

**COMMANDER, NAVY INSTALLATIONS COMMAND**

**RETIREMENT PLAN**

**2015 Restatement**  
(Effective January 20, 2016)

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**ARTICLE I.**  
**APPLICATION**

**Section 1 - Application.**

The Commander, Navy Installations Command (CNIC) Retirement Plan provides a defined benefit retirement plan to eligible Nonappropriated Fund (NAF) Employees. The Plan was created in 1962 and operated under the cognizance of the Bureau of Naval Personnel (BUPERS) until the Plan was formally transferred to CNIC from BUPERS in September 2006. During its history, the Plan has been amended several times and the Employer reserves the right to amend the Plan from time-to-time in the future.

## ARTICLE II.

### DEFINITIONS

#### Section 1 - Definitions.

**2.1.1.** Wherever used herein the following words and phrases shall have the meaning indicated below, unless the context indicates otherwise.

“**Actuarial Equivalent**” or “**Actuarially Equivalent**” means an equivalent benefit using eight percent (8%) per annum interest and the UP-1984 (Unisex) Mortality Table.

“**Annuity Starting Date**” means the first day of the first period for which an amount is paid as an annuity, or in the case of an amount not paid as an annuity, the date paid.

“**Bank**” means any bank or banks (including trust companies), as defined in the Investment Adviser Act of 1940, as amended, designated by the Trustees from time to time to act as trustee of an Investment Trust or a Master Trust and/or to hold a Custody Account.

“**Beneficiary**” means the person(s) or estate determined in accordance with Article XIII.

“**BUPERS**” means the Bureau of Naval Personnel, Department of the Navy, U. S. Department of Defense.

“**Code**” means the Internal Revenue Code of 1986, as amended from time to time.

“**Commander, Navy Installations Command**” or “**CNIC**” means the Commander, Navy Installations Command, Department of the Navy, U. S. Department of Defense.

“**Commander, Navy Installations Command Retirement Trust**” or “**Trust**” means the Commander, Navy Installations Command Retirement Trust as set forth in the Trust Agreement between certain individuals as trustees and CNIC, as amended and restated from time to time.

“**Continuous Service**” means service credited in accordance with Paragraph 3.2.1..

“**Contract**” means any contract or contracts that may be entered into between CNIC or BUPERS or the Trustees and an Insurance Company to provide benefits under the Plan.

“**Credited Service**” means service taken into account in accordance with Paragraph 3.3.1.

“**Custodian Account**” means a custodian account or accounts established by the Trustees with a Bank to hold a portion or portions of the funds under the Plan which are under the management of an Investment Manager.

“**Earnings**” of a Participant for any month means the total earnings of the Participant for service with his Employer in such month, as determined by the Employer, whose decision shall be final, reportable on the Participant's Form W-2 as gross wages for the period, but excluding compensation received in lieu of unused annual leave, post allowances, overseas housing

allowances, non-performance based cash awards, severance pay, and taxable moving expense payments. Notwithstanding any other provision of the Plan, for Plan Years beginning after 2000, Earnings shall also include, for purposes of Code Sections 415 and 414(s), salary reduction contributions to any plan maintained by any Employer pursuant to an arrangement described in Code Section 132(f)(4). Earnings for any month shall not exceed one-twelfth of the applicable limitation under Code Section 401(a)(17)(B.) If a determination period is less than 12 months, this limit will be decreased proportionately based on the number of months in the measuring period. For purposes of determining the High-Three Average Earnings of a Participant for a Plan Year beginning after 1988, Earnings for a prior Plan Year shall be determined by taking into account the applicable earnings limit in effect for such prior Plan Year. For prior Plan Years beginning before 1989, the applicable annual Earnings limit is \$200,000.

For years beginning after 2008, in the case of an individual receiving a differential wage payment, as defined by Code §3401(h)(2), is treated as an Employee of the Employer making the payment, (ii) the differential wage payment is treated as compensation from the Employer, and (iii) the Plan is not treated as failing to meet the requirements of any provision described in Code §414(u)(1)(C) by reason of any contribution or benefit which is based on the differential wage payment. The foregoing (iii) applies only if all employees of the Employer performing service in the uniformed services described in Code §3401(h)(2)(A) are entitled to receive differential wage payments (as defined in Code §3401(h)(2)) on reasonably equivalent terms and, if eligible to participate in a retirement plan maintained by the employer, to make contributions based on the payments on reasonably equivalent terms (taking into account Code §§410(b)(3), (4), and (5)). Earnings for Code Section 415 purposes shall include regular pay after severance of employment if:

- (i) The payment is regular compensation for services during the Participant's regular working hours, or compensation for services outside the Participant's regular working hours commissions, bonuses, or other similar payments; and
- (ii) The payment would have been paid to the Participant prior to a severance from employment if the Participant had continued in employment with the Employer, and
- (iii) The payment is made by the later of 2 1/2 months after a Participant's severance from employment with the Employer or the end of the Code Section 415 limitation year that includes the date of the Participant's severance from employment with the Employer.

**“Employee”** means any civilian person who is employed by or under the cognizance of an Employer as a Nonappropriated Fund Employee on a regular full-time basis or regular part-time basis and who is:

- (i) a citizen of the United States;
- (ii) a citizen of the Dominion of Canada and employed in Canada; or
- (iii) a citizen of a country other than the United States who is employed in any of the several States of the United States, the District of Columbia, the territories and possessions of the United States or Puerto Rico, or a Cuban who was employed at the U.S. Naval Station, Guantanamo Bay, Cuba, on 15 June 1987 (irrespective of whether he became a U.S. citizen

before, on or after such date) and who either resided on such Station or commuted to such Station on that date.

(iv) not an active participant in any other defined benefit pension plan of an Employer.

(v) regular employees who have been enrolled in the benefits program for three or more years and whose employment was involuntarily changed from regular to flexible, during the period from 3 December 1997 to 27 May 2003, are considered an “Employee” if they were designated by management to continue in the benefits program.

For purposes of administration of the Plan, an individual who was a Participant in the Plan and who is entitled to continue participation in accordance with the portability provisions of federal law will be deemed to be an Employee of CNIC.

Notwithstanding the foregoing or any other provision of the Plan to the contrary, the term Employee shall not include any person who is not considered by CNIC, in its sole discretion, to be an Employee for any particular period, and any such person shall not be eligible to participate in the Plan for such period even if such conclusion is later determined to be inaccurate or in error by any person, administrative agency, tribunal, court or other entity of any type or description, other than CNIC.

**“Employer”** means:

(i) Commander, Navy Installations Command (“CNIC”), with respect to Nonappropriated Fund Employees under its cognizance or any substitute command.

(ii) Any other governmental agency or activity as shall be designated in writing from time to time by CNIC, provided that such agency or activity is first accepted as an “Employer” by the Trustees and then executes an affiliation agreement in the form and manner prescribed by the Trustees.

Notwithstanding any other provision of the Plan, CNIC shall have all of the powers, duties, responsibilities and authority which BUPERS previously had with respect to the Plan, and the Plan shall be construed and applied in all respects in a manner consistent with that intent, as determined by CNIC.

**“High-Three Average Annual Earnings”** for a Participant as of any date means twelve (12) times the highest average monthly Earnings for any thirty-six (36) consecutive months for which he has made contributions to the Plan. If he has made contributions to the Plan for less than thirty-six (36) months, “High-Three Average Annual Earnings” means twelve (12) times the average monthly Earnings for the entire period for which he has made contributions to the Plan. For this purpose, consecutive months for which contributions have been made shall include months for which contributions were made but which are separated by a period for which no contributions were made due to absence, suspension, separation from Service or other interruption.

**“Insurance Company”** means any insurance company or companies designated by the Trustees from time to time.



**“Investment Manager”** means (i) an investment adviser registered under the Investment Adviser Act of 1940, as amended, (ii) a bank, as defined under the Act, or (iii) an insurance company qualified to manage assets of qualified retirement plans under the laws of more than one State, which has been designated by the Trustees from time to time to invest and reinvest funds under the Plan which are held in a Master Trust or Custodian Account or pursuant to a Contract and which acknowledges in writing that it is a fiduciary with respect to the Plan.

**“Investment Trust”** means a trust or trusts established by the Trustees under which the trustee holds and manages some or all of the funds under the Plan, as amended from time to time, and accounts to the Trustees for such funds.

**“Master Trust”** means a trust established by the Trustees under which the trustee holds some or all of the funds under the Plan (including a Contract), manages some or all of such funds or is directed in the management of some or all of such funds by the Trustees or an Investment Manager and accounts to the Trustees for all of such funds.

**“Member”** means a participant of another plan that is recognized under NAF to NAF portability.

**“Participant”** means (i) an Employee who is eligible for membership in the Plan under Article IV, has elected to become a member of the Plan, and has authorized the necessary deductions from his earnings, or (ii) a former Employee who has elected to remain a member of the Plan under Paragraph 3.5.1., or (iii) any other former Employee who has an unpaid vested benefit under the Plan under Article IX.

**“Plan”** means the Commander, Navy Installations Command Retirement Plan.

**“Social Security”** or **“Social Security Act”** means the U.S. Old Age, Survivors and Disability Insurance Act, as amended from time to time, or the benefits provided there-under, or, when applicable, the U.S. Federal Insurance Contributions Act, as amended from time to time.

**“Spouse”** means, effective as of June 26, 2013, a person with whom a legal marriage exists under the laws of any state, territory or foreign jurisdiction with respect to a Participant, without regard to the jurisdiction of residence thereafter. A person’s status as a Spouse on and after June 26, 2013 shall be determined in accordance with the laws of the state, territory or foreign jurisdiction in which the marriage arose.

**“Trustees”** mean those persons serving as trustees from time to time under the Commander, Navy Installations Command Retirement Trust Agreement.

## **Section 2 - Gender and Number**

**2.2.1** Wherever used herein, the masculine pronoun includes the feminine, and the singular includes the plural, unless the context indicates otherwise.

## ARTICLE III.

### SERVICE

#### Section 1 - Service.

**3.1.1.** “Service” means the period or periods during which a person is employed by an Employer.

#### Section 2 - Continuous Service.

**3.2.1.** “Continuous Service” means continuous Service as an Employee commencing on his date of hire by an Employer, or if later, the date on which the status of an Employee is first attained. In the case of an Employee who participated in a Former Plan within the meaning of Paragraph 3.4.1., his period of service under the Former Plan shall be recognized as Continuous Service for the purposes of this Plan as provided under Paragraph 3.4.1. Notwithstanding the foregoing, in the case of an Employee who makes an election under Paragraph 3.3.1.(i), the later of (i) 1 March 1947 or (ii) his date of hire as an Employee by an Employer.

**3.2.2.** “Continuous Service” shall not be considered to be broken by:

(a) Any interruption provided that the Employee returns to the service of his Employer, except that “Continuous Service” shall be considered broken if the service of the Employee terminates for cause on charges of misconduct or unsatisfactory performance; or

(b) Transfer of an Employee on or after 8 March 1972, but before 1 January 1976 from employment with BUPERS, or with an activity under its cognizance, to employment with the Navy Exchange Service Command, or vice-versa;

Provided that (i) any Employee who is not a Participant at the commencement of such absence shall not become a Participant during such absence, (ii) any such period of absence shall not be included in determining the length of Continuous Service, and (iii) any benefits paid under the Plan as a result of any of the above interruptions are repaid with interest within twelve (12) months of the end of such interruption.

**3.2.3.** “Continuous Service” shall include the periods treated as Continuous Service under Paragraphs 3.4.1., 3.4.2., 3.4.3., 3.5.1., 3.5.2., 3.6.1., 3.6.2., 3.7.1., and 3.8.1.

#### Section 3 - Credited Service.

**3.3.1.** “Credited Service” as of any date means the sum of:

(a) In the case of any Employee (i) hired before 15 July, 2011, Service commencing on the date on which the Employee becomes a Participant, but excluding any service by an Employee after he attains age 65 which is performed between 1 March 1970 and 31 December 1975, or (ii) hired on or after 15 July, 2011, Service while a contributing Participant;

(b) Any period of Past Service, determined in accordance with Paragraph 3.3.2.

(c) The number of completed years, months and days of unused sick leave, as computed by the Employer, to the extent not previously credited under the Plan;

(d) In the case of BUPERS Employees, Continuous Service from date of hire or first attainment of Employee status to the date on which an Employee became a Participant in the Plan for any “qualified 1 January 1976 Participant” who elects to acquire Credited Service for the period of Continuous Service rendered before the Employee became eligible to become a Participant.

A “qualified 1 January 1976 Participant” is a Participant who was hired or first attained Employee status on or after 1 March 1966 and prior to 1 January 1976 and who became a Participant when first eligible to do so. The election to acquire Credited Service for such period must be made prior to 31 March 1976 and requires the Participant to make Participant contributions for the appropriate period of Continuous Service in an amount equal to (i) the number of years and months (expressed as a fraction of a year) in such period times (ii) the sum of 1.15% of the first \$15,300 of his Earnings for 1975 plus 5% of any excess;

(e) Each Employee who was hired by BUPERS on or after 1 January 1975, but before 1 January 1976, may have elected to join the Plan on 1 January 1976, provided he had not then attained his 60th birthday, with credit for his period of Continuous Service prior to 1 January 1976, provided he made the Participant contributions required for such period by 31 March 1976.

(f) In the case of a former Participant who, upon his reemployment after 30 December 1975 under the cognizance of the same Employer, becomes a Participant under the provisions of Paragraph 4.1.5., the period recognized as Credited Service under the Plan prior to such Employee's separation from employment for a reason other than retirement, but only if (i) the former Participant becomes a Participant as soon as eligible and within thirty (30) days (effective 1 January 2016, 180 days) of his reemployment declares in writing an intent to redeposit of the aggregate amount previously distributed to the Participant from the Plan and in fact makes such redeposit within one year after the date of such re-employment together with interest at the rate provided in Paragraph 13.6.1. compounded annually from the date of withdrawal until the date of redeposit, and (ii) the former Participant's previous employment with the Employer was not terminated for one of the reasons described in Paragraph 3.2.2.(a.) Under no circumstances shall a Participant by such repayment receive credit for more than the most recent single period of Past Service;

(g) The periods treated as Credited Service under Paragraphs 3.4.2., 3.5.1., 3.6.1., 3.7.1., and 3.8.1.

(h) Any period of service under a Former Plan which is recognized as Credited Service under Paragraph 3.4.1., 3.4.2. or 3.4.3.

(i) In the case of Cuban Employees described in (iii) of the definition of Employee, his Continuous Service to the date the Employee became a Participant with respect to which the Participant, by written election filed with the Trustees, elects to acquire Credited Service, provided that (1) the election to acquire Credited Service is filed no later than 60 days after his Employer provides an election form to him, (2) a Participant desiring to acquire Credited Service for less than the total period possible elects for a period consisting of one or more whole ten-year periods beginning with his date of participation and counting backward, (3) the Participant makes Participant contributions for the period elected at the rate or rates applicable during such period, as

set forth in the election notice, applied to his Earnings during such period, as determined by his Employer, (4) the Participant deposits, by lump sum payment or payroll deduction, the full amount of required Participant contributions with the Trustees no later than three years after the end of the 60-day election period, and (5) the Participant agrees that any benefit payable under the Plan before the Participant's deposit has been completed will be reduced by the amount of Participant contributions remaining to be paid; and

The total Credited Service, as determined above, shall be rounded up to the next complete month. All Credited Service shall be determined by the applicable Employer, whose decision shall be final.

(j) In the case of Participants in active employment with BUPERS on 2 October 1995 who made a written election by 31 March 1996 and necessary contributions by 30 June 1996, Continuous Service with their Employer prior to becoming a Participant, but not in excess of five years, as designated in the election. Required Participant contributions for the period elected were equal to (i) the number of years and months (expressed as a fraction of a year) in such period times (ii) 1% of his Earnings for 1994.

(k) In the case of active Participants in active employment with BUPERS on 1 January 2003 who made an election by 31 March 2003 and necessary contributions by 30 June 2003, Continuous Service with their Employer not previously taken into account as Credited Service, but not in excess of five years, as designated in the election. Required Participant contributions for the period were equal to (i) the number of years and months (expressed as a fraction of a year) in such period times (ii) 1% of his Earnings for 2002. In no event shall any duplication of Credited Service occur as a result of the operation of this Paragraph.

