

METROPOLITAN TRANSPORTATION AUTHORITY
DEFINED BENEFIT PENSION PLAN

(Effective as of January 1, 1994,
amended and restated as of November 2001 and further amended and restated as of January
2016)

Dated: New York, New York
January 29, 2016

	<u>Page</u>
ARTICLE 1. DEFINITIONS.....	2
1.00 “Alternative Investment Subcommittee”.....	2
1.01 “Beneficiary”	2
1.02 “Benefit”	2
1.03 “Board”	2
1.04 “Board of Managers”	2
1.05 “Cause”	2
1.06 “Code”	3
1.07 “Compensation”	3
1.08 “Conrail”	3
1.09 “Credited Service”	3
1.10 “Credit for Military Service Rendered During Periods of Military Conflict”	8
1.11 “Death Benefit for Members with a Vested Benefit who die prior to Retirement”	10
1.12 “Dependent Parent”	10
1.13 “Disability Retiree”	10
1.14 “Disability Retirement Allowance”	10
1.15 “Early Retirement Allowance”	10
1.15A “OBRA ‘93”	10
1.16 “Effective Date”	10
1.16A “Eligible Beneficiary”	10
1.17 “Employee”	11
1.18 “Employer”	11
1.19 “Employment”	11
1.20 “Final Average Compensation”	11
1.21 “LIRR”	12
1.22 “LIRR Money Purchase Plan”	12
1.23 “MaBSTOA”	12
1.24 “Member”	12
1.25 “Metro-North”	12
1.26 “Metro-North Cash Balance Plan”	12
1.27 “Metro-North Defined Contribution Plan”	12
1.28 “Military Law”	12
1.29 “MTA”	13

1.30	“MTA-Affiliated Agency”	13
1.31	“NYCERS”	13
1.32	“NYSLERS”	13
1.32A	“Non-Participating Employer”	13
1.33	“Non-Represented”	13
1.34	“Nonvested Past Service”	13
1.35	“Ordinary Death Benefit”	13
1.36	“Plan”	13
1.37	“Plan Year”	13
1.37A	“Qualified Commingled Fund”	13
1.38	“Railroad Retirement Act”	14
1.39	“Railroad Retirement Board”	14
1.40	“Represented Employee”	14
1.41	“Retired Member”	14
1.42	“Retirement and Social Security Law”	14
1.42A	“Service Fraction”	14
1.43	“Service Retirement Allowance”	14
1.44	“SIRTOA”	14
1.45	“State or City Plan”	14
1.46	“Trust”	14
1.47	“Trust Fund”	14
1.48	“Trustee”	15
1.49	“Trust Agreement”	15
1.50	“Vested Benefit”	15
1.51	“Vested Past Service”	15
ARTICLE 2.	MEMBERSHIP	15
2.01	Membership Requirements	15
2.02	Events Affecting Membership	15
ARTICLE 3.	ELIGIBILITY FOR AND AMOUNT AND PAYMENT OF BENEFITS FOR MEMBERS	15
3.01	Service Retirement	15
3.02	Early Retirement	16
3.03	Vested Benefit	17
3.03A	Special Vesting Rules For Members Employed by a Non-Participating Employer.	17

3.04	Disability Retirement	18
3.05	Ordinary Death Benefit.....	21
3.05.01	Death Benefit for Members With a Vested Benefit Who Die Prior to Retirement.....	23
3.06	Accidental Death Benefit	23
3.07	Offset in Computing Retirement Benefits	24
3.08	Payment Options for Retirement Benefits	25
3.09	Commencement of Payments	28
3.10	Return of Member Contributions in Certain Instances.....	29
3.11	Consideration of Cost-of-Living Increases.....	30
3.12	Minimum Benefits Attributable to the Metro-North Defined Contribution Plan	30
3.13	Minimum Benefits Attributable to the LIRR Money Purchase Plan	31
3.14	Restoration of Employment of Retired Members.....	32
3.15	Forfeiture for Cause	32
ARTICLE 4.	MEMBER CONTRIBUTIONS.....	33
4.01	Required Member Contributions	33
4.02	No Loans Hereunder	35
4.03	Employer Pick Up of Member Contributions.....	35
ARTICLE 5.	BENEFIT LIMITATIONS	36
5.01	Section 415 Limitations	36
5.02	Limitations on Compensation	37
5.03	Suspension of Retirement Benefits Upon Reemployment.	38
ARTICLE 6.	ADMINISTRATION	39
6.01	Appointment of Board of Managers of Pensions.....	39
6.01.01	Resignation and Removal.....	39
6.02	Powers and Organization of Board of Managers.....	40
6.03	Application.....	41
6.04	Immunity from Liability.....	41
6.05	Indemnification	42
6.06	Legal Counsel	42
6.07	Procedures for Benefit Forfeiture for Cause.....	42
ARTICLE 7.	CONTRIBUTIONS AND FUNDING	43
7.01	Contributions, Exclusive Benefit and Expenses	43
7.02	Trust Agreement.....	43

7.03	Contributions Conditioned on Plan Qualification	44
7.04	Contributions by Mistake of Fact	44
7.05	Pre-OBRA '93 Limitations	44
ARTICLE 8.	DIRECT ROLLOVERS TO OTHER ELIGIBLE PLANS	44
8.01	Election by Distributee.....	44
8.02	Definitions.....	44
ARTICLE 9.	GENERAL PROVISIONS.....	45
9.01	Conditions of Employment Not Affected by Plan.....	45
9.01A	Provisions Relating to Qualified Military Service	45
9.02	Adoption of Plan and Discontinuance of Participation by MTA-Affiliated Agencies.....	45
9.03	Correction of Errors	45
9.04	Amendment and Termination	46
9.05	Pre-Termination Restrictions	46
9.06	Spendthrift Provisions	47
9.07	Allocation of Responsibility.....	47
9.08	Definition of Words	48
9.09	Construction	48
9.10	Special Rules Applicable to Certain Employees of MTA Bus Company	48
ARTICLE 10	MTA 20 YEAR POLICE RETIREMENT PROGRAM	49
10.0.0	Preamble	50
10.1	Definitions.....	50
10.1.01	“Accumulated Contributions”.....	50
10.1.02	“Collective Bargaining Representative”.....	50
10.1.03	“Credited Police Service”	50
10.1.04	“Credit for Military Service Rendered During Periods of Military Conflict”	52
10.1.05	“Disabled Retired Member”	54
10.1.06	“Executive Director of the MTA”	54
10.1.07	“Final Average Salary”	54
10.1.08	“Initial Participant”	54
10.1.09	“Initial Participant Balance”	54
10.1.10	“LIRR Additional Plan”	55
10.1.11	“LIRR Pension Plan”	55
10.1.12	“LIRR Plans”	55

10.1.13	“LIRR Police Service”	55
10.1.14	“Maximum Retirement Benefit Limitation”	55
10.1.15	“Medical Board”	55
10.1.16	“Metro-North Agreement Employees Plan”	55
10.1.17	“Metro-North Police Service”	55
10.1.18	“Participant”	55
10.1.19	“Program Effective Date”	55
10.1.20	“Retirement Incentive”	55
10.1.21	“Regular Interest”	56
10.1.21A	“SIRTOA Pension Plan”	56
10.1.21B	“SIRTOA Police Service”	56
10.1.21C	“SIRTOA Police Transfer Date”	56
10.1.22	“Student”	56
10.1.23	“Transfer Valuation Date”	56
10.1.24	“Twenty Year Police Retirement Program”	56
10.1.25	“Uniformed Authority Police Force”	56
10.1.26	World Trade Center Presumption Definitions.	56
10.1.27	“Cause”	59
10.1.28	“RSSL”	59
10.1.29	“PFRS”	59
10.1.30	“NYCPPF”	59
10.2	Participants in the Twenty Year Police Retirement Program	59
10.2.01	Participation Requirements	59
10.2.02	Events Affecting Participation	59
10.2.03	Restoration of a Participant	60
10.3	Eligibility for and Amount and Payment of Benefits for Participants	60
10.3.01	Applicable Eligibility for Retirement Provisions	60
10.3.02	Service Retirement	61
10.3.03	Vested Benefit	61
10.3.04	Ordinary Disability Retirement	62
10.3.05	Accidental Disability Retirement	64
10.3.06	Retirement for Disability Incurred in the Performance of Duty	68
10.3.07	Recovery of Disability Beneficiaries	70
10.3.08	Ordinary Death Benefit	71

10.3.08A	Death Benefit for Vested Participants Who Die Prior to Retirement	73
10.3.09	Accidental Death Benefits	73
10.3.10	Special Accidental Death Benefit.....	75
10.3.11	Payment of Both Pensions for Accident and Other Benefits Prohibited.....	76
10.3.12	Offset in Computing Retirement and Death Benefits	76
10.3.13	Non-Impairment	77
10.3.14	Options.....	77
10.3.15	Actuarial Assumptions Related to Benefits Under the Twenty Year Police Retirement Program	81
10.3.16	Retirement Incentive Program for Certain Participants.....	81
10.4	Participant Contributions	82
10.4.01	Required Participant Contributions	82
10.4.02	Withdrawal of Participant Contributions	83
10.4.03	Employer Pick Up of Participant Contributions	84
10.4.04	Member Contribution Shortage.....	84
10.5	Transfer of Assets	85
10.5.01	85
10.5A	Cost of Living Adjustment.....	85
10.5A.01	85
10.6	Eligibility for Benefits for New Participants	86
10.6.01	Membership on or after January 9, 2010	86
10.6.02	Vesting	87
10.6.03	Overtime	87
10.6.04	Participant Contributions.....	87
10.6.05	Recalculation of Benefits	88
10.6.06	Final Average Salary.....	88
10.6.07	Wages.....	88
10.7	Forfeiture	89
10.7.01	Forfeiture for Cause	89
10.7.02	Procedures for Benefit Forfeiture for Cause	89
ARTICLE 11 M.S.B.A. EMPLOYEES' PENSION PLAN.....		91
	PREAMBLE	92
11.1	Definitions.....	95
11.1.01	“Agreement and Declaration of Trust”.....	95

11.1.02	“Employment” or “Employed”	95
11.1.03	“Employee”	95
11.1.04	“Employer”	96
11.1.05	“Union”	96
11.1.06	“Plan”	96
11.1.07	“Board of Managers”	96
11.1.08	“Member of the Board of Managers”	96
11.1.09	“MTA Plan”	96
11.1.10	Intentionally omitted	96
11.1.11	“Participant”	96
11.1.12	“Pensioner”	96
11.1.13	“Beneficiary”	96
11.1.14	“Year”	96
11.1.15	“Service”	96
11.1.16	“Credited Service”	97
11.1.17	“Break-in-Service”	97
11.1.18	“Hour of Service”	98
11.1.19	“Compensation”	99
11.1.20	“Final Average Salary”	99
11.1.21	“Predecessor Employers”	100
11.1.22	Word Gender	100
11.1.23	“Actuarial Value”	100
11.1.24	“Maternity or paternity leave of absence”	100
11.1.25	“Leased Employee”	101
11.1.26	“Non-MSBA Employer”	101
11.1.27	“Cause”	101
11.2	Retirement Conditions: Normal and Early Retirement.....	101
11.2.01	Normal Retirement.....	101
11.2.02	Early Retirement Pension	102
11.2.03	Vesting, Breaks-in-Service.....	102
11.2.04	Special Vesting Rules for Participants Employed by a Non-MSBA Employer.....	103
11.2.05	Determination of Number of Hours Worked.....	104
11.2.06	Return to Employment	104
11.2.07	Forfeiture for Cause	105

11.3	Retirement Conditions: Disability Retirement.....	105
11.3.01	Disability Retirement.....	105
11.3.02	Determination of Number of Hours Worked.....	105
11.3.03	Ineligible Causes of Disability.....	105
11.3.04	Proof of Disability.....	106
11.3.05	Subsequent Examinations.....	106
11.3.06	Discontinuance of Pension.....	106
11.3.07	Continuation of Other Rights.....	107
11.3.08	Resumption of Employment.....	107
11.4	Retirement Benefits.....	107
11.4.01	Normal Retirement Benefit.....	107
11.4.02	Early Retirement Benefit.....	108
11.4.03	Disability Retirement Benefit.....	108
11.4.04	Computation of Benefit After Vesting.....	108
11.4.05	Breaks-in-Service, Effect on Benefits.....	108
11.4.06	Special Spouse Benefits.....	109
11.4.07	Pension Reserve Benefit.....	111
11.4.08	Forms of Pension Payments.....	111
11.4.09	Intentionally omitted.....	116
11.4.10	Incapacity of Person Entitled to Receive Benefits.....	116
11.4.11	Maximum Retirement Benefit.....	116
11.4.12	Benefits Payable to Employees Under Prior Plans.....	116
11.4.13	Payment of Pensions.....	116
11.4.14	Contributions and Pensions Not Wages.....	117
11.4.15	Lump-Sum Death Benefit.....	117
11.4.16	Limitations On Retirement Allowances.....	117
11.4.17	Repayment of Actuarial Value on Return to Employment.....	118
11.4.18	Special Retiree Benefit for 1988.....	118
11.4.19	Contribution Holiday for 1988.....	118
11.4.20	Special Retiree Benefit for 1989.....	119
11.4.21	Contribution Holiday for 1989.....	119
11.4.22	Special Retiree Benefit for 1990.....	119
11.4.23	Contribution Holiday for 1990.....	119
11.4.24	Special Retiree Benefit for 1991.....	119
11.4.25	Contribution Holiday for 1991.....	119

11.4.26	Special Retiree Benefit for 1998	120
11.4.27	Special Retiree Benefit for 1999 and Subsequent Years.....	120
11.4.28	Retirement Incentive Benefit for 1998.....	120
11.4.29	Military Service.....	121
11.5	Intentionally Omitted.....	121
11.6	Return of Employee Contributions.....	121
11.6.01	Return of Contributions	121
11.6.02	Beneficiaries for Plan Purposes.....	122
11.6.03	Special Return of Employee Contributions	123
11.7	Financing.....	123
11.7.01	Funding Policy	123
11.7.02	Employer Contributions.....	123
11.7.03	Employee Participation and Contributions	123
11.7.04	Trust.....	125
11.8	Intentionally Omitted.....	125
11.9	Appeals	125
11.9.01	Appeals Procedure	125
11.9.02	Additional Appeals Procedures.....	125
11.10	Law Applicable	125
11.10.01	126
11.11	Medical Benefits for Retired Employees and Their Spouses	126
11.11.01	Establishment of Retiree 401(h) Account	126
11.11.02	Conformance to IRC Section 420 and 401 (h).....	126
11.11.03	Transfer of Excess Pension Assets	126
11.11.04	Amount of Transfer	126
11.11.05	Medical Benefits Eligible for Reimbursement With Transferred Assets	126
11.11.06	Unused Transferred Assets Returned to Plan	127
11.11.07	Funding the Retiree 401 (h) Account.....	127
11.11.08	Key Employees Excluded	127
11.11.09	Impossibility of Diversion	127
11.11.10	Restrictions on Transfer of Excess Pension Assets	127
11.11.11	Benefits Under Retiree 401 (h) Account are Subordinate.....	128
11.11.12	Administration	128
11.11.13	Definitions	128

ARTICLE 12	DEFINED BENEFIT PROGRAM FOR REPRESENTED EMPLOYEES OF THE COMMUTER RAILS	131
12.0.0	Preamble	132
12.1	Definitions.....	132
12.1.01	“Accumulated Contributions”.....	132
12.1.02	“Article 12 Pension Program”.....	132
12.1.03	“Collective Bargaining Representative”.....	132
12.1.04	“Compensation”	132
12.1.05	“Credited Service”	132
12.1.06	“Employee”.....	135
12.1.07	“Employer”	136
12.1.08	“Employment”.....	136
12.1.09	“Initial Participant”	136
12.1.10	“Initial Participant Balance”	136
12.1.11	“Medical Board”.....	136
12.1.12	“Metro-North Agreement Employees Plan”.....	136
12.1.13	“New Contribution Period Date”	136
12.1.14	“New Contribution Period Participant”.....	138
12.1.15	“New Participant”	138
12.1.16	“New Participant Date”.....	138
12.1.17	“Participant”.....	139
12.1.18	“Program Effective Date”	139
12.1.19	“Transfer Valuation Date”.....	139
12.1.20	“Cause”	139
12.2	Participation in the Program	139
12.2.01	Participation Requirements.....	140
12.2.02	Events Affecting Participation	140
12.2.03	Restoration of a Participant.....	140
12.3	Eligibility for and Amount and Payment of Benefits For Participants.....	140
12.3.01	Service Retirement	140
12.3.02	Early Retirement	141
12.3.03	Vested Benefit.....	142
12.3.04	Disability Retirement.....	143
12.3.05	Ordinary Death Benefit	146

12.3.05.1	Death Benefit for Participants With a Vested Benefit Who Die Prior to Retirement	147
12.3.06	Accidental Death Benefit.....	147
12.3.07	Offset in Computing Retirement Benefits.....	148
12.3.08	Payment Options for Retirement Benefits.....	149
12.3.09	Commencement of Payments.....	152
12.3.10	Return of Participant Contributions in Certain Instances	153
12.3.11	Consideration of Cost-of-Living Increases	154
12.3.12	Minimum Benefits Attributable to the Metro-North Agreement Employees Plan	154
12.3.13	Minimum Benefits Attributable to the LIRR Money Purchase Plan.....	155
12.3.14	Forfeiture for Cause	155
12.4	Member Contributions	156
12.4.01	Required Member Contributions	156
12.4.02	No Loans Hereunder.....	158
12.4.03	Employer Pick-up of Member Contributions	158
ARTICLE 13	PROVISIONS APPLICABLE TO CERTAIN NON-REPRESENTED EMPLOYEES ASSIGNED TO THE FORMER LIBERTY LINES BUS ROUTE	160
	PREAMBLE.....	161
13.1	Definitions.....	162
13.1.01	“Accrued Benefit”	162
13.1.02	“Actuarial Equivalent”	162
13.1.03	“Age”	163
13.1.04	“Anniversary Date”	163
13.1.05	“Annuity Starting Date”	163
13.1.06	“Average Monthly Compensation”	163
13.1.07	“Beneficiary”	163
13.1.08	“Compensation”	164
13.1.09	“Earliest Retirement Age”	164
13.1.10	“Early Retirement Date”	164
13.1.11	“Effective Date”	164
13.1.12	“Eligible Employee”	164
13.1.13	“Employee”	165
13.1.14	“Employer”	165

13.1.15	“Former Non-Represented Liberty Lines Employee”	165
13.1.16	“Former Liberty Lines Service”	165
13.1.17	“Former Participant”	165
13.1.18	“Hour of Service”	165
13.1.19	“Late Retirement Date”	166
13.1.20	“Liberty Lines Pension Plan for Non-Represented Employees”	166
13.1.21	“Normal Retirement Age”	166
13.1.22	“Normal Retirement Date”	166
13.1.23	“1-Year Break in Service”	166
13.1.24	“Participant”	167
13.1.25	“Pre-Retirement Survivor Annuity”	167
13.1.26	“Present Value of Accrued Benefit”	167
13.1.27	“Retired Participant”	167
13.1.28	“Retirement Date”	167
13.1.29	“Social Security Retirement Age”	167
13.1.30	“Terminated Participant”	167
13.1.31	“Total and Permanent Disability”	167
13.1.32	“Vested”	167
13.1.33	“Year of Service”	167
13.1.34	“Cause”	168
13.2	Eligibility	168
13.2.01	Conditions of Eligibility	168
13.2.02	Effective Date of Participation	168
13.2.03	Determination of Eligibility	169
13.2.04	Termination of Eligibility	169
13.2.05	Election Not To Participate	169
13.3	Benefits	169
13.3.01	Retirement Benefits	169
13.3.02	Payment of Retirement Benefits	171
13.3.03	Disability Retirement Benefits	171
13.3.04	Death Benefits	171
13.3.05	Termination of Employment Before Retirement	173
13.3.06	Distribution of Benefits	175
13.3.07	Distribution of Benefits Upon Death	178
13.3.08	Time of Segregation or Distribution	180

