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## **KENT DISTRICT LIBRARY EMPLOYEES' RETIREMENT PLAN**

*January 1, 2010 Restatement*

## **TABLE OF CONTENTS**

	<b><u>Page</u></b>
<b>ARTICLE I - - PURPOSE</b>	<b>1</b>
<b>ARTICLE II - - DEFINITIONS AND CONSTRUCTION</b>	<b>1</b>
2.1    Definitions	1
2.2    Construction	6
<b>ARTICLE III - - PARTICIPATION AND SERVICE</b>	<b>6</b>
3.1    Participation	6
3.2    Credited Service	7
3.3    Vesting Service	7
3.4    Rights Upon Reemployment After Participation Terminates – Credited Service	8
3.5    Participation Terminates	8
3.6    Credit for Military Leaves	8
3.7    Purchase of Prior Military Service	9
3.8    Participant Contributions	10
3.9    Service Prior to January 1, 1996	11
3.10   Pickup	11
<b>ARTICLE IV - - NORMAL RETIREMENT BENEFIT</b>	<b>11</b>
4.1    Eligibility	11
4.2    Amount of Benefit	11
4.3    Post-Retirement Increases	12
4.4    Increase in Benefits for Postponed Retirement	13
4.5    Maximum Benefit	13
4.6    Commencement of Benefits	14
<b>ARTICLE V - - EARLY RETIREMENT BENEFIT</b>	<b>14</b>
5.1    Eligibility	14
5.2    Amount of Benefit	14
5.3    Commencement of Benefits	14
<b>ARTICLE VI - - DEFERRED VESTED BENEFIT</b>	<b>14</b>
6.1    Eligibility	14
6.2    Amount of Benefit	15
6.3    Commencement, Duration and Form of Payment	15
6.4    Termination of Participation	15
6.5    Refund of Accumulated Contributions	15

	<u>Page</u>
<b>ARTICLE VII - - DEATH BENEFIT</b>	<b>16</b>
7.1 Eligibility	16
7.2 Amount and Form of Benefit	16
7.3 Commencement, Duration, and Form of Payment	17
7.4 Designation of Beneficiary	17
<b>ARTICLE VIII - - DISABILITY BENEFIT</b>	<b>17</b>
8.1 Eligibility	17
8.2 Amount of Benefit	17
8.3 Determination of Disability	18
8.4 Commencement, Duration, and Form of Payment	18
8.5 Periodic Review of Disability Status	19
8.6 Recovery from Disability	19
8.7 Limitation of Claims	19
8.8 Maximum Disability Benefit Payments	19
8.9 Maximum if Worker's Compensation Paid	20
<b>ARTICLE IX - - PAYMENT OF RETIREMENT BENEFITS</b>	<b>20</b>
9.1 Form of Benefit	20
9.2 Accumulated Contributions	21
9.3 Forfeiture of Participant's Accumulated Contributions	22
9.4 Commencement of Payment	22
9.5 Terminal Benefit Covering Retirement	22
9.6 Payment Pursuant to Domestic Relations Orders	22
9.7 Benefits Upon Reemployment	23
9.8 Reduction of Benefits for Previous Payments	23
<b>ARTICLE X - - TRUST</b>	<b>24</b>
10.1 Trust Assets	24
10.2 Conditions on Contributions	24
10.3 Employer Contributions	21
<b>ARTICLE XI - - ADMINISTRATION</b>	<b>25</b>
11.1 Plan Administrator	25
11.2 Allocation of Responsibilities	25
11.3 Claims Procedure	25
11.4 Authorization of Benefit Payments	26
11.5 Application and Forms for Benefits	26
11.6 Facility of Payment	26
11.7 Indemnification	27

	<u>Page</u>
<b>ARTICLE XII - - AMENDMENT AND TERMINATION OF PLAN</b>	<b>27</b>
12.1 Amendments	27
12.2 Right of Termination	27
12.3 Notice to Pension Board	27
12.4 Exclusive Benefit	27
<b>ARTICLE XIII - - NONALIENATION OF BENEFITS AND DOMESTIC RELATIONS ORDERS</b>	<b>27</b>
13.1 Prohibitions of Assignments	27
13.2 Requirements for Eligible Domestic Relations Orders	28
13.3 Procedure for Domestic Relations Orders	28
13.4 Payment Pursuant to Eligible Domestic Relations Orders	29
13.5 Accumulated Contributions	30
13.6 Retiree Domestic Relations Order	30
13.7 Additional Requirements	30
<b>ARTICLE XIV - - MISCELLANEOUS</b>	<b>31</b>
14.1 Status of Participants	31
14.2 Litigation	31
14.3 Correction of Errors	31
14.4 Governing Law	31
14.5 Severability of Provisions	31
14.6 Internal Revenue Code Qualification	31

# KENT DISTRICT LIBRARY EMPLOYEES' RETIREMENT PLAN

(January 1, 2010 Restatement)

This amended and restated Retirement Plan has been adopted by Kent District Library, a political subdivision of the state of Michigan (the "Employer").

## ARTICLE I PURPOSE

The Employer adopted the Kent District Library Employees' Retirement Plan (the "Plan") effective as of January 1, 1996 to provide retirement benefits for eligible employees. The Plan has been amended from time to time and is being amended and restated in its entirety in this document effective January 1, 2010, except as otherwise noted.

The provisions of this Plan will apply only to persons who were employed by the Employer on or after January 1, 2010, or who were eligible for a deferred vested benefit under the Plan as of that date. The rights and benefits, if any, of other former employees will be determined by the provisions of the Plan as in effect on the date their employment terminated.

## ARTICLE II DEFINITIONS AND CONSTRUCTION

2.1 Definitions: The following words or phrases, when used in this Agreement, will have the following meanings:

(a) Accrued benefit: The portion of a normal retirement benefit earned as of the date of the computation. This is a monthly benefit commencing at the normal retirement age and computed in accordance with the normal retirement benefit formula in Section 4.2 using the participant's final average salary and credited service on the date of computation.

(b) Accumulated Contributions: The total of all amounts deducted from the compensation of a participant and credited to the participant's individual account, together with earnings credited to those amounts.

(c) Actuarial equivalent: Equivalence in the present value of various forms of payment. Present values will be determined by the actuaries chosen by the Employer based on the mortality tables and interest rates established from time to time by the Pension Board. No change in mortality or interest assumptions will reduce the accrued benefit of any participant.

(d) Authorized leave of absence: Any absence authorized by the Employer under its standard personnel policies from which the employee returns to active employment with the Employer within the period authorized for the leave. An absence due to service in the armed forces of the United States will be considered an authorized leave of absence provided that the employee qualifies for reemployment rights under federal law, 38 USC Sections 4301 - 4333 or other statute of similar import, and returns to employment with the Employer within the period provided by law. Employees who fail to return to active employment from any approved leave of absence within the time authorized for the leave or who fail to make the required participant contributions will not be credited with any service for the period of the leave.

(e) Beneficiary: Any person who is receiving or designated to receive a Plan benefit.

(f) Code: The Internal Revenue Code of 1986, as amended from time to time.

(g) Compensation: The total of all amounts paid to or accrued for a participant by the Employer as wages, salary, earned shift differential, overtime, or holiday pay for personal services rendered during the plan year before reduction for any elective contributions made for an employee for a plan year to any plan maintained by the Employer pursuant to Code Sections 125, 132(f), or 457. The following amounts of compensation will not be included:

(1) Compensation before a participant became a participant;

(2) Reimbursements for clothing allowance or mileage allowance, car allowance, longevity pay, payments for unused sick leave, holiday or vacation, retirement bonus for unused sick leave, compensation paid as a consequence of waiving health insurance, and the value of any other fringe benefits;

(3) For plan years beginning prior to 1994, compensation in excess of \$200,000, as adjusted under the cost-of-living adjustment provisions of Code Section 415(d); for plan years beginning after December 31, 1993, compensation in excess of \$150,000 per year, as adjusted under the provisions of Code Sections 401(a)(17) and 415(d); and for plan years beginning after 2001, compensation in

excess of \$200,000, as adjusted under Code Section 401(a)(17). The limitations of the preceding sentence will not reduce the amount of the compensation of an eligible participant that is allowed to be taken into account under the Plan, below the amount allowed to be taken into account under the terms of the Plan in effect July 1, 1993. An eligible participant is an individual who first becomes a participant in the Plan before December 31, 1994.