(l) In the case of Participants who are in active employment with BUPERS on or after 1 August 2003, who elected by 30 September 2003, and who are not eligible for or receiving retirement benefits under any military retirement program, prior honorable active duty in the military service of the United States of America not previously taken into account as Credited Service, but not in excess of five years, as elected by the Participant. Each eligible Participant must make a contribution for the period of service elected, in an amount equal to (i) the number of years and months (expressed as a fraction of a year) in such period, multiplied by (ii) 1% of his hourly rate of pay in effect as of 1 August 2003, multiplied by 2087. To the extent the entire required Participant contribution was not received by the Trustees on or before 31 December 2003, the Participant's election shall be deemed modified to elect the period of service supported by the contribution amount which was timely received by that date. Any amount received in excess of the amount required for a whole month of service shall be deemed a mathematical error and shall be returned to the Participant. Any military service so purchased shall be taken into account as Credited Service for benefit accrual purposes only, and not for vesting, early retirement eligibility, adjusting the individual's employment date, or for any other purpose under the Plan.

(m) In the case of Participants who are first employed after 1 August 2003, who elect by 31 December 2008, and who are not eligible for or receiving retirement benefits under any military retirement program, prior honorable active duty in the military service of the United States of America not previously taken into account as Credited Service, but not in excess of five years, as elected by the Participant. Each eligible Participant must make a contribution for the period of service elected, in an amount equal to (i) the number of years and months (expressed as a fraction of

a year) in such period, multiplied by (ii) 1% of his hourly rate of pay in effect as of the first date of active employment, multiplied by 2087. To the extent the entire required Participant contribution is not received by the Trustees on or before 31 December 2008, the Participant's election shall be deemed modified to elect the period of service supported by the contribution amount which was timely received by that date. Any amount received in excess of the amount required for a whole month of service shall be deemed a mathematical error and shall be returned to the Participant. Any military service so purchased shall be taken into account as Credited Service for benefit accrual purposes only, and not for vesting, early retirement eligibility, adjusting the individual's employment date, or for any other purpose under the Plan.

(n) In the case of Employees who elected to participate in the 1976 Civilian Buyback Program, as provided in Paragraph 3.3.1. (d) and who did not meet the criteria detailed in Paragraph 3.3.1. (d), Credited Service will be provided for under the Plan should the Participant have submitted their election to participate in the buyback program and payment on or before 31 December 1976.

(o) In the case of Employees who elected to participate in the 1996 Civilian Buyback Program, as provided in Paragraph 3.3.1. (j) and who did not meet the criteria detailed in Paragraph 3.3.1. (j), Credited Service will be provided for under the Plan should the Participant have:

- i) Submitted the application for enrollment in the buyback program on or before 31 December 1996.
- ii) Submitted the required payment to purchase service under the program or paid the full amount of contributions communicated to them, even if the amount of said contributions did not meet the requirements of the program as detailed in Paragraph 3.3.1.(j), in either case on or before 31 December 1996.
- iii) Been refunded contributions and interest by the Plan Administrator because the buyback was previously deemed to have not met the requirements of the Plan. Such time will be credited upon submission of all contributions and interest previously refunded, along with interest calculated at 3% compounded annually from the date of refund.

(p) In the case of Employees who elected to participate in the 2003 Civilian Buyback Program, as provided in Paragraph 3.3.1. (k) and who did not meet the criteria detailed in Paragraph 3.3.1.(k), Credited Service will be provided for under the Plan should the Participant have:

- i) Submitted the application for enrollment in the buyback program on or before 31 December 2003.
- ii) Submitted the required payment to purchase service under the program on or before 31 December 2003 or paid the full amount of contributions communicated to them, even if the amount of said contributions did not meet the requirements of the program as detailed in Paragraph 3.3.1. (k), in either case on or before 31 December 2003.
- iii) Been refunded contributions and interest by the Plan Administrator because the buyback was previously deemed to have not met the requirements of the Plan. Such

time will be credited upon submission of all contributions and interest previously refunded, along with interest calculated at 3% compounded annually from the date of refund.

(q) In the case of Employees who elected to participate in the 2003 Military Buyback Program, as provided in Paragraph 3.3.1. (l) and who did not meet the criteria detailed in Paragraph 3.3.1. (l), Credited Service will be provided for under the Plan should the Participant have:

- i) Submitted the application for enrollment in the buyback program on or before 31 December 2003.
- ii) Submitted the required payment to purchase service under the program on or before 31 December 2003.

### **3.3.2. "Past Service" means:**

(a) Pre-Plan Service.

(i) In the case of an Employee who was hired before 1 March 1966 and who became a Participant when first eligible or, if later, on the 1 March following the third anniversary of employment, the period of Continuous Service subsequent to 1 April 1946 and prior to becoming a Participant in the Plan, taken to the nearest integral number of years, provided that Continuous Service with an organization which had established a formal pension plan for its employees prior to the date such organization became an Employer shall not be included in Past Service if the Employee was eligible to participate in such formal pension plan and had a vested interest in such benefits if he had elected to participate in such plan when first eligible;

(ii) In the case of an Employee of BUPERS who became a Participant as of 1 March 1962, the period of Continuous Service subsequent to 28 February 1959, and prior to becoming a Participant in the Plan; and

Except as specifically provided above, an Employee shall have no Past Service if:

- (1) he is hired on or after 1 March 1966,
- (2) he does not become a Participant in the Plan when first eligible or, if later, on the 1 March following the third anniversary of employment, or
- (3) he is employed on the date he becomes an Employee by an organization which becomes an Employer on or after 1 March 1968.

(b) Waiting Period Service. In the case of an Employee who is hired on or after 1 January 1989, and prior to 15 July 2011, who completes one year of Continuous Service and who elects to become a Participant within 30 days following the completion of such one year period shall have the year count as Credited Service without contribution for such year. Employees hired on or after 15 July 2011 may join the Plan in accordance with Paragraph 4.1.4.

Past Service shall be determined by the applicable Employer in accordance with the provisions of this Plan.

**Section 4 - Service with Other Nonappropriated Fund Instrumentalities.**

**3.4.1. Before February 1983.** Whenever a regular full-time employee of a Department of Defense Nonappropriated Fund Instrumentality (“NAFI”) participating in another pension plan for employees (the “Former Plan”) becomes an Employee on or after 1 January 1976 and before 16 February 1983 of a Department of Defense Nonappropriated Fund Instrumentality which was an Employer under this Plan by reason of:

(a) a transfer of function, or

(b) his hire by the Employer within ninety (90) calendar days of removal from pay status because of a reduction in force, such Employee shall have recognized as Continuous Service and as Credited Service at retirement under this Plan:

(i) all prior credited service with the former Nonappropriated Fund Instrumentality under the Former Plan as certified by such Instrumentality, and

(ii) all future Service of the Employee creditable under this Plan.

The resulting annuity otherwise payable to the retiring Employee under this Plan will be reduced or offset by the annuity payable under the Former Plan at the Employee's normal retirement age thereunder, whether or not such normal retirement age is the same as the Employee's age at retirement under this Plan, assuming the Employee was fully vested in such benefits, irrespective of the length of credited service under the Former Plan, and without regard to whether the Employee withdrew or failed to withdraw his contributions under the Former Plan.

For purposes of determining the Continuous Service and Credited Service of a person employed by one DOD NAFI Employer (the “former Employer”) under this Plan who becomes an Employee of another DOD NAFI Employer (the “new Employer”) under this Plan, this Paragraph shall be applied as if the former Employer and new Employer participate in different pension plans and the Continuous Service and Credited Service of the Employee under the Former Plan, as certified by the former Employer, shall be recognized as Continuous Service and as Credited Service with the new Employer at retirement where the person becomes an Employee of the new Employer under the circumstances referred to in subparagraphs (a) or (b) above.

**3.4.2. After February 1983.**

(a) Whenever an employee of a Department of Defense Nonappropriated Fund Instrumentality participating in a pension plan for employees maintained by that Instrumentality (“Former Plan” and “Former Employer”, respectively) becomes an Employee on or after 16 February 1983 within ninety (90) calendar days of his termination of employment with the Former Employer (other than by reason of retirement), such Employee shall have recognized as Continuous Service and as Credited Service at retirement under this Plan:



(i) all prior credited service accrued for retirement annuity purposes under the Former Plan as certified by such Former Employer, and

(ii) all future Service of the Employee creditable under this Plan.

The resulting annuity otherwise payable to such Employee under this Plan will be offset by:

(A) In the case of an Employee who was vested in a retirement annuity under the Former Plan at his termination of employment with his Former Employer, the annuity payable under the Former Plan when the Employee attains age 62, as certified by his Former Employer, computed (1) as if his contributions under the Former Plan remained in the Former Plan, (2) after application of any Social Security offset in the Former Plan, and (3) as if the terms of the Former Plan were those in effect as of such termination of employment; and

(B) In the case of a non-vested Employee, the annuity which the Employee's own contributions would have funded for him under the Former Plan when the Employee attained age 62, as certified by his Former Employer, computed as if such contributions continued on deposit since initially contributed to age 62.

If benefits under this Plan are to commence before the Employee attains age 62, the offset will be reduced to the amount which is its Actuarial Equivalent at the commencement date to reflect the early commencement of payments.

(b) An employee who terminates employment with a Former Employer by reason of retirement and who becomes an Employee will be treated as a new employee and will not carryover any credited service from his Former Plan.

(c) (i) Upon the employment by an Employer of a person entitled to carry over credited service under this Paragraph, the Employer will obtain all information necessary to implement this Paragraph from the Former Employer, including the amount of annuity payable under the Former Plan as well as the amount, if different, of the offset computed as described above. Upon the retirement under the Plan of a Member with carry over credited service, his Employer will notify the Former Employer of the Member's actual retirement date and the date benefits are to commence under the Plan.

(ii) Upon the termination of employment from an Employer of a Member entitled to carry forward credited service to another pension plan of a Department of Defense Nonappropriated Fund Instrumentality, his Employer shall provide comparable information with respect to his Continuous Service, Credited Service, offset and actual benefit under this Plan to his new employer. In the case of a Participant who is not vested in a retirement annuity under the Plan, the offset shall be the annuity which is the Actuarial Equivalent at age 62 of his own contributions, computed as if they accumulated with interest since initially contributed to age 62.

For purposes of determining the Continuous Service and Credited Service of a person employed by one Employer under this Plan who becomes an Employee of another Employer under this Plan, this

Paragraph shall be applied as if the previous Employer and the new Employer participate in different pension plans.

**3.4.3. NAFI Service.** In the case of all Participants in active employment with an Employer on or after 2 October 1995, service as a regular full-time or part-time employee of a Department of Defense Nonappropriated Fund Instrumentality and a U.S. Coast Guard Nonappropriated Fund Instrumentality shall be treated as Continuous Service for purposes of retirement eligibility under Article V, provided that no duplicate credit shall be provided under the Plan for any such period of service.

**3.4.4. Joint Basing.** In the case of Participants who made a proper election to retain participation in the Plan and were transferred to a different NAF employer under the Base Realignment and Closure 2005 Joint Basing mandate shall be considered Employees and Participants as long as they continue to make contributions to the Plan and remain an employee of the original Joint Basing gaining NAF employer.

### **Section 5 - Civil Service Employment.**

#### **3.5.1. Prospective Election by Former Employees to Remain in the Plan.**

(a) A Participant who completes a “qualifying move” between 1 January 1987 and 9 August 1996 or after 9 August 1996 within the meaning of 5 CFR § 847.202 (b) or (d), respectively, from a position covered by the Plan to a position covered by the Civil Service Retirement System (“CSRS”) or the Federal Employees Retirement System (“FERS”) may elect to continue to participate in the Plan by filing a written election with his former Employer within 30 days after such move (unless such time limit has been waived under § 847.206).

(b) Such election shall be effective as of the date of such move and the Participant shall continue to participate in the Plan during any subsequent employment with a federal agency as an appropriated fund employee or as a nonappropriated fund employee that is not excluded from coverage by the Plan if the Participant were an Employee, including any periods of employment as a reemployed annuitant. The election shall be irrevocable. If the Participant dies during the 30 day or other election opportunity period, the Participant shall be deemed to have made the election unless his eligible survivor elects to have it not apply within 30 days of being notified of the right to decline the deemed election.

(c) The Participant's continuous service, credited service and earnings following such move shall be treated as Continuous Service, Credited Service and Earnings for all purposes of the Plan, provided that such service, credited service and earnings would have been treated as Continuous Service, Credited Service and Earnings if the Participant had been employed by an Employer and the Participant makes the contributions described in Paragraph 11.2.1. and his employer agency (or agencies) makes the contributions to the Plan described in Paragraph 11.3.1.

(d) In the event that a Participant elects not to remain covered under the Plan and elects to enter a civil service plan, there will be no transfer of his Continuous Service and his Credited Service from the Plan, and he will not at any time thereafter be eligible to rejoin the Plan during any subsequent employment with any U.S. Government agency.

### **3.5.2. Retroactive Elections by New Employees and Former Employees.**

A Participant who completed a “qualifying move” described in 5 CFR § 847.402 after 31 December 1965 and before 10 August 1996 and makes one of the following elections by filing a written election with his former Employer by 11 August 1997 (unless such time limit has been waived under § 847.304) shall have the rights attributed to such election under the following provisions:

(a) A Participant Who Came to the Plan from CSRS or FERS and Who Elects to be Transferred Back to his Previous Plan. A Participant who moved from a position covered by CSRS or FERS (the “prior plan”) to a position covered by the Plan and elects under 5 CFR § 847.411 to return to his prior plan shall have his retirement benefit determined under his prior plan as provided in 5 CFR §§ 847.411-847.416, and shall be excluded from coverage under the Plan during his period of employment with his Employer and all subsequent periods of employment with any federal agency, including as a reemployed annuitant.

The Trustees shall transfer to the Civil Service Retirement & Disability Fund (the “CSR Fund”) (i) the employee contributions and interest under Paragraph 13.6.2. accumulated to the Participant's termination from his Employer, and with interest thereon at 5% compounded annually to the date of the election (unless previously refunded), and (ii) an amount equal to the Employer contributions made to the Plan for such Participant. The amount of Employer contributions shall be equal to the total level annual payments necessary to accumulate over his Credited Service at the applicable interest rate an amount equal to the excess of (1) the actuarial present value as of the date of the Participant's termination from his Employer of the Participant's accrued benefit payable at his Normal Retirement Date under the Plan, over (2) the amount of his employee contributions and interest accumulated to such termination under Paragraph 13.6.2. (even if refunded). For this purpose, the actuarial present value shall be determined using the Plan's actuarial assumptions used for funding purposes as reported in the Plan's report under P.L. 95-595 filed immediately prior to the date of the Participant's election. The applicable interest rate shall be the interest rate included in those assumptions.

(b) A Participant Who Came to the Plan from FERS and Who Elects to Move his FERS Service to the Plan. A Participant who moved from a position covered by FERS to a position covered by the Plan and elects under 5 CFR § 847.431 to move his qualifying service under FERS to the Plan (in lieu of the election under subparagraph (a) above) may elect either (i) to have such service credited under the Plan for retirement eligibility purposes only, or (ii) to have such service credited under the Plan for both retirement eligibility and annuity computation purposes, provided that such service would have been treated as Continuous and Credited Service, as the case may be, if the Participant had been employed by an Employer during such period. The election shall be effective upon receipt by his Employer.

Upon retirement, the Participant shall be credited with, in addition to his service with his Employer, all future service and earnings with any other federal agency, provided that such service and earnings would have been treated as Continuous Service, Credited Service and Earnings had the Participant been employed by an Employer during such periods of future service.

If the Participant made the election under (i), his eligibility to retire shall be based on his FERS service, his Continuous Service under the Plan and all future service with another agency that

is treated as Continuous Service, but his annuity shall be based on such service without regard to his FERS service.

If the Participant made the election under (ii), his eligibility to retire and the amount of his annuity under the Plan shall be determined by taking into account his FERS service and earnings without regard to any refunds from FERS, and then the amount of the annuity shall be reduced by the cost of the Participant's election. Such cost, the reduction in the annuity, maximum survivor annuity and base for cost of living adjustments shall be determined using the methodology described in Subparts F and G of 5 CFR Part 847 and the actuarial assumptions used for funding purposes in the Plan's P.L. 95-595 report filed immediately prior to his retirement date.

(c) A Participant Who Moved from the Plan to FERS and Who Elects to be Transferred Back to the Plan. A Participant who moved from a position covered by the Plan to a position covered by FERS and who elects under 5 CFR § 847.441 to be transferred back to the Plan as of the date of such move, shall have his qualifying service and earnings during his FERS employment and all succeeding periods of employment with any federal agency, including as a reemployed annuitant, treated as Continuous Service, Credited Service and Earnings under the Plan, provided that such service and earnings would have been treated as Continuous Service, Credited Service and Earnings had the Participant been employed by an Employer during such periods of service. Such FERS service shall be credited irrespective of whether the Participant has obtained a refund of his contributions for such service.

