

Authority: Government Management Committee Item GM23.3, as adopted by City of Toronto Council on December 5, 6, 7 and 8, 2017

CITY OF TORONTO

BY-LAW 1428-2017

To consolidate former City of York By-law 3349-96 and all amendments respecting pensions and other benefits and privileges.

Whereas By-law 3349-96 of the former City of York, a by-law "To amend the Restated Plan Text for the City of York Employee Pension Plan", as amended, governs The Corporation of the City of York Employee Pension Plan; and

Whereas the City expects to enter into an agreement with the OMERS Sponsors Corporation and the OMERS Administration Corporation for the transfer in 2018 of the Plan's assets and liabilities to the OMERS Primary Pension Plan pursuant to section 80.4 of the *Pension Benefits Act* (Ontario), and the last-mentioned Corporation has requested that the City enact a revised version of the Plan's text consolidating all amendments; and

Whereas it is desirable that such revised version include certain administrative harmonizations;

The Council of the City of Toronto enacts:

1. In this by-law:
 - (a) "Schedule" means Schedule A attached to this by-law;
 - (b) "former City" means the former Corporation of the City of York;
 - (c) "Plan" means The Corporation of the City of York Employee Pension Plan.
2. The further restated and revised version of the text of Plan set forth in Schedule A is adopted as the text of the Plan in substitution for Schedule A attached to By-law 3349-96 of the former City, as amended.
3. The text of Schedule A attached to this By-law shall be interpreted:
 - (a) having regard to:
 - (i) the assumption by the City of all obligations of the former City as of January 1, 1998; and
 - (ii) the retirement in 2004 of the last active member of the Plan; and
 - (b) so as to make the expectation set forth in section 17.01 of the Appendix subject to the supervening expectation described in the preamble to this by-law.
4. By-law 3349-96, as amended, of the former City of York is repealed.

Enacted and passed on December 8, 2017.

Frances Nunziata,
Speaker

Ulli S. Watkiss,
City Clerk

(Seal of the City)

SCHEDULE A

THE CORPORATION OF THE CITY OF YORK

EMPLOYEE PENSION PLAN

EFFECTIVE JANUARY 1, 1992

DECEMBER, 2017

THE CORPORATION OF THE CITY OF YORK
EMPLOYEE PENSION PLAN
EFFECTIVE JANUARY 1, 1992
AS AMENDED TO DECEMBER, 2017

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THE CORPORATION OF THE CITY OF YORK
EMPLOYEE PENSION PLAN
EFFECTIVE JANUARY 1, 1992

As amended to December, 2017

ARTICLE 1

INTRODUCTION

- 1.01 The Plan provides retirement income and related benefits for eligible employees of Participating Employers who are employed on and after the Effective Date. The Plan incorporates and preserves the entitlements and benefits accrued prior to the Effective Date under the applicable Prior Plans. All assets accumulated under such Prior Plans are therefore consolidated in the Fund established for the Plan, and all liabilities under such Prior Plans are correspondingly assumed under the terms of the Plan.
- 1.02 Benefits in respect of a Member whose employment ceased prior to the Effective Date shall be determined in accordance with the terms of the applicable Prior Plan at the time of such cessation of employment except as may be specifically provided herein.
- 1.03 The Plan is intended to be an employees' pension plan accepted for registration under the Income Tax Act and Applicable Pension Laws. The Plan shall be organized and administered to comply with the registration requirements under Revenue Rules and Applicable Pension Laws. If the Plan fails to comply with such requirements, the Corporation may in its absolute discretion amend the Plan to comply with such requirements or terminate the Plan.
- 1.04 As a condition of participation in the Plan, the Corporation and Participating Employers agree that the Plan not be considered to be a multiemployer pension plan within the meaning of Applicable Pension Laws.

ARTICLE 2

CONSTRUCTION, INTERPRETATION AND DEFINITIONS

CONSTRUCTION AND INTERPRETATION

- 2.01 In the Plan, references to the masculine include the feminine and vice versa; references to the singular shall include the plural and vice versa, as the context shall require, and references to a subparagraph, paragraph, section or article mean a subparagraph, paragraph, section or article of the Plan.
- 2.02 The Plan shall be construed, governed and administered in accordance with the laws of the Province of Ontario, and the laws of Canada applicable therein.
- 2.03 All amounts payable under the Plan shall be construed as being expressed in the lawful currency of Canada.

- 2.04 If any provision of the Plan or part thereof is determined to be void or unenforceable in whole or in part, such determination shall not affect the validity or enforcement of any other provision or part thereof.
- 2.05 Headings wherever used herein are for reference purposes only, and do not limit or extend the meaning of any of the Plan's provisions.

DEFINITIONS

- 2.06.0 In the Plan, unless the context clearly indicates otherwise, the expressions defined in sections 2.06 to 2.50 shall have the meanings provided for therein.
- 2.06 "Actuarial(ly) Equivalent" means a benefit of equivalent value but of different form of payment, as determined on a basis of calculation adopted by the Corporation on the advice of the Actuary, in accordance with Applicable Pension Laws and Revenue Rules, and in effect on the date such determination is being made.
- 2.07 "Actuary" means a person who is a Fellow of the Canadian Institute of Actuaries, appointed by the Committee, to carry out actuarial valuations and provide actuarial advice and service.
- 2.08 "Administrator" means the York Employees' Pension and Benefit Committee responsible for administering the Plan in accordance with section 19.01.
- 2.09 "Applicable Pension Laws" means the *Pension Benefits Act, 1987* (Ontario) and any regulation pursuant thereto and any amendments or substitutes therefor as well as any similar statute applicable in a particular circumstance and any regulation pursuant thereto adopted by the federal or any provincial government.
- 2.10 "Beneficiary" means the person last designated by the Member to receive benefits under the Plan in the event of the death of the Member in accordance with article 11.
- 2.11 "Closing Inactive Lives Fund ("CILF") means the amount, as determined by the Actuary, of the OILF at the end of the calendar year. This figure is calculated by adjusting the OILF for the investment income, recognized capital gains and losses, and expenses on a pro rata basis with the entire Fund, and assuming that all benefits paid to recipients valued in that year's OILR are paid from the OILF.
- 2.12 "Closing Inactive Lives Reserve" ("CILR") means the liability of the Fund, as determined by the Actuary, with regard to pensioners, deferred Members eligible for pensions, and survivors in receipt of pension benefits as of each December 31. This reserve shall be calculated using the amounts of pension and recipients utilized in determining the OILR for the same calendar year.
- 2.12.1 "Committee" means the York Employees' Pension and Benefit Committee provided for in paragraph 19.03(a).
- 2.13 "Continuous Service" means the service of a Member as defined in section 4.01.

- 2.14 "Corporation" means, until December 31, 1997, the former City of York and thereafter the City of Toronto.
- 2.15 "Credited Service" means the service of a Member as defined in section 4.02.
- 2.16 "Council" means the Council of the Corporation.
- 2.17 "Date of Determination" means the date as of which a benefit is to be calculated under the Plan, as specified in each relevant section, and being:
- (a) a Member's Retirement Date,
 - (b) a Member's date of termination of employment;
 - (c) a Member's date of death;
 - (d) the date of amendment of the Plan;
 - (e) the date of discontinuance of the Plan; and
 - (f) the date of consolidation or merger of the Plan with another plan.
- 2.18 "Dependant" means a child of a Member under the age of eighteen (18) years or under the age of twenty-one (21) years and who is attending, on a full-time basis, an educational institute of a class determined by the Administrator.
- 2.19 "Early Retirement Date" means the date of a Member's actual retirement determined in accordance with section 7.02.
- 2.20 (a) "Earnings" means salary or wages (including any sick pay, vacation pay and Worker's Compensation received in lieu of wages and salary, and any annual salary or allowance payable under the provisions of any By-law or otherwise) and actually received, and shall include:
- (i) such sums, for such periods of time, as Council may, by resolution, declare for pension purposes to be unpaid earnings accruing to a Member by reason of special services performed for a Participating Employer; and
 - (ii) any payment received by a Member in the year of retirement representing unused sick leave.
- Earnings shall not include any payment made specifically as car allowance or any overtime pay or any bonus.
- (b) For the purposes of the following paragraph (c) only, Earnings is subject to the following adjustments:
- (i) with respect to any period of Continuous Service during which the Member has not actually received Earnings from a Participating Employer, the Member's Earnings for such period shall be deemed to have continued unchanged at the regular rate in effect immediately before such period;

(ii) with respect to any period of Continuous Service during which the Member is not in full-time employment with a Participating Employer, the Earnings for each month of such period shall be adjusted in the ratio that,

(A) the number of hours the Member would have worked during such month had the Member worked on a full-time basis in the same category of employment during such month, as determined by the Participating Employer, bears to

(B) the number of hours the Member actually worked during such month, as determined by the Participating Employer,

such ratio not to be less than one (1).

(c) "Best Average Earnings" means the annualized average of a Member's highest sixty (60) consecutive months of Earnings prior to the Date of Determination or, where the Member's Continuous Service is less than sixty (60) months, the annualized average of the Member's Earnings during his Continuous Service.

(d) "Best Three Year Average Earnings" means the annualized average of a Member's highest thirty-six (36) consecutive months of Earnings prior to the Date of Determination or, where the Member's Continuous Service is less than thirty-six (36) months, the annualized average of the Member's Earnings during his Continuous Service.

2.21 "Effective Date" means January 1, 1992.

2.22 "Employee" means a person who is either:

(a) in full-time employment with a Participating Employer, or

(b) in part-time employment with a Participating Employer and has completed two (2) consecutive calendar years after 1985 during which he earned at least thirty-five percent (35%) of the YMPE or he worked seven hundred (700) hours with a Participating Employer in each such calendar year.

2.23 "Fire Fighter" means a Member who is an Employee of the Corporation's Fire Department.

2.24 "Fund" means the fund established for the purposes of the Plan, the assets of which are held by a Funding Agency under a Funding Agreement.

2.25 "Funding Agency" means a trust or insurance company or any group of individual trustees or any combination thereof eligible under Applicable Pension Laws, designated by the Corporation and holding the whole or a portion of the assets of the Fund at any time pursuant to the terms of a Funding Agreement.

2.26 "Funding Agreement" means any written arrangement or agreement in force between the Corporation and any Funding Agency.

- 2.27 "Inactive Lives Excess Yield" means the earnings of the Fund that are in excess of that needed to match the liabilities established for pensioners, survivors and deferred Members. This percentage is calculated annually by the formula:

$$\frac{\text{CILF} - \text{CILR}}{\text{CILR}} \times 100\%$$

This figure will be calculated annually by the Actuary.

