Credit Balance</b>
2019	\$ 53,276,229
2020	\$ 46,318,053
2021	\$ 38,838,013
2022	\$ 33,436,371
2023	\$ 28,485,889
2024	\$ 23,814,185
2025	\$ 17,728,340

#### SECTION 7. OTHER ISSUES

Benefit changes will become effective pursuant to the terms of the Rehabilitation Plan as soon as legally permissible after a Rehabilitation Plan Schedule is adopted or implemented and those benefit changes are expected to be permanent, as required by the PPA for benefits commencing on or after March 1, 2010.

By motion duly adopted, the Board of Trustees of the San Diego Electrical Pension Plan Fund on the 22nd day of January, 2010, hereby adopts this Rehabilitation Plan for the Plan Year effective October 1, 2009.

#### SECTION 8. DEFAULT SCHEDULE IMPLEMENTED ON OCTOBER 1, 2012

With respect to hours worked after the date of implementation of this Schedule, the benefit accrual rate becomes 1.0% of contributions made on the participant's behalf. "Contributions" for this purpose excludes any contribution increases specifically required by this Schedule.

#### SECTION 9. CONTRIBUTION

Employer contribution rate levels shall not increase. If an existing Agreement calls for different rates for apprentices or other classifications than the journeyman rate that practice may continue under this Default Schedule.

NOTE: Should the bargaining parties fail to elect any Schedule within 180 days following the expiration date of a collective bargaining agreement in effect as of December 29, 2009 the Board of Trustees are required by law to unilaterally implement the Default Schedule for that particular bargaining unit.

## **ALTERNATIVE SCHEDULE 1**

### **BENEFIT CHANGES:**

Benefit accruals under a Collective Bargaining Agreement after this Schedule is implemented shall be determined disregarding any contribution increases specifically required under this Schedule. Except for the foregoing no benefit accrual changes or reductions are provided for under this Schedule.

### **CONTRIBUTIONS**

Employer contribution rate levels shall increase by \$2.09 per hour (for which there will be no benefit accrual) under this Alternative Schedule 1 for March 1, 2010 hours worked and hours worked thereafter.

All additional contributions pursuant to this Schedule over the amounts required under collective bargaining agreements in effect as of December 29, 2009 shall be disregarded for purposes of determining participants' accrued benefits each Plan year. Accrued benefits are in no fashion based upon the amount of increased employer contributions under the foregoing Schedule or any employer surcharge contributions payable by the employer. These contributions shall be utilized solely to improve the funding condition of the Plan and shall result in no benefit accruals whatsoever.

If an existing agreement calls for different rates for apprentices or other classifications than the journeyman rates specified above, proportional off-benefit contribution increases will be required.

## **ALTERNATIVE SCHEDULE 2**

### **BENEFIT CHANGES**

With respect to hours worked on or after March 1, 2010, the benefit accrual rate becomes 1.5% of contributions made on the participant's behalf.

### **CONTRIBUTIONS**

Employer contribution rate levels shall not increase. If an existing Agreement calls for different rates for apprentices or other classifications than the journeyman rate that practice may continue under this Default Schedule.

## **ALTERNATIVE SCHEDULE 3**

### **BENEFIT CHANGES**

The disability benefit amount (as defined under ARTICLE IV Section 4.) will be 79% of the age 62 benefit (prior to adjustment for optional benefit form). However, if at the time of benefit commencement the participant qualifies for early retirement the participant would have the option

to retire under the greater of the early retirement and disability benefits.

## CONTRIBUTIONS

Employer contribution rate levels shall not increase; however, a portion of hourly contributions towards future accruals will be decoupled. \$1.35 of contributions will be decoupled from future benefit accruals such that no benefit accruals will be gained on the \$1.35, but benefit accruals will still be gained on the remaining amount. If an existing Agreement calls for different contribution rates than the pension contribution rate under the Inside Agreement, such contributions shall be decoupled proportionately.

## SCHEDULE OF PENSION BENEFITS

1. PAST PENSION CREDIT (Prior to 1964) [1]
  - (a) Each 125 hours equal one-quarter (1/4) of a year of credit. A maximum credit of 500 hours is allowable in any one year.
  - (b) The rate per quarter is \$1.00, and per year is \$4.00.
2. FUTURE PENSION CREDIT (1964 to 1983) [1]

Hours	Amount [2]	Amount [3]	Amount [3]	Amount [3]	Amount [3]
	1964-74	1974-75	1975-76	1976-77	1977-83
250	3.00	7.68	9.10	12.56	13.80
500	6.00	15.37	18.19	25.13	27.59
750	9.00	23.05	27.29	37.69	41.39
1000	12.00	30.73	36.38	50.25	55.18
1250	15.00	38.41	45.48	62.81	68.98
1500	18.00	46.10	54.57	75.38	82.77
1750		53.78	63.67	87.94	96.57
2000		61.46	72.76	100.50	110.36

3. FUTURE PENSION CREDIT (1983- )

Commencing October 1, 1983 through September 30, 2007, credit is based on a benefit factor of 3.0% of Employer contributions credited each Plan Year. Commencing October 1, 2007, credit is based on a benefit factor of 2.7% of contributions credited each Plan Year. To calculate the amount, multiply the total of Employer contributions for each Plan Year by the benefit factor (i.e., for 2007-2008, at an hourly rate of \$4.35, the amount for 1,000 hours would be  $1,000 \times 4.35 \times 2.7\% = \$117.45$ ). The contribution rates are as follows:

<u>Effective Date</u>	<u>Contribution Amount</u>
6/1/1995	\$2.09
1/1/1996	\$2.14
6/1/1996	\$2.39
1/1/1997	\$2.64
06/1/1999	\$3.14
06/1/2001	\$3.96
12/1/2001	\$4.09
06/1/2002	\$4.22
12/1/2002	\$4.35

4. All provisions of this Article are subject to the limitations and restrictions of Article XIII which govern benefits first commencing after February 1, 2010.

- A. Schedule effective October 1, 1983. Contact Administrative Manager for prior schedules.
- B. Maximum credit limited to 1,500 hours worked in any one Plan Year.
- C. Commencing 1974-75, credit is based upon all hours worked in any one Plan Year. To calculate the benefit amount for this Plan Year, multiply the total hours worked in each Plan Year by the following schedule:

1974-1975: \$.03073 per hour

1975-1976: \$.03638 per hour

1976-1977: \$.05025 per hour

1977-1983: \$.05518 per hour

**NOTE: The amount of credit shown to be payable for pension benefits is calculated in all instances based upon a Life Only form of benefit with a 180 month guarantee. The actual amount of benefit payable to any Participant, Retiree, Spouse, Alternate Payee or Beneficiary shall depend on the actual form of benefit to be received.**

**The preceding language applies to benefits first commencing on or before February 1, 2010. For benefits commencing after February 1, 2010, the amount of credit shown to be payable for pension benefits is calculated in all instances based upon a Life Only form of benefit. The actual amount of benefit payable to any Participant, Retiree, Spouse, Alternate Payee or Beneficiary shall depend on the actual form of benefit to be received.**