

IDAHO PLUMBERS AND PIPEFITTERS PENSION 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 Plumbers and Pipefitters Pension Trust (“Trust”) to provide benefits under the Idaho Plumbers and Pipefitters Pension Plan (“Plan”) for its nonbargaining unit employees (“Nonbargaining Unit Employees”), where participation of such employees is not required by a collective bargaining agreement (“Collective Bargaining Agreement”) between the Employer and the Idaho State Pipe Trades Association (U.A. Local Unions 296 and 648), or Montana U.A. Local Union 41 (collectively the “Union”). 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 Plumbers and Pipefitters Pension Trust (“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 corporation or limited liability company (“LLC”) and a signatory to a collective bargaining agreement, as described above.

A Nonbargaining Unit Employee 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. Non-bargaining Unit Employees do not include persons who are or who hold themselves out as independent contractors, temporary agency employees, or leased employees. 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.

2. Coverage. Employers may sign a Special Agreement covering employees by job description or classification in the categories on the Trust’s form Special Agreement.

In addition, the group of Nonbargaining Unit Employees the Employer covers must not be discriminatory and must not cause the Plan to become “Top Heavy” (as defined in Tax Code Section 416) with respect to the Employer or violate the Code’s “Top Heavy” requirements.

3. Contributions.

- (a) Amount of contributions. Employer agrees and understands that it will make pension contributions on behalf of all members of the category of Nonbargaining Unit Employees in its Special Agreement as set forth in this paragraph 3.

- (i) The Contribution Rate shall be the same for all of an Employer's Nonbargaining Unit Employees covered by a Special Agreement. The Contribution Rate shall remain unchanged during a Plan Year Quarter.
- (ii) For any Plan Year Quarter, the Contribution Rate for all Nonbargaining Unit Employees shall be the same Contribution Rate as that designated for bargaining unit employees for the immediately preceding Plan Year Quarter in the Collective Bargaining Agreement, including successor Collective Bargaining Agreements, to which the Employer is signatory.
- (iii) If an Employer is contributing at more than one rate for bargaining unit employees in such preceding Plan Year Quarter under the Collective Bargaining Agreement, the Employer shall designate a single Contribution Rate for all Nonbargaining Unit Employees covered by a Special Agreement for the duration of the Plan Year Quarter.
- (iv) If an Employer makes no contributions on behalf of bargaining unit employees in the immediately preceding Plan Year Quarter under the Collective Bargaining Agreement, the Contribution Rate for Nonbargaining Unit Employees shall remain the same as in the preceding Plan Year Quarter.
- (v) When an Employer becomes signatory to a Collective Bargaining Agreement and has no previous contribution history, the Contribution Rate for all Nonbargaining Unit Employees shall be the same Contribution Rate as that required for the bargaining unit employees as set by the Collective Bargaining Agreement. If Employer is contributing at more than one rate for bargaining unit employees, Employer shall designate a single Contribution Rate for all Nonbargaining Unit Employees under this agreement for the duration of the Plan Year Quarter.
- (vi) "Contribution Rate" means the rate of contributions established by the governing Collective Bargaining Agreement for a specific job classification of bargaining unit employees covered by that Collective Bargaining Agreement. Despite the requirement that a Contribution Rate remain unchanged during a Plan Year Quarter and that the Employer designate a single Contribution Rate for all Nonbargaining Unit Employees for the duration of a Plan Year Quarter, if the rate of contributions for the specific job classification on which that Contribution Rate is based is changed by operation of the Collective Bargaining Agreement during the Plan Year Quarter, then the "Contribution Rate" for the Nonbargaining Unit Employees shall also change accordingly.

In any event, an Employer's Contribution Rate may be otherwise established by the Trustees. The Trustees may adjust those rates (including retroactive adjustment) whenever they deem it necessary or appropriate to do so, such as when necessary to avoid discrimination or disqualification of the Plan under the Tax Code or to otherwise comply with the terms of the Plan and this Agreement.