Compensation earned while an employee of Kent County prior to January 1, 1996 will be included for purposes of computing benefits under this Plan for employees who became employed by the Employer on January 1, 1996.

(h) Credited Service: The period of a participant's employment with the Employer determined in accordance with Section 3.2 and used to determine the amount of benefits payable to or on behalf of the participant.

(i) Custodian: The person or entity appointed by the Pension Board to hold plan assets in safekeeping and to receive contributions and to make benefit payments and other disbursements.

(j) Disability: A physical or mental condition that, in the judgment of the Pension Board, permanently prevents a participant from satisfactorily performing the participant's usual duties as an employee in the participant's position as a result of personal injury or disease. A participant will not be considered disabled for purposes of this Plan if the condition consists of or results from use by the participant of alcohol, narcotics, or other controlled substances or a felonious enterprise in which the person was engaged.

(k) Eligible employee: An employee who is employed in a classification other than those listed as not eligible to participate in the Plan in Section 3.1.

(l) Employee: Any person who is employed by the Employer during the plan year as a common-law employee, or who is on temporary layoff status or an authorized leave of absence from a position as a common-law employee.

(m) Employer: Kent District Library, a "district library" under Act 24 of the State of Michigan Public Acts of 1989, MCL§§397.171 et seq.

(n) Final Average Salary:

(1) For participants employed 1,800 or more hours per year, final average salary means the monthly average of the compensation paid a participant during the period of 36 consecutive months of vesting service producing the highest monthly average, which period is contained within the period of 60 consecutive months of vesting service immediately preceding the participant's termination of active participation. If a participant has less than 36 consecutive months of vesting service, "final average salary" means the monthly average of compensation paid to the participant during the participant's last 36 or fewer months of vesting service.

(2) For participants employed fewer than 1,800 hours per year, final average salary means 150 multiplied by the following fraction:

(A) The numerator will be the highest total compensation received by the participant for a period of 36 consecutive months of vesting service contained within the 60 months of vesting service immediately preceding termination of active participation, and the denominator will be the number of hours worked in the same 36 month period.

(B) If the participant has less than 36 months of vesting service, the numerator will be the total compensation received during the total period of vesting service and the denominator of the fraction will be the total number of hours worked during the participant's total period of vesting service. For these purposes any year in which the participant has less than 500 hours of service will be excluded from this determination.

(3) In plan years beginning before 1998, "60" is substituted for each reference to "36" and "120" is substituted for each reference to "60" for purposes of computing final average salary under (1) and (2) above.

(4) Notwithstanding Section 2.1(g), for purposes of computing final average salary, compensation earned while employed by Kent County prior to January 1, 1996 will be considered for employees who are employed by the Employer on January 1, 1996 and who had been employed by Kent County on December 31, 1995.

(o) Hour of service or Hour: An employee will be credited with an hour of service for each hour for which the employee is paid or entitled to payment by the Employer for the performance of duties or for periods during which no services are performed such as holidays, sick days, vacations, or other paid leaves of absence. Hour of service excludes payments for accumulated sick leave or vacation.

(p) In Service: A participant will be deemed to have terminated employment due to death, disability or normal or early retirement while in service if the monthly allowance is payable on the first day of the month following the last date a participant performs an hour of service for the Employer or within 30 days of the last day of an Employer-approved leave of absence.

(q) Library Board: The Kent District Library Board of Trustees.

(r) Normal Retirement Age: Age 62.

(s) Participant: An employee participating in the Plan in accordance with the provisions of Section 3.1 or a former employee who is entitled to deferred vested benefits from the Plan.

(t) Pension Board of Trustees or Pension Board: The legal entity or individuals appointed by the Employer or elected by the Participants to administer the trust.

(u) Plan: The Kent District Library Employees' Retirement Plan as set forth in this document and any later amendments.

(v) Plan year: The "plan year," the "fiscal year," the "Plan fiscal year," and "Section 415 Limitation Year" of the Plan will be the twelve (12) consecutive month period ending on December 31 of every year.

(w) Regular Interest or Investment Credits: The rate or rates per annum, compounded annually, as the Pension Board adopts from time to time that are used to compute the full amount of a participant's benefit in the event of a refund of a participant's accumulated contributions.

(x) Retiree: A former employee receiving a benefit from the Plan by reason of having been a participant.

(y) Trust: The fund known as the Kent District Library Employees' Retirement Trust, maintained in accordance with the terms of the trust agreement dated February 21, 2002, by and between the Employer and the Pension Board, as trustee.

(z) Vesting Service: The period of participant's employment with the Company computed in accordance with Section 3.3 and used to determine eligibility for benefits under the Plan.

2.2 Construction. Plural pronouns are used throughout the Plan for purposes of simplicity and will be interpreted to include the singular.

### **ARTICLE III PARTICIPATION AND SERVICE**

#### 3.1 Participation.

(a) Eligible employees will become participants in the Plan on the first day of the month after completing six (6) months of vesting service.

(b) The following persons are not eligible to participate in the Plan:

(1) Persons employed in positions normally requiring fewer than 500 hours of service per year;

(2) Persons who perform services for the Employer pursuant to an agreement between the Employer and another person or entity, such as an employment agency or employee leasing organization;

(3) Any person who performs services for the Employer pursuant to a written agreement with the Employer that does not provide for participation in the Plan;

(4) Employees who participate as an active participant in any other plan similar in purpose to this Plan by reason of the employee's employment with the Employer, except the federal social security old age, survivors, and disability insurance program, as amended; and

(5) Any person paid wholly on a fee basis.

(6) Any person who is hired by the Employer on or after January 1, 2010.

(c) No employee will become a participant of the Plan unless the employee makes the contributions described in Section 3.8.

### 3.2 Credited Service.

(a) Eligibility for benefits under the Plan and the amount of the benefit payable to or on behalf of a participant will be determined by the participant's months and years of credited service. A participant who is employed in a position normally requiring 1,800 or more hours of service during a plan year will receive one (1) month of service for each calendar month in which the participant is employed at least 10 work days. A participant who is employed in a position that normally requires less than 1,800 hours of service but more than 500 hours of service per year will be credited with a partial year of service based on the following fraction:

the numerator will be the number of hours worked during the year, and the denominator will be 1,800 hours.

No participant will receive more than one (1) year of credited service for all employment rendered during any one (1) calendar year.

(b) Participants will not earn credited service for periods of employment during which they do not qualify as eligible employees.

(c) No employee will receive credited service for any period of employment (other than the first six (6) months of employment) for which the employee fails to make the contributions required by Section 3.8.

### 3.3 Vesting Service. Eligibility for benefits will be determined by the participant's years of vesting service as follows:

(a) Service Prior to 1998. Prior to 1998, participants will be credited with a year of vesting service for each plan year in which they complete 1,800 hours of service.

(b) Service After 1997. After 1997, a participant will be credited with a year of vesting service for each full year of employment beginning with the 1997 anniversary of the participant's employment commencement date with the Employer or the participant's employment commencement

date, whichever is later, and terminating on the date of “severance of service” with the Employer. A participant’s severance of service will occur on the earlier of the following:

(1) The date on which the participant quit, was discharged, died, or retired; or

(2) The first anniversary of the date on which the participant was absent from employment (with or without pay) for any reason except an authorized leave of absence.

