The Western Conference of Teamsters

Pension Trust Fund

AS CONSTITUTED APRIL 14, 2020

Rules governing recognition of Pension Agreements and acceptance of Employer Contributions
As constituted October 15, 2019

AND

Employer Withdrawal Liability Rules and Procedures
As constituted April 10, 2017

AND

Employer Withdrawal Liability Arbitration Rules
As constituted July 15, 1986

04/2020

NOTICE TO COVERED EMPLOYERS, EMPLOYEES AND LOCAL UNIONS

To be eligible to participate in this Pension Plan, an employee must be covered under a bona fide written Pension Agreement (labor contract). In most cases, this is a written collective bargaining agreement between an employer and a local union affiliated with the International Brotherhood of Teamsters that requires Employer Contributions to the Pension Trust on behalf of employees who work under that agreement. The agreement must conform to the Trustee Policy on Acceptance of Employer Contributions and other Plan rules and regulations and must be accepted as a Pension Agreement by the Board of Trustees.

Copies of Pension Agreements are available for inspection at the offices of the signatory employers and local unions.

Only the Area Administrative Offices represent the Trustees in administering the Plan and giving information relating to amount of benefits, eligibility and other provisions of the Plan. No Union Employee, including Union Officers and Business Agents, no Employer or Employer representative, and no representative of any other organization except the Area Administrative Offices is authorized to give information, interpret the Plan, or commit the Trustees on any matter. In all cases, the terms of the Plan govern.

Unincorporated owners and partners are not eligible to personally participate in the Plan.

Special rules apply to the determination of past employment credits for corporate officers, former owners and former proprietors.

Pensions will not be paid to persons who are found to be ineligible for coverage under the Plan, even though contributions were made on their behalf. If there is any doubt that an individual's coverage is not proper, write directly to the Administrative Office in your area.

ADMINISTRATIVE OFFICES

NORTHWEST AREA
Administrative Office
The Western Conference of
Teamsters Pension Trust Fund
2323 Eastlake Avenue East
Seattle, WA 98102-3393
(206) 329-4900

NORTHERN CALIFORNIA AREA
Administrative Office
The Western Conference of
Teamsters Pension Trust Fund
1000 Marina Blvd., Suite 400
Brisbane, CA 94005-1841
(650) 570-7300

SOUTHWEST AREA
Administrative Office
The Western Conference of
Teamsters Pension Trust Fund
225 South Lake Avenue, Suite 1200
Pasadena, CA 91101-3000
(626) 463-6100

REGIONAL SERVICE CENTERS

PORTLAND OFFICE
The Western Conference of
Teamsters Pension Trust Fund
700 NE Multnomah St., Ste. 350
Portland, OR 97232-4197
(503) 238-6961

MERIDIAN OFFICE
The Western Conference of
Teamsters Pension Trust Fund
3597 E Monarch Sky Ln., Ste. 340
Meridian, ID 83646-1053
(208) 898-7500

THE TRUSTEES OF THE WESTERN CONFERENCE OF TEAMSTERS PENSION TRUST FUND

2323 Eastlake Avenue East
Seattle, Washington 98102-3393

Employer Identification Number 91-6145047

® GCC/IBT 933-M

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AGREEMENT AND DECLARATION OF TRUST

This Agreement and Declaration of Trust made this 26th day of April 1955, by and between the undersigned Union Trustees and Employer Trustees, who together with the successor Trustees and additional Trustees designated in the manner hereinafter provided are hereinafter collectively referred to as Trustees.

WHEREAS, certain local unions affiliated with THE WESTERN CONFERENCE OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA, have now and will hereafter have in effect Agreements with certain employers requiring payments by the employers into a trust fund for the purpose of providing and maintaining retirement, death, and termination benefits for certain employees of the employers and their beneficiaries.

WHEREAS, each such local union, hereinafter called Union, and each such employer, hereinafter called Employer, shall, upon acceptance by the Trustees, be deemed a party to this Agreement and Declaration of Trust, and

WHEREAS, to effect the aforesaid purpose it is desired to establish and maintain a trust fund which will conform to the applicable requirements of the Labor Management Relations Act of 1947, as amended, and the Employee Retirement Income Security Act of 1974, as amended and qualify as a "qualified trust" and as an "exempt trust" pursuant to 1954 Internal Revenue Code, sections 401, 501(a), and other pertinent provisions thereof.

NOW THEREFORE, in consideration of the premises and in order to establish and provide for the maintenance of the aforesaid trust fund, to be known as THE WESTERN CONFERENCE OF TEAMSTERS PENSION TRUST FUND (hereinafter referred to as the "Trust Fund"), it is understood and agreed as follows:

ARTICLE I – DEFINITIONS

Section 1. – Union:

The term Union shall mean any one of the following labor organizations that, at the time of reference, has agreed to be bound by the terms and provisions of the Trust Agreement:

(1) A local union affiliated with the International Brotherhood of Teamsters.

(2) A labor organization the primary purpose of which is to represent Employees that are considered "guards" within the meaning of section 9(b)(3) of the National Labor Relations Act, as amended, provided that some of its members previously were represented by a local union of the Western Conference of Teamsters.

(3) A labor organization the primary purpose of which is to represent Employees that are considered "guards," provided that the labor organization represents Employees within the geographic jurisdiction of the Western Conference of Teamsters and is affiliated with, or is a constituent member of, a labor organization at least one of whose constituent members or affiliates is a labor organization described in (2).

In no event, however, shall a labor organization described in (2) or (3) be considered a Union for purpose of Article II.

Section 2. – Employer:

The term Employer as used herein shall include an association, individual, partnership, or corporation which at the time of reference, has agreed in writing to be bound by the terms and provisions of the Trust Agreement and is obligated to make Employer Contributions to the Trust Fund in accordance with a Pension Agreement. The term Employer shall include the Trust Fund with respect to its employees.

Section 3. – Employee:

The term Employee as used herein shall mean any person on whose account an Employer is, at the time of reference, making Employer Contributions into the Trust Fund, or for whom an Employer previously did make such Contributions and who is, at the time of reference, still eligible for benefits to be provided by the Trust Fund.

Section 4. – Trustee:

The term Trustee as used herein shall include any person designated as a Trustee pursuant to Section 2, Section 3 or Section 6 of Article II of this Agreement and Declaration of Trust.

Section 5. – Union Trustee:

The term Union Trustee as used herein shall mean any Trustee designated solely by the Unions or on behalf of the Unions by any other Union Trustee or Trustees.

Section 6. – Employer Trustee:

The term Employer Trustee as used herein shall mean any Trustee designated solely by the Employers or on behalf of the Employers by any other Employer Trustee or Trustees.

Section 7. – Agreement and Declaration of Trust:

The term Agreement and Declaration of Trust as used herein shall mean this instrument including all amendments and modifications hereto.

Section 8. – Trust Fund:

The term Trust Fund as used herein shall mean The Western Conference of Teamsters Pension Trust Fund created and established in Article III herein.

Section 9. – Employer Contributions

The term Employer Contributions as used herein shall mean payments to the Trust Fund by an Employer in accordance with a Pension Agreement.

Any payments to the Trust Fund which are discovered not to have been made pursuant to a valid Pension Agreement, or which are subsequently discovered to be unacceptable for any other reasons, shall continue to be held and invested as part of the Trust Fund pending determination of the person(s) entitled thereto and disbursement of those payments to those person(s); however, the Trustees shall maintain records sufficient to separately identify those payments. The Trustees may require as a condition of disbursing improper or unacceptable payments from the Trust Fund that the person(s) receiving them reimburse the Trust Fund for any expenses incurred by or on behalf of the Trustees in connection with those payments or their disbursement from the Trust Fund, including, without limitation, administrative expenses and attorneys' fees. The Trustees may also require from the person(s) receiving the payments and from any other person(s) the Trustees determine may have or claim an interest in the payments, such release, indemnify and hold-harmless agreements as the Trustees deem appropriate in the circumstances. Nothing herein shall be construed as requiring or permitting the disbursement of monies from the Trust Fund to any person in violation of section 403(c) of ERISA. Nor shall the Trustees be precluded from holding improper or unacceptable payments separate and apart from the Trust Fund pursuant to escrow or other arrangements or from depositing those payments with the clerk of any court of competent jurisdiction pending a determination by the court of the person(s) entitled thereto or a declaration by the court of the rights and obligations of the Trustees concerning those payments.

Section 10. – Pension Agreement*:

The term Pension Agreement as used herein shall mean a written agreement between any Union and any association, individual, partnership or corporation which, among other things, requires payments to the Trust Fund on behalf of employees of such association, individual, partnership or corporation and which complies with the rules, regulations and policies of the Trustees governing acceptance of payments from Employers.

The term Pension Agreement shall also mean any written agreement providing for payments to the Trust Fund for the employees of the following: Any Union, any Western Region Joint Council, any other subordinate body of the International Brotherhood of Teamsters that is located in the 13 western states and primarily services one or more Western Region Unions or their members, any administrative agency serving the Trustees, or the Trust Fund with respect to its employees.

The Trustees from time to time may establish uniform rules setting forth additional conditions and requirements that must be met for acceptance of an agreement as a Pension Agreement if the agreement covers employees represented by a Non-Western Region Union or is an agreement between the Trustees and a Non-Western Region Union covering the employees of that Union.

The Trustees may decline to accept a collective bargaining agreement as a Pension Agreement if acceptance might require a transfer of liabilities from another multiemployer pension plan to the Trust pursuant to section 4235 of ERISA, or they may condition acceptance of the agreement on satisfaction of such additional terms and conditions as they may deem appropriate.

The terms Western Region Joint Council, Western Region Union and Non-Western Region Union are defined in the Plan.

The term Pension Agreement shall include any extension, renewal or replacement thereof. A Pension Agreement shall be considered as being in effect on any date if it provides for Employer Contributions to be made to the Trust Fund with respect to employment on such date.

Notwithstanding the foregoing, a written agreement will not be considered a Pension Agreement and an association, individual, partnership, or corporation shall not be considered as an Employer maintaining the Plan with respect to his employees covered by the written agreement unless and until such agreement is accepted in writing by the Trustees. Such acceptance will be effective retroactive to the effective date of payments to the Trust Fund specified in the agreement unless a later date is specified in the Trustees' acceptance.

The Trustees may withdraw their acceptance of a written agreement as a Pension Agreement by written notice to the parties to the agreement. The actions of the Trustees shall comply with their rules, regulations and policies governing acceptance of payments from Employers and may be retroactive or prospective.

Section 11. – Limitation on Employer Contributions:

The hourly rate of Employer Contribution under a Pension Agreement on any date after December 31, 1979, and before January 1, 1992, may not be more than 50 cents per hour higher than the rate in effect under the Agreement on the same date in the prior calendar year.

The Trustees may, from time to time, establish a maximum hourly rate at which Employer Contributions may be made to the Trust Fund under any Pension Agreement. The Trustees may, from time to time, also establish minimum and maximum hourly rates at which Employer Contributions may be made to the Trust Fund under any new Pension Agreement.

If a Pension Agreement provides an hourly rate in excess of that permitted for such Agreement, the parties thereto shall be deemed to have agreed to make contributions only at the rate permitted and only contributions at such rate will be accepted. If a Pension Agreement provides an hourly rate less than that required for that Agreement, contributions under that Agreement will not be accepted. Receipt of contribution amounts which are not acceptable under this Section or approval of such a Pension Agreement by the Trustees shall not be deemed a waiver of the provisions of this Section 11 or an agreement by the Trustees to accept contributions otherwise not permitted.

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* The provisions in Section 10 relating to Non-Western Region Unions and units represented by such Unions, as added by the Trustees on July 16, 2013, expire ten years from that date and thereafter additional new units outside the West will no longer be permitted to participate in the Pension Plan unless the Trustees agree otherwise.

Section 12. – Qualified Financial Institution:

The term Qualified Financial Institution shall mean a reputable bank or trust company that is supervised by a federal or state agency or a reputable insurance company that is qualified to perform asset management services for employee benefit plans under the laws of more than one state.

Section 13. – Insurance Company Contract:

The term Insurance Company Contract shall mean a group annuity or other contract issued to the Trustees by an insurance company that is a Qualified Financial Institution for the purpose of investing assets of the Trust Fund or of providing all or any part of the benefits granted under the terms of the Plan, or both.

Section 14. – Qualified Investment Vehicles:

The Trustees from time to time may designate as a Qualified Investment Vehicle any entity or class of entity that is not a Qualified Financial Institution to receive funds from the Trust Fund provided the entity or class of entity is established and maintained for institutional investment purposes, including without limitation, a corporation, partnership, limited liability company, open end management investment company, and real estate investment trust.

Section 15. – ERISA:

The term ERISA shall mean the Employee Retirement Income Security Act of 1974, as amended from time to time.

Section 16. – Code:

The term Code shall mean the Internal Revenue Code of 1986, as amended from time to time, and any predecessors or successors thereto.

ARTICLE II – TRUSTEES

Section 1. – Number of Trustees:

The Trustees under this Agreement and Declaration of Trust, who shall be the Trustees of the Trust Fund created and established hereunder, shall be an even number not less than four, and not more than twenty-six; one-half to be Union Trustees and one-half to be Employer Trustees.

Section 2. – Selection of Union Trustees:

The Union Trustees shall be selected as follows:

(a) The President of each of the following Joint Councils shall serve as a Union Trustee to represent the Area designated: Joint Council 3 (Rocky Mountain), Joint Council 7 (Northern California), Joint Council 28 (Northwest), Joint Council 37 (Northwest), and Joint Council 42 (Southwest).

(b) The Executive Board of each of the following Joint Councils shall select one Union Trustee to represent the Area designated for a term of six years: Joint Council 3 (Rocky Mountain Area), Joint Council 28 (Northwest Area), Joint Council 37 (Northwest Area). The Executive Board of each of the following Joint Councils shall select two Union Trustees to represent the Area designated, each for a term of six years: Joint Council 7 (Northern California Area), Joint Council 42 (Southwest Area).

(c) The twelve Area Union Trustees shall select by majority vote one additional Union Trustee for a term of six years.

(d) Each individual selected as a Union Trustee by the Executive Board of a Joint Council must be, at the time of selection, an active member of a local union of that Joint Council.

(e) Any action by the Executive Board of a Joint Council concerning the selection or removal of a Union Trustee shall be certified to the Trustees by the President or Secretary of the Joint Council.

Section 3. – Selection of Employer Trustees:

(a) The Employer Trustees shall be selected at triennial intervals to represent each Area. At each triennial interval, the existing Employer Trustees shall select by majority vote for a six-year term one Employer Trustee per Area to represent the Northwest and Rocky Mountain Areas, and two Employer Trustees per Area to represent the Northern California and Southwest Areas. At every other triennial interval, the existing Trustees shall select by majority vote for a six-year term one additional Employer Trustee to represent the Northwest Area.

(b) Regardless of any other provisions of this Agreement and Declaration of Trust, no labor organization may participate in any way in the selection of any Employer Trustee, even though such labor organization may be an Employer as said term is elsewhere used in this Agreement and Declaration of Trust.

Section 4. – Acceptance of Trust by Trustees:

A Trustee, upon written acceptance filed with the other Trustees, shall be deemed to accept the trust created and established by this Agreement and Declaration of Trust and consent to act as Trustee and agree to administer the Trust Fund as provided herein. Each Trustee must be a natural person.

Section 5. – Trustee's Term of Office:

(a) Each Union Trustee, other than a Union Trustee who is the President of a Joint Council, and each Employer Trustee shall continue to serve as such until the end of his term, or until his prior death, incapacity, resignation or removal as provided herein. A Union Trustee who is the President of a Joint Council shall serve as long as he retains that office.

(b) The Employer Trustees from time to time may establish in their sole discretion such rules as they deem appropriate setting the maximum period an Employer Trustee may serve as a Trustee and defining the circumstances in which an Employer Trustee's term of office will end before expiration of the standard six-year term.

Section 6. – Resignation of Trustee:

A Trustee may resign and remain fully discharged from all future duty and responsibility hereunder by giving notice in writing to the remaining Trustees, which notice shall state the date such resignation shall take effect. Such resignation shall take effect on the said date unless a successor Trustee shall have been appointed at an earlier date, in which event such resignation shall take effect as of the date of appointment of the successor Trustee. Notwithstanding the preceding sentence, a Union Trustee who is the President of a Joint Council may only resign as a Trustee by resigning that office.

Section 7. – Successor Trustees:

(a) In the event any Area Union Trustee who is not the President of a Joint Council shall die, become incapable of acting, resign, or be removed, a successor Union Trustee to fill the unexpired term shall be selected by the Executive Board of the Joint Council that selected the former Union Trustee. In the event the Union Trustee selected by the Area Union Trustees shall die, become incapable of acting, resign or be removed, a successor Union Trustee to fill the unexpired term shall be selected by majority vote of the Area Union Trustees. Upon the filing with the remaining Trustees of the acceptance of the Trusteeship by an individual selected as a successor Trustee, such selection shall be effective and binding in all respects.

(b) In the event any Employer Trustee shall die, become incapable of acting, resign, or be removed, a successor Employer Trustee shall be designated by the remaining Employer Trustees to fill the unexpired term. Upon the filing with the remaining Trustees of the acceptance of the Trusteeship by the designated successor Trustee, such designation shall be effective and binding in all aspects.

(c) It is the intention hereof that the Trust Fund shall at all times be administered by an equal number of Union Trustees and Employer Trustees but in the event of a vacancy or vacancies, until the designation of a successor Trustee or Trustees as herein-above provided, the remaining Trustees shall have the power to act.

(d) Any successor Trustee shall, immediately upon his acceptance of the Trusteeship in writing filed with the Trustees, become vested with all the property, rights, powers, and duties of a Trustee hereunder. All of the persons connected with the administration of the Trust Fund shall be immediately notified.

Section 8. – Removal of Trustees:

(a) Any Area Union Trustee who is not the President of a Joint Council may be removed at any time by action of the Executive Board of the Joint Council that selected him as a Trustee. The Union Trustee selected by the Area Union Trustees may be removed at any time by majority vote of the Area Union Trustees.

(b) Any Employer Trustee may be removed at any time by a vote in favor of removal by a majority of the Employer Trustees. In addition, any Area Employer Trustee may be removed at any time by means of a petition calling for his removal signed by Employers employing at least 50% of the Covered Employees in the Area he represents.

(c) The Trustees may remove any Trustee (other than the President of a Joint Council) who has missed three successive regular meetings.

(d) A removed Trustee shall be fully discharged from all future duty or responsibility herein.

Section 9. – Compensation of Trustees:

The Trustees shall serve without compensation from the Trust Fund; provided, however, that the Trustees may be reimbursed for expenses properly and actually incurred in the performance of their duties as Trustees and further provided that any Trustee who is not receiving full-time pay from an Employer (other than the Trust Fund), association of Employers, or any employee organization whose members are Employees may also receive reasonable compensation for services rendered to the Trust Fund (in the capacity of an Employee or independent contractor) either as Chairman or Co-Chairman/Secretary or, in the case of a Trustee who has not previ-ously served as Chairman or Co-Chairman/Secretary, while serving in a transitional capacity designated by the Trustees for a period not to exceed one year, preparatory to being considered for the position of Chairman or Co-Chairman/Secretary, such compensation to be determined by the Trustees. In addition, premiums for liability insurance insuring the Trust and the Trustees may be paid from the Trust Fund to protect the Trust and the Trustees and also to make it possible for the Trust Fund to be reimbursed to the extent of any insurance recovery under any such insurance policy, provided that such insurance, to the extent required by law, shall permit recourse by the insurance carrier against the Trustees. Nothing herein shall be deemed to preclude a Trustee, Employer, or Union, from purchasing liability insurance for the account of a Trustee or from purchasing a waiver of such right of recourse by the insurance carrier of any insurance policy purchased by the Trust Fund with respect to such Trustee.

