

## **IDAHO PIPE TRADES HEALTH AND WELFARE TRUST**

### **RULES AND PROCEDURES FOR ADMITTING NONBARGAINING UNIT EMPLOYEES**

Pursuant to these Rules and Procedures ("Rules"), a corporation or limited liability company ("Employer") may request that it enter into a Special Agreement ("Special Agreement") with the Trustees of the Idaho Pipe Trades Health and Welfare Trust ("Trust") to provide benefits under the Idaho Pipe Trades Welfare Plan ("Plan") to its nonbargaining unit employees ("Nonbargaining Unit Employees"), although participation of such employees is not required by a collective bargaining agreement between the Employer and the Idaho State Pipe Trades Association (UA Local Unions 296 and 648). In their sole discretion, the Trustees may decide whether to extend Plan benefits to these Nonbargaining Unit Employees. Any such extension of benefits by the Trustees to Nonbargaining Unit Employees shall be subject to these Rules, the Plan, the Idaho Pipe Trades Trust Agreement ("Trust Agreement"), and the Special Agreement between the Employer and the Trustees.

1. **Eligibility.** Employees may be eligible to participate as Nonbargaining Unit Employees under a Special Agreement if the Employer and its employees meet the conditions set forth in this section. The Employer must currently be, and remain, a signatory to a collective bargaining agreement, as described above; and during the past calendar year, the Employer must have made contributions with respect to bargaining unit work of not less than 1000 covered hours. New and newly-organized contributing Employers must provide payroll records from the previous calendar year verifying that not less than 1000 hours of covered work was performed by the Employer in order to apply for participation under a Special Agreement.

A Nonbargaining Unit Employees covered by a Special Agreement must be a common law employee who receives a Form W-2 from the Employer or, in the case of an LLC, a member of the LLC who receives a Schedule K-1 showing full-time work and earnings from self-employment with the Employer. Sole proprietors, partners in a partnership, and partners of the Employer are not eligible to become Nonbargaining Unit Employees. All Nonbargaining Unit Employees must be actively engaged in the business conducted by the Employer on a full time basis.

Nonbargaining Unit Employees will be required to establish **initial eligibility** for benefits. Initial eligibility is established on the first day of the second calendar month after the employee has accumulated a minimum of 300 hours (or the contribution equivalent thereof), in a period of not more than five (5) consecutive months. The Employer acknowledges that the Trustees have the authority to amend these eligibility rules from time to time. These initial eligibility requirements may be waived for a newly-organized contributing Employer who has met the 1000 hour requirement as described above, if the following conditions are met:

- a. For each Nonbargaining Unit Employee eligible for participation under the Special Agreement who was employed with the Employer on the date the Employer became a signatory to a collective bargaining agreement and remained employed with the Employer until the Special Agreement is effective, the newly-organized contributing

Employer shall make an initial contribution in an amount equal to 300 hours times the contribution rate in effect for bargaining unit employees during the months of eligibility being funded. By doing so, all such Nonbargaining Unit Employees will receive eligibility effective with the first of the month, for two months without the necessity of completing the initial eligibility requirements described above and in the Plan. At no time will eligibility be effective prior to the signatory date.

- b. Continuing eligibility in any subsequent month of employment, after the first two months of eligibility, shall be in accordance with the provisions of these Rules, the Special Agreement, and the Plan.
- c. These provisions for initial eligibility waiver shall apply only to those Nonbargaining Unit Employees who were employed by the newly-organized contributing Employer on the date the Employer became a signatory and remained employed with the Employer until the Special Agreement is effective. Nonbargaining Unit Employees who are employed after the Employer's initial effective date of participation, (i.e., the date on which the Employer became signatory to the collective bargaining agreement) shall be subject to the **initial eligibility** requirements set forth above.
- d. This ability to pre-fund eligibility for the Nonbargaining Unit Employees covered under the Special Agreement is permitted only if all employees covered by the collective bargaining agreement who were employed by the newly-organized contributing Employer on the date the Employer becomes signatory are pre-funded in the same manner.