The Trustees shall receive from the CSR Fund (i) all of the employee contributions made by the Participant to FERS, with interest thereon, unless previously refunded, and (ii) an amount equal to the employer contributions made to FERS for such Participant. Such employee contributions and interest (but not the employer contributions) shall be combined with the Participant's employee contributions under Paragraph 11.2.1. for purposes of any death benefit or refund of contributions payable under Paragraph 8.5.1. or 9.1.1.(b)(ii).

Upon the Participant's retirement under the Plan, his annuity under the Plan shall be determined by taking into account his service and earnings under the Plan with his Employer, his service and earnings under FERS and any other future qualifying service and earnings, and then the amount of the annuity shall be reduced by the cost of the Participant's election. Such cost, the reduction in the annuity, maximum survivor annuity and base for cost of living adjustments shall be determined using the methodology described in Subparts F and G of 5 CFR Part 847, the actuarial assumptions used for funding purposes in the Plans P.L. 95-595 report filed immediately prior to his retirement date and earnings credited to the FERS contributions following their transfer to the Trustees at the interest rates used for funding purposes in each P.L. 95-595 report filed after the transfer and before the Participant's retirement date.

(d) A Participant Who Moved from the Plan to FERS and Who Elects to Move his Plan Service to FERS. A Participant who moved from a position covered by the Plan to a position covered by FERS and elects under 5 CFR § 847.421 (in lieu of the election under subparagraph (c)) to move his qualifying service under the Plan to FERS shall have the rights provided in 5 CFR §§ 847.421-847.423, and such qualifying service shall no longer be credited under the Plan.

The Trustees shall transfer to the CRS Fund the employee contributions with accumulated interest (unless refunded) and the employer contributions determined in accordance with the procedures for determining transfer amounts in subparagraph (a), above.

**3.5.3. Administration.** This Section 5 is intended to implement the Portability of Benefits for Nonappropriated Fund Employees Act of 1990, Section 1043 of the National Defense Authorization Act for Fiscal 1996 (P.L. 104-106), 5 C.F.R. Part 847 and the supplementary DoD policy document issued 11 August 1996, and shall be interpreted and administered accordingly.

## **Section 6 - Family and Medical Leave**

**3.6.1. Leaves of Participants.** If a Participant (a) is credited by his Employer with a period of unpaid leave of absence for family or medical leave in accordance with Title II of the Family and Medical Leave Act of 1993 (5 U.S.C. §§6381-6387), and (b) makes contributions under Paragraph 11.2.1. for such period based on the Participant's rate of Earnings in effect at the beginning of such period,

- (i) such period shall be treated as a period of Continuous Service and as a period of Credited Service for the Participant under Paragraphs 3.2.1. and 3.3.1.;
- (ii) for the purposes of determining the Participant's High-Three Annual Average Earnings, the Participant's Earnings for such period shall be determined based on the rate of Earnings on which the Participant's contributions are based under (b), above;
- (iii) no retirement benefit, deferred annuity or refund of contributions shall be due to the Participant before the Participant's return to active employment from such leave unless the Participant's employment terminates during such leave and the Participant is then eligible for such benefit, annuity or refund under the Plan; and
- (iv) if the Participant dies during such period, the Surviving Spouse Annuity, if any, payable under Section 2 of Article VIII to the Participant's widow or widower shall be determined as if such Participant had returned from such leave to active employment on the day before his death and he had then died.

**3.6.2. Employee Eligibility During Leave.** In the case of an Employee who goes on a family or medical leave described in Paragraph 3.6.1. on or before the end of the 30 day period (the "End Date") in which the Employee could elect to join the Plan under Paragraph 4.1.4.(a)., the Employee shall receive credit for Continuous Service without making Participant contributions for such one year period of leave if the Employee elects to join the Plan, becomes a Participant within 30 days following the Employee's return to active employment from such leave and makes the required contribution, if any, for such period of leave within a reasonable period following his return to active employment.

## **Section 7 - Other Leaves.**

**3.7.1. Authorized Leave Without Pay.** If a Participant (a) is absent from active employment on leave without pay authorized by his Employer (but not in excess of one (1) year), other than under Section 6 (Family and Medical Leave), and (b) the Participant makes contributions under Paragraph

11.2.1. for such period based on the Participant's rate of Earnings in effect at the beginning of such leave:

(i) such period shall be treated as a period of Continuous Service and as a period of Credited Service for the Participant under Paragraphs 3.2.1. and 3.3.1.;

(ii) for the purposes of determining the Participant's High-Three Annual Average Earnings, the Participant's Earnings for such period shall be determined based on the rate of Earnings on which the Participant's contributions are based under (b), above;

(iii) no retirement benefit, deferred annuity or refund of contributions shall be due to the Participant before the Participant's return to active employment from such leave unless the Participant's employment terminates during such leave and the Participant is then eligible for such benefit, annuity or refund under the Plan; and

(iv) if the Participant dies during such period, the Surviving Spouse Annuity, if any, payable under Section 2 of Article VIII to the Participant's widow or widower shall be determined as if such Participant had returned from such leave to active employment on the day before his death and he had then died.

### **Section 8 - Uniformed Service.**

**3.8.1. Procedures Following Uniformed Service.** If an Employee is reemployed on or after 12 December 1994 by his former Employer following a period of uniformed service pursuant to the requirements of the Uniformed Services Employment and Reemployment Rights Act or comparable prior law ("USERRA"), and elects to participate in the Plan within 12 months following the date he was notified in writing of his right to participate in the Plan:

(a) the individual's period of uniformed service immediately prior to such reemployment shall be treated as a period of Continuous Service under the Plan;

(b) the individual's period of uniformed service immediately prior to such reemployment shall be treated, when such Employee becomes a Participant, as a period of Credited Service under the Plan, provided that the individual makes contributions for such period under Paragraph 11.2.1. based on the individual's Earnings for such period as determined under subparagraph (c) below. The individual shall finish making such contributions within five years of his date of reemployment (but not more than three times the period of his military service);

(c) for the purposes of determining the individual's High-Three Average Annual Earnings, the individual's Earnings for such period of uniformed service shall be determined based (i) on the rate of Earnings the individual would have received but for such period of uniformed service or (ii) if such rate is not reasonably certain, on the individual's average rate of Earnings received from his former employer during the 12-month period immediately preceding such period (or if shorter, the period of employment by his former employer immediately preceding such period); and

(d) the individual may have his Credited Service, if any, prior to such uniformed service recognized as Credited Service under the Plan pursuant to the procedures in Paragraph 3.3.1.(f), except that the Participant may initiate action to redeposit contributions and complete such redeposit

up to the date five years following his date of reemployment (but not more than three times the period of his uniformed military service).

(e) In the case of a death occurring on or after 1 January 2007, if a Participant dies while performing qualified military service (as defined in Code § 414(u)), the survivors of the Participant are entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service except as otherwise provided in this Paragraph 3.8.1. or as required by applicable law) provided under the Plan as if the Participant had resumed and then terminated employment on the actual date of death.

This Paragraph shall be interpreted to meet the requirements of USERRA and Section 414(u) of the Code.

## ARTICLE IV.

### ELIGIBILITY FOR PARTICIPATION

#### Section 1 - ELIGIBILITY FOR PARTICIPATION.

**4.1.1.** Each Employee who was a Participant in the Plan prior to the date of execution of this restatement of the Plan shall continue to be a Participant in accordance with the terms hereof.

**4.1.2.** [RESERVED]

**4.1.3.** [RESERVED]

**4.1.4. (a) (i)** An Employee hired on or after the 15 July 2011 may elect to join the Plan and become a Participant as of any specified date within the following 30 day period after the date of the election. Credited service will begin for any such individual as of the first day of the payroll period with respect to which required Participant contributions are made.

(ii) An Employee hired on or after 1 January 1989 and before 15 July 2011 was permitted to join the Plan and become a Participant on the first day of any full pay period after he has completed one year of Continuous Service (determined by including any period or periods of previous Continuous Service credited under Paragraph 3.2.2.). If such an Employee elected to join the Plan and become a Participant within 30 days of the completion of such one year period of Continuous Service, he shall receive credit for such period under Paragraph 3.3.2.(b) but shall not be required to make contributions under Paragraph 11.2.1. for such period. If such an Employee declines to join the Plan and become a Participant within such 30 day period, he shall commence to make contributions under Paragraph 11.2.1. upon becoming a Participant and shall receive no credit under Paragraph 3.3.2.(b).

(b) An Employee hired before 1 January 1989 who had not elected to join the Plan was permitted to join the Plan and become a Participant as of the first day of any full pay period beginning before 1 April 1989. Such an Employee shall receive no waiting period service credit under Paragraph 3.3.2.(b).

(c) An Employee hired before 1 January 1989 who has not elected to join the Plan and become a Participant before the first day of the last full pay period beginning before 1 April 1989 may elect to join the Plan and become a Participant on the first day of any full pay period commencing on or after 1 April 1989, provided that he has completed one year of Continuous Service (determined by including any period or periods of previous Continuous Service credited under Paragraph 3.2.2.). Such an Employee shall commence to make contributions under Paragraph 11.2.1. upon becoming a Participant and shall receive no credit under Paragraph 3.3.2.(b).

**4.1.5.** Effective as of 15 July 2011, any former Participant who is separated from employment of the Employer for any reason other than retirement and who is later reemployed may elect to rejoin the Plan and become an active Participant as of any specified date within the following 30 day period after the date of the election. Credited Service will begin for any such individual as of the first day of the payroll period with respect to which required Participant contributions are made. For



the Service of such a former Participant prior to his separation which may be recognized as Credited Service upon his reemployment, see Paragraph 3.3.1.(f).

**4.1.6. Participant Discontinuance of Active Contributions to the Plan.** A Participant may elect to discontinue active contributions to the Plan as of the end of any pay period. A Participant who discontinues active contributions pursuant to this paragraph may elect to resume active contributions as of any specified date within the following 30 day period after the date of the election. Credited Service will begin for any such individual as of the first day of the payroll period with respect to which required Participant contributions are made. During such period of discontinuance, (a) no contributions shall be due from the Participant under Paragraph 11.2.1., (b) he shall not be credited with Credited Service (and shall not be permitted to buy back such Credited Service), (c) he shall not be considered to have broken his Continuous Service, and (d) no distribution from the Plan of his prior contributions or other Plan benefits shall be made to him currently on account of such discontinuance.

## ARTICLE V.

### ELIGIBILITY FOR RETIREMENT ANNUITY

#### **Section 1 - Normal Retirement.**

**5.1.1.** A Participant shall be eligible to retire with an unreduced pension as of the first day of any month coincident with or following his 62nd birthday, provided he has completed at least five years of Continuous Service. The date a Participant first satisfies such requirements shall, for purposes of this Plan, be referred to as his Normal Retirement Date. Any Participant who shall cease active employment on his Normal Retirement Date shall, upon filing of the prescribed application therefore, be entitled to receive a normal retirement annuity determined in accordance with the provisions of Article VI, Section 1.

#### **Section 2 - Early Retirement.**

**5.2.1. Early Retirement with Unreduced Benefits.** Any Participant who (a) has attained age 55 and completed 30 years of Continuous Service, or (b) has attained age 60 and completed 20 years of Continuous Service, shall be eligible to retire and receive an unreduced early retirement annuity determined in accordance with the provisions of Paragraph 6.2.1.

**5.2.2. Early Retirement with Reduced Benefits.** Any Participant whose employment is terminated for any reason other than death after attaining age 52 and completing 5 years of Continuous Service, but who has not met the conditions specified in Paragraphs 5.2.1. or 5.2.3., and who is not eligible to receive a normal retirement annuity, shall be entitled to receive a reduced early retirement annuity determined in accordance with the provisions of Paragraph 6.2.2.

**5.2.3. Involuntary Early Retirement.** Any Participant whose employment is involuntarily terminated prior to his Normal Retirement Date and who has completed 25 years of Continuous Service or has attained age 50 and completed 20 years of Continuous Service shall be entitled to receive an early retirement annuity determined in accordance with the provisions of Paragraph 6.2.4. For the purpose of this Paragraph, involuntary termination shall be deemed to have occurred:

(a) If the Participant's employment terminates against the will and without the consent of the Participant, other than:

(i) for cause, including but not limited to, charges of misconduct or charges of unsatisfactory performance;

(ii) due to the Participant's declining to accept an offer of another position which is in the same employment category and which is within reasonable and ordinary commuting distance from the Participant's home; or

(iii) in the case of a Participant who has signed a mobility agreement, due to his declining to accept reassignment; or

(b) If the Participant offers his resignation in response to the determination and announcement by his Employer that the segment of the work force of which he is a part must be reduced and that

Participants who meet the age and Service requirements of this Paragraph may resign and receive benefits under Paragraph 6.2.4.

**5.2.4. Disability.** A Participant may not retire early if, at the time he would be eligible to retire under Paragraphs 5.2.1., 5.2.2., or 5.2.3. he is receiving a disability benefit under any group insurance program of his Employer.

**Section 3 - Later Optional Retirement.**

**5.3.1.** A Participant who remains in the service of the Employer beyond his Normal Retirement Date shall be entitled to receive a retirement annuity commencing on his Later Optional Retirement Date, which shall be the first day of the month following the date the Participant actually retires from the service of the Employer. The amount of retirement annuity commencing on a Later Optional Retirement Date shall be determined in accordance with the provisions of Paragraph 6.3.1.

## ARTICLE VI.

### AMOUNT OF RETIREMENT BENEFITS

#### Section 1 - Normal Retirement Benefit.

**6.1.1. Normal Retirement Annuity.** The annual amount of retirement annuity payable to a Participant upon normal retirement on and after 1 September 1974 shall be equal to the Formula Annuity minus the Social Security Offset, as determined in this Section, but in any event not less than the minimum amount determined in accordance with Paragraph 6.1.4.

**6.1.2. Formula Annuity.** The Formula Annuity shall be determined as (a) or (b) below, as applicable, but in any event not greater than (c) below.

(a) For Credited Service prior to 1 September 1974:

- (i) For each of the first ten years of Credited Service, 1% of the first \$3,600 of his High-Three Average Annual Earnings plus 1 1/2% of the excess of his High-Three Average Annual Earnings over \$3,600.
- (ii) For each year of Credited Service after the tenth year, 1 1/4% of the first \$3,600 of his High-Three Average Annual Earnings plus 2% of the excess of his High-Three Average Annual Earnings over \$3,600.

(b) For Credited Service after 1 September 1974:

- (i) For each of the first five years of Credited Service, 1 1/2% of his High-Three Average Annual Earnings.
- (ii) For each of the sixth to tenth years of Credited Service, 1 3/4 % of his High-Three Average Annual Earnings.
- (iii) For each year of Credited Service after the tenth year, 2% of his High- Three Average Annual Earnings.

(c) Eighty percent (80%) of his High-Three Average Annual Earnings.

**6.1.3. Social Security Offset.** The Social Security Offset shall be determined below as a percentage of the Participant's Social Security benefit, as determined by the Employer, as of the date he attains age 62 or actual retirement date, if later. If his age at actual retirement exceeds his full retirement age for Social Security benefits then the full retirement age shall be used instead of the actual retirement age. The percentage referred to in the preceding sentence shall be determined as the sum of the percentages applicable for each year of Credited Service after 1 September 1974 in accordance with the following table, provided that such percentage shall not exceed 50% of the Participant's estimated Social Security benefit as determined above. In the case of a Participant who is not eligible for benefits under the Social Security Act because he has been employed in Canada or other place outside the United States and is not a citizen or resident of the United States, a Social Security Offset shall be determined for him as if he were eligible for such benefits.

For Each Year of Credited Service Between 1 September 1974 and 31 August 1979	Applicable Percentage:  1 1/2%
On or after 1 September 1979	2 1/2%

**6.1.4. Minimum Annuity.** The minimum annual amount of retirement annuity payable to a Participant upon normal retirement shall be one-half percent (1/2%) of his High-Three Average Annual Earnings, multiplied by his years of Credited Service.

**Section 2 - Early Retirement Benefit.**

**6.2.1. Early Retirement with Unreduced Benefits.** Upon early retirement, if a Participant has met the conditions specified in Paragraph 5.2.1., he will be entitled to a retirement annuity commencing immediately equal to (a) the Formula Annuity determined in accordance with Paragraph 6.1.2. minus the Social Security Offset determined in accordance with Paragraph 6.2.3., or, if greater, (b) the minimum annuity determined in accordance with Paragraph 6.1.4.

**6.2.2. Early Retirement with Reduced Benefits.** A Participant who retires early but is not eligible for the benefits described in Paragraph 6.2.1. or 6.2.4. will be entitled to a retirement annuity commencing on the first day of the month coincident with or immediately following his actual retirement, in an amount determined in accordance with Paragraph 6.2.1. and the result reduced by one-third of 1% for each month by which the Annuity Starting Date precedes his Normal Retirement Date.