If, however, a former participant returns to work at any time within one (1) year after the first day of absence from employment under any of the circumstances described in (a) or (b) above, then the absence will not result in a severance of service and the period of the absence will be counted in determining years of vesting service.

#### 3.4 Rights Upon Reemployment After Participation Terminates – Credited Service.

(a) When a participant is no longer employed by the Employer as an eligible employee, in a position covered by the Plan, the participant will cease participation in the Plan and, except as otherwise provided in the Plan, the participant’s credited service will be forfeited.

(b) Upon a participant’s retirement and commencement of retirement benefits, the participant will cease to be a participant and will not again become a participant in the Plan.

3.5 Participation Terminates. A participant’s rights and benefits under the Plan will be determined in accordance with the participant’s vesting service, credited service, and compensation at the time employment terminated, or after 1997, the time of the severance of service.

3.6 Credit for Military Leaves. If a participant returns from an authorized leave of absence for military service during the period in which reemployment rights are protected by federal law, the employee will be credited with the hours of service the employee would have received each week if the employee had remained in the employ of the Employer during the period of military service or such larger amount as may be required by law for purposes of both credited service and vesting service. In the event that the participant withdrew amounts in the participant’s accumulated contributions for participation prior to the military service, the credited service and vesting service earned prior to the military service will be reinstated provided that the employee returns to the Trust the amount, if any, the participant may have withdrawn at the time the participant

entered or while in such armed service, together with regular interest from the date of withdrawal to the date of repayment in the manner and at the time described in Section 3.4(a).

In no case will any participant be credited with a total of more than six (6) years of armed service credit or the maximum amount required by federal law, if greater. In any case of doubt as to the period of such armed service to be so credited a participant, the Pension Board will have final power to determine such period. For armed service credit, the participant must contribute to the Trust the amount of participant contributions the participant would have contributed had the participant remained in the employ of the Employer during the period of military duty within a period equal to the lesser of three (3) times the period of military service or five (5) years following the date of reemployment. No interest will be charged on the amount repaid and the participant will not be credited with regular interest until repaid. Any balance remaining to the participant's credit in the Trust during the period of military duty will be accumulated at regular interest.

For purposes of determining compensation, the employee will be deemed to have been paid the compensation the employee would have received if the employee had remained in the employ of the Employer during the period of military service. If the amount that the employee would have been paid during the period of military service cannot be determined with reasonable certainty, it will be assumed that the employee would have been paid during each month of military service the average amount the employee was paid each month during the 12 month period immediately preceding the leave of absence.

3.7 Purchase of Prior Military Service. A participant who entered the armed services of the United States before June 1, 1980, or who entered the armed service of the United States after May 31, 1980, during a time of war or emergency condition as defined in Section 35.61 of the Michigan Compiled Laws, may elect to receive credited service for active military service, subject to the following conditions:

(a) Service credited under this Section will not be counted in determining a participant's or beneficiary's eligibility for benefits, but rather, will be used solely in the calculation of the amount of benefits under the Plan.

(b) Credit for military service cannot be obtained under this Section until a participant has earned a minimum of ten (10) years of credited service.

(c) Only completed years and months of active military service will be credited under this Section up to a maximum of five (5) years. Service credited under this Section, when added to credited service under Section 3.6, may not exceed six (6) years.

(d) Credit for military service provided under this Section will be given upon the payment by a participant to the Plan of an amount equal to five percent (5%) of the participant's full time or equated full time annual compensation for the calendar year in which payment is made multiplied by the number of years, and fraction thereof, of the credited service that the participant elects to purchase.

(e) Credit for military service provided pursuant to this Section will not be given if the military service is, or would be, credited under Section 3.6, above, or under any other federal, state, or local publicly-supported retirement plan.

### 3.8 Participant Contributions.

(a) Each participant in the Plan will contribute an amount equal to 4.5% of the participant's compensation after the date the participant has completed six (6) months of vesting service, or as otherwise provided by the Collective Bargaining Agreement. These contributions will be made even if the minimum salary or wages provided by law for any participant may be changed. Continuation of employment with the Employer by the participant will constitute consent and agreement to the deductions of applicable participant contributions made and provided for herein. Payment of a participant's compensation less this deduction will be a full and complete discharge and acquittance of all claims and demands whatsoever for services rendered by the participant to the Employer, except as to benefits provided by this Plan.

(b) The Employer will deduct the contributions provided for in this section from the compensation of each participant in the employ of the Employer, on each payroll after the date the participant enters the Plan or after the date the participant has completed six (6) months of vesting service, whichever is later. All amounts deducted will be paid by the Employer to the Trust and will be credited to the Reserve for Participant Contributions account of the participant from whose compensation the contributions were deducted. These payments will be made in the manner and form, and in the frequency, and will be accompanied by the supporting data, as the Pension Board will from time to time prescribe.

(c) In addition to the contributions deducted from the compensation of a participant, a participant may deposit in the Trust, by a single contribution or by an increased rate of contributions as approved by the Pension Board, the amount or amounts the participant may have withdrawn and not repaid to the trust, together with regular interest from the date of

withdrawal to the date of repayment. In no case will a participant be given credit for service rendered prior to the date the participant withdrew the participant's accumulated contributions until the participant returns to the Trust all amounts due the Trust by that participant.

3.9 Service Prior to January 1, 1996. A participant who was employed by the Library on January 1, 1996 and who had been employed by Kent County on December 31, 1995 will be credited with all years and partial years of credited service that were accumulated and credited on December 31, 1995 under the Kent County Employees' Retirement Plan for eligibility, benefit calculation, and vesting purposes. Prior service for Kent County will not be considered for any purpose of the Plan unless an employee became employed by the Library on January 1, 1996. In the event of any ambiguity arising out of the application of this Section, all questions will be resolved in a manner that avoids a gap or a double counting of any time period. A person who was employed by Kent County at any time after October 1, 1995 and who became employed by Kent District Library at any time before March 31, 1996 will be deemed to be employed by Kent County on December 31, 1995 and employed by Kent District Library on January 1, 1996.

3.10 Pickup. Effective January 1, 2003, the Employer will pick up the participant contributions required by Section 3.8. The contribution so picked up will be treated as employer (Kent District Library) contributions in determining tax treatment under Code Section 414(h)(2). The Employer will pick up the participant contributions from funds established and available in the salaries account that would otherwise have been designated as participant contributions and paid to the Plan. Participant contributions picked up by the Employer under this section will be treated for all other purposes of this and other laws of the Employer in the same manner and to the same extent as participant contributions made before the effective date of this section. The participant does not have the option of receiving the picked up participant contributions in cash instead of having these amounts paid to the Plan.

#### **ARTICLE IV NORMAL RETIREMENT BENEFIT**

4.1 Eligibility. A participant will have a fully vested right to a normal retirement benefit if the participant remains in service with the Employer until normal retirement age. A normal retirement benefit will be paid to each participant who terminates employment after reaching normal retirement age and completing five (5) or more years of vesting service.

4.2 Amount of Benefit. The normal retirement benefit will be monthly payments for the life of the participant equal to 2.25% of the participant's final average salary multiplied by the participant's months and years of credited service. The maximum Employer-financed portion of the benefit cannot exceed 75% of the participant's final average salary.

In the event a participant commences benefits prior to age 62, the normal retirement benefit accrued for each year of service credited after December 31, 2009 will be reduced by 7% per year for each year of retirement prior to the participant's attainment of age 62. Age at time of commencement will be used to determine the reduction factor (e.g.,  $62 - 60 = 2 \times 7\% = 14\%$ ). The actuarial equivalent adjustment for early retirement provided in Section 5.2 shall not be applicable to service credited after December 31, 2009. No reduction will be applicable to those participants who had accrued 25 years of credited service as of December 31, 2009 and who retire prior to December 31, 2011.