13.3.09	Forfeiture for Cause	180
13.4	Miscellaneous.....	181
13.4.01	Payment of Contributions.....	181
13.4.02	Distribution for a Minor Beneficiary	181
13.4.03	Location of Participant or Beneficiary Unknown	181
13.4.04	Amendment.....	181
13.4.05	Participants' Rights	182
ARTICLE 14	PROGRAM FOR ELIGIBLE MTA BUS REPRESENTED AND NON-REPRESENTED EMPLOYEES	183
	PREAMBLE.....	184
14.1	Applications And Definitions	185
14.1.01	“Application”	185
14.1.02	“Accrued Benefit”	185
14.1.03	“Accumulated Employee Contributions Benefit”	185
14.1.04	“Actuarial Equivalent”	185
14.1.05	“Agreement”	186
14.1.06	“Annuity Starting Date”	186
14.1.06A	“Article 14 Amendment Date”	186
14.1.07	“Break in Service”	186
14.1.08	“Covered Employment”	187
14.1.09	“Delayed Retirement Date”	187
14.1.10	“Disability”	187
14.1.11	“Disability Retirement Date”	187
14.1.12	“Early Retirement Date”	187
14.1.13	“Effective Date”	187
14.1.14	“Eligible Employee”	187
14.1.15	“Employee”	187
14.1.16	“Employee Contribution”	188
14.1.17	“Employee Contribution Benefit”	188
14.1.18	“Accumulated Contributions”	188
14.1.19	“Employer”	188
14.1.20	“Employment Commencement Date”	188
14.1.21	“Employment Computation Period”	188
14.1.22	“Former Liberty Lines Plan Participant”	188
14.1.23	“Former Liberty Lines Service”	188

14.1.24	“Hour of Employment”	188
14.1.25	“Hour of Service”	189
14.1.26	“Maternity or Paternity Leave of Absence”	189
14.1.27	“Normal Form of Retirement Benefit”	189
14.1.28	“Normal Retirement Age”	189
14.1.29	“Normal Retirement Date”	189
14.1.30	“Participant”	189
14.1.31	“Part-Time Employee”	189
14.1.32	“Period of Service”	189
14.1.33	“Period of Severance”	190
14.1.34	“Prior Plan”	190
14.1.35	“Reemployment Commencement Date”	190
14.1.36	“Seniority”	190
14.1.37	“Severance from Service Date”	190
14.1.38	“Spouse”	190
14.1.39	“Uninterrupted Seniority”	190
14.1.40	“Union”	190
14.1.41	“Special Early Retirement Date”	190
14.1.42	“Impasse Award”	190
14.1.43	“Impasse Award Date”	190
14.1.44	“ATU 1179 Agreement”	190
14.1.45	“ATU 1181 Agreement”	190
14.1.46	“TWU 106 Agreement”	191
14.1.47	“Cause”	191
14.2	Eligibility	191
14.2.01	Conditions of Eligibility	191
14.2.02	Eligible Employee	191
14.2.03	Determination of Eligibility	192
14.2.04	Termination of Eligibility	192
14.2.05	Part-Time Employees	192
14.3	Uninterrupted Seniority And Breaks In Service For Vesting And Benefit Accrual	193
14.3.01	Uninterrupted Seniority for Vesting Service	193
14.3.02	Severance from Service Date	193
14.3.03	Extensions of Service	193

14.3.04	Additional Service Allowance.....	193
14.3.05	Uninterrupted Seniority for Benefit Accrual and Eligibility to Commence Receiving Benefits.....	194
14.3.06	Uninterrupted Seniority Following a Break in Service.....	194
14.3.07	Return to Employment after Disability.....	195
14.3.08	Service in the Armed Forces.....	195
14.3.09	Uninterrupted Seniority for Vesting, Eligibility to Commence Receiving Distributions and Benefit Accrual Purposes for Part-Time Employees	196
14.4	Retirement Conditions.....	196
14.4.01	Normal Retirement.....	196
14.4.02	Delayed Retirement	196
14.4.03	Early Retirement	197
14.4.04	Disability Retirement.....	197
14.4.05	Suspension of Benefits	197
14.4.06	Commencement of Benefits.....	198
14.5	Retirement Benefits.....	199
14.5.01	Normal Retirement Benefit.....	199
14.5.02	Delayed Retirement Benefit.....	199
14.5.03	Early Retirement Benefit	200
14.5.04	Special Early Retirement	200
14.5.05	Required Benefit Commencement.....	200
14.6	Joint And Survivor And Preretirement Death Benefits.....	200
14.6.01	Automatic Joint And Survivor Annuity.....	200
14.6.02	Qualified Preretirement Survivor Annuity.....	201
14.6.03	Qualified Election	202
14.6.04	Notice Requirements	202
14.6.05	Lump-Sum Death Benefit.....	203
14.6.06	Optional Elections	203
14.6.07	Limitation on Optional Elections.....	204
14.6.08	Further Limitation on Optional Elections	204
14.7	Return Of Contributions.....	205
14.7.01	Upon Termination of Employment Prior to Vesting.....	205
14.7.02	Refund upon Death.....	205
14.7.03	Cessation of Payment Upon Death.....	205
14.7.04	Repayment of Contribution Upon Reemployment	206

14.8	Benefits On Termination Of Employment And Retirement Disability.....	206
14.8.01	Termination Generally.....	206
14.8.02	Conditions for Vested Retirement Benefits	206
14.8.03	Amount of Vested Retirement Benefits	207
14.8.04	Single Sum Payment of Value of Vested Retirement Benefits	207
14.8.05	Participant and Spouse Consent for Immediately Distributable Benefits	207
14.8.06	Disability Termination.....	208
14.8.06A	Workers Compensation Payment Offset.....	208
14.8.07	Disability Retirement	209
14.8.08	Review of Disability Pension Payments	209
14.8.09	No Forfeiture Upon Withdrawal of Employee Contribution	209
14.8.10	Forfeiture for Cause	209
14.9	Funding	210
14.9.01	Contributions by Participants	210
14.10	Miscellaneous.....	211
14.10.01	Payments to Legally Incompetent.....	211
14.10.02	Absence of Information.....	211
14.10.03	Non-Impairment	211
ARTICLE 15 PROVISIONS APPLICABLE TO CERTAIN FORMER EMPLOYEES OF QUEENS SURFACE CORP. JAMAICA BUS INC. AND TRIBORO COACH CORPORATION		212
PREAMBLE.....		213
15.1	Definitions.....	214
15.1.01	“Accrued Benefit”	214
15.1.02	“Accumulated Employee Contributions Benefit”	214
15.1.03	“Actuarial Equivalent”.....	214
15.1.04	“Agreement”	215
15.1.05	“Annuity Starting Date”.....	215
15.1.06	“Break in Service Year”	215
15.1.07	“Covered Employment”	215
15.1.08	“Delayed Retirement Date”	215
15.1.09	“Dependent Child or Children”	215
15.1.10	“Disability”	216
15.1.11	“Disability Retirement Date”	216
15.1.12	“Early Retirement Date”	216

15.1.13	“Effective Date”	216
15.1.14	“Eligible Employee”	216
15.1.15	“Employee”	216
15.1.16	“Employee Contribution”	216
15.1.17	“Employee Contribution Benefit”	216
15.1.18	“Employer”	217
15.1.19	“Employment Commencement Date”	217
15.1.20	“Former QJT Employee”	217
15.1.21	“Former QJT Service”	217
15.1.22	“Hour of Service”	217
15.1.23	“Maternity or Paternity Leave of Absence”	217
15.1.24	“Normal Form of Retirement Benefit”	217
15.1.25	“Normal Retirement Age”	218
15.1.26	“Normal Retirement Date”	218
15.1.27	“Participant”	218
15.1.28	“Period of Service”	218
15.1.29	“Period of Severance”	218
15.1.30	“Reemployment Commencement Date”	218
15.1.31	“Severance from Service Date”	218
15.1.32	“Spouse”	218
15.1.33	“TWU-NYC Plan”	218
15.1.34	“Uninterrupted Seniority”	218
15.1.35	“Union”	219
15.1.36	“Article 15 Amendment Date”	219
15.1.37	“Impasse Award”	219
15.1.38	“Cause”	219
15.2	Eligibility	219
15.2.01	Conditions of Eligibility	219
15.2.02	Eligible Employee	219
15.2.03	Determination of Eligibility	219
15.2.04	Termination of Eligibility	220
15.3	Uninterrupted Seniority and Breaks in Service for Vesting, Eligibility and Benefit Accrual Eligibility	220
15.3.01	Uninterrupted Seniority for Vesting Service and Eligibility to Commence Receiving Benefits	220

15.3.02	Severance from Service Date	220
15.3.03	Additional Service Allowance	220
15.3.04	Uninterrupted Seniority For Benefit Accrual.....	220
15.3.04A	Uninterrupted Seniority for Benefit Accrual for Represented Employees	221
15.3.05	Uninterrupted Seniority Following a Break in Service	221
15.3.06	Return to Employment after Disability.....	221
15.3.07	Service in the Armed Forces.....	221
15.4	Retirement Conditions	222
15.4.01	Normal Retirement.....	222
15.4.02	Delayed Retirement	222
15.4.03	Early Retirement	222
15.4.04	Disability Retirement	223
15.4.05	Suspension of Benefits	223
15.4.06	Commencement of Benefits.....	224
15.5	Retirement Benefits	224
15.5.01	Normal Retirement.....	224
15.5.02	Delayed Retirement Benefit.....	225
15.5.03	Early Retirement Benefit	225
15.6	Joint and Survivor and Preretirement Death Benefits	225
15.6.01	Automatic Joint and Survivor Annuity	225
15.6.02	Qualified Preretirement Survivor Annuity.....	226
15.6.03	Qualified Election	226
15.6.04	Notice Requirements	227
15.6.05	In-Service Lump-Sum Death Benefit	228
15.6.06	Post-Retirement Lump-Sum Death Benefit.....	228
15.6.07	Dependent Child's Pre-Retirement Death Benefit	228
15.6.08	Dependent Child's Post-Retirement Death Benefit.....	229
15.6.09	Payment of Dependent Child's Benefit	229
15.7	Optional Methods of Retirement Payments.....	230
15.7.01	Optional Elections	230
15.7.02	Limitation On Optional Elections.....	230
15.7.03	Further Limitations On Optional Elections	230
15.8	Return of Contributions	231
15.8.01	Upon Termination of Employment Prior to Vesting.....	231

15.8.02	Refund Upon Death	231
15.8.03	Cessation of Payment upon Death	232
15.8.04	Repayment of Contribution upon Reemployment	232
15.9	Benefits on Termination of Employment Upon Retirement Upon Disability	232
15.9.01	Termination Generally.....	232
15.9.02	Conditions for Vested Retirement Benefits	233
15.9.03	Amount of Vested Retirement Benefits.....	233
15.9.04	Single Sum Payment of Value of Vested Retirement Benefits	233
15.9.05	Participant and Spousal Consent for Immediately Distributable Benefits	234
15.9.06	Disability Termination.....	234
15.9.07	Disability Retirement	235
15.9.08	Review of Disability Pension Payments.....	235
15.9.09	No Forfeiture upon Withdrawal of Employee Contribution.....	235
15.9.10	Forfeiture for Cause	236
15.10	Funding	236
15.10.01	Contributions By Participants.....	236
15.10.02	Contributions by Employers	237
15.11	Miscellaneous.....	238
15.11.01	Participant's Rights; Acquittance	238
15.11.02	Receipt or Release	238
15.11.03	Payments To Legally Incompetent.....	238
15.11.04	Payment To Incapacitated Participant	238
15.11.05	Divestment of Benefits	238
15.11.06	Lost Beneficiary or Participant	239
15.11.07	Duplication of Benefits	239
15.11.08	Amendment.....	239
15.12	Certain Participants in the TWU-NYC Plan Other Than Former QJT Employees.....	239
ARTICLE 16	PROVISIONS APPLICABLE TO CERTAIN EMPLOYEES ASSIGNED TO THE FORMER NEW YORK BUS SERVICE ROUTES.....	240
	PREAMBLE.....	241
16.1	Definitions.....	243
16.1.01	“Accrued Benefit”	243
16.1.02	“Accrued Benefit From Employee Contributions”	243
16.1.03	“Actuarially Equivalent Benefit”	243

16.1.04	“Additional Former New York Bus Service Employee”	243
16.1.05	“Age”	243
16.1.06	“Annuity Starting Date”	243
16.1.07	“Beneficiary”	243
16.1.08	“Break-in-Service”	244
16.1.09	“Computation Period”	244
16.1.10	“Earliest Retirement Age”	244
16.1.11	“Effective Date”	244
16.1.12	“Eligible Former New York Bus Service Employee”	244
16.1.13	“Employee”	244
16.1.14	“Employer”	244
16.1.15	“Former New York Bus Service Employee”	244
16.1.16	“Former New York Bus Service Plan Participants”	244
16.1.17	“Former New York Bus Service Plan Inactive Participant”	244
16.1.18	“Former New York Bus Tours Service”	244
16.1.19	“Hour of Service”	244
16.1.20	“Joint and Survivor Annuity”	245
16.1.21	“Leave of Absence”	245
16.1.22	“New York Bus Service Plan”	245
16.1.23	“Normal Form”	246
16.1.24	“Normal Retirement Age”	246
16.1.25	“Normal Retirement Date”	246
16.1.26	“Participant”	246
16.1.27	“Qualified Election”	246
16.1.28	“Qualified Military Leave”	246
16.1.29	“Qualified Preretirement Survivor Annuity”	247
16.1.30	“Spouse”	247
16.1.31	“Year of Service”	247
16.1.32	“Article 16 Amendment Date”	247
16.1.33	“Impasse Award”	248
16.1.34	“Cause”	248
16.2	Eligibility	248
16.2.01	Eligibility and Termination of Eligibility	248
16.2.02	Break in Service	249
16.3	Normal Retirement Benefits	249

16.3.01	Amount of Benefit	249
16.4	Financing.....	249
16.4.01	Computation of Contributions; Expenses.....	249
16.4.02	Employee Contributions.....	249
16.4.03	Forfeitures.....	250
16.4.04	Forfeiture for Cause	250
16.5	Joint and Survivor Benefits.....	250
16.5.01	Joint and Survivor Annuity	250
16.5.02	Qualified Preretirement Survivor Annuity	251
16.5.03	Explanation of Joint and Survivor Annuity	251
16.5.04	Explanation of Qualified Preretirement Survivor Annuity	251
16.5.05	Death Benefit	252
16.5.06	Actuarial Equivalence	252
16.6	Disability Benefits	252
16.6.01	Eligibility for Disability Benefit	252
16.6.02	Payment of Disability Benefit	252
16.6.03	Payment at Earliest and Normal Retirement Age	253
16.6.04	Continued Disability	253
16.6.05	Disability Prior to Ten Years of Service	253
16.7	Provisions on Later Retirement	253
16.7.01	Late Retirement	253
16.7.02	Accrual of Benefits Past Normal Retirement Age	253
16.7.03	Late Retirement Benefit	253
16.8	Provisions Upon Death.....	254
16.8.01	Beneficiary Designation	254
16.8.02	Form of Payment	254
16.8.03	Minimum Benefit	254
16.9	Severance and Distributions.....	254
16.9.01	Vesting	254
16.9.02	Amendment of Vesting Schedule.....	254
16.9.03	Break-in-Service Rule	255
16.9.04	Payment of Benefit.....	255
16.9.05	Latest Date for Payment	256
16.9.06	Actuarial Equivalence	256
16.9.07	Optional Forms of Payment	256

16.9.08	Segregated Accounts.....	258
16.9.09	Rollover Distribution.....	258
16.10	Miscellaneous.....	259
16.10.01	Loans	259
16.10.02	Exclusive Benefit.....	259
16.10.03	Legally Incompetent Individuals.....	259
16.11	New York Bus Service Plan Inactive Participants	259
ARTICLE 17 PROVISIONS APPLICABLE TO CERTAIN EMPLOYEES ASSIGNED TO THE FORMER COMMAND BUS COMPANY BUS ROUTES		261
PREAMBLE.....		262
17.1	Definitions.....	263
17.1.01	“Accrued Benefit”	263
17.1.02	“Applicable Interest Rate”	263
17.1.03	“Beneficiary”	264
17.1.04	“Benefit Commencement Date”	264
17.1.05	“Break-in-Service”	264
17.1.06	“Collective Bargaining Agreement”	264
17.1.07	“Credited Service”	264
17.1.07A	End of Credited Service	264
17.1.08	“Employee”	264
17.1.09	“Command Bus Plan”.....	264
17.1.10	“Covered Employment or Employment”	264
17.1.11	“Effective Date”	265
17.1.12	“Employer”	265
17.1.13	“Former Command Bus Employee”	265
17.1.14	“Hour of Service”	265
17.1.15	“Normal Retirement Age”	265
17.1.16	“Participant”	265
17.1.17	“Pensioner”	265
17.1.18	“Spouse”	265
17.1.19	“Union”	266
17.1.20	“Year”	266
17.1.21	“Vesting Service”	266
17.1.22	“Welfare Plan”	266
17.1.23	“Article 17 Amendment Date”	266

17.1.24	“Cause”	266
17.2	Participation.....	266
17.2.01	Participation	266
17.2.02	Termination of Participation	267
17.3	Credited Service and Vesting Service	268
17.3.01	Credited Service	268
17.3.02	Vesting	268
17.3.03	Reemployment.....	269
17.3.04	Lump Sum Distribution.....	269
17.3.05	Less Than Five Years of Credited Service	269
17.3.06	Break-In-Service	269
17.3.07	Non-Covered Employment.....	272
17.3.08	Permanent Break In Service	272
17.3.09	Evidence of Hours Worked	272
17.4	Eligibility Requirements for Pension Benefits	272
17.4.01	Normal Retirement.....	272
17.4.02	Disability Retirement	273
17.4.03	Definition of Total and Permanent Disability	273
17.4.04	Evidence of Disability.....	274
17.4.05	Continuing Eligibility.....	274
17.4.06	End of Disability	274
17.5	Pension Benefits	274
17.5.01	Normal Retirement.....	274
17.5.02	Disability Retirement	277
17.5.03	Benefit Increase	278
17.6	Payment Of Benefits	278
17.6.01	Payment of Pensions	278
17.6.02	Joint and Survivor Annuity	279
17.6.03	Death Benefits	281
17.6.04	Benefits Upon Severance	282
17.6.05	Facility of Payment.....	283
17.6.06	Payments Not Deemed Wages.....	283
17.6.07	Return to Covered Employment After Retirement	284
17.6.08	Continuation of Employment After Normal Retirement Age.....	284
17.6.09	Forfeiture for Cause	285

17.7	Financing.....	285
17.7.01	Employer Contributions.....	285
17.7.02	Employee Contributions.....	285
17.7.03	Form of Payment	286
17.7.04	Employee Contributions for Periods of Military Service	286
17.8	Command Bus Plan Participants Other Than Former Command Bus Employees.....	286
ARTICLE 18 PROVISIONS APPLICABLE TO CERTAIN FORMER NONREPRESENTED EMPLOYEES OF ALLIANCE COMPANIES		287
PREAMBLE.....		288
18.1	Application And Definitions.....	290
18.1.01	Application	290
18.1.02	“Accrued Benefit”	290
18.1.03	“Alliance Company”.....	290
18.1.04	“Alliance Company Plan”	290
18.1.05	“Annuity Starting Date”.....	290
18.1.06	“Average Annual Earnings”	290
18.1.07	“Break in Service”	290
18.1.08	“Company”	291
18.1.09	“Credited Service”	291
18.1.10	“Earnings”	291
18.1.11	“Effective Date”	291
18.1.12	“Employee”.....	291
18.1.13	“Equivalent Actuarial Value”.....	292
18.1.14	“Former Alliance Company Nonrepresented Employee”	292
18.1.15	“Former Transit Company Nonrepresented Employee”	292
18.1.16	“Former Transit Company Plan Participant”	292
18.1.17	“Former Transit Company Service”.....	292
18.1.18	“Former Varsity Nonrepresented Employee”	292
18.1.19	“GTJ Pension Plan”.....	292
18.1.20	“Hour of Service”	292
18.1.21	“IRS Interest Rate”	293
18.1.22	“IRS Mortality Table”	293
18.1.23	“Leased Employee”	293
18.1.24	“Member”	293