Section 10. – Chairman and Co-Chairman/Secretary:

The Trustees shall elect annually a Chairman and a Co-Chairman/Secretary, one of whom shall be an Employer Trustee and one a Union Trustee, to serve at the pleasure of the Trustees. The Chairman and Co-Chairman/Secretary each may employ or retain an appropriate staff.

ARTICLE III – CREATION, PURPOSE, AND APPLICATION OF THE TRUST FUND

Section 1. – Creation of Trust:

The Trust Fund hereby created and established shall comprise the entire assets hereof including those derived from Employer Contributions, amounts received as Employer Contributions but unpaid, together with all contracts (including dividends, interest, refunds, or other sums payable to the Trustees on account of such contracts), all investments made and held by the Trustees, all income therefrom and any other property received and held by the Trustees by reason of their acceptance of this Agreement and Declaration of Trust. Amounts receivable shall be considered as receivable upon completion of the hours of employment by an Employee and shall be due and payable at the time and place specified by the Trustees.

The Trustees are hereby designated as the person to receive Employer Contributions and the Trustees are vested with all right, title, and interest in and to the Trust Fund for the uses, purposes, and duties set forth in this Agreement and Declaration of Trust. The Trustees shall have the exclusive authority and discretion to manage and control the assets of the Trust Fund (including the authority and discretion to appoint one or more Investment Managers) (1) except to the extent that authority to manage, acquire, or dispose of assets of the Trust Fund is delegated to Investment Managers under Article VIII, Section 2; and (2) provided that the Trustees may allocate such authority and discretion to a Trustee Committee established under Article V, Section 4. The Trustees shall be the "administrator" under section 3(16)(A) of ERISA and except as otherwise provided herein, shall have the authority to control and manage the operation and administration of the Trust Fund and the Plan.

Section 2. – Purpose of Trust:

The Trust Fund is created, established and maintained, and the Trustees agree to receive the Trust Fund, hold and administer it for the purpose of providing retirement, death, and termination benefits for the Employees and their families and dependents and for no other purpose.

Section 3. – Pension Plan:

The Trustees are hereby empowered, authorized and directed to establish a plan, to be known as The Western Conference of Teamsters Pension Plan, and referred to herein as the Plan, which shall define the retirement, death, and termination benefits to be provided by the Employer Contributions, the conditions of eligibility for such benefits, the terms of payment, and such other items as the Trustees shall deem necessary to include. The terms of the Plan shall be determined by the Trustees in their sole discretion on the basis of actuarial principles, and shall be subject to change by the Trustees retroactively or otherwise from time to time; provided, however, that the intent of this Agreement and Declaration of Trust is that at all times the Trust Fund will conform to the applicable requirements of the Labor Management Relations Act of 1947, as amended, and ERISA, and qualify as a "qualified Trust" and as an "exempt Trust" pursuant to sections 401 and 501(a) and any other relevant sections of the Code and that Employer Contributions made by Employers to the Trust Fund will be deductible as an item of expense of such Employers for income tax purposes.

Section 4. – Application of the Fund:

The Trustees shall have the power to use and apply the Trust Fund for the following purposes:

(a) To pay or provide for the payment of salaries, wages, fringe benefits, and other reasonable and necessary expenses, costs, and fees incurred by the Trustees in connection with the employment of the Executive Director and staff.

(b) To pay or provide for the payment of the amounts determined by the Trustees as reasonable fees for the services of anyone retained to collect Employer Contributions and to administer the affairs of the Trust Fund and the Plan.

(c) To pay or provide for the payment of all reasonable and necessary expenses, costs, and fees incurred by the Trustees in connection with the operation and administration of the Trust Fund and the Plan, including the retention of advisers and providers of services as provided for herein.

(d) To pay or provide for the payment of all real and personal property taxes, income taxes and other taxes or assessments of any and all kinds levied or assessed under existing or future laws upon or in respect to the Trust Fund or any money or property forming a part thereof.

(e) To maintain a reserve for expected administration expenses reasonably anticipated to be incurred during a period not exceeding three months.

(f) To pay or provide for the payment of the retirement, death, and termination benefits contemplated herein.

All funds received by the Trustees hereunder as a part of the Trust Fund shall be deposited in accounts at one or more Qualified Financial Institutions designated by the Trustees for that purpose. The Trustees may allocate to two Trustees, one of whom shall be a Union Trustee and one an Employer Trustee, the sole power and responsibility to make all transfers of such funds from such accounts. No such transfer shall be made except to an insurance company pursuant to an Insurance Company Contract, to an investment Manager or a Custodian, to a Qualified Investment Vehicle, or to an administrative account or accounts in Qualified Financial Institutions designated by the Trustees from which the Administrative Manager as well as such Trustees shall have the authority to draw checks in payment of the ordinary expenses of the Trust Fund and to make refunds of contributions received by the Trust Fund pursuant to such procedures as may be adopted by the Trustees from time to time.

Section 5. – Limitation of Rights to Trust Fund:

The following limitations shall apply to the rights or interests in, or use of, the Trust Fund.

(a) Neither the Unions, Employers, Employees, nor any other person, association, or corporation shall have any right, title, or interest in or to the Trust Fund.

(b) Anything contained in this Agreement and Declaration of Trust to the contrary notwithstanding, no part of the corpus or income of the Trust Fund shall be used for or diverted to purposes other than the exclusive purpose of providing benefits to Employees, retired Employees, and their families and dependents and defraying the reasonable expenses of administering the Trust Fund and the Plan.

(c) Except to the extent otherwise provided in the Plan or required by Federal law, no money, property, equity, or interest of any nature whatsoever in the Trust Fund, in any group annuity contract, or in any benefits or monies payable therefrom, shall be subject in any manner by any Employee, retired Employee, or beneficiary, or person claiming through any of them, to anticipation, alienation, sale, transfer, assignment, lien, or charge, and any attempt to cause the same to be subject thereto shall be null and void.

ARTICLE IV – COLLECTION OF EMPLOYER CONTRIBUTIONS

Section 1. – Employer Contributions and Employer Reports:

All Employer Contributions required by a Pension Agreement shall be made in accordance with its terms and shall be due and payable on the date set forth in the Pension Agreement; provided, however, that the due date shall be no later than the twentieth (20th) day of the month for the immediately preceding month. If the Pension Agreement does not specify a due date, said payments shall be made no later than the tenth (10th) day of the month for the immediately preceding month. On or before the due date, the Employer shall also file a monthly Employer Report, on a form prescribed by the Administrative Manager, setting forth, for each Employee for whom the Employer has an obligation to make an Employer Contribution for that month under the applicable Pension Agreement, the Employee's name and Social Security number, the amount of the Employer Contribution required to be made on the Employee's account and such other information about the Employee as the Administrative Manager deems necessary or advisable in connection with the administration of the Trust Fund.

Section 2. – Place of Payment and Filing of Employer Reports:

Employer Contributions shall be paid to, and monthly Employer Reports shall be filed with, the depository bank designated by the Administrative Manager for the particular Pension Agreement.

Section 3. – Delinquent Contributions:

(a) For purposes of this Trust Fund, an Employer Contribution shall be deemed delinquent if not received by the depository bank on or before the due date as provided for in Section 1 above.

(b) In the event an Employer becomes delinquent in the payment of required Employer Contributions, he shall pay to the Trust Fund all of the following amounts in addition to the amount of delinquent Employer Contributions due:

(1) Interest on the amount of Employer Contributions due, at the rate determined under subsection (d), from the date on which the Employer Contributions become due and payable (or from September 26, 1980, if later) until the date the Employer Contributions are paid to the Trust Fund; and

(2) Liquidated damages equal to the greater of:

(A) an amount equal to the interest payable pursuant to subparagraph (1) (in addition to such interest), or

(B) an amount equal to twenty percent (20%) of the amount of Employer Contributions due; and

(3) All reasonable attorney's fees incurred by the Trust Fund in connection with the delinquency, whether or not legal or arbitration proceedings are instituted, plus court costs, if any.

The amounts specified in paragraphs (1), (2) and (3) shall become due and payable as provided in subsection (c).

(c) The amounts specified in paragraphs (2) and (3) of subsection (b) shall become due and payable to the Trust Fund on the tenth (10th) day following the date on which the Administrative Manager mails a notice of delinquency to the delinquent Employer. For delinquent Employer Contributions discovered as a result of an examination of the books and records of an Employer by the Trustees or their representatives, the amount of interest specified in paragraph (1) of subsection (b) shall become due and payable no later than the tenth (10th) day following the date on which the Administrative Manager mails to the Employer a demand for payment of the interest. No further demand for interest need be made while the delinquent Employer Contributions remain unpaid. Interest shall be payable whether or not the Administrative Manager has mailed to the Employer a demand for payment of the delinquent Employer Contributions by the time the demand for payment of interest is made. For other delinquent Employer Contributions, the amount of interest specified in paragraph (1) of subsection (b), shall become due and payable to the Trust Fund on the tenth (10th) day following the day on which the Administrative Manager mails a notice of delinquency to the delinquent Employer. In all cases, no further notice of delinquency need be given by the Administrative Manager while the Employer remains in a delinquent status.

(d) For purposes of subsection (b), interest on Employer Contributions that are delinquent on a specific day shall be computed at the annual underpayment rate of interest applicable on that date under section 6621 of the Code as amended from time to time, without compounding.

Section 4. – Collection Actions:

(a) The Trustees may, but shall not be required to, institute legal proceedings to collect delinquent Employer Contributions, interest, liquidated damages, and attorneys' fees. Such proceedings may be instituted by the Administrative Manager of the Trust Fund if he has received general or specific instructions from the Trustees to do so, and may be brought in the name of the Trust Fund or the claim may be assigned to a third person for collection.

(b) The Trustees may allocate to two Trustees, one of whom shall be a Union Trustee and one an Employer Trustee, the authority to compromise and settle such collection actions on such terms and for such amounts as they consider reasonable, prudent and appropriate under the circumstances. Any such compromise and settlement shall be binding and conclusive on the Trustees, Trust Fund, Unions, Employers, and Employees and their beneficiaries.

Section 5. – Agreement of Employers:

By accepting this Agreement and Declaration of Trust, all Employers agree to be bound by the provisions of this Article IV, and all other Employer obligations set forth in this Agreement and Declaration of Trust. Further, all Employers that have or may have sovereign immunity hereby agree to waive such immunity and submit to state and Federal court jurisdiction with respect to any collection action under this Article IV.

ARTICLE V – ADMINISTRATION OF THE TRUST FUND

Section 1. – General:

The administration of the Trust Fund shall be vested wholly in the Trustees and for such administration the Trustees shall, consistent with the purposes of this Trust Fund, have the power and it shall be their duty to:

(a) Make such uniform rules and regulations as are consistent with and necessary for effectuating the provisions of this Agreement and Declaration of Trust.

(b) Exercise all rights or privileges granted to the contract holder by the provisions of any insurance company contract issued to the Trustees as provided herein or allowed by the insurance company issuing such contract, and they may agree with such insurance company to any alteration, modification, amendment, or cancellation of such contract and may take any action respecting such contract which they in their discretion may deem necessary or advisable and such insurance company shall not be required to inquire in to the authority of the Trustees with regard to any dealings in connection with such contract.

(c) Construe the provisions of this Agreement and Declaration of Trust and the Pension Plan and the terms used therein, and any construction adopted by the Trustees in good faith shall be binding upon the Unions, the Employers, the Employees, and their beneficiaries.

(d) In addition to such other powers as are set forth herein or conferred by law:

(1) Sell, exchange, lease, convey, or dispose of any property at any time forming a part of the Trust Fund or the whole thereof upon such terms as they may deem proper and to effect and deliver any and all instruments of conveyance and transfer in connection therewith.

(2) Enter into any and all contracts and agreements for carrying out the terms of this Agreement and Declaration of Trust and for the administration of the Trust Fund and to do all acts as they in their discretion may deem necessary or advisable and such contracts, agreements, and acts shall be binding and conclusive on the Unions, Employers, Employees, and their beneficiaries.

(3) Do all acts whether or not expressly authorized herein which the Trustees may deem necessary or proper for the protection of the Trust Fund held hereunder and their judgment shall be final.

(e) Retain from time to time such employees, advisers, consultants, and providers of services as the Trustees in their discretion deem necessary or appropriate in the performance of their duties, including, without limitation, the Executive Director and staff, the Administrative Manager and contract administrators, Investment Managers, Custodians, actuaries, accountants, benefit consultants, financial investment advisers and legal counsel, and providers of administrative, collection, computer record keeping, and claims investigation services, including the Administrative Manager and contract administrators, Investment Manager, Custodians, and any insurance company issuing an Insurance Company Contract.

(f) Promulgate such requirements for the admission of additional Unions and Employers in this Agreement and Declaration of Trust and in the Pension Plan and such other rules and regulations as may in their discretion be deemed proper and necessary for the sound and efficient administration of the Trust Fund provided and such requirements, rules, and regulations are not inconsistent with this Agreement and Declaration of Trust.

(g) Keep true and accurate books of accounts and records of all their transactions which shall be open to the inspection of any Trustee at all times and which shall be audited at least annually by a certified public accountant selected by the Trustees. Such audits shall be available at all times for inspection by any Union or any Employer at the principal office of the Trust Fund.

(h) Administer the Trust Fund in conformity with this Agreement and Declaration of Trust as from time to time amended, and with the requirements of the Labor Management Relations Act of 1947, as amended, and ERISA, and in conformity with all other applicable law.

The Trustees may delegate any of their ministerial powers or duties hereunder to any of their agents or employees. Any Trustee or other fiduciary with respect to the Trust Fund and the Plan may serve in more than one fiduciary capacity with respect to the Trust Fund and the Plan (including service both as Trustee and administrator).

Section 2. – Execution of Instrument:

Any instrument in writing may be executed on behalf of the Trustees by the signature of the Chairman and the Co-Chairman/Secretary, or by a person designated by the Trustees for such purpose, and all persons, partnerships, corporations, and associations may rely thereon that such instrument has been duly authorized.

Section 3. – Voting by Trustees:

Any action to be taken by the Trustees pursuant to this Agreement and Declaration of Trust shall be by unanimous vote of the Trustees present at a meeting of the Trustees (which may be conducted in person, telephonically, via videoconference or via any combination of such means), or by unanimous vote of all Trustees in writing without a meeting. There shall be but two votes; the Union Trustees shall have one vote among them and the Employer Trustees shall have one vote among them. The Union Trustees shall establish requirements to decide their vote and the Employer Trustees shall establish requirements to decide their vote. The Trustees jointly shall establish procedural rules governing, among other things, the calling and conduct of meetings, the constitution of a quorum, and the existence of a deadlock. In the event that an even number of Union or Employer Trustees are unable to determine upon the casting of their vote on a question, the number of both the Union Trustees and Employer Trustees shall be increased to an odd number within five days, and the question under consideration shall be held in abeyance during such five-day period.

In the event of a deadlock, questions shall be submitted for decision to an impartial umpire selected by the Trustees. In the event of their inability to agree upon such impartial umpire, the Union Trustees or Employer Trustees, or, in their failure to act, any Trustee shall petition the District Court of the United States where the Trust Fund has its principal office to appoint an impartial umpire.

The decision of such impartial umpire shall be final and binding and shall be adopted by the Trustees and deemed to be the vote of the Trustees. The cost and expense incidental to any proceedings needed to break a deadlock shall be borne by the Trust Fund.

Any impartial umpire chosen or designated to break a deadlock shall be required to enter his decision within the time fixed by the Trustees. The scope of any arbitration proceeding before such impartial umpire shall be limited to the provisions of this Agreement and Declaration of Trust and the Pension Plan, and shall not involve Pension Agreements or collective bargaining agreements between a Union and an Employer, nor shall such impartial umpire have power or authority to change or modify any provisions of such Pension Agreements or collective bargaining agreements, the Pension Plan, or this Agreement and Declaration of Trust.

Section 4. – Trustee Committees:

The Trustees from time to time may establish one or more Trustee Committees consisting of an equal number of Union Trustees and Employer Trustees. Any action to be taken by a Trustee Committee shall be by unanimous vote of the members of the Committee present at the meeting of the Committee or by unanimous vote of all members of the Committee in writing without a meeting. There shall be but two votes; the Union Trustee members shall have one vote among them and the Employer Trustee members shall have one vote among them. The Union Trustee members shall establish requirements to decide their vote and the Employer Trustee members shall establish requirements to decide their vote. Each Trustee Committee shall establish procedural rules for the conduct of meetings, the constitution of a quorum, and the existence of a deadlock. In the event that an even number of Union or Employer Trustee members are unable to determine upon the casting of their vote on a question, or in the event of a deadlock between the Union Trustee members and the Employer Trustee members, the question under consideration shall be submitted for decision to the Trustees.

Section 5. – Allocation and Delegation of Duties:

(a) Except as otherwise provided in this Agreement and Declaration of Trust, the Trustees from time to time by resolution may allocate to the Chairman and Co-Chairman/Secretary, jointly, or to one or more Trustees Committees, or to the Executive Director, or to the Administrative Manager, and may delegate to any other persons or organizations any of their rights, powers, duties, and responsibilities with respect to the Trust Fund and the Plan (including the power to allocate and delegate such authority to others). Any such allocation or delegation (including the employment of the Executive Director and staff, the appointment of the Administrative Manager, Deputy Managers, and Investment Manager and the retention of contract administrators) shall be reviewed at least annually by the Trustees and shall be terminable upon such notice as the Trustees, in their sole discretion, deem reasonable and prudent under the circumstances. In the case of any appointment or other delegation, the Trustees may designate the Chairman and Co-Chairman/Secretary, jointly, or a Trust Committee to make such review.

(b) No Trustee or other fiduciary shall be under any obligation to perform any duty or responsibility with respect to the Trust Fund or the Plan which has been allocated to other Trustees or to a Trustee Committee of which said Trustee is not a member, or which has been delegated to another person or organization other than such Trustee or other fiduciary pursuant to this Agreement and Declaration of Trust or the procedures established hereby.

Section 6. – Executive Director:

The Trustees may employ an Executive Director and staff. To the extent the Trustees deem necessary or appropriate, the Trustees from time to time may allocate to the Executive Director fiduciary responsibilities (other than Trustee responsibilities).

Section 7. – Administrative Manager:

(a) The Trustees shall retain one or more contract administrators and shall appoint from among the employees thereof the Administrative Manager of the Trust Fund. To the extent the Trustees deem necessary or appropriate, the Trustees from time to time may allocate to the Administrative Manager and may delegate to the contract administrators, any employees thereof designated as Deputy Managers by the Trustees, and any insurance company issuing an Insurance Company Contract, their authority and responsibility to administer the affairs of the Trust Fund and the Plan.

(b) The Administrative Manager shall have such authority to control and manage the operation and administration of the Trust Fund and the Plan (including the power to delegate such authority to others) as the Trustees from time to time may determine or as provided herein. Without limiting the foregoing, the Administrative Manager shall have the authority and responsibility to coordinate, supervise, and promulgate rules and procedures governing the actions of the contract administrators and Deputy Managers in the administration of the Trust Fund and the Plan.