#### 4.3 Post-Retirement Increases.

(a) Beginning with the January 1st that is at least 36 full months after the effective date of the benefit, the amount of a participant's normal retirement benefit will be redetermined effective each January 1st and the redetermined amount will be payable for the ensuing year. For purposes of this subsection 4.3(a), "the amount of the benefit otherwise payable" means the monthly amount of benefit that would be payable disregarding these provisions redetermining benefit amounts after retirement. Subject to the maximum stated in the next sentence, the redetermined amount will be the amount of the benefit otherwise payable multiplied by the following percent:

100.0 percent, plus 1.0 percent for each full year (excluding any fraction of a year) in the period from 12 months before the January 1<sup>st</sup> that the benefit is first redetermined to the current January 1.

In no event will the redetermined amount be greater than the amount of the benefit otherwise payable multiplied by the following fraction:

the numerator will be the average of the Consumer Price Index for the 12 calendar months ending with the month of June immediately preceding the January 1 (but in no event an amount less than the denominator below) and,

the denominator will be the average of the Consumer Price Index for the 12 calendar months ending with the month of June immediately preceding the effective date of the benefit.

(b) As used in this Section, "Consumer Price Index" means the Consumer Price Index for All Urban Consumers, as determined by the United States Department of Labor and in effect December 31, 1988; but if the Consumer Price Index is restructured subsequent to 1988 in a manner

materially changing its character, the Employer, after receiving the advice of the actuary, will change the application of the Consumer Price Index so that, as far as is practicable, the 1988 intent of the use of the Consumer Price Index will be continued.

4.4 Increase in Benefits for Postponed Retirement. A participant who continues employment beyond normal retirement age will have a fully vested right to a normal retirement benefit, but will not receive any retirement benefit payments until the first day of the month after employment terminates. When payments begin, the amount of the monthly retirement benefit will be equal to the allowance based on years of credited service and final average salary at retirement, subject to the 75% limit of Section 4.2.

#### 4.5 Maximum Benefit.

(a) The maximum annual Employer-financed benefit payable to any participant under the Plan will not exceed \$90,000 (\$195,000 after 2009) or the maximum amount allowable under the adjustment provisions of Code Section 415(d) effective January 1 of each year.

For purposes of this Section, “compensation” includes all compensation paid by the Employer and shown on the participant’s federal income tax withholding statement (Form W-2) and for years beginning after 1997, will also include elective contributions made for a participant for the plan year to any plan maintained by the Employer pursuant to Code Sections 125, 132(f), or 457. If the participant has less than 10 years of participation in the Plan at the time of termination of employment, the maximum dollar limitation will be reduced by 10% for each year of participation less than 10. Notwithstanding the foregoing, the maximum benefit will not be reduced below the accrued benefit for the participant as of the last day of the plan year beginning in 1986.

(b) Adjustment for plan years beginning before 2002. The \$90,000 limit will be reduced if benefit payments commence before the participant’s “Social Security retirement age” as defined in Section 216(l) of the Social Security Act. The \$90,000 limit will be increased if benefit payments commence after the participant’s Social Security retirement age. The reductions or increases in the \$90,000 limit will be calculated so that the benefit payable at retirement will be the actuarial equivalent of the benefit payable at the participant’s social security retirement age. The actuarial adjustments will be based on the requirements of Code Section 415, the actuarial table specified in Subsection 2.1(c) of this Plan, and interest rate specified for determining actuarial equivalence in Subsection 2.1(c). The reduction under this paragraph will not reduce the dollar limitation of paragraph (a)(1) above, below (i) \$75,000 if the benefit begins at or after

age 55, or (ii) if the benefit begins before age 55, the equivalent of the \$75,000 limitation for age 55.

(c) Adjustment for plan years beginning after 2001. The maximum benefit will be reduced if benefit payments begin before the participant attains age 62 and the reduction will be calculated so that the maximum benefit payable at actual retirement will be the actuarial equivalent of the maximum benefit payable at age 62. The maximum benefit will be increased if benefit payments commence after the participant has attained age 65 and the increase will be calculated so that the maximum benefit payable at actual retirement will be the actuarial equivalent of the maximum benefit payable at age 65. The actuarial adjustments will be based on the requirements of Code Section 415, the actuarial assumptions specified in Section 2.1(c) of this Plan, and interest at the rate of five percent (5%) per annum.

4.6 Commencement of Benefits. Payment of normal retirement benefits will commence on the first day of the month after the participant meets all requirements for eligibility and applies for payment in writing and will be payable in accordance with Article IX.

## **ARTICLE V EARLY RETIREMENT BENEFIT**

5.1 Eligibility. A participant will be entitled to an early retirement benefit if the participant remains in service with the Employer until age 55 and completes 15 years of credited service.

5.2 Amount of Benefit. The early retirement benefit will be equal to the actuarial equivalent of the benefit that the participant would otherwise receive under Section 4.2.

5.3 Commencement of Benefits. Payment of early retirement benefits will commence on the first day of the month after the participant meets the requirements and applies for payment in writing not less than 30 nor more than 90 days prior to the date the participant desires benefits to begin, and benefits will be payable in accordance with Article IX .

## **ARTICLE VI DEFERRED VESTED BENEFIT**

6.1 Eligibility. A participant will be fully vested in the participant's accrued benefit after completing five (5) years of vesting service with the Employer. A participant will be eligible for a deferred vested benefit if the participant terminates employment before becoming eligible for the early retirement benefit described in Section 5.1, above, and:

(a) has completed at least five (5 ) years of vesting service with the Employer;

(b) is not receiving or entitled to receive any other benefit under the Plan; and

(c) does not and has not withdrawn the participant's accumulated contributions.

6.2 Amount of Benefit. The amount of the deferred vested benefit will be equal to the participant's accrued benefit on the date employment terminated or the amount of the participant's accumulated contributions.

6.3 Commencement, Duration and Form of Payment.

(a) Payment of the deferred retirement benefit will commence on the first day of the month following the participant's normal retirement age.

(b) Payment will be made in accordance with Article IX. The former participant must apply in writing for payment of benefits and no payment will be made until the application has been received by the Board.

(c) A former participant entitled to a deferred vested benefit will be entitled to a deferred vested benefit only if the former participant lives to normal retirement age. A former participant shall file a written application to the Board not earlier than 90 days before attainment of normal retirement age. If the former participant dies before the attainment of normal retirement age, no benefits will be paid under this Article, other than the return of the participant contributions and regular interest thereon.

(d) The Pension Board may, in its discretion, pay to the participant a lump sum amount equal to the greater of the actuarial equivalent of the participant's deferred vested benefit or the participant's accumulated contributions if the payment is made prior to the date on which any installment payments have been made, and the amount does not exceed (and prior to January 1, 2002 has never exceeded) \$5,000 without regard to the consent or request of the participant.

6.4 Termination of Participation. When a participant is no longer employed by the Employer in a position covered by the Plan, the participant will thereupon cease to be a participant of the Plan. Upon such termination of participation, the participant's credited service will, except as otherwise provided in this Plan, be forfeited by the participant.

6.5 Refund of Accumulated Contributions.

(a) In the event a participant ceases to be a participant other than by death before the date the participant becomes entitled to retire with a retirement benefit payable by the Plan, the participant will be paid, upon the participant's written application filed with the Pension Board, the total of the participant's accumulated contributions. If these amounts are paid, then all rights to future payment of a retirement benefit under this Plan will be forfeited by the participant as a result of the payment.

(b) In the event a participant dies before the participant becomes entitled to a benefit payable by the Plan on account of death, the participant's accumulated contributions will be paid to the participant's designated beneficiary. If the participant's designated beneficiary predeceases the participant or voluntarily waives all survivor benefits or there is no beneficiary designation on file with the Pension Board, the surviving spouse will be presumed to be the designated beneficiary. If the beneficiary designation names a spouse and the participant and spouse are divorced subsequent to the date of the beneficiary designation form, the nomination of beneficiary of the former spouse will be void. A former spouse may be a beneficiary only if the participant files a new beneficiary designation form nominating the former spouse subsequent to the divorce or to the extent required by an eligible domestic relations order. A former spouse who is an alternate payee will be considered as the spouse of the participant if an eligible domestic relations order so provides, but only to the extent of the amount specified in such order. If there is no designated beneficiary surviving the participant, the accumulated contributions will be paid to the participant's estate.