18.1.25	“Normal Retirement Age”	293
18.1.26	“Normal Retirement Date”	293
18.1.27	“Parental Leave”	293
18.1.28	“Pension”	294
18.1.29	“Qualified Joint and Survivor Annuity”	294
18.1.30	“Spouse”	294
18.1.31	“Spousal Consent”	294
18.1.32	“Stability Period”	294
18.1.33	“Suspendible Month”	294
18.1.34	“Transition Date”	294
18.1.35	“Transit Company Plans”	295
18.1.36	“Vesting Service”	295
18.1.37	“Cause”	295
18.2	Eligibility	295
18.2.01	Membership Requirements	295
18.2.02	Events Affecting Membership	295
18.2.03	Membership upon Reemployment	295
18.3	Service	295
18.3.01	Vesting Service	295
18.3.02	Credited Service	297
18.3.03	Restoration of Retired Member or Other Former Employee to Service	297
18.4	Eligibility For and Amount of Benefits	300
18.4.01	Normal Retirement	300
18.4.02	Deferred Retirement	301
18.4.03	Early Retirement	302
18.4.04	Vesting	302
18.4.05	Disability Retirement	302
18.4.06	Spouse’s Pension	303
18.4.07	Change of Employment Status	306
18.5	Payment of Pensions	306
18.5.01	Automatic Form of Payment	306
18.5.02	Optional Forms of Payment	307
18.5.03	Election of Options	308
18.5.04	Commencement of Payments	309

18.5.05	Forfeiture for Cause	309
18.6	Miscellaneous.....	310
18.6.01	Company' s Contributions.....	310
18.6.02	Conditions of Employment Not Affected by Plan	310
18.6.03	Facility of Payment.....	310
18.6.04	Cooperation	310
18.7	Vesting Service and Credited Service For GTJ Employees	310
18.8	Former Transit Company Plan Participants Other Than Former Transit Company Nonrepresented Employees.....	310
ARTICLE 19	PROVISIONS APPLICABLE TO CERTAIN EMPLOYEES ASSIGNED TO THE FORMER GREEN BUS LINES, INC. BUS ROUTES	312
19.1	PREAMBLE	313
19.1	Definitions.....	314
19.1.01	“Accrued Benefit”	314
19.1.02	“Accumulated Employee Contributions Benefit”	315
19.1.03	“ Actuarial Equivalent”	315
19.1.04	“Agreement”	316
19.1.05	“Annuity Starting Date”.....	316
19.1.06	“Asset Transfer Date”.....	316
19.1.07	“Beneficiary”	316
19.1.08	“Break in Service”	316
19.1.09	“Compensation”	317
19.1.10	“Computation Period”.....	317
19.1.11	“Contiguous Noncovered Employment”	317
19.1.12	“Contingent Annuitant”	317
19.1.13	“Contributions”	318
19.1.14	“Covered Employment”	318
19.1.15	“Credited Service”	318
19.1.16	“Delayed Retirement Date”	318
19.1.17	“Disability”	318
19.1.18	“Disability Retirement Date”	318
19.1.19	“Early Retirement Date”	318
19.1.20	“Effective Date”	318
19.1.21	“Eligible Employee”	318
19.1.22	“Employee”.....	318

19.1.23	“Employee Contribution”	318
19.1.24	“Employee Contribution Benefit”	318
19.1.25	“Employer”	319
19.1.26	“Entry Date”	319
19.1.27	“Former Green Bus Lines Employee”	319
19.1.28	“Green Bus Lines Plan”	319
19.1.29	“Hour of Service”	319
19.1.30	“Monthly Base Pay”	320
19.1.31	“Normal Form of Retirement Benefit”	320
19.1.32	“Normal Retirement Age”	320
19.1.33	“Normal Retirement Date”	320
19.1.34	“Participant”	320
19.1.35	“Service”	320
19.1.36	“Spouse”	321
19.1.37	“Union”	321
19.1.38	“Year of Credited Service”	321
19.1.39	“Article 19 Amendment Date”	321
19.1.40	“Cause”	321
19.2	Eligibility	321
19.2.01	Conditions of Eligibility	321
19.2.02	Eligible Employee	321
19.2.03	Determination of Eligibility	321
19.2.04	Termination of Eligibility	322
19.3	Service, Credited Service and Breaks in Service	322
19.3.01	Determination of Service	322
19.3.02	Credited Service for Determining the Amount of Benefits	322
19.3.03	Pre-ERISA Service	323
19.3.04	Service and Credited Service Following a Break in Service	323
19.3.05	Return to Employment after Disability	323
19.3.06	Service in the Armed Forces	323
19.3.07	Leave of Absence	323
19.3.08	Union Office	324
19.3.09	Employee Contributions During Leave of Absence and Union Office	324
19.3.10	Special Vesting Provision	324

19.4	Retirement Conditions	324
19.4.01	Normal Retirement	324
19.4.02	Delayed Retirement	324
19.4.03	Early Retirement	324
19.4.04	Disability Retirement	325
19.4.05	Suspension of Benefits	325
19.4.06	Commencement of Benefits	326
19.5	Retirement Benefits	326
19.5.01	Normal Retirement Benefit	326
19.5.02	Delayed Retirement Benefit	327
19.5.03	Early Retirement Benefit	327
19.5.04	Adjustment for Delayed Retirement	328
19.6	Joint and Survivor and Preretirement Death Benefits	328
19.6.01	Automatic Joint and Survivor Annuity	328
19.6.02	Qualified Preretirement Survivor Annuity	329
19.6.03	Qualified Election	329
19.6.04	Notice Requirements	330
19.7	Benefits on Termination of Employment and Retirement Upon Disability	330
19.7.01	Termination Generally	330
19.7.02	Conditions for Vested Retirement Benefits	331
19.7.03	Amount of Vested Retirement Benefits	331
19.7.04	Single Sum Payment of Value of Vested Retirement Benefits	331
19.7.05	Participant and Spousal Consent for Immediately Distributable Benefits	332
19.7.06	Disability Termination	332
19.7.07	No Forfeiture upon Withdrawal of Employee Contribution	333
19.7.08	Forfeiture for Cause	334
19.8	Funding	334
19.8.01	Contributions by Participants	334
19.8.02	Contributions By Employer	334
19.9	Contributions	335
19.9.01	Return of Contributions upon Termination	335
19.9.02	Return of Contributions upon Death	335
19.9.03	Return of Contributions after Commencement	336
19.9.04	Return of Contributions Prior to Vesting	336

19.9.05	Beneficiary Designation	336
19.10	Green Bus Lines Participants Other Than Former Green Bus Lines Employees.....	337
ARTICLE 20	STATEN ISLAND RAPID TRANSIT OPERATING AUTHORITY (SIRTOA) PENSION PROGRAM.....	338
20.0	PREAMBLE	339
20.1	Definitions.....	340
20.1.01	"Agreements"	340
20.1.02	"Beneficiary"	340
20.1.03	"Benefit"	340
20.1.04	"Collective Bargaining Representative".....	340
20.1.05	"Compensation"	340
20.1.06	"Credited Service"	341
20.1.07	"Disability Retiree".....	344
20.1.08	"Disability Retirement Allowance"	344
20.1.09	" Early Retirement Allowance"	344
20.1.10	"Effective Date"	344
20.1.11	"Eligible Beneficiary"	344
20.1.12	"Employee".....	345
20.1.13	"Employer"	345
20.1.14	"Employment".....	345
20.1.15	"Final Average Compensation"	345
20.1.16	"Fourth Plan Amendment Date".....	345
20.1.17	"Medical Board".....	345
20.1.18	"MTA DB Plan".....	346
20.1.19	"MTA Board"	346
20.1.20	"Non-Represented Employees"	346
20.1.20A	"Non-SIRTOA Employer"	346
20.1.21	"Ordinary Death Benefit"	346
20.1.22	"Participant".....	346
20.1.23	"Participant Covered by the Fourth Plan Amendment"	346
20.1.23A	"New Participant"	346
20.1.24	"Pension Fund"	346
20.1.25	"Plan Amendment Date"	346
20.1.26	"Retired Participant"	346

20.1.27	"Service Retirement Allowance"	346
20.1.28	"Shop Craft Employee"	347
20.1.29	"SIRTOA Plan"	347
20.1.30	"Staff Summary"	347
20.1.31	"Third Plan Amendment Date"	347
20.1.32	"Vested Benefit"	347
20.1.33	"Cause"	347
20.2	Participation.....	347
20.2.01	Participation Requirements.....	347
20.2.02	Events Affecting Participation	349
20.3	Eligibility for and Amount and Payment of Benefits for Participants.....	349
20.3.01	Service Retirement	349
20.3.02	Early Retirement	351
20.3.03	Vested Benefit.....	352
20.3.03A	Special Vesting Rules For Participants Employed by a Non-SIRTOA Employer	353
20.3.04	Disability Retirement	354
20.3.05	Disability Retirement Allowance.....	360
20.3.06	Ordinary Death Benefit	360
20.3.07	Death Benefit for Participants With a Vested Benefit Who Die Prior to Retirement.....	362
20.3.08	Accidental Death Benefit.....	362
20.3.09	Offset in Computing Retirement and Death Benefits	363
20.3.10	Payment Options for Retirement Benefits.....	364
20.3.11	Reinstate Prior SIRTOA Plan if Merger is Successfully Challenged.....	365
20.3.12	Forfeiture for Cause	365
20.4	Participant Contributions	366
20.4.01	Required Participant Contributions	366
20.4.02	Payroll Deductions, Prior Contributions, Refunds.....	368
20.4.03	Employer Pick Up of Participant Contributions	371
20.5	SIRTOA Plan Administration	372
20.5.01	Filings.....	372
20.5.02	Information	372
20.6	General Provisions	372
20.6.01	Commencement of Payments.....	372

20.6.02	Rights and Obligations upon Termination.....	372
20.6.03	Construction.....	373
ARTICLE 21	THE LONG ISLAND RAIL ROAD COMPANY PENSION PROGRAM	374
21.0	PREAMBLE.....	374
21.1	Definitions.....	374
21.1.01	Employee	374
21.1.02	Compensation.....	374
21.1.03	Final Average Compensation.....	375
21.1.03A.	Final Average Base Earnings	375
21.1.04.	Service	375
21.1.05	Pension Trust.....	380
21.1.06	Union.....	380
21.1.07	Credit Union	380
21.1.08	Plan for Supplemental Pensions.....	380
21.1.09	Surviving Annuitant	380
21.1.10	Service-Age Pension	380
21.1.11	Disability Pension.....	380
21.1.12	Board of Managers	381
21.1.13	Code	381
21.1.14	Joint Board.....	381
21.1.15	Masculine Pronouns	381
21.1.16	Titles and Headings of Sections	381
21.2	Benefits	381
21.2.01	Employees Covered.....	381
21.2.02	Service-Age Pension Eligibility	381
21.2.03	Amount of Service-Age Pension	381
21.2.04	Disability Pension Eligibility.....	382
21.2.05	Amount of Disability Pension	384
21.2.06	Death Benefits	384
21.2.07	Vested Rights.....	384
21.2.08	Survivor Option	384
21.2.09	Cancellation of Benefits	387
21.3	Payment of Benefits	387
21.3.01	Applications.....	387
21.3.02	Furnishing Information	387

21.3.03	Period of Payment	387
21.3.04	Non-duplication of Benefits	387
21.3.05	Beneficiary Designation	388
21.3.06	Missing Recipients	388
21.4	Incorporation and Merger of Trusts	388
21.4.01	Incorporation and Merger of Trusts.....	388
21.5	Plan for Supplemental Pensions	388
21.5.01	Supersedure of Plan for Supplemental Pensions	388
21.5.02	Refund of Member Contributions	388
21.5.03	Discontinuance of Survivorship Option Covering Death in Active Service	389
21.5.04	Non-duplication	389
21.6	Contributions	389
21.6.01	Contributions Required	389
21.6.02	Refund of Employee Contributions	389
21.6.03	Limitation of Company Liability	391
21.6.04	No Change in Employment Rights.....	391
21.7	Administration.....	391
21.7.01	Joint Board on Pension Applications	391
21.7.02	Board of Managers	391
21.8	Amendment and Termination	391
21.8.01	Right to Amend or Terminate.....	391
21.8.02	Termination	392
21.8.03	Internal Revenue Service Approval	392
21.9	Split Employment - Company, Union, Welfare Trust Fund and or Pension Trust Fund.....	393
21.9.01	Retirement and Continuity of Service	393
21.9.02	Credited Service	393
21.9.03	Contributions.....	394

PREAMBLE

This document sets forth the provisions of the Metropolitan Transportation Authority Defined Benefit Pension Plan (hereinafter referred to as “the Plan”), effective as of January 1, 1994, amended and restated as of November 2001 and further amended and restated as of January 2016.

The Plan and trust referenced herein are intended to satisfy the applicable requirements for governmental plans and trusts under Section 401(a) of the Internal Revenue Code of 1986, as amended from time to time (the “Code”), and it is intended that the trust be tax-exempt under Section 501(a) of the Code. It is also intended that the Plan be treated as a “governmental plan” under the Employee Retirement Income Security Act of 1974, as amended (“ERISA”).

The Metro-North Commuter Railroad Company Defined Contribution Plan for Management Employees (the “Metro-North Defined Contribution Plan”) was merged into the Plan, effective as of July 1, 1995.

The accrued benefits derived from employer contributions (other than participant contributions, whether made on an after-tax or a “pick-up” basis pursuant to Section 414(h) of the Internal Revenue Code) under the Long Island Rail Road Company Money Purchase Pension Plan (the “LIRR Money Purchase Plan”) for Employees who became Members under the Plan prior to July 1, 1995 were transferred to the Plan, effective as of July 1, 1995. The accrued benefits derived from participant contributions of the foregoing Employees, and the accrued benefits of other employees participating in the LIRR Money Purchase Plan, were not merged into the Plan.

Article 1. Definitions

- 1.00 “Alternative Investment Subcommittee” means a subcommittee established by the Board of Managers to advise the Board of Managers as to the Plan’s investments in “alternative investments,” including certain investments that do not qualify as Qualified Commingled Funds pursuant to Subsection (a), (b), or (c) of Section 1.37A; the Alternative Investment Subcommittee shall work with the Plan’s investment advisor to establish specific alternative investment guidelines, and to provide the Board of Managers with recommendations concerning alternative investments, having considered such matters as allocations to alternative investments, allocations among various classes of alternative investments and the risks and benefits of particular investment vehicles that do not qualify as Qualified Commingled Funds pursuant to Subsection (a), (b), or (c) of Section 1.37A.
- 1.01 “Beneficiary” means any person or persons designated in writing by a Member in a manner acceptable to and filed with the Board of Managers to receive the payment or payments involved pursuant to the Plan after the Member’s death or, if the Member did not designate any such person or no such person designated by the Member has survived the Member, the Member’s spouse who has not renounced survivorship rights in a legally enforceable separation agreement and who has not been declared by court order to have legally abandoned the Member or, if there is no such spouse surviving the Member, the Member’s estate. A Member may designate a different person or persons as primary or contingent recipient of different categories of Benefits payable pursuant to the Plan. Effective March 26, 2014, “Beneficiary” shall include any person who is an “Alternate Payee” pursuant to a domestic relations order recognized by the Plan as a qualified domestic relations order as defined by the Code and issued by a court of competent jurisdiction.
- 1.02 “Benefit” means any retirement allowance or other benefit payable pursuant to the Plan.
- 1.03 “Board” means the members of the MTA.
- 1.04 “Board of Managers” means the Board of Managers of Pensions provided for in Section 6.01 of the Plan.
- 1.05 “Cause” shall mean:
- (i) for conduct prior to June 27, 2012, with respect to termination of an Employee at the initiation of the Employer, the Employee’s gross negligence or wilful misconduct with regard to the Employer; or
 - (ii) for conduct on or after June 27, 2012, as determined by the Employer upon termination of the Member or former Member’s Employment, that such individual engaged in egregious or wilful misconduct, including criminal conduct, in relation to his or her Employment; or
 - (iii) for conduct on or after June 27, 2012, as determined by the Employer after the Member or former Member has separated from Employment, that such Member or former Member engaged in egregious or wilful misconduct, including criminal conduct, in relation to his or her Employment during Employment; or

- (iv) for conduct on or after June 27, 2012, the Member or former Member has engaged in egregious or wilful misconduct in relation to his or her Employment and has been convicted in a criminal court for such conduct.
- 1.06 “Code” means the Internal Revenue Code of 1986, as from time to time amended. Reference to a specific provision of the Code shall include such provision, any valid regulation promulgated thereunder, and any comparable provision of future legislation that amends, whether prospectively or retroactively, supplements or supersedes such provision.
- 1.07 “Compensation” means all cash compensation for services paid by an Employer to an Employee pursuant to Sections 1.09(h), 10.1.03(i) or 12.1.05(h) during a period of Split Employment, by a collective bargaining representative to an employee during the Plan Year and except as specifically set forth below, reflected on his or her W-2 for such year, including salary, wages, bonuses and overtime pay. Except as specifically set forth below, Compensation shall not include contributions by the Employer to, or benefits paid under, this Plan or under any other pension, profit-sharing, fringe benefit, group insurance, deferred compensation arrangement or other employee welfare plan heretofore or hereafter established or maintained by the Employer on behalf of Employees and which is excludable from gross income. Compensation shall not include reimbursements or other expense allowances, even if includable in gross income. Contributions by an Employer on behalf of a Member pursuant to a salary reduction agreement under Sections 125, 414(h) or 401(k) of the Code, elective contributions by a Member pursuant to 403(b) or 457(b) of the Code and pick-up contributions to this Plan or any other plan of the Employer shall be included as Compensation hereunder. Compensation shall be deemed earned in the period in which it is required to be reflected on the Member’s W-2 for all purposes except that any retroactive wage adjustment shall be apportioned to the period to which it is applicable. Compensation shall be further limited by Section 5.02 of the Plan. For Plan Years beginning after December 31, 2000, Compensation shall include amounts contributed or deferred by the Employer at the election of the Employee and which are not includible in the gross income of the Employee by reason of Code Section 132(f)(4).
- 1.08 “Conrail” means the Consolidated Rail Corporation, as organized pursuant to the Regional Rail Reorganization Act of 1973, as amended, and existing under the laws of the Commonwealth of Pennsylvania, including any subsidiary or affiliated companies or any predecessor railroad company.
- 1.09 “Credited Service” means, except as otherwise hereinafter provided, paid service credited for Employment with an Employer under the Plan in accordance with the provisions set forth in this Section 1.09. Credited Service shall be credited for periods of Employment with an Employer on or after January 1, 1994 in accordance with the provisions of subsections (a) through (c) of this Section 1.09. In addition, Credited Service shall be credited for periods of Employment with an Employer before January 1, 1994 in accordance with the provisions of subsections (a) through (f) of this Section 1.09.
- (a) Credited Service shall include both full-time and part-time Employment with an Employer, as defined in paragraphs (i) and (ii) of this subsection (a) to this Section 1.09 of the Plan, from the date such Employment commenced or commences until the date such Employment terminates.