2. Contributions. Contributions to the Trust on behalf of Nonbargaining Unit Employees shall be made at the rates established by the Trustees. Contributions shall be based on 170 hours a month for all eligible employees; however, no contributions shall be made for severance pay. (Different rules may apply with respect to employees of a labor organization and/or the Trust Office.) Such rates and the basis upon which contributions are owed shall be reviewed, and if necessary, adjusted by the Trustees whenever the Trustees deem it necessary or appropriate to do so. Contributions are due no later than the 15th of the month following the month in which work is performed (the "due date") and are considered delinquent if not postmarked by the due date or received within 5 business days of the due date (or within such shorter period after the due date as communicated in writing in advance to Employers). If the Employer's contributions are delinquent, the Employer will be subject to all the payment and collection procedures generally applicable to Plan contributions. The Trust may impose interest, attorney's fees, and liquidated damages on late payments, as set forth in the Trust's written Collection Procedures.

The Employer shall be responsible for the entire contribution, and the Trust will not accept contributions made by employees except as specifically allowed by the Plan or required by law (for example, contributions under COBRA or USERRA).

The Plan will not accept contributions on behalf of Nonbargaining Unit Employees participating under this Special Agreement whenever the Employer is delinquent in the payment of contributions owed under the collective bargaining agreement.

3. Entry/Withdrawal. Entry by Nonbargaining Unit Employees to the Plan shall occur on the date set forth above upon completion of the eligibility conditions described in these Rules. Notwithstanding any contrary provisions in the Plan or Trust, individuals are not eligible for Plan benefits unless and until the Employer timely makes required contributions. The Employer may terminate participation on behalf of Nonbargaining Unit Employees no less than 12 months after such participation has begun and only upon 60 days prior written notice to the Trust Office at 575 N. Ralston, Suite B, Meridian, Idaho 83642.

4. Special Agreement. Every Employer whose Nonbargaining Unit Employees participate in the Plan shall execute a Special Agreement with the Trustees in which the Employer agrees to abide by the Plan, Trust Agreement, and all rules and procedures established by the Board of Trustees, including these Rules, as amended from time to time. The Trustees may request that the Employer complete a Special Agreement annually or periodically, and they may condition initial or continuing participation in the Plan on such timely completion.

5. Termination or Modification of Participation by Trust. The Trustees in their discretion may unilaterally terminate a Special Agreement for any of the following reasons:

- a. Nonpayment of contributions by the Employer;
- b. Fraud or other intentional misrepresentations of material fact by the Employer;
- c. Noncompliance with these Rules, with material provisions of the Plan or Trust, or with the Special Agreement;
- d. Failure by the Employer to meet the terms of, or failure to renew, a collective bargaining agreement with UA Local Unions 296 and 648; or
- e. If the Plan offers benefits through a network plan, if there is no longer any individual enrolled through the Employer who lives, resides, or works in the service area of the network plan, and the Plan applies this paragraph uniformly without regard to the claims experience of the Employer or other prohibited factors.

In addition, the Trustees reserve the right to modify the terms and conditions of these Rules. Such modification shall apply to all existing Special Agreements without the necessity of further action or writing by the parties to such Special Agreements.

6. Initial Enrollment. A request for initial enrollment pursuant to a completed Special Agreement must be submitted within ninety (90) days after receiving notification from the Trust's Administrative Office of the option to enroll. The Employer may also enroll on the anniversary date of a collective bargaining agreement.

7. Labor Organizations and the Trust Office. In their sole discretion, the Trustees may enter into a Special Agreement with a labor organization whose members participate in the Plan and/or the Trust Office to provide benefits under the Plan to employees of such labor organization

and/or Trust Office. Any such Special Agreement shall be subject to these Rules to the extent applicable.