(c) No accumulated contributions allocated to an alternate payee pursuant to an eligible domestic relations order will be payable to either the participant or alternate payee except as described in Section 9.5.

## **ARTICLE VII DEATH BENEFIT**

7.1 Eligibility. If a participant dies in service before retirement and after completing 15 or more years of credited service, the participant's designated beneficiary will be eligible for a death benefit.

7.2 Amount and Form of Benefit. The beneficiary may elect to receive either:

(a) a lump sum refund of the participant's accumulated contributions; or

(b) the benefit the participant would have received had the participant retired on the date of death and elected joint and 100% survivor annuity and nominated the person as beneficiary thereunder. The amount of this benefit will be subject to reduction pursuant to Section 8.9, but will not be reduced to reflect commencement prior to the participant's attainment of normal retirement age.

7.3 Commencement, Duration, and Form of Payment. The death benefit will be payable to the beneficiary in a form permitted by Section 7.2 that the beneficiary elects. The payments will commence in accordance with Article IX.

7.4 Designation of Beneficiary. Each participant may designate a beneficiary or beneficiaries to whom the Plan benefits will be paid if the participant dies before receipt of all benefits. Each beneficiary designation will be on a form prescribed by the Pension Board and will be effective only when filed with the Pension Board during the participant's lifetime. Each beneficiary designation filed with the Pension Board will cancel all beneficiary designations previously filed. If any participant fails to designate a beneficiary, or if the beneficiary dies before the participant, the death benefit will be paid to the participant's spouse, if surviving, and if not, to the participant's estate. Only a beneficiary who is either the participant's spouse or another person receiving more than one-half support from the participant for at least two (2) years immediately preceding the participant's death will be eligible for the benefit described in Subsection 7.2(b).

## **ARTICLE VIII DISABILITY BENEFIT**

### 8.1 Eligibility.

(a) Non-Service Related Disability. A participant who has at least 10 years of credited service and who before becoming eligible for a normal retirement benefit incurs a disability while in service other than as the direct and proximate result of a personal injury or disease which the Pension Board finds to have arisen out of and in the course of the participant's actual performance of duty as an employee, may be retired by the Pension Board upon the written application filed with the Pension Board by or on behalf of the participant.

(b) Service Related Disability. A participant who before becoming eligible for a normal retirement benefit, incurs a disability while in service as the direct and proximate result of a personal injury or disease which the Pension Board finds to have arisen out of and in the course of participant's actual performance of duty as an employee, may be retired by the Pension Board upon written application filed with the Pension Board by or on behalf of the participant.

8.2 Amount of Benefit. Subject to the limitations and other provisions of this Article:

(a) The annual non-service related disability retirement benefit will be the benefit provided for in Section 4.2.

(b) The annual service-related disability retirement benefit will be the benefit provided for in Section 4.2; provided, that for the sole purpose of computing the amount of this service-related disability benefit, the participant will receive credited service for the period from the date of the participant's disability retirement to the date the participant would attain normal retirement age.

8.3 Determination of Disability.

(a) Non-Service Related Disability. Determination of non-service related disability will be made by the Pension Board upon the basis of medical evidence and/or testimony satisfactory to the Pension Board. If the participant disagrees with the Pension Board concerning the participant's disabled status, the participant and the Board will each appoint a physician and these two (2) physicians will select a third physician. The expenses of the third physician will be shared equally by the participant and the Pension Board. The Pension Board will then consider the findings of the three (3) physicians.

(b) Service Related Disability. Determination of service related disability will be made by the Pension Board upon written application filed with the Pension Board by or on behalf of the participant; provided, that after medical examination of the participant made by or under the direction of the medical committee consisting of three (3) physicians, one of whom will be selected by the Pension Board, one by or on behalf of the participant, and the third by the first two (2) physicians so named, the medical committee reports to the Pension Board, by majority opinion in writing, that the participant incurred a disability and that the participant should be retired.

(c) Procedure. All claims must be filed in the manner prescribed in Section 11.3 and all disputes regarding denials of claims must be resolved by appeal in the manner described in Section 11.3.

8.4 Commencement, Duration, and Form of Payment. The disability retirement benefit will be payable monthly commencing as of the first day of the month following the date of disability retirement and continuing every month thereafter until the participant dies, reaches normal retirement age, or recovers from the disability, whichever

occurs first. The disabled participant may elect any form of benefit available under Article IX.

8.5 Periodic Review of Disability Status. At least once each year during the first five (5) years following a participant's retirement on account of disability (whether service related or non-service related), and at least once in each three (3) year period thereafter, the Pension Board may require any disability retired participant who has not attained normal retirement age to undergo a medical examination to be made by or under the direction of a physician designated by the Pension Board. If the disability retired participant refuses to submit to this medical examination in any period, the participant's disability benefit may be suspended by the Pension Board until the participant withdraws such refusal. If the refusal continues for one (1) year, all of the participant's rights to a disability benefit may be revoked by the Pension Board.

If upon the medical examination of such disability retired participant, the physician reports to the Pension Board that the participant is no longer disabled, then the Pension Board will arrange a further medical examination of the participant made by or under the direction of a medical committee consisting of three (3) physicians, one of whom will be selected by the Pension Board, one by or on behalf of the disabled participant, and the third by the first two (2) physicians so named. If the medical committee concurs, by majority opinion in writing to the Pension Board, in the finding that the participant is capable of such resumption of duty, the participant's disability retirement will terminate and the participant will be returned to duty.

8.6 Recovery from Disability. Upon a former disabled participant's return to employment, the participant will immediately become a participant of the Plan, and the participant's credited service at the time of the participant's disability retirement will be restored. The amount of the participant's accumulated contributions allocated to the Trust at the time of the participant's disability retirement will be reduced by the sum of all disability retirement payments made. If the participant received a service related disability payment in accordance with Subsection 8.2(b), the participant will also be given credited service for the period the participant received the service related disability benefit.

8.7 Limitation of Claims. No application for disability benefits may be filed after the later of 60 days after the last day of an authorized leave of absence or six (6) months after the last date a participant performed an hour of service for the Employer. All injuries or diseases on which a disability claim may be made and which are not included in the initial application are waived.

8.8 Maximum Disability Benefit Payments. If a disability retired participant receives remuneration for personal services rendered in any gainful occupation, then in no event will the amount of the participant's disability benefit exceed 90% of the amount of the participant's final average salary, less the total of the following amounts:

(a) The remuneration;

(b) The benefit, if any, payable from the federal social security old age, survivors and disability insurance program on account of the participant's disability.

8.9 Maximum if Worker's Compensation Paid. If a death benefit is payable under the provisions of Article VII or if a disability benefit is payable under the provisions of this Article , and if the beneficiary or retiree is also receiving worker's compensation benefit under any worker's compensation or similar law on account of the same death or disability, or payments from a disability income plan funded by the Employer, then in no event will the amount of any Plan benefit exceed 90% of the amount of the participant's final average salary, less the total of the following amounts:

(a) The worker's compensation payments;

(b) The disability income payments;

(c) The benefit, if any, payable from the federal social security old age, survivors, and disability insurance program on account of the same death or disability;

(d) The remuneration, if any, received by the retired participant for personal services rendered by the participant in any gainful occupation.

If the participant receives a lump sum settlement with respect to a worker's compensation claim, the amount of the settlement that is not allocated to medical benefits will be converted to an equivalent monthly amount on an annuitized basis using the actuarial assumptions described in Subsection 2.1(c). The resulting monthly amount will be deducted from the normal retirement benefit as described above.