- (i) Full-time Employment. An Employee who is regularly employed for a greater period than part-time Employment with an Employer, as set forth in the immediately following paragraph (ii), shall be deemed to be in full-time Employment.
 - (ii) Part-time Employment. An Employee shall be deemed to be in part-time Employment with an Employer if in any Plan Year the Employee is employed in a position for which such Employer has determined that the Employee will be required to work on a regular basis at least seventy percent (70%) but less than one hundred percent (100%) of the normal hours worked per week by a full-time Employee in the Employee's job classification.
- (b) Credited Service for full-time and part-time Employment shall be credited in accordance with the following provisions: For all purposes of determining a Member's eligibility for and the amount of the benefit under Sections 3.01 through 3.06, an Employee who is in Employment for a full Plan Year (including part-time Employees who are in Employment for a full Plan Year) shall receive credit for the full Plan Year; and if the Employee is not in Employment for the Plan Year, he or she shall receive credit for the pro rata portion of the Plan Year in which he or she is in Employment, based on a fraction, the numerator of which is the number of full or partial months in which he or she was in Employment in such Plan Year and the denominator of which is twelve.
- (c) Military service. Notwithstanding the foregoing, for purposes of determining a Member's eligibility for the Benefit under Sections 3.01 through 3.04 hereof, Credited Service shall be granted to, and for purposes of determining the amount of a Member's Benefit under Sections 3.01 through 3.04, Credited Service shall be credited where no contribution would be required hereunder and may be purchased by, where a contribution is required hereunder, a Member for the Member's period of military service up to the maximum period as may be prescribed by applicable law (including any period of military service immediately prior to which the Member was covered under NYCERS, NYSLERS or any other State or City Plan and for which credit under such plan would be required by law if the Employer and the Member's employer while covered under NYCERS, NYSLERS or any State or City Plan were the same employer), provided the Member claiming such Credited Service was an Employee of an Employer at the time he entered such military service and within the time period prescribed by law returned to Employment with such Employer upon discharge from the military. Such military service shall be purchased in accordance with subsection (f) of this Section 1.09 and the provisions of Section 243 of the Military Law.
- (d) For all purposes of determining a Member's eligibility for the Benefit under Sections 3.01 through 3.04 hereof or a death benefit under Section 3.05 or 3.06 hereof and, except as provided below, of determining a Member's Service Fraction, all prior service with MTA or any MTA-Affiliated Agency, whether or not the Member was a member of the retirement system or pension plan applicable to the MTA or any MTA-Affiliated Agency, and any service credited under NYCERS or NYSLERS, or any other State or City Plan

shall be recognized under this Plan, subject to the conditions provided in subsections (a) through (c) above and in subsection (e) below. For purposes of determining the Service Fraction of a member with Vested Past Service, such Vested Past Service shall not be recognized unless

- (i) such Employee is credited with at least three (3) years of Credited Service completed after the Employee's date of hire by his/her Employer; and
- (ii) if the benefit on account of such Employee's Vested Past Service is or becomes payable while a Member, such Employee does not receive such benefit until such Employee terminates Membership.

For the purposes of determining the amount of a Member's Benefit under Sections 3.01 through 3.06, subject to the rules provided in subsections (a) through (c) above and in subsections (e) and (f), below, including those covering purchasing of past Credited Service, past service credit is granted for service in the following categories, which may overlap one another:

- (i) All Past Service as an Employee with Metro-North;
- (ii) All Past Service as an Employee under the LIRR Money Purchase Plan; and
- (iii) All Nonvested Past Service as an employee with MTA or any MTA-Affiliated Agency and any agency which is a member of NYCERS or NYSLERS or any other State or City Plan; and
- (iv) All Vested Past Service as an employee with MTA or any MTA-Affiliated Agency and any agency which is a member of NYCERS or NYSLERS or any other State or City Plan provided that: such Employee is credited with at least three (3) years of Credited Service completed after the Employee's date of hire by his/her Employer; and
 - (A) if the benefit on account of such Employee's Vested Past Service is or becomes payable while a Member, such Employee does not receive such benefit until such Employee terminates Membership.

(e) Past service credit shall be granted in accordance with the following rules:

- (i) No past service credit shall be granted to Employees on the payroll of an Employer as of December 31, 1994 unless such Employee is credited with at least six (6) months of Credited Service completed after December 31, 1994. Notwithstanding the foregoing, where a Member is terminated without Cause from a Non-Represented position by his or her Employer after December 31, 1994 and prior to completing at least six months of Credited Service after December 31, 1994, he or she shall be deemed to have completed six months of Credited Service after December 31, 1994 solely for purposes of determining whether the Member shall be granted past service hereunder.

- (ii) No past service credit shall be granted to Employees hired by an Employer after December 31, 1994 unless such Employee is credited with at least two (2) years of Credited Service completed after such date of hire.
- (iii) No past service credit shall be granted for service with Conrail or any other predecessor railroad service to Conrail.
- (iv) Except as provided in paragraph (v) below, an Employee of an Employer who transfers from a category where he or she is not an Employee to a category where he or she is an Employee shall not be eligible to purchase any past service credit under Section 1.09 for the period in which he or she was not an Employee. Nonetheless, such an Employee shall receive credit for his or her period as an employee of an Employer for purposes other than determining the amount of his or her benefit under Sections 3.01 through 3.05 hereof.
- (v) An Employee of an Employer who transferred or transfers from a category where he or she was not or is not an Employee to a category where he or she was or is an Employee shall be eligible to purchase certain past service credit under Section 1.09 for the period during which he or she was employed by an Employer but not as an Employee in accordance with subparagraphs (A) through (E) below:
 - (A) For any period of service from on or after January 1, 1988, a Member may purchase such past service credit by the payment of the account balance credited to such Employee in the predecessor defined contribution plan of such Employer. Such Employee must elect to purchase such service within ninety (90) days of notice to Members that the Board of Managers is accepting elections forms to purchase such service or of first becoming an Employee, whichever is later.
 - (B) For any period of service prior to January 1, 1988, a Member may purchase such past service credit by the payment of the contribution, if any, which would have been required of the Member under Section 4.01 (a) of this Plan had this Plan been in existence for each year for which past service credit is being purchased, as provided in Table I hereto, plus interest of five (5) percent per annum compounded annually from the date such contributions would have been made if the Member had been an Employee until the date such contributions are paid. The Member may select the method of payment from those provided by subsection (b) (i) of Section 4.01 of Article 4 of the Plan. Such Employee must elect to purchase such service within ninety (90) days of notice to Members that the Board of Managers is accepting elections forms to purchase such service or of first becoming an Employee, whichever is later.
 - (C) A Member with past service credit covered by both subparagraphs (A) and (B) of this paragraph (v) must purchase the past service credit covered by subparagraph (A)

in order to purchase the past service credit covered by subparagraph (B).

- (D) In no event shall past service credit covered by this paragraph (v) qualify as Credited Service until a member is credited with at least two (2) years of Credited Service completed after first becoming an Employee, not including any purchased Credited Service; and
 - (E) In the case of every Member who is not credited with two (2) years of Credited Service completed after first becoming an Employee or, (ii) who is credited with two (2) years of Credited Service completed after first becoming an Employee but who has not vested in this Plan, and who is transferred from a category where he or she is an Employee to a category where he or she is not an Employee, the Plan shall return the account balance to the predecessor defined contribution plan with interest at five (5) percent.
- (f) For purposes of determining the amount of a Member's benefit under Sections 3.01 through Section 3.05 hereof, past service credit under any pension plan of an MTA-Affiliated Agency, NYCERS or NYSLERS or any other State or City Plan may only be obtained by purchasing Credited Service under this Plan in accordance with Article IV of the Plan. In order to purchase Credited Service under the Plan, a Member (or a former Member who was on the payroll of an Employer on December 31, 1994 and was terminated without Cause prior to July 1, 1995) shall be required to file an application therefore with, and on a form acceptable to, the Board of Managers and in connection therewith, such Member or former Member shall pay to such Member's or former Member's Employer an amount equal to the following: (i) except as otherwise provided in Article IV (for certain Members who terminate Employment prior to buying back past service), to buy back Vested Past Service or Nonvested Past Service with Metro-North or LIRR, the contribution, if any, which would have been required of the Member under Section 4.01(a) of this Plan had this Plan been in existence for each year for which past service credit is being purchased, as provided in Table I hereto, and (ii) to buy back Nonvested Past Service for any period of agency service for which the Member participated in NYCERS, NYSLERS or any other State or City Plan or the SIRTOA or MaBSTOA plans qualified or intended to qualify under Section 401(a) of the Code, a contribution equal to the employee contributions refunded or available for refund on leaving the NYCERS, NYSLERS or such other State or City Plan or the SIRTOA or MaBSTOA plans with interest from the date contributions were refunded or available for refund until the date the Member first commences making payments for contributions hereunder at the rate of five (5) percent per annum compounded annually. The filing of the application for such service and payment for such service may be made at any time while a Member is employed by an Employer but in no event shall such service qualify as Credited Service until a Member has completed the period of Credited Service specified in Section 1.09(e)(i) or (ii), whichever is applicable, not including such purchased Credited Service. Credit for past service hereunder shall be given at the time the Member's application is accepted by the Board

of Managers, and the acceptance of such application shall constitute an irrevocable election to pay the contributions required of the Member under the terms of the Plan.

- (g) Any service that qualifies as Credit for Military Service Rendered During Periods of Military Conflict, as defined in Section 1.10.
- (h) Split Employment: any service by a Member who has at least five (5) years of Member service pursuant to subsections (a) and (b) of this section and who is granted a leave of absence for full-time employment by the Participant's collective bargaining representative, provided that:
 - (i) the collective bargaining representative and the Employer have agreed in writing that such service shall qualify as Credited Service;
 - (ii) for purposes of any benefit calculation pursuant to Sections 3.01, through 3.06, the salary used shall not exceed the "Salary Cap" as established by the agreement referred to in subpart (i) of this subsection (h);
 - (iii) the collective bargaining representative shall withhold from the Member's salary, up to the Salary Cap, the Member's required contributions; such contributions will not be subject to Section 4.03 of the Plan;
 - (iv) the collective bargaining representative shall also make contributions to the Plan based upon a rate as determined by the Plan's actuary; such contributions will be determined based on the Member's salary, subject to the Salary Cap; and
 - (v) the collective bargaining representative shall transmit the Member's required contributions as provided in subpart (iii) of this subsection (h) of this section and pay its contributions as provided in subpart (iv) of this subsection (h) of this section in the manner and at the time as prescribed by the Plan's actuary; otherwise the service will not qualify as Credited Service.
- (i) The Board of Managers' determination as to what constitutes Credited Service shall in all cases be final, binding and conclusive.

1.10 "Credit for Military Service Rendered During Periods of Military Conflict" shall mean service on military duty, as defined in section 243 of the New York State Military Law, provided that:

- (a) such service shall not exceed three (3) years.
- (b) The Member applying for such service was honorably discharged from the military and all or part of such military service:
 - (i) was rendered during the following periods:

- (A) commencing December 7, 1941 and terminating December 31, 1946;
 - (B) commencing June 27, 1950 and terminating January 31, 1955;
 - (C) commencing February 28, 1961 and terminating May 7, 1975;
or
- (ii) was in the military conflicts referenced below, as follows:
- (A) Hostilities participated in by the military forces of the United States in Lebanon, from the first day of June, 1983, to the first day of December, 1987, as established by receipt of The Armed Forces Expeditionary Medal, the Navy Expeditionary Medal, or The Marine Corp. Expeditionary Medal;
 - (B) Hostilities participated in by the military forces of the United States in Grenada, from the 23rd day of October, 1983, to the 21st first day of November, 1983, as established by receipt of The Armed Forces Expeditionary Medal, the Navy Expeditionary Medal, or The Marine Corp. Expeditionary Medal;
 - (C) Hostilities participated in by the military forces of the United States in Panama, from the 20th day of December, 1989 to the 31st day of January, 1990, as established by receipt of The Armed Forces Expeditionary Medal, the Navy Expeditionary Medal, or The Marine Corp. Expeditionary Medal;
 - (D) Hostilities participated in by the military forces of the United States, from the 2nd day of August, 1990, to the end of such hostilities in case of a veteran who served in the theatre of operations including Iraq, Kuwait, Saudi Arabia, Bahrain, Qatar, the United Arab Emirates, Oman, The Gulf of Aden, The Gulf of Oman, The Persian Gulf, The Red Sea, and the airspace above these locations.
- (c) A Member must have at least five years of Credited Service (not including service granted hereunder) to be eligible to receive credit under this Section.
- (d) A member shall pay the Plan a sum equal to the product of the number of years of military service being claimed and three percent of such Member's compensation earned during the twelve months of Credited Service immediately preceding the date that the Member made application for credit pursuant to this Section. The Member may pay such costs by payroll deduction for a period which shall not exceed the time period of military service to be credited pursuant to this Section. In the event the Member leaves the Employer payroll prior to completion of payment, he or she shall forward all remaining required payments to the Plan prior to the effective date of retirement. If the full amount of such Member costs is not paid to the Plan prior to the Member's retirement, the amount of service credited shall be proportional to the total amount of the payments made prior to retirement.
- (e) In no event shall the credit granted pursuant to this Section, when added to credit granted for military service with any other retirement system of this

state or any other pension plan of the MTA or MTA Affiliated Agency, exceed a total of three years.

- (f) To be eligible to receive credit for military service under this section, a Member must make application for such credit before the effective date of retirement. Notwithstanding the forgoing provision of this Section, a Member who retired on or after December 21, 1998 and before the effective date of this section may make application for credit pursuant to this section by October 19, 2001 in which event, the cost to the retiree would be based on the twelve month period immediately preceding retirement.

- 1.11 “Death Benefit for Members with a Vested Benefit who die prior to Retirement” means the Benefit payable with respect to a Member pursuant to Section 3.05.1, 10.3.08A or 12.3.05.1 of the Plan.
- 1.12 “Dependent Parent” means the father or mother claimed as a dependent on the Federal income tax return of the deceased Member for the Member’s taxable year immediately preceding the year of the Member’s death. However, an individual shall not be so considered if the Internal Revenue Service has disallowed the claim of dependent status by the deceased Member unless such disallowance is reversed in a final, controlling, non-appealable administrative or judicial determination.
- 1.13 “Disability Retiree” means an individual who is determined to be entitled to a Disability Retirement Allowance.
- 1.14 “Disability Retirement Allowance” means the Benefit payable to a Member as referred to in Section 3.04, 10.3.04 or 12.3.04 of the Plan.
- 1.15 “Early Retirement Allowance” means the Benefit payable to a Member as referred to in Section 3.02, 10.3.02 or 12.3.02 of the Plan.
- 1.15A “OBRA ‘93” shall mean the Omnibus Budget Reconciliation Act of 1993.
- 1.16 “Effective Date” means January 1, 1994.
- 1.16A “Eligible Beneficiary” shall mean the following persons or classes of persons in the order set forth:
 - (a) A surviving spouse who has not renounced survivorship rights in a separation agreement, until remarriage;
 - (b) Surviving children until age twenty-five;
 - (c) Dependent parents, determined under regulations promulgated by the head of the retirement system; and
 - (d) Any other person who qualified as a dependent on the final federal income tax return of the member or the return filed in the year immediately preceding the year of death, until such person reaches twenty-one years of age.

In the event that a class of eligible beneficiaries consists of more than one person, benefits shall be divided equally among the persons in such class.

1.17 "Employee" means:

- (a) Any employee of Metro-North on the payroll of Metro-North on or after December 31, 1994, or who is on a leave of absence described in Section 1.09(h), 10.1.03(i) or 12.1.05(h) who either
 - (i) is a Non-Represented employee, or
 - (ii) is a Represented Employee in a position which position as of January 1, 1994 is contractually entitled to participate in a defined contribution plan also covering management employees.
- (b) Any employee of LIRR hired by LIRR on or after January 1, 1988, on the payroll of LIRR on or after December 31, 1994, or who is on a leave of absence described in Section 1.09(h), 10.1.03(i) or 12.1.05(h) who either
 - (i) is a Non-Represented employee, or
 - (ii) is covered by a collective bargaining agreement which provides for participation in this Plan by such employee or for participation by such Employee in pension benefits also covering management employees.
- (c) Any employee of any other Employer that adopts this Plan who is on the payroll of such Employer on or after the date of such adoption, and who is not covered by a collective bargaining agreement or who is covered by a collective bargaining agreement which provides for participation in this Plan.
- (d) Temporary employees, Leased employees and independent contractors shall not be deemed Employees for purposes of the Plan. For Plan Years beginning after December 31, 1996, the term "Leased Employee" shall mean any person defined in Code Section 414(n)(2) and generally means any person who, pursuant to an agreement between the Employer and any other person ("leasing organization"), has performed services for the Employer (or for the Employer and related persons determined in accordance with Section 414(n)(6) of the Code) on a substantially full time basis for a period of at least one year under the primary direction or control of the Employer.

1.18 "Employer" means Metro-North, LIRR, or any successor thereto by merger, purchase or otherwise, or any other MTA-Affiliated Agency that chooses to adopt the Plan, with respect to its Employees pursuant to the procedures contained in Section 9.02.

1.19 "Employment" means the employment as an Employee and the period of such employment.

1.20 "Final Average Compensation" means the greater of (a) or (b), where

- (a) is the average annual Compensation earned by the Member while an Employee during any three (3) consecutive calendar year period which

results in the highest average Compensation (or the Member's full period of service if less than three (3) consecutive calendar years) within the last ten (10) years of Credited Service or such shorter period of Credited Service as is earned by the Member; and

- (b) is (i) where the Member's Employment ends at the end of a calendar year, the Member's average annual Compensation earned during the Member's last three (3) full calendar years of Employment or, (ii) where the Member's Employment ends other than at the end of the calendar year, (A) the Member's average annual Compensation for his or her last two full calendar years of Employment, plus (B) the Member's Compensation for the final calendar year of his or her Employment, plus (C) the Member's Compensation for the calendar year immediately preceding the two calendar years in (A), multiplied by the ratio of (x) over (y), where (x) is twelve minus the number of the Member's full or partial months of Employment (based on the number of days of the Member's Employment in such month to the number of days in such month) in the Member's last calendar year of Employment and (y) is twelve;

provided, however, that any month or months which would otherwise be included in computing Final Average Compensation but during which the Member was on authorized leave of absence at partial pay or without pay shall be excluded from the computation of Final Average Compensation and the pro rata portion of the previous calendar year's Compensation equal to the number of full calendar months of such leave of absence divided by twelve shall be substituted in lieu thereof; and provided, further that where the annual Compensation used in the calculation for any calendar year (annualized in the case of a partial year of Employment) exceeds 110 percent of the average of the Member's (annualized in the case of a partial year of Employment) Compensation for the two (2) immediately preceding calendar years, the amount in excess of 110 percent shall be excluded from the calculation of Final Average Compensation.

- 1.21 "LIRR" means The Long Island Rail Road Company.
- 1.22 "LIRR Money Purchase Plan" means The Long Island Rail Road Company Money Purchase Pension Plan effective January 1, 1988, as amended from time to time.
- 1.23 "MaBSTOA" means the Manhattan and Bronx Surface Transit Operating Authority.
- 1.24 "Member" means any person so referred to or deemed to be so included as provided in Article 2.
- 1.25 "Metro-North" means the Metro-North Commuter Railroad Company.
- 1.26 "Metro-North Cash Balance Plan" means the Metro-North Commuter Railroad Company Cash Balance Plan, as amended from time to time.
- 1.27 "Metro-North Defined Contribution Plan" means the Metro-North Commuter Railroad Company Defined Contribution Pension Plan for Management Employees, as amended from time to time.
- 1.28 "Military Law" means the Military Law of the State of New York.

- 1.29 “MTA” means the Metropolitan Transportation Authority, a public benefit corporation created by Article 5, Title 11 of the New York Public Authorities Law, as amended from time to time, and any successor thereto.
- 1.30 “MTA-Affiliated Agency” means the LIRR, Metro-North, SIRTOA, MaBSTOA, New York City Transit Authority, Triborough Bridge and Tunnel Authority, Metropolitan Suburban Bus Authority, Metropolitan Transportation Authority Card Company or any agency which hereafter becomes a subsidiary corporation of the MTA under Article 5, Title 11, of the New York Public Authorities Law, as amended from time to time, and any successor thereto.
- 1.31 “NYCERS” means the New York City Employees’ Retirement System, the retirement system provided for in Section 13-101 et seq. of the Administrative Code of the City of New York, as amended from time to time.
- 1.32 “NYSLERS” means the New York State and Local Employees’ Retirement System, the retirement system provided for in Section 10 of the Retirement and Social Security Law, as amended from time to time.
- 1.32A “Non-Participating Employer” means the MTA or any MTA Affiliated Agency which is not an Employer.
- 1.33 “Non-Represented” means an Employee of an Employer holding a managerial, administrative and/or other position whose duties, compensation and other fringe benefits are not governed by any collective bargaining agreement.
- 1.34 “Nonvested Past Service” means employment prior to becoming a Member of this Plan, as to which the Employee did not accrue a vested benefit under the applicable pension plan qualified or intended to qualify under Section 401(a) of the Code in which he or she participated and shall include the past service of a Member who had the right to a vested benefit in such prior plan but who elected to withdraw his or her employee contributions to such prior plan and terminated his or her membership and all rights in such prior plan.
- 1.35 “Ordinary Death Benefit” means the Benefit payable with respect to a Member pursuant to Section 3.05, 10.3.08 or 12.3.05 of the Plan.
- 1.36 “Plan” means the Metropolitan Transportation Authority Defined Benefit Pension Plan effective as of January 1, 1994 as set forth in this document, as amended from time to time.
- 1.37 “Plan Year” means the calendar year.
- 1.37A “Qualified Commingled Fund” means a fund or vehicle (a) registered as an investment company with the U.S. Securities and Exchange Commission under the Investment Company Act of 1940, as amended; (b) for the collective investment of assets the investment manager of which is an entity that meets the conditions required to be a “Qualified Professional Asset Manager” under section VI(a) (without regard to the last sentence thereof) of the U.S. Department of Labor’s prohibited transaction class exemption 84-14, as amended (“PTE 84-14”); (c) that is a “real estate investment trust” as defined in section 856 of the Internal Revenue Code of 1986, as amended from time to time (“REIT”); or (d) that complies with alternative investment guidelines and that has

been recommended by both the Alternative Investment Subcommittee of the Board of Managers and the investment advisor, as described in Section 6.02.