Section 8. – Mergers, Consolidations, Etc. with Other Pension Funds:

(a) The Trustees may cause the Trust Fund and Plan to be merged or consolidated with, or to receive assets and assume liabilities of any other employee pension benefit plan and trust on such terms and conditions as the Trustees, in their sole and absolute discretion, deem appropriate, subject to the requirements of Subtitle E of Title IV of ERISA.

(b) The Trustees may cause the assets and liabilities of the Trust Fund and Plan or any part thereof to be transferred to any other employee pension benefit plan and trust on such terms and conditions as the Trustees, in their sole and absolute discretion, deem appropriate, subject to the requirements of Subtitle E of Title IV of ERISA.

ARTICLE VI – FUNDING AND PLAN BENEFIT AMENDMENTS

Section 1. – Minimum Funding Standards:

The Trustees shall establish and adjust the levels of Plan benefits so that the Employer Contributions received by the Trust Fund will always meet the minimum funding standards of sections 304 and 305 of ERISA and sections 431 and 432 of the Code. The Trustees shall review annually with the Trust Actuary the status of compliance with said provisions of law in order to assure that such minimum funding standards are being met.

Section 2. – Funding Policy:

(a) **Introduction.** The Trustees hereby declare it their policy to fund Plan benefits at a rate which may be more rapid than that prescribed by the minimum funding standards described in Section 1. In general, the purpose of the Funding Policy is to establish a point of reference for adjusting the level of Plan benefits pursuant to the Plan Benefit Amendments Policy described in Section 4.

(b) **Target PPA Funded Percentage.** The Target PPA Funded Percentage shall be 110% as of January 1, 2031.

(c) **Target ERISA Credit Balance.** The Target ERISA Credit Balance shall be four (4) times anticipated annual Employer Contributions as of January 1, 2031.

(d) **Detailed Procedures.** The Trust Actuary shall develop detailed procedures for implementing the Funding Policy, which, when approved by the Trustees, shall become a part of the Funding Policy.

(e) **Definition of Terms.** "PPA Funded Percentage" means the funded percentage as determined under Code section 432. "ERISA Credit Balance" means the amount determined under Code section 431. "Funding Policy Observation Period" means the two-year period including the valuation year and the subsequent valuation year. "Funding Policy Result" means the lesser of the following (expressed as actuarial present value of accrued benefits): (a) the excess of the projected PPA Funded Percentage for January 1, 2031, over the Target PPA Funded Percentage and (b) the excess of the projected ERISA Credit Balance for January 1, 2031, over the Target ERISA Credit Balance. "Funding Policy Amount" means the lesser of (a) the Funding Policy Result for the second year of the Funding Policy Observation Period, and (b) the average of the Funding Policy Results for both years of the Funding Policy Observation Period.

Section 3. – Special Report of Trust Actuary:

For each year beginning with 2016, the Trust Actuary shall prepare a special report for the Trustees providing detail on the current and projected (to January 1, 2031) PPA Funded Percentages and the current and projected (to January 1, 2031) ERISA Credit Balances as each relates to its respective target; the Funding Policy Result for each year within the Funding Policy Observation Period; the Funding Policy Amount for the valuation year; and any other significant facts or circumstances relevant to the funding of the Plan that the Trust Actuary believes should be brought to the Trustees' attention.

Section 4. – Plan Benefit Amendments Policy:

(a) **Introduction.** The Trustees hereby declare it their policy to adjust Plan benefits based on the actuarial experience of the Plan.

(b) **Action Required.**

(i) If the Trust Actuary certifies that the Plan's status is endangered, seriously endangered, critical or critical and declining (or if the Trustees elect to be in critical status pursuant to Code Section 432(b)(4)), then the Trustees shall create a funding improvement plan or a rehabilitation plan, or take such other actions as may be required by law.

(ii) If the Trust Actuary reports that the Plan's current and projected (to January 1, 2031) PPA Funded Percentages exceed 140%, the Trustees shall take action to improve Plan benefits such that the current PPA Funded Percentage no longer exceeds 140%. In no event shall a benefit improvement under Section 4(b)(ii) result in reducing the current PPA Funded Percentage or current Credit Balance below the Target PPA Funded Percentage or the Target ERISA Credit Balance, respectively.

(c) **Optional Action.** If the Trust Actuary reports that the Plan has a positive Funding Policy Amount, then the Trustees may consider Plan benefit improvements limited in actuarial value to the Funding Policy Amount.

(d) **Funding Policy Observation Period.** If the Trustees adopt Plan benefit amendments under (b) or (c) above that exhaust any portion of the Funding Policy Amount for a valuation year, any further amendments under (c) above shall not be adopted until the conclusion of the two-year Funding Policy Observation Period that begins in the next valuation year.

(e) **Reservation of Rights.** The Trustees reserve the right to forego any amendment to the Plan otherwise directed or permitted under this Policy if, because of facts and circumstances then known to the Trustees, they determine that it would be imprudent to adopt any such amendment.

Section 5. – Presumptions and Procedure:

(a) **Trust Actuary Special Report.** Any special report of the Trust Actuary on the Funding Policy Results and Funding Policy Amount is presumed correct unless any Trustee, Union, Employer, Employee or other person contesting such report shows by a preponderance of the evidence that the Trust Actuary made a significant error.

(b) **Trustee Deadlock.** In the event that the Trustees deadlock on the question of whether the Plan must be amended as a result of any special report by the Trust Actuary, the presumption referred to in (a) above shall continue through any arbitration, judicial or other dispute resolution proceeding initiated pursuant to Article V, Section 3.

(c) **Arbitration.** Anything in Article V, Section 3 to the contrary notwithstanding, the following issues may be the subject of arbitration in the event of a deadlock among the Trustees:

(1) The form and substance of any Plan amendments required under this Policy; and

(2) Any question whether adoption of such amendments would be imprudent under the reservation clause set forth in Section 4 (e) above.

ARTICLE VII – ADMINISTRATION OF THE PLAN

The Trustees should have the following powers and duties with regard to the administration of the Plan:

(a) To develop procedures to be followed by Employers in reporting contributions made on behalf of Employees.

(b) To develop procedures for the establishment of credited service of Employees, including the means of affording Employees and Employers the opportunity to object thereto, and to establish such facts conclusively.

(c) To prescribe rules and procedures governing the application by Employees and beneficiaries for benefits, and the furnishing of any evidence necessary to establish the rights of Employees and beneficiaries to such benefits.

(d) To make determinations which shall be final and binding upon all parties as to the rights of any Employee and any beneficiary to benefits, including any rights any individual may have to request a hearing with respect to any such determination.

(e) To obtain and evaluate all statistical and actuarial data which may be reasonably required with respect to the administration of the Plan.

(f) To enter into reciprocal agreements with the trustees of, or otherwise provide for reciprocal recognition of employment covered by, other pension plans established by unions and employers and in connection therewith, to provide for the payment of partial retirement, survivor, and death benefits.

(g) To make such other rules and regulations as may be necessary for the administration of the Plan and not inconsistent with the purposes of the Trust.

ARTICLE VIII – INVESTMENTS OF THE TRUST FUND

Section 1. – Trustee Authority:

(a) The Trustees are hereby empowered and authorized to invest the Trust Fund and to keep the Trust Fund invested, without distinction between principal and income, in any and all common stocks, preferred stocks, bonds, notes, debentures, mortgages, certificates of deposit, banker's acceptance, equipment trust certificates, investment trust certificates, Insurance Company Contacts, savings bank deposits, commercial paper, real and personal property wherever situated, and in such other property, investments and securities, whether domestic or foreign, of any kind, class or character as the Trustees may deem suitable for the Trust Fund.

(b) The Trustees are expressly authorized to invest all or any part of the assets of the Trust Fund in deposits with a Custodian, or with any Investment Manager that is qualified to act as a Custodian, which bear interest at a reasonable rate. Nothing herein shall confer any authority or obligation upon the Trustees to invest the cash balances of any Investment Management Account.

(c) Subject to section 408(b)(6) of ERISA, cash temporarily awaiting investment or payment of benefits or expenses may be retained in noninterest-bearing deposits or cash balances with a Custodian or any other Qualified Financial Institution.

(d) The Trustees in their discretion may:

(1) Sell, mortgage, pledge, lease or otherwise dispose of any asset; vote upon any stocks, bonds or other securities of any corporation or other issuer at any time held in the Trust Fund, or otherwise consent to or request any action on the part of such corporation or other issuer; give general or specific proxies or powers of attorney, with or without power of substitution, and participate in reorganizations, recapitalizations, consolidations, mergers and similar transactions with respect to such securities; deposit such stocks or other securities in any voting trust, with any protective or like committee, with a trustee or with depositaries designated thereby; exercise any subscription rights and conversion privileges; and generally exercise any of the powers of an owner with respect to stocks or other securities or property comprising the Trust Fund; and

(2) Purchase part interests in real property or in mortgages on real property, wherever situated, with the right to take title in the name of the Trustees, the name of a Custodian or in the name of a nominee of either, either alone or jointly with the holder or holders of other part interests therein or their nominees; delegate the management and operation of any part interest in any real property or mortgage held by the Trustees hereunder to a manager or the holder or holders of a majority interest in such real property or mortgage on such real property; sell or mortgage real property or sell any mortgages on real property which it may acquire hereunder; and carry out the decision of a manager or a holder or holders of a majority interest in real property with respect to the sale or mortgage of such real property or otherwise.

(e) The Trustees are expressly authorized to invest all or any part of the assets of the Trust Fund in (i) any common or collective trust fund maintained by any Qualified Financial Institution, (ii) any group trust that constitutes a qualified trust under section 401(a) and is exempt from tax under 501(a) of the Code, or (iii) any pooled investment fund of an insurance company that is a Qualified Financial Institution, including any such fund maintained by a Custodian or Investment Manager. No Investment Manager shall exercise the powers of the Trustees under this paragraph with respect to any common or collective trust fund, group trust or pooled investment fund maintained by that Investment Manager or any affiliate of that Investment Manager unless expressly authorized to do so in writing by the Trustees.

(f) The Trustees shall be solely responsible for compliance with the diversification standard set forth in section 404(a)(1)(C) of ERISA with respect to the Trust Fund, unless one or more Investment Managers are appointed hereunder. If one or more Investment Managers are appointed hereunder, the Trustees shall have no responsibility whatsoever for the diversification of the investments of any assets of the Trust Fund subject to the exclusive control and management of such Investment Managers.

Section 2. – Investment Managers:

(a) The Trustees may appoint and remove from time to time one or more Investment Managers to (i) invest such part or parts of the Trust Fund as may be designated by the Trustees, or (ii) allocate parts of the Trust Fund among Investment Managers so designated. Each such Investment Manager shall be an "investment manager" under section 3(38) of ERISA and shall not act until it has delivered to the Trustees a writing in which it accepts its appointment as an Investment Manager and acknowledges that it is a fiduciary (as defined by section 3(21) of ERISA) with respect to the Trust Fund and the Plan.

(b) Any insurance company issuing an Insurance Company Contract shall be the Investment Manager of the portion of the Trust Fund which it holds under such contract which are "plan assets" within the meaning of section 401(b)(2) of ERISA. Such insurance company shall also be an Investment Manager to the extent the Trustees from time to time delegate to it responsibility acceptable to it for allocating amounts among the accounts under the Insurance Company Contract.

(c) No Trustee shall be under any obligation to invest or otherwise manage any portion of the Trust Fund which is subject to the management of any Investment Manager and no Trustee shall be liable for the acts or omissions to act of such Investment Manager except to the extent that such Trustee:

(1) Violates the provisions of Article VIII with respect to the appointment or retention of such Investment Manager;

(2) Participates knowingly in, or knowingly undertakes to conceal, any act or omission of such Investment Manager, knowing such act or omission is a breach of such Investment Manager's fiduciary responsibility;

(3) By his failure to comply with the provisions of Article VIII, in the administration of his specific responsibilities hereunder, enables such Investment Manager to commit a breach of such Investment Manager's fiduciary responsibilities to remedy the breach;

(4) Has knowledge of a breach by such Investment Manager, unless he makes reasonable efforts under the circumstances to remedy the breach.

Section 3. – Custodians:

(a) The Trustees may appoint and remove from time to time one or more Custodians. A Custodian shall be any Qualified Financial Institution.

(b) No transfer of Trust Fund assets shall be made to a Custodian, in its capacity as such, except to an Investment Manager Account to be maintained by the Custodian pursuant to an Investment Manager Agreement between the Trustees and an Investment Manager or to one or more accounts designated by the Trustees for the payment of benefits under the Plan.

(c) The sole duties, responsibilities, rights and powers of the Custodian, as custodian, shall be such as are set forth in a Custodian Agreement executed by the Custodian and the Trustees. However, nothing herein shall preclude the Trustees from appointing any Custodian to act as an Investment Manager or from investing or authorizing the investment by any Investment Manager (including the Custodian) of all or any part of the Trust Fund in any common or collective trust fund maintained by the Custodian.

Section 4. – Investment Manager Accounts:

(a) The Trustees from time to time may direct a Custodian to hold a portion of the Trust Fund in one or more separate custodial accounts to be known as "Investment Manager Accounts." The Trustees shall appoint an Investment Manager for each such Investment Manager Account.

(b) At the time each Investment Manager Account is established, the Trustees shall specify to the Custodian and the Investment Manager in writing the assets of the Trust Fund which are to be held in such Investment Manager Account. The Trustees from time to time by instructions to the Custodian and the appropriate Investment Manager may transfer assets from one Investment Manager Account to another, or they may retain an Investment Manager for the specific purpose of allocating and transferring assets among Investment Manager Accounts.

(c) The Trustees shall arrange for each Investment Manager Account to be subject to the exclusive control and management of the Investment Manager for such Account and for each Investment Manager to be vested with and authorized to exercise with respect to its corresponding Investment Manager Account the powers granted to the Trustees in Section 1 of this Article, subject to the limitations set forth therein. The Trustees shall make, execute, acknowledge and deliver any and all instruments which may be necessary or appropriate to enable the Investment Manager to exercise such powers.

ARTICLE IX – FIDUCIARY STANDARDS

Each Trustee and other fiduciary shall discharge his duties and responsibilities with respect to the Trust Fund and the Plan in accordance with the standards set forth in section 404(a)(1) of ERISA.

Section 404(a)(1) of ERISA provides that:

> "Subject to sections 403(c) and (d), 4042, and 4044, a fiduciary shall discharge his duties with respect to a plan solely in the interest of the participants and beneficiaries and –
>
> "(A) For the exclusive purpose of:
>
> "(i) Providing benefits to participants and their beneficiaries; and
>
> "(ii) Defraying reasonable expenses of administering the plan;
>
> "(B) With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man 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;
>
> "(C) By diversifying the investments of the plan so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and
>
> "(D) In accordance with the documents and instruments governing the plan insofar as such documents and instruments are consistent with the provisions of [Title I of ERISA]."

ARTICLE X – LIMITATION OF LIABILITY

Section 1. – Liability of Trustees:

(a) No Trustee shall be liable for any act or omission to act of any other Trustee, of any Trustee Committee of which he is not a member, or of any other person or organization to whom any responsibility of such Trustee is allocated or delegated pursuant to this Agreement and Declaration of Trust in carrying out such responsibility except to the extent that such Trustee:

(1) Violates the provisions of Article IX with respect to such allocation or delegation, with respect to the establishment or implementation of the allocation and delegation procedures for herein, or in continuing such allocation or delegation;

(2) Participates knowingly in, or knowingly undertakes to conceal, any act or omission of such person, knowing such act or omission is a breach of such person's fiduciary responsibility;

(3) By his failure to comply with the provisions of Article IX in the administration of his specific responsibilities hereunder, enables such other person to commit a breach of such person's fiduciary responsibilities; or

(4) Has knowledge of a breach by such other person, unless he makes reasonable efforts under the circumstances to remedy the breach.

(b) Subject to the provisions of Article IX, the Trustees and each Trustee shall be fully protected in acting upon any instrument, certificate or paper believed by them to be genuine and to be signed or presented by the proper person or persons and shall be under no duty to make any investigation or inquiry as to any statement contained in any such record but may accept the same as conclusive evidence of the truth and accuracy of the statements therein contained.

Section 2. – Liability of Union, Employers, Trustees and Insurance Companies:

Nothing in this Agreement and Declaration of Trust shall be construed as making a Union or an Employer liable for the payments required to be made by any other Employer, and to the extent allowed by law, each Employer's liability shall be limited solely to the payment of the amount designated by his Pension Agreement. Neither the Union, Employers, nor Trustees shall be liable for the payment of any benefits to be provided by the Pension Plan except as otherwise required by law. Any insurance

company issuing an Insurance Company Contract under which benefits provided by the Pension Plan are to be paid shall pay such benefits in accordance with the terms of such contract provided that sufficient funds therefor are held by the insurance company under the contract.

Section 3. – Employers Not Liable for Benefits:

Except as otherwise provided in Title IV of ERISA, or as otherwise provided by any other law, none of the Employers shall be liable for the failure of the Trustees to secure the benefits contemplated herein or in the Pension Plan for any Employee or beneficiary or for any default or neglect of the Trustees.

Section 4. – Liability of Insurance Companies:

Nothing in this Agreement and Declaration of Trust shall be construed as making any insurance company, directly or indirectly, a part hereto or as imposing upon any insurance company any obligation or obligations but rather any obligation or obligations of an insurance company shall be contained in its contract with the Trustees. Subject to the provisions of Article IX, an insurance company, without inquiring or determining whether any act of the Trustees is in accordance with this Agreement and Declaration of Trust, may take or allow or omit to take or allow any action solely upon the faith of any application made or instrument executed by the Trustees or by a person designated by the Trustees for the purpose.

ARTICLE XI – MISCELLANEOUS PROVISIONS

Section 1. – Employer Records and Audits:

Each Employer shall promptly furnish to the Trustees or their authorized representatives on demand any and all records of his past or present Employees concerning the classification of such Employees, their names, Social Security numbers, amount of wages paid and hours worked or paid for, and any other payroll records and information that the Trustees may require in connection with the administration of the Trust Fund, and for no other purpose. Each Employer shall also submit in writing to the Trustees at such regular periodic intervals and in such form as the Trustees may establish such of the above data as may be requested by the Trustees. The Trustees or their authorized representatives may examine any books and records of each Employer which the Employer is required to furnish to the Trustees on demand wherever such examination is deemed necessary or desirable by the Trustees in the proper administration of the Trust. If it becomes necessary for the Trustees to retain legal counsel to compel an Employer to furnish to, or permit the examination of books or records or information by, the Trustees or their representatives, the Employer shall reimburse the Trust Fund for all reasonable attorneys' fees and court costs incurred by the Trust Fund in connection therewith, whether or not legal proceedings were instituted and whether or not such examination discloses that the Employer has failed to make appropriate or timely Employer Contributions to the Trust Fund.

Section 2. – Dealings with Trustees:

No person, partnership, corporation or association dealing with the Trustees shall be obligated to see to the application of any funds or property of the Trust Fund, or to see that the terms of this Agreement and Declaration of Trust have been complied with, or be obligated to inquire into the necessity of any act of the Trustees; and every instrument effected by the Trustees, whether executed by all of them or in the manner specified in Article V, Section 2, shall be conclusive in favor of any person, partnership, corporation, or association relying thereon that:

(a) At the time of delivery of said instrument, this Agreement and Declaration of Trust was in full force and effect, and

(b) Said instrument was effected in accordance with the terms and conditions of this Agreement and Declaration of Trust, and

(c) The Trustees were duly authorized and empowered to execute such instrument.