- (b) Hours for which contributions are owed. For each Nonbargaining Unit Employee eligible to participate under this Agreement, contribution payments shall be due to the Trust, at the Contribution Rate established by the Trustees from time to time, based on the following: For salaried or full-time employees and for owners of the Employer, contribution payments shall be based on 170 hours a month, regardless of hours of service. For part-time employees, contribution payments shall be based on hours the employee is actually paid or entitled to payment. 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. In no event will contributions on behalf of an employee exceed the lesser of 2040 hours per calendar year or the amount reflected on that employee's Form W-2.
 - (c) Due date of contributions. Contributions are due no later than the 15th day 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 of 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.
 - (d) Contributions will not be accepted and benefits will not accrue under the Plan with respect to employees covered by a Special Agreement if the Employer is delinquent with respect to contributions for employees covered by a Special Agreement.
4. Entry/Withdrawal. The Employer must enroll and make contributions on behalf of Nonbargaining Unit Employees who are eligible under the terms of the Employer's Special Agreement with respect to such employees' Covered Hours (as defined by the Plan) after the Effective Date of the Special Agreement. If applicable, the Employer must enroll and make contributions on new employees who are subsequently eligible under the terms of the Special Agreement as set forth in the preceding sentence. 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. Ralstin, Suite B, Meridian, Idaho 83642. Notwithstanding the above, the Trustees in their sole discretion may permit an Employer to terminate participation on an earlier basis if so petitioned. Participation on behalf of Nonbargaining Unit Employees shall terminate the date the Employer is no longer obligated to contribute to the Trust on behalf of its bargaining unit employees.
5. 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.

6. 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 Agreement, or with the Special Agreement;
 - (d) Failure by the Employer to meet the terms of, or failure to renew, a collective bargaining agreement with the Union;
 - (e) Failure to pass a Tax Code nondiscrimination test; or
 - (f) Such other reason as determined by the Trustees.

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.

7. 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 Office of the option to enroll. The Employer may also enroll on the anniversary date of a collective bargaining agreement.
8. Unions and the Trust Office. In their sole discretion, the Trustees may also 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.
9. Effective Dates. These Rules are effective immediately, except that any changes previously adopted by the Trustees and communicated to Employers are effective as described therein.

**IDAHO PLUMBERS AND PIPEFITTERS PENSION TRUST
SPECIAL AGREEMENT**

TO: Board of Trustees
Idaho Plumbers and Pipefitters Pension Trust
1220 SW Morrison St.
Suite 300
Portland, OR 97205

EMPLOYER’S REQUEST FOR COVERAGE

The undersigned Employer is a party to a collective bargaining agreement with the Idaho State Pipe Trades Association (U.A. Local Unions 296 and 648), or Montana U.A. Local Union 41 (the “Collective Bargaining Agreement”), 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 Plumbers and Pipefitters Pension Trust (“Trust”) for the purpose of providing the employees covered by the Collective Bargaining Agreement with benefits under the Idaho Plumbers and Pipefitters Pension Plan (“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 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 (by completing the attached Employer’s Certification) 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 from the Employer. 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. **All Nonbargained Alumni Employees:** This classification includes all Nonbargained Alumni employees. To qualify as an **Alumni Employee**, at least half of an employee’s hours of service during at least one year of participation in the Plan must have been earned while covered by the Collective Bargaining Agreement.
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). Individuals are considered to own any stock, shares, or interest owned by their spouse, parents, children or grandchildren. They are also considered to own any stock owned by their business entities or trusts (in proportion to their interest therein).

4. Other job classification(s) (be specific): _____

_____.

Note: Unless the Employer elects to cover only Nonbargaining Alumni Employees (option 2 above), the Employer must complete the attached Certification. Coverage will not become effective if the covered classification is discriminatory under the Tax Code, or if the covered classification causes the Plan to become Top Heavy.

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 below (in A.).

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.

The Employer agrees to make additional contributions to the Plan as the Trustees deem necessary to avoid discrimination within the meaning of Tax Code Sections 401(a)(4) and 410(b) or to otherwise avoid disqualification of the Plan under the Tax Code, and to submit an updated Certification and payroll information as requested by the Trust to verify compliance with the Rules, and in any event not less than every 4 years. If the Employer undergoes a significant change in workforce or compensation practices, it will submit a new Certification within 30 days of such change. 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.

Eligible Nonbargaining Unit Employees

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

Name	Circle Job Classification			
	1	2	3	4
	1	2	3	4
	1	2	3	4
	1	2	3	4
	1	2	3	4
	1	2	3	4

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	1	2	3	4
	1	2	3	4
	1	2	3	4

All Other Employees

- B.** The names of all other Employees of the Employer and Related Employer are (attach additional pages if necessary):

Name	Bargained Work? Yes or No
	Y N
	Y N
	Y N
	Y N
	Y N
	Y N
	Y N
	Y N
	Y N
	Y N
	Y N

Effective Date

This Agreement is effective beginning in the month of _____ 20__ (based on employment in the preceding month of _____ 20__).