**6.2.3. Social Security Offset on Early Retirement or Termination**

(a) Amount of Offset. Upon early retirement, or when the employment of a Participant terminates prior to immediate eligibility for early retirement, the amount of Social Security Offset will be determined by the Employer in accordance with Paragraph 6.1.3.

The estimated Social Security Offset for the Participant shall be determined by the Employer under the provisions of the Social Security Act as in effect on the date of early retirement or termination of employment based on the assumption that the Participant:

(i) is fully insured for such Social Security Benefit,

(ii) makes proper application therefore,

(iii) has an estimated compensation history which is determined by projecting backwards from the calendar year preceding his date of early retirement or termination of employment his annualized compensation for such year, assuming that his compensation increased annually to such year at the rate of increase in the average of the total wages reported by the Social Security Administration, provided, however, that his actual compensation history shall be used if (i) the Participant has supplied his Employer with a documented record of his actual compensation history from the Social Security

Administration not later than his Annuity Starting Date, and (ii) the use of his actual compensation history would produce a lower Social Security Offset.

(iv) works in covered employment during the year in which the date of termination or early retirement occurs, and in each subsequent year prior to the January 1st next preceding his attainment of age 62, at an annual rate of Earnings equal to his total reported Earnings for the year preceding his termination or early retirement, and

(v) does not disqualify himself for payment of a Social Security benefit by continuing in covered employment or otherwise.

A written notice shall be provided to each Participant on or before his early retirement or other termination of employment indicating that the Social Security Offset amount estimated for purposes of determining the annuity benefit and that, in the event the Participant obtains from the Social Security Administration a record of his actual compensation history, or an estimate of his annual Social Security benefit at age 62 based on continued employment in accordance with subparagraph (iv) above, and supplies it to his Employer within the period provided in subparagraph (iii) above, the amount of the Employer estimated Social Security Offset based on his actual compensation record, or the estimated benefit at age 62 provided by the Social Security Administration, will be used if that amount is lower than the amount determined using estimated Earnings.

(b) The Social Security Offset will not be used in any way in the calculation of a Participant's annuity payment amount until the month after attaining age 62 (or 65, 66 or 67, as applicable, in the case of a Participant entitled to benefits under Paragraph 6.5.1).

(c) Modification of Annuity. In the case of a Participant who qualifies for an early retirement annuity under Paragraph 5.2.1., 5.2.2. or 5.2.3.,

(i) the Participant may elect to have his annuity paid in one of the forms provided in Article VII. If the Participant dies while receiving an Annuity with a survivor benefit under Paragraph 7.1.1. or 7.2.1., the survivor benefit shall be determined under Paragraph 7.1.1. or 7.2.1., as applicable, except that if the Participant dies before the first day of the month coinciding with or next following the date the Participant would have attained age 62, the monthly payments to the survivor following the Participant's death and up to and including the payment for the month immediately before such first day shall be determined without regard to the Participant's Social Security Offset. If a Participant elected a Life Annuity With Payments for a Period Certain, which was previously available under the Plan as an optional form of payment, the reduced Actuarially Equivalent annuity payable to the Participant and his Beneficiary or other payee shall be determined as if no Social Security Offset applied before the Participant's attainment of age 62; and

(ii) Any cost of living adjustment under Article X shall be applied to the annuity being paid to the retired Participant or his survivor, as the case may be, except that the annuity shall be recomputed as of the first day of the month coinciding with or next following the date the Participant attains age 62 (or in the case of his survivor, the date he would have attained age 62) based on the amount that would have been payable to the Participant (or his survivor) had the Offset been applicable upon his retirement (or in the

case of his survivor, upon his death) and the cost of living adjustments that would have been applicable to such amount up to such first day.

**6.2.4. Involuntary Early Retirement.** If a Participant has met the conditions specified in Paragraph 5.2.3., he will be entitled to a retirement annuity commencing immediately determined in accordance with Paragraph 6.2.1, with the result reduced by one-sixth of 1% for each month by which the date of retirement precedes the date on which the Participant will attain age 55.

Notwithstanding the provisions of Paragraph 5.2.3., any Participant who (i) voluntarily terminates employment between 1 August 2003 and 31 December 2003 under a workforce reduction incentive program offered by BUPERS during such period, other than under circumstances contemplated in the second sentence of Paragraph 5.2.2.; (ii) is otherwise eligible for early retirement under Article V, Section 2 of the Plan; and (iii) is among the first five hundred (500) individuals who accept in writing an incentive program termination in accordance with such administrative procedures are may be established for such purpose by BUPERS, shall be eligible for the involuntary termination reduction provisions of this Paragraph 6.2.4.

### **Section 3 - Later Optional Retirement Benefit.**

**6.3.1.** For a Participant who retires on a Later Optional Retirement Date in accordance with Paragraph 5.3.1., the amount of retirement annuity payable will be determined in accordance with Article VI, Section 1, based on the Participant's Credited Service up to the Participant's Later Optional Retirement Date.

### **Section 4 - Maximum Benefit.**

The provisions of this Section set forth those limitations on benefits which are prescribed by Section 415 of the Code and they are included in the Plan in order to satisfy the requirements of interpretative regulations adopted under Section 415. These provisions are applicable to limit benefits payable under the Plan, except that they shall not be construed in any way to enlarge, increase or augment the amount of any benefit as defined, computed and limited under the provisions of the Plan aside from this Section.

**6.4.1.** (a) The annual retirement benefit payable to any Participant shall not exceed the amount permitted under Section 415 of the Code, the provisions of which are hereby incorporated by this reference. If the annual retirement benefit otherwise payable to a Participant who has retired or terminated employment has been limited to the dollar amount provided in Section 415 of the Code, such limited benefit shall be increased in accordance with any adjustments to the dollar limits otherwise provided in Section 415 of the Code, provided that it does not exceed the Participant's benefit. If the benefit the Participant would otherwise accrue in a limitation year would produce an annual benefit in excess of the maximum permissible benefit, the benefit shall be limited (or the rate of accrual reduced) to a benefit that does not exceed the maximum permissible benefit.

(b) Notwithstanding any other provisions of this Paragraph, in no event shall a Participant's annual retirement benefit payable under the Plan be less than the benefit which the Participant had accrued under the Plan as of 31 December 1986; provided, however, that in determining such benefit no changes in the terms of the Plan after 5 May 1986 and no cost of living adjustment occurring after 5 May 1986 shall be taken into account.

**6.4.2.** The portion of a Participant's contributions to the Plan for any calendar year which constitute "annual additions" (within the meaning of Section 415(c)) shall not exceed the limitations in Section 415(c) of the Code.

The limits described in this Section shall be applied to the Participant's benefit after such benefit has been adjusted for form of payment, timing of payment, and for any other reason under the Plan.

The maximum annual benefit attributable to Employer contributions (payable annually in the form of a straight-life annuity with no ancillary benefits) payable to a Participant under this Plan in any Limitation Year shall not exceed One Hundred Sixty Thousand Dollars (\$160,000), multiplied by the cost-of-living adjustment factor prescribed by the Secretary of the Treasury under Code Section 415(d) for years beginning after 1987, as applied to such items and in such manner as the Secretary shall prescribe. The adjusted maximum annual benefit will apply to all Participants receiving benefits in the Limitation Year for which the adjustment is effective, including Participants who retired or otherwise terminated employment prior to such Limitation Year.

Except in the case of death or disability, if the annual benefit commences when the Participant has less than ten (10) years of participation in the Plan for purposes of Code Section 415, the maximum dollar limit referred to above shall be reduced by one-tenth (1/10) for each such year of participation (or part thereof) less than ten (10). Years of service for such purpose shall include future years occurring before the Participant's Normal Retirement Date and shall include the year which contains the Participant's normal retirement date only if it can be reasonably anticipated that the Participant will receive a year of service for such purpose for such year. In no event shall the provisions of this subparagraph reduce the limitations on the annual benefit to an amount less than one-tenth (1/10) of such limitation, determined without regard to this subparagraph. To the extent provided by the Secretary of the Treasury, this subparagraph shall be applied separately with respect to each change in the benefit structure of the Plan.

If the Participant is, or has ever been, a participant in another qualified defined benefit plan (without regard to whether the plan has been terminated) maintained by the Employer or a predecessor employer, the sum of the Participant's annual benefits from all such plans may not exceed the maximum permissible benefit. Where the Participant's employer-provided benefits under all such defined benefit plans (determined as of the same age) would exceed the maximum permissible benefit applicable at that age, the Employer shall limit the benefit under this Plan as required to comply.

If the annual benefit of a Participant commences prior to age sixty-two (62), the dollar limitation generally shall be adjusted so that it is the actuarial equivalent of the otherwise applicable maximum annual benefit beginning at age sixty-two (62). For this purpose, actuarial equivalence shall be determined based on (a) or (b) following, whichever produces the lower dollar limitation: (a) the mortality table and interest rate specified in the Plan for actuarial equivalence, or (b) the applicable mortality table pursuant to Code Section 415(b)(2)(E)(v) and an interest rate determined pursuant to Code Section 415(b)(2)(E)(ii), as applicable to a governmental plan. Notwithstanding the foregoing, any decrease in the dollar limitation determined in accordance with this provision shall not reflect the mortality decrement to the extent that benefits will not be forfeited upon the death of the Participant. A reduction in the permissible benefit for benefits commencing prior to age 62 is not required if paid as a result of disability or death.



Provided, however, and notwithstanding the foregoing, the actuarial early retirement reduction and the reduction in the benefit limits for employees with fewer than ten (10) years of Plan participation, as described in the prior paragraphs of this Section, shall not apply to benefits paid as a result of the disability or death of the Participant, as determined in accordance with Regulations or other guidance issued by the Secretary of the Treasury.

If the annual benefit of a Participant commences after age sixty-five (65), the dollar limitation shall be adjusted so that it is the actuarial equivalent of the otherwise applicable maximum annual benefit beginning at age sixty-five (65). In determining actuarial equivalence for this purpose, the interest rate assumption to be used is the lesser of the rate specified in the Plan for actuarial equivalence or five percent (5%), and mortality between age 65 and the age at which benefits commence shall be ignored.

The determination of the Annual Benefit shall take into account social security supplements described in § 411(a)(9) of the Internal Revenue Code and benefits transferred from another defined benefit plan, other than transfers of distributable benefits pursuant § 1.411(d)-4, Q&A-3(c), of the Income Tax Regulations. Effective for distributions in plan years beginning after 2003, the determination of actuarial equivalence of forms of benefit other than a straight life annuity shall be made in accordance with the following. The straight life annuity that is actuarially equivalent to the participant's form of benefit shall be determined under this paragraph (i) if the form of the Participant's benefit is either (1) a non-decreasing annuity (other than a straight life annuity) payable for a period of not less than the life of the Participant (or, in the case of a qualified pre-retirement survivor annuity, the life of the surviving spouse), or (2) an annuity that decreases during the life of the Participant merely because of (a) the death of the survivor annuitant (but only if the reduction is not below 50% of the benefit payable before the death of the survivor annuitant), or (b) the cessation or reduction of Social Security supplements or qualified disability payments (as defined in § 401(a)(11)).

The actuarially equivalent straight life annuity is equal to the greater of (1) the annual amount of the straight life annuity (if any) payable to the Participant under the Plan commencing at the same Annuity Starting Date as the Participant's form of benefit; and (2) the annual amount of the straight life annuity commencing at the same Annuity Starting Date that has the same actuarial present value as the Participant's form of benefit, computed using a 5 percent interest rate assumption and the applicable mortality table under Code section 415(b)(2)(E)(v).

For purposes of this Section, Compensation shall mean Compensation as defined in Code Section 415(c)(3)(D).

If the benefit payable to a Participant in a Limitation Year would produce an annual benefit in excess of the maximum benefit above, the benefit payable shall be reduced so that the annual benefit will equal the maximum benefit.

**6.4.3.** For Plan Years beginning before 2000 the annual retirement benefit payable to the Participant shall be reduced to the extent required by Section 415(e) of the Code.

**6.4.4.** Notwithstanding any other provision of the Plan, for purposes of benefit limitations under Code Section 415, when determining a lump sum benefit amount the interest rate assumption shall

be determined in accordance with Code Section 415(b)(2)(E)(ii) and applicable Treasury Department guidance thereunder, as such Code Section and Treasury Department guidance applies to a governmental plan

**Section 5 - Limited Retirement Incentive Benefits.**

**6.5.1.** In the case of any Participant who elected to terminate active employment with BUPERS (i) between 1 August 2003 and 31 December 2003, or such extended period as may have been announced by BUPERS, and (ii) was among the first five hundred (500) individuals who elected in writing to terminate such active employment under administrative procedures established for such purpose by BUPERS, then notwithstanding any other provision of the Plan such individual's Plan benefit otherwise payable shall be adjusted in accordance with each of the following subparagraphs for which the Participant is eligible in accordance with its terms:

(a) In the case of an individual who retires under Article V, other than on an involuntary basis as contemplated in Section 5.2.3., such individual may elect to receive (or to have directly rolled over to an eligible tax-qualified retirement arrangement) a lump sum benefit equal to the principal amount of Participant contributions made to and still retained by the Plan, without adjustment for investment experience, not to exceed twenty-five thousand dollars (\$25,000). A benefit provided under this subparagraph is not payable as an annuity and is not subject to the spousal consent provisions of the Plan, notwithstanding the provisions of Article VII of the Plan, and in no event will a survivor benefit be adjusted or affected by the payment of such amount;

(b) Any unused accumulated sick leave time of the Participant shall be credited as Continuous Service for purposes of determining eligibility for Early Retirement under Paragraphs 5.2.1. through 5.2.3., and Credited Service for benefit accrual, but not as vesting service under any provision of the Plan; and

(c) In the case of any Participant who was eligible for an immediate annuity as of a date not later than 31 December 2003, and who began to receive annuity payments from the Plan as of a date not later than 1 January 2004, the Social Security Offset applicable to the Participant's benefit, as determined in Paragraph 6.1.3, shall be delayed until age 65 if the individual was born before 1938; until age 66 if born after 1937 but before 1955; or until age 67 if born after 1954.

## ARTICLE VII.

### PAYMENT OF BENEFITS

#### **Section 1 - Annuity for Married Participant with Survivor Benefit to Widow or Widower.**

**7.1.1. Survivor Benefit to Widow or Widower** (a) If a Participant has a Spouse on his Annuity Starting Date, his annuity will be reduced as provided in paragraph 7.6.1.(a) to provide a 55% survivor annuity or no survivor annuity for the Spouse, as elected by the Participant, and upon his subsequent death the Spouse to whom he was married when as of his Annuity Starting Date will be entitled to the resulting survivor annuity, if any, as computed in accordance with Paragraph 7.7.1. unless his marriage to such Spouse is dissolved before his death by the death of the Spouse or by divorce or annulment. Effective 15 July 2011, the written consent of a Participant's Spouse shall be required within the ninety (90) day period prior to the Annuity Starting Date (or at such other times as may be permitted by Treasury Department guidance for plans which are subject to Code Section 401 (a) (11)) for any waiver by a participant of a 55% contingent spousal annuity which is based on the full vested accrued benefit of a Participant as of the Annuity Starting Date. The consent of a Spouse will not be required for a Participant's waiver if (i) the Spouse cannot be located after reasonable efforts, or under other circumstances which are adequate for waivers of qualified joint and survivor annuities under non-governmental plans pursuant to Treasury Department guidance, or (ii) the benefit is a small benefit which is subject to the cash-out provisions for small benefits in accordance with this Article.

(b) If a participant who retired as an Employee after 9 September 1970 marries or remarries after the date on which his retirement annuity becomes payable, he may elect within one year following the date of such marriage or remarriage to have his annuity reduced in accordance with Paragraph 7.6.1.(b), and upon his death his new spouse will be entitled to a survivor annuity computed in accordance with paragraph 7.7.1, subject to the conditions of paragraph 7.1.3.

**7.1.2. Election of Participant to Receive all or Part of Annuity in the Form of Annuity Without Survivor Benefit.** Subject to the Spousal consent requirements of Paragraph 7.1.1., a Participant may elect before the Annuity Starting Date to receive all or a portion of his annuity in the form of an Annuity Without Survivor Benefit, in which event neither the specified reductions nor the survivor benefit to the widow or widower shall be applicable with respect to the portion specified in such election. Effective as of the 15 July 2011, any benefit which begins to be paid as an Annuity Without Survivor Benefit may not later be altered to provide any form of Annuity With Survivor Benefit.