- 1.38 “Railroad Retirement Act” means the Railroad Retirement Act of 1974, codified in Chapter 9, subchapter IV of U.S.C., Title 45, as amended from time to time.
- 1.39 “Railroad Retirement Board” means the agency described in 45 U.S.C. §231f.
- 1.40 “Represented Employee” means any person in the employment of an Employer who is not a Non-Represented Employee.
- 1.41 “Retired Member” means a former Member who is receiving or entitled to receive any retirement allowance at the relevant time as a Benefit.
- 1.42 “Retirement and Social Security Law” means the Retirement and Social Security Law of the State of New York, as amended from time to time.
- 1.42A “Service Fraction” means the percentage of Final Average Compensation per year of Credited Service used for determining the amount of a Member’s benefit under Sections 3.01 through 3.04, 10.3.02 through 10.3.04 or 12.3.01 through 12.3.04 of the Plan.
- 1.43 “Service Retirement Allowance” means the Benefit payable to a Retired Member as referred to in Section 3.01, 10.3.02 or 12.3.01 of the Plan.
- 1.44 “SIRTOA” means the Staten Island Rapid Transit Operating Authority.
- 1.45 “State or City Plan” means any other qualified retirement plan for which any reciprocal credit is granted under NYCERS or NYSLERS. A list of State and City Plans is attached hereto as Table III.
- 1.46 “Trust” means:
 - (a) the fund known as the MTA Defined Benefit Pension Plan Trust created by a trust agreement between the MTA and the Bank of New York, dated December 21, 1994, as the trustee of the Plan, as from time to time amended; succeeded by
 - (b) the fund maintained pursuant to the MTA Master Trust Agreement for Defined Benefit Plans between the MTA and The Chase Manhattan Bank, N.A. (succeeded by JPMorgan Chase Bank, N.A.), dated December 24, 1996, as the trustee of the Plan and of any other plan participating under such master trust agreement, as from time to time amended; or
 - (c) or any successor thereto.
- 1.47 “Trust Fund” means the pension fund maintained pursuant to this Plan and the Trust Agreement to fund retirement and death benefits for eligible Employees and Beneficiaries and to defray certain expenses incurred in connection with the Plan and that pension fund.

- 1.48 "Trustee" means the Bank of New York, or any successor trustee, appointed by the Board, who is serving as such under a Trust Agreement.
- 1.49 "Trust Agreement" means the agreement between the MTA and the Trustee referred to in Section 7.02 of the Plan or any successor agreement.
- 1.50 "Vested Benefit" means the benefit payable to a Member as referred to in Section 3.03, 10.3.03 or 12.3.03 of the Plan.
- 1.51 "Vested Past Service" means employment prior to becoming a Member of this Plan, as to which the Employee accrued a vested benefit under the applicable plan qualified or intended to qualify under Section 401(a) of the Code in which he or she participated.

Article 2. Membership

2.01 Membership Requirements

- (a) Each Employee on December 31, 1994 shall be a Member from the Effective Date.
- (b) Each other Employee shall become a Member on the date his or her Employment commences.
- (c) Each Employee who transfers from a position with an employer where he or she is not an Employee to a position where he or she is an Employee shall become a Member on the date he or she becomes an Employee.

2.02 Events Affecting Membership

Membership in the Plan shall terminate under the following conditions:

- (a) When the Member dies; or
- (b) When the Member retires; or
- (c) When the Member ceases to be an Employee and is not employed by a Non-Participating Employer.

Article 3. Eligibility for and Amount and Payment of Benefits for Members

3.01 Service Retirement

- (a) A Member shall be eligible for a Service Retirement Allowance upon the Member's termination of Employment if the Member (i) has attained age sixty-two (62) and completed at least five (5) years of Credited Service, except that for a Member who became a Member prior to January 30, 2008 and retired on or after January 30, 2008, such Member has attained age sixty (60) and completed at least five (5) years of Credited Service, or (ii) has attained age fifty-five (55) and has completed at least thirty (30) years of Credited Service.

- (b) The Service Retirement Allowance of such a Member shall be computed by multiplying the Final Average Compensation of the Member:
 - (i) If the Member has less than twenty (20) years of Credited Service at such termination, by one and two-thirds ($1 \frac{2}{3}$) percent per year of the Member's Credited Service; or
 - (ii) If the Member has twenty (20) or more years of Credited Service at such termination, by two (2) percent per year of the Member's Credited Service up to a maximum of thirty (30) years of Credited Service and by one and one-half ($1 \frac{1}{2}$) percent per year of the Member's Credited Service over thirty (30) years, if any.
- (c) Filing Requirements:

A Member shall file an application for a Service Retirement Allowance with the Board of Managers, on a form acceptable to it, no more than ninety (90) days before the Member's termination of Employment. Subject to Section 3.09, the Service Retirement Allowance shall be payable, if the Member filed such application no later than thirty (30) days prior to such termination, beginning the first day of the month following such termination, otherwise, beginning the first day of the month following the thirtieth (30th) day after the date the application is filed.

3.02 Early Retirement:

- (a) A Member shall be eligible for an Early Retirement Allowance upon the Member's termination of Employment if the Member has attained age fifty-five (55) and completed at least ten (10) years of Credited Service. Notwithstanding anything herein to the contrary, a Member who incurs a termination of employment for Cause prior to becoming eligible for a Service Retirement Allowance shall forfeit his or her Early Retirement Allowance.
- (b) Except as provided in subdivision (c) of this Section, the Early Retirement Allowance of such a Member shall equal the Service Retirement Allowance of such Member as computed in Section 3.01(b), reduced in accordance with the following schedule:
 - (i) for each of the first twenty-four full months that retirement predates age sixty-two, one-half of one per centum per month; and
 - (ii) for each full month that retirement predates age sixty, one-quarter of one per centum per month.
- (c) Retirement Incentive:

The Early Retirement Allowance of a Member who (i) became a Member prior to January 30, 2008, (ii) and retires on or after January 30, 2008 shall be an Early Retirement Allowance equal to the Service Retirement Allowance of such Member as computed in Section 3.01(b) reduced one-quarter of one per centum per month for each full month that retirement predates age sixty.

(d) Filing Requirements:

A member shall file an application for an Early Retirement Benefit with the Board of Managers, on a form acceptable to it, no more than ninety (90) days before the date on which the Member elects to have his or her Early Retirement Allowance commence which may be the first day of any month on or after the date specified in Section 3.02(a). Subject to Section 3.09, the Early Retirement Benefit shall be payable if the Member filed such application no later than thirty (30) days prior to such Early Retirement Date, beginning the first day of the month following such Early Retirement Date, otherwise, beginning the first day of the month following the thirtieth (30th) day after the date the application is filed.

3.03 Vested Benefit

(a) A Member who has five (5) or more years of Credited Service upon termination of Employment but who is not eligible for a Service Retirement Allowance, an Early Retirement Allowance or a Disability Retirement Allowance shall have a vested right to receive a deferred Vested Benefit. Notwithstanding anything herein to the contrary, a Member who incurs a termination of employment for Cause prior to becoming eligible for a Service Retirement Allowance shall forfeit his or her Vested Benefit. A Vested Benefit shall become payable on the first day of the month the Member attains age sixty-two (62), and shall be computed in the same manner as the Service Retirement Allowance pursuant to subsection (b) of Section 3.01 of the Plan. Alternately, a Member who has ten (10) or more years of Credited Service upon termination of Employment but who is not eligible for a Service Retirement Allowance, an Early Retirement Allowance or a Disability Retirement Allowance shall be entitled to elect to receive payment on account of a deferred Vested Benefit prior to attainment of age sixty-two (62), but no earlier than attainment of age fifty-five (55), computed in accordance with the provisions of subsection (b) of Section 3.02, above.

(b) Filing Requirements:

A Member shall file a notice that he or she intends to elect a Vested Benefit, no more than ninety (90) and at least thirty (30) days before such Member intends to have his or her Vested Benefit commence, which may be the first day of any month on or after his or her fifty-fifth (55th) birthday. Subject to Section 3.09, the Member's Vested Benefit shall be payable only as of the date specified in the Member's application therefore.

3.03A Special Vesting Rules For Members Employed by a Non-Participating Employer.

(a) A Member who ceases to be an Employee but who is employed by a Non-Participating Employer shall have such employment credited as Credited Service (hereinafter "Special Vesting Credited Service") for purposes of Sections 3.01, 3.02, 3.03, 3.04, 3.05 and 3.05.1 subject to the following:

(i) such employee has become a member or participant of the pension plan or retirement system covering such member's Special Vesting Credited Service (hereinafter "Other Plan");

- (ii) Final Average Salary shall include compensation earned during any period of Special Vesting Credited Service;
- (iii) any benefit payable pursuant to Sections 3.01, 3.02, 3.03 and 3.04 shall be reduced by the benefit, if any, that is payable to such Member from the Other Plan, and if such Member's Other Plan benefit is based on service credit greater than the Special Vesting Credited Service, the reduction shall be the Special Vesting Credited Service's pro rata share of the total service credit in the Other Plan;
- (iv) any benefit payable pursuant to Sections 3.05 and 3.05.1 shall be reduced by the benefit, if any, that is payable on behalf of such Member from the Other Plan;
- (v) Reopener
 - (A) Any current employee who is employed by a Non-Participating Employer but who either
 - (1) was employed by LIRR after January 1, 1988 or Metro-North and became an employee of a Non-Participating Employer prior to January 1, 1994, or
 - (2) is a former member whose membership terminated
 and who has had continuous employment with either an Employer or a Non-Participating Employer may join or rejoin the Plan by filing an election within sixty days of notice of this amendment. Such current employee must purchase credited service for such pre-January 1, 1994 Employment or prior Member service under the terms and conditions as to payment as applicable under Section 4.01(b)(i) and (iii) of the Plan and such service shall qualify as Credited Service.
 - (B) Any current employee who is excluded from sub-paragraph A, above, solely because the employee does not satisfy the continuous service requirement, the Board of Managers, upon the written request of the head of the agency employing such employee, may waive such requirement.

3.04 Disability Retirement

- (a) A Member shall be eligible to receive a Disability Retirement Allowance if the Board of Managers, based on a proper application filed in accordance with subsection (b) of this Section 3.04 makes a determination of disability, provided a physician designated by the Board of Managers determines that the Member is disabled as described below. Notwithstanding anything herein to the contrary, a Member who incurs a termination of Employment for Cause prior to becoming eligible for a Service Retirement Allowance shall forfeit his or her Disability Retirement Allowance.

(b) An application for a Disability Retirement Allowance for a Member may be made by:

- (i) such Member or
- (ii) the Employer

The application must be filed with the Board of Managers, on a form acceptable to it, within the later of (i) three (3) months from the last date the Member was being paid on the payroll or (ii) twelve (12) months of the last date he was being paid on the payroll provided he was on a leave of absence for medical reasons without pay during such twelve (12) month period and provided further the Member was disabled at the time the Member ceased being paid.

(c) The following procedures and requirements shall apply with respect to an application for and payment of a Disability Retirement Allowance pursuant to this Section 3.04 of the Plan:

- (i) Effective date of disability retirement. The effective date of retirement for disability purposes shall be the first day of the month following the later of: (A) the date of the filing of the application for disability retirement; or (B) the date following the last date such member was being paid on the payroll.
- (ii) Disability determination. With respect to disability retirement applications filed pursuant to this Section, a Member shall be considered disabled if (A) he or she is physically or mentally incapacitated at the time he or she ceased performance of duties for his or her Employer, (B) the disability is anticipated to be permanent, (C) the Member is incapable of performing the duties normally, ordinarily and reasonably expected of his or her position or a position of commensurate level for which he or she is qualified and (D) in the case of a Member who has less than ten (10) years of Credited Service, the Member's incapacity was the natural and proximate result of an accident (not caused by his or her own willful act) sustained in the performance of his or her duties in active service while actually a Member.
- (iii) The Board of Managers shall adopt appropriate procedures for determining whether a Member is entitled to a Disability Retirement Allowance, including but not limited to the conducting of medical examinations, if any, for the purpose of determining initial entitlement of a Member for a Disability Retirement Allowance or continued entitlement for a Disability Retirement Allowance.

(d) Recovery of Disability Retirees:

- (i) The Board of Managers may, from time to time Managers, following the retirement of a Member on a Disability Retirement Allowance, require such Disability Retiree to undergo a medical examination. Such examination shall be by a physician designated by such Board

of Managers, at a place mutually agreed upon by the Board of Managers and such Disability Retiree. In the event that any such Disability Retiree shall refuse to submit to a medical examination, the payment of the Disability Retiree's Disability Retirement Allowance shall be discontinued until the Disability Retiree submits to such a medical examination. If such refusal continues for six months, the Disability Retiree's right to a Disability Retirement Allowance shall be forfeited.

- (ii) Following each examination or examinations, the Board of Managers shall render a determination as to whether the Disability Retiree's disability is continuing based upon the report of a physician designated by such Board of Managers. Where the Board of Managers determines that a Disability Retiree is no longer incapacitated, as described above, the Board of Managers shall certify to such Disability Retiree's Employer that the Disability Retiree is eligible for reemployment in a position of commensurate level to the position he or she had immediately prior to termination of employment and the Member's Disability Retirement allowance shall continue until the earlier of the first day of the month before the date the Member is so reemployed or, the first day of the twelfth month after the Board of Managers' redetermination. A Disability Retiree who is not so reemployed shall, if vested at the time of retirement, be restored to membership in the Plan and shall be eligible for any benefits he otherwise would have received under the Plan had he not been a Disability Retiree.
- (e) Reemployment of Disability Retirees:
- (i) The Disability Retirement Allowance of a Disability Retiree shall be reduced in the event that the Disability Retiree is employed, whether or not with an Employer, in an occupation paying more than the difference between his or her Disability Retirement Allowance, as it would be without optional modification, and his or her final salary, as defined in (iv) below. The Disability Retirement Allowance shall be adjusted to a sum which, when added to the amount so earnable, shall equal the final salary. If the earnings subsequently change, the Disability Retirement Allowance shall be adjusted so that the sum of the Disability Retirement Allowance, as it would be without optional modification, when added to the amounts earned shall not exceed his or her final salary. The Disability Retirement Allowance shall not be reduced after the Disability Retiree has attained age seventy (70), or shall have attained the age and the date such Disability Retiree would have been eligible for Service Retirement Allowance had he remained in continuous Employment from the date of retirement, whichever occurs first.
 - (ii) In the event that a Disability Retiree is restored to Employment with an Employer, at a salary equal to or in excess of his or her final salary, payment of his or her Disability Retirement Allowance shall cease. Thereafter, such Member shall be restored to Membership in

the Plan and shall to the extent required pursuant to the provisions hereof, contribute to the Plan. The total Credited Service which was credited at the time of such retirement shall be credited to the restored Member. Upon subsequent retirement, additional Credited Service earned subsequent to his or her last restoration to membership will be credited.

- (iii) A Disability Retiree who is receiving a Disability Retirement Allowance shall not participate in the Plan while he or she is receiving a Disability Retirement Allowance. In the event that a Disability Retiree is restored to Employment with an Employer at a salary less than his or her final salary, such Disability Retiree, if he so elects, shall again become a Member of the Plan and the payment of his or her Disability Retirement Allowance shall cease. If such an election is filed with the Board of Managers, such Member shall, to the extent required pursuant to the terms hereof, contribute to the Plan. The total Credited Service which was credited at the time of such retirement shall be credited to the restored Member. Upon subsequent retirement, additional Credited Service earned subsequent to the last restoration to membership will be credited.
- (iv) Final salary. The term final salary as used in this Section 3.04 means the maximum salary or compensation which the Disability Retiree currently would be receiving, in the position from which he or she was last retired for disability, if he or she had not been so retired, unless that position has been abolished. Where such position has been abolished, the Board of Managers shall determine the maximum amount of salary or compensation which such Disability Retiree currently would be receiving in such position, based on compensation currently paid by such Employer to persons in comparable positions.
- (f) The Disability Retirement Allowance for a Member who is a Disability Retiree shall equal the greater of:
 - (i) the percentages specified in subsection (b) of Section 3.01, as applicable, multiplied by the Final Average Compensation of the Member; or
 - (ii) one-third (1/3) of the Member's Final Average Compensation.

3.05 Ordinary Death Benefit

- (a) The following benefits shall be paid to the Member's Beneficiary in the event of the Member's death while in Employment after completion of one (1) year of Credited Service:

A benefit upon the death of the Member while an Employee equal to the Member's annual salary upon his or her completion of one (1) year of Employment with an Employer, two (2) years' salary upon completion of two years of Employment, and three (3) years' salary upon completion of (3) or more years of Employment with an Employer. Commencing upon a Member's

attainment of age sixty-one (61), the Benefit otherwise provided pursuant to this paragraph (a) shall be reduced while the Member remains in Employment to ninety-six (96) percent of the benefit otherwise payable and each year thereafter the amount payable shall be reduced by an amount equal to four (4) percent per year of the original benefit otherwise payable, but not below sixty (60) percent of the original benefit otherwise payable. Upon retirement, the benefit in force shall be reduced by fifty (50) percent; upon completion of the first year of retirement, the benefit in force at the time of retirement shall be reduced by an additional twenty-five (25) percent, and upon commencement of the third year of retirement, the benefit shall be ten (10) percent of the benefit in force at age sixty (60), if any, or at the time of retirement, if retirement preceded such age; provided, however, the benefit in retirement shall not be reduced below ten (10) percent of the benefits in force at age sixty (60), if any, or at the time of retirement if retirement preceded such age.

- (b) For the purpose of this Section 3.05, salary shall equal the Member's Compensation for his or her final calendar year of Employment (plus where the Member terminates Employment other than at the end of a calendar year, the pro rata portion of the Member's Compensation for the calendar year prior to termination equal to such annual Compensation multiplied by the ratio of twelve minus the number of full and partial months of Employment (based on the number of days in Employment in such partial month to the number of days in such partial month) in the Member's last year of Employment, divided by twelve); provided, however, for the purpose of this Section, salary shall exclude any Compensation used in the calculation for any calendar year (annualized in the case of a partial year of Employment) which exceeds 110 percent of the average of the Member's Compensation for the two immediately preceding calendar years, or any lump sum payment for deferred compensation, sick leave, or accumulated vacation credit or any other payment for time not worked (other than Compensation received each pay period while on sick leave or authorized leave of absence).
- (c) The Ordinary Death Benefit payable pursuant to this Section shall not be payable where an Accidental Death Benefit is payable pursuant to Section 3.06 of the Plan and the Member's Eligible Beneficiary elects to receive such Accidental Death Benefit.
- (d) For the purposes of this Section 3.05:
 - (i) A Member who dies while off the payroll but prior to eligibility for Benefits under Section 3.01, 3.02, 3.03 or 3.04 shall be considered to be an Employee provided he or she (A) was on the payroll while an Employee and paid within a period of twelve (12) months prior to his or her death, (B) had not been otherwise gainfully employed since he or she ceased to be on such payroll and (C) had credit for one (1) or more years of continuous Employment since he or she last entered or reentered Employment; and
 - (ii) The Benefit payable shall be in addition to any payment made on account of a Member's accumulated contributions pursuant to Section 3.10.