Contributions

The Employer agrees to make contributions to the Trust on behalf of each eligible Nonbargaining Unit Employee at the Contribution Rate established by the Trustees from time to time, beginning as of the effective date of this Agreement. Contributions are due no later than the 15th of the month for the preceding month's employment, or by such other due date established by the Trustees. For salaried or full-time employees and for owners of the Employer, contributions shall be based on 170 hours a month. For part-time employees, contributions shall be based on hours the employee is actually paid or entitled to payment. No contributions shall be made for severance pay. The Employer agrees to maintain reliable records of hours of service worked under this Agreement.

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.

Duration of 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.

The Trustees in their discretion may unilaterally terminate or retroactively void this Agreement upon written notice to the Employer for any of the following reasons:

- a. Nonpayment of contributions (whether required by this agreement or a collective bargaining agreement) by the Employer;
- b. Fraud or other intentional misrepresentation of material fact by the Employer;
- c. Noncompliance on the part of the Employer with material provisions of the Plan or Trust Agreement, provisions of this Agreement, or with the Rules;
- d. Failure by the Employer to meet the terms of or renew a Collective Bargaining Agreement with the Idaho State Pipe Trades Association (U.A. Local Unions 296 and 648) or Montana U.A. Local Union 41;
- e. Failure to pass a Tax Code nondiscrimination test; or
- f. Such other reason as determined by the Trustees.

In addition, the Trustees reserve the right to modify the terms and conditions of the Rules.

Miscellaneous

1. Once enrolled, an Employer must continue to make contributions for all persons in the job descriptions or classifications indicated at the beginning of this Agreement until their termination of employment or the expiration or termination of this Agreement, whichever is earlier.
2. The Employer agrees to be bound by the Plan, as amended from time to time, the Idaho Plumbers and Pipefitters Pension Trust Agreement and all revisions or amendments thereto, any policies or procedures adopted by the Trustees (including but not limited to the Audit and Collections Policies), and the Rules. The Employer further agrees to accept as its representatives the Employer Trustees and their lawfully appointed successors.
3. 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.

4. 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.
5. 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.
6. This Agreement may be amended only by a writing signed by both the Employer and the Trustees.
7. This Agreement shall be governed by the laws of the State of Idaho, to the extent that federal law does not apply.
8. 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__.

Name of Employer (must be a Corporation or LLC)

City, State Zip

By:_____
(Authorized Representative Signature)

(Printed)

(Title)

**IDAHO PLUMBERS AND PIPEFITTERS PENSION PLAN
NONBARGAINING UNIT EMPLOYEES**

Employer's Certification

THIS CERTIFICATION IS NOT REQUIRED IF THE SPECIAL AGREEMENT ONLY
COVERS ALL NONBARGAINED ALUMNI EMPLOYEES

PLEASE COMPLETE BOTH PART 1 AND PART 2 BELOW.

Definitions:

A Highly Compensated Employee (“**HCE**”) is:

- A. An employee who was a 5-percent owner* of the Employer (or Related Employer) at any time during the current or preceding Plan year, **or**
- B. An employee who for the preceding Plan year had compensation in excess of the following limit: \$120,000 for the 2017-18 Plan year; and, for later years, such amount as announced by the IRS.

A Related Employer is:

- A. Those entities in a controlled group of corporations,
- B. Those entities that would be in a controlled group of corporations but for the fact they are not incorporated, **or**
- C. Those entities in an affiliated service group.

A Key Employee is:

- A. An officer of the Employer with annual compensation exceeding the following limit: \$170,000 for 2016; \$175,000 for 2017; and, for later years, such amount as announced by the IRS,
- B. An employee who owns* at least 5% of the Employer, **or**
- C. An employee who owns* at least 1% of the Employerand who has annual compensation exceeding \$150,000.