- 2.28 "Income Tax Act" means the *Income Tax Act* (Canada) and any applicable provincial income tax act, as amended from time to time, together with any relevant regulations and application rules made thereunder from time to time.
- 2.29 "Interest" means the amount of money credited to Required Contributions in accordance with article 6.
- 2.30 "Member" means an individual who has joined the Plan in accordance with article 3 and who remains contingently or absolutely entitled to a retirement income under the Plan.
- 2.31 "Non-Contributing Member" means any Member who is not permitted to contribute to the Plan. At the later of the Effective Date and the date of completion of thirty-five (35) years of Credited Service, all Members automatically become Non-Contributing Members.
- 2.32 "Normal Retirement Date" means the date specified in section 7.01.
- 2.33 "Opening Inactive Lives Fund" ("OILF") means the amount of the Fund set aside to match the OILR. This amount, as determined by the Actuary, will always equal the OILR for the same calendar year.
- 2.34 "Opening Inactive Lives Reserve" ("OILR") means the liability of the Fund, as determined by the Actuary, with regard to pensioners, deferred Members eligible for pensions, and survivors in receipt of pension benefits as of each January 1.
- 2.35 "Participating Employer" means the Corporation and any of its Local Boards which agree in writing to participate under the Plan.

As of the Effective Date the following were Participating Employers:

- The Corporation of the City of York,
Board of Health for the City of York Health Unit,
The City of York Public Library Board.
- 2.36 "Plan" means the "The Corporation of the City of York Employee Pension Plan" organized and administered in accordance with the terms of this document as amended from time to time and where the context requires, means the arrangement organized and administered in accordance with the terms of this document.
- 2.37 "Plan Year" means a calendar year beginning on January 1 and ending on December 31.
- 2.38 "Postponed Retirement Date" means the date specified in section 7.03.

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- 2.39 "Prior Plan" means
- The 1970 Plan,
 - The 1955 Plan, and
 - The 1945 Plan.
- 2.40 "Reciprocal Agreement" means an agreement between the Corporation and another legal entity relating to two or more pension plans that provides for the transfer of assets or liabilities for employment in respect of individual members.
- 2.41 "Regular Member" means any Member who is not a Fire Fighter.
- 2.42 "Required Contributions" means contributions which the Member is required to make to the Plan in accordance with article 5 and the required contributions, if any, made by the Member to a Prior Plan.
- 2.43 "Retirement Date" means the Early, Normal or Postponed Retirement Date on which a Member actually retires or is deemed to retire.
- 2.44 "Revenue Rules" means the provisions of the Income Tax Act and the regulations adopted thereunder from time to time pertaining to employees' pension plans or funds registered under the Income Tax Act as they are applicable to the Plan.
- 2.45 "Spouse"
- (a) during the time prior to January 1, 2002, means, in relation to a Member, the person who, at the earlier of the commencement of a Member's pension and the date of the Member's death, is:
 - (i) married to the Member; or
 - (ii) not married to the Member but has been living with the Member in a conjugal relationship,
 - (A) continuously for a period of not less than three (3) years; or
 - (B) in a relationship of some permanence, if they are, within the meaning of the *Family Law Act* (Ontario) or any successor legislation, the natural or adoptive parents of a child,

provided that this subclause (ii) shall apply with respect to a Member and a person of the same sex only if the Member has died on or after June 5, 1998,

provided that the person is not living separate and apart from the Member at that time; and
 - (b) for the time subsequent to December 31, 2001, means, with respect to a Member at a particular time, a person who is then as described in either subclause (a)(i) or (a)(ii) and not living separate and apart from the Member, except that for the purposes of this clause (b), the part of item (a)(ii)(B) following the text "they are"

shall be deemed instead to read "the parents of a child, as set out in the Children's Law Reform Act",

and 'Spousal' has a corresponding meaning.

- 2.46 "The 1945 Plan" means the plan authorized and established under the provisions of By-law 12576.
- 2.47 "The 1955 Plan" means the plan authorized and established under the provisions of By-law 15202.
- 2.48 "The 1970 Plan" means the plan authorized and established under the provisions of By-law 774-70.
- 2.49 "Totally and Permanently Disabled" means, in relation to an individual, suffering from a physical or mental impairment that prevents the individual from engaging in any employment for which the individual is reasonably suited by virtue of the individual's education, training or experience and that can reasonably be expected to last for the remainder of the individual's lifetime as certified in writing by a medical doctor who is acceptable to the Corporation and licensed to practice under the laws of a province or of the place where the member resides.
- 2.50 (a) "YMPE" means the Year's Maximum Pensionable Earnings established each year under the Canada Pension Plan as may be amended from time to time, or under any superseding legislation.
- (b) "YMPE Average" means the average of the YMPE in the calendar year of the Date of Determination and the YMPE in the two (2) preceding years.

ARTICLE 3

MEMBERSHIP

3.01 Members on Effective Date

Each person who is an Employee and who is a member of a Prior Plan immediately prior to the Effective Date shall automatically become a Member as of the Effective Date and shall be considered to have become a Member on the date he became a member of the Prior Plan.

3.02 Other Employees

Each Employee who became an Employee before July 1, 1968, and who is not a Member on the Effective Date shall become a Member on the first day of the month following completion of one (1) year of Continuous Service and the attainment of age twenty-one (21) provided he has not then reached the age of seventy (70) years.

3.03 Statutory Requirement

Notwithstanding section 3.02, any person who was employed before July 1, 1968, and becomes a part-time Employee in accordance with subparagraph 2.22(ii) shall thereupon become a Member.

3.04 Not a Contract of Employment

Nothing herein contained shall be deemed to give any Employee the right to be retained in the service of a Participating Employer or to interfere with the rights of a Participating Employer to discharge or lay off any Employee at any time and to treat such Employee without regard to the effect which such treatment might have under the Plan, upon such Employee.

3.05 Enrolment

Upon becoming a Member, the Employee shall complete and sign an enrolment form prescribed by the Administrator, including therein an acceptance of all the provisions of the Plan.

3.06 No Discontinuance of Membership

While an Employee, a Member may not terminate, suspend or withdraw from participation in the Plan.

ARTICLE 4

SERVICE

4.01 Continuous Service

"Continuous Service" means the period of uninterrupted employment of a Member with a Participating Employer, beginning with the date on which the Member was last hired by a Participating Employer or any predecessor corporation or any other corporation associated with a Participating Employer and ending on the earliest of

- (a) the Member's no longer being employed by any Participating Employer or any other corporation associated with a Participating Employer;
- (b) the Member's death;
- (c) the Member's Retirement Date; and
- (d) the discontinuance of the Plan without immediate substitution of a successor employees' pension plan.

To the extent, however, that periods are included in Credited Service by virtue of paragraph 4.03(c), then such periods shall also be included in Continuous Service.

4.02 Credited Service

"Credited Service" with respect to a Member means the number of years (including completed months as fractions thereof) of Continuous Service in respect of which the Member makes Required Contributions under the Plan, or makes such payments as are required by section 4.06.

4.03 Exclusions, Inclusions and Adjustments of Credited Service

Notwithstanding section 4.02, Credited Service is subject to the following exclusions, inclusions and adjustments.

(a) Adjustments for Less Than Full-time Work

With respect to any period of Continuous Service during which the Member is not in full-time employment with a Participating Employer, Credited Service for each month of such period shall be adjusted in the ratio that,

- (i) the number of hours the Member actually worked during such month, as determined by the Participating Employer, bears to
- (ii) the number of hours the Member would have worked during such month had the Member worked on a full-time basis in the same category of employment during such month, as determined by the Participating Employer,

such ratio not to exceed one (1).

(b) Exclusions from Credited Service

Credited Service shall not include:

- (i) any period of active membership of a Member in any other pension plan of a Participating Employer or any other corporation associated with a Participating Employer for which a benefit is accrued and during which the Member did not make Required Contributions under the Plan;
- (ii) any period prior to the latest date of appointment as an Employee where his Continuous Service with a Participating Employer was interrupted;
- (iii) any period which would result in Credited Service exceeding thirty-five (35) years; and
- (iv) any period in respect of which there are arrears of contributions which the Member elected to not pay.

(c) Special Inclusions in Credited Service

Credited Service shall include:

- (i) all time lost on account of accident and illness while in the full-time permanent service of a Participating Employer, provided the Member was either paid for such time or, although not paid, was deemed to have been on sick leave, or in receipt of Worker's Compensation benefits;
- (ii) any period or leave of absence for active service during any war in the armed forces of Canada and its allies, provided he returns to the Service of a Participating Employer within three (3) months of the cessation of hostilities;
- (iii) any period of vacation or leave of absence other than provided for in subparagraph (ii) with or without pay, subject to continuation of contributions to the Fund by or on behalf of such Member in respect of such period;
- (iv) any period representing unused sick leave in respect of which a Member receives a payment in the year of retirement to the extent permitted under Revenue Rules; and
- (v) any period of service purchased by a Fire Fighter in accordance with the terms of a Prior Plan.

In no event, however, shall the total periods of Credited Service without pay included under subparagraphs (i), (ii) and (iii) in respect of a Member, excluding those throughout which the Member suffers a physical or mental impairment, as certified in writing by a qualified medical doctor licensed to practice in Canada, that prevents the Member from performing the duties of employment in which the Member was engaged before the commencement of the impairment, exceed the sum of:

Five (5) years; and

the number of months of parenting leaves, as defined in Revenue Rules, subject to a maximum of three (3) such parenting leaves and a maximum of twelve (12) months for any one parenting leave,

such total limit being subject to further adjustment at the sole discretion of the Corporation as permitted under Revenue Rules taking into account the Plan's pension formula.

4.04 Transfer of Employment

- (a) If a Member is transferred within a Participating Employer or to another Participating Employer to a category of employment such that the Member ceases to be an Employee for the purposes of the Plan or is transferred to a legal entity which is associated with a Participating Employer which does not itself participate in the Plan,
 - (i) this transfer shall not constitute a termination of employment for the purposes of article 12;

- (ii) the Member's Continuous Service shall include all periods of uninterrupted employment of the Member with a Participating Employer or a legal entity which is associated with a Participating Employer; and
- (iii) the Member's Credited Service shall exclude those periods of his employment with a Participating Employer or a legal entity which is associated with a Participating Employer while the Member was not an Employee;

provided that the Member does not elect to receive benefits in accordance with article 12.

- (b) The transfer of a Member from one Participating Employer to another Participating Employer such that the Member still remains an Employee for the purposes of the Plan shall not constitute a termination of employment for the purposes of article 12 and such person will continue to be a Member of the Plan and to accrue Continuous Service and Credited Service without interruption.