8. Effective Date. These Rules are effective immediately, except that any changes previously adopted by the Trustees and communicated to Employers are effective as described therein.

**IDAHO PIPE TRADES HEALTH & WELFARE TRUST**  
**SPECIAL AGREEMENT**

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TO: Board of Trustees  
Idaho Pipe Trades Health & Welfare Trust  
1220 SW Morrison St.  
Suite 300  
Portland, OR 97205

**EMPLOYER'S REQUEST FOR COVERAGE**

The undersigned Employer is a party to the Collective Bargaining Agreement between the Union Contracts Group of Idaho and the Idaho State Pipe Trades Association consisting of UA Local Unions 296 and 648, which is effective on \_\_\_\_\_ and covers all journeymen plumbers and pipefitters, helpers, and apprentices as described therein. The Collective Bargaining Agreement provides for the payment of contributions to the Idaho Pipe Trades Health & Welfare Trust for the purpose of providing the employees covered by the Collective Bargaining Agreement with benefits under the Health and Welfare Plan maintained by the Trust.

The undersigned Employer, by completing and signing this Special Agreement ("Agreement"), requests that the Trustees permit the Employer to make contributions to the Idaho Pipe Trades Health and Welfare Trust on behalf of certain Nonbargaining Unit Employees in accordance with this Agreement and the **Trust's Rules and Procedures for Admitting Nonbargaining Unit Employees ("Rules")**.

**Participation**

The Employer requests that employees in the following job classifications (circle those that apply) be covered as Nonbargaining Unit Employees and certifies that the persons employed in such job classifications meet or will meet the eligibility conditions set forth in the Rules:

- 1. All Nonbargaining Unit Employees:** This classification includes all employees who are not covered by the Collective Bargaining Agreement (such as managerial employees, office employees, sales personnel, etc.) and who receive a W-2. In the case of an LLC, it also includes members who receive a K-1 that shows full-time work and self-employment income with the Employer.
- 2. Nonbargained Alumni Employees:** This classification includes all Non-bargained Alumni employees defined as employees who have earned 300 or more covered hours under the Plan during the current or any past plan year (June 1 through May 31), and at least half of the employees' covered hours under the Plan for that year with any and all employers required to contribute under the Plan were earned while performing work as a member of a collective bargaining unit covered by a Collective Bargaining Agreement requiring contributions to the Plan.

**3. Owners:** This classification includes all common law employees who are shareholders or LLC members of the Employer and who receive either a W-2 or, in the case of an LLC, a K-1 that shows full-time work and self-employment income with the Employer. (Shareholders and LLC members are considered Nonbargaining Unit Employees, regardless of whether or not they work with the tools of the trade).

**4. Other (be specific):** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

**Note:** For each of the above job descriptions or categories, the Employer understands and agrees that *all eligible employees in that classification must be included*. Partial groups will not be accepted for coverage.

**The names and Social Security numbers of all persons in the above job classifications selected presently employed by the undersigned must be listed on page 3 of this Agreement.**

The Employer understands that it must remain a signatory to the Collective Bargaining Agreement referred to above and be actively pursuing Collective Bargaining Unit work and meet all terms as listed in the Rules as a condition of coverage.

#### **Employer Certification**

Under applicable tax law, one of the following Categories I or II must apply before the Employer's Nonbargaining Unit Employees may benefit under the Plan. Participation in the Plan by the Employer's Nonbargaining Unit Employees terminates at the time which either Category I or Category II does not apply.

By checking the applicable box below and by signing this Agreement, the Employer certifies that either Category I or II applies. For purposes of this Employer Certification, "Employee" includes all common law employees and all LLC members with self-employment income from the Employer.

I. The Employer contributes or will contribute to the Plan for all Employees (other than Excludable Employees) of the Employer and Related Employers.

**Excludable Employees are (check the box or boxes of any Excluded Group below that applies):**

- Employees who have not attained age 25,
- Employees in a job classification where the customary weekly employment is less than 25 hours per week, or
- Seasonal Employees (i.e., whose customary employment is less than six months per year).