- (e) Subject to Section 3.09, the Ordinary Death Benefit payable under this Section 3.05 shall be payable as soon as practicable after the Member's death and after the Beneficiary's written application on a form provided by the Board of Managers.

3.05.01 Death Benefit for Members With a Vested Benefit Who Die Prior to Retirement

- (a) A death benefit shall be payable upon the death of a Member who has a vested right to receive a deferred Vested Benefit and who:
 - (i) died before the effective date of payment of his or her Vested Benefit;
 - (ii) had at least ten (10) years of Credited Service at the time of death; and
 - (iii) died at a time which did not result in the eligibility of the Member's estate or any Beneficiary to receive any death benefits from the Plan on account of such death, other than the death benefit payable pursuant to this section.
- (b) Benefits provided under this section shall be payable to the Member's estate or Beneficiary.
- (c) The amount of the benefit payable pursuant to this section shall be equal to one-half of the amount of the Ordinary Death Benefit which would have been payable had the Member's death occurred on the last day of service upon which membership was based.

3.06 Accidental Death Benefit

- (a) Subject to subsection (b) of this Section 3.06, an Accidental Death Benefit shall be payable to a Member's Eligible Beneficiary where the Board of Managers determines that the Member died while an Employee and a Member of the Plan and that the death was the result of an accident (including a deliberate act by person other than the Member) incurred while in performance of Employment and was not the result of willful act on the Member's part. Such Benefit shall be paid in the form of a pension in an amount equal to fifty (50) percent of the Member's Compensation during the last year of the Member's Credited Service or fifty (50) percent of the Member's annual rate of Compensation if the Member is credited with less than one year of Credited Service since last becoming a Member. The ordinary Death Benefit payable pursuant to Section 3.05 shall not be payable where an Accidental Death Benefit is payable under this Section 3.06 and the Member's Eligible Beneficiary elects to receive such Accidental Death Benefit.
- (b) An application for an Accidental Death Benefit in respect of a Member must be filed by the Member's Beneficiary with and on a form acceptable to the Board of Managers within sixty (60) days after the death for such benefit to become payable. Provided, however, the Board of Managers in its sole discretion under uniform rules applicable to all Members may accept an

application for an Accidental Death Benefit after the expiration of the sixty (60) day filing period, where, but only where, an Ordinary Death Benefit under Section 3.05 has not been previously paid.

3.07 Offset in Computing Retirement Benefits

- (a) (i) Notwithstanding any provision of the Plan to the contrary, where any Benefit is payable under Sections 3.01, 3.02, 3.03 or 3.04 of the Plan and a “Tier II” Railroad Retirement Act benefit is payable to a Member, the Benefits payable to the Member shall be offset by the amount determined as in subsection (a), paragraph (ii) of this Section 3.07.
- (ii) The offset provided for in this subsection (a), paragraph (ii) shall be the “Tier II” Railroad Retirement Act benefit (hereinafter “Tier II Benefit”) which would be payable to the Member involved at age 62 under “Tier II” (assuming the Member did not have 30 years of service covered by the Railroad Retirement Act, which would entitle him to unreduced Tier II benefits at age 60) and shall be computed before application of Section 3.08 of the Plan. Such offset shall commence when the Tier II Benefit becomes payable.

In each case, such offset shall be multiplied by a fraction, the numerator of which is the Member’s years of Credited Service covered by the Railroad Retirement Act rendered to an Employer or for which Credited Service is recognized under this Plan and the denominator of which is the Member’s total years of service covered by the Railroad Retirement Act regardless of whether the Member was an Employee during the period involved.

The amount of the Tier II benefit shall be based on information supplied by the Railroad Retirement Board or, if such information is not available, on an estimated compensation history which is determined by projecting backwards from the calendar year preceding his or her date of termination of Employment his or her annualized compensation increased annually for such year at the rate of increase in the average of the total wages reported by the Railroad Retirement Administration; provided, however, that his or her actual compensation history shall be used if (i) the Member has supplied the Employer with a documented record of his or her actual compensation history from the Railroad Retirement Administration not later than 120 days following the later of his or her date of termination of Employment and the date the Member is notified that he or she is entitled to a benefit and of his or her right to submit his or her actual compensation record, and (ii) the use of his or her actual compensation history would produce a lower Tier II Benefit offset.

- (b) There shall be offset from benefits under this Plan, to the extent years of Credited Service for matching periods are recognized under this Plan, benefits under the Metro-North Cash Balance Plan accrued for service with Metro-North from 1983 to 1989. The offset for the Metro-North Cash Balance Plan shall be calculated based on benefits payable thereunder as an annuity

for the Member's life only at age 62 or the Member's actual retirement age, if later; provided that if the Member's benefits commence before age 62, the actuarial reductions under 3.02(b) shall apply.

- (c) For any Member who receives Credited Service for Vested Past Service pursuant to subsection (d) of Section 1.09 of the Plan for purposes of determining the amount of a Member's benefit under Section 3.01 through 3.06, there shall be a one hundred percent (100%) offset from benefits payable under this Plan for the benefits payable on account of such Vested Past Service. Such offset shall commence when the benefits payable on account of such Vested Past Service become payable.

3.08 Payment Options for Retirement Benefits

- (a) Unless the Member shall elect an optional form of payment as provided in and subject to the terms and conditions provided in this Section 3.08 and Section 3.12, the normal form of payment of any Benefits including any Disability Retirement Allowance to which a Member may be entitled under the Plan, subject to making an application, except as otherwise required by Section 3.09, and to the other applicable provisions of the Plan, shall be as follows:

- (i) If such Member is not married on the effective date of retirement, his or her benefits shall be paid in monthly installments on the first day of each month during the Member's life and ending with the month in which his or her death occurs.

- (ii) If such Member is married on the date Benefits are due to commence, the Member shall receive a reduced pension in the form of a Joint and Survivor Annuity which is the actuarial equivalent of the benefit payable according to the provisions of Section 3.08(a)(i). For purposes of this section, a Joint and Survivor Annuity is an annuity for the life of the Member with an annuity for the life of the Member's surviving spouse to whom he or she was married on the effective date of retirement continuing after the Member's death at the rate of 50% of the amount of the annuity that is payable during the joint lives of the Member and such spouse.

- (b) Until the effective date of retirement a Member may elect to receive the actuarial equivalent of the retirement allowance at the time of retirement, in the form described in Section 3.08(a)(i) above or in the form of a smaller retirement allowance payable to such member for life and one of the following optional settlements:

Option one: Upon the Retired Member's death, a retirement allowance in an amount equal to that paid to the Member shall be paid for life to such person as he or she shall nominate by written designation duly acknowledged and filed with the Board of Managers at the time of retirement.

Option two: Upon the Retired Member's death, a retirement allowance of seventy-five (75) percent or less (measured in increments of twenty-five (25) percent) of the amount paid to such Retired Member shall be paid for life

to such person as he or she shall nominate by written designation duly acknowledged and filed with the Board of Managers at the time of retirement.

Option three: A five-year certain option under which payment is made to the Retired Member for life but is guaranteed for a minimum of five years following retirement. Such payments shall continue to a Beneficiary as he or she shall nominate by written designation, duly acknowledged and filed with the Board of Managers, for the unexpired balance of the five-year guaranteed period. If said Beneficiary should predecease him, the commuted value of any installments due during the unexpired balance of the five-year guaranteed period shall be paid in a single sum to a duly designated contingent Beneficiary, or if none exists, to the legal representative of the Member. Should a Beneficiary who has commenced receipt of the payments die before expiration of the said guaranteed minimum period, the commuted value of any installments due during the unexpired balance of the five-year guaranteed period shall be paid in a single sum to a duly designated contingent Beneficiary, or if none exists, to the legal representative of said deceased primary Beneficiary.

Option four: A ten-year certain option under which payment is made to the Retired Member for life but is guaranteed for a minimum of ten years following retirement. Such payments shall continue to a Beneficiary as he shall nominate by written designation, duly acknowledged and filed with the Board of Managers, for the unexpired balance of the ten-year guaranteed period. If said Beneficiary should predecease him, the commuted value of any installments due during the unexpired balance of the ten-year guaranteed period shall be paid in a single sum to a duly designated contingent Beneficiary, or if none exists, to the legal representative of the Member. Should a Beneficiary who has commenced receipt of the payments die before expiration of the said guaranteed minimum period, the commuted value of any installments due during the unexpired balance of the ten-year guaranteed period shall be paid in a single sum to a duly designated contingent Beneficiary, or if none exists, to the legal representative of said deceased primary Beneficiary.

Option five: In the case of a Member who has a vested right to an accrued benefit under the Metro-North Defined Contribution Plan and had less than ten (10) years of Credited Service under this Plan at the time of his termination of Employment which Metro-North, the MTA and any MTA-Affiliated Agency, the Member shall be entitled to elect to receive his accrued benefit under the Metro-North Defined Contribution Plan in the form of a lump sum distribution (based on the actuarial assumptions in Section 3.12(a)) and the provisions of Section 3.08(g) of the Plan shall not apply. Any such Member who elects to receive such benefit pursuant to this Option Five shall terminate his membership and all rights in this Plan.

Option six: Upon the Retired Member's death, a retirement allowance in an amount in any whole percentage, up to one hundred percent (100%) of the amount paid to such Retired Member, shall be paid for life to such person as he or she shall nominate by written designation duly acknowledged and filed with the Board of Managers at the time of retirement.

Option seven: A joint and survivor option described in Option six above, with a “pop-up” if the Beneficiary predeceases the Retired Member. Such option shall provide a reduced monthly benefit for the lifetime of the Retired Member, and if the Retired Member predeceases his or her Beneficiary, the survivor benefit will be paid to such Beneficiary for life. If the Beneficiary predeceases the Retired Member, the Retired Member’s benefit will be increased to the amount the Retired Member would have received had he or she selected the single life allowance at retirement, and will be paid as a single life annuity.

- (c) An election by a married Member not to receive the form of benefits described in Section 3.08(a)(ii) shall not be effective unless the spouse of the Member has: (i) consented in writing to such rejection; (ii) consented in writing to the designation of another Beneficiary (including any class of Beneficiaries or contingent Beneficiaries) (where applicable) and to the form of benefits selected; and (iii) acknowledged the effect thereof, and such consent is witnessed by a Plan representative or a notary public. The form of benefits described in Section 3.08(a)(ii) shall not apply unless the Member’s spouse is alive at the date benefits hereunder are to commence. A Member and his or her spouse may reject the form of benefits described in Section 3.08(a)(ii) (or revoke a previous rejection) at any time within the 90-day period ending on the date benefits under the Plan commence. A Member and his or her spouse shall in any event have the right to exercise this choice up to 90 days after the Member has been advised by the Board of Managers of the effect of such choice upon his or her pension. Notwithstanding any other provisions of the Plan, a waiver of the form of benefits described in Section 3.08(a)(ii) shall be made in writing on such form or forms as may be prescribed by the Board of Managers and shall not be effective if given more than 90 days before the date benefits under the Plan commence and after a Member has been advised of the choices of normal and optional forms of benefits and of the spousal consent requirements herein. A revocation of a prior waiver may be made by a Member without the consent of the spouse at any time before the date benefits under the Plan commence. The number of revocations shall not be limited. A spouse may not revoke a consent. Notwithstanding any other provision of the Plan, spousal consent in accordance with this Section is not required if the Member establishes to the satisfaction of the Board of Managers: (i) that there is no spouse, (ii) that the spouse cannot be located, which shall be evidenced by a court order specifying that the Member has been abandoned within the meaning of local law or by a qualified domestic relations order, or (iii) that the Member and spouse are legally separated unless a domestic relations order otherwise provides. The spousal consent requirements herein shall not apply to the designation of a Beneficiary for death benefits under Section 3.05, 3.05.1 or 3.06 hereof.
- (d) The factors used in determining options under this Article shall be those attached as Table II hereto.
- (e) Notwithstanding any other provision of this Section 3.08:

- (i) The Board of Managers, for reasonable cause, shall have the power to extend the time for the election of a payment option, for a period or periods which shall expire not later than sixty (60) days immediately after the effective date of a Member's retirement; and
 - (ii) If the Member is incompetent, his or her spouse or the committee of his or her property, or if he or she is a conservatee, his or her spouse or the conservator of his or her property, may select on the Member's behalf a payment option as provided for in subsection (b) of this Section 3.08.
- (f) All benefit payments hereunder shall be paid as of the first day of a month.

3.09 Commencement of Payments

- (a) Except as otherwise permitted by law, the payment of benefits to a Member shall begin not later than the April 1st following the end of the calendar year in which the Member attains age seventy and one-half (70½) or the Member's status as an Employee terminates, whichever is later.
- (b) This Section and the Plan shall be interpreted and administered in accordance with Code Section 401(a)(9) and the regulations thereunder (including without limitation, Regulation Section 1.401(a)(9)-2). All benefits payable under the Plan shall be subject to the limitations and rules contained in this Section.
- (c) In no event shall the payment of benefits under any form of benefit elected by a Member extend over a period which exceeds the longest of:
 - (i) the life of the Member;
 - (ii) the lives of the Member and the Member's Beneficiary, if any;
 - (iii) the life expectancy of the Member; or
 - (iv) the joint life expectancies of the Member and the Member's Beneficiary, if any.
- (d) Notwithstanding anything else in this Plan to the contrary, the payment of any death benefit payable to any Beneficiary of a Member shall be subject to the following rules:
 - (i) If the Member dies after the Member's required beginning date under Code Section 401(a)(9) and the regulations thereunder or after the Member's benefits have irrevocably commenced (the "Commencement Date"), such death benefit must be distributed to the Beneficiary under a method that is at least as rapid as the method under which distributions were being made to the Member as of the date of the Member's death;

- (ii) If the Member dies before the Member's Commencement Date and the Beneficiary is not a designated Beneficiary, within the meaning of Code Section 401(a)(9), the entire interest of the Member must be distributed over a period which does not exceed five (5) years from the date of such Member's death;
 - (iii) Except as provided in (iv) below, if the Member's interest is payable to, or for the benefit of, a designated Beneficiary (other than such Member's spouse), such portion may be distributed over a period which does not exceed the life, or life expectancy, of such designated Beneficiary, provided that distribution of such portion must commence not later than the December 31st of the calendar year immediately following the calendar year of the Member's death, or such later date as may be permitted under applicable Treasury regulations;
 - (iv) If the Member dies before the Member's Commence Date and any portion of such Member's interest is payable to, or for the benefit of, such Member's spouse as designated Beneficiary, distribution of such portion must commence not later than the later of the period specified in clause (iii) above or the December 31st of the calendar year in which the Member would have attained age seventy and one-half (70½); and
 - (v) In the event that a Member shall have designated his or her spouse as designated Beneficiary and such spouse shall die after the death of the Member and before the commencement of distributions to such spouse is required, the Member's spouse shall be substituted for the Member in applying the provisions of subsection (iv) above, but only for the purpose of determining the period over which payment of benefits may be made.
- (e) For purposes of this Section, the life expectancy of a Member and a Beneficiary who is the Member's spouse may be recalculated no more frequently than annually.
 - (f) For purposes of this Section, and in accordance with applicable Treasury regulations, any death benefit to a Member's child shall be treated as if it had been paid to such Member's surviving spouse if such amount will become payable to such surviving spouse upon such child's reaching the age of majority (or upon the occurrence of such other event as may be designated by applicable Treasury regulations).

3.10 Return of Member Contributions in Certain Instances

Where a Member terminates Employment other than by death prior to qualifying for benefit under Section 3.01 through 3.04 hereof, the Member may receive a refund of the Member's contributions accumulated with interest at five (5) percent per annum to the date the Member receives such refund, payable on the first day of the month as soon as practicable after the Member's request but not later than 60 days after the Member's application is filed. When a Member (other than a Member who receives an accidental death benefit under Section 3.06) terminates Employment by death and is eligible for a

death benefit under Section 3.05 or where a Member described in the immediately preceding sentence dies before receiving a refund of his or her accumulated contributions plus interest, the Member's Beneficiary shall receive a refund of the Member's contributions accumulated with interest at five (5) percent per annum to the date as of which the Beneficiary receives such refund, and such refund shall be payable as of the first day of the month after such Member's death and after the Beneficiary's written application therefore on a form provided by the Board of Managers. Notwithstanding the above, a Member may, upon termination of Employment, withdraw his or her Member's contributions pursuant to this section prior to the date such individual accrues ten (10) years of Credited Service. However, the withdrawal of contributions pursuant to this Section by an individual who has accrued at least five (5) years of Credited Service shall terminate his or her membership and all rights in this Plan in the same manner as withdrawal of contributions would terminate the membership of an individual who has not attained vested status. Nothing in this Section shall be construed as permitting an individual who has accrued at least ten years of Credited Service to withdraw Member contributions.

3.11 Consideration of Cost-of-Living Increases

Whenever there is a cost-of-living increase given to retirees who are covered by Tier IV of NYSLERS, the Board of Managers shall consider recommending to the Board granting of a similar increase to retired Members in the same categories.

3.12 Minimum Benefits Attributable to the Metro-North Defined Contribution Plan

- (a) Each Member who had an account balance transferred from the Metro-North Defined Contribution Plan to the Plan as of July 1, 1995 shall be entitled to a minimum benefit from the Plan equal to such Member's accrued benefit under the Metro-North Defined Contribution Plan as of July 1, 1995, converted to an annuity based on the 1983 Group Annuity Mortality Table and an interest rate equal to 8 percent.
- (b) Each Member who had an account balance transferred from the Metro-North Defined Contribution Plan to the Plan and had a vested right to his or her accrued benefit under such Plan shall be fully vested in the accrued benefit described in subsection (a) above and, if not yet vested, shall vest in the accrued benefit described in subsection (a) above in accordance with the terms of the Metro-North Defined Contribution Plan, that is, at the earlier of attainment of age 62 or completion of 5 years of service under the Metro-North Defined Contribution Plan, or upon death while in Employment, if earlier.
- (c) A Member who had an account balance transferred from the Metro-North Defined Contribution Plan to the Plan shall have a right to distribution of his or her accrued benefit described in subsection (a) above, upon the attainment of age 62, irrespective of his or her period of Employment, provided he or she has then terminated Employment, in addition to his or her rights to distributions under the Plan.
- (d) A Member described in subsection (a) above shall be entitled to elect commencement of the Member's accrued benefit described in subsection (a)

above on the April 1 following the year in which the Member attains age 70-½, whether or not the Member is then retired.

- (e) Each Member who terminates Employment by death shall have the right to receive a death benefit at least equal to the actuarial equivalent (based on the actuarial assumptions in Section 3.12(a)) of his or her accrued benefit transferred from the Metro-North Defined Contribution Plan to this Plan. Any designation of a Beneficiary other than the Member's spouse for death benefits up to the amount in subsection (a) above shall require the consent of the Member's spouse in the manner described in Section 3.08 (c) above.

3.13 Minimum Benefits Attributable to the LIRR Money Purchase Plan

- (a) Each Member who had an account balance transferred from the LIRR Money Purchase Plan of the Plan as of July 1, 1995 shall be entitled to a minimum benefit from the Plan equal to such Member's accrued benefit under the LIRR Money Purchase Plan as of July 1, 1995, converted to an annuity based on the 1983 Group Annuity Mortality Table and an interest rate equal to 8 percent.
- (b) Each Member who had an account balance transferred from the LIRR Money Purchase Plan to the Plan and had a vested right to his or her accrued benefit under such Plan shall be fully vested in the accrued benefit described in subsection (a) above and, if not yet vested, shall vest in the accrued benefit described in subsection (a) above in accordance with the terms of the LIRR Money Purchase Plan, that is, at the earlier of attainment of age 65 or completion of 10 years of service under the LIRR Money Purchase Plan, or upon death while in Employment, if earlier.
- (c) A Member who had an account balance transferred from the LIRR Money Purchase Plan to the Plan shall have a right to distribution of his or her accrued benefit described in subsection (a) above, upon the attainment of age 65, irrespective of his or her period of employment, provided he or she has then terminated Employment, in addition to his or her rights to distributions under the Plan.
- (d) A Member described in subsection (a) above shall be entitled to elect commencement of the Member's accrued benefit described in subsection (a) above on the April 1 following the year in which the Member attains 70 ½, whether or not the Member is then retired. Each Member who terminates Employment by death shall have the right to receive a death benefit at least equal to the actuarial equivalent (based on the actuarial assumptions in Section 3.13 (a)) of his or her accrued benefit transferred from the LIRR Money Purchase Plan to this Plan. Any designation of a Beneficiary other than the Member's spouse for such accrued benefits up to the amount in subsection (a) above shall require the consent of the Member's spouse in the manner described in Section 3.08 (c) above. A Beneficiary shall have the right to elect optional forms of benefits described in the LIRR Money Purchase Plan for the Member's death benefits up to the amount in subsection (a) above.