**7.1.3. Death of Participant.** No benefit is payable to a former Spouse upon the death of a Participant, except for any such benefit specifically payable to such person in accordance with an election in accordance with Paragraph 7.2.1. for which the Annuity Starting Date occurred prior to 15 July 2011.

#### **Section 2 - Annuity for Unmarried Participant with Survivor Benefit to a Named Person Having an Insurable Interest.**

**7.2.1. Annuity with Survivor Benefit to a Named Person Having and Insurable Interest.** An unmarried Participant may have elected prior to 15 July 2011 and prior to his Annuity Starting Date

to receive all or a portion of his retirement annuity in the form of a retirement annuity during his lifetime, reduced in accordance with Paragraph 7.6.2., with the provision that upon his death, a survivor annuity computed in accordance with Paragraph 7.7.2. shall be payable to a named person having an insurable interest, if living.

**7.2.2. Nullification/Void of Election.** An election under Paragraph 7.2.1. will become null and void if:

(a) The Participant or the named person dies before the Participant's Normal Retirement Date, or his Early Retirement Date, if applicable,

(b) The named person dies after the Participant's Normal or Early Retirement Date but before the Annuity Starting Date, or

(c) The Participant has a Spouse on the Annuity Starting Date.

**7.2.3. Death of Participant After Normal Retirement Date but Before Annuity Starting Date.**

If the Participant dies after his Normal Retirement Date but before his Annuity Starting Date, a survivor annuity shall be payable to the named person as if the retirement annuity had become payable on the day before the Participant's death. If the named person dies after the Annuity Starting Date and before the Participant's death, the retirement annuity shall be recomputed and paid to the Participant as provided in Paragraph 7.6.2.

**7.2.4. Revoking Election Prior to Annuity Starting Date.** An election of this option may be revoked at any time prior to the Participant's Annuity Starting Date. If the election is revoked or if it becomes null and void, the Participant may make a new election designating another named person, provided such election is made prior to the Annuity Starting Date. In addition, an election of this option shall be revoked by the election of a Participant prior to 15 July 2011 of an Annuity with Survivor Benefit to Widow or Widower under Paragraph 7.1.1.

### **Section 3 - Annuity Without Survivor Benefit.**

**7.3.1. Annuity Without Survivor Benefit.** An Annuity without Survivor Benefit is available to all Participants, and in the absence of an election to the contrary, this is the automatic type of annuity for a Participant who has no Spouse on his Annuity Starting Date. This is also the automatic type of annuity for a Participant whose employment has terminated and who is entitled to a deferred annuity under Article IX, and for such a Participant this is the only type of annuity available.

**7.3.2. Death of Participant Receiving Annuity Without Survivor Benefit After Benefit Starting Date.** Where an Annuity without Survivor Benefit is payable to a Participant, upon the death of the Participant after his Annuity Starting Date a payment will be made to his Beneficiary equal to the amount of the Participant's contributions, accumulated with interest to his Annuity Starting Date, minus the total amount of retirement benefits paid to the Participant prior to his death.

If a Participant is receiving a life annuity with one hundred and twenty (120) payments guaranteed pursuant to an election filed before 15 July 2011, but dies before one hundred and twenty (120) monthly payments have been made, then the annuity payments will be continued to his Beneficiary until a total of one hundred and twenty (120) monthly payments have been made, subject to the

minimum payment described in the prior paragraph. However, the Actuarial Equivalent value of such payments shall be payable in a lump sum in the following circumstances:

- (i) If the monthly benefit payable to any payee would be less than \$25; or
- (ii) If, at the time of the Participant's death, the Beneficiary is the Participant's estate, or a corporation, association, partnership or trustee.

No mandatory distribution (within the contemplation of Code Section 411(a)(11)) shall be made in an amount greater than \$1,000 prior to the time required or permitted by applicable law unless the Participant affirmatively elects to have a distribution or rollover made.

**Section 4 - [RESERVED]**

**Section 5 - [RESERVED]**

**Section 6 - Reduction for Annuity with Survivor Benefit.**

**7.6.1. Reduction for Annuity With Survivor Benefit.** (a) The otherwise payable amount of a Participant's single life annuity, which is payable instead in the form of Annuity with Survivor Benefit to Widow or Widower, will be reduced by 10%. Effective 15 July 2011, only 100% or 0% of a Participant's annuity may be elected or accepted as the basis for a survivor annuity.

(b) (i) If the marriage of a Participant to a Spouse was dissolved either by the death of his Spouse or by divorce or annulment, the Survivor benefit reduction in the Participant's annuity will be discontinued on the first day of the month coinciding with or next following the date the marriage was dissolved (restoring the annuity to its full amount, included accumulated cost of living adjustments), provided that the Participant provided written proof of death, dissolution or annulment of the marriage. If the Participant remarried following such discontinuance and elects or accepts under Paragraph 7.1.3. a reduction in his annuity to provide an Annuity with Survivor Benefit to Widow or Widower to his new Spouse, within one year of his remarriage, the reduction will become effective when the Survivor Benefit coverage commences and will be equal to 10% of the sum of that portion of his annuity previously used as a base for the survivor annuity, and accumulated cost-of-living adjustments applicable to that base amount, plus an additional percentage for each year or part of a year in the period between the date of discontinuance and the date of recommencement of the reduction, in accordance with the following table:

Period Between Discontinuance and Recommencement	Additional Percentage
First 5 years	1/2% per year
Next 5 years	1% per year
Thereafter	2% per year

(ii) If a Participant who was unmarried on his Annuity Starting Date subsequently marries and elects an Annuity with Survivor Benefit to Widow or Widower under Paragraph

7.1.3, the reduction shall become effective when the Survivor Benefit coverage commences and shall be equal to 10% of the sum of his annuity and accumulated cost-of-living adjustments, plus an additional percentage for each year or part of a year between the date of retirement and effective date of the election, in accordance with the table in (i) above. If such Participant had elected an Annuity with Survivor Benefit to a Named Person when his retirement annuity became payable, the reduction shall be only 10% with respect to the portion of his annuity to which such election was applicable, and if necessary the Participant's annuity will be increased with respect to such portion.

**7.6.2. Reduction for an Annuity With Survivor Benefit to a Named Person.** The amount of a Participant's annuity which is payable in the form of an Annuity with Survivor Benefit to a Named Person will be reduced by 10% of that portion of his annuity which he elects or accepts as a base for the survivor annuity, plus an additional 5% reduction for each full five (5) years by which the age of the named person is less than the age of the Participant, provided that the total reduction shall not exceed 40%. If such named person dies after the Annuity Starting Date, before the Participant's death, and before 15 July 2011, the Participant's retirement annuity shall, effective as of the first day of the month coincident with or next following the death of the named person, be recomputed and paid to the Participant as if the retirement annuity had not been reduced under the first sentence of this Paragraph, provided that the Participant provides written proof of the death of the named person.

#### **Section 7 - Amount of Survivor Annuity.**

**7.7.1. Annuity with Survivor Benefit to Widow or Widower.** The amount of the survivor annuity to a widow or widower of a Participant who was receiving an Annuity with Survivor Benefit to Widow or Widower will be 55% of the amount of the Participant's annuity.

**7.7.2. Annuity with Survivor Benefit to Named Person Having Insurable Interest.** Where a Participant's annuity is payable in the form of an Annuity with Survivor Benefit to a Named Person Having an Insurable Interest, the survivor annuity to the designated survivor will be 55% of the annuity payable to the Participant under such form of payment.

#### **Section 8 - Election of Annuity Form.**

**7.8.1.** A Participant desiring to make an election of an optional form of retirement annuity referred to in this Article shall exercise his election by giving written notice to the Trustees of the optional form desired, sufficiently before the Annuity Starting Date and together with such information regarding the contingent annuitant as the Trustees require.

#### **Section 9 - Payment of Retirement Annuity to the Participant.**

**7.9.1. Retirement Annuity Payments Payable.** Retirement annuity payments to a Participant become payable on the first day of each month, commencing with the first day of the month coincident with his actual retirement date, or in the case of a Participant whose employment terminated prior to his Normal Retirement Date, commencing, as may be elected by the Participant, on the first day of any month coincident with or not more than ten (10) years prior to his Normal Retirement Date.

**7.9.2 Retirement Annuity Payment After Death of Participant.** Payments of a retirement annuity to a Participant will continue until the last monthly payment made prior to the death of the Participant.

**Section 10 - Small Annuities.**

**7.10.1.** If the amount of the retirement annuity to which a Participant would be entitled, computed as an Annuity without Survivor Benefit, does not exceed \$1,200, the Participant may elect to receive his benefit in a lump sum in lieu of receiving annuity payments. Such election shall be in writing and shall be filed at such time and in such manner as the Trustees may establish.

The amount of the lump sum which is payable shall be the Actuarial Equivalent of the annuity payments to which the Participant would otherwise be entitled, and shall be made at the time that the Participant's retirement annuity would otherwise commence to be paid. Such payments shall include as a minimum the Participant's own contributions in respect of such annuity, accumulated with interest to the date the annuity became payable, but shall not include any recognition of potential cost-of-living adjustments.

Notwithstanding the foregoing or any other provision of the Plan, effective 1 January 2006, the distribution provisions of the Plan shall be subject to the distribution restrictions of section 401(a)(31) (B) of the Code. For that purpose, no involuntary distribution of greater than \$1,000 shall be made to a Participant (but may be made to a Participant's Spouse or Beneficiary), prior to the Participant's attainment of age 62. Whether a distribution exceeds \$1,000 for this purpose will be determined by disregarding any non-taxable return of Employee contributions.

**Section 11 - Payment of Annuity to Survivor of Annuitant.**

**7.11.1.** Annuity payments to an eligible survivor of an annuitant become payable as of the first day of each month commencing on the first day of the month following the date of the annuitant's death. Payments to such a survivor will continue until the last monthly payment prior to the death of the survivor.

**Section 12 - Compliance With Code §401(a)(9).**

**7.12.1.** The provisions of this Section will apply for purposes of determining required minimum distributions. All distributions required under this Section will be determined and made in accordance with the Treasury Regulations under section 401(a)(9) of the Internal Revenue Code.

Notwithstanding the other provisions of this Section, distributions may be made under a designation made before 1 January 1984, in accordance with section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act (TEFRA) and the provisions of the plan that relate to section 242(b)(2) of TEFRA.

### **7.12.2. Time and Manner of Distribution.**

(a) Required Beginning Date. The Participant's entire interest will be distributed, or begin to be distributed, to the Participant no later than the Participant's required beginning date.

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

(i) If the Participant's surviving spouse is the Participant's sole designated beneficiary, then, distributions to the surviving spouse will begin by 31 December of the calendar year immediately following the calendar year in which the Participant died, or by 31 December of the calendar year in which the Participant would have attained age 70½, if later.

(ii) If the Participant's surviving spouse is not the Participant's sole designated beneficiary, then distributions to the designated beneficiary will begin by 31 December of the calendar year immediately following the calendar year in which the Participant died.

(c) If there is no designated beneficiary as of 30 September of the year following the year of the Participant's death, the Participant's entire interest will be distributed by 31 December of the calendar year containing the fifth anniversary of the Participant's death.

(d) If the Participant's surviving spouse is the Participant's sole designated beneficiary and the surviving spouse dies after the Participant but before distributions to the surviving spouse begin, this paragraph (d), rather than paragraph (a), will apply as if the surviving spouse were the Participant.

Participants or beneficiaries may elect on an individual basis whether the 5-year rule or the life expectancy rule above applies to distributions after the death of a Participant who has a designated beneficiary. The election must be made no later than the earlier of September 30 of the calendar year in which distribution would be required to begin under this section, or by September 30 of the calendar year which contains the fifth anniversary of the Participant's (or, if applicable, surviving spouse's) death. If neither the Participant nor beneficiary makes an election under this paragraph, distributions will be made in accordance with this section.

For purposes of this section 7.12.2. and section 7.12.5., distributions are considered to begin on the Participant's required beginning date (or the date distributions are required to begin to the surviving spouse under section 7.12.2(a)). If annuity payments irrevocably commence to the Participant before the Participant's required beginning date (or to the Participant's surviving spouse before the date distributions are required to begin to the surviving spouse under section 7.12.2(a)), the date distributions are considered to begin is the date distributions actually commence.

Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution calendar year distributions will be made in accordance with sections 7.12.3., 7.2.4., and 7.12.5.. If



the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions there-under will be made in accordance with the requirements of section 401(a)(9) of the Code and the Treasury Regulations. Any part of the Participant's interest which is in the form of an individual account described in section 414(k) of the Code will be distributed in a manner satisfying the requirements of section 401(a)(9) of the Code and the Treasury Regulations that apply to individual accounts.

### **7.12.3. Determination of Amount to be Distributed Each Year.**

If the Participant's interest is paid in the form of annuity distributions under the Plan, payments under the annuity will satisfy the following requirements:

- (i) the annuity distributions will be paid in periodic payments made at intervals not longer than one year;
- (ii) the distribution period will be over a life (or lives) or over a period certain not longer than the period described in section 7.12.4. or 7.12.5.;
- (iii) once payments have begun over a period certain, the period certain will not be changed even if the period certain is shorter than the maximum permitted;
- (iv) payments will either be non-increasing or increase only as follows:
  - (1) by an annual percentage increase that does not exceed the annual percentage increase in a cost-of-living index that is based on prices of all items and issued by the Bureau of Labor Statistics;
  - (2) to the extent of the reduction in the amount of the Participant's payments to provide for a survivor benefit upon death, but only if the beneficiary whose life was being used to determine the distribution period described in section 4 dies;;
  - (3) to provide cash refunds of employee contributions upon the Participant's death;  
or
  - (4) to pay increased benefits that result from a plan amendment.

The amount that must be distributed on or before the Participant's required beginning date (or, if the Participant dies before distributions begin, the date distributions are required to begin under section 7.12.2.(a) or (b)) is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received, e.g., bi-monthly, monthly, semi-annually, or annually. All of the Participant's benefit accruals as of the last day of the first distribution calendar year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the Participant's required beginning date.

Any additional benefits accruing to the Participant in a calendar year after the first distribution calendar year will be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues.

#### **7.12.4. Requirements For Annuity Distributions That Commence During Participant's Lifetime.**

(a) Joint Life Annuities Where the Beneficiary Is Not the Participant's Spouse. If the Participant's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the Participant and a non-spouse beneficiary, annuity payments to be made on or after the Participant's required beginning date to the designated beneficiary after the Participant's death must not at any time exceed the applicable percentage of the annuity payment for such period that would have been payable to the Participant using the table set forth in Q&A-2 of section 1.401(a)(9)-6T of the Treasury regulations. If the form of distribution combines a joint and survivor annuity for the joint lives of the Participant and a non-spouse beneficiary and a period certain annuity, the requirement in the preceding sentence will apply to annuity payments to be made to the designated beneficiary after the expiration of the period certain.

(b) Period Certain Annuities. Unless the Participant's spouse is the sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain for an annuity distribution commencing during the Participant's lifetime may not exceed the applicable distribution period for the Participant under the Uniform Lifetime Table set forth in section 1.401(a)(9)-9 of the Treasury Regulations for the calendar year that contains the annuity starting date. If the annuity starting date precedes the year in which the Participant reaches age 70, the applicable distribution period for the Participant is the distribution period for age 70 under the Uniform Lifetime Table set forth in section 1.401(a)(9)-9 of the Treasury Regulations plus the excess of 70 over the age of the Participant as of the Participant's birthday in the year that contains the annuity starting date. If the Participant's spouse is the Participant's sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain may not exceed the longer of the Participant's applicable distribution period, as determined under this paragraph, or the joint life and last survivor expectancy of the Participant and the Participant's spouse as determined under the Joint and Last Survivor Table set forth in section 1.401(a)(9)-9 of the Treasury Regulations, using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the calendar year that contains the annuity starting date.

#### **7.12.5. Requirements For Minimum Distributions Where Participant Dies Before Date Distributions Begin.**

(a) Participant Survived by Designated Beneficiary. If the Participant dies before the date distribution of his or her interest begins and there is a designated beneficiary, the Participant's entire interest will be distributed, beginning no later than the time described in section 2.2(a) or (b), over the life of the designated beneficiary or over a period certain not exceeding:

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

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

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

(c) Death of Surviving Spouse Before Distributions to Surviving Spouse Begin. If the Participant dies before the date distribution of his or her interest begins, the Participant's surviving spouse is the Participant's sole designated beneficiary, and the surviving spouse dies before distributions to the surviving spouse begin, this section 7.12.5. will apply as if the surviving spouse were the Participant, except that the time by which distributions must begin will be determined without regard to section 7.12.2 (a).