4.05 Re-Employment

- (a) In the event that an Employee terminates employment with a Participating Employer other than by retirement and is subsequently employed with a Participating Employer, his periods of Continuous Service shall be treated separately, and the second period shall be considered to start from the date of said subsequent re-employment for the purposes of the Plan, unless otherwise agreed in writing by the Corporation under specified applicable conditions.
- (b) In the event that an Employee retires on a Retirement Date and is subsequently reemployed with a Participating Employer prior to Normal Retirement Date, the Employee's retirement income shall cease and such Employee shall accrue additional Continuous Service and Credited Service as if the two periods of service had been contiguous.
- (c) In the event that an Employee retires on a Retirement Date and is subsequently re-employed with a Participating Employer on or after Normal Retirement Date, the Employee shall continue to receive his retirement income and shall not accrue further Continuous Service or Credited Service.

4.06 A Member who completed at least one (1) year of Continuous Service with a Participating Employer before becoming a Member of the Plan, the 1970 Plan, or the 1955 Plan may at any time pay into the Fund the full actuarial amount required to increase his Credited Service by the amount of Continuous Service accrued prior to becoming a Member, and upon such payment the Member's Credited Service shall be so increased.

ARTICLE 5

REQUIRED CONTRIBUTIONS

5.01 Required Contributions

In each calendar year or portion thereof, a Regular Member shall be required to contribute to the Plan, by regular payroll deduction, three point nine percent (3.9%) of Earnings up to the YMPE and six percent (6%) of Earnings in excess of the YMPE. A Fire Fighter shall be required to contribute to the Plan, by regular payroll deduction, four point four percent (4.4%) of Earnings up to the YMPE and six and one half percent (6½%) of Earnings in excess of the YMPE. Such Required Contributions shall cease upon the earliest of:

- (a) the Member's transfer to a category of employment where the Member ceases to accrue Credited Service,
- (b) the Member's termination of employment,
- (c) the Member's Retirement Date,
- (d) the Member's death,
- (e) the date of discontinuance of the Plan, or
- (f) the Member's becoming a Non-Contributing Member.

In no event shall the Required Contributions made by a Member during any calendar year commencing on or after January 1, 1992 exceed the sum of (A) and (B) where:

- (A) is \$300; and
- (B) is the product of:
 - six and three-tenths (6.3); and
 - \$1,722.22 or such other amount that is permitted under Revenue Rules as the maximum unit benefit accrual for retirements during that calendar year.

All Required Contributions shall be paid into the Fund within the time limits specified in Applicable Pension Laws.

ARTICLE 6

INTEREST CREDITS

6.01 Compounding

Interest shall commence to accrue to Required Contributions including contributions held under the Plan by members of the Prior Plan who terminated prior to the Effective Date,

from the first (1st) day of the month following the date on which such contributions are required to be paid into the Plan. Interest shall be credited annually at the end of each Plan Year, and to the first (1st) day of the month in which the payment is made or up to the Member's Retirement Date, whichever shall first occur.

6.02 Rate of Interest - Full Year

The rate of Interest credited to accumulated Required Contributions at the end of each Plan Year shall be the rate established by Council. In no event shall the rate of Interest credited to accumulated Required Contributions be less than the calendar year average of the yields of five (5) year personal fixed term chartered bank deposit rate published monthly in the Bank of Canada Review as CANSIM series B14045 for the calendar year.

6.03 Rate of Interest - Partial Year

The annualized rate of Interest credited to accumulated Required Contributions for the partial year in which payment falls due shall be at the rate specified in section 6.02 in respect of the previous Plan Year, adjusted on a pro rata basis to reflect the completed months in the calendar year up to date of payment.

ARTICLE 7

RETIREMENT DATES

7.01 Normal Retirement

The Normal Retirement Date of a Regular Member is the first (1st) day of the month next following the day the Member attains age sixty-five (65). The Normal Retirement Date of a Fire Fighter is the first (1st) day of the month next following the day the Member attains age sixty (60).

7.02 Early Retirement

A Member may retire on an Early Retirement Date which shall be the first (1st) day of any month following the Member having attained age fifty (50).

7.03 Postponed Retirement

If the Member continues in the employ of a Participating Employer beyond Normal Retirement Date, the Member shall retire, or be deemed to have retired for the purposes of the Plan, not later than December 1 of the Plan Year in which the Member attains age seventy-one (71). The date of the Member's actual or deemed retirement in accordance with this paragraph shall be the Postponed Retirement Date.

7.04 [Commencement of Benefits]

Notwithstanding any other provision of the plan, the pension benefits to which an individual is entitled under the plan will commence to be paid not later than the end of the calendar year in which the individual attains 69 years of age, or such other time as is acceptable under the *Income Tax Act* of Canada and its Regulations.

ARTICLE 8

RETIREMENT INCOME FORMULA

The formulae shown in this article are used in the calculation of the retirement income in respect of a Member, and the amount derived therefrom is the basis on which the actual amount of retirement income will be determined in accordance with the applicable provisions of the Plan.

The annual amount of retirement income as of a Member's Date of Determination shall be equal to the benefit determined in accordance with the remainder of this article.

8.01 Benefit

The Benefit shall be equal to (a) - (b) where:

- (a) is two percent (2%) of Best Average Earnings multiplied by Credited Service; and
- (b) is seven tenths of one percent (0.7%) of the lesser of Best Average Earnings and the YMPE Average multiplied by Credited Service after December 31, 1965.

8.02 In no case shall the Member's Benefit with respect to Credited Service up to and including December 31, 1969 be less than that which stood to his credit under the 1955 Plan, as amended up to such date.

8.03 Where at the date of termination of Service a Member has received annuity payments from an earlier age under the 1945 Plan, the amount of Benefit to which such a Member would otherwise be entitled under this Plan shall be actuarially adjusted.

8.04 Maximum Retirement Income

Notwithstanding the foregoing provisions of this article, the annual rate, at the point of pension commencement, of the total amount of retirement income of a Member under the foregoing provisions of this article and the defined benefit provision of any other pension plan of a Participating Employer shall not exceed the sum of (a) and (b), where

- (a) is equal to the product of (i) and (ii) as follows:
 - (i) the lesser of
 - (A) two percent (2%) of the Member's Best Three Year Average Earnings; and
 - (B) \$1,722.22 or such higher amount as determined under Revenue Rules at the point of pension commencement;
 - (ii) the lesser of
 - the sum of (A) and (B) as follows:
 - (A) Credited Service prior to January 1, 1990 less any Past Pensionable Service;

- (B) Credited Service after December 31, 1989; and
thirty-five (35) years;
- (b) is equal to the product of (i) and (ii) as follows:
 - (i) the lesser of
 - (A) two percent (2%) of the Member's Best Three Year Average Earnings; and
 - (B) the greater of \$1,150 and two-thirds (2/3) of the amount specified in subparagraph (a)(i)(B);
 - (ii) the lesser of
 - (A) Past Pensionable Service; and
 - (B) thirty-five (35) years less the number of years specified in subparagraph (a)(ii)(A), but not less than zero (0).

For the purposes of the foregoing, "Past Pensionable Service" means any period of Credited Service prior to January 1, 1990 and granted to the Member after June 7, 1990 during which contributions were not made by, or on behalf of, the Member under the money purchase provision of any pension plan or deferred profit sharing plan of a Participating Employer.

In respect of service prior to January 1, 1992, for a Member whose retirement income determined as at January 1, 1992 would otherwise have been limited by the application of subparagraph 8.04(a)(i)(B), at the Member's Date of Determination Section 8.04 shall be read without reference to such subparagraph.

ARTICLE 9

AMOUNT OF RETIREMENT INCOME

9.01 Normal Retirement

A Member who is accruing Continuous Service and who retires at Normal Retirement Date will receive an amount of retirement income payable from the Member's Normal Retirement Date and computed in accordance with article 8, using the Member's Normal Retirement Date as the Date of Determination.

9.02 Early Retirement

- (a) For the purposes of this section and section 9.03, "Pension Commencement Date" means the Member's Early Retirement Date, except, where the Member retires on an Early Retirement Date and elects to postpone the commencement of his retirement income to the first (1st) day of a month following the Early Retirement

date, "Pension Commencement Date" means the date on which the Member elects to start receiving his retirement income.

- (b) A Member who retires on an Early Retirement Date will receive an amount of retirement income computed in accordance with article 8 using the Member's Early Retirement Date as his Date of Determination, reduced to be the Actuarial Equivalent of the annual benefit commencing on his Normal Retirement Date.
- (c) Notwithstanding paragraph 9.02(b), a Fire Fighter
 - (i) who elects to retire on an Early Retirement Date,
 - (ii) who has at least thirty (30) years of Credited Service,
 - (iii) who has attained the age of fifty (50) years, and
 - (iv) who is entitled to a Benefit from the Plan as provided in article 12,will receive an amount of retirement income computed in accordance with article 8 using the Member's Early Retirement Date as his Date of Determination.
- (d) Notwithstanding paragraph 9.02(b), a Regular Member,
 - (i) who elects to retire on an Early Retirement Date,
 - (ii) who has at least thirty (30) years of Credited Service,
 - (iii) who has attained the age of fifty-five (55) years, and
 - (iv) who is entitled to a Benefit from the Plan as provided in article 12,will receive an amount of retirement income computed in accordance with article 8 using the Member's Early Retirement Date as his Date of Determination.
- (e) For a Regular Member, the early retirement income referred to in paragraphs (b), (c), or (d) shall not be greater than the amount of retirement income computed in accordance with article 8 multiplied by one hundred percent (100%) less one quarter percent (0.25%) for each month, if any, by which Pension Commencement Date precedes the earliest of:
 - (i) the date the Member attains age sixty (60);
 - (ii) the date the Member completed, or would have completed had the Member continued in employment after his Early Retirement Date, thirty (30) years of Continuous Service; and
 - (iii) the date on which the aggregate of the Member's age and Continuous Service is, or would have been had the Member continued in employment after his Early Retirement Date, equal to eighty (80) years.

- (f) For a Fire Fighter, the early retirement income referred to in paragraphs (b), (c), or (d) shall not be greater than the amount of retirement income computed in accordance with article 8 multiplied by one hundred percent (100%) less one-quarter percent (0.25%) for each month, if any, by which Pension Commencement Date precedes the earliest of:
- (i) the date the Member attains age fifty-five (55);
 - (ii) the date the Member completed, or would have completed had the Member continued in employment after his Early Retirement Date, twenty-five (25) years of Continuous Service; and
 - (iii) the date on which the aggregate of the Member's age and Continuous Service is, or would have been had the Member continued in employment after his Early Retirement Date, equal to seventy-five (75) years.