Section 3. – Employee Booklets:

The Trustees shall provide, or cause to be provided, and deliver to each Employer for transmission to each of his Employees, a booklet setting forth in summary form a statement of the essential features of the Plan. Upon request from the Trustees, each Employer shall deliver in person or by postpaid first class mail to each of his Employees and each Union shall deliver in person or by postpaid first class mail to each of its members who is or at any time was an Employee any notice or documents which the Trustees are required by law to distribute to Employees. The cost of such delivery shall be borne by each Employer and Union.

Section 4. – Notices:

Notice given to a Trustee, Union, Employer, or any other person shall, unless otherwise specified herein, be sufficient if in writing and delivered to or sent by postpaid first class mail or prepaid telegram to the last address as filed with the Trustees. Except as herein otherwise provided, the delivery of any statement or document required hereunder to be made to a Trustee, Union, or Employer shall be sufficient if delivered in person or if sent by postpaid first class mail to his or its last address as filed with the Trustees.

Section 5. – Trustees' Discretion:

Any questions arising in connection with the discharge of this Agreement and Declaration of Trust not herein specifically provided for shall be left to the sole discretion of the Trustees and their independent judgment and acting under such advice as to them seems necessary or proper.

Section 6. – Legal Action by Trustees:

The Trustees may, when necessary, employ legal counsel upon a legal question arising out of the administration of this Agreement and Declaration of Trust, and shall be held completely harmless and fully protected in acting and relying upon the advice of such counsel.

Section 7. – Costs of Suit:

To the extent allowed by law, the costs and expenses of any action, suit, or proceedings brought by or against the Trustees or any of them (including counsel fees) shall be paid from the Trust Fund, except in relation to matters as to which it shall be adjudged in such action, suit, or proceeding that such Trustee was acting in bad faith or was grossly negligent in the performance of his duties hereunder.

Section 8. – Fidelity Bonds:

Each employee employed by the Trustees who may be engaged in handling of monies of the Trust Fund shall be bonded for such sum as the Trustees from time to time shall determine by a duly authorized surety company. The cost of premiums for such bonds shall be paid out of the Trust Fund.

Section 9. – Severability:

If any provision of this Agreement and Declaration of Trust is held to be invalid, such invalid portion shall be of no force and effect, but the validity of the balance of this Agreement and Declaration of Trust shall not be affected thereby.

ARTICLE XII – MODIFICATIONS

This Agreement and Declaration of Trust may be modified in any respect from time to time by the Trustees, except that no modification shall divert the Trust Fund as constituted immediately prior thereto or any part thereof to a purpose other than as set forth herein, nor shall there be any modification as the result of which there would be an unequal number of Union Trustees and Employer Trustees. The power to modify this Agreement and Declaration of Trust and to amend the Plan shall not be allocated to the Chairman and Co-Chairman/Secretary or a Trustee Committee or delegated to any other person.

Any proposed modification shall be submitted to each of the Trustees in writing 10 days before the date of the meeting at which the modification will be considered. A copy of such modification, upon passage by Trustees, shall be forwarded to each Union, to each Employer, and to the insurance company.

ARTICLE XIII – ADMISSION OF UNIONS AND EMPLOYERS

Any labor organization described in Article I, Section 1, shall become a Union hereunder by entering into a written agreement with an employer by which the employer agrees to make Employer Contributions to the Trust Fund and, in addition, by meeting any other requirements established by the Trustees.

Any employer shall become an Employer hereunder by entering into a written agreement to pay Employer Contributions to the Trust Fund that complies with Article I, Section 10, and, in addition, by meeting any other requirements established by the Trustees.

Without limiting the generality of the foregoing, the Trustees may in their discretion determine the recognition to be given under the Plan to employment rendered prior to admission by Employees of the newly-admitted Employer.

The admission of any labor organization as a Union hereunder, or any employer as an Employer hereunder, shall become effective upon acceptance by the Trustees of such labor organization or employer.

Where a labor organization and an employer have, prior to admission and acceptance by the Trustees, been parties to or participants in any other pension or retirement trust or plan, the Trustees may in addition require as a condition of acceptance that all or a portion of the assets of such pension or retirement trust or plan be paid to the Trustees to become a part of the Trust Fund to be held for the general purpose thereof as set forth in Article III hereof.

ARTICLE XIV – TERMINATION OF TRUST

This Agreement and Declaration of Trust shall remain in effect until terminated by action of the Trustees. In the event of termination, the Trustees shall:

(a) Make provision out of the Trust Fund for the payment of expenses incurred up to the date of termination of the Trust and the expenses incident to such termination.

(b) Make provision out of the Trust Fund, to the extent of available funds and in a manner consistent with Title IV of ERISA, for the satisfaction of all remaining liabilities under the Plan with respect to Employees, retired Employees and their families, dependents and beneficiaries at the date of termination of the Trust, and for equitable allocation among Employees, retired Employees and their families, dependents and beneficiaries of any residual assets of the Trust in any manner the Trustees, in their sole discretion, deem appropriate consistent with applicable law.

(c) Arrange for a final audit and report of their transactions and accounts, for the purpose of terminating their Trusteeship.

(d) Make any determinations under any Insurance Company Contract which they deem necessary or desirable in the allocation of any funds held under the contract.

ARTICLE XV – SITUS AND CONSTRUCTION OF TRUST

This Trust is accepted by the Trustees in the State of Washington. All questions concerning its validity, construction, and administration shall be determined in accordance with ERISA and other applicable Federal law, and to the extent applicable, in accordance with the laws of the State of Washington.

TRUSTEES OF THE WESTERN CONFERENCE OF TEAMSTERS PENSION TRUST FUND

as of April 23, 2020

UNION TRUSTEES

Chuck Mack, *Chairman*
Rome Aloise
Maria Ashley Alvarado
Tony Andrews
Mike Bergen
Randy Cammack
David Hawley
Rick Hicks
Jim Larson
Rick Middleton
John Silva
Scott A. Sullivan
Steven P. Vairma

EMPLOYER TRUSTEES

Edward R. Lenhart, *Co-Chairman/Secretary*
Bob Blyth
Brent R. Bohn
Patrick J. Callans
Jeff A. Carlsen
Richard D. Cox
James R. Ham
Joseph F. Hodge
Robert L. Hutchison
Chris Langan
Rick E. Porter
Darin J. Torosian
Robert E. Wrightson

TRUSTEE POLICY ON ACCEPTANCE OF EMPLOYER CONTRIBUTIONS EFFECTIVE APRIL 1, 1970

(As revised for amendments, extensions and new Pension Agreements effective on or after January 1, 2020)

It is the policy of the Trustees of the Western Conference of Teamsters Pension Trust Fund to accept as Employer Contributions only payments made in accordance with a Pension Agreement that is not detrimental to the Plan. The determination of whether or not a Pension Agreement is detrimental to the Plan shall be made by the Trustees in their sole discretion. However, the list of provisions that follows is furnished as an illustration of those whose inclusion in a Pension Agreement may result in a determination by the Trustees that the Pension Agreement is detrimental to the Plan. It should be noted, however, that the list is not intended as an inclusive list of all such types of provisions.

1. Provisions that limit the employees on whose account contributions are to be made to those above a specific age.
2. Provisions that limit the employees on whose account contributions are to be made to those who will be eligible for retirement within a specified period.
3. Provisions that limit the persons on whose account contributions are to be made to those who have satisfied a specific minimum period of employment or seniority, except that persons performing the work of the bargaining unit may, for a period not to exceed ninety (90) calendar days, be covered under a contribution rate not less than ten (10) cents per hour, including PEER, from their first date of employment or utilization.
4. Provisions that limit the employees on whose account contributions are to be made to those who have worked more than a specified minimum number of hours in a particular period.
5. Provisions that permit contributions on a basis that will produce a contribution less than on all straight time hours worked by the employee, provided that for purpose of this rule paid vacation and paid holiday hours shall be included in straight time hours worked.
6. Provisions which permit or require pension contributions for persons who are not performing the work of the bargaining unit.
7. Provisions which reduce contributions for each compensable hour to less than that which applied prior to any date, except as provided in Number 3 above.
8. Provisions that provide different contribution rates within the same job classification other than during the specified waiting period as defined in Number 3 above. (Different contribution rates for substantially different job descriptions or classifications are permissible as determined by the Trustees in their sole discretion. To illustrate this concept: driver, warehouse, office, mechanic, sales, production would be considered substantially different descriptions/classifications under this provision.)

In administering the foregoing provisions, the Trustees, with regard to the interpretation of these Guidelines, will attempt to accommodate the bona fide needs of the parties to Pension Agreements as long as the Pension Agreements are not detrimental to the Plan. The Trustees, while retaining sole discretion over these issues, invite the parties to Pension Agreements to present proposals to the Trustees in advance of their adoption so that the Trustees may advise the parties on the acceptability of such proposals.

TRUSTEE POLICY ON ACCEPTANCE OF PENSION AGREEMENTS PROVIDING THE PROGRAM FOR ENHANCED EARLY RETIREMENT

(Effective as of January 1, 1992, as amended effective July 10, 2002)

It is the policy of the Trustees of the Western Conference of Teamsters Pension Trust Fund ("Trust Fund") not to accept Pension Agreements providing for PEER, which are deemed to be detrimental to the Trust Fund. The determination of whether or not a Pension Agreement providing for PEER is detrimental to the Trust Fund shall be made by the Trustees in their sole discretion. The following should be considered as minimum conditions (must be met):

1. PEER/84 participation must commence after March 31, 1991, and prior to December 31, 1997. That deadline will be waived subject to the following conditions:
   a. If the effective date of PEER/84 participation is before January 1, 1999, no Covered Hours earned during the 12-month period beginning on such effective date will be recognized as PEER Covered Hours for any purpose under the Plan.
   b. If the effective date of PEER/84 participation is after December 31, 1998, no Covered Hours earned during the 24-month period beginning on such effective date will be recognized as PEER Covered Hours for any purpose under the Plan.
   c. These non-recognition provisions shall override the provisions of Article 20.50 of the Pension Plan governing what qualified as a PEER Covered Hour.
   d. The procedures to be used in connection with the administration of those deadline waiver provisions (hereinafter the "Late PEER/84 Adoption Rule") are described in paragraph 14, below.

PEER/82 participation must commence after July 31, 1993 and prior to December 31, 1999.

PEER/80 participation must commence after July 31, 1994 and prior to December 31, 2000.

New bargaining units entering the Plan after July 31, 1991 must establish their level of PEER within six years of entry or prior to December 31, 1997, whichever is later.

2. The Pension Agreement must specifically state that contributions are required for each level of PEER participation. PEER participation is separate and in addition to participation in the basic Plan.

3. Participation requirements and the method of calculating the PEER contributions must be on the same basis as the basic Plan contributions. Contributions are required on the same types of hours worked or hours compensated and, if applicable, the same daily, weekly, or monthly maximums.

4. The contribution rate for PEER/84 must be exactly 6.5% of the basic Plan contribution rate.

   The contribution rate for PEER/82 must be exactly 11.5% of the basic Plan contribution rate.

   The contribution rate for PEER/80 must be exactly 16.5% of the basic Plan contribution rate.

   All PEER contribution rates must be rounded to the nearest cent. The minimum PEER contribution is one cent ($0.01).

5. PEER contribution rates shall simultaneously increase as the basic Plan contribution rate increases.

6. A bargaining unit may not reduce its level of PEER participation; e.g., PEER/80 to PEER/82.

7. If a bargaining unit ceases participation in PEER, such unit may not continue to participate in the basic Plan.

8. Contribution rate increases already in effect may not be converted to fund PEER contributions.

9. Pension Agreements subject to the Trustees Policy with regard to the Food Processing Industry must provide for the same PEER level for both regular and seasonal employees.

10. The Trust will not accept a Pension Agreement which provides PEER contributions for some, but not all, job classifications that are covered by a single Pension Agreement. A Pension Agreement will not be acceptable if it provides different PEER levels for different job classifications under a single Agreement.

11. Job classifications may not be excluded from an existing Pension Agreement and included in a separate Pension Agreement subsequent to April 1, 1991, whereby PEER contributions are provided for in either Pension Agreement unless creation of such a separate Pension Agreement would have been permitted under Trust rules and regulations prior to April 1, 1991.

12. The Trust Fund will not accept a Pension Agreement providing for initial PEER participation if the Employer at that time is a debtor in a bankruptcy or insolvency proceeding, or if the Employer has announced its intention to either close or sell its location covered by the Agreement. This condition as it pertains to an Employer closing or selling its location does not apply if the Employer continues to make contributions to the Western Conference of Teamsters Pension Trust on behalf of employees at one or more other locations. Neither does it apply if there is a successor Employer that enters into a Pension Agreement that includes PEER.

13. The Trust Fund will not accept a renewed, extended or successor Pension Agreement providing for initial PEER participation if the renewed, extended or successor Agreement is for a term of less than one year. The maximum period for PEER retroactivity under an existing Agreement is six (6) months.

14. The following procedures will be used in connection with the administration of the "Late PEER/84 Adoption Rule":

    a. Only the Chairman and Co-Chairman/Secretary, acting jointly, or the Administrative Manager, shall have the authority to accept an agreement as a PEER/84 Pension Agreement under the Late PEER/84 Adoption Rule.

    b. Before an agreement is accepted as a PEER/84 Pension Agreement under the Late PEER/84 Adoption Rule, each Employer and each Union that is a party to such agreement must agree in writing to the conditions set forth in the Late PEER/84 Adoption Rule; in addition they each must agree to comply with the posting requirements set forth in subparagraph d below and each Employer must agree to comply with the mailing address requirement set forth in subparagraph c below.

    c. In a time and manner specified by the Administrative Manager, each Employer shall provide the Trust Fund with the last known mailing address of each individual the Employer has reported as having earned any Covered Hours under the Agreement during the period beginning 12 months before the PEER/84 effective date and ending on a date specified by the Administrative Manager which shall be no earlier than three months before the date the agreement is accepted as a PEER/84 Pension Agreement.

    d. Promptly upon acceptance of an agreement as a PEER/84 Agreement under the Late PEER/84 Adoption Rule, the Administrative Manager shall cause an explanation of the 12- or 24-month non-recognition provision of the Late PEER/84 Adoption Rule to be mailed by first class mail to each individual reported by the Employer as having earned any Covered Hours under the agreement during the period specified in subparagraph c. This mailing requirement shall not apply to any individual for whom the Trust does not have a mailing address on file, or where the mailing address on file is known by the Trust to be invalid. The Administrative Manager shall provide copies of the explanation to the Employer and the Union with directions that they shall promptly post copies at all locations where notices to employees covered by the agreement regarding labor-management relations matters are customarily posted.

15. For the sole purpose of applying the provisions of this Trustee Policy and the provisions of the Pension Plan governing PEER Pension Agreements and no other purpose, the following rules apply:

a. If two or more separate and distinct bargaining units or other units of employees that previously were covered under separate Pension Agreements become covered by a single Pension Agreement, the Trustees, in their discretion, may treat some or all of those units as if they continued to be covered by separate Pension Agreements, provided the requirements of paragraph c are met.

b. If one or more separate and distinct new bargaining units or other units of employees never before covered under the Plan become covered under a Pension Agreement that already covers one or more separate and distinct bargaining units or other units of employees, the Trustees, in their discretion, may treat some or all of those new units as if they continued to be covered by separate Pension Agreements, provided the requirements of paragraph c are met.

c. The requirements of this paragraph are not met unless the Trustees determine in their sole and absolute discretion that the job classifications in each unit are substantially different from the job classifications in every other unit covered by the Pension Agreement. For this purpose, the principles and interpretations the Trustees apply in implementing Guideline No. 8 of the Trustee Policy on Acceptance of Employer Contributions will be used.

d. What constitutes a separate and distinct bargaining unit or other unit of employees for purposes of these provisions shall be determined by the Trustees in their sole and absolute discretion.

e. If a unit is considered as covered by a separate Pension Agreement under paragraph a or paragraph b, all of the provisions of this Trustee Policy, and all of the provisions of the Pension Plan governing PEER, shall apply separately to that unit. For example, the deadlines for that unit to begin a particular PEER level will be determined separately from the deadlines that apply to any other unit actually covered under the same Pension Agreement.

f. The Trustees will not apply the provisions of this Section 15 to render unacceptable a Pension Agreement the terms of which otherwise would be considered acceptable under this Trustee Policy in the absence of this Section 15.

g. The Trustees in their sole and absolute discretion may limit the time period during which the special rules of paragraph a or paragraph b will apply and may set such other terms and conditions on the application of these special rules in a particular case as they may deem necessary or appropriate to protect the Plan from adverse selection or other detriment.

TRUSTEE RULES ON ACCEPTANCE OF EMPLOYER CONTRIBUTIONS IN THE FOOD PROCESSING INDUSTRY

Section 1. – Definition of Food Processing:

For purposes of these Rules, the term "Food Processing" means hermetically sealing and sterilizing, pasteurizing and similar processes that may be involved in canning, freezing, dehydrating or drying and pickling fresh fruits, vegetables or products from the sea. Such operations are distinguished from other kinds of manufacturing in that:

(a) they are part of a continuous series throughout which the commodities remain perishable, which is known as "first processing"; and

(b) they are seasonal in nature by reason of the seasonal availability of the raw product.

No distinction exists either in terms of first processing or seasonality between canning, freezing, dehydrating or drying or pickling of fresh fruits, vegetables, and products of the sea.

Section 2. – General Rule:

No written agreement between an Employer and a Union covering Employees in the Food Processing Industry will be recognized as a Pension Agreement if it requires or permits the Employer to make payments to the Trust Fund on behalf of some Employees at a rate lower than the rate at which the Employer is required to make such payments on behalf of other Employees unless the agreement satisfies all the conditions contained in these Rules. For purposes of determining compliance with these Rules, all written collective bargaining agreements covering Employees who are working the same plant or geographic location (as determined by the Trustees) and who are represented by the same Union shall be treated as a single agreement (whether or not such Employees are considered as being in different collective bargaining units or in fact are covered by separate written agreements).

Section 3. – Permissible Dual Rate Provisions:

(a) Section 2 shall not preclude recognition of a collective bargaining agreement as a Pension Agreement solely because it provides for a lower rate of payment to the Trust Fund on behalf of Employees in some job classifications than the rate of payment on behalf of Employees in other job classifications if the agreement sets forth objective standards of eligibility for employment in each job classification which are not actuarially selective against the Plan as determined by the Trustees in their sole and absolute discretion. No more than two rates of payment may be required under the agreement and the lower of the two rates must be at least $0.075 per hour. Except as provided in paragraph (c), the agreement must require a contribution for each compensable hour earned by an Employee while covered by the agreement.

(b) A collective bargaining agreement which provides for two rates of payment in accordance with paragraph (a) must also require the Employer to make contributions to the Trust Fund at the higher rate for all compensable hours earned by an Employee during a calendar year (except to the extent otherwise provided in paragraph (c)), regardless of his job classification, if the Employee earns at least 1,000 compensable hours with that Employer during such calendar year and during any of the three

immediately preceding calendar years. For purposes of determining whether an Employee has earned 1,000 compensable hours with an Employer, each plant of an Employer which is not covered by the same collective bargaining agreement as any other plant of that Employer shall be considered an Employer separate and distinct from any other Employer and all plants of an Employer which are covered by the same collective bargaining agreement shall be considered a single Employer.