An Alumni Employee is an employee who formerly participated in the Plan pursuant to **one** of the following:

- A. A collective bargaining agreement currently in effect between the Employer and the Idaho State Pipe Trades Association (U.A. Local Unions 296 and 648), or Montana U.A. Local Union 41 (“Union”).
- B. A collective bargaining agreement formerly in effect between the Employer and Union, so long as the employee was covered both under that former collective bargaining agreement and a Special Agreement before expiration of that former collective bargaining agreement.

To qualify as an **Alumni Employee**, at least half of an employee’s hours of service during at least one year of participation in the Plan must have been earned while covered by such collective bargaining agreement.

*Employees/members are considered to own any portion of their Employer owned by their spouse, parents, children or grandchildren. They are also considered to own any portion owned by their business entities or trusts (in proportion to their interest therein).

PART 1—Nondiscriminatory Coverage Certification

Please check ONE (1) box that applies to this Employer and all Related Employers (“Employer”):

	I.	<i>Other than employees covered by a collective bargaining agreement, the Employer contributes to the Idaho Plumbers & Pipefitters Pension Plan (“Plan”) for <u>only</u> one category of employees who are <u>non-Highly Compensated Employees</u>.</i>		
	II.	<i>Other than employees covered by a collective bargaining agreement, the Employer employs only Highly Compensated Employees.</i>		
	III.	<i>Other than employees covered by a collective bargaining agreement, the Employer contributes to the Plan for <u>all</u> of its <u>non-Highly Compensated Employees</u>.</i>		
	IV.	<i>Other than employees covered by a collective bargaining agreement, the Employer contributes to the Plan only for Alumni Employees.</i>		
	V.	<i>Other than employees covered by a collective bargaining agreement, the Employer contributes to the Plan only for:</i> A. Category IV employees, <u>and</u> B. Category I, II, <u>or</u> III employees.		
	VI.	<i>If Categories I, II, III, IV, or V are not applicable, complete the following table, excluding employees covered by any collective bargaining agreement and employees in Category IV.</i>		
	A.	HCEs for whom the <u>Employer contributes</u> to the Plan		
	B.	<u>Total HCEs</u> of the Employer and Related Employers		
	C.	Non-HCEs for whom the <u>Employer contributes</u> to the Plan		
	D.	<u>Total Non-HCEs</u> of the employer and Related Employers		
	E.	(A) ÷ (B) =		
	F.	(C) ÷ (D) =		
	G.	(F) ÷ (E) x 100 = (<i>G must be at least 70%</i>)		%

PART 2—Top Heavy Certification

Please check ONE (1) box that applies to this Employer:

	I.	The Employer contributes to the Plan only for <u>non-Key Employees</u> .
	II.	<p>The Employer contributes to the Plan for Key Employees; however, the Plan is not “Top Heavy”, as defined below, with respect to the Employer’s employees or, if “Top Heavy,” Code § 416’s Top Heavy requirements are satisfied.</p> <p>The Plan is “Top Heavy” with respect to the Employer’s employees for a Plan year if, as of the last day of the preceding Plan year, the sum of (1) the present value of the cumulative Accrued Benefits of the Employer’s Key Employees under the Plan and any other defined benefit plans maintained by the Employer or Related Employers, and (2) the value of the account balances of the Employer’s Key Employees under any defined contribution plans maintained by the Employer or Related Employers exceeds 60% of the sum of (1) and (2) determined with respect to all of the Employer’s employees (including Key Employees and employees covered by a collective bargaining agreement).</p>

Part 3—Owners. If the Special Agreement provides for contributions to be made on behalf of shareholders or LLC members

Please check ONE box that applies:

	I.	All owners who are covered by the Plan receive self-employment income reflecting full-time work.
	II.	Some owners who are covered by the Plan do not receive self-employment income reflecting full-time work. Contact the Administrative Office for more information.

I hereby declare that this Certification is true and accurate.

Employer Name

By:_____
Printed Name

Employer Telephone #

Title

Employer Identification Number (EIN)

Signature

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

- ☐ This is to certify that this Union has **no objection** to the Employer making contributions to the Idaho Plumbers and Pipefitters Pension Trust for persons in the job descriptions or 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 Plumbers and Pipefitters Pension Trust for persons in the job descriptions or classifications selected by the Employer. Reasons:

Dated this _____ day of _____, 20____.

Name of Union

Authorized Representative

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.

APPROVAL OF THE TRUSTEES

The Chairman and Secretary of the Board of Trustees of the Idaho Plumbers and Pipefitters Pension 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