3.14 Restoration of Employment of Retired Members

- (a) If a Retired Member, other than a Disability Retiree, is restored to Employment, he/she may choose to again become a Member and the payment of his/her retirement benefit shall cease. In such event, the Retired Member shall contribute to the Plan as if he/she were a new Member, but shall be credited with all prior contributions and contribution membership periods prior to the last restoration to membership. Upon such Retired Member's subsequent retirement, if he/she has completed fewer than two years of additional Credited Service after restoration to Employment, he/she shall receive a retirement benefit which shall consist of the retirement benefit which he/she was receiving immediately prior to his/her last restoration to membership.
- (b) If he/she has completed at least two years of additional Credited Service after restoration to Employment, he/she shall have the option to have his/her retirement benefit recalculated based on (i) the combined Credited Service earned prior to the first retirement date and the Credited Service earned since the Retired Member returned to Employment and (ii) his/her Final Average Salary, including his/her latest salary. Such Retired Member shall have the option to have his/her retirement benefit recalculated only if he/she elects to either (i) repay any monies previously distributed at the single life annuity rate (plus interest), or (ii) to have his or her future pension actuarially reduced to account for the amounts previously received.
- (c) The provisions of this Section 3.14 are effective March 26, 2014.

3.15 Forfeiture for Cause

- (a) In the case of a Member who incurs a termination of employment for Cause for conduct prior to June 27, 2012 and prior to becoming eligible for a Service Retirement Allowance shall forfeit his or her benefit payable pursuant to Section 3.02, 3.03 or 3.04.
- (b) Except as provided in subsection (c), (i) a Member who incurs a termination of Employment for Cause, or (ii) a Member or former Member who is otherwise determined to have engaged in conduct that constitutes Cause, for conduct on or after June 27, 2012, or (iii) a Member or former Member who has been convicted of or pleads guilty to any crime relating to conduct that constitutes Cause, shall forfeit any and all benefits under this Article, including, but not limited to, his or her benefit payable pursuant to Sections 3.01, 3.02, 3.03, 3.04, 3.05, 3.05.1, 3.06 and any survivor benefit in pay status or otherwise due.
- (c) for Members and former Members who are or were Employees covered by a collective bargaining agreement, the forfeiture provided by subsection (b) shall not be applicable until agreed upon by the parties to such collective bargaining agreement.

Forfeiture under this Section 3.15 will apply with respect to a Member who is terminated for Cause, a former Member who is found to have engaged in

conduct that constituted Cause, a Member or former Member who has been convicted of or pleads guilty to any crime related to conduct that constitutes Cause, and with respect to any Beneficiary of such a Member or former Member. The procedure for benefit forfeiture for Cause shall be pursuant to the procedures set forth in Section 6.07.

Article 4. Member Contributions

4.01 Required Member Contributions

Members shall contribute under the Plan as follows:

- (a) (i) Except as provided by paragraph (iii) of this subsection (a), effective July 1, 1995, each Employee shall be required to contribute under the Plan an amount equal to the excess, if any, of (A) three (3) percent of the Employee's Salary, as computed under Article 15, Section 613 of the New York Retirement and Social Security Law, less the federal income tax savings on such amount calculated under Table I hereto, over (B) the Railroad Retirement Act Tier II Employee contribution as calculated in accordance with the provisions of Table I. Prior to the beginning of each year, or, where there is new tax legislation, as soon as practicable after the effective date of such legislation, the Board of Managers shall, if necessary, revise Table I to reflect any changes in the applicable tax rates for such year or portion of the year following the enactment of new tax legislation.
- (ii) In the case of any Employee who had not made the contributions required by subsection (a)(i) from the Effective Date, the full amount of any retroactive contributions, shall be deducted from the Employee's compensation in equal installments for a period equal to the period during which such Employee has not made the required contributions and such deductions shall begin the first payroll following July 1, 1995. Notwithstanding the foregoing, the minimum payroll deduction shall equal \$25 per weekly pay period or \$50 per semimonthly or biweekly pay period, and \$100 per monthly pay period, or the amount of the remaining deductions, if less, and such installments shall be withheld for as many payroll periods as is required to make up any retroactive contributions. If such Employee applies to retire pursuant to Sections 3.01, 3.02, 3.03 or 3.04 or terminates Employment prior to the end of such period the amount then due must be paid in a lump sum prior to retirement or termination to receive Credited Service for such period. Where the Employee terminates employment and thereafter returns to employment and has not made up the required contributions, he or she shall make up any required contributions by beginning payroll deductions the next payroll period following his or her return to employment.
- (iii) Any Employee who has completed ten (10) years of making contributions to the Plan, including the purchase of prior Credited Service, shall no longer be required to make the contributions provided by paragraph (i) of this subsection (a) effective the beginning

date of the first payroll period commencing on or after October 1, 2001 or the date as of which such Employee completes ten (10) years of making such contributions.

- (b) (i) In the case of any Employee who is eligible under the provisions of Section 1.09, subject to the provisions of that Section, to purchase Credited Service under this Plan, the full amount of any retroactive contributions, plus, in the case of a Member buying back Nonvested Past Service under NYCERS, NYSLERS, or any other State or City Plan or the SIRTOA or MaBSTOA plans qualified or intended to qualify under Section 401(a) of the Code, interest at the rate of five (5) percent per annum compounded annually from the date the Member's contributions to such Plan were refunded or available for refund to the date the Member first commences payment of contributions hereunder, shall be deducted from the Employee's compensation in equal installments for a period equal to the period during which such Employee has not made the required contributions in the case of a Member purchasing past service with Metro-North or LIRR, and in the case of a Member buying back Nonvested Past Service under any other plan, for the period such Member was covered under the old plan, and such deductions shall begin the first payroll following the sixtieth (60th) day after the date such Employee's application for past service credit is accepted by the Board of Managers; provided that no interest shall be payable for a Member who is buying back past service with Metro-North or LIRR; and provided, further, that no interest shall accrue during the period the Internal Revenue Service is considering the Employers' request for a ruling on the pick-up status of past service contributions hereunder or until otherwise required by the Board of Managers. Notwithstanding the foregoing, the minimum payroll deduction shall equal \$25 per weekly pay period or \$50 per semimonthly or biweekly pay period, and \$100 per monthly pay period, or the amount of the remaining deductions, if less, and such installments shall be withheld for as many payroll periods as is required to make up any retroactive contributions or purchase Nonvested Past Service, along with interest thereon. If such Employee applies to retire pursuant to Sections 3.01, 3.02, 3.03 or 3.04 or terminates Employment prior to the end of the payroll deduction period or in the case of a former Member who is eligible to purchase past service credit under Section 1.09(f), the amount then due must be paid in a lump sum prior to retirement or termination to receive Credited Service for such period; provided, however, that in the case of former Metro-North or LIRR Employees who are buying back past service with Metro-North or LIRR, the actuarial equivalent of the amount then due shall be subtracted from the Employee's benefits under the Plan based on the actuarial assumptions contained in Table II hereof, and no further contributions or interest shall be required of the Employee following the Employee's retirement or termination of Employment. Where the Employee terminates Employment and thereafter returns to Employment and has not made up the required contributions, he or she shall make up any required contributions by

beginning payroll deductions the next payroll period following his or her return to employment.

- (ii) An Employee who is eligible to purchase Credited Service for Metro-North or LIRR service prior to the Effective Date shall be required to make retroactive contributions only if a Member contribution would have been required in accordance with Table I had this Plan been in existence for the years for which Credited Service is being purchased.
- (iii) Past service credit (only nonvested past service may be purchased) under any NYCERS, NYSLERS, SIRTOA or MaBSTOA retirement plan shall not be granted unless an Employee eligible to purchase such credit applies therefore and repays any amount refunded (or available for refund) on leaving such plan, together with interest pursuant to the provisions hereof.

4.02 No Loans Hereunder

A Member shall not be permitted to borrow any portion of the contributions which are subject to Section 4.01.

4.03 Employer Pick Up of Member Contributions

- (a) Notwithstanding any other provision of the Plan to the contrary, on or after the starting date for pick ups as specified in subsection (f) of this Section 4.03, each Employer shall “pick up”, within the meaning of Section 414(h)(2) of the Code, the Member contributions described in Section 4.01(a) and (b) and eligible for pick up by such Employer which each Member would otherwise be required to make on and after the starting date specified in subsection (f) of this Section.
- (b) An amount equal to the amount of such picked up Employee contributions shall be deducted by such Employer from the compensation of such Member which would otherwise be payable but for this Section, and the amount so deducted shall not be paid to such Member. Such deductions shall be effected by means of subtraction from the Member’s current salary, or offset against future pay increases, or a combination of such methods.
- (c) (i) The Member contributions picked up pursuant to this Section for any Member shall be paid to the Trust Fund by each Employer in lieu of an equal amount of the Member contributions otherwise to be paid by such Member under the Plan and shall be deemed to be and treated as Employer contributions pursuant to Section 414(h)(2) of the Code. Subject to the provisions of subsection (b) of this Section, for all other purposes, including but not limited to: computation of retirement benefits and contributions by Employers and Employees, the amount of the Member contributions picked up pursuant to this Section shall be deemed to be a part of the Compensation of such Member, and such Member’s Compensation as it would be but for this Section shall not be deemed to be changed by reason of this Section.

- (ii) Nothing contained in paragraph (i) of this subsection (c) however, shall be construed as superseding any provision of the Plan which limits the Final Average Compensation of any Member.
- (d) (i) For the purposes of determining the Plan and Trust Fund rights, benefits and privileges of any Member whose Member contributions eligible for pick up by an Employer are picked up pursuant to this Section, such picked up Member contributions shall be treated as Member contributions made by such Member pursuant to the Plan. Interest on such picked up Member contributions shall accrue in favor of the Member and be payable by each Employer at the same rate, for the same time periods, in the same manner and under the same circumstances as interest would accrue in favor of the Member and be payable by such Employer on such picked up Member contributions as if they were made by the Member in the absence of an Employer pick up applicable to such Member under this Section.
- (ii) The picked up Member contributions of any Member paid by an Employer pursuant to this Section shall be credited to a separate account within the individual account of such Member, and a separate record of the amount of such picked up Member contributions shall be maintained.
- (iii) Nothing contained in this subsection (d) shall be construed as granting Member contributions picked up under this Section any status under federal law other than as Employer contributions pursuant to Section 414(h) of the Code.
- (e) No Member whose Member contributions are picked up pursuant to this Section shall have any right to elect that such Member contributions, with the corresponding deduction from the Compensation of such Member as prescribed by subsection (b) of this Section, shall not be effectuated and any contributions hereunder subject to pick up status shall be irrevocable.
- (f) The starting date for the pick up of Member contributions under Section 4.01(a) hereof (other than retroactive contributions under Section 4.01(a)(ii), which shall not be picked up) shall be July 1, 1995. The starting date for the pick up of Member contributions under Section 4.01(b) hereof shall be within 90 days after the Internal Revenue Service has issued a favorable ruling on the pick up status of such contributions.

Article 5. Benefit Limitations

5.01 Section 415 Limitations

- (a) The limitations of Section 415 of the Code, as applicable to governmental plans during the limitation year during which the benefits were earned, on Benefits under this Plan are hereby incorporated by reference in this Plan, provided that if and to the extent necessary to comply with these limitations in the case of any Member's participation in any other plan ever maintained by an Employer, without regard to whether or not terminated, the benefits under

this Plan for such Member shall be reduced only after all contributions made by the Member (but not pick ups) are eliminated for the year involved, but benefits under this Plan shall be reduced before Employer contributions or benefits with respect to that Member under any such other plan are reduced.

- (b) Notwithstanding anything in this Article 5 to the contrary, the provisions of Section 415(b)(5) of the Code shall not apply to past service benefits which are purchased under the Plan.
- (c) For purposes of this section, Compensation shall be defined as Section 415 Compensation. The term "Section 415 Compensation" means a Member's total "wages" as defined in Section 3401(a) of the Code for purposes of income tax withholding at the source but determined without regard to any rules that limit the remuneration included in wages based on its nature or location of employment or services performed (such as the exception for agricultural labor in Section 3401(a)(2) of the Code). The determination shall be made taking into account the exclusions under Code Sections 125, 402(e)(3), 402(h)(1)(B), 414(u) and 457. Compensation shall be measured based on compensation actually paid or made available to a Member during the measuring period and not on an accrued basis. Notwithstanding the preceding paragraph, the annual Section 415 Compensation of each Member taken into account under the Plan for any Limitation Year beginning on or after January 1, 1989 shall not exceed Two Hundred Thousand Dollars (\$200,000), as adjusted by the Secretary of Treasury for cost of living increases, and for Limitation Years beginning on or after January 1, 1996, shall not exceed One Hundred Fifty Thousand Dollars (\$150,000), as adjusted for cost of living adjustments in the manner provided for in Section 401(a)(17) of the Code, as amended OBRA '93.
- (d) A Limitation Year, for purposes of applying this Section, means the twelve (12) month period commencing January 1 and ending December 31.
- (e) Notwithstanding the foregoing, any benefit which has been limited by either the dollar or compensation limits of Section 415 of the Code shall be increased for cost-of-living adjustments of such limitations pursuant to such Section and the applicable limitations thereunder, provided, however, the benefit shall not exceed the benefit otherwise payable but for the limitations of Code Section 415.

5.02 Limitations on Compensation

Notwithstanding any other provision of the Plan to the contrary, Compensation taken into account for any purpose under the Plan shall not exceed \$200,000 per year for any year after 1988, except that as of January 1 of each subsequent calendar year, the applicable limitation as determined by the Commissioner of Internal Revenue for that calendar year shall be the maximum compensation to be taken into account for Plan purposes for that calendar year in lieu of the \$200,000 limitation set forth in the preceding sentence. For years beginning on or after January 1, 1996 the annual Salary of each Employee taken into account under the Plan shall not exceed the OBRA '93 annual compensation limit (\$150,000) as adjusted by the Commissioner of Internal Revenue for increases in the cost of living in accordance with Section 401(a)(17)(B) of the Code. The cost of living

adjustment in effect for a calendar year applies to any period, not exceeding 12 months, over which Salary is determined (determination period) beginning in such calendar year. If a determination period consists of fewer than 12 months, the OBRA '93 compensation limit will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is 12. If compensation for any prior determination period is taken into account in determining an Employee's benefits accruing in the current Plan Year, the compensation for that prior determination period is subject to the OBRA '93 annual compensation limit in effect for that prior determination period. For this purpose, for determination periods beginning before the first day of the Plan Year beginning on or after January 1, 1996, the OBRA '93 annual compensation limit is \$150,000.

5.03 Suspension of Retirement Benefits Upon Reemployment.

- (a) Except as provided in subsections (b) and (c) below, a Retired Member of any program in the Plan, who is receiving a retirement allowance for other than physical disability and has not attained age 65, shall have such retirement allowance suspended for so long as such Retired Member is an employee of the MTA or one of its subsidiaries and affiliates and earns compensation from the MTA or one of its subsidiaries and affiliates. The retirement allowance suspended during this period shall be forfeited by the Retired Member.
- (b) Notwithstanding the provisions of subsection (a), a Retired Member may be an employee of the MTA or one of its subsidiaries and affiliates and earn compensation from the MTA or one of its subsidiaries and affiliates, without any effect on his or her status as a Retired Member and without forfeiture, suspension or diminution of his or her retirement allowance, upon approval of a waiver of suspension and forfeiture of retirement benefits pursuant to the following process:
 - (i) the MTA chief of staff or head of the subsidiary or affiliate seeking to employ the Retired Member shall make a written request to a committee that shall consist of the director of Human Resources of the MTA, the director of Labor Relations of the MTA and the Chief Financial Officer of the MTA ("Waiver Committee");
 - (ii) the Waiver Committee shall review such request and make its recommendation regarding the waiver to the Chief Executive Officer of the MTA for his or her concurrence; and
 - (iii) upon the Chief Executive Officer's concurrence, an approved waiver shall be an informational item on the agenda of the next meeting of the Board of Managers.
- (c) Notwithstanding the provisions of subsection (a), a Retired Member may continue as a Retired Member and, without forfeiture, suspension or diminution of his or her retirement allowance, earn in a position or positions as an employee of the MTA or one of its subsidiaries and affiliates in any calendar year an amount not exceeding \$30,000 or if different, the applicable

amount set forth in section 212 of the Retirement and Social Security Law, as hereinafter amended.

- (d) No Retired Member employed pursuant to the provisions of this Section 5.03 shall be required or permitted to become a Member of the Plan.
- (e) Credited Service may not be purchased or granted by the Plan for any period of employment authorized under the provisions of this Section 5.03.
- (f) This Section 5.03 shall apply to all constituent programs of the Plan. This Section is effective as of January 26, 2011, with respect to any Member who was a Non-Represented Employee at the time of his/her retirement and, with respect to any Member who was a Represented Employee, upon agreement with the applicable collective bargaining representative.

Article 6. Administration

6.01 Appointment of Board of Managers of Pensions

- (a) There shall be a Board of Managers of Pensions comprised of the persons holding the following positions:
 - (i) the Chairman of the MTA;
 - (ii) the MTA Chief Financial Officer
 - (iii) the MTA Director of Labor Relations; and
 - (iv) the agency head of each participating Employer.
- (b) Designation of Others:

Any member of the Board of Managers, serving as such by virtue of holding a position described in subsection (a) of this Section, may, by written authorization filed with the Secretary who shall notify the other members of the Board of Managers, designate another individual, not then a member of the Board of Managers, to serve in that member's stead, in accordance with procedures established with the approval of the Executive Director. Any such authorization may be revoked by the designating member at any time in writing filed in the same manner.

- (c) The Board of Managers shall be the agent for the service of legal process with respect to the Plan. No bond or other security is required in any jurisdiction of the Board of Managers or any member thereof except as required by law.

6.01.01 Resignation and Removal

Any person serving as a member of the Board of Managers by virtue of a designation made in accordance with subsection (b) of Section 6.01 may at any time resign that position upon not less than 45 days prior written notice to the member who designated such person and to the Secretary who shall notify the other members of

the Board of Managers. A member shall be deemed to have resigned in the event that the member ceases to hold the position pursuant to which that member is authorized to be a member of the Board of Managers, the effective date of such resignation being the cessation date of such status as is applicable. The Board may at any time remove any member and/or designee for any reason giving written notice of the removal to the member involved and to the Secretary who shall notify each other member of the Board of Managers. Upon resignation or removal, a successor member shall become such or be designated in the manner provided in Section 6.01 of the Plan.