(c) A collective bargaining agreement subject to these Rules may contain the following limitations:

(1) The agreement may provide that the Employer shall not be required to make contributions on behalf of an Employee for more than 501 compensable hours on account of a single continuous period during which the Employee does not perform duties for the Employer or for more than 2,080 compensable hours per calendar year.

(2) With respect to Regular Employment only, the agreement may provide that the Employer shall be required to make contributions on behalf of an Employee only on account of his straight-time compensable hours.

(3) With respect to Regular Employment only, the agreement may provide for a daily, weekly or monthly limitation on the number of compensable hours for which contributions are required provided that in all events, contributions are required at a minimum on all straight-time hours worked, including paid vacation and holiday hours. If the bona fide standard work week of the Employees covered by the agreement is less than five days, no daily maximum limitation on contributions shall be permitted.

(d) As used herein, "Seasonal Employment" means employment by an Employee covered by a collective bargaining agreement for which the lower rate of payment is required or for which the lower rate of payment would be required but for the fact that the Employee either:

(1) earns at least 1,000 compensable hours with the same Employer during the calendar year, or

(2) has not completed a waiting period which is permitted by Section 5 of these Rules.

All other employment by an Employee covered by the agreement is referred to as "Regular Employment." As used herein, "compensable hour" means an hour for which an Employee is paid or entitled to payment by the Employer regardless of whether the Employee performs duties for the Employer during such hour.

Section 4. – Application of Existing Trustee Policy:

The Trustee policy on Acceptance of Employer Contributions adopted April 1970 and as amended from time to time shall remain in full force and effect with respect to the Food Processing Industry to the extent it is not inconsistent with these Rules.

Section 5. – Existing Waiting Periods:

Nothing in these Rules shall require the deletion from a Pension Agreement of a waiting period if such waiting period is permitted under paragraph 3 of the Trustee Policy on Acceptance of Employer Contributions and was contained in the Pension Agreement on April 1, 1970.

Section 6. – Exemptions from 1,000 Hour Requirements:

Upon application by any Employer or any Union, the Trustees in their sole discretion, may exempt an agreement from the requirements of Section 3(b) of these Rules if it is demonstrated to their satisfaction that the standards for eligibility for employment in each job classification for which the higher rate of payment is required do not include an age, length of service, seniority or minimum hours requirement, or a standard of eligibility which has the effect of such requirement. The Trustees may grant the exemption on such terms and conditions as they deem appropriate in the circumstances. The Employer and Union may be required to agree that if it is thereafter determined that such standards of eligibility do include or have the effect of an age, length of service, seniority, or minimum hours requirement, the Employer shall make retroactive payments to the Trust Fund, plus interest at the legal rate, as if the agreement had complied with the requirements of Section 3(b) from the effective date of the exemption.

Section 7. – Effective Dates:

No written agreement which provides for payments to the Trust Fund on behalf of Employees in the Food Processing Industry shall be recognized as a Pension Agreement unless and until it complies with these Rules.

The amendments to these Rules adopted by the Trustees on October 16, 2013 shall apply to any written agreement entered into, extended, renewed, or replaced after December 31, 2013, which provides for payments to the Trust Fund on behalf of Employees in the Food Processing Industry.

UNIFORM RULES ON ACCEPTANCE OF NEW UNITS FROM OUTSIDE THE WEST AND CONDITIONS FOR RECOGNIZING PAST EMPLOYMENT IN THOSE UNITS

(Adopted by the Trustees on July 16, 2013, as amended January 14, 2015*)

1. *In General*. The Trustees have established the following rules:

a. Rules establishing additional requirements that an agreement covering a collective bargaining unit (or other unit approved by the Trustees) outside the West must satisfy before the agreement covering that unit will be accepted as a Pension

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* These Uniform Rules expire ten years from July 16, 2013 and thereafter additional new units outside the West will no longer be permitted to participate in the Plan unless the Trustees agree otherwise.

Agreement by the Trustees. These requirements are in addition to the generally applicable requirements that all collective bargaining agreements must satisfy to be accepted as Pension Agreements.

b. Rules the Trustees will use to determine whether certain new units outside the West that are accepted for participation in the Plan will qualify for any Past Employment under Article Seven of the Plan, and if so, the extent of that Past Employment.

2. *Acceptance of New Units outside the West.*

a. Current Contributor. The same rules and procedures governing acceptance of collective bargaining agreements in the West as Pension Agreements will apply to a collective bargaining agreement covering a new unit outside the West that consists of employees of a Current Contributor.

b. New Contributor. Before the Trustees will accept as a Pension Agreement a collective bargaining agreement covering a new unit outside the West that consists of employees of a New Contributor:

(i) The agreement must comply with all of the generally applicable rules governing acceptance of payments from Employers.

(ii) The New Contributor must provide whatever data the Trustees may reasonably require about the New Contributor and the employees in the unit to permit the Trustees (A) to determine, in their sole discretion, that acceptance of such unit will not be detrimental to the Plan, and (B) to obtain such actuarial evaluation of the unit as they deem necessary or appropriate to administer these rules.

(iii) The Trustees must be satisfied, based on their review of the actuarial evaluation of the unit's employee data and the additional information required (if any) under clause (ii), that the unit passes the Normal Cost Ratio Test (see paragraph 4) and that acceptance of the unit will not be detrimental to the Plan.

If the unit does not meet all of the requirements in clauses (i), (ii) and (iii) of this subparagraph b., the Trustees will not accept the agreement covering the unit as a Pension Agreement and the employees in the unit will not be eligible to participate in the Plan.

c. Non-Western Region Union. Before the Trustees will enter into a Pension Agreement with a Non-Western Region Union to cover the Union's employees under the Plan, the Union:

(i) must satisfy all of the requirements set forth in clauses (i), (ii) and (iii) of subparagraph b.,

(ii) must satisfy any special requirements the Trustees have established from time to time for Pension Agreements of Non-Western Region Unions, and

(iii) must represent one or more collective bargaining units that are covered by a Pension Agreement.

If the unit does not meet all of the requirements in clauses (i), (ii) and (iii) of this subparagraph c., the Trustees will not enter into a Pension Agreement with the Union and the employees of the Union will not be eligible to participate in the Plan.

For purposes of these rules, the group of employees to be covered by a proposed Pension Agreement between the Trustees and a Non-Western Region Union will be considered a unit of employees.

d. Units Covered under ERISA § 4235. The Trustees may decline to accept a collective bargaining agreement as a Pension Agreement if acceptance might require a transfer of liabilities from another multiemployer pension plan to the Trust pursuant to Section 4235 of ERISA, or they may condition acceptance of the agreement on satisfaction of such additional terms and conditions as they may deem appropriate.

3. *Recognition of Past Employment for Eligible New Units outside the West.*

a. Past Employment Recognized Only in Accordance with These Rules. Under Article 7.1 of the Plan, employees in a new unit outside the West (such unit herein sometimes referred to as an "eligible new unit") can only qualify for recognition of Past Employment in accordance with uniform rules established by the Trustees. The Trustees will use the rules that follow to determine whether, and if so, to what extent and under what conditions, employees in the unit will qualify for recognition of Past Employment. Any such Past Employment will be limited to Continuous Past Employment.

b. Petition for Recognition of Past Employment on Behalf of Eligible New Unit. The Union representing an eligible new unit (or a Non-Western Region Union, if the unit consists of its own employees) may petition for a determination by the Trustees under these rules whether and to what extent and under what conditions employees in the unit qualify for recognition of Past Employment. Before the Trustees will act on the petition:

(i) the Employer must provide whatever data the Trustees may reasonably require about the employees in the unit to permit the Trustees to obtain such actuarial evaluation of the unit as they deem necessary or appropriate to administer these rules, and

(ii) the Trustees must have determined that the collective bargaining agreement (or other agreement in the case of a Non-Western Region Union) covering the unit can be accepted as a Pension Agreement under paragraph 2.

c. Past Employment Determination for Eligible New Unit. If the Trustees in their sole discretion are satisfied, based on their review of the actuarial evaluation of the unit's employee data, that an eligible new unit passes the Normal Cost Ratio Test (see paragraph 4) and that granting Past Employment will not be detrimental to the Plan, then the employees in the unit will qualify for Past Employment under Article Seven but based only on their period of Continuous Past Employment under Article 7.2. Notwithstanding any contrary provisions in Article 5.4 or 5.5 of the Plan, no employee in the unit can qualify for more than five Years of Noncontributory Service based on their period of Past Employment. If the unit does not pass

the Normal Cost Ratio Test or the Trustees determine that granting Past Employment to employees in the unit will be detrimental to the Plan, then no employee in the unit qualifies for any Past Employment or Years of Noncontributory Service whatsoever.

4. *Normal Cost Ratio Test*. The Normal Cost Ratio Test is used in applying the provisions of paragraph 2.b. of these rules (Acceptance of New Unit of New Contributor) and in applying the provisions of paragraph 3.c. (Past Employment Determination for Eligible New Unit).

   a. The Test. Under the Normal Cost Ratio Test, the ratio of the unit credit normal cost for a new unit to the net expected contributions for the unit is calculated. The result obtained from this calculation is expressed as a percentage which is rounded to the nearest whole percentage. The unit passes the Normal Cost Ratio Test if the Trustees are satisfied, based on their review of the actuarial evaluation of the unit's employee data, that the ratio of the unit credit normal cost for the unit to the net expected contributions for the unit will not exceed 80%. If the ratio is greater than 80%, then the unit does not pass the Normal Cost Ratio Test.

   b. Aggregation of Units. For purposes of determining whether a new unit passes the Normal Cost Ratio Test, the Trustees in their sole discretion may aggregate employee data for that unit with the employee data for all other new units outside the West from the same employer that are presented for acceptance within the same 12-month period. The new unit passes the Normal Cost Ratio Test if the Trustees are satisfied, based on their review of the actuarial evaluation of the employee data for all aggregated units, that the ratio of the unit credit normal cost for the aggregated units to the net expected Employer Contributions for those units will not exceed 80%. For purposes of paragraph 3.c., the Trustees may only aggregate new units of an employer that are eligible new units.

   c. Net Expected Contributions. Net expected contributions are the expected Employer Contributions to the Plan for a new unit minus the unit's allocable share of administrative expenses.

   d. Actuarial Evaluations. For purposes of these rules, an actuarial evaluation of the employee data of a new unit will include the actuary's best estimate of the unit credit normal cost for the unit and the net expected contributions for the unit. Unit credit normal cost will be calculated assuming no Past Employment will be recognized. Net expected contributions will be calculated assuming level hours of employment. In performing these actuarial evaluations, the actuary will use the assumptions and methods set forth in the most recent annual valuation report except where such assumptions and methods would be inappropriate in the circumstances and will take into account, where appropriate, the effects of contiguous vesting service that employees in a unit might qualify for under the Plan.

5. *Pension Relief Act Testing*. Notwithstanding the foregoing provisions of these rules, for any plan year before 2017, an agreement covering a new unit outside the West of a New Contributor shall not be accepted as a Pension Agreement unless the actuary certifies that the unit satisfies the Trust's exemption testing rules under the Pension Relief Act (PRA). Similarly, a new unit outside the West (whether of a New or Current Contributor) shall not be granted recognition of Past Employment under paragraph 3 unless the actuary certifies that doing so would satisfy the Trust's PRA exemption testing rules. In all other respects, units outside the West are subject to the Trust's PRA exemption testing rules to the same extent as any similarly situated unit within the West.

6. *Definitions*. The following definitions apply for purposes of these rules. For terms not defined below, the definition of those terms in the Plan shall apply.

   a. Control Group means any group of Employers under common control within the meaning of section 414 of the Code and the regulations thereunder.

   b. Covered Employer in the West means an Employer that is signatory to at least one Pension Agreement that covers a collective bargaining unit represented by a Western Region Union.

   c. Current Contributor means an Employer that is a Covered Employer in the West or is part of a Control Group that includes at least one Covered Employer in the West.

   d. New Contributor means an Employer that is not itself a Covered Employer in the West and is not part of a Control Group that includes any Covered Employers in the West. A Non-Western Region Union is considered a New Contributor.

   e. New Unit means a collective bargaining unit (or other unit approved by the Trustees) that is newly covered by the Plan. The principles of Article 7.2 of the Plan will be used in determining whether a unit is newly covered.

   f. Unit inside the West means a collective bargaining unit that is represented by a Western Region Union. The employees of a Western Region Union are considered a unit inside the West.

   g. Unit outside the West means a collective bargaining unit that is represented by a Non-Western Region Union. The employees of a Non-Western Region Union are considered a unit outside the West.

7. *Application and Effective Date*. These Rules apply to any collective bargaining agreement or other written agreement covering a new unit outside the West, other than an agreement that was accepted by the Trustees in writing as a Pension Agreement before July 16, 2013, and to all employees at any time covered by that agreement, regardless of the proposed or actual effective date of Employer Contributions to the Trust Fund under that agreement; provided that no agreement subject to these Rules which is presented to the Trustees for acceptance after December 31, 2012, shall be accepted as a Pension Agreement under these Rules if the effective date of Employer Contributions to the Trust Fund under that agreement would be before January 1, 2012.

EMPLOYER WITHDRAWAL LIABILITY RULES AND PROCEDURES OF THE WESTERN CONFERENCE OF TEAMSTERS PENSION TRUST FUND – A SUPPLEMENT TO THE WESTERN CONFERENCE OF TEAMSTERS PENSION PLAN

(Adopted January 15, 1981, as amended April 20, 2004, March 23, 2011 and April 10, 2017)

PREAMBLE: This Supplement to the Western Conference of Teamsters Pension Plan restates, amends, and supplements the provisions of the Multiemployer Pension Plan Amendments Act of 1980 (the "Act") governing the circumstances in which an employer will be considered to have completely or partially withdrawn from the Plan, the amount of the employer's withdrawal liability, how that liability is to be satisfied, and related subjects. This Supplement was adopted by the Trustees of the Western Conference of Teamsters Pension Trust Fund on January 15, 1981. It was last amended on April 10, 2017, and unless otherwise noted, applies to complete or partial withdrawals occurring after April 9, 2017. The provisions of the Supplement control except to the extent they are inconsistent with the requirements of the Act or applicable regulations or rulings thereunder. To the extent the Supplement does not address any matter affecting an employer's withdrawal liability, the relevant provisions of the Act shall apply as if fully set forth in this Supplement. The Trustees reserve the right to amend the provisions of this Supplement from time to time both with respect to withdrawals occurring after, and to the extent permitted by law, to withdrawals occurring on or before the date such amendment is adopted.

Section 1. – Withdrawal Liability Established:

(a) If an employer withdraws from the Plan in complete withdrawal or a partial withdrawal, then the employer is liable to the Fund in the amount determined under this Supplement to be the withdrawal liability.

(b) For purposes of subsection (a):

(1) The withdrawal liability of an employer to the Fund is the amount determined under Section 10 to be the allocable amount of unfunded vested benefits, adjusted –

(A) first, by any de minimis reduction applicable under Section 9,

(B) next, in the case of a partial withdrawal, in accordance with Section 6,

(C) then, to the extent necessary to reflect the limitation on annual payments under Section 16, and

(D) finally, in accordance with Section 18.

(2) The term "complete withdrawal" means a complete withdrawal described in Section 3.

(3) The term "partial withdrawal" means a partial withdrawal described in Section 5.

Section 2. – Determination and Collection of Liability; Notification of Employer:

When an employer withdraws from the Plan, the Trustees, in accordance with this Supplement and the Act, shall:

(1) determine the amount of the employer's withdrawal liability,

(2) notify the employer of the amount of the withdrawal liability, and

(3) collect the amount of the withdrawal liability from the employer.

Section 3. – Complete Withdrawal:

(a) ***Determinative Factors.–***For purposes of this Supplement, a complete withdrawal from the Plan occurs when an employer:

(1) permanently ceases to have an obligation to contribute under the Plan, or

(2) permanently ceases all covered operations under the Plan.

(b) ***Building and Construction Industry.–***

(1) Notwithstanding subsection (a), in the case of an employer that has an obligation to contribute for work performed in the building and construction industry, if substantially all the employees with respect to whom the employer has an obligation to contribute under the Plan perform work in the building and construction industry, then a complete withdrawal occurs only if:

(A) the employer ceases to have an obligation to contribute under the Plan; and

(B) the employer –

(i) continues to perform work in the jurisdiction of the collective bargaining agreement of the type for which contributions were previously required, or

(ii) resumes such work within five years after the date on which the obligation to contribute under the Plan ceases and does not renew the obligation at the time of resumption.

(2) Should the Plan be terminated by mass withdrawal (within the meaning of section 4041A(a)(2) of ERISA), paragraph (1)(B)(ii) shall be applied by substituting "3 years" for "5 years."

(c) ***Date of Complete Withdrawal.–***For purposes of this Supplement, the date of a complete withdrawal is the date of the cessation of the obligation to contribute or the cessation of covered operations.

Section 4. – Sale of Assets:

(a) ***Complete or Partial Withdrawal Not Occurring as a Result of Sale; Continuation of Liability of Seller.–***

(1) A complete or partial withdrawal of an employer (hereinafter in this Section referred to as the "seller") under this Supplement does not occur solely because, as a result of a bona fide, arm's-length sale of assets to an unrelated party (hereinafter in this Section referred to as the "purchaser"), the seller ceases covered operations (hereinafter in this Section sometimes referred to as the "operations") or ceases to have an obligation to contribute to such operations, if:

(A) the purchaser has an obligation to contribute to the Fund with respect to the operations for substantially the same number of contribution base units for which the seller had an obligation to contribute to the Plan;

(B) the purchaser provides to the Fund for a period of five Plan Years commencing with the first Plan Year beginning after the sale of assets, a bond issued by a corporate surety company that is an acceptable surety for purposes of section 412 of ERISA, or an amount held in escrow by a bank or similar financial institution satisfactory to the Trustees, in an amount equal to the greater of –

(i) the average annual contribution to be made by the seller with respect to the operations under the Plan for the three Plan Years preceding the Plan Year in which the sale of the employer's assets occurs, or

(ii) the annual contribution that the seller was required to make with respect to the operations under the Plan for the last Plan Year before the Plan Year in which the sale of the assets occurs, which bond or escrow shall be paid to the Fund if the purchaser withdraws from the Plan, or fails to make a contribution to the Fund when due, at any time during the first five Plan Years beginning after the sale; and

(C) the contract for sale provides that, if the purchaser withdraws in a complete withdrawal, or a partial withdrawal with respect to the operations, during such first five Plan Years, the seller is secondarily liable for any withdrawal liability it would have had to the Fund with respect to the operations (but for this Section) if the liability of the purchaser with respect to the Fund is not paid.

(2) If the purchaser:

(A) withdraws from the Plan before the last day of the fifth Plan Year beginning after the sale, and

(B) fails to make any withdrawal liability payment when due,

then the seller shall pay to the Fund an amount equal to the payments that would have been due from the seller but for this Section.

(3) (A) If all, or substantially all of the seller's assets are distributed, or if the seller is liquidated before the end of the five Plan Year period described in paragraph (1)(C), then the seller shall provide to the Fund a bond or amount in escrow equal to the present value of the withdrawal liability the seller would have had but for this subsection.