## **ARTICLE IX PAYMENT OF RETIREMENT BENEFITS**

9.1 Form of Benefit. A participant may elect payment in any of the optional forms described below by filing a written application with the Pension Board. The Pension Board will distribute benefits in accordance with the application and in any of the following methods:

(a) Monthly payments during the lifetime of the participant only;

(b) Monthly payments for a period of 10 years or the participant's lifetime, whichever period is longer. If the participant dies before

completion of the 10-year period, the payments for the balance of the 10-year period will be paid to the designated beneficiary of the participant. If no designated beneficiary survives the participant, the Plan will pay the actuarial equivalent of the remainder of the 10-year payments to the participant's estate;

(c) Monthly payments in the form of a joint and 100% survivor annuity with the participant's beneficiary; or

(d) Monthly payments in the form of a joint and 50% survivor annuity with the participant's beneficiary.

A joint and survivor annuity is an annuity commencing immediately that will provide monthly payments to the participant from the commencement date to and including the month in which the participant dies and, thereafter, monthly payments to the beneficiary, if surviving, for the balance of the beneficiary's life in an amount equal to either 100% or 50% (depending on the optional form selected) of the monthly payments to the participant. The amount of the monthly payments under the joint and survivor annuity will be adjusted so that the payments to the participant and beneficiary will be the actuarial equivalent of payments for the life of the participant only.

9.2 Accumulated Contributions. The participant may elect distribution of the participant's accumulated contributions account in a single lump sum payment instead of the forms of benefit set forth above. The participant may elect to have all or part of the lump sum that is attributable to earnings on the accumulated contributions and picked up contributions payable to the participant or directly to an individual retirement account or annuity that meets the requirements of Code Section 408 ("IRA"), to another retirement trust maintained pursuant to a plan that meets the requirements of Code Section 401(a), to an annuity plan that meets the requirements of Code Section 403(a), or if the plan into which the rollover will be made separately accounts for amounts rolled over, to an annuity described in Code Section 403(b), or an eligible plan under Code Section 457(b) that is maintained by a governmental employer. Payments may be made to an IRA or a plan described above only if the benefits are paid in a single payment of the entire amount of the participant's accounts and the payment is not a required payment under Code Section 401(a)(9). The surviving spouse may elect to have all or part of the lump sum payable to the surviving spouse or directly to an IRA or annuity that meets the requirements of an IRA. The Pension Board will furnish the participant or surviving spouse, within the period of time at least 30 days but not more than 90 days before being eligible for benefit payments under the Plan, with a written explanation of the optional forms of payment and the right to have the payment made directly to an IRA or another qualified plan. The explanation will advise of the rules for withholding from benefit payments for purposes of federal income tax purposes and the right to avoid the withholding requirement by having the benefits paid directly to an IRA or another qualified plan.

9.3 Forfeiture of Participant's Accumulated Contributions. In the event a participant's participation in the Plan terminates, and no benefit becomes or will become payable on the participant's account, any accumulated contributions of the participant unclaimed by the participant or the participant's legal representative within three (3) years from and after the date of the participant's employment terminated, will be forfeited. If, thereafter, proper application is made for such accumulated contributions, the Pension Board will pay them but without interest after the date payment was first due.

9.4 Commencement of Payment. Benefits payable under the Plan will commence not later than the later of the following:

(a) April 1 of the calendar year following the calendar year in which the participant retires; or

(b) April 1 of the calendar year following the calendar year in which the participant attains or would have attained age 70 ½.

Payments to beneficiaries other than surviving spouses will commence not later than one (1) year after the death of the participant or retiree. If benefits are payable to anyone other than a surviving spouse or designated beneficiary, the entire benefit must be paid within five (5) years after the death of the participant.

If payments have commenced to the participant or former participant prior to death, then the remaining benefits will be paid to the beneficiary at least as rapidly as under the method of payment being made to the participant or former participant as of the date of death.

Any distribution made under the plan shall be made in accordance with section 401(a)(9) of the code and the regulations issued thereunder.

9.5 Terminal Benefit Covering Retirement. If, upon termination of the benefits or equivalent payments to or on behalf of a retiree, the aggregate amount of such benefits or payments is less than the amount of the retiree's accumulated contributions determined at the time of the retiree's retirement, the difference between the accumulated contributions and the aggregate amount of payments received by the retiree, retiree's spouse or surviving beneficiary, if any, will be paid to the person the retiree nominated by written designation duly executed and filed with the Pension Board. If there is no designated person surviving the retiree, the difference, if any, will be paid to the deceased retiree's estate.

9.6 Payment Pursuant to Domestic Relations Orders. Benefits payable pursuant to an eligible domestic relations order or retiree domestic relations order will be made in

accordance with the order and upon proper application by the alternate payee. Payment to the alternate payee may begin anytime after the earlier of the following:

- (a) The date on which the participant is entitled to payment of benefits under the Plan; or
- (b) The earliest date on which the participant could begin receiving benefits if the participant's employment terminated.

For purposes of the death benefit provided in Article VII, a spouse who is an alternate payee will be considered as the spouse of the Participant if an eligible domestic relations order so provides, but only to the extent of the amount specified in the Order.

#### 9.7 Benefits Upon Reemployment.

(a) If a retiree receiving benefit payments is subsequently rehired as an employee of the Employer, benefit payments will be suspended. Suspension of the benefit payments will become effective on the first day of the calendar month that follows the 60<sup>th</sup> day the retiree is employed by the Employer. Benefit payments will resume on the first day of the calendar month that follows the termination of employment. Payment of the allowance will resume without change in amount or conditions by reason of employment. The retiree will not be a participant in the Plan during the period of employment.

(b) Notwithstanding the preceding subsection (a), benefit payments may continue without change in amount or conditions by reason of employment by the Employer if all of the following requirements are met:

(1) The retiree is not a participant of the Plan during the period of reemployment, does not receive additional years of service or increases in final average salary and does not receive any increase in pension benefits because of employment subsequent to retirement;

(2) The retiree is not eligible for any benefits from the Employer other than those required by law or otherwise provided to the retiree by virtue of having previously retired; and

(3) The retiree is employed by the Employer for less than 500 hours in any 12-month period.

9.8 Reduction of Benefits for Previous Payments. If a participant receives a payment of any benefits under the Plan and thereafter is employed by the Employer, the

benefits payable upon any later retirement will be reduced by the actuarial equivalent of the earlier payments.

## **ARTICLE X TRUST**

10.1 Trust Assets. All contributions under this Plan will be paid by the Employer to the trustee and deposited in the trust. Contributions will be made at such times as the Employer determines in accordance with a funding policy established by the Employer. All assets of the trust will be retained for the exclusive benefit of participants and beneficiaries and to pay benefits and administrative expenses of the Plan and trust. The assets will not revert to or inure to the benefit of the Employer except upon termination of the Plan and satisfaction of all liabilities under the Plan.

10.2 Conditions on Contributions. All contributions made by the Employer are expressly conditioned upon the initial qualification of the Plan under the Code pursuant to a request timely made, and upon the deductibility under the Code of contributions made to the trust. Upon the Employer's request, a contribution made under a mistake of fact, or conditioned upon initial qualification of the Plan or deductibility of the contribution will be returned to the Employer within one (1) year after the payment of the contribution, denial of the initial qualification, or disallowance of the deduction, to the extent disallowed, as the case may be.

10.3 Employer Contributions. The Employer's contributions to the Trust will be the total of the contribution amounts provided for below:

(a) The Employer's current service contributions will be determined as follows: on the basis of mortality and other tables of experience and regular interest, the actuary will annually compute the rate of contributions that (with participant contributions), if paid annually by the Employer during the service of each participant from the year of hire to the year of retirement, would be sufficient to provide the benefits required at the time of retirement. The Trustee will annually certify to the Library Trustees the amount of current service contributions so determined and the Employer will, during the next fiscal year, pay this amount to the Plan. These payments will be made in the manner, form and frequency and will be accompanied by the supporting data that the Trustee will from time to time determine.