9.03 Bridge Benefit

- (a) In addition to the retirement income specified in paragraph 9.02(b), 9.02(c), or 9.02(d), a Member who retires on an Early Retirement Date will receive a monthly temporary retirement income payable from Pension Commencement Date to the end of the month preceding the date the Member attains age 65. This monthly retirement income is equal to one-twelfth (1/12) of seven tenths percent (0.7%) of the lesser of Best Average Earnings and the YMPE Average multiplied by Credited Service after December 31, 1965.
- (b) The monthly temporary retirement income payable under paragraph (a) at Pension Commencement Date shall not exceed the product of (i) and (ii), where
- (i) is equal to the sum of
 - (A) the maximum monthly pension benefit payable under the *Old Age Security Act* on Pension Commencement Date as if the Member were age sixty-five (65); and
 - (B) the maximum monthly pension benefit payable under the Canada Pension Plan on Pension Commencement Date as if the Member were age sixty-five (65), multiplied by the ratio, not to exceed one (1), that the total of the Member's remuneration for the three (3) calendar years in which the remuneration is the highest bears to the total of the YMPE for those three (3) years;
 - (ii) is equal to the sum of
 - (A) the ratio that the Member's Credited Service prior to January 1, 1992 bears to his total Credited Service; and
 - (B) the product of
 - the ratio that the Member's Credited Service after December 31, 1991 bears to his total Credited Service;

the ratio that the lesser of ten (10) and the Member's Credited Service bears to ten (10); and

one hundred percent (100%) less one-quarter percent (0.25%) for each month, if any, by which Pension Commencement Date precedes the date the Member attains age sixty (60).

- (c) Notwithstanding the foregoing provisions of this section, the annual rate of that portion of the total amount of retirement income payable to the Member from Pension Commencement Date to the end of the month preceding the date the Member attains age 65 which is in respect of Credited Service after December 31, 1991, under the foregoing provisions of this section and section 9.02 and the defined benefit provision of any other pension plan of a Participating Employer shall not exceed the sum of (i) and (ii), where
- (i) is equal to the product of (A) and (B) as follows:
- (A) \$1,722.22 or such higher amount as determined under Revenue Rules at Pension Commencement Date;
- (B) Credited Service after December 31, 1991;
- (ii) is equal to the product of (A) and (B) as follows:
- (A) twenty-five percent (25%) of the average of the YMPE for the calendar year in which the retirement income commences to be paid and the two (2) preceding calendar years, divided by thirty-five (35);
- (B) the lesser of thirty-five (35) and the Member's Credited Service after December 31, 1991;

and further adjusted from Pension Commencement Date to reflect increases in the Consumer Price Index as published by Statistics Canada.

9.04 Postponed Retirement

A Member retiring on a Postponed Retirement Date shall be entitled to receive an amount of retirement income payable from the Member's Postponed Retirement Date and computed in accordance with article 8 using the Member's Postponed Retirement Date as the Date of Determination.

ARTICLE 10

PAYMENT OF RETIREMENT BENEFITS

10.01.0 Applicability of Sections 10.01 to 10.03.3

Sections 10.01 to 10.03 shall apply only with respect to the time prior to January 1, 2002, and sections 10.03.1 to 10.03.3 shall apply after December 31, 2001.

10.01 Normal Form (Pre-2002)

- (a) Subject to sections 10.02 and 10.03, the normal form of payment of retirement income payable under article 9 or 12, except any temporary retirement income payable under section 9.03, shall be an annual retirement income payable in equal monthly instalments for the life of the Member with the last payment due on the first (1st) day of the month in which the death of the Member occurs.

If the Member dies before sixty (60) payments are made, a lump sum equal to five (5) times the annual retirement income, less any retirement income already received, shall be paid to the Member's Beneficiary.

The portion of such death benefit payable from the Fund may, if desired, be made in instalments over a period not to exceed five (5) years if such instalments are payable to a Spouse or Dependant of the Member. Such instalments are to be computed on such terms as the Administrator may deem proper.

- (b) (i) In addition to the foregoing benefits, a pension is payable on the Member's death or five years after the date his benefit payments commence, whichever is the later date, to the Member's Spouse (or Dependant if there is no Spouse at the date of death).

Annual income payable to a Member's Spouse will end on the first (1st) day of the month in which the death of the Member's Spouse occurs. Annual income payable to a Member's Dependant will end on the first (1st) day of the month in which the earlier of the Dependant's death or the date the child ceases to be a Dependant occurs.

- (ii) The annual retirement income payable under this subsection is:

- (A) to a Spouse, one-half of the annual amount of income paid to the Member before his death, but the pension payable to the Spouse shall be reduced by two and one half percent (2½%) for each complete year that her or his age is more than ten (10) years less than the age of the deceased Member, and where there are surviving Dependents, such annual amount of income shall be increased in respect of each such Dependant until he ceases to be a Dependant by one-tenth of the annual amount of income paid to the Member before his death, but in no event shall the total amount of such increase exceed twenty-five percent (25%) of the annual amount of income paid to the Member before his death; and
- (B) to a Dependant, one-half of the annual income paid to the Member before his death divided by the number of Dependents of the Member.

10.02 Statutory Spousal Pension (Pre-2002)

Subject to section 10.03, if a Member has a Spouse on the date on which payment of the first instalment of the retirement income is due, the annual lifetime retirement income shall be payable in equal monthly instalments for the life of the Member with the last payment due to the Member on the first (1st) day of the month in which the death of the Member occurs and not less than sixty percent (60%) continuing to be paid to the Member's Spouse commencing on the first (1st) day of the month following the month in which the death of the Member occurs and ending on the first (1st) day of the month in which the death of the Member's Spouse occurs. The value of the annual benefit payable under this paragraph shall be the Actuarial Equivalent of the annual benefit described in section 10.01.

10.03 Election of Optional Form (Pre-2002)

- (a) In lieu of the annuity prescribed by sections 10.01 and 10.02, a Member may, in the written form prescribed by and filed with the Administrator within the ninety (90) day period immediately preceding payment of the first instalment of the benefit, elect to receive the retirement income payable under article 9 or 12, except any temporary retirement income payable under section 9.03, in the form of a life annuity, the annual amount of which is increased or decreased by reason of a variation in the terms of payment. Such annuity shall be payable in the forms prescribed by the Corporation and in accordance with Applicable Pension Laws and Revenue Rules. The value of the benefit shall be the Actuarial Equivalent of the benefit payable under section 10.01.
- (b) Notwithstanding paragraph 10.03(a), a Member with a Spouse on the date of the first instalment of the retirement benefit may not elect an option that provides less than fifty percent (50%) continuing to be paid to the Member's Spouse after the Member's death.
- (c) If a Member who has a Spouse makes an election under paragraph 10.03 (a), the Member must deliver to the Administrator, within the twelve (12) month period immediately preceding the date upon which payment of the first instalment of the benefit commences, a consent signed by the Member's Spouse in the written form prescribed by the Administrator and as required under Applicable Pension Laws.
- (d) An election to receive an optional form of retirement income under this section may be revoked or changed provided that either
 - (i) written notice of such revocation or change is received from the Member by the Administrator at least thirty (30) days prior to payment of the first instalment of the benefit, or
 - (ii) the contingent annuitant under a contingent annuitant option has died prior to payment of the first instalment of the benefit.

10.03.1 Post-2001 Continuation of Pre-2002 Benefits

Any benefit being paid under any of subsections 10.02 to 10.03 as of December 31, 2001, shall continue to be paid from and after January 1, 2002, as provided for therein, except that the amount of each continuation payment shall be calculated as if

- (a) the last sentence of section 10.02 respecting actuarial equivalence had never existed;
- (b) the text "one-half" in the first line of each of items 10.01(b)(ii)(A) and (B) read "three-fifths";
- (c) the provision in item 10.01(b)(ii)(A) for a reduction respecting certain Spouses younger than the Member had never existed;
- (d) the text "fifty percent (50%)" in the third line of subsection 10.03(b) read "Sixty Per Cent (60%)",

but nothing herein shall entitle any existing or previous payee to any increase on account of any payment(s) made prior to January 1, 2002.

10.03.2 Normal Form (Post-2001)

- (1) Subject to section 10.03.3, the normal form of annual retirement income under article 9 or 12, except any temporary retirement income under section 9.03, for a Member retiring on or after January 1, 2002, shall consist of
 - (a) a life annuity payable to the Member in equal Monthly Instalments, the last of which shall be made on the First (1st) Day of the month in which the death of the Member occurs;
 - (b) to the extent that the number of Instalments paid pursuant to clause (a) falls short of Sixty (60), an annuity in continuation of such Instalments until such shortfall is eliminated, payable to
 - (i) the Member's Spouse, subject to subsection (3); or if none,
 - (ii) the Member's Dependants equally as at the time of each Instalment; or if none,
 - (iii) the Member's Beneficiary,
 commencing on the First (1st) Day of the month following the month in which the death of the Member occurs; and,

to the extent applicable,
 - (c) the benefits described in subsections (2) to (5).
- (2) Regardless of the date of a Member's retirement, there shall be payable in an amount equal to Sixty Per Cent (60%) of the income being paid to the Member at

the time of death, or with respect to the Member pursuant to clause (1)(b) when it ceases to operate, as applicable, in equal Monthly Instalments, commencing on the First (1st) Day of the month following the month in which the death of the Member or the cessation of operation of such clause occurs, whichever is the later, a survivor pension to

- (a) the Member's Spouse for life, subject to subsection (3) and subject to any applicable reduction provided for in subsection (4), together with the supplement provided for in subsection (5), if applicable;

and then to

- (b) the Member's Dependants, if any, for the remainder of their respective dependencies, equally as at the time of each Instalment,

the last of which shall be made in each case on the First (1st) Day of the month in which the death of the Spouse or the cessation of the dependency occurs, as applicable.

- (3) If both a Spouse and another person who was the Spouse of the Member at the time of the Member's retirement survive the Member, then except insofar as such other person has waived her/his pension rights in connection with the Member as conferred by the Applicable Pension Laws,
 - (a) the expression "Member's Spouse" appearing in subclause 1(b)(i) and clause (2)(a) shall, subject to clause (b), be taken to refer to such other person, but only for life, on the basis that the expression "death of the Spouse" in the second-last line of subsection (2) shall be taken to refer to the death of the survivor of the Spouse and such other person;
 - (b) the operation of clause (a) with respect to subclause 1(b)(i) shall not apply to that part of the annuity to which that subclause relates which is in excess of such conferred pension rights.
- (4) If the Spouse at the time of the Member's death was not the Spouse at the time of the Member's retirement, and is younger than the Member by more than a limit of Ten (10) Years, the amount of any income payable to the Spouse pursuant to clause (2)(a) shall be adjusted so that its commuted value is equal to what it would be if the difference in ages equalled that limit.
- (5) For each person who is a Dependand of the Member at the time of payment of any Monthly Instalment pursuant to clause (2)(a), such Instalment shall be increased by Ten Per Cent (10%), to a maximum of Twenty-Five Per Cent (25%), but if the recipient of the Instalment is not the person having custody of the Dependand, the increase shall be treated as an independent pension benefit owing to the Dependand and payable to such custodian.