(B) If only a portion of the seller's assets are distributed during such period, then a bond or escrow shall be required, in accordance with regulations prescribed by the PBGC, in a manner consistent with subparagraph (A).

(4) The liability of the party furnishing a bond or escrow under this subsection shall be reduced, upon payment of the bond or escrow to the Plan, by the amount thereof.

(b) ***Liability of Purchaser.–***

(1) For the purposes of this Supplement, the liability of the purchaser shall be determined as if the purchaser had been required to contribute to the Fund, in the year of the sale and the four Plan Years preceding the sale, the amount the seller was required to contribute for such operations for such five Plan Years.

(2) If the Plan is in reorganization in the Plan Year in which the sale of assets occurs, the purchaser shall furnish a bond or escrow in an amount equal to 200 percent of the amount described in subsection (a)(1)(B).

(c) ***"Unrelated Party" Defined.–***For purposes of this Section, the term "unrelated party" means a purchaser or seller who does not bear a relationship to the seller or purchaser, as the case may be, that is described in section 267(b) of the Code, or that is described in regulations prescribed by the PBGC applying principles similar to the principles of such section.

Section 5. – Partial Withdrawals:

(a) ***Determinative Factors.–***Except as otherwise provided in this Section, there is a partial withdrawal from the Plan by an employer on the last day of a Plan Year if for such Plan Year:

(1) there is a 70 percent contribution decline, or

(2) there is a partial cessation of the employer's contribution obligation.

(b) ***Criteria Applicable.–***For purposes of subsection (a):

(1) (A) There is a 70 percent contribution decline for any Plan Year if during each Plan Year in the three-year testing period the employer's contribution base units do not exceed 30 percent of the employer's contribution base units for the high base year.

(B) For purposes of subparagraph (A) –

(i) the term "three-year testing period" means the period consisting of the Plan Year and the immediately preceding two Plan Years.

(ii) the number of contribution base units of the high base year is the average number of such units for the two Plan Years for which the employer's contribution base units were the highest within the five Plan Years immediately preceding the beginning of the three-year testing period.

(2) (A) There is a partial cessation of the employer's contribution obligation for the Plan Year, if during such year –

(i) the employer permanently ceases to have an obligation to contribute under one or more but fewer than all collective bargaining agreements under which the employer has been obligated to contribute under the Plan but continues to perform work in the jurisdiction of the collective bargaining agreement of the type for which contributions were previously required or transfers such work to another location, or

(ii) an employer permanently ceases to have an obligation to contribute under the Plan with respect to work performed at one or more but fewer than all of its facilities, but continues to perform work at the facility of the type for which the obligation to contribute ceased.

(B) For purposes of subparagraph (A), a cessation of obligations under a collective bargaining agreement shall not be considered to have occurred solely because, with respect to the Plan, one agreement that requires contributions to the Fund has been substituted for another agreement that requires contributions to the Fund.

(c) ***Special Rule for Building and Construction Industry Employers.–***An employer to whom Section 3(b) (relating to the building and construction industry) applies is liable for a partial withdrawal only if the employer's obligation to contribute under the Plan is continued for no more than an insubstantial portion of its work in the craft and area jurisdiction of the collective bargaining agreement of the type for which contributions are required.

Section 6. – Adjustment for Partial Withdrawal:

(a) The amount of an employer's liability for a partial withdrawal, before the application of Section 16(c)(1) and 18, is equal to the product of:

(1) the amount determined under Section 10, and adjusted under Section 9 if appropriate, determined as if the employer had withdrawn from the Plan in a complete withdrawal –

(A) on the date of the partial withdrawal, or

(B) in the case of a partial withdrawal described in Section 5(a)(1) (relating to a 70 percent contribution decline), on the last day of the first Plan Year in the three-year testing period.

multiplied by

(2) a fraction which is one minus a fraction –

(A) the numerator of which is the employer's contribution base units for the Plan Year following the Plan Year in which the partial withdrawal occurs, and,

(B) the denominator of which is the average of the employer's contribution base units for –

(i) except as provided in clause (ii), the five Plan Years immediately preceding the Plan Year in which the partial withdrawal occurs, or

(ii) in the case of a partial withdrawal described in Section 5(a)(1) (relating to a 70 percent contribution decline), the five Plan Years immediately preceding the beginning of the three-year testing period.

(b) In the case of an employer that has withdrawal liability for a partial withdrawal from the Plan, any withdrawal liability of that employer for a partial or complete withdrawal from the Plan in a subsequent Plan Year shall be reduced by the amount of any partial withdrawal liability (reduced by any abatement or reduction of such liability) of the employer with respect to the Plan for a previous Plan Year.

Section 7. – Reduction or Waiver of Complete Withdrawal Liability: [Reserved]

Section 8. – Reduction of Partial Withdrawal Liability: [Reserved]

Section 9. – De Minimis Rule:

(a) ***Reduction of Unfunded Vested Benefits Allocable to Employer Withdrawn from Plan.–***The amount of the unfunded vested benefits allocable under Section 10 to an employer who withdraws from the Plan shall be reduced by the smaller of:

(1) $50,000, or

(2) the amount of the unfunded vested benefits allocable under Section 10 to the employer, reduced (but not below zero) by the amount, if any, by which the unfunded vested benefits allocable to the employer, determined without regard to this subsection, exceeds $100,000.

(b) ***Nonapplicability.–***This Section does not apply:

(1) to an employer who withdraws in a Plan Year in which substantially all employers withdraw from the Plan, or

(2) in any case in which substantially all employers withdraw from the Plan during a period of one or more Plan Years pursuant to an agreement to withdraw, to an employer who withdraws pursuant to such agreement or arrangement.

(c) ***Presumption of Employer Withdrawal from Plan Pursuant to Agreement or Arrangement.–***In any action or proceeding to determine or collect withdrawal liability, if substantially all employers have withdrawn from the Plan within a period of three Plan Years, an employer who has withdrawn from the Plan during such period shall be presumed to have withdrawn from the Plan pursuant to an agreement or arrangement, unless the employer proves otherwise by a preponderance of the evidence.

Section 10. – Method for Computing Withdrawal Liability:

(a) ***Factors Determining Computation of Amount of Unfunded Vested Benefits Allocable to Employer Withdrawn from Plan.–***

(1) the Plan's unfunded vested benefits as of the end of the Plan Year preceding the Plan Year in which the employer withdraws, less the value as of the end of such preceding Plan Year of all outstanding claims for withdrawal liability which can reasonably be expected to be collected from employers withdrawing before such preceding Plan Year; multiplied by

(2) a fraction –

(A) the numerator of which is the total amount required to be contributed by the employer under the Plan for the last five Plan Years ending before the withdrawal, and

(B) the denominator of which is the total amount contributed under the Plan by all employers for the last five Plan Years ending before the withdrawal, increased by any Employer Contributions owed with respect to earlier periods which were collected in those Plan Years, and decreased by any amounts contributed to the Trust Fund during those Plan Years by employers who withdrew from the Plan during those Plan Years.

(b) ***Reduction of Liability of Withdrawn Employer in Case of Transfer of Liabilities to Another Plan Incident to Withdrawal or Partial Withdrawal of Employer.–***In the case of a transfer of liabilities to another plan incident to an employer's withdrawal or partial withdrawal, the withdrawn employer's liability shall be reduced in an amount equal to the value, as of the end of the last Plan Year ending in or before the date of the withdrawal, of the transferred unfunded vested benefits.

(c) ***Computation Applicable in Case of Withdrawal Following Merger with Another Multiemployer Plan.–***In the case of a withdrawal during the period following a merger of this Plan with another multiemployer plan through the end of the fifth Plan Year beginning after the initial plan year, the amount of unfunded vested benefits allocable to the withdrawing employer shall be determined under the following rules instead of under the rules set forth in subsection (a):

(1) If the employer withdraws on or after the effective date of the merger and before the end of the initial plan year, the amount of unfunded vested benefits allocable to the employer shall be determined as if each plan had remained a separate plan. In making this determination, the Trustees shall use the allocation method of the withdrawing employer's prior plan and shall compute the employer's allocable share of that plan's unfunded vested benefits as if the day before the effective date of the merger were the end of the last plan year of such plan prior to the withdrawal.

(2) If the employer withdraws after the end of the initial plan year, the amount of unfunded vested benefits allocable to the employer is the sum of the employer's *proportional* share, if any, of the unamortized amount of the Plan's initial plan year unfunded vested benefits, as determined under paragraph (3), and the employer's proportional share of the *unamortized* amount of the unfunded vested benefits arising after the initial plan year, as determined under paragraph (6).

(3) An employer's *proportional* share, if any, of the *unamortized* amount of the Plan's initial plan year unfunded vested benefits is the sum of the employer's share of its prior plan's liabilities, as determined under paragraph (4), and the employer's share of the adjusted initial plan year unfunded vested benefits, as determined under paragraph (5), with the sum reduced as if it were being fully amortized in level annual installments over five years beginning with the first Plan Year after the initial plan year.

(4) An employer's share of its prior plan's liabilities is the amount of unfunded vested benefits that would have been allocable to the employer if it had withdrawn on the first day of the initial plan year, determined as if each plan had remained a separate plan.

(5) An employer's share of the adjusted initial plan year unfunded vested benefits equal the Plan's initial plan year unfunded vested benefits, less the amount that would be determined under paragraph (4) for each employer that had not withdrawn as of the end of the initial plan year, multiplied by the following fraction:

(A) The numerator of the fraction is the total amount required to be contributed by the withdrawing employer under the Plan and each of the prior plans involved in the merger for the 60 month period ending on the last day of the initial plan year.

(B) The denominator of the fraction is the sum for that same 60 month period of the contributions made by all employers that had not withdrawn as of the end of the initial plan year.

(6) An employer's proportional share of the amount of the Plan's unfunded vested benefits arising after the initial plan year is the employer's proportional share, as determined under paragraph (8), of the Plan's unfunded vested benefits as of the end of the Plan Year preceding the Plan Year in which the employer withdraws, reduced by the amount of the Plan's unfunded vested benefits as of the close of the initial plan year, *as determined under paragraph (7).*

(7) The Plan's unfunded vested benefits as of the end of the Plan Year preceding the Plan Year in which the employer withdraws shall be reduced by the sum of –

(A) The value as of that date of all outstanding claims for withdrawal liability that can reasonably be expected to be collected with respect to employers that withdrew before the Plan Year in which the employer withdraws; and

(B) The sum of the amounts that would be allocable under paragraph (3) to all employers that have an obligation to contribute in the Plan Year preceding the Plan Year in which the employer withdraws and that also had an obligation to contribute in the first Plan Year ending after the initial plan year.

(8) An employer's proportional share of the amount determined under paragraph (7) is computed by multiplying that amount by the following fraction:

(A) The numerator of the fraction is the total amount required to be contributed under the Plan (and under the employer's prior plan or plans) by the employer for the last five full Plan Years ending before the date on which the employer withdraws.

(B) The denominator of which is the total amount contributed under the Plan (or under each employer's prior plan or plans) by all employers for the last five full Plan Years ending before the date on which the employer withdraws, increased by the amount of any Employer Contributions owed with the respect to earlier periods that were collected in those Plan Years, and decreased by any amount contributed by an employer that withdrew from the Plan (or from a prior plan) during those Plan Years.

(9) For the purposes of this subsection (c), the following definitions apply:

(A) "Initial plan year" means the Plan's first complete plan year that begins on or after the merger of the Plan and another multiemployer plan.

(B) "Initial plan year unfunded vested benefits" means the unfunded vested benefits as of the close of the initial plan year, less the value as of the end of the initial plan year of all outstanding claims for withdrawal liability that can reasonably be expected to be collected from employers that had withdrawn as of the end of the initial plan year.

(C) "Merged plan" means the plan that results from the merger of the Plan and one or more other multiemployer plans.

(D) "Prior plan" means the plan (including this Plan) in which an employer participated immediately before that plan became a part of the merged plan. If the employer participated in two or more of the plans involved in the merger, the provisions of this subsection (c) shall be applied separately with respect to each such prior plan.

Section 11. – Obligation to Contribute; Special Rules:

(a) ***"Obligation to Contribute" Defined.–***For purposes of this Supplement, the term "obligation to contribute" means an obligation to contribute arising:

(1) under one or more collective bargaining (or related) agreements, or

(2) as a result of a duty under applicable labor-management relations law, but does not include an obligation to pay withdrawal liability under this Supplement or to pay delinquent contributions.

(b) ***When Contributions Considered Made or Contributed.–***For purposes of this Supplement, contributions will be considered "made," and amounts will be considered "contributed" for a Plan Year if they are made on account of employment rendered in such Plan Year, provided such contributions and amounts are paid to the Fund on or before the cut-off date used by the independent qualified public accountants engaged by the Trustees pursuant to section 103(a)(3) of ERISA in determining the total Employer Contributions to be reported on the Plan's Form 5500 for the Plan Year. Contributions and amounts paid to the Fund after such cut-off date will be considered made and contributed for the Plan Year in which they are paid.

(c) ***Certain Presumptions Pertaining to Employer Accounts.–***In determining the unfunded vested benefits allocable to a withdrawing employer, certain provisions of Section 10 require a determination of whether other employers have withdrawn from the Plan on or before a certain date. Employers make and report contributions to the Fund on an employer account basis. A single employer may make contributions for more than one account. In determining whether employers other than the withdrawing employer have previously withdrawn from the Plan, the Trustees shall make reasonable efforts to determine whether a particular employer account for which an employer has ceased making contributions to the Fund is the only account for which such employer was contributing to the Fund (thus indicating the employer may have withdrawn from the Plan) or whether that employer has continued to contribute to the Fund for other employer accounts. In the absence of a conclusive determination by the Trustees after such reasonable efforts, the account for which contributions ceased will be presumed to be the only account for which the employer was making contributions to the Fund at the time contributions on such account ceased.

(d) ***Payment of Withdrawal Liability Not Considered Contributions.–***Payments of withdrawal liability under this Supplement shall not be considered contributions for purposes of this Supplement.

(e) ***Transactions to Evade or Avoid Liability.–***If a principal purpose of any transaction is to evade or avoid liability under this Supplement, this Supplement shall be applied (and liability shall be determined and collected) without regard to such transaction.

Section 12. – Actuarial Assumptions, Etc.:

(a) ***Use by Plan Actuary in Determining Unfunded Vested Benefits for Computing Withdrawal Liability of Employer.–***For purposes of determining an employer's withdrawal liability, the Plan's unfunded vested benefits shall be determined by the Plan's enrolled actuary on the basis of actuarial assumptions and methods which, in the aggregate, are reasonable (taking into account the experience of the Plan and reasonable expectations) and which, in combination, offer the actuary's best estimate of anticipated experience under the Plan, and for Plan Years in which the Plan is subject to section 412 of the Code, shall be the same as those used for purposes of determining the Plan's compliance with the minimum funding standards of section 412 of the Code except that the Plan's asset valuation method shall be applied without regard to any modification the Trustees elect to make pursuant to section 431(b)(8)(B)(i) of the Code.

(b) ***Factors Determinative of Unfunded Vested Benefits of Plan for Computing Withdrawal Liability of Employer.–***In determining the unfunded vested benefits of the Plan for purposes of determining an employer's withdrawal liability, the Plan actuary may:

(1) rely on the most recent complete actuarial valuation used for purposes of section 412 of the Code and reasonable estimates for the interim years of the unfunded vested benefits, and

(2) in the absence of complete data, rely on the data available or on data secured by a sampling which can reasonably be expected to be representative of the status of the entire Plan.

(c) ***Determination of Amount of Unfunded Vested Benefits.–***For purposes of this Supplement, the term "unfunded vested benefits" means an amount equal to:

(1) the value of nonforfeitable benefits under the Plan, less

(2) the value of the assets of the Plan.

Section 13. – Application of Supplement:

(a) The provisions of this Supplement and any other Plan rules and amendments authorized under Part 1 of Subtitle E of Title IV of ERISA shall operate and be applied uniformly with respect to each employer, except that special provisions may be made to take into account the credit-worthiness of an employer. The Trustees shall give notice to all employers who have an obligation to contribute under the Plan and to all employee organizations representing employees covered under the Plan of the provisions of this Supplement and of any other Plan rules or amendments adopted under the authority of said Part.

(b) For purposes of this Supplement, under regulations prescribed by the PBGC pursuant to section 4001(b)(1) of ERISA, all employees of trades or businesses (whether or not incorporated) which are under common control shall be treated as employed by a single employer and all such trades or businesses shall be treated as a single employer.

Section 14. – Application of Supplement in Case of Certain Pre-1980 Withdrawals: [Deleted as Obsolete]

Section 15. – Withdrawal Not to Occur Merely Because of Change in Business Form or Suspension of Contributions During Labor Dispute:

Notwithstanding any other provisions of this Supplement, an employer shall not be considered to have withdrawn from the Plan solely because:

(1) an employer ceases to exist by reason of –

(A) a change in corporate structure described in section 4062(d) of ERISA, or

(B) a change to an unincorporated form in business enterprise, if the change causes no interruption in Employer Contributions or obligations to contribute under the Plan, or

(2) an employer suspends contributions under the Plan during a labor dispute involving its employees.

For purposes of this Supplement, a successor or parent corporation or other entity resulting from any such change shall be considered the original employer.

Section 16. – Notice, Collection, Etc. of Withdrawal Liability:

(a) ***Furnishing of Information to Trustees by Employer.–***An employer, within 30 days after a written request from the Trustees, shall furnish such information as the Trustees reasonably determine to be necessary to enable the Trustees to comply with the requirements of the Act.

(b) ***Notification, Demand for Payment, and Review Upon Complete or Partial Withdrawal by Employer.–***

(1) As soon as practicable after an employer's complete or partial withdrawal, the Trustees shall:

(A) notify the employer of –

(i) the amount of the liability, and

(ii) the schedule for liability payments, and

(B) demand payment in accordance with the schedule.

(2) (A) No later than 90 days after the employer receives the notice described in paragraph (1), the employer:

(i) may request in writing that the Trustees review any specific matter relating to the determination of the employer's liability and the schedule of payments.

(ii) may identify in writing any inaccuracy in the determination of the amount of the unfunded vested benefits allocable to the employer, and

(iii) may furnish any additional relevant written information to the Trustees.

(B) After a reasonable review of any matter raised, the Trustees shall notify the employer in writing of:

(i) the Trustees' decision,

(ii) the basis for the decision, and

(iii) the reason for any change in the determination of the employer's liability or schedule of liability payments.

(c) ***Payment Requirements; Amounts, etc.–***

(1) (A) (i) Except as provided in subparagraphs (B) and (D) of this paragraph and in paragraphs (4) and (5), an employer shall pay the amount determined under Section 10, adjusted if appropriate first under Section 9, and then under Section 6, over the period of years necessary to amortize the amount in level annual payments determined under subparagraph (C), calculated as if the first payment were made on the first day of the Plan Year following the Plan Year in which the withdrawal occurs and as if each subsequent payment were made on the first day of each subsequent Plan Year. Actual payment shall commence in accordance with paragraph (2).

(ii) The determination of the amortization period described in clause (i) shall be based on the assumptions used for the most recent actuarial valuation for the Plan.

(B) In any case in which the amortization period described in subparagraph (A) exceeds 20 years, the employer's liability shall be limited to the first 20 annual payments determined under subparagraph (C).