(b) The Employer's accrued service contributions will be determined as follows: on the basis of mortality and other tables of experience and regular interest, the actuary will annually compute for the Employer the actuarial present value of the Employer's share of Plan benefits to be paid to or on behalf of participants at their retirements not covered by future current service contributions. The amount so determined,

less the actuarial value of accumulated plan assets, will be amortized over a period of years, determined by the Employer, but not to exceed 30 years, to determine the Employer's accrued service contribution. The Trustee will annually certify to the Employer the amount of accrued service contributions so determined, and the Employer will, during its next fiscal year, pay this amount to the Plan. These payments will be made in the manner, form and frequency and will be accompanied by the supporting data that the Trustee will from time to time determine.

## **ARTICLE XI ADMINISTRATION**

11.1 Plan Administrator. The Board of Trustees will be the plan administrator.

11.2 Allocation of Responsibilities. The parties will have only those specific powers, duties, and responsibilities as are specified in this Plan. The Library Board will be responsible for making the employer contributions, for appointing certain members of the Pension Board of Trustees, and for amending and terminating this Plan. The Pension Board of Trustees will have the duty, authority and discretion to construe and interpret the Plan, to decide all questions of participant status, eligibility for benefits, to determine the amount, manner and timing of benefits, for appointing and removing any investment managers for the Trust, and for the administration of the Trust and management of the assets held in the Trust except those assets for which an investment manager has been appointed. All interpretations of Plan provisions, all determinations of facts and all decisions made in good faith by the Pension Board will be binding on all participants, beneficiaries and interested parties. All decisions of the Pension Board will be final. Each party may rely upon any direction, information, or action of another party as being proper under this agreement and will not be required to inquire into the propriety of any such direction, information, or action. It is intended that each party will be responsible for the proper exercise of its own powers, duties, and responsibilities and not be responsible for any act or omission of any other party.

11.3 Claims Procedure. The Pension Board will make all determinations regarding benefits based on its interpretation of the terms of the Plan. The Pension Board will notify the participant or beneficiary in writing if any claim for benefits is denied. The notice of denial will be mailed by certified mail, return receipt requested, to the participant or beneficiary within 60 days after the determination. The notice will explain the reasons for the denial in language that may be understood by the participant or beneficiary and will specify the Plan provisions upon which the denial is based. If the denial is based on the failure of the participant or beneficiary to supply certain materials or information, the notice will so state. The notice will advise that the denial may be appealed to the Pension Board and will include an explanation of the appeal procedure.

The appeal procedure will be as follows:

(a) If claimants are not satisfied with a decision of the Pension Board, they must exhaust their administrative remedies under this Plan by filing a written notice of appeal with the Pension Board not later than 60 days after receipt of the notice of denial;

(b) Claimants or their duly authorized representatives may review any documents that are pertinent to the appeal. Claimants or their duly authorized representatives must file with the Pension Board in writing all materials to be reviewed in the appeal process and all arguments relevant to the appeal. All materials and arguments must be filed with the notice of appeal or within 30 days after filing the notice of appeal;

(c) The Pension Board will render its decision on the appeal after the next regularly scheduled Board meeting that is at least 21 days after the completed application for review is received. The Pension Board will return its decision on the appeal as soon as possible, but not later than 60 days after its review. If an extension of time for review is required because of special circumstances, the Pension Board will notify the claimant of the need for additional information and delay its decision until the next regularly scheduled Pension Board meeting that is at least 21 days after the completed application for review is received. All appeal materials must be submitted in writing; and

(d) The Pension Board will advise the claimant in writing of the decision on the appeal with an explanation of the reasons for the decision in language that may be understood by the claimant with references to the plan provisions upon which the decision is based.

11.4 Authorization of Benefit Payments. The Pension Board or its authorized agent will issue directions to the custodian concerning all benefits which are to be paid from the trust pursuant to the provisions of the Plan.

11.5 Application and Forms for Benefits. The Pension Board may require a participant to complete and file an application for a benefit and all other forms approved by the Pension Board and to furnish all pertinent information requested by the Pension Board. The Pension Board may rely upon all such information including the participant's current mailing address.

11.6 Facility of Payment. Whenever, in the Pension Board's opinion, a person entitled to receive any benefit is under a legal disability or is incapacitated in any way so as to be unable to manage financial affairs, the Pension Board may direct the custodian to make payments to such person's legal representative, or to a relative or friend of such person for the person's benefit or the Pension Board may direct the custodian to apply the payment for the benefit of such person in such manner as the Pension Board considers advisable. Any payment of a benefit in accordance with the provisions of this section

will discharge all liability for such benefit under the provisions of the Plan.

11.7 Indemnification. The Employer will indemnify the members of the Pension Board and any other employees of the Employer who are deemed fiduciaries and hold them harmless, against any and all liabilities, including legal fees and expenses, arising out of any act or omission made or suffered in good faith pursuant to the provisions of the Plan, or arising out of any failure to discharge any fiduciary obligation imposed other than a willful failure to discharge a fiduciary obligation of which the person was aware.

## **ARTICLE XII AMENDMENT AND TERMINATION OF PLAN**

12.1 Amendments. The Employer reserves the right at any time to amend or revoke any or all of the provisions of this Plan. However, any substantive amendment that affects a participant of this Plan who is in a collective bargaining unit is subject to the Employer's obligation to bargain in good faith with a recognized collective bargaining agent. Accrued benefits under the Plan as previously existing will not be diminished or impaired by future amendments to the Plan.

12.2 Right of Termination. The Plan may be terminated at any time, in accordance with the provisions of this Article, by action of the Library Trustees subject to the obligation of the Employer to bargain in good faith with respect to participants of this Plan who are members of a collective bargaining unit recognized by the Employer. Upon complete or partial termination of the Plan, the rights of each participant affected by the termination to benefits accrued to the date of termination, to the extent then funded, will become nonforfeitable. Any assets of the Plan remaining after satisfaction of liabilities of the Plan to participants and beneficiaries for accrued benefits will be distributed to the Employer.

12.3 Notice to Pension Board. If the Employer determines that the Plan is to be terminated, it will give the Pension Board written notice of the determination. The notice will specify a proposed date upon which the Plan is to be terminated, which will be not less than 90 days after the date on which the notice is given.

12.4 Exclusive Benefit. Except as provided in this Article, the Trust will not be diverted to or used for the Employer or for any purpose other than the exclusive benefit of the participants and beneficiaries and to pay administrative expenses.

## **ARTICLE XIII NONALIENATION OF BENEFITS AND DOMESTIC RELATIONS ORDERS**

13.1 Prohibitions of Assignments. The right to a benefit, to the return of

accumulated contributions, the benefit itself, any benefit option, and any other right accrued or accruing under the provisions of this Plan, and all monies belonging to the Plan will not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or any other process of law, and will be unassignable, except as specifically provided in this Plan; provided, that if a participant becomes covered by a group insurance or prepayment plan participated in by the Employer, and if the participant is permitted to, and elects to, continue the coverage as a retiree, the participant may authorize the Pension Board to deduct from the participant's benefit the payments required to continue coverage under such group insurance or prepayment plan. The Employer will have the right of setoff for any claim arising from embezzlement by or fraud of a participant, retiree or beneficiary. The prohibition of assignments will not apply to any "eligible domestic relations order" described in Section 13.2 or to any "retiree domestic relations order" described in Section 13.6.