10.03.3 Election of Optional Form (Post-2001)

- (1) Subject to subsections (2) and (3), a Member may, in the written form prescribed by and filed with the Administrator within the Ninety (90) Day period immediately

preceding the date of payment to the Member of the first Monthly Instalment of retirement benefits, elect to modify the annuity called for clause 10.03.2(1)(a) so as to make it payable in any other lawful manner prescribed by the Corporation and in accordance with Applicable Pension Laws and Revenue Rules, subject to whatever increase or decrease in the amount of each such Monthly Instalment may be required to maintain Actuarial Equivalence to the annuity without modification.

- (2) Notwithstanding subsection (1), a Member having a Spouse at the time of the election referred to therein may not elect an annuity modification that will cause a Spousal survivor benefit under subclause 10.03.2(1)(b)(i) or subsection 10.03.2(2) to be less than Sixty Per Cent (60%) of the benefit payable to the Member immediately before death.
- (3) No election under subsection (1) by a Member having a Spouse at that time, will be valid unless the Member delivers to the Administrator, within the Twelve (12) Month period immediately preceding the payment date referred to therein, a consent to such election signed by such Spouse in the form prescribed by the Administrator and as required under Applicable Pension Laws.
- (4) If at the time of making an election under subsection (1) a Member has a Spouse and the Spouse subsequently predeceases the Member, the Member shall promptly notify the Administrator accordingly, the election shall become void as of the time of such change in Spousal status and if the Member has already retired, the associated reduction in the Member's pension benefit shall thenceforth cease;
- (5) An election under subsection (1) may be revoked or changed provided that written notice of such revocation or change is received from the Member by the Administrator at least Thirty (30) Days prior to payment of the Member's first Monthly Instalment.

10.04 Post-Retirement Adjustment

Each July 1, the monthly amounts payable under the Plan to the following persons will be increased:

- (i) Members in receipt of retirement income as at the preceding December 31;
- (ii) Survivors in receipt of a survivor income as at the preceding December 31; and
- (iii) Members who as at the preceding December 31 had terminated and are entitled to a deferred annual income from the Plan.

The amount of this increase will be determined annually by the Actuary as the annual income multiplied by the sum of the Inactive Lives Excess Yields calculated for each of the previous four calendar years divided by four.

Notwithstanding the foregoing, if the increase calculated pursuant to this section is negative or zero, no change in benefits will be granted at that particular July 1.

10.05 Maximum Payment Amount

Notwithstanding section 10.04, in no event shall

- (a) the amount of retirement income paid to the Member in respect of retirement income payable under article 9 or 12, except any temporary retirement income payable under section 9.03, exceed such portion of retirement income in the year of commencement, adjusted from that time to reflect increases in the Consumer Price Index as published by Statistics Canada; and
- (b) the amount of retirement income paid to the Member in respect of any temporary retirement income payable under section 9.03, exceed such portion of retirement income in the year of commencement, adjusted from that time to reflect increases in the Consumer Price Index as published by Statistics Canada.

The above paragraph shall also apply to any portion of retirement income continuing to the Member's Spouse, contingent annuitant or Beneficiary after the Member's death.

10.06 Non-Commutability of Annuities

Subject to article 12, an annuity required to be paid under the terms of the Plan shall not be surrendered or commuted, except that if the amount of the annual retirement income is not greater than two percent (2%) of the YMPE as at the Date of Determination, such retirement income may be commuted in a lump sum at the discretion of the Administrator. The value of any such form of benefit settlement shall be the Actuarial Equivalent of the benefit remaining to be paid.

ARTICLE 11

DEATH BENEFITS

11.01.0 Effectiveness

An entitlement to a benefit under this section shall be subject to any legally enforceable right or interest therein set out in a domestic contract as defined in Part IV of the *Family Law Act*, or an order under Part I of that Act.

11.01.01 Applicability

Section 11.01 shall apply only with respect to the time prior to January 1, 2002, and sections 11.01.1 to 11.01.3 shall apply after December 31, 2001.

11.01 Death Benefits Prior to Retirement Date (Pre-2002)

- (a) If a Member who is accruing Continuous Service dies prior to Retirement Date, a lump sum equal to five (5) times the annual retirement income determined under article 12, with Date of Determination being his date of death, less any sums already received and any unpaid arrears of Required Contributions shall be paid to the Member's Spouse, or if none, the Dependants, or if none, the Beneficiary.

- (b) The portion of such death benefit payable from the Fund may be made in instalments over a period not to exceed 5 years if such instalments are payable to a Spouse or Dependant of the Member, at the election of such Spouse or Dependant.
- (c) In addition to the foregoing benefits, a pension is payable five years after the Member's death to the Member's Spouse (or Dependant if there is no Spouse at the date of death).

Annual income payable to a Member's Spouse will end on the first (1st) day of the month in which the death of the Member's Spouse occurs. Annual income payable to a Member's Dependant will end on the first (1st) day of the month in which the earlier of the Dependant's death or the date the child ceases to be a Dependant occurs.

- (d) The annual retirement income payable under subparagraph (c) is:
 - (i) to a Spouse, one-half of the annual amount of income determined under article 12, with Date of Determination being his date of death, but the pension payable to the Spouse shall be reduced by two and one-half percent (2½%) for each complete year that her or his age is more than ten (10) years less than the age of the deceased Member, and where there are surviving Dependents, such annual amount of income shall be increased in respect of each such Dependant until he ceases to be a Dependant by one tenth of the annual amount of income determined under article 12, but in no event shall the total amount of such increase exceed twenty-five percent (25%) of the annual amount of income determined under article 12; and
 - (ii) to a Dependant shall be one-half of the annual income determined under article 12 divided by the number of Dependents of the Member.

11.01.1 Post-2001 Continuation of Pre-2002 Benefits

Any benefit being paid under subsection 11.01 as of December 31, 2001, shall continue to be paid from and after January 1, 2002, as provided for therein, except that the amount of each continuation payment shall be calculated as if

- (a) the text "one-half" in the first line of each of clauses 11.01(d)(i) and (ii) read "three-fifths";
- (b) the provision in clause 11.01(d)(i) for a reduction respecting certain Spouses younger than the Member had never existed,

but nothing herein shall entitle any existing or previous payee to any increase on account of any payment(s) made prior to January 1, 2002.

11.01.2 Death Benefits Prior to Retirement Date (Post-2001)

- (1) For the purposes of this section,
 - (a) "Deferred Dependant Pension" means a deferred pension in favour of each person, if any, qualifying as a Dependant on the day which is the Fifth (5th) Anniversary of the Member's death, commencing on the First (1st) Day of the month next following that day and continuing as long as such person

remains a Dependant, equal to such Dependant's equal share, calculated as of each payment date, of a Survivor Pension;

- (b) "Deferred Spousal Pension", subject to clause (3)(a), means a deferred life pension to the Spouse commencing as described in clause (a), equal to Sixty Per Cent (60%) of a Survivor's Pension;
 - (c) "Guaranteed Lump Sum" means a sum equal to Five (5) times the Member's annual retirement income determined under article 12 using the Member's date of death as the Date of Determination, less any sums already received and any unpaid arrears of Required Contributions
 - (d) "Payment Option" means, with respect to a Guaranteed Lump Sum, an option in favour of the person(s) to whom such Sum is payable, exercisable by notice to the Administrator in writing, to have same made in instalments over a period not exceeding Five (5) Years, computed on such terms as the Administrator deems proper; and
 - (e) "Survivor Pension" means a pension equal to Sixty Per Cent (60%) of the annual retirement income referred to in clause (c).
- (2) If a Member who is accruing Continuous Service dies prior to his/her Retirement Date, there shall be paid the following benefits:
- (a) to the Member's Spouse, if then surviving, subject to subsection (3), either
 - (i) a lump sum consisting of the sum of
 - (A) the Guaranteed Lump Sum, with a Payment Option; and
 - (B) the commuted value of the Deferred Spousal Pension; or
 - (ii) the Guaranteed Lump Sum, subject to a Payment Option, and a Deferred Spousal Pension; or
 - (iii) an immediate life pension commencing on the First (1st) Day of the month next following the date of the Member's death, having a commuted value equal to the lump sum described in subclause (i) without regard to the Payment Option mentioned in item (B) thereof,

as the Spouse elects by written notice to the Administrator within Ninety (90) Days of receiving from the Administrator notice of the relevant details of the Spouse under this by law as required by the Applicable Pension Laws, and in default of such election, the benefit described in subclause (iii);
 - (b) to each Dependant of the Member,
 - (i) following the death of the surviving Spouse,

-
- (A) any remaining payments that would, as a result of exercise of the Payment Option by the Spouse, subsequently have become due to the Spouse if death had not occurred; and
 - (B) if the Spouse did not become entitled to the commuted value referred to in item (a)(i)(B), a Deferred Dependant Pension, subject to clause (3)(b);
- (ii) if there is no Spouse at the time of the Member's death,
 - (A) the Guaranteed Lump Sum, with a Payment Option; and
 - (B) a Deferred Dependant Pension,

in each case in equal shares with all other Dependents, and only during dependency;
- (c) to the Member's Beneficiary,
 - (i) if neither clause (a) nor (b) has come into operation, the Guaranteed Lump Sum with no Payment Option; or
 - (ii) following the death of the Spouse, if any,
 - (A) if there are then no Dependents, the commuted value of the payments, if any, referred to in item (b)(i)(A); or
 - (B) once the dependencies of all Dependents have ceased, the commuted value of payments, if any, still to come due as a result of any prior exercise of a Payment Option.
- (3) If the lump sum provided for in subclause (2)(a)(i) is less than the lump sum payment mandated by the Applicable Pension Laws and there is a surviving Spouse,
 - (a) the percentage specified in clause 1(b) defining "Deferred Spousal Pension" shall be taken to be such greater percentage as will make the commuted value of such Pension sufficient to cause the two lump sums to be equal;
 - (b) if item (2)(b)(i)(B) comes into operation after the Spouse has commenced to receive Deferred Spousal Pension payments, the "Deferred Dependant Pension" referred to in the last-mentioned item shall be reduced so that its commuted value at that time, when added to the Guaranteed Lump Sum and the total of the said payments equals the first-mentioned lump sum prior to application of clause (a).

11.02 Death Benefits for Terminated Employees

If a Member has ceased to accrue Continuous Service and has an entitlement to retirement income benefits in accordance with article 12, and if the death of such Member occurs prior

to the commencement of such retirement income, there shall be paid the benefits determined in accordance with the applicable provisions of sections 11.01 to 11.01.3.