(C) Except as provided in subparagraph (E), the amount of each annual payment shall be the product of –

(i) the average annual number of contribution base units for the period of three consecutive Plan Years, during the period of ten consecutive Plan Years ending before the Plan Year in which the withdrawal occurs, in which the number of contribution base units for which the employer had an obligation to contribute under the Plan is the highest, and

(ii) the highest contribution rate at which the employer had an obligation to contribute under the Plan during the ten Plan Years ending with the Plan Year in which the withdrawal occurs.

For purposes of the preceding sentence, a partial withdrawal described in Section 5(a)(1) shall be deemed to occur on the last day of the first year of the three-year testing period described in Section 5(b)(1)(B)(i).

(D) If the Plan terminates by the withdrawal of every employer from the Plan, or if substantially all the employers withdraw from the Plan pursuant to an agreement or arrangement to withdraw from the Plan –

(i) the liability of each such employer who has withdrawn shall be determined (or redetermined) under this paragraph without regard to subparagraph (B), and

(ii) notwithstanding any other provision of this part, the total unfunded vested benefits of the Plan shall be fully allocated among all such employers in a manner not inconsistent with regulations which shall be prescribed in the PBGC.

Withdrawal by an employer from the Plan, during a period of three consecutive Plan Years within which substantially all the employers who have an obligation to contribute under the Plan withdraw, shall be presumed to be a withdrawal pursuant to an agreement or arrangement, unless the employer proves otherwise by a preponderance of the evidence.

(E) In the case of a partial withdrawal described in Section 5(a), the amount of each annual payment shall be the product of –

(i) the amount determined under subparagraph (C) (determined without regard to this subparagraph), multiplied by

(ii) the fraction determined under Section 6(a)(2).

(2) Withdrawal liability shall be payable in accordance with the schedule set forth by the Trustees under subsection (b)(1) beginning no later than 60 days after the date of the demand notwithstanding any request for review or appeal of determinations of such liability or of the schedule.

(3) Each annual payment determined under paragraph (1)(C) shall be payable in 12 equal installments due monthly on the 10th day of each month. If a payment is not made when due, interest on the payment shall accrue from the date until the date on which the payment is made.

(4) The employer shall be entitled to repay the outstanding amount of the unpaid annual withdrawal liability payments determined under paragraph (1)(C), plus accrued interest, if any, in whole or in part, without penalty. If the prepayment is made pursuant to a withdrawal which is later determined to be part of a withdrawal described in paragraph (1)(D), the withdrawal liability of the employer shall not be limited to the amount of the prepayment.

(5) In the event of a default, the Trustees, at their option, may require immediate payment of the outstanding amount of an employer's withdrawal liability, plus accrued interest on the total outstanding liability from the due date of the first payment which was not timely made. For purposes of this Section, the term "default" means –

(A) The failure of an employer to make, when due, any payment under this Section, if the failure is not cured within 60 days after the employer received written notification from the Trustees of such failure, or

(B) the occurrence of any of the following events (each of which the Trustees have determined indicates a substantial likelihood that an employer will be unable to pay its withdrawal liability):

(i) the employer's insolvency, or any assignment by the employer for the benefit of creditors, or the employer's calling of a meeting of creditors for the purpose of offering a composition or extension to such creditors, or the employer's appointment of a committee of creditors or liquidating agent, or the employer's offer of a composition or extension to creditors, or

(ii) the employer's dissolution, or

(iii) the making (or sending notice) of an intended bulk sale by the employer, or the assignment, pledge, mortgage or hypothecation by the employer of any account receivable or any of its property, or

(iv) the filing or commencement by the employer, or the filing or commencement against the employer or any of its property, of any proceeding, suit or action, at law or in equity, under or relating to any bankruptcy, reorganization, arrangement-of-debt, insolvency, adjustment-of-debt, receivership, liquidation or dissolution law or statute or amendments thereto, unless such proceeding, suit or action against the employer or its property is set aside, withdrawn or dismissed within ten days after the date of the filing or commencement, or

(v) the entry of any judgment or the issuance of any warrant, attachment or injunction or governmental tax lien or levy against the employer or against any of its property, unless such judgment, attachment, injunction, lien or levy is discharged, set aside or removed within ten days after the date such judgment is entered or such attachment, injunction, lien or levy is issued, or

(vi) the failure of the employer to maintain current assets in an amount at least equal to current liabilities plus such additional amount as the Trustees may determine is appropriate in the particular circumstances, current assets and current liabilities to be determined in accordance with generally accepted accounting principles and practices consistently followed, or

(vii) default by the employer on any contractual obligation which the Trustees determine to be material in relation to the financial condition of the employer, or

(viii) such other event as the Trustees may determine indicates a substantial likelihood that the employer will be unable to pay its withdrawal liability, provided written notice of such determination is given to the employer with a reasonable opportunity to demonstrate to the satisfaction of the Trustees that such determination was in error.

The Trustees, from time to time, may adopt written rules of general application defining additional events which they determine indicate, alone or in combination, a substantial likelihood that an employer will be unable to pay its withdrawal liability.

(6) Except as provided in paragraph (1)(A)(ii), interest under this subsection (c) shall be charged at rates based on prevailing market rates for comparable obligations, in accordance with regulations prescribed by the PBGC.

Section 17. – Resolution of Disputes:

(a) ***Arbitration Proceedings; Matters Subject to Arbitration, Procedures Applicable, etc.–***

(1) Any dispute between an employer and the Trustees concerning a determination made under Section 1 through 16 shall be resolved through arbitration. Either party may initiate the arbitration proceeding within a 60-day period after the earlier of –

(A) the date of notification to the employer under Section 16(b)(2)(B), or

(B) 120 days after the date of the employer's request under Section 16(b)(2)(A).

The parties may jointly initiate arbitration within the 180-day period after the date of the Trustees' demand under Section16(b)(1).

(2) An arbitration proceeding under this Section shall be conducted in accordance with fair and equitable procedures to be promulgated by the PBGC. The Trustees may purchase insurance to cover potential liability of the arbitrator. If the parties have not provided for the costs of the arbitration, including arbitrator's fees, by agreement, the arbitrator shall assess such fees. The arbitrator may also award reasonable attorneys' fees.

(3) (A) For purpose of any proceeding under this Section, any determination made by the Trustees under Section 1 through 16 and Section 18 is presumed correct unless the party contesting the determination shows by a preponderance of the evidence that the determination was unreasonable or clearly erroneous.

(B) In the case of the determination of the Plan's funded vested benefits for a Plan Year, the determination is presumed correct unless a party contesting the determination shows by a preponderance of evidence that –

(i) the actuarial assumptions and methods used in the determination were, in the aggregate, unreasonable (taking into account the experience of the Plan and reasonable expectations), or

(ii) the Plan's actuary made a significant error in applying the actuarial assumptions or methods.

(b) ***Alternative Collection Proceedings; Civil Action Subsequent to Arbitration Award; Conduct of Arbitration Proceedings.–***

(1) If no arbitration proceeding has been initiated pursuant to subsection (a), the amounts demanded by the Trustees under Section 16(b)(1) shall be due and owing on the schedule set forth by the Trustees. The Trustees may bring an action in a state or Federal court of competent jurisdiction for collection. All Employers that have or may have sovereign immunity hereby waive such immunity and submit to state and Federal court jurisdiction with respect to any action under this Section 17(b).

(2) Upon completion of the arbitration proceedings in favor of one of the parties, any party thereto may bring an action, no later than 30 days after the issuance of an arbitrator's award, in an appropriate United States district court in accordance with section 4301 of ERISA to enforce, vacate, or modify the arbitrator's award.

(3) Any arbitration proceedings under this Section shall, to the extent consistent with Title IV of ERISA, be conducted in the same manner, subject to the same limitations, carried out with the same powers (including subpoena power), and enforced in United States courts as an arbitration proceeding carried out under Title 9, United States Code.

(c) ***Presumption Respecting Finding of Fact by Arbitrator.–***In any proceedings under subsection (b), there shall be a presumption, rebuttable only by a clear preponderance of the evidence, that the findings of fact made by the arbitrator were correct.

(d) ***Payments by Employer Prior and Subsequent to Determination by Arbitrator; Adjustments; Failure of Employer to Make Payments.–***Payments shall be made by an employer in accordance with the determinations made under this Supplement until the arbitrator issues a final decision with respect to the determination submitted for arbitration with any necessary adjustments in subsequent payments for overpayments or underpayments arising out of the decision of the arbitrator with respect to the determination. If the employer fails to make timely payment in accordance with such final decision, the employer shall be treated as being delinquent in the making of a contribution required under the Plan within the meaning of Article IV, Section 3, of the Trust Agreement and section 515 of ERISA and shall be liable to the Fund for the amounts specified therein, except that the rate of interest applicable shall be determined under Section 16(c)(6) of this Supplement.

(e) ***Furnishing of Information by Trustees to Employer Respecting Computation of Withdrawal Liability of Employer; Fees.–***If an employer requests in writing that the Trustees make available to the employer general information necessary for the employer to compute its withdrawal liability with respect to the Plan (other than information which is unique to that employer), the Trustees shall furnish the information to the employer without charge. If any employer requests in writing that the Trustees provide information unique to that employer, the Trustees will require the employer to pay the reasonable cost of making such estimate or providing such information.

Section 18. – Limitation on Withdrawal Liability:

(a) ***Unfunded Vested Benefits Allocable to Employer in Bona Fide Sale of Assets of Employer in Arm's-Length Transaction to Unrelated Party; Maximum Amount; Determinative Factors.–***

(1) In the case of bona fide sale of all or substantially all of the employer's assets in an arm's-length transaction to an unrelated party (within the meaning of Section 4(c)), the unfunded vested benefits allocable to an employer (after the application of all Sections of this Supplement having a lower number designation than this Section), other than an employer undergoing reorganization under Title 11, United States Code, or similar provisions of state law, shall not exceed the greater of –

(A) a portion (determined under paragraph (2)) of the liquidation or dissolution value of the employer (determined after the sale or exchange of such assets), or

(B) the unfunded vested benefits attributable to employees of the employer.

(2) For purposes of paragraph (1), the portion shall be determined in accordance with the following table:

If the liquidation or dissolution value of the employer after the sale or exchange is –	The portion is –
Not more than $2,000,000	30 percent of the amount.
More than $2,000,000, but not more than $4,000,000	$600,000, plus 35 percent of the amount in excess of $2,000,000.
More than $4,000,000, but not more than $6,000,000	$1,300,000, plus 40 percent of the amount in excess of $4,000,000.
More than $6,000,000, but not more than $7,000,000	$2,100,000, plus 45 percent of the amount in excess of $6,000,000.
More than $7,000,000, but not more than $8,000,000	$2,550,000, plus 50 percent of the amount in excess of $7,000,000.
More than $8,000,000, but not more than $9,000,000	$3,050,000, plus 60 percent of the amount in excess of $8,000,000.
More than $9,000,000, but not more than $10,000,000	$3,650,000, plus 70 percent of the amount in excess of $9,000,000.
More than $10,000,000	$4,350,000, plus 80 percent of the amount in excess of $10,000,000.

(b) ***Unfunded Vested Benefits Allocable to Insolvent Employer Undergoing Liquidation or Dissolution; Maximum Amount; Determinative Factors.–***In the case of an insolvent employer undergoing liquidation or dissolution, the unfunded vested benefits allocable to that employer shall not exceed an amount equal to the sum of:

(1) 50 percent of the unfunded vested benefits allocable to the employer (determined without regard to this Section), and

(2) that portion of 50 percent of the unfunded vested benefits allocable to the employer (as determined under paragraph (1)) which does not exceed the liquidation or dissolution value of the employer determined –

(A) as of the commencement of liquidation or dissolution, and

(B) after reducing the liquidation or dissolution value of the employer by the amount determined under paragraph (1).

(c) ***Property Not Subject to Enforcement of Liability; Precondition.–***To the extent that the withdrawal liability of an employer is attributable to his obligation to contribute to or under the Plan as an individual (whether as a sole proprietor or as a member of the partnership), property which may be exempt from the estate under section 522 of Title 11, United States Code, or under similar provisions of law, shall not be subject to enforcement of such liability.

(d) ***Insolvency of Employer; Liquidation or Dissolution Value of Employer.–***For purposes of this Section:

(1) an employer is insolvent if the liabilities of the employer, including a withdrawal liability under the Plan (determined without regard to subsection (b)), exceed the assets of the employer (determined as of the commencement of the liquidation or dissolution), and

(2) the liquidation or dissolution value of the employer shall be determined without regard to such withdrawal liability.

(e) ***One or More Withdrawals of Employer Attributable to Same Sale, Liquidation, or Dissolution.–***In the case of one or more withdrawals of an employer attributable to the same sale, liquidation, or dissolution, under regulations prescribed by the PBGC:

(1) all such withdrawals shall be treated as a single withdrawal for the purpose of applying this Section, and

(2) the withdrawal liability of the employer to the Plan shall be an amount which bears the same ratio to the present value of the withdrawal liability payments to all plans (after the application of the preceding provisions of this Section) as the withdrawal liability of the employer to the Plan (determined without regard to this Section) bears to the withdrawal liability of the employer to all plans (determined without regard to section 4225 of ERISA).

Section 19. – Definitions:

(a) "Building and construction industry" work means all type of work done on a particular building or work at the site thereof, including, without limitation, altering, modeling, painting and decorating, the transporting of materials and supplies to or from the building or work by the employees of the construction contractor or construction subcontractor, and the manufacturing or furnishing of materials, articles, supplies or equipment on the site of the building or work in the construction or development of the project by persons employed by the contractor or subcontractor. For this purpose, the terms "building" and "work" include construction activity as distinguished from manufacturing, furnishing of materials, or servicing and maintenance work. The terms "building" and "work" include, without limitation, buildings, structures and improvements of all types, such as bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, powerlines, pumping stations, heavy generators, railways, airports, terminals, docks, piers, wards, ways, lighthouses, buoys, jetties, breakwaters, levees, canals, dredging, shoring rehabilitation and reactivation of plants, scaffolding, drilling, blasting, excavating, clearing, and landscaping. The manufacture or furnishing of materials, articles, supplies or equipment is not a "building" or "work" unless conducted in connection with and at the site of such a building or work. The "site of work" is limited to the physical place or places where the construction will remain when work on it has been completed and, to the extent provided below, other adjacent or nearby property used by the contractor or subcontractor in such construction which can reasonably be said to be included in the "site." Fabrication plants, mobile factories, batch plants, borrow pits, job headquarters, tool yards, etc., are part of the "site of work" provided they are dedicated exclusively or nearly so, to performance of the contract or project, and are so located in proximity to the actual construction location that it would be reasonable to include them. Not included in the "site of work" are permanent home offices, branch plant establishments, fabrication plants, and tool yards of a contractor or subcontractor whose locations and continuance in operation are determined wholly without regard to a particular contractor project. In addition, fabrication plants, batch plants, borrow plants, job headquarters, tool yards, etc., of a commercial supplier or materialman which are established by a supplier of materials of the project before the opening of bids for the project, and not on the project site, are not included in the "site of work." Such permanent, previously established facilities are not a part of the "site of work," even where the operations for a period of time may be dedicated exclusively or nearly so, to the performance of a contact. The employer shall have the burden of establishing, by a preponderance of the evidence, that operations not taking place at the physical place or places where the construction called for will remain when work on it has been completed are part of the "site of work."

(b) "Code" means the Internal Revenue Code of 1986, as amended from time to time.

(c) "Contribution Base Unit" means an hour of employment earned by an employee in a capacity for which the employer is required to make a contribution to the Fund pursuant to a written agreement or pursuant to a duty under applicable labor-management relations law.

(d) "ERISA" means the Employee Retirement Income Security Act of 1974, as amended from time to time.

(e) "Fund" means the Western Conference of Teamsters Pension Trust Fund.

(f) "PBGC" means the Pension Benefit Guaranty Corporation.

(g) "Plan" means the Western Conference of Teamsters Pension Plan, as amended from time to time.

(h) "Plan Year" means a 12-month period beginning January 1 and ending December 31 next following.

(i) "Trust Agreement" means the Agreement and Declaration of Trust of the Western Conference of Teamsters Pension Trust Fund, as amended from time to time.

(j) "Trustees" means the Trustees of the Western Conference of Teamsters Pension Trust Fund.

EMPLOYER WITHDRAWAL LIABILITY ARBITRATION RULES OF THE WESTERN CONFERENCE OF TEAMSTERS PENSION TRUST FUND – A SUPPLEMENT TO THE WESTERN CONFERENCE OF TEAMSTERS PENSION PLAN

The following rules shall govern in all arbitration proceedings initiated pursuant to section 4221(a)(1) of the Employee Retirement Income Security Act of 1974, as amended (29 U.S.C. § 1401(a)(1)) and Section 17 of the Employer Withdrawal Liability Rules and Procedures of the Western Conference of Teamsters Pension Trust Fund, concerning any withdrawal liability assessment made by or on behalf of the Board of Trustees of the Western Conference of Teamsters Pension Trust Fund (including assessments owed by virtue of withdrawal from the Western Conference of Teamsters Pension Plan and/or the San Francisco Local 85 Drivers and Helpers Pension Plan).*

PART I – RULES OF THE INTERNATIONAL FOUNDATION OF EMPLOYEE BENEFIT PLANS AND AMERICAN ARBITRATION ASSOCIATION

(The following rules are the Multiemployer Pension Plan Arbitration Rules issued as of June 1, 1981, sponsored by the International Foundation of Employee Benefit Plans and administered by the American Arbitration Association. They have been approved for adoption as binding rules by the Pension Benefit Guaranty Corporation pursuant to 29 C.F.R. § 2641.13(a).)**

Section 1. – [ ]:

Section 2. – Name of Tribunal:

Any Tribunal constituted by the parties for the settlement of their dispute under these Rules shall be called the Multiemployer Pension Plan Arbitration Tribunal.

Section 3. – Administrator:

When [ ] an arbitration is initiated thereunder, [the parties] thereby constitute AAA the administrator of the arbitration. The authority and obligations of the administrator are prescribed in [ ] these Rules.

Section 4. – Delegation of Duties:

The duties of the AAA under these Rules may be carried out through Tribunal Administrators, or such other officers or committees as the AAA may direct.

Section 5. – National Panel of Arbitrators:

The AAA shall establish and maintain a National Panel of Multiemployer Pension Plan Arbitrators and shall appoint Arbitrators therefrom as hereinafter provided.

Section 6. – Office of Tribunal:

The general office of a Tribunal is the headquarters of the AAA, which may, however, assign the administration of an arbitration to any of its Regional Offices.

Section 7. – Initiation of Arbitration:

Arbitration may be initiated in the following manner:

(a) Under an arbitration provision in a plan document calling for arbitration under these Rules or by the AAA, the initiating party shall give notice to the other party of its intention to arbitrate (Demand), which notice shall contain a statement setting forth a brief description of the dispute, the amount involved, if any, the remedy sought;

(b) By filing at any Regional Office of the AAA two (2) copies of said notice, together with the appropriate administrative fee as provided in the Administrative Fee Schedule;

(c) [ ];

(d) The AAA shall give notice of such filing to the other party. If so desired, the party upon whom the demand for Arbitration is made may file an answering statement in duplicate with the AAA within seven days after notice from the AAA, in which event said party shall simultaneously send a copy of the answer to the other party. If a monetary claim is made in the answer the appro-

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* These Rules do not apply to Arbitration Proceedings initiated under the Employer Withdrawal Liability Arbitration Rules of the Western Conference of Teamsters Pension Trust Fund as constituted prior to July 15, 1986.