13.2 Requirements for Eligible Domestic Relations Orders. The accrued benefit of a participant may be assigned to an alternate payee by an eligible domestic relations order ("EDRO") issued by a court of competent jurisdiction and filed with the Employer before the date benefit payments begin. A domestic relations order is not an EDRO unless it meets the requirements of Code Section 414(p)(1)(A)(i) and MCL 38.1701, et seq. An EDRO may award an alternate payee a share of the participant's benefit. The order may provide that benefits are payable in any form permitted under the Plan and permitted by MCL 38.1704; but the alternate payee may not elect a joint and survivor form of payment contingent on the life of any person except the participant and Alternate Payee. If the Alternate Payee elects to have benefits commence at any time prior to the participant's normal retirement age or in a form other than monthly payments for the life of the participant, the benefit payable will be actuarially adjusted (based on the actuarial assumptions of Subsection 2.1(c) of the Plan) to reflect payment at a different time and for a different form.

13.3 Procedure for Domestic Relations Orders. Whenever the Employer or Pension Board are served with a domestic relations order from a court of competent jurisdiction, the Pension Trustee will follow the following procedure in determining whether the order constitutes an "eligible domestic relations order" that would be exempt from the general spendthrift protection of this Article:

(a) The Pension Board will notify the participant and any "alternate payees" named in the order that the order was served on the Employer or Pension Board and that objections concerning the order must be submitted in writing within 15 days;

(b) The Pension Board will determine whether the order is an "eligible domestic relations order" as defined in this Article and notify the participant and each alternate payee of its determination. If the Pension Board determines that the order is an eligible domestic relations order, the

Pension Board will direct the custodian to make payment in accordance with the order except that payment will not be made until the participant has attained the age and service requirements for early retirement benefits under Section 5.1;

(c) During the period in which the Pension is determining the status of the order, payment of any benefits in dispute will be deferred and the amount of the disputed payments will be segregated in a separate account in the Plan. If the order is determined to be an eligible domestic relations order within 18 months after segregation of the benefits in dispute, the Pension Board will direct the trustee to pay the segregated amount, plus earnings, to the persons entitled to receive them in accordance with the order;

(d) If the Pension determines that the order is not an eligible domestic relations order, or if the 18 month period described in (c) has expired and the qualification issue has not been resolved, the Pension Board will direct the custodian to pay the segregated funds to the person or persons who would have received them if the order had not been served on the Pension Board or Employer. If the Pension Board determines that the order is a qualified domestic relations order after expiration of the 18 month period, the order will be applied prospectively only;

(e) If the order is determined not to be an eligible domestic relations order, any amounts segregated pursuant to this procedure will be restored to the account of the participant or distributed to the participant if eligible for distribution; and

(f) The Pension Board will notify the participant and all other alternate payees named in the order of its decision concerning the qualified status of the order. Payments pursuant to the order will be made as soon as practicable after the status of the order has been determined or as soon as the amounts become payable pursuant to this Plan.

13.4 Payment Pursuant to Eligible Domestic Relations Orders. Benefits payable pursuant to an eligible domestic relations order will be made in accordance with the order and upon proper application by the alternate payee. Payment to the alternate payee may begin anytime on or after the participant's earliest retirement date regardless of whether the participant actually terminates employment at that time. If the payments begin before the participant's termination of employment, the alternate payee will only be entitled to a benefit that is the actuarial equivalent of the alternate payee's share of the participant's benefit that would be payable when the participant reaches age 60. If the participant retires before age 60, the Plan will recalculate the benefit payable to the alternate payee so that the recalculated benefit plus the benefit previously paid to the alternate payee are

the actuarial equivalent of the alternate payee's share of the benefit payable to the participant. If the recalculated benefit is more than the benefit that the alternate payee is receiving, the Plan will begin paying the recalculated benefit to the alternate payee beginning the first day of the month immediately following the month in which the participant retires.

13.5 Accumulated Contributions. The plan will allocate to an alternate payee a pro rata share of the participant's accumulated contributions as of the date of the award of accrued benefits. This amount will be segregated for the benefit of the alternate payee and credited with regular interest thereafter. No accumulated contributions allocated to an alternate payee under an EDRO will be payable to either the participant or alternate payee except that this amount may be paid to alternate payee pursuant to Section 9.4 as if the alternate payee's beneficiary were the participant, if appropriate.

13.6 Retiree Domestic Relations Order. A court of competent jurisdiction may order a division of a retiree's benefit in the form paid prior to the divorce or in a single life annuity form as described in paragraph (1), below, and award a percentage or dollar amount to be paid to the former spouse.

(a) If the retiree is receiving a reduced retirement benefit naming the former spouse as the retiree's survivor beneficiary, the benefit election will be considered void if an order of a court of competent jurisdiction provides that the benefit payment form is to be considered void and a certified copy of the order is served on the Employer. If the benefit payment form is declared void, the benefit payment form will revert to a single life annuity over the life of the retiree, including all post-retirement adjustments. The court may order payment of a percentage or dollar amount of the single life annuity to the alternate payee in the manner described in (b), below.

(b) A court of competent jurisdiction may order a division of a retiree's benefit in the form paid prior to the divorce and award a percentage or dollar amount to be paid to the former spouse. If the retiree predeceases alternate payee, survivor benefits, if any, will be paid in the form and to the beneficiary elected prior to the divorce. If the alternate payee predeceases the retiree, the alternate payee's interest will revert to the participant.

13.7 Additional Requirements. A domestic relations order may not require the Plan to provide a type or form of benefit not provided by the Plan and may not require the Plan to provide an increased benefit determined on the basis of actuarial value. The validity of orders under this section will be determined using a procedure that is the same as the procedure described in Section 11.3, to the extent possible.

## **ARTICLE XIV MISCELLANEOUS**

14.1 Status of Participants. No participant will have any right or claim to any benefits under the Plan except in accordance with the provisions of the Plan. The adoption of the Plan will not be construed as creating any contract of employment between the Employer and any participant or to otherwise confer upon any participant or other person any legal right to continuation of employment, nor as limiting or qualifying the right of the Employer to discharge any participant without regard to any effect the discharge might have upon the participant's rights under the Plan.

14.2 Litigation. In any application to or proceeding or action in the courts, only the Employer and the Pension Board will be necessary parties and no participant or other person having an interest in the trust will be entitled to any notice or service of process. The Pension Board may place a participant's funds in the hands of the court for its determination, which payment will absolve the Pension Board from any claim. Any judgment entered in such a proceeding or action will be conclusive upon all persons claiming under this trust.

If any participant or beneficiary institutes any litigation in connection with this Plan or the trust, the result of which is adverse to the party instituting such action, the Pension Board will deduct from the benefits payable to the participant or beneficiary any expense including reasonable attorney fees occasioned by the litigation. If any dispute arises as to the person or persons to whom payment or delivery of any funds or property will be made by the Pension Board, the Pension Board may retain the disputed funds or property until final adjudication is made by a court of competent jurisdiction.

14.3 Correction of Errors. If any change or error in records results in any person receiving from the Plan more or less than the person would have been entitled to receive had the records been correct, the Pension Board will correct the errors, and as far as practicable will adjust payment of the benefit so that the actuarial equivalent of the benefit to which such person was correctly entitled will be paid.

14.4 Governing Law. This Plan will be interpreted, construed, and enforced in accordance with laws of Michigan and the Internal Revenue Code.

14.5 Severability of Provisions. If any provisions of the Plan will at any time be declared void and unenforceable, the other provisions will be severable and will not be affected thereby.

14.6 Internal Revenue Code Qualification. The Plan is intended and has been administered to be a qualified pension plan under §401 of the Internal Revenue Code, as

amended (“IRC” or “Code”), or successor provisions of law and other applicable laws, regulations, and administrative authority. The Plan is a governmental plan under IRC §414(d) and is administered for the exclusive benefit of the Plan’s participants and their beneficiaries. The Plan’s trust is an exempt organization under IRC §501. The Plan shall be administered as a qualified plan consistent with the provisions.

In witness whereof, the Employer has adopted this Plan on the 20<sup>th</sup> day of May, 2010.

KENT DISTRICT LIBRARY

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Its: Director

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

Its: Human Resources Director