#### **7.12.6. Definitions.**

(a) **"Designated beneficiary."** The individual who is designated as the beneficiary under the Plan and is the designated beneficiary under section 401(a)(9) of the Internal Revenue Code and section 1.401(a)(9)-1, Q&A-4, of the Treasury Regulations.

(b) **"Distribution calendar year."** A calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Participant's required beginning date. For distributions beginning after the Participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin pursuant to section 7.12.2.

(c) **"Life expectancy."** Life expectancy as computed by use of the Single Life Table in section 1.401(a)(9)-9 of the Treasury regulations.

(d) **"Required beginning date."** The date determined in accordance with Treasury Regulations.

#### **Section 13 - Incorporation By Reference.**

The Plan will apply the minimum distribution requirements of Code Section 401(a)(9) in good faith accordance with the Treasury Regulations under Code Section 401(a)(9), notwithstanding any provision of the Plan or this amendment to the contrary.

#### **Section 14 - Certain Payments of Cuban Nationals**

Notwithstanding the other provisions of the Plan regarding the form of payment of a Participant's or a Beneficiary's benefit, at the discretion of the Employer the benefit of an individual who is a Cuban National may be paid as a lump sum distribution.

## ARTICLE VIII.

### DEATH BENEFITS

#### **Section 1 - Kinds of Death Benefits.**

**8.1.1.** Death benefits provided under the Plan may be in one or more of the following forms:

(a) A Surviving Spouse Annuity payable to a widow or widower upon the death of a Participant before the Annuity Starting Date and while in the service of his Employer.

(b) A Survivor Annuity payable upon the death of a Participant who was receiving an annuity benefit.

(c) A lump sum death benefit.

#### **Section 2 - Surviving Spouse Annuity Upon Death While in Service.**

**8.2.1. Death While in Service.** If a Participant dies while actively employed as an Employee of an Employer and after he has completed at least eighteen (18) months of Credited Service, a Surviving Spouse Annuity will be payable to the Participant's widow or widower subject to the following conditions:

(a) The widow or widower must have been designated as the sole primary beneficiary hereunder.

(b) The widow or widower must have been married to the Participant for at least one (1) year immediately preceding the Participant's death or be the parent of a child born of the marriage with the Participant.

The cognate provisions in the Plan effective before 1 January 1976 shall apply in the case of USCG Participants up to and including 30 June 1977.

**8.2.2. Annual amount of Surviving Spouse Annuity.** The annual amount of the Surviving Spouse Annuity will be fifty-five percent (55%) of the greater of the amounts determined under (a) and (b) below, minus (c) below, but subject to (d) below, and further subject to (e) below if the widow or widower is eligible for survivor income benefits under Workers' Compensation.

(a) The annual amount of retirement annuity determined in accordance with Paragraph 6.1.2. based on the Participant's Credited Service and High-Three Average Annual Earnings as of the date of his death.

(b) The lesser of the amounts determined under (i) or (ii) below:

(i) 40% of the Participant's High-Three Average Annual Earnings.

(ii) The annual amount of retirement annuity determined in accordance with Paragraph 6.1.2. based on High-Three Average Annual Earnings as of the date of death, and if the Participant's death occurred prior to age 60, after increasing the Credited Service by the period from the date of his death to the date he would have attained age 60. If the Participant's death occurred after age 60, the Credited Service used in computation will be his actual Credited Service as of the date of his death.

(c) One hundred percent (100%) of any widow's, widower's or mother's or father's benefit currently payable under the Social Security Act.

(d) The amount of the Surviving Spouse Annuity will in no event be less than 55% of the product of (i) one-half percent (1/2%) of the Participant's High-Three Average Annual Earnings multiplied by (ii) his years of Credited Service.

(e) If the widow or widower is eligible for survivor income benefits under Worker's Compensation, the amount determined in accordance with (a) or (b) above shall be reduced, if necessary, so that 55% thereof, together with any survivor benefits payable under Worker's Compensation, shall not exceed 55% of 90% of the Participant's High-Three Average Annual Earnings.

The amount of the Surviving Spouse Annuity payable will be adjusted upon commencement, cessation or recommencement of a widow's, widower's or mother's or father's benefit under the Social Security Act, but will not be adjusted on account of changes in the Social Security benefits created by an amendment to the Social Security Act or by automatic increases in Social Security benefits.

**8.2.3. Surviving Spouse Annuity Payments.** Surviving Spouse Annuity payments are payable as of the first day of each month commencing as of the first day of the month following the Participant's death. Payments to the widow or widower will continue until the death of the widow or widower or the date of remarriage of the widow or widower if such remarriage occurs before age 60.

**Section 3 - [RESERVED]**

**Section 4 - [RESERVED]**

**Section 5 - Lump Sum Death Benefit.**

**8.5.1. Lump Sum Death Benefit Payable Where No Surviving Spouse Annuity is Payable Before Annuity Starting Date.** The amount of any lump sum death benefit payable in the event of death before the Annuity Starting Date where no Surviving Spouse Annuity is payable to a widow or widower will be payable to the Beneficiary of the Participant as determined under Paragraphs 13.5.1. and 13.5.2., in an amount equal to the Participant's contributions to the Plan with interest to the first day of the month in which the Participant's death occurs.

**8.5.2. Surviving Spousal Annuity Payable Upon Spouse's Death.** Where a Surviving Spouse Annuity is payable to a widow or widower, in the event of the Participant's death before the Annuity Starting Date, no lump sum benefit will be payable at the date of the Participant's death but upon the subsequent death of the widow or widower a lump sum benefit will be payable to the Participant's

Beneficiary as determined under Paragraphs 13.5.1. and 13.5.2., in an amount equal to the Participant's contributions to the Plan, with interest to the first day of the month in which the Participant's death occurs, minus the sum of all annuity payments made.

**8.5.3. Amount of Lump Sum Death Benefit Payable After Annuity Starting Date.** The amount of any lump sum death benefit payable in the event of death after the Annuity Starting Date will be equal to the Participant's contributions to the Plan, with interest to the date the annuity becomes payable, minus the sum of all annuity payments made to the Participant and/or to a survivor.

**8.5.4.** [RESERVED]

**8.5.5.** [RESERVED]

**8.5.6. Lump Sum Due if Social Security Benefit Exceeds Amount Determined in 8.2.2.(a).** Where a widow or widower would qualify for a Surviving Spouse Annuity upon or after the death of a Participant while in service, but no Surviving Spouse Annuity is payable because the Social Security benefit exceeds the amount determined in accordance with subparagraphs 8.2.2.(a), a lump sum death benefit will be payable.

## ARTICLE IX.

### TERMINATION OF EMPLOYMENT

#### **Section 1 - Options on Termination.**

**9.1.1.** If the employment of a Participant not otherwise eligible to receive an immediate retirement annuity under Article VI terminates for any reason other than death, he shall be entitled to benefits under (a) or (b) below, whichever is applicable.

(a) **Before Five Years' Continuous Service.** If the Participant's employment terminates before he has completed five (5) years of Continuous Service, he shall receive a refund of his own contributions with interest.

(b) **After Five Years' Continuous Service.** If the Participant's employment terminates after five (5) years of Continuous Service, he may elect one of the following options:

(i) **Deferred Annuity.** The Participant may elect to receive an annuity, payable as defined in 9.3.1 with the exception of unused sick leave.

(ii) **Cash Option.** In lieu of the deferred annuity under Option (i) the Participant may elect to receive a lump sum payment, equal to the Participant's contributions with interest.

#### **Section 2 - [RESERVED]**

#### **Section 3 - Payment of Deferred Annuity.**

**9.3.1. Payment Upon Proper Election.** The annuity to which the Participant is entitled in accordance with Paragraph 9.1.1. shall be payable, upon proper election, in monthly installments commencing on his Normal Retirement Date, provided that the Participant may elect instead to have such annuity commence on the first day of any month during the ten (10) year period immediately preceding his Normal Retirement Date, but in the event of such election the amount of any retirement annuity elected under Paragraph 9.1.1. shall be reduced by one-third of one percent (1/3%) for each month by which the date the Annuity Starting Date precedes the Normal Retirement Date.

**9.3.2. Participant Election.** A Participant who has elected to receive a deferred annuity in lieu of a lump sum payment at termination may elect at any subsequent date prior to the commencement of such annuity, but not later than his Normal Retirement Date, to receive a lump sum payment equal to the lump sum payment he could have elected to receive at the date of his termination accumulated with interest to the date of payment, and in the event of such election no annuity will be payable to the Participant.

**9.3.3. Death of Participant Entitled to Deferred Annuity Before Annuity Starting Date.** If a Participant who is entitled to a deferred annuity under the Plan in accordance with this Article should die before the Annuity Starting Date, payment will be made to his Beneficiary equal to the amount of the Participant's own contributions to the Plan, plus interest.

**9.3.4. Deferred Annuity – Life Only Option.** No survivor benefits and no optional form of annuity are applicable for a Participant who is entitled to a deferred annuity in accordance with this Article and an Annuity without Survivor Benefit is the automatic form of annuity for such a Participant.

**Section 4 - Full Vesting on Disability.**

**9.4.1.** If a Participant incurs a disability prior to his Normal Retirement Date which in the opinion of a physician selected by the Trustees renders him permanently unable to perform his duties satisfactorily, he shall be fully vested in all benefits that have accrued. The Trustees may distribute to him such benefits in such Actuarially Equivalent manner as the Trustees deem to be for the best interests of the disabled Participant.



## **ARTICLE X.**

### **COST-OF-LIVING ADJUSTMENTS**

#### **Section 1 - Recipients of Cost-of-Living Adjustments.**

**10.1.1.** On and after 10 September 1970 all annuities being paid to Participants, survivor annuitants or Beneficiaries of Participants shall be increased at the same time and by the same percentage amount as provided under the Cost-of-Living Adjustment provisions of the Civil Service Retirement Act, as amended, (provided that the increase shall be payable as of December 1 and that the monthly installment of annuities after adjustment shall be rounded up or down, as the case may be, to the nearest dollar, with the monthly installment after adjustment to continue to reflect an increase of at least \$1.00).

#### **Section 2 - Effect of Cost-of-Living Adjustment When Amount of Benefit Changes.**

**10.2.1.** The amount of annuity payable at any time to a Participant, survivor annuitant or Beneficiary shall be determined by increasing the amount of annuity which would be payable at such time in the absence of cost-of-living adjustments by the compounded percentage of the cost-of-living increases which have been granted since:

(a) In the case of a benefit resulting from the Participant's death prior to retirement, the date of the Participant's death, or

(b) In the case of a benefit payable after a vested Participant's separation from employment on any basis, the date the annuity became payable.

Notwithstanding the foregoing or any other provision of the Plan, in no event will any Cost-of-Living Adjustment be provided under this Plan document for any period during or prior to November, 2002, which was not previously provided for under the prior Plan document(s).

#### **Section 3 - Maximum Adjustment.**

**10.3.1.** No cost of living adjustment under this Article shall cause the benefit in a calendar year to exceed an amount computed in accordance with Article VI, Section 4, for that year.

## ARTICLE XI.

### FINANCING AND ADMINISTRATION

#### **Section 1 - Funding Media.**

**11.1.1.** The Plan shall be funded through the medium of the Contract, Investment Trust, Master Trust, Custodian Account, or any combination of them. In addition, the benefits formerly provided under individual insurance company contracts shall be provided through the medium of a group annuity contract issued by the Insurance Company.

#### **Section 2 - Contributions by Participants.**

**11.2.1.** Each Participant in the active employ of the Employer shall contribute in each year, beginning with the first full pay period beginning after 1 March 1991, at the rate of 1% of his Earnings for the year;

Contributions by Participants shall be paid by payroll deduction according to the payroll procedures adopted by each Employer with the approval of the Trustees.

Former Employees who have elected under Paragraph 3.5.1. or 3.5.2. to continue to participate in the Plan after transfer to a civil service employer shall make contributions to the Plan at the rate provided above, and their civil service employer shall forward such contributions to the Trust.

#### **Section 3 - Contributions by Employers.**

**11.3.1.** The Employers shall contribute the amounts required in addition to the Participants' contributions to meet the costs of providing all benefits under the Plan, including reasonable expenses of administering the Plan. Forfeitures prior to termination of the Plan will be used to reduce Employer contributions. Contributions with respect to former Employees who have elected under Paragraph 3.5.1. or 3.5.2. to continue to participate in the Plan shall be made by their civil service employer as determined above for their former Employer. However, if such Employer is making no contributions currently due to the funded status of its separate account under the Plan, the civil service agency is not required to make a contribution.

#### **Section 4 - Allocation of Contributions. Earnings and Payments**

##### **11.4.1. Separate Accounting.**

(a) There shall be maintained under the Trust a separate accounting for each Employer. All contributions of an Employer and its Employees, together with all earnings, gains and losses thereon, shall be credited separately, and all payments of benefits and expenses relating to such Employees and their beneficiaries, together with an allocable portion of the general expenses of the Trust designated by the Trustees, shall be applied separately.

(b) In the case of former Employees who have elected to continue to participate in the Plan under Paragraph 3.5.1. or 3.5.2., contributions made by their civil service employer and by such

former Employees shall be allocated to their former Employer, and all payments of benefits and expenses relating to such former Employees and their beneficiaries shall be applied separately.

**11.4.2. Allocation Among Investment Vehicles.** All contributions under the Plan shall be deposited in such proportions as the Trustees shall decide in their sole discretion under a Contract, an Investment Trust, a Custodian Account, or any combination thereof. Subject to the provisions of the applicable Contract, Investment Trust or Custodian Account, funds may be transferred between a Contract, Investment Trust and Custodian Account, as determined by the Trustees in their sole discretion. However, separate accounting for each Employer shall be maintained at all times..

**Section 5 - Administration by Trustees.**

**11.5.1.** The Plan shall be administered by the Trustees except to the extent the Plan expressly provides for action by an Employer. The Trustees may, subject to their supervision, retain Employers to perform record keeping, clerical and related ministerial administrative functions of the Plan.

## ARTICLE XII.

### DURATION, AMENDMENT AND TERMINATION

#### **Section 1 - Duration and Amendment.**

**12.1.1.** CNIC reserves the right, by an instrument in writing delivered to the Trustees and acknowledged by them, to amend the Plan at any time or from time to time. It is the intent of CNIC to continue the Plan indefinitely but it reserves the right to reduce or discontinue its contributions or to terminate the Plan. Subject to the terms and conditions of Paragraph 12.1.2., each other Employer reserves the right to discontinue its contributions to the Plan or to terminate its participation in the Plan. No such action shall operate to recapture for any Employer any part of the funds under the Plan previously deposited except to the extent provided in Paragraph 12.2.5., nor, except as necessary to qualify the Plan, the Trust, a Contract, and/or an Investment Trust under Sections 401(a) or 501(a) of the Code, shall any such action adversely affect the annuities of retired Participants or the accrued annuities for other Participants which can be secured by the funds held under the Plan.

**12.1.2.** Any Employer (other than CNIC) may terminate its participation and withdraw from the Plan only upon satisfaction of the following terms and conditions:

(a) The Employer desiring to terminate its participation and withdraw from the Plan (the “withdrawing Employer”) shall issue written notice to the Trustees of its intention to withdraw.

(b) The withdrawing Employer shall enter into an agreement with trustees satisfactory to the Trustees establishing a retirement trust (the “new trust”) identical in form and substance to the Trust.

(c) The withdrawing Employer and the trustees under the new trust shall adopt a retirement plan (the “new plan”), which shall provide a benefit for each active and retired employee of the withdrawing Employer which is not less than:

(i) in the case of a retired Employee, the benefit to which the Employee is currently entitled under the Plan; and

(ii) in the case of an active Employee, the benefit to which the Employee would be entitled if the Plan terminated immediately before the Employee became covered under the new plan.

(d) The trustees under the new trust shall contract with a life insurance company of good repute and satisfactory to the Trustees (which may be the Insurance Company) for an immediate participation group annuity contract (the “new group annuity contract”), identical in form and substance to the Contract, which shall provide guaranteed benefits for each active and retired Employee of the withdrawing Employer identical to the guaranteed benefits provided under the Contract.

(e) The trustees under the new trust shall enter into agreements with a bank or trust company (which may be the Bank) establishing a custodian account or master trust (the “new master trust”) and with investment advisers, insurance companies and banks relating to the management of the

assets of such custodial account or trust. The trustees may also enter into agreements with sponsors of pooled trusts and investment trustees for the management of assets of the new trust that will not be held by the custodian or master trustee.

(f) The agreements for the new trust, the new master trust and the new group annuity contract shall provide that no part of the assets transferred on behalf of Employees of the withdrawing Employer may be used or diverted for purposes other than for the exclusive benefit of such Employees prior to the termination of the new plan.