** The deletion of inapplicable language from the 1981 Rules is noted by the symbol "[ ]." To the extent that any such deleted language may be held to be an applicable provision, it is also a part of these Rules.

priate fee provided in the Fee Schedule shall be forwarded to the AAA with the answer. If no answer is filed within the stated time, the claims will be deemed to have been denied. Failure to file an answer shall not operate to delay the arbitration.

Section 8. – Change of Claim:

After filing of the claim, if either party desired to make any new or different claim, such claim shall be made in writing and filed with the AAA, and a copy thereof shall be mailed to the other party, who shall have a period of seven days from the date of such mailing within which to file an answer with the AAA. After the Arbitrator is appointed, however, no new or different claim may be submitted except with the Arbitrator's consent.

Section 9. – Pre-Hearing Conference:

At the request of the parties or at the discretion of the AAA a pre-hearing conference with the administrator and the parties or their counsel will be scheduled in appropriate cases to arrange for an exchange of information and the stipulation of uncontested facts so as to expedite the arbitration proceedings.

Section 10. – Fixing of Locale:

The parties may mutually agree on the locale where the arbitration is to be held. If the locale is not designated within seven days from the date of filing the Demand or Submission, the AAA shall have power to determine the locale. Its decision shall be final and binding. If any party requests that the hearing be held in a specific locale and the other party files no objection thereto within seven days after notice of the request, the locale shall be the one requested.

Section 11. – Qualifications of Arbitrator:

Any Arbitrator appointed pursuant to Section 12 or by any other method agreed to by the parties shall be neutral, subject to disqualification for the reasons specified in Section 15.

Section 12. – Appointment from Panel:

The Arbitrator shall be appointed in the following manner: Immediately after the filing of the Demand or Submission, the AAA shall submit simultaneously to each party to the dispute an identical list of names of persons, with a brief biographical profile of each, chosen from the Panel. Each party to the dispute shall have seven days from the mailing date in which to cross off any names objected to, number the remaining names to indicate the order of preference, and return the list to the AAA. If a party does not return the list within the time specified, all persons named therein shall be deemed acceptable. From among the persons who have been approved on both lists, and in accordance with the designated order of mutual preference, the AAA shall invite the acceptance of an Arbitrator to serve. If the parties fail to agree upon any of the persons named, or if acceptable Arbitrators are unable to act, or if for any other reason the appointment cannot be made from the submitted lists, the AAA shall have the power to make the appointment from among other members of the Panel without the submission of any additional lists.

Section 13. – Number of Arbitrators:

The dispute shall be heard and determined by one Arbitrator, unless the AAA, in its sole discretion, directs that a greater number of Arbitrators be appointed.

Section 14. – Notice to Arbitrator of Appointment:

Notice of the appointment of the neutral Arbitrator, whether appointed by the parties or by the AAA, shall be mailed to the Arbitrator by the AAA, together with a copy of these Rules, and the signed acceptance of the Arbitrator shall be filed prior to the opening of the first hearing.

Section 15. – Disclosure and Challenge Procedure:

A person appointed as a neutral Arbitrator shall disclose to the AAA any circumstances likely to affect impartiality, including any bias or any financial or personal interest in the result of the arbitration or any past or present relationship with the parties or their counsel. Upon receipt of such information from such Arbitrator or other source, the AAA shall communicate such information to the parties, and, if it deems it appropriate to do so, to the Arbitrator and others. Thereafter, the AAA shall determine whether the Arbitrator should be disqualified and shall inform the parties of its decision, which shall be conclusive.

Section 16. – Vacancies:

If any Arbitrator should resign, die, withdraw, refuse, be disqualified or be unable to perform the duties of the office, the AAA may, on proof satisfactory to it, declare the office vacant. Vacancies shall be filled in accordance with the applicable provisions of these Rules and the matter shall be reheard unless the parties shall agree otherwise.

Section 17. – Time and Place:

The Arbitrator shall fix the time and place for each hearing. The AAA shall mail to each party notice thereof at least five days in advance, unless the parties by mutual agreement waive such notice or modify the terms thereof.

Section 18. – Representation by Counsel:

Any party may be represented by counsel. A party intending to be so represented shall notify the other party and the AAA of the name and address of counsel at least three days prior to the date set for the hearing at which counsel is first to appear. When an arbitration is initiated by counsel, or where an attorney replies for the other party, such notice shall be deemed to have been given.

Section 19. – Stenographic Record:

The AAA shall make the necessary arrangements for the taking of a stenographic record whenever such record is requested by a party. The requesting party or parties shall pay the cost of such record as provided in Section 50.

Section 20. – Attendance at Hearings:

The Arbitrator shall maintain the privacy of the hearings unless the law provides to the contrary. Any person having a direct interest in the arbitration shall be entitled to attend hearings. The Arbitrator shall otherwise have the power to require the exclusion of any witness, other than a party or other essential person, during the testimony of any other witness. The Arbitrator shall have the discretion to determine the priority of the attendance of any other person.

Section 21. – Adjournments:

The Arbitrator may take adjournments upon the request of a party or upon the Arbitrator's own initiative and shall take such adjournment when all of the parties agree thereto.

Section 22. – Oaths:

Before proceeding with the first hearing or with the examination of the file, each Arbitrator shall take an oath of office. The Arbitrator may require witnesses to testify under oath administered by any duly qualified person or, if required by law or demanded by either party, shall do so.

Section 23. – Majority Decision:

Whenever there is more than one Arbitrator, all decisions of the Arbitrators must be by at least a majority. The award must also be made by at least a majority.

Section 24. – Order of Proceedings:

A hearing shall be opened by the filing of the oath of the Arbitrator and by the recording of the place, time and date of the hearing, the presence of the Arbitrator and parties, and counsel, if any, and by the receipt by the Arbitrator of the statement of the claim and answer, if any.

The Arbitrator may, at the beginning of the hearing, ask for statements clarifying the issues involved.

The complaining party shall then present its claim and proofs and its witnesses, who shall submit to questions or other examination. The defending party shall then present its defense and proofs and its witnesses, who shall submit to questions or other examination. The Arbitrator has discretion to vary this procedure but shall afford full and equal opportunity to all parties for the presentation of any material or relevant proofs.

Exhibits when offered by either party, may be received in evidence by the Arbitrator.

The names and addresses of all witnesses and exhibits in order received shall be made a part of the record.

Section 25. – Arbitration in the Absence of Party:

The arbitration may proceed in the absence of any party which, after due notice, fails to be present or fails to obtain an adjournment. An award shall not be made solely on the default of a party. The Arbitrator shall require the party who is present to submit such evidence as the Arbitrator may require for the making of an award.

Section 26. – Evidence:

The parties may offer such evidence as they desire and shall produce such additional evidence as the Arbitrator may deem necessary to an understanding and determination of the dispute. The Arbitrator may subpoena witnesses or documents upon the Arbitrator's own initiative or upon the request of any party. The Arbitrator shall be the judge of the relevancy and materiality of the evidence offered and conformity to legal rules of evidence shall not be necessary. All evidence shall be taken in the presence of all the Arbitrators and of all the parties, except where any of the parties is absent in default or has waived the right to be present.

Section 27. – Evidence by Affidavit and Filing of Documents:

The Arbitrator shall receive and consider the evidence of witnesses by affidavit, but shall give it only such weight as the Arbitrator deems it to be entitled after consideration of any objections made to its admission.

All documents not filed with the Arbitrator at the hearing, but arranged for at the hearing or subsequently by agreement of the parties, shall be filed with the AAA for transmission to the Arbitrator. All parties shall be afforded opportunity to examine such documents.

Section 28. – Inspection or Investigation:

Whenever the Arbitrator deems it necessary to make an inspection or investigation in connection with the arbitration, the Arbitrator shall direct the AAA to advise the parties of such intention. The Arbitrator shall set the time and AAA shall notify the parties thereof. Any party who so desired may be present at such inspection or investigation. In the event that one or both parties are not present at the inspection or investigation, the Arbitrator shall make a verbal or written report to the parties and afford them an opportunity to comment.

Section 29. – Conservation of Property:

The Arbitrator may issue such orders as may be deemed necessary to safeguard property which is the subject matter of the arbitration without prejudice to the rights of the parties or to the determination of the dispute.

Section 30. – Closing of Hearings:

The Arbitrator shall specifically inquire of all parties whether they have any further proofs to offer or witnesses to be heard. Upon receiving negative replies, the Arbitrator shall declare the hearings closed and a minute thereof shall be recorded. If briefs are to be filed, the hearings shall be declared closed as of the final date set by the Arbitrator for the receipt of briefs. If documents are to be filed as provided for in Section 27 and the date set for their receipt is later than that set for the receipt of briefs, the later date shall be the date of closing the hearings. The time limit within which the Arbitrator is required to make the award shall commence to run, in the absence of other agreements by the parties, upon the closing of the hearings.

Section 31. – Reopening of Hearings:

The hearings may be reopened on the Arbitrator's own motion, or upon application of a party at any time before the award is made. If the reopening of the hearings would prevent the making of the award within the specific time agreed upon by the parties in the contract out of which the controversy has arisen, the matter may not be reopened, unless the parties agree upon the extension of such time limit. When no specific date is fixed, the Arbitrator may reopen the hearings and shall have thirty (30) days from the closing of the reopened hearings within which to make an award.

Section 32. – Waiver of Oral Hearings:

The parties may provide, by written agreement, for the waiver of oral hearings. If the parties are unable to agree as to the procedure, the Arbitrator shall specify a fair and equitable procedure.

Section 33. – Waiver of Rules:

Any party who proceeds with the arbitration after knowledge that any provision or requirement of these Rules has not been complied with and who fails to state objection thereto in writing, shall be deemed to have waived the right to interpose such objection.

Section 34. – Extensions of Time:

The parties may modify any period of time by mutual agreement, except for those which are prescribed in the Act. The AAA for good cause may extend any period of time established by these Rules, except the time for making the award. The AAA shall notify the parties of any such extension of time and its reason therefor.

Section 35. – Time of Award:

The award shall be made promptly by the Arbitrator and, unless otherwise agreed by the parties, no later than thirty (30) days from the date of closing the hearings, or if oral hearings have been waived, from the time of transmitting the final statements and proofs to the Arbitrator.

Section 36. – Form of Award:

The award shall be in writing, and accompanied by findings of fact, and shall be signed either by the sole Arbitrator or by at least a majority if there be more than one. It shall be executed in the manner required by law.

Section 37. – Scope of Award:

The Arbitrator may grant any remedy or relief which the Arbitrator deems just and equitable and within the scope of the agreement of the parties and the Act, including, but not limited to, specific performance. The Arbitrator, in the award, shall assess arbitration fees, costs, expenses, Arbitrator compensation, and may assess reasonable attorneys' fees, against any or all parties. Any allocation of costs by the Arbitrator shall be consistent with the prior agreement of the parties, if any. If any administrative fees or expenses are due the AAA, the Arbitrator, in the award, shall assess them in favor of the AAA.

Section 38. – Award Upon Settlement:

If the parties settle their dispute during the course of the arbitration, the Arbitrator, upon their request, may set forth the terms of the agreed settlement in an award.

Section 39. – Communication with Arbitrator and Service of Notices:

(a) There shall be no communication between the parties and a neutral Arbitrator other than at oral hearings. Any other oral or written communications from the parties to the Arbitrator shall be directed to the AAA for transmittal to the Arbitrator.

(b) Each party to an arbitration under these Rules shall be deemed to have consented that any papers, notices or process necessary or proper for the initiation or continuation of an arbitration under these Rules and for any court action in connection therewith may be served upon such party by mail addressed to such party or its attorney at its last known address or by personal service, within or without the jurisdiction wherein the arbitration is to be held (whether such party be within or without the United States of America), provided that reasonable opportunity to be heard with regard thereto has been granted such party.

Section 40. – Delivery of Award to Parties:

Parties shall accept as legal delivery of the award the placing of the award or a true copy thereof in the mail by the AAA, addressed to such party at its last known address or to its attorney, or personal service of the award, or the filing of the award in any manner which may be prescribed by law.

Section 41. – Publication:

Parties who arbitrate under these Rules agree to the publication of their awards.

Section 42. – Release of Document for Judicial Proceedings:

The AAA shall, upon the written request of a party, furnish to such party, at its expense, certified facsimiles of any papers in the AAA's possession that may be required in judicial proceedings relating to the arbitration.

Section 43. – Application to Court:

(a) No judicial proceedings by a party in aid of arbitration shall be deemed a waiver of the party's right to arbitrate.

(b) Neither the AAA nor the Arbitrator is a necessary party in judicial proceedings relating to any arbitration under these Rules.

(c) Parties to these Rules shall be deemed to have consented that judgment upon the arbitration award may be entered in any federal court having jurisdiction thereof.

Section 44. – Deposits:

The AAA may require the parties to deposit in advance such sums of money as it deems necessary to defray the expense of the arbitration, including the Arbitrator's fees, and shall render an accounting to the parties and return any unexpended balance.

Section 45. – Interpretation and Application of Rules:

The Arbitrator shall interpret and apply these rules insofar as they relate to the Arbitrator's powers and duties. When there is more than one Arbitrator and a difference arises among them concerning the meaning or application of any such rule, it shall be decided by a majority vote. If that is unobtainable, either an Arbitrator or a party may refer the question to the AAA for final decision. All other rules shall be interpreted and applied by the AAA.

Section 46. – Administrative Fees:

As a nonprofit organization, the AAA shall prescribe an Administrative Fee Schedule and a Refund Schedule to compensate it for the cost of providing administrative services. The schedule in effect at the time of filing or the time of refund shall be applicable.

The administrative fees shall be advanced by the initiating party or parties, subject to final apportionment by the Arbitrator in the award.

When a matter is withdrawn or settled, the refund shall be made in accordance with the Refund Schedule.

The AAA, in the event of extreme hardship on the part of any party, may defer or reduce the administrative fee.

Section 47. – Administrative Fee Schedule:

The administrative fee of the AAA is based upon the amount in dispute as disclosed when the claim is filed and is due and payable at that time.

Amount in Dispute	Fee
Up to $1,000,000	$ 500
$1,000,000 to $3,000,000	$ 850
$3,000,000 to $5,000,000	$1,300

Where the net amount in dispute exceeds $5 million, an appropriate fee will be determined by the AAA.

When no amount can be stated at the time of filing, the administrative fee is $500, subject to adjustment in accordance with the above schedule as soon as an amount can be disclosed.

If there are more than two parties represented in the arbitration, an additional ten percent (10%) of the initiating fee will be due for each additional represented party.

Section 48. – Refund Schedule:

If the AAA is notified that a case has been settled or withdrawn before a list of Arbitrators has been sent out, all the fees in excess of $150 will be refunded.

If the AAA is notified that a case has been settled or withdrawn thereafter but before the due date for the return of the first list, two-thirds of the fee in excess of $150 will be refunded.

If the AAA is notified that a case has been settled or withdrawn thereafter but at least 48 hours before the date and time set for the first hearing, one-half of the fee in excess of $150 will be refunded.

Section 49. – Other Service Charges:

$50 payable by a party causing an adjournment of any scheduled hearing; $100 payable by a party causing a second or additional adjournment of any scheduled hearing; $50 payable by each party for each hearing after the first hearing which is either clerked by the AAA or held in a hearing room provided by the AAA.

Section 50. – Fee When Oral Hearings Are Waived:

Where all oral hearings are waived under Section 32 the Administrative Fee Schedule shall apply.

Section 51. – Expenses:

The expenses of witnesses for either side shall be paid by the party producing such witnesses.

The cost of the stenographic record, if any is made, and all transcripts thereof, shall be prorated equally among all parties ordering copies unless they shall otherwise agree and shall be paid for by the responsible parties directly to the reporting agency.

All other expenses of the arbitration, including required traveling and other expenses of the Arbitrator and of AAA representatives, and the expenses of any witness or the cost of any proofs produced at the direct request of the Arbitrator, shall be borne equally by the parties, unless they agree otherwise, or unless the Arbitrator, in the award, assesses such expenses or any part thereof against any specified party or parties.

Section 52. – Arbitrator's Fee:

Unless mutually agreed otherwise, the Arbitrator shall be compensated on an agreed upon per diem for each hearing, for the making of the award and for the preparation of the accompanying findings of fact. Any arrangements for the compensation of the Arbitrator shall be made through the AAA and not directly by the Arbitrator. In the absence of agreement between the parties, an appropriate per diem will be established by the AAA.

PART II – SUPPLEMENTARY RULES

(The following supplementary rules are adopted pursuant to 29 C.F.R. § 2641.1(b), and are effective to the extent required by law or adopted by the arbitrator or arbitration administrator in a particular proceeding.)

Section 53. – Disclosure of Identity of Employer Initiating Arbitration:

If the arbitration is initiated by a trade or business which is a part of the employer against whom an assessment of withdrawal liability has been made, the initiating party shall state in its Demand for Arbitration the identity of all other trades or businesses under common control (29 U.S.C. § 1301(b); 26 C.F.R. § 11.414(c); 29 C.F.R. § 2612.1 et seq.), so that to the extent the initiating party complies, the parties who will be bound by the arbitration will be known.

Section 54. – Fixing of Locale:

Supplementing the provisions of Section 10 above, the locale for hearing should be that city wherein the American Arbitration Association maintains a Regional Office and which is nearest to the depository bank to which the employer was obligated to remit the most contributions under the Plan for employment in the calendar year preceding the year in which withdrawal is claimed to have occurred.

Section 55. – Pre-Hearing Briefs:

No later than twenty (20) days before the date initially set for the commencement of the hearing, the initiating party shall file and deliver to the responding party a pre-hearing brief which shall disclose the issues intended to be raised at the hearing, the identity of witnesses expected to be called except for purposes of rebuttal or impeachment and the substance of the testimony for which they are expected to be called, and attaching pre-marked the exhibits expected to be offered except for purposes of rebuttal or impeachment. Not later than ten (10) days following service of the initiating party's brief, the responding party shall serve and file a pre-hearing brief disclosing the issues intended to be raised at the hearing, the identity of witnesses expected to be called except for purposes of rebuttal or impeachment and the substance of the testimony for which they are expected to be called, and attaching pre-marked the exhibits expected to be offered for purposes of rebuttal or impeachment.

Section 56. – Issuance of Award:

Supplementing the provisions of Section 40 above, the Arbitrator's Award shall not be considered to have been "issued" for purposes of ERISA section 4221(b)(2) (29 U.S.C. § 1401(b)(2)) (pertaining to time limits for filing suit to enforce, vacate or modify the Award) until it has actually been received, from the AAA or otherwise.

Section 57. – Scope of Award – Fees, Expenses, Costs:

Supplementing the provisions of Sections 37 and 51 above, and in accordance with the provisions of ERISA section 502(g) (29 U.S.C. § 1132(g)), the Arbitrator may in his or her discretion allow to an employer who prevails the arbitration fees, costs, expenses, Arbitrator compensation, attorneys' fees and any administrative fees and expenses (other than witness fees), and the Arbitrator shall award to the Plan if it prevails such fees, costs, expenses, Arbitrator compensation, attorneys' fees and any administrative fees and expenses (other than witness fees).

Section 58. – Applicable Law:

The Arbitrator shall apply and follow the applicable law, including the provisions of sections 4201 through 4225 of ERISA (20 U.S.C. §§ 1381-1405).

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