11.03 Minimum Benefits

Notwithstanding paragraphs 11.01 and 11.02, the Actuarial Equivalent value of the death benefit under the Plan shall in no case be less than the Actuarial Equivalent value of the retirement income that the Member would have been eligible to receive in accordance with sections 9.02 and 9.03 or article 12, as applicable, had the Member retired or terminated employment on the date of death.

11.04 Death Benefits After Retirement Date

- (a) If the death of a Member occurs after the payment of his retirement income under article 9 or 12 has commenced, there shall be paid to the Spouse, contingent annuitant or Beneficiary any benefits due in accordance with the retirement income option elected by the Member under article 10. In the case of a Member who did not elect, and was not deemed to have elected, an optional form of retirement income, payment shall be made to the Member's Beneficiary in accordance with section 10.01.
- (b) If the death of a Member occurs after his Early Retirement Date but before Pension Commencement Date as defined in section 9.02, there shall be paid the benefits determined in accordance with section 11.01.

11.05 Commutation of Death Benefits

The amount of retirement income payable to a Member's Beneficiary under a guarantee option may, if so requested by the Beneficiary, be paid in a lump sum that is the Actuarial Equivalent of the remaining retirement income payments under the guarantee option.

11.06 Beneficiary Designation

A Member shall designate in writing a Beneficiary to receive any benefits that are payable under the Plan to a Beneficiary upon the death of such Member and may change such designation from time to time. Such designation or change must be in accordance with any law applicable to the Member and shall be in such form and executed in such manner as the Administrator may, from time to time, determine. Any designation or change must be filed with the Administrator. Benefits payable as a result of the death of the Member shall be paid in accordance with the most recent designation filed by the Member with the Administrator and, in the absence of an effective designation of a Beneficiary, the Administrator shall instruct the Funding Agency to make payment of any death benefits payable to the Beneficiary under the Plan to the estate of the Member and any such payment shall completely discharge all liability with respect to the amount paid. Any Beneficiary designations in respect of a benefit payable under a Prior Plan that are on record with the Administrator as of the Effective Date shall remain in effect for the purposes of the Plan until the Member changes such designation.

ARTICLE 12

TERMINATION OF EMPLOYMENT

12.01 Vested

Subject to section 12.02, a Member whose employment with a Participating Employer is terminated for any reason other than death or retirement, is entitled to receive benefits as follows:

- (a) annual retirement income, payable in accordance with article 10 and commencing at Normal Retirement Date, equal to the sum of
 - (i) that portion of the annual amount of retirement income that is the Actuarial Equivalent of the Member's Required Contributions with Interest, and
 - (ii) the remaining portion of the amount of retirement income computed in accordance with article 8 using the Member's date of termination of employment as the Date of Determination.
- (b) in lieu of the deferred retirement income under paragraph (a) hereof, the Member may elect to receive a lump sum refund equal to the Member's Required Contributions, with Interest.

12.02 Statutory Requirements

- (a) In the case of a Member whose termination occurs after the Member has attained two (2) years as a Plan Member, the Member shall receive the sum of:
 - (i) in respect of Credited Service, or Plan amendments made, on and after January 1, 1987, the retirement income computed in accordance with article 8 using the Member's date of termination of employment as the Date of Determination, payable in accordance with article 10 and commencing at Normal Retirement Date;
 - (ii) the amount by which Required Contributions made on or after January 1, 1987, together with Interest, exceed fifty percent (50%) of the Actuarial Equivalent value of any entitlement under subparagraph (i); and
 - (iii) any Required Contributions made prior to January 1, 1987, together with Interest.

Items (ii) and (iii) above are payable in a lump sum.

- (b) Notwithstanding paragraph (a) above, a Member whose employment with a Participating Employer is terminated for any reason other than death or retirement, after attaining age forty-five (45) and completing ten (10) years of Continuous Service shall not receive benefits in accordance with subparagraphs (a)(i) and (a)(iii). In lieu thereof, such Member shall receive a retirement income payable in accordance with article 10 and commencing at Normal Retirement Date, equal to the greater of:

- (i) the retirement income computed in accordance with article 8 using the Member's date of termination of employment as the Date of Determination; and
- (ii) the retirement income specified in subparagraph (a)(i) plus the Actuarial Equivalent of the benefit specified in subparagraph (a)(iii).
- (c) Notwithstanding paragraphs (a) and (b), a Member who terminates prior to the date ten (10) years prior to Normal Retirement Date, may elect to transfer the lump sum Actuarial Equivalent of his benefit to another registered employees' pension plan, an insurance company for the purchase of a life annuity contract, or such other vehicle as may be approved under the Applicable Pension Laws, as designated by the Member; provided, however, that the administrator of such plan or vehicle agrees in writing to administer such transferred pension credit as a deferred life annuity within the conditions of the Applicable Pension Laws.
- (d) The amount transferred under paragraph (c) shall not exceed the greater of the Member's Required Contributions with Interest and the product of:
- (i) the annual amount of retirement income computed in accordance with article 8 using the Member's date of termination of employment as the Date of Determination, payable in accordance with section 10.01 and commencing at Normal Retirement Date; and
- (ii) the appropriate factor from the following table:

<u>Attained Age at Date of Calculation</u>	<u>Factor</u>
Under 50	9.0
50	9.4
51	9.6
52	9.8
53	10.0
54	10.2
55	10.4
56	10.6
57	10.8
58	11.0
59	11.3
60	11.5
61	11.7
62	12.0
63	12.2
64	12.4
65	12.4

For non-integral ages, the appropriate factor shall be determined on an interpolated basis.

If the Member elects a transfer under paragraph (c) and the lump sum Actuarial Equivalent of the Member's benefit exceeds the maximum transferable amount determined above, such excess shall be paid to the Member in cash or, where required by Applicable Pension Laws, the excess amount shall be transferred to a non-locked-in registered retirement savings plan, subject to such consequences as prescribed under Revenue Rules.

- (e) The Administrator may require a Member who is entitled to an amount of deferred retirement income to transfer the lump sum Actuarial Equivalent of such deferred retirement income to another registered vehicle if the amount of the annual retirement income is not greater than two percent (2%) of the YMPE as at the Date of Determination.
- (f) The transfers under paragraphs (c) and (e) shall be subject to any limitations prescribed by the Applicable Pension Laws in respect of the transfer of monies from the Fund.

12.03 Under no circumstances shall the Actuarial Equivalent of benefits paid to an individual in accordance with section 12.02 be less than the Actuarial Equivalent of the benefits he would have received had his benefits been determined in accordance with section 12.01.

12.04 Earlier Payment of Vested Pension

A Member who is entitled to an amount of retirement income commencing at Normal Retirement Date under this article may elect to receive such retirement income commencing on the first (1st) day of any month following the Member having attained age fifty (50) computed in accordance with sections 9.02 and 9.03 using the date of income commencement as his Early Retirement Date.

ARTICLE 13

DISABILITY

13.01 Disability Retirement

- (a) A Member who is accruing Continuous Service, has ten (10) or more years of Credited Service and is certified by a medical doctor who is acceptable to the Corporation and licensed to practice in Canada to be totally and permanently disabled through injury or disease so as to be incapable of any employment for remuneration or profit may make application to the Administrator for a retirement income payable in accordance with article 10.
- (b) A Member who is accruing Continuous Service, has twenty (20) or more years of Credited Service and is Totally and Permanently Disabled may make application to the Administrator for a retirement income payable in accordance with article 10.
- (c) A Member who is accruing Continuous Service and becomes Totally and Permanently Disabled within the ten year period before his Normal Retirement Date, may make application to the Administrator for a retirement income payable in accordance with article 10.

- (d) The amount of retirement income determined by paragraphs (a), (b) or (c) shall be computed in accordance with article 9, but without any reduction as a result of section 9.02, using the date of income commencement as the Date of Determination.
- (e) The decision of the Administrator with respect to the initial or continued eligibility of any such Member for retirement income benefit shall be final and binding.

ARTICLE 14

TRANSFERS

14.01 Transfer from Registered Plan of Previous Employer

- (a) Where a Reciprocal Agreement exists between the Corporation and a previous employer the Administrator will accept deposits into the Fund to the credit of an Employee by way of transfer from the previous employer's registered employee pension plan or deferred profit sharing plan. Amounts so transferred will be accepted in accordance with the terms of the Reciprocal Agreement.
- (b) Where a member of
 - (i) the civil service of Ontario or Canada,
 - (ii) the civic service of any other municipality or local board, or
 - (iii) the staff of any board, commission or public institution established under any Act of the Ontario Legislature,

on or after the first (1st) day of March 1948, has become or becomes an Employee of a Participating Employer, and a sum of money is transferred from any fund or plan maintained to provide superannuation benefits or pensions for the members of such civil or civic service or staff, as the case may be, to the credit of the Employee, Council shall by By-law authorize the transfer into and shall transfer into the Plan such sum in the like manner as a payment for past service. The amount of pension and other benefits purchased under the Plan by such sum shall be conclusively determined by the Actuary.

- (c) Where no Reciprocal Agreement exists, such amounts may be transferred into the Fund at the sole discretion of the Corporation. Amounts so transferred will be subject to Applicable Pension Laws and Revenue Rules.

14.02 Transfer to Other Registered Plan

- (a) Subject to Applicable Pension Laws, if a Reciprocal Agreement exists between the Corporation and a subsequent employer of a Member, transfer payments may be made into the fund of the subsequent employer's pension plan. The amount of such transfer shall be determined in accordance with the Reciprocal Agreement, but the total amount transferred shall not be less than the amount due to the Member under article 12. However, the provisions of paragraph 12.02(d) shall apply to such

transfer payments only if they are made into a money purchase provision of a pension plan.

- (b) Where a Member on or after the first (1st) day March, 1948 has become or becomes a member of:
 - (i) the civil service of Ontario or Canada,
 - (ii) the civic service of any other municipality or local board, or
 - (iii) the staff of any board, commission or public institution established under any Act of the Ontario Legislature,

the Council shall on the written request of the Employee by By-law authorize the transfer of and shall transfer a sum equal to the credit of the Member under the Plan, as conclusively determined by the Actuary to such plan or fund maintained to provide superannuation benefits or pensions for the members of such civil or civic service or staff where such fund or plan allows such transfer thereto.

- (c) Where no Reciprocal Agreement exists, any cash settlement to which the Member is entitled in accordance with section 10.06 or article 12, except any excess Actuarial Equivalent lump sum specified in paragraph 12.02(d), may be:
 - (i) paid into the registered employees' pension plan of a subsequent employer of the Member, if the subsequent employer's plan so permits;
 - (ii) paid into a registered retirement savings plan of the Member; or
 - (iii) transferred to an insurance company for the purchase of an immediate annuity or a deferred life annuity commencing not later than the first (1st) day of December of the calendar year during which the Member attains age seventy-one (71), in a form acceptable under Revenue Rules.