(g) The withdrawing Employer shall furnish to the Trustees certified copies of the agreements setting forth the new trust, the new plan, the new group annuity contract, and the new master trust. The withdrawing Employer shall furnish, also, an opinion or opinions of counsel, satisfactory to counsel for the Trustees, that any and all such agreements are lawful, valid, and enforceable.

(h) The Trust Administrator shall certify to the Trustees a list of the separately invested assets of the Plan, if any, that are allocable to the separate account maintained for the withdrawing Employer (the "separate account") and a list of each jointly invested asset that is allocable to the separate account, shall prepare a proposed plan for the division and transfer of the assets allocable to the separate account (including assets purchased but not yet received), with provision for fractional shares and other partial interest and for the collection and transfer to the new trust of dividends, interest and sales proceeds relating to transferred assets that are received by the Trust after the transfer and shall obtain the comments and suggestions of the trustees of the new trust on the proposed plan.

(i) The Trustees shall review the proposed plan of the Trust Administrator and the comments and suggestions of the trustees of the new plan, make such corrections as may be required to correctly reflect the equitable ownership of the assets allocable to the separate account, adopt a final plan for the division and the transfer and re-registration of assets to the new trust and new group annuity contract.

(j) The withdrawing Employer shall obtain and furnish to the Trustees a determination by the Internal Revenue Service that the new trust and the new plan qualify under Sections 401(a) and 501(a) of the Code.

(k) The Insurance Company and the Bank shall execute such amendments to the Contract and the Master Trust as the Trustees, in their sole discretion, shall deem necessary or proper for any reason.

(l) The Insurance Company and the Bank shall furnish to the Trustees any and all certifications, warranties, computations, or such other assurances as the Trustees, in their sole discretion, shall deem necessary or proper for any reason.

(m) The withdrawing Employer, the trustees under the new trust, the insurance company under the new group annuity contract, and the trustee under the new master trust shall give the Trustees receipt and release, in form satisfactory to the Trustees, with respect to all assets to be transferred from the separate account of the withdrawing Employer, and the withdrawing Employer

and the trustees of the new trust shall provide indemnities, satisfactory to the Trustees, against all claims, and reasonable expenses associated thereto, arising before or after the withdrawal.

Upon the satisfaction of the foregoing terms and conditions, the Trustees shall certify the final plan to the trustee of the Bank and the Insurance Company together with directions to transfer the assets allocable to the separate account of the withdrawing Employer to the trustee of the new master trust and the issuer of the new group annuity contract, all for the benefit of the trustees of the new trust.

Pursuant to Paragraph 4.07 of the Trust Agreement related to the Plan, within ninety (90) days following completion of the transfers to the new trust, the Trustees shall file with CNIC and with the commander of the withdrawing Employer a summary of their actions under this Paragraph in connection with the withdrawal of the Employer.

## **Section 2 - Termination of the Plan.**

**12.2.1.** If CNIC terminates the Plan or upon complete discontinuance of contributions in accordance with Paragraph 12.1.1., the Trustees shall allocate all assets of the Plan remaining after any allocations required by the terms of the Contract, subject to provision for expenses of administration or liquidation, among the separate accounts referred to in Paragraph 11.4.1 and the assets allocable to each account shall be applied for the following purposes and in the following manner and order to the extent of the sufficiency of such assets:

(a) First, to provide annuities or other benefits for each Participant equal in value to his contributions to the Plan with interest to the extent that such contributions have not previously been allocated to provide benefits for the Participant.

(b) Second, to provide annuities as determined herein to any retired Participants or beneficiaries or survivors of retired Participants under the Plan on its date of termination for whom annuities have not previously been purchased.

(c) Third, to provide any balance of retirement annuities as determined herein, to the extent possible, to the Participants who have reached their Normal Retirement Date but for whom all or part of their annuities have not been purchased on the date of termination of the Plan, and to the beneficiaries or survivors of such Participants.

(d) Fourth, if any such assets remain after the Third allocation above, they shall be allocated to provide for Participants who were eligible to retire under the early retirement provisions of the Plan on the date of termination of the Plan any balance of the annuity benefit determined in accordance with Paragraph 6.2.1., and any benefits for beneficiaries or survivors of such Participants.

(e) Fifth, if any assets remain after the Fourth allocation above, they shall be allocated to provide any balance of annuities as determined herein for Participants who have completed five (5) years of Continuous Service on the date of termination of the Plan, including any deferred annuity benefits to which terminated Participants may be entitled under the Plan.

(f) Sixth, if any such assets remain after the Fifth allocation above, they shall be allocated to provide any balance of annuity benefits determined in accordance with the Plan which have accrued for Participants with less than five (5) years of Continuous Service.

(g) Seventh, if any assets remain after the Sixth allocation above, they shall be allocated to provide any annuities to Participants, and to the survivors of such Participants, which have resulted from Cost-of-Living Adjustments granted prior to the date of allocation.

(h) Eighth, if any assets remain after the Seventh allocation above, they shall subsequently be used to provide for any benefits to Participants, survivors or beneficiaries of Participants not provided by a previous allocation, in the order in which such benefits become payable.

**12.2.2.** The amount of any allocations under subparagraphs (a) through (g) of Paragraph 12.2.1. shall be based on the appropriate annuity values for the form of annuity benefits to be provided in accordance with the Plan, but shall not include any allowance for Cost-of-Living Adjustments to be granted subsequent to the date of allocation. Any reduction in the annuities under any of the allocations which is revealed as necessary by the insufficiency of the available assets, at or after the date of termination of the Plan, shall be determined by the Actuary in a uniform manner on the basis of the appropriate annuity values.

**12.2.3.** The allocations referred to in Paragraph 12.2.1., when determined by CNIC based on the amount of assets available, may be implemented, subject to the provisions of the Contract and the Investment Trust, by continuing to hold the unallocated assets on an unallocated basis under the Contract and/or Investment Trust or by the purchase of guaranteed annuities under the Contract at the time of termination, or by transfer of all or part of the assets to a new instrument for the purpose of allocation or by a combination of these methods as deemed appropriate by CNIC and as permitted under the terms of the Contract or the applicable trust agreements.

**12.2.4.** If the allocations under Paragraph 12.2.1. result in a total annuity of less than \$120 per annum for any person, a lump sum of Actuarially Equivalent value shall be paid to the appropriate person in lieu of such annuity. Notwithstanding the foregoing sentence, in the event of a termination/re-establishment of the Plan, any such small benefit shall be annuitized and held by the Plan until a later distribution event occurs.

**12.2.5.** If any assets remain after allocations have been made in accordance with Paragraph 12.2.1., they shall be refunded to the Employer or if the Employer no longer exists, to such agency as may be designated by the Department of the Navy.

## ARTICLE XIII.

### MISCELLANEOUS

#### **Section 1 - Assignment of Benefits Prohibited.**

**13.1.1.** To the extent permitted by law and except as provided in Paragraph 13.1.2. below, the benefits under the Plan or any part thereof shall not be subject to commutation, anticipation, encumbrance, alienation or assignment by any person entitled thereto, and no payments of interest or principal hereunder shall be subject to any debts, contracts or engagement of any such person or to any judicial process to levy upon or attach the same for the payment thereof; provided that any Participant who elects upon or after termination of employment a cash benefit may assign the amount of the payment due him but any such assignment must be in writing and shall not be binding on the Trustees or the Insurance Company until the original or duplicate thereof has been filed with the Trustees or with the Insurance Company at its Home Office.

#### **13.1.2. Notwithstanding the provisions of Paragraph 13.1.1. above,**

(a) payments from the Plan for the enforcement of a Participant's obligations to provide child support and/or alimony payments shall be made pursuant to requirements under Section 659 of Title 42 of the United States Code, provided however, that no such payments shall be made prior to the Participant's Annuity Starting Date;

(b) payments from the Plan to repay any indebtedness owing to the Participant's Employer that arose while employed by the Employer shall be made pursuant to any final judgment or restitution order, debt claim (using the procedures described in 5 CFR §§845.401 through 845.408 as though they referred to the Plan and the Trustees (rather than to the Civil Service Retirement Fund and the Office of Personnel Management)) certified to the Trustees by the Commander of the Participant's Employer, or agreement between the Participant and the Employer (described in 5 CFR §§845.401- 845.408), provided however, that no such payments shall be made prior to the time the Participant's Annuity Starting Date; and

#### **Section 2 - [RESERVED]**

#### **Section 3 - Actuarial Services.**

**13.3.1.** Subject to the provisions of the Contract, the Employer may request and direct the Insurance Company to provide any or all actuarial services required in connection with the operation of the Plan and/or may appoint or retain an actuary who shall be independent of the Insurance Company and qualified through Fellowship in the Society of Actuaries or a firm or company which has on its staff such an actuary, to perform some or all of the actuarial services required in connection with the operation of the Plan.

#### **Section 4 - Rights of Participants.**

**13.4.1.** Nothing herein contained shall be deemed to give any Participant the right to be retained in the service of the Employer or to interfere with the right of the Employer to discharge such Participant at any time in accordance with its established personnel procedures, nor shall it be



deemed to give the Employer the right to require the Participant to remain in its service, nor shall it interfere with the Participant's right to terminate his service at any time.

### **Section 5 - Appointment of Beneficiary.**

**13.5.1.** Subject to the requirements of 13.5.2., a Participant may appoint a Beneficiary to receive any lump sum death benefits payable under the Plan, and may change the Beneficiary from time to time subject to the provisions of any applicable law. The Participant's widow or widower must have been appointed as the sole primary Beneficiary for all death benefits under the Plan, in order to be eligible for a Surviving Spouse Annuity upon the death of the Participant while in the service of the Employer. In the event no Beneficiary is appointed or there is no surviving Beneficiary when a lump sum death benefit becomes payable, the lump sum death benefit shall be payable to the person or persons entitled thereto under the following order of precedence:

First, to the Participant's widow or widower.

Second, if there is no surviving widow or widower, to the Participant's children in equal shares, with the share of any deceased child distributed to the descendants of that child.

Third, if none of the above, to the Participant's parents or the survivor of them.

Fourth, if none of the above, to the executor or administrator of the Participant's estate.

Fifth, if none of the above, to the Participant's other next of kin who may be entitled under the laws of the State in which he was domiciled at the time of death.

**13.5.2.** Any appointment or change of Beneficiary shall be made in writing and filed with the Employer in the case of active Participants, and with the Employer or the Insurance Company for all others. Effective for Beneficiary appointments or changes received by the Trustees or the Insurance Company after 15 July 2011, any appointment of, or change to, any person, trust, estate or other Beneficiary other than the Participant's Spouse, if any, may be made only with the written consent of the Participant's Spouse, such writing to be notarized or witnessed by a representative of the Plan who is authorized by the Trustees for that purpose. No such written consent is required if the Participant has no Spouse, or if the Participant's Spouse cannot be located after reasonable efforts, or under other circumstances for which spousal consent would not be required by the Treasury Department for beneficiary designations for non-governmental plans. Absent such written consent, where required, a Participant's Spouse as of the earlier of the date of the Participant's death or Annuity Starting Date is the Participant's sole Beneficiary.

### **Section 6 - Interest.**

**13.6.1.** Wherever the Plan provides for or refers to interest on contributions or other amount such interest shall be computed, unless specifically provided otherwise, from the end of the Plan year in which such contributions were made. Interest shall be computed up to the first day of the month as of which such computation is made.

**13.6.2.** The rate of interest credited in any period shall be 3% compounded annually.

## **Section 7 - Claims Procedures.**

**13.7.1. Submission of Claims.** A Participant, Spouse, Beneficiary or other person claiming a right to a benefit payable under the Plan may request correction, interpretation, or other relief with respect to a benefit payable under the Plan. The request shall be submitted in writing to the committee (as defined herein) within 30 days of the action or other event giving rise to the request. The committee (the "Committee") shall consist of the Vice Chairperson of the Trustees and two other Trustees appointed by the Chairperson.

**13.7.2. Written Notice of Denied Claim.** The Committee shall provide notice in writing to any person whose request has been wholly or partially denied, within 90 days after receipt of the claim. (Such 90 day notice shall be extended for an additional 90 days if the Committee determines that such an extension of time is necessary to process the claim and so advises the claimant in writing within 90 days after receipt of the request.) Such notice shall set forth the specific reason or reasons for the denial. Such notice shall also refer specifically to pertinent Plan provisions on which the denial is based, describe any additional material or information necessary for the claimant to perfect the claim and explain why such material or information is necessary. Such notice shall also explain the Plan's claims review procedure.

**13.7.3. Review of Decision Denying A Claim.** The Trustees shall afford the claimant or his duly authorized representative an opportunity for a full and fair review of the request and its denial by the Committee. A request for such review shall be submitted in writing to the Trustees not more than 90 days after receipt by the claimant of written notice of the denial of the request, together with a statement of issues and comments which include matters tending to establish that new or material evidence is available that was not readily available when the request was denied, or that the denial of the request involves an erroneous interpretation or misapplication of specific facts. Upon receipt of a timely request for review, the Trustees at a scheduled meeting of the Trustees shall inquire into the merits of the case and shall review such argument and/or examine such documents as the claimant or his representative shall present.

**13.7.4. Written Decision of the Trustees.** A decision of the Trustees on review of a request shall be in writing and shall include specific reasons for the decision, and specific references to the pertinent Plan provisions on which the decision is based. The decision shall be made promptly and not later than 60 days after a request for review, unless special circumstances require an extension of time for processing. In such case, the claimant shall be so advised by the Chairperson of the Trustees in writing prior to the expiration of the initial 60 day period and a decision shall be rendered as soon as possible, but not later than 120 days after receipt of a request for review. The decision of the Trustees shall be final.

## **Section 8 - Direct Rollover Election.**

**13.8.1** Notwithstanding any provision of the Plan to the contrary that would otherwise limit a "distributee's" election under Section, a "distributee" may elect to have any portion of an "eligible rollover distribution" that is equal to at least \$200 paid directly to an "eligible retirement plan" specified by the "distributee" in a "direct rollover."

For purposes of this Section the following definitions shall apply:

(a) An “**eligible rollover distribution**” means any distribution described in Code Section 402(c)(4) and generally includes 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 (10) years or more; any distribution to the extent such distribution is required under Code Section 401(a)(9) the portion of any other distribution(s) that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities); and any other distribution reasonably expected to total less than \$200 during a year. Any amount that is distributed on account of hardship shall not be an eligible rollover distribution and the “distributee” may not elect to have any portion of such a distribution paid directly to an “eligible retirement plan.”

(b) An “**eligible retirement plan**” is an individual retirement account described in Code Section 408(a), an individual retirement annuity described in Code Section 408(b) (other than an endowment contract), a qualified trust (an employees' trust) described in Code Section 401(a) which is exempt from tax under Code Section 501(a) and which agrees to separately account for amounts transferred into such plan from this Plan, an annuity plan described in Code Section 403(a), an eligible deferred compensation plan described in Code Section 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality thereof which agrees to separately account for amounts transferred into such plan from this Plan, a Roth IRA described in Code Section 408A(b), and an annuity contract described in Code Section 403(b) that accepts the distributee's eligible rollover distribution. However, in the case of an “eligible rollover” distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse.

(c) A “**distributee**” includes an Employee or former Employee. In addition, the Employee's or former Employee's surviving spouse. A nonspouse beneficiary who is a “designated beneficiary” under Code Section 401(a)(9)(E) and the Regulations thereunder may, by a direct trustee-to-trustee transfer (“direct rollover”), roll over all or any portion of his or her distribution to an inherited individual retirement account the beneficiary establishes for purposes of receiving the distribution. In order to be able to roll over the distribution, the distribution otherwise must be an “eligible rollover distribution.” If the Participant's named beneficiary is a trust, the Plan may make a direct rollover to an individual retirement account on behalf of the trust, provided the trust satisfies the requirements to be a designated beneficiary within the meaning of Code Section 401(a)(9)(E). A nonspouse beneficiary may not roll over an amount which is a required minimum distribution, as determined under applicable Regulations and other Revenue Service guidance.

(d) A “**direct rollover**” is a payment by the Plan to the “eligible retirement “ specified by the “distributee.

**13.8.2 Notice.** A Participant entitled to an eligible rollover distribution must receive a written explanation of his/her right to a direct rollover, the tax consequences of not making a direct rollover, and, if applicable, any available special income tax elections. The direct rollover

notice must be provided to all Participants, unless the total amount the Participant will receive as a distribution **during the calendar year is expected to be less than \$200.**

**Section 9 - Applicable Law.**

**13.9.1.** The Plan shall be construed according to the laws of the State of Tennessee to the extent consistent with applicable federal law and regulations and the status of the Employers, the Plan and the Trust as federal instrumentalities and, in all cases, so as to qualify the Plan and the Trust under sections 401(a) and 501(a) of the Code.