6.02 Powers and Organization of Board of Managers

The Board of Managers shall control and manage the operation and administration of this Plan. It shall have all powers that in its judgment may be necessary or appropriate for that purpose, including, but not by way of limitation, in its sole and absolute discretion, power to adopt any rules consistent with the provisions of the Plan deemed necessary to effectuate the Plan, to conduct the affairs of the Board of Managers, to administer the Plan, to interpret the Plan, to determine the eligibility, status and rights of all persons under the Plan and, in general, to decide any dispute and all matters arising in connection with the operation or administration of the Plan. It shall also be the administrator for the LIRR Plan for Additional Pensions. Without limiting the generality of the foregoing, the Board of Managers shall have the sole and absolute discretionary authority to: (a) take all actions and make all decisions with respect to the eligibility for, and the amount of, benefits payable under the Plan and, without limiting the foregoing, determine any question arising in the interpretation of Articles 2, 3, 4 and 5 of the Plan and also Article 1 insofar as relevant to these Articles; (b) formulate, interpret and apply rules, regulations and policies necessary to administer the Plan in accordance with its terms; (c) decide questions, including legal or factual questions, relating to the calculation and payment of benefits under the Plan; (d) resolve and/or clarify any ambiguities, inconsistencies and omissions arising under the Plan, Trust Agreement or other Plan documents; (e) process, and approve or deny, benefit claims and rule on any benefit exclusions; (f) determine any other question arising in the interpretation of the Plan and (g) set audit requirements for the Plan. All determinations made by the Board of Managers with respect to any matter arising under the Plan, Trust Agreement and any other Plan documents shall be final and binding on all affected Plan Members (and their beneficiaries) and other affected parties, except as provided in Article 21 hereof. No dispute arising under the Plan shall be subject to arbitration unless the Board expressly agrees in writing. The Board of Managers may elect one of its members as Chairman and shall appoint a Secretary. The Board of Managers may, by unanimous agreement, designate, as agent or in some other capacity, any person or persons, including a member of the Board of Managers, to carry out responsibilities in the operation and administration of the Plan and to carry out fiduciary responsibilities other than those involving the management or control of the assets of the Plan, except that any dispute shall be determined by the Board of Managers. In particular, the Board of Managers or any fiduciary designated by the Board of Managers may employ one or more persons to render advice with regard to any responsibility the Board of Managers or such fiduciary has under the Plan, and may authorize any person or persons to sign on its behalf instructions, notices, determinations, any documents with respect to the Plan required by any governmental regulatory agency and any legal papers in court proceedings involving the Plan or the Board of Managers. No member of the Board of Managers, however, shall participate in the determination by the Board of Managers as to his or her own

benefits or rights under the Plan. The Board of Managers shall direct the Trustee in accordance with the provisions of the Plan and shall have such other powers in the administration and investment of the Trust (including, but not limited to, the Trust Fund) as may be conferred upon it by the Trust Agreement. It shall also have the authority to manage the investments of the trust and to allocate any assets in the Trust which are not specifically designated to a specific plan. The Board of Managers is authorized to establish an Alternative Investment Subcommittee which shall advise the Board of Managers as to the Plan's investments in "alternative investments", including certain investments that do not qualify as Qualified Commingled Funds pursuant to Subsection (a), (b), or (c) of Section 1.37A; the Alternative Investment Subcommittee shall work with the Plan's investment advisor to establish specific alternative investment guidelines, and to provide the Board of Managers with recommendations concerning alternative investments, having considered such matters as allocations to alternative investments, allocations among the various classes of alternative investments, and the risks and benefits of particular investment vehicles that do not qualify as Qualified Commingled Funds pursuant to Subsection (a), (b), or (c) of Section 1.37A. The Board of Managers, in consultation with its investment advisor, is authorized to develop specific investment guidelines and processes under which it will consider, effectuate, and monitor investments in Qualified Commingled Funds. A majority of the Board of Managers then in office shall constitute a quorum for all purposes. Decisions of the Board of Managers shall be by a majority vote of the members present at the meeting at which a quorum of the members is present.

6.03 Application

The Beneficiary shall make written application to the Secretary of the Board of Managers in a form acceptable to the Secretary. An applicant for, or recipient of, benefits under the Plan must comply with any reasonable request by the Secretary for information, proof or documentation, including without limitation, requests pertaining to proof of age. Failure to comply with any such request or to execute the requests or authorizations necessary to secure relevant records shall be sufficient cause for the Secretary of the Board of Managers to delay or deny Plan benefits. The Secretary of the Board of Managers shall pass upon applications for benefits under the Plan, subject to the right of an applicant to secure review of an unfavorable decision by the Board of Managers. All interpretations, determinations and decisions of the Board of Managers with respect to any claim shall be made in the Board of Managers' sole discretion based on the Plan and other relevant documents and shall be final and conclusive.

6.04 Immunity from Liability

Each Employer, each member of the Board, each member of the Board of Managers, each designated representative pursuant to Section 6.02 to whom this provision is extended by the Board of Managers and each employee of the MTA or of any MTA Affiliated Agency who is administering the Plan on behalf of the Employers, shall be free from all liability, joint or several, for their acts, omissions and conduct, or the acts, omissions and conduct of others, in the administration of or otherwise with respect to the Plan. Without limiting the generality of the foregoing, no Employer or any such person shall be liable for any loss, nor for any depreciation of principal or loss of income resulting from the purchase or retention of any investment or the retention of any uninvested money, nor for any action or any failure to act, except for its or his or her own willful misconduct or bad faith.

6.05 Indemnification

The MTA and each MTA Affiliated Agency shall indemnify and hold harmless each member of the Board, each member of the Board of Managers, each designated representative pursuant to Section 6.02 to whom this provision is extended by the Board of Managers, and each of its own Employees from and against, except to the extent such persons are reimbursed by insurance paid for by the Employer, any and all losses, costs (including reasonable attorney's fees), claims and liabilities which that person may suffer or incur arising out of acts, omissions or conduct for which that person has any responsibility in his or her capacity with respect to the Plan to the extent provided in the by-laws of the MTA or of such MTA Affiliated Agency.

6.06 Legal Counsel

The MTA General Counsel or his/her designee shall be counsel to the Board of Managers and the legal advisor for the Plan.

6.07 Procedures for Benefit Forfeiture for Cause

- (a) If an Employer seeks a forfeiture of a Member's Benefit(s) at the time of an Employee's termination of Employment for Cause, the Employer shall follow the Employer's contractual and/or legally mandated process for terminations for cause with respect to such Member. In connection with such termination for Cause, the Employer may provide the Member with notice in writing of its intent to seek a forfeiture of Benefit(s), which notice shall identify the conduct which constitute(s) Cause and the potential consequences of forfeiture, and provide the Member an opportunity to be heard before recommending a forfeiture of Benefit(s) to the Board of Managers.
- (b) If at the time of termination of Employment, there is no applicable contractual and/or legally mandated process for terminations for cause, the Employer shall provide the Member with notice in writing of its intent to seek a forfeiture of Benefits, which notice shall identify the conduct which constitute(s) Cause and the potential consequences of forfeiture, and provide the Member an opportunity to be heard before an independent hearing officer designated by the MTA. If, at the conclusion of the proceeding, the independent hearing officer finds that the Member engaged in conduct that constituted Cause and recommends a forfeiture of the Member's Benefit(s) under the Plan, the Employer shall request that the Board of Managers forfeit the Benefit(s).
- (c) If an Employer seeks a forfeiture of a former Member's or Beneficiary's Benefit(s) after an Employee's separation from Employment based on conduct that constituted Cause, the Employer shall provide the former Member or Beneficiary, with notice in writing of its intent to seek a forfeiture of Benefit(s), which notice shall identify the conduct which constitute(s) Cause, the potential consequences of forfeiture and provide such former Member or Beneficiary an opportunity to be heard before an independent hearing officer designated by the MTA. If that independent hearing officer finds that the former Member engaged in conduct that constituted Cause and recommends a forfeiture of the Member's or Beneficiary's Benefit(s) under the Plan, the

Employer shall request that the Board of Managers forfeit the Benefit(s) of such Member or Beneficiary, as applicable.

- (d) The Board of Managers shall, in its sole discretion, review the recommendation of the independent hearing officer, and by a majority vote of those present, accept or reject the recommendation to forfeit the Benefit(s).
- (e) A final decision by the Board of Managers with respect to a forfeiture of Benefit(s) for Cause may be appealed pursuant to Article 78 of the New York Civil Practice Law and Rules.
- (f) All costs associated with the administrative hearings and reviews provided for in this Section 6.07 shall be borne by the Employer seeking forfeiture, except that the costs of the Member's, former Member's or Beneficiary's attorney and other representation costs shall be borne by such Member, former Member or Beneficiary.

Article 7. Contributions and Funding

7.01 Contributions, Exclusive Benefit and Expenses

The Benefits provided under this Plan shall be financed entirely through contributions to the Trust Fund made by each Employer except to the extent funded through Employee contributions as provided for in the Plan. Each Employer shall be responsible for its own contributions and shall have no responsibility for the contributions of any other Employer. Each Employer intends to contribute each year in such amounts as are necessary to maintain the Plan and Trust Fund on a sound actuarial basis insofar as such contributions relate to its Employees and to meet the minimum funding standards, if any, prescribed for qualification of the Trust Fund as part of a "governmental plan" under Section 401 (a) of the Code. All such contributions to provide the Benefits under the Plan shall be paid into the Trust Fund. The Trust Fund will be held and invested as described in the Trust Agreement. To further this intention, an actuary, other than the actuary who performs the annual valuation, shall be retained at least every five years to conduct an actuarial audit of the Plan's actuarial funding method, actuarial assumptions and asset valuation method. Except as otherwise provided herein and in the Trust Agreement relating to a mistake of fact or denial of initial plan qualification, no part of the Trust Fund may be used for, or diverted to, purposes other than for the exclusive benefit of Employees or their Beneficiaries, nor may any part of the Trust Fund be remitted to any Employer, except as otherwise permitted under the Plan; provided, however, that the corpus of the Trust Fund bear the reasonable costs of administration, consulting, investment, legal and other services, to the greatest extent allowed under applicable laws, regulations and interpretive guidance.

7.02 Trust Agreement

The MTA has entered into a Trust Agreement providing for the administration and investment of the Trust Fund, and of Trust assets attributable to such plans in addition to the Plan as may participate from time to time under trust agreement (which may be a master trust agreement). The Trust Agreement includes, among other provisions, provisions with respect to the powers and authority of the Trustee in the administration of the Trust Fund and, in its discretion and/or as directed by the Board of Managers or an

investment manager appointed by the Board of Managers, with respect to the investment and reinvestment of the Trust Fund and the income therefrom. The Trust Agreement or any successor agreement thereto is a part of this Plan, and any and all rights or Benefits which may accrue to any person under the Plan shall be subject to all the terms and provisions of the Trust Agreement.

7.03 Contributions Conditioned on Plan Qualification

All contributions made by an Employer to the Trust Fund are conditioned on initial qualification of the Plan under Section 401(a) of the Code. Notwithstanding any provision of the Plan or the Trust Agreement to the contrary, if the Plan does not initially qualify, upon any such Employer's written direction to the Trustee, the contributions shall be returned from the Trust Fund to such Employer by the Trustee within one year after the date of denial of initial qualification of the Plan.

7.04 Contributions by Mistake of Fact

Notwithstanding any provision of the Plan to the contrary, upon any Employer's written direction to the Trustee, contributions made to the Trust Fund by a mistake of fact, reduced by any investment loss attributable to such contributions, shall be returned from the Trust Fund to such Employer by the Trustee within one year after the payment of such contributions.

7.05 Pre-OBRA '93 Limitations

Members who, while employed by the MTA or one of its subsidiaries or affiliates, were eligible participants in their predecessor governmental plans and, as such, were subject to the applicable pre-OBRA '93 limitations as in effect on July 1, 1993, continue to be subject to the applicable pre-OBRA limits (as subsequently adjusted by applicable law).

Article 8. Direct Rollovers to Other Eligible Plans

8.01 Election by Distributee

Notwithstanding any provision of the Plan to the contrary that would otherwise limit a distributee's election under this Article, a distributee may elect, at the time and in the manner prescribed by the Board of Managers, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

8.02 Definitions

- (a) Eligible rollover distribution: An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated Beneficiary, or for a specified period of ten (10) years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Code; and the portion of any distribution that is not includable

in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities).

- (b) Eligible retirement plan: An eligible retirement plan is an individual retirement account described in Section 408(b) of the Code, a qualified trust described in Section 401(a) of the Code, or an annuity plan described in Section 403(a) of the Code, that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.
- (c) Distributee: A distributee includes an Employee or former Employee, and, in addition, the Employee's or former Employee's surviving spouse.
- (d) Direct rollover: A direct rollover is a payment by the Plan to the eligible retirement plan specified by the distributee.

Article 9. General Provisions

9.01 Conditions of Employment Not Affected by Plan

The establishment of the Plan shall not confer any legal rights upon any Employee or other person for a continuation of employment, nor shall it interfere with the rights of any Employer to discharge any Employee or other person and to treat him without regard to the effect which that treatment might have upon him as a Member.

9.01A Provisions Relating to Qualified Military Service

To the extent required by Section 401(a) of the Code, in the case of a death occurring on or after January 1, 2007, if a Member (with respect to Articles 3 and 18) or a Participant (with respect to Articles 10, 11, 12, 13, 14, 15, 16, 17, 19, and 20), or an Employee (with respect to Article 21) dies while performing "qualified military service" (as defined in Code Section 414(u)), the Beneficiary of such Member or Participant or Employee is entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the Plan as if the Member or Participant or Employee had resumed employment and then terminated employment on account of death. The Plan will credit the qualified military service of the Member or Participant or Employee as service for vesting purposes, but not accrual of benefit purposes, as though the Member or Participant or Employee had resumed employment under the Uniformed Services Employment and Reemployment Rights Act of 1994, as amended, immediately prior to the death of the Member or Participant or Employee.

9.02 Adoption of Plan and Discontinuance of Participation by MTA-Affiliated Agencies

With the consent of the Board, any MTA-Affiliated Agency may adopt the Plan and Trust Agreement for any of its employees by resolution of the Board of the MTA and by resolution of the board of such MTA-Affiliated Agency adopting such Plan. An MTA-Affiliated Agency's discontinuance of its participation under the Plan shall be effected by resolution of the Board of the MTA and by resolution of the board of such MTA-Affiliated Agency.

9.03 Correction of Errors

Should any mistake of fact, change or error in records or administration result in any Member or Beneficiary receiving under the Plan more or less than the Member or Beneficiary would otherwise have been entitled to receive, on the discovery of any such mistake of fact, change or error, the Board of Managers shall correct such error, and, as far as practicable, shall adjust the payments in such manner that any underpayment is paid or any overpayment is recovered. Where an overpayment cannot be recouped by adjusting a future payment or payments to a Member, Retired Member or Beneficiary, the Board of Managers may initiate a claim directly against such Member, Retired Member or Beneficiary and, if necessary, commence a legal proceeding to recoup such overpayment.

9.04 Amendment and Termination

- (a) The MTA, by action of its Board pursuant to the provisions of Article 5, Title 11 of the New York Public Authorities Law, reserves the right to modify, amend or restrict this Plan or to discontinue it altogether, subject, however, to the obligations of any Employer under applicable law. However, no amendment shall adversely affect pensions previously accrued nor prior to termination convert any part of the Trust Fund to any purpose other than the exclusive benefit of Members, Retired Members, Employees and Beneficiaries.
- (b) In the event the Plan is terminated, the Trust fund shall continue to be held and applied for the exclusive benefit of Members, Retired Members, Employees, and Beneficiaries as provided below until paid out in full; provided that expenses may continue to be paid as if the Plan had not terminated and all necessary and reasonable expenses connected with the termination of the Plan may also be paid from the Trust fund to the extent specified by the MTA. On termination of the Plan, all Employees shall be fully vested to the extent of their then accrued Benefits. To the extent that they suffice, the assets of the Trust Fund in the event of termination of the Plan shall be applied to provide benefits in the manner directed by the Board. If the assets of the Trust Fund exceed the amount sufficient to provide all accrued Benefits to the date of termination, any excess assets shall be returned to each Employer in accordance with the methodology adopted by the Board which shall equitably reflect each Employer's share of the contributions to the Plan. A complete discontinuance of Employer contributions shall constitute a termination of this Plan.

9.05 Pre-Termination Restrictions

In the event of plan termination, the Benefit of any highly compensated active or former Employee is limited to a Benefit that is nondiscriminatory under Code Section 401(a)(4).

- (a) For Plan Years beginning on or after January 1, 1996, benefits distributed to any of the 25 most highly compensated active and highly compensated former Employees with the greatest compensation in the current or any prior year are restricted such that the annual payments are no greater than an amount equal to the payment that would be made on behalf of the Employee under a straight life annuity that is the actuarial equivalent of the sum of the Employee's accrued Benefit, the Employee's other benefits under the Plan

(other than a Social Security supplement, within the meaning of section 1.411(a)-7(c)(4)(ii) of the Treasury Regulations), and the amount the Employee is entitled to receive under a Social Security supplement.

- (b) Subsection (a) of Section 9.05 shall not apply if: (i) after payment of the Benefit to an Employee described in the preceding paragraph, the value of the Plan assets equals or exceeds 110% of the value of current liabilities, as defined in Section 412(1)(7) of the Code, (ii) the value of the Benefits for an Employee described above is less than 1% of the value of current liabilities before distribution, or (iii) the value of the Benefits payable under the plan to an Employee described above does not exceed \$5,000.
- (c) In the event that Congress should provide by statute, or the Internal Revenue Service should provide by regulation or ruling, that the conditions set forth herein are no longer necessary for the Plan to meet the requirements of Section 401 or other applicable provisions of the Code, such conditions shall immediately become void and shall no longer apply, without the necessity of further amendment to the Plan.
- (d) For purposes of this section, Benefits include loans in excess of the amount set forth in section 72(p)(2)(A) of the Code, any periodic income, any withdrawal values payable to a living Employee, and any death benefits not provided for by insurance on the employee's life.

9.06 Spendthrift Provisions

Beneficial interests in the Trust fund of Members, their Beneficiaries or any other person shall not be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance or charge, and any attempt so to anticipate, alienate, sell, transfer, assign, pledge, encumber or charge the same shall be void; nor shall any such beneficial interest be in any manner liable for or subject to the debts, contracts, liabilities, engagements or torts of the person entitled to such interest except as otherwise expressly permitted by the terms of the Plan or by applicable law. Notwithstanding any of the foregoing provisions, benefits otherwise payable to a Member may be paid to the spouse, former spouse, child or other dependent of the Member pursuant to a domestic relations order that would qualify as a "qualified domestic relations order" if the provisions of Code section 414(p) were applicable to the Plan; provided, however, that a domestic relations order recognized under the Plan may not provide for payment to an alternate payee prior to the time the Employee terminates Employment and receives benefits under the Plan.

9.07 Allocation of Responsibility

The responsibility and obligations of Metro-North, LIRR, MTA, the Trustee, the Board of Managers and each member thereof and any other MTA-Affiliated Agency electing to opt into the Plan and their designated representatives shall be strictly limited to those set forth for such entity in this Plan, the Trust Agreement or any applicable investment advisory or management contract. Each such individual shall discharge such responsibilities and obligations with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with

like aims. No Employer shall be liable for the acts or omissions of any other Employer or the officers, directors or employees of such other Employer hereunder.

9.08 Definition of Words

Feminine or neuter pronouns shall be substituted for those of the masculine form, and the plural shall be substituted for the singular, in any place or places herein where the context may require such substitution or substitutions.

9.09 Construction

- (a) The Plan shall be construed, regulated and administered under the Internal Revenue Code and the laws of the State of New York.
- (b) The titles and headings of the Articles and Sections in this Plan are for convenience of reference only. In case of ambiguity or inconsistency, the text rather than the titles or headings shall control.
- (c) In the event that any provisions of this Agreement shall be declared invalid or unenforceable by any legislative or regulatory body or court having jurisdiction, such invalid or unenforceable provision shall be deemed to be amended to conform to applicable law.

9.10 Special Rules Applicable to Certain Employees of MTA Bus Company

- (a) If a Member who is an Employee of the MTA Bust Company is reassigned to a different bus operation after first becoming eligible to participate in the Plan, then notwithstanding anything in Articles 13 through 19 to the contrary, such Member shall continue to participate in the Plan and to accrue benefits under, and otherwise be subject to, such Article in which he or she was covered before the reassignment and shall not be eligible to participate in the Plan or to accrue benefits under any otherwise applicable Article. The proceeding sentence shall not apply to a Member's reassignment from or to a position which is covered by a collective bargaining agreement.
- (b) If a Member who is an Employee of the MTA Bus Company and who is covered by a collective bargaining agreement, then notwithstanding anything in Articles 13 through 19 to the contrary, such Member shall continue to participate in the Plan and to accrue benefits under, and otherwise be subject to, such Article in which he or she was covered before the reassignment, as if he or she has remained covered by such collective bargaining agreement, and such Member shall not be eligible to participate in the Plan or to accrue benefits under any otherwise applicable Article.