ARTICLE 15

CONTRIBUTIONS AND FUNDING

15.01 Employer Contributions

Each calendar year, subject to section 15.08 and any agreement between the Corporation and a Participating Employer, each Participating Employer will contribute to the Fund:

- (a) such amounts as are certified by the Actuary as needed for systematic funding of members' pensions, benefits, and privileges under the Plan for such calendar year, and
- (b) the amount, if any, which is determined by the Actuary as required for systematic amortization of any initial unfunded liability under the Plan on the Effective Date, and subsequent experience deficiencies, if any.

Such contributions shall be in accordance with, and within the time limits specified in, the Applicable Pension Laws and Revenue Rules. Subject to the Applicable Pension Laws and Revenue Rules, the liability of a Participating Employer at any time is limited to such contributions as should have theretofore been made by it in accordance with the Applicable Pension Laws and Revenue Rules. Notwithstanding the foregoing, contributions made to the Plan after 1990 by each Participating Employer shall only be made if they are eligible contributions in accordance with Revenue Rules.

15.02 Refund of Contributions

- (a) In the event that a Participating Employer or a Member makes a contribution to the Plan which would cause the revocation of the Plan's registration under the Income Tax Act then, subject to conditions or approval procedures under Applicable Pension Laws, such contributions shall be returned to the Participating Employer or the Member, as applicable.
- (b) In the event that a Participating Employer makes a contribution to the Plan which is subsequently determined to be an overpayment of required contributions then, subject to the provisions of Applicable Pension Laws and Revenue Rules, such contributions may be returned to the Participating Employer.

15.03 Fund

- (a) The retirement income and other benefits provided under the Plan, shall be financed by a Fund established for the purposes of the Plan under which all contributions and earnings thereon are held to pay such retirement income and other benefits. The Fund shall be known as "York Employees Pension Fund."
- (b) The City Treasurer or such other person as Council may designate shall be Treasurer of the Fund. The Treasurer shall deposit the monies of the Fund in a chartered bank, hereinafter referred to as the Funding Agency, in the name of "York Employees' Pension Fund" and keep the same entirely separate from the Corporation's other accounts. The City Auditor shall audit the books and accounts which shall be kept in connection with the Plan and his report shall be contained in the annual Municipal Audit, and report thereon annually to the Council.
- (b.1) No remuneration shall be paid to the Treasurer or the Auditor or to any member of the staff of either for services in connection with the Plan.
- (c) Subject to Applicable Pension Laws, the retirement income and other benefits provided under the Plan shall only be paid to the extent that they are provided for by the assets held in the Fund, and no liability or obligation to make any contributions thereto or otherwise shall be imposed upon a Funding Agency or a Participating Employer other than in accordance with section 15.01.
- (d) Fees of a Funding Agency, fees of the Administrator, fees of an investment manager, investment brokerage, transfer taxes and similar costs arising as a result of the making of investments, sale of assets or realization of investment yield, and the expenses reasonably incurred or compensation properly paid in respect of the Plan, may be paid by the Fund.

15.04 Investments

- (a) The investment of the Fund shall be made in accordance with Applicable Pension Laws and Revenue Rules.
- (b) No investment of the Fund shall be a share of the capital stock of, an interest in, or a debt of
 - (i) a Participating Employer,
 - (ii) a person connected with a Participating Employer,
 - (iii) a Member,
 - (iv) a person or partnership that controls, directly or indirectly in any manner whatever, a person or partnership referred to in subparagraph (i) or (ii), or
 - (v) a person or partnership that does not deal at arm's length with a person or partnership referred to in subparagraph (i), (ii), (iii) or (iv), or an interest in, or a right to acquire such a share, interest or debt.
- (c) Paragraph (b) shall not apply to
 - (i) a share listed on a stock exchange as allowed under Revenue Rules,
 - (ii) an interest in, or a right to acquire, a share referred to in subparagraph (i), or
 - (iii) a mortgage in respect of real property situated in Canada that
 - (A) is insured under the *National Housing Act* or by a corporation offering its services to the public in Canada as an insurer of mortgages,
 - (B) is administered by an approved lender under the *National Housing Act*, and
 - (C) bears a rate of interest that would be reasonable in the circumstances if the mortgagor dealt with the mortgagee at arm's length.

15.05 Borrowing

No Funding Agency shall borrow money for the purposes of the Plan except as allowed under Applicable Pension Laws and Revenue Rules and unless

- (a) the borrowing is for a term not exceeding ninety (90) days and it is established that the borrowing is not part of a series of loans or other transactions and repayments, and
- (b) none of the assets held in connection with the Plan are pledged as security for the borrowed money (except where the borrowing is necessary to provide funds for the

current payment of benefits or the purchase of annuities under the Plan without resort to a distressed sale of the assets held in connection with the Plan),

and, for the purposes of this section, the Funding Agency shall not be considered to borrow money where, as a consequence of the acquisition of real property that may reasonably be considered to be held for the purpose of producing income from the property, the Funding Agency becomes liable to pay amounts (otherwise than as, or on account of, interest),

- (c) the aggregate of which does not exceed the cost amount of the real property, and
- (d) the liability for which is secured by a mortgage or hypothec on the real property.

15.06 Claims on the Fund

No Member or any person claiming through a Member shall have any right to, or any interest in, any part of the Fund except to the extent specifically provided from time to time under the Plan, a Funding Agreement or Applicable Pension Laws, and any Member or other person having any claim through the Member shall have recourse solely to the Fund for payment of any benefits hereunder. Under no circumstances shall any liability attach to a Participating Employer, the Administrator or Funding Agency, or any director, officer or employee of a Participating Employer for payment of any benefits or claims hereunder.

15.07 Investments/Signatures

- (i) (REPEALED: By-law 1041-2008)
- (ii) (REPEALED: By-law 1041-2008)
- (iii) The Fund shall be under the control of and be administered by the Committee.
- (iv) The Committee may by itself or through its authorized agents invest and reinvest the assets of the Fund, or any part thereof, in any of the investments permitted by the Pension Benefits Act (Ontario).
 - (iv.1) All contracts, documents, powers of attorney, and any other instruments in writing requiring the signature of the Committee shall be signed by the Treasurer and by any one of the other members of the Committee provided that the Committee may from time to time authorize such other person or persons as it may deem proper to carry out such signing.
 - (iv.2) Unless the Committee otherwise directs, all cheques, drafts, and orders for payment of monies on behalf of the Plan shall be signed as the Treasurer requires
- (v) The members of the Committee in the exercise of their duties as trustees hereunder shall not be liable for any loss tax or expense that may result so long as the said members acted in good faith and without negligence or fraud.

15.08 Amortization Payments

There shall continue to be paid into the Fund any remaining amortization payments due under the terms of the 1970 Plan remaining at the Effective Date.

ARTICLE 16

PROTECTION OF BENEFITS

16.01 Non-Assignability of Benefits

Except as permitted under section 16.02, no benefit, right or interest provided under the Plan shall be:

- (a) capable of anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, charge, seizure, attachment or other legal or equitable process; or
- (b) capable of being given as security or surrendered;

and for the purposes of this Section:

- (c) assignment does not include assignment by the legal representative of a deceased individual on the distribution of the individual's estate; and
- (d) surrender does not include a reduction in benefits to avoid the revocation of the registration of the Plan under Revenue Rules.

16.02 Support and Division of Property on Marriage Breakdown

- (a) Subject to Applicable Pension Laws, a benefit payable under the Plan may be:
 - (i) subject to execution, seizure or attachment in satisfaction of an order for support or maintenance, pursuant to a decree, order or judgment of a competent tribunal; or
 - (ii) may be assigned, pledged, charged, encumbered or alienated to satisfy a division of matrimonial property, pursuant to a written agreement, decree, order or judgment of a competent tribunal.
- (b) The determination of the benefit payable to a person under paragraph (a) and of the Member's remaining benefit entitlements shall be subject to Applicable Pension Laws and Revenue Rules.
- (c) The Member's benefit entitlements shall be reduced to account for the value of any settlement made under paragraph (a). Such reduction shall be determined in accordance with Applicable Pension Laws and Revenue Rules.

16.03 Facility of Payment

If the Administrator receives evidence which in its absolute discretion is satisfactory to it that

- (a) a person entitled to receive any payment provided for in the Plan is physically or mentally incompetent to receive such payment and to give a valid release therefor,
- (b) another person or an institution is then maintaining or has custody of such payee, and
- (c) no guardian, committee or other representative of the estate of such payee shall have been duly appointed,

then the Administrator may direct the payment to the person or institution specified in paragraph (b), and such payment shall be a valid and complete discharge to the Plan for the payment.

In the absence of the appointment of a legal guardian, any benefit payable to a minor may be paid to such adult or adults as have, in the absolute discretion of the Administrator, assumed the custody and principal financial support of such minor.

ARTICLE 17

AMENDMENT OR DISCONTINUANCE

17.01 Amendment

The Corporation expects to continue the Plan indefinitely, but nevertheless reserves the right to

- (a) amend the Plan,
- (b) terminate the Plan,
- (c) merge or consolidate the Plan with any other pension plan adopted by Council, or
- (d) transfer, merge or consolidate the assets or liabilities of the Plan with the assets and liabilities of any other pension plan without maintaining a separate fund and account in respect thereof,

provided that no such action shall adversely affect any benefit accrued immediately prior to the time such action is taken, except as provided in section 17.04. The accrued benefits will be computed using as the applicable Date of Determination, the earliest of the date the Member ceases to accrue Continuous Service and the date of the amendment, termination, merger or consolidation of the Plan or Fund, as applicable.

Any amendment of the Plan shall be made by the adoption of a By-law by Council.

A copy of each amendment shall be provided forthwith to each of the Participating Employers. All such amendments shall be binding on the Participating Employers and on each Member.

17.02 Amendment Required to Maintain Registration

Notwithstanding any other provisions of the Plan, the Corporation shall amend the Plan as is necessary to maintain the registration of the Plan under Applicable Pension Laws and the Income Tax Act.

Section 17.01 shall not act to restrict the Corporation's ability to amend the Plan, including, but without limiting the generality of the foregoing, an amendment providing for benefits to be reduced, when the purpose of the amendment is to maintain such registration of the Plan.

17.03 Effective Date of Amendment

An amendment to the Plan will normally be effective on the date specified in the amendment but, if the amendment creates additional benefits in respect of a period of employment after 1989 which must be certified by the Minister of National Revenue in accordance with Revenue Rules, the amendment shall not be effective until such certification has been received and no benefits will be paid as a result of that amendment prior to certification. The Participating Employers shall not make any contributions to the Plan in respect of the amendment until such certification has been applied for.