## ARTICLE XIV

### NORFOLK NAVAL SHIPYARD CO-OPERATIVE ASSOCIATION

#### PENSION PLAN PROVISIONS

##### **Section 1 – Acceptance of Norfolk Naval Plan Employees.**

**14.1.1. Acceptance of Norfolk Naval Shipyard Plan NAF Employees.** Effective August 1, 2011 (“Effective Date”) NAF employees of the United State Naval Academy (“USNA”) and the other nonappropriated fund (“NAF”) employees who have participated in the Norfolk Naval Shipyard Co-Operative Association Pension Plan (“NNS Plan”) and who have not previously been accepted by the Commander, Navy Installations Command (“CNIC”) as Employees for purposes of this Plan are accepted as Employees for purposes of this Plan and prospectively shall be eligible to participate in this Plan in accordance with its terms.

##### **Section 2 - Transfer of Assumed Plan Assets and Assumed Plan Liabilities.**

**14.2.1** Effective as of August 1, 2011 the Plan and its associated Trust accept a transfer of the assets associated with the NNS Plan (“Assumed Plan Assets”) and the liabilities for benefits accrued under the NNS Plan (“Assumed Plan Liabilities”) in accordance with the following general terms:

(a) The Assumed Plan Assets and Assumed Plan Liabilities which are allocable to USNA employees shall be transferred from the NNS Plan to the Trust associated with the CNIC Plan and shall thereafter be accounted for separately as Trust assets available to fund benefits accrued by USNA employees under the NNS Plan and, subject to the limitations of Section 14.4.1 below, as liabilities of the CNIC Plan.

(b) The Assumed Plan Assets and Assumed Plan Liabilities which are allocable to pre-Effective Date participants in the NNS Plan other than employees of the USNA shall be transferred from the NNS Plan to the Trust associated with the CNIC Plan and shall thereafter be accounted for as general assets and liabilities of the CNIC Plan, rather than as segregated assets and liabilities of the CNIC Plan.

##### **Section 3 - Assumption of NNS Plan Provisions.**

14.3.1. Except as otherwise provided in this Article, pending the production of more detailed Plan provisions with regard to the administration of existing NNS Plan service, benefits, vesting, distributions and for other relevant purposes, the NNS Plan is incorporated by reference into this Plan for such purposes.

##### **Section 4 - Ongoing Funding.**

14.4.1. The liability for the funding of all benefits which are attributable to NAF employees of the USNA shall be the sole responsibility of the USNA. The obligation of the Plan to pay any accrued benefit of a NAF employee of the USNA is limited only to the Plan funding which is provided by the USNA, its employees and its former employees. The USNA shall have no obligation to fund any Plan benefit obligation other than those attributable to NAF employees and former NAF employees of the USNA. Any assets of the Plan which are funded by the USNA or by USNA NAF

employees, and which are in excess of the assets which are ultimately required to fund the benefits payable to or with respect to USNA NAF employees, shall not revert to any party other than the USNA or the designee of the USNA.

**Section 5 - Accrued Benefits of USNA and NNS NAF Employees Under the Plan.**

14.5.1. The benefit payable at any time from the Plan to a former participant in the NNS Plan shall be the sum of (a) plus (b), where:

(a) is the unpaid accrued benefit under the terms of the NNS Plan as of July 31, 2011 to the extent such accrued benefit is or becomes vested; provided, however, that:

(i) vesting service under the terms of this Plan on and after August 1, 2011 shall be taken into account as additional vesting service with respect to benefits accrued under the NNS Plan;

(ii) a benefit which has accrued under the terms of the NNS Plan prior to August 1, 2011 shall continue to be adjusted in accordance with the benefit accrual provisions of the NNS Plan for changes in average compensation as a result of compensation earned while a participant in this Plan on and after August 1, 2011, and

(iii) the benefit accrued under the terms of the NNS Plan, as adjusted for any change in average compensation on and after August 1, 2011, shall not be adjusted under the Social Security Offset provisions of this Plan; and

(b) is the unpaid vested post-July 31, 2011 accrued benefit under the terms of this Plan based upon:

(i) the benefit accrual provisions of this Plan, with service credited under the terms of the NNS Plan prior to August 1, 2011 taken into account for purposes of determining each transferred participant's post-July 31, 2011 rate of benefit accrual under this Plan but not for purposes of providing any pre-August 1, 2011 accrual under this Plan;

(ii) compensation earned both before and after the August 1, 2011 for purposes of determining average compensation under this Plan's accrued benefit formula;

(iii) service credited under the terms of the NNS Plan prior to August 1, 2011 plus any service credited on and after August 1, 2011 under the terms of this Plan for purposes of determining eligibility for participation in this Plan and for purposes of vesting in benefits accrued under both this Plan and the NNS Plan; and

(iv) Credited Service under the terms of this Plan on and after August 1, 2011 for purposes of post-July 31, 2011 benefit accruals; and

(v) adjusted for a Social Security Offset as provided in this Plan based on Credited Service on and after August 1, 2011.

## **Section 6 - Early Retirement Eligibility for NNS Plan Participants.**

**14.6.1.** For former participants in the NNS Plan who are not in pay status under this Plan as of August 1, 2011, the requirements for early retirement benefit commencement and the early retirement adjustment factors for benefits accrued under the NNS Plan shall become the eligibility provisions and early retirement reduction factors which otherwise apply for benefits separately accrued under this Plan.

## **Section 7 - Ongoing Administration of Assumed Plan Assets and Assumed Plan Liabilities**

**14.7.1.** All parties shall cooperate in the ongoing administration of this Plan. The USNA shall be liable to CNIC or this Plan, as applicable, for any and all administrative expenses, costs and fees which are separately incurred in connection with the administration of this Plan for or with respect to NAF employees of the USNA and for a proportionate share of the general expenses of the administration of this Plan.

## **Section 8 - Article Terms.**

**14.8.1.** Where required or appropriate in the context of this Article, references to employees shall include references to former employees or the beneficiary(ies) or alternate payees of an employee or former employee.

## **Section - 9 United States Naval Academy (USNA) NAF Employee Plan Provisions.**

**14.9.1.** All provisions for employees of the United States Naval Academy prior to August 1, 2011 are defined below.

**14.9.2** Definitions. Whenever used in this Section 14.9 the following words and phrases shall have the meaning indicated below, unless the context indicates otherwise.

(a) **“Compensation”** means the total earnings of the Participant for service with his Employer in such month, as determined by the Employer, whose decision shall be final, reportable on the Participant's Form W-2 as gross wages for the period, but excluding compensation received in lieu of unused annual leave, post allowances, overseas housing allowances, non-performance based cash awards, severance pay, and taxable moving expense payments.

(b) **“Credited Service”** means the sum of:

(i) Service while a contributing Participant;

(ii) The number of completed years, months and days of unused sick leave, as computed by the Employer, to the extent not previously credited under the Plan;

(iii) In the case of an Employee who completes one year of Continuous Service and who elects to become a Participant within 31 days following the completion of such one year period the Employee shall have the year count as Credited Service without contribution for such year.

The total Credited Service, as determined above, shall be rounded up to the next complete month. All Credited Service shall be determined by the applicable Employer, whose decision shall be final.

(c) **“Continuous Service”** means continuous service as an Employee commencing on his date of hire by an Employer, or if later, the date on which the status as an Employee is first attained.

(d) **“Employee”** means any civilian person who is employed by or under the cognizance of an Employer as a Non-Appropriated Fund Employee on a regular full-time or regular Part-time basis.

(e) **“Employer”** means United States Naval Academy (“USNA”).

(f) **“High-Three Annual Average Earnings”** for a Participant as of any date means the highest average rate of annual Compensation for any 36 consecutive months while employed by an Employer for which the Participant has made contributions under the Plan, or if the period for which he has made contributions is less than 36 months, his average rate of annual Compensation for such lesser period.

(g) **“Participant”** means any Employee who is eligible to participate in the Plan and who is making contributions to the Plan by payroll deduction, or any former Employee who is entitled to benefits under the Plan.

(h) **“Service”** means the number of years, months and days of service as an Employee of an Employer.

## **Section 10 – Eligibility**

**14.10.1. Eligibility for Participation.** - Each Employee who is hired by the Employer prior to 1 August 2011 may elect to become a Participant in the Plan on the first day of the pay period following twelve months of Continuous Service. If such an Employee elected to join the Plan and become a Participant within 31 days of the completion of such one year period of Continuous Service, he shall receive credit for such period under 14.9.2(b), but shall not be required to make contributions under Paragraph 14.14.1 for such period.

## **Section 11 - Normal Retirement Eligibility**

**14.11.1. Normal Retirement With Undreduced Benefits.** A Participant shall be eligible to retire with an unreduced pension as of the first day of any month coincident with or following his 62nd birthday, provided he has completed at least five years of Continuous Service. The date a Participant first satisfies such requirements shall, be referred to as his Normal Retirement Date. Any Participant who shall cease active employment on his Normal Retirement Date shall, upon filing of the prescribed application therefore, be entitled to receive a normal retirement annuity determined in accordance with the provisions Section 14.11.4 below.

**14.11.2 Early Retirement with Reduced Benefits Eligibility.** Any Participant whose employment is terminated for any reason other than death after attaining age 52 and completing 5 years of Continuous Service and who is not eligible to receive a normal retirement annuity, shall be entitled



to receive a reduced early retirement annuity determined in accordance with the provisions of Paragraph 14.11.5.

**14.11.3. Involuntary Early Retirement Eligibility.** Any Participant whose employment is involuntarily terminated prior to his Normal Retirement Date and who has completed 25 years of Continuous Service or has attained age 50 and completed 20 years of Continuous Service shall be entitled to receive an early retirement annuity determined in accordance with the provisions of Paragraph 14.11.6.

**14.11.4. Normal Retirement Annuity.** The Normal Retirement Annuity shall be equal to 1 1/2% of High-Three Average Annual Earnings for each year of Credited Service.

**14.11.5. Early Retirement with Reduced Benefits.** A Participant who retires early will be entitled to a retirement annuity commencing on the first day of the month coincident with or immediately following his actual retirement, in an amount determined in accordance with Paragraph 14.11.2 and the result reduced by one-third of 1% for each month by which the Annuity Starting Date precedes his Normal Retirement Date.

**14.11.6. Involuntary Early Retirement.** If a Participant has met the conditions specified in Paragraph 14.11.3, he will be entitled to a retirement annuity commencing immediately determined in accordance with Paragraph 14.11.3 with the result reduced by one-sixth of 1% for each month by which the date of retirement precedes the date on which the Participant will attain age 55.

## **Section 12 - Payment of Benefits.**

**14.12.1. Annuity without Survivor Benefit.** An Annuity without Survivor Benefit is available to all Participants, and in the absence of an election to the contrary, this is the automatic type of annuity for a Participant who has no Spouse on his Annuity Starting Date. Where an Annuity without Survivor Benefit is payable to a Participant, upon the death of the Participant after his Annuity Starting Date, a payment will be made to his Beneficiary equal to the amount of the Participant's contributions, accumulated with interest to his Annuity Starting Date, minus the total amount of retirement benefits paid to the Participant prior to his death.

**14.12.2. Automatic Annuity with Survivor Benefit.** If a Participant has a Spouse on his Annuity Starting Date, his annuity will be reduced by 10%, to provide a 55% survivor annuity, unless his marriage to such Spouse is dissolved before his death by the death of the Spouse or by divorce or annulment. The written consent of a Participant's Spouse shall be required within the ninety (90) day period prior to the Annuity Starting Date (or at such other times as may be permitted by Treasury Department guidance for plans which are subject to Code Section 401 (a) (11)) for any waiver by a participant of a 55% contingent spousal annuity which is based on the full vested accrued benefit of a Participant as of the Annuity Starting Date. The consent of a Spouse will not be required for a Participant's waiver if (i) the Spouse cannot be located after reasonable efforts, or under other circumstances which are adequate for waivers of qualified joint and survivor annuities under non-governmental plans pursuant to Treasury Department guidance, or (ii) the benefit is a small benefit which is subject to the cash-out provisions for small benefits in accordance with Paragraph 7.10.1.

## **Section 13 - Death Benefits.**

**14.13.1. Survivor Annuity Upon Death While in Service.** If a Participant dies while actively employed as an Employee and after he has completed at least sixty (60) months of Credited Service, an annuity will be payable to the Participant's spouse subject however to the condition that the spouse must have been married to the Participant at least one year immediately preceding his death or be the parent of a child born of the marriage with the Participant and be designated as the sole beneficiary. The amount of the annuity payable to an eligible spouse under this Paragraph will be fifty-five percent (55%) of the greater of the amounts determined under (i) and (ii) below, minus (iii) below, but subject to (iv) below, and further subject to (v) below if the widow or widower is eligible for survivor income benefits under Workers' Compensation.

- (i) The annual amount of retirement annuity determined in accordance with Paragraph 6.1.2. based on the Participant's Credited Service and High- Three Average Annual Earnings as of the date of his death.
- (ii) The lesser of the amounts determined under (1) or (2) below:
  - (1) 40% of the Participant's High-Three Average Annual Earnings
  - (2) The annual amount of retirement annuity determined in accordance with Paragraph 6.1.2. based on High-Three Average Annual Earnings as of the date of death, and if the Participant's death occurred prior to age 60, after increasing the Credited Service by the period from the date of his death to the date he would have attained age 60. If the Participant's death occurred after age 60, the Credited Service used in computation will be his actual Credited Service as of the date of his death.
- (iii) Minus one hundred percent (100%) of any widow's, widower's or mother's or father's benefit currently payable under the Social Security Act.
- (iv) The amount of the Surviving Spouse Annuity will in no event be less than 55% of the product of (i) one-half percent (1/2%) of the Participant's High-Three Average Annual Earnings multiplied by (ii) his years of Credited Service.
- (v) If the widow or widower is eligible for survivor income benefits under Worker's Compensation, the amount determined in accordance with (a) or (b) above shall be reduced, if necessary, so that 55% thereof, together with any survivor benefits payable under Worker's Compensation, shall not exceed 55% of 90% of the Participant's High-Three Average Annual Earnings.

The amount of the Surviving Spouse Annuity payable will be adjusted upon commencement, cessation or recommencement of a widow's, widower's or mother's or father's benefit under the Social Security Act, but will not be adjusted on account of changes in the Social Security benefits created by an amendment.

- (b) Lump Sum Death Benefit

- (i) The amount of any lump sum death benefit payable in the event of death before the Annuity Starting Date where no Surviving Spouse Annuity is payable to a widow or widower will be payable to the Beneficiary of the Participant as determined under Paragraphs 13.5.1. and 13.5.2., in an amount equal to the Participant's contributions to the Plan with interest to the first day of the month in which the Participant's death occurs.
- (ii) Where a Surviving Spouse Annuity is payable to a widow or widower, in the event of the Participant's death before the Annuity Starting Date, no lump sum benefit will be payable at the date of the Participant's death but upon the subsequent death of the widow or widower a lump sum benefit will be payable to the Participant's Beneficiary as determined under Paragraphs 13.5.1. and 13.5.2., in an amount equal to the Participant's contributions to the Plan, with interest to the first day of the month in which the Participant's death occurs, minus the sum of all annuity payments made.
- (iii) Where a widow or widower would qualify for a Surviving Spouse Annuity upon or after the death of a Participant while in service, but no Surviving Spouse Annuity is payable because the Social Security benefit exceeds the amount determined in accordance with subparagraphs 8.2.2.(a), a lump sum death benefit will be payable.

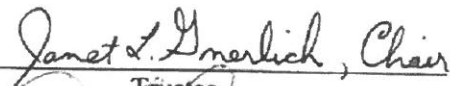
**Section 14 - Contributions by Participants.**

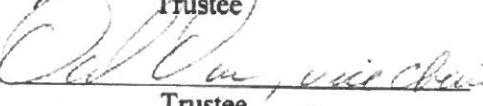
14.14.1. Each Participant in the active employ of the Employer shall contribute in each year at the rate of 1% of his Compensation for the year.

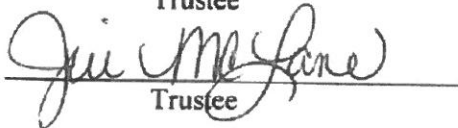
DATED the 20<sup>th</sup> day of January, 2016.


By:   
 COMMANDER, NAVY INSTALLATIONS COMMAND


THE TRUSTEES OF THE COMMANDER, NAVY INSTALLATIONS COMMAND  
 RETIREMENT TRUST

, Chair  
 Trustee

, *vice chair*  
 Trustee

  
 Trustee

  
 Trustee

  
 Trustee