Note: An Employer may not treat Employees in an Excluded Group as Excludable Employees if **any** Employee in the Excluded Group is offered or receives Plan benefits.

Related Employers are:

- Those entities in a controlled group of corporations,
- Those entities, whether or not incorporated, which are under common control, or
- Those entities in an affiliated service group.

□ II. The Employer contributes or will contribute to the Plan on behalf of 70% or more of all Non-Excludable Employees of the Employer and Related Employers, as demonstrated below:

|          |   |  |
|----------|---|--|
| <b>A</b> | Number of Non-Excludable Employees of Employer and Related Employers for whom the Employer will contribute to the Plan                          |  |
| <b>B</b> | Total number of Non-Excludable Employees of the Employer and Related Employers  |  |
| <b>C</b> | $A \div B =$ Percentage of Non-Excludable Employees of the Employer and Related Employers covered by this Agreement<br>(C must be at least 70%) |  |

The Employer agrees to make additional contributions to the Plan as the Trustees deem necessary to avoid discrimination within the meaning of Tax Code Section 105(h) and comply with applicable law, and to submit updated certification and payroll information as requested by the Trust to verify compliance with the Rules. Payroll information includes (but is not limited to) wages, hire dates, and forms filed with the IRS and state and municipal agencies with respect to all Employees of the Employer and Related Employers.

**A.** The names of all persons who are eligible for participation under this Agreement are (attach additional pages if necessary):

| Name | EXCLUDABLE?  |
|------|--|
|      | Yes <input type="checkbox"/> No <input type="checkbox"/> |
|      | Yes <input type="checkbox"/> No <input type="checkbox"/> |
|      | Yes <input type="checkbox"/> No <input type="checkbox"/> |
|      | Yes <input type="checkbox"/> No <input type="checkbox"/> |
|      | Yes <input type="checkbox"/> No <input type="checkbox"/> |
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|      | Yes <input type="checkbox"/> No <input type="checkbox"/> |
|      | Yes <input type="checkbox"/> No <input type="checkbox"/> |

Yes  No

**B.** The names of all other Employees of the Employer and Related Employer are:

## **Contributions**

The Employer agrees to make contribution payments to the Trust on behalf of each Nonbargaining Unit Employee eligible to participate under this Agreement at the contribution rate established by the Trustees from time to time. Contributions for a Nonbargaining Unit Employee must begin within 90 days after such employee becomes eligible to participate under this Agreement. Contribution payments shall be based on 170 hours a month for all eligible employees. However, no contributions shall be made for severance pay. Contribution rates and the hours for which contributions are owed may be changed from time to time by the Trustees. The eligibility of each Nonbargaining Unit Employee for initial and continuing participation is determined under the Rules. The Rules may be amended by the Trustees from time to time. Contributions are due no later than the 15<sup>th</sup> of the month for the preceding month's employment, or by such other due date established by the Trustees.

Notwithstanding the Plan and Trust Agreement, Nonbargaining Unit Employees will not be covered or entitled to benefits under the Plan for any hours for which an Employer contribution on such employee's behalf is not timely received by the Trust.

Interest and liquidated damages for delinquent contributions may be imposed by the Trust, as explained in the current written Collection Procedures provided by the Trust's Administrative Office. The Employer specifically acknowledges that in the event it fails to make contributions when due, it is subject to delinquency charges, including liquidated damages, interest, and attorneys' fees.

### **Effective Date and Duration of Agreement**

**The Employer agrees to pay contributions as indicated above beginning in the month of \_\_\_\_\_, (based on employment in the preceding month of \_\_\_\_\_), and continuing each month during the term of the aforesaid Collective Bargaining Agreement and each subsequent Collective Bargaining Agreement.**

After completion of at least twelve (12) months participation under this Agreement, the Employer may terminate this Agreement by giving the Trustees sixty (60) days advance written notice of such termination delivered to the address shown at the beginning of this Agreement.