17.04 Discontinuance

In the event the Plan is discontinued at any time in whole or in part with respect to a specified group of Members only, the assets of the Fund (or the interest therein of Members affected by a partial discontinuance) shall be allocated to provide, to the extent of said assets and subject to Applicable Pension Laws, the benefits then accrued under the Plan. Accrued benefits will be computed using the date the Member ceases to accrue Continuous Service as the applicable Date of Determination. Such allocation shall be made in accordance with an allocation schedule then established by the Corporation in consultation with the Actuary and filed with and approved by the appropriate authorities in accordance with Applicable Pension Laws.

17.05 Settlement on Discontinuance of Plan

For the purposes of section 17.04, provision for accrued benefits means payment to or for the Member in the form of cash, the purchase of annuity contracts, the transfer of monies to the pension plans of subsequent employers or to approved registered vehicles, or the continuation of the Fund or a combination thereof, at the discretion of the Corporation and as permitted under Applicable Pension Laws and Revenue Rules.

17.06 Surplus upon Termination

Subject to terms of participation by Participating Employers, upon discontinuance of the Plan, in whole or in part, any assets of the Fund (or the appropriate portion of the Fund in the case of a partial discontinuance) in excess of those required to discharge all liability for accrued benefits shall be paid to the Corporation or any Participating Employer.

ARTICLE 18

DISCLOSURE

18.01 Plan Explanation

Within the period prescribed by Applicable Pension Laws, the Administrator shall provide to each Employee who becomes eligible for membership in the Plan, a written description of the Plan. Such description shall explain the terms and conditions of the Plan and amendments thereto applicable to the Employee and the rights and obligations of the Employee in respect of the Plan.

The Administrator shall provide a written explanation of an amendment to each Employee affected by the amendment not later than sixty (60) days after registration of any amendment to the Plan.

18.02 Inspection

The Administrator or the Participating Employer shall permit a Member, or such person as is required to be permitted under Applicable Pension Laws, to inspect, or make extracts from, the Plan text and any other related documents required to be made available under Applicable Pension Laws, at such time and places as may be required by Applicable Pension Laws.

18.03 Benefits Statement

- (a) Within the period prescribed by Applicable Pension Laws, the Administrator shall provide to each Member a written statement describing the benefits the Member has earned to date and such other information as required under Applicable Pension Laws.
- (b) Upon cessation of employment of a Member or upon termination of the Member's active membership in the Plan, the Administrator shall provide to the Member (or the person entitled to benefits in the event of the Member's death) within the period prescribed by Applicable Pension Laws, a written statement of the benefits and options to which the Member is entitled.

18.04 Other Information

The Administrator or the Corporation shall provide such other information regarding the Plan, statistical or otherwise, as is required under Applicable Pension Laws.

18.05 Limitation

Such explanation, statement or right of disclosure of the Plan text and other documents provided shall have no effect on the rights or obligations of any person under the Plan, and shall not be referred to in interpreting or giving effect to the provisions of the Plan. Neither the Corporation, the Administrator nor any Participating Employer shall be liable for any loss or damage claimed by any person to have been caused by any error or omission in such explanation, statement or other information.

ARTICLE 19

ADMINISTRATION

19.01 The Administrator

- (a) This Plan was established by The Corporation of the City of York on behalf of Participating Employers who are sponsors of the Plan from time to time.
- (b) The York Employees' Pension and Benefit Committee, as described in section 19.03, is the Administrator of the Plan for all purposes including, without limitation, for purposes of Applicable Pension Laws.
- (c) The Plan and the Fund shall be administered by the Administrator in accordance with the Plan, the written statement of investment policies and goals for the Plan, the written agreements between the Corporation and Participating Employers, Applicable Pension Laws and Revenue Rules.

19.02 Power to Delegate

The Administrator may appoint one (1) or more agents to carry out any act or transaction required for the administration and management of the Plan and the Fund or may retain advisors. Every agent appointed by the Administrator shall report to and shall be subject to the direction and continuing supervision of the Administrator.

19.03 Employees' Pension and Benefit Committee

- (a) The Plan shall be administered by a Committee to be known as the York Employees' Pension and Benefit Committee which shall be composed of
 - (i) the Treasurer, who may designate an individual to act as his or her representative at any meeting of the Committee and exercise his or her voting rights;
 - (ii) two members of Council appointed by the Council; and
 - (iii) two representatives by the Members and the retired Members from amongst their collective number.

- (a.1) Each member of the Committee shall hold office, until his successor is elected or appointed and shall be eligible for re-election or re-appointment.
- (a.2) An appointed or elected member of the Committee shall be deemed to have resigned if
- (i) being a Member, he or she retires from the service of the City;
 - (ii) being a Member of the Council, he or she ceases to be such a member; or
 - (iii) he or she absents himself or herself from three consecutive meetings of the Committee without its consent.
- (a.3) If a vacancy occurs on the Committee by reason of the death or resignation of a Council member referred to in clause (a)(ii), the Council shall forthwith thereafter appoint another member of Council to fill the vacancy.
- (a.4) If a vacancy occurs on the Committee by reason of the death or resignation of a representative referred to in clause (a)(iii), the Committee shall fill such vacancy by appointing a Member or retired Member as a successor representative for the remainder of the term.
- (a.5) The Committee shall appoint a Secretary for whom the Committee may define duties in addition to those duties as set out in this Plan and who may be paid such salary or other remuneration as from time to time fixed by the Committee and approved by Council.
- (a.6) No member of the Committee shall receive any remuneration for his or her services as such.
- (b) Responsibilities
- (i) The Committee shall,
 - (A) keep a correct record of all Members under the Plan in which shall be set out the name and date of birth of each, the date on which he entered the service of the Corporation, a cumulative record of his Credited Service, the amount of his Earnings or wages from time to time, a statement of any arrears owing, and a record of any options exercised hereunder;
 - (B) determine the amount of benefits payable to or on behalf of a Member under the Plan. The Treasurer shall pay to the persons entitled the amounts determined by the Committee to be chargeable to the Fund. Such determination shall in each case be made after receiving a report thereon from the Actuary except where only simple calculations are involved;
 - (C) keep a correct list of all Members and their current addresses, the names and current addresses of designated Beneficiaries, the amount of the annuity to which each became or will become entitled under

the Plan, and of all payments made under the Plan to a Member or his beneficiaries;

- (D) keep such statistical and other records relative to the Plan as may be required by the Council or by Applicable Pension Laws and Revenue Rules;
 - (E) prepare and forward annual acknowledgements for Members' payments;
 - (E.1) see to the control and administration of the Fund as provided for in paragraph 15.07(iii), including without restriction the investing and reinvesting of Fund assets as provided for in paragraph 15.07(iv) and the signing of documents as provided for in paragraph 15.07(iv.1);
 - (F) keep proper and correct minutes of all meetings so as to show clearly the action of the Committee in respect of every matter considered by it;
 - (G) report to the Council on or before the first day of February in each year:
 - (a) the name of all Members who have retired from the service of the City or have died during the last calendar year;
 - (b) particulars relating to any disability retirement;
 - (c) statement of income and disbursements;
 - (d) detailed statement of all pensions, benefits and privileges paid or granted during the year;
 - (e) balance sheet as of 31st December;
 - (H) obtain good legal discharges for all payments;
 - (I) provide full information in writing to each Member concerning the terms and conditions of this Plan, as amended from time to time, and with respect to his rights and duties in connection with benefits available to him thereunder; and
 - (J) generally to do all things necessary in connection with the administration of the Plan.
- (ii) Subject to the other provisions of this article, the Committee may make rules for the administration of the Plan and for the conduct of the affairs of the Committee and without limiting the generality of the foregoing, the administration committee may make rules respecting
- (A) the election of a Chair;

- (B) the furnishing of proof of length of service of any Employee;
- (C) the time and place of its meetings and the proceedings thereat, subject to the provisions of paragraph (e);
- (D) the date, time, place, and method of conducting the annual election of the three Employee members of the Committee; and
- (E) generally for the better carrying out of the provisions of this Plan.

(c) **Standard of Care**

Every individual appointed to the Committee shall exercise the care, diligence and skill in the exercise of the responsibilities conferred by such appointment that a person of ordinary prudence would exercise in dealing with the property of another person and shall use all relevant knowledge and skill that the individual possesses or, by reason of such individual's profession, business or calling, ought to possess and shall act honestly and in good faith with a view to the best interests of all Participating Employers, Members and other persons entitled to benefits under the Plan.

(d) **Entitlement to Rely on Statements**

A member of the Committee may rely in good faith on the statements or reports of the Funding Agency, the Actuary, an accountant, an appraiser, a lawyer or other professional advisor retained by the Corporation or the Committee.

(e) **Meetings of Committee**

The Committee shall so far as possible hold a regular meetings once every four months; provided that

- (i) if the Chair or the Secretary receives a written request by a majority of the Committee, he or she may call a meeting of the Committee at any time;
- (ii) the representatives appointed to the Committee by Council shall convene the first meeting of the Committee following the election of a new Council and exercise the duties of Chair until a regular Chair has been elected.

(f) **Quorum**

A quorum of the Committee shall consist of the Treasurer (or his or her designate) and any two other members.

(g) **Tie Votes**

Where the vote on any Committee resolution results in a tie, the resolution shall be declared lost.

19.04 Amendment Power

The Committee is empowered to make recommendations for amendments to the Plan in accordance with paragraph 17.01.

19.05 Indemnification

The Corporation shall indemnify and save harmless the members of the Committee and any other employees who are involved in the administration of the Plan from the effects and consequences of their acts, omissions and conduct in their formal capacity to the extent permitted by law except for their own wilful and intentional malfeasance or misconduct. No part of the Fund shall be used for indemnification payments.

19.06 Corporation Records

Whenever the records of a Participating Employer are used for the purposes of the Plan, such records shall be conclusive of the facts with which they are concerned.

19.07 Actuarial Valuation

For the purposes of determining the financial position of the Plan, and the required amount of Corporation contribution, the Actuary shall make a review and evaluation of the assets and liabilities of the Plan as directed by the Committee, and the Committee shall submit a report thereon to the Council.

19.08 Administrative Expense

All charges competent to and in connection with the operation and administration of the Plan may be borne by the Fund.

19.09 Evidence of Age

- (a) Every Member shall within three months after the date he joins the Plan furnish the Corporation with documentary evidence as to the date of his birth. Such evidence may be in the following order of preference:
 - (i) a birth certificate;
 - (ii) a baptismal certificate;
 - (iii) a copy of the entry in the Family Bible certified to be a true copy by a Notary Public or a Justice of the Peace;
 - (iv) such other evidence as may be acceptable to the Committee.
- (b) Clause (a) shall not apply to a Member who has furnished such evidence under the 1945 Plan.