If the participation of the Employer in the Plan violates the law or jeopardizes the tax exempt status of the Trust, the Trustees may unilaterally terminate this Agreement. In addition, the Trustees may unilaterally terminate this Agreement upon written notice to the Employer for any of the following reasons:

- Nonpayment of contributions by the Employer
- Fraud or other intentional misrepresentation of material fact by the Employer
- Noncompliance on the part of the Employer with material provisions of the Plan or Trust, provisions of this Agreement, or with the Rules
- Failure by the Employer to meet the terms of or renew a Collective Bargaining Agreement with UA Local Unions 296 and 648
- If the Plan offers benefits through a network plan, if there is no longer any individual enrolled through the Employer who lives, resides, or works in the service area of the network plan, and the Plan applies this paragraph uniformly without regard to the claims experience of the Employer or other prohibited factors

Once enrolled, an Employer must continue to make contributions for **all persons** in the job classifications indicated at the beginning of this Agreement until their termination of employment or the expiration or termination of this Agreement, whichever is earlier.

### **Miscellaneous**

The Trustees, in their sole discretion, shall have the authority to determine and revise, from time to time, the details of and the benefits provided under the Health and Welfare Plan.

The Employer agrees to be bound by the Plan, as amended from time to time, the Idaho Pipe Trades Trust Agreement and all revisions or amendments thereto, any policies or procedures adopted by the Trustees (including but not limited to the Audit and Collection Policies), and the Rules. The Employer further agrees to accept as its representatives the Employer Trustees and their lawfully appointed successors.

This Agreement and the Rules constitute the entire agreement between the Employer and the Trustees regarding coverage of Nonbargaining Unit Employees and supersedes all prior negotiations and agreements with respect to this matter, whether written or oral. If any provision of this Agreement is determined to be invalid or unenforceable, such provision shall be severable from the remainder of the Agreement and shall not cause the invalidity or unenforceability of the remaining provisions of the Agreement. This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which together shall be deemed one and the same instrument. This Agreement may be amended only by a writing signed by both the

Employer and the Trustees. This Agreement shall be governed by the laws of the State of Idaho, to the extent that federal law does not apply. The Employer warrants that it has read and understands this Agreement, the Rules, the Plan, and the Trust Agreement, and has had the opportunity to obtain the advice of counsel regarding this Agreement.

Submitted this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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Name of Employer (must be a Corporation or LLC)

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City, State Zip

By: \_\_\_\_\_  
(Authorized Representative Signature)

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(Printed)

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(Title)

## **OPINION OF LOCAL UNION OR OTHER PARTICIPATING UNION CONCERNING EMPLOYER'S REQUEST**

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- This is to certify that this Union has **no objection** to the Employer making contributions to the Idaho Pipe Trades Trust for persons in the job classifications selected by the Employer. To our knowledge, the statements made by the Employer are true and correct.
  
- This is to certify that this Union **does object** to the Employer making contributions to the Idaho Pipe Trades Trust for persons in the job classifications selected by the Employer. Reasons:

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Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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Name of Union

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Authorized Representative

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Title of Authorized Representative

Instructions to the Local Union:

The Board of Trustees will not act on any request to cover Nonbargaining Unit Employees unless the Local or other participating Union has commented on the Employer's request for coverage. For the guidance of the Trustees in determining whether to grant the requests, please complete the appropriate section of this form, indicating whether you object, or do not object to the Employer's request. If there are any questions, please write or telephone the Trust Office.

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### **APPROVAL OF THE TRUSTEES**

The Chairman and Secretary of the Board of Trustees of the Idaho Pipe Trades Health and Welfare Trust hereby approve this Special Agreement, subject to the ratification of the full Board at its next meeting.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

By: \_\_\_\_\_  
Chairman of the Board

By: \_\_\_\_\_  
Secretary of the Board