

**CWA/ITU Negotiated Pension Plan**  
**Employer Withdrawal Liability Rules & Procedures**

**Revised as of January 2021**

The Board of Trustees of the CWA/ITU Negotiated Pension Plan (the “NPP”) has adopted the following rules and procedures to govern the calculation and collection of withdrawal liability under the Multiemployer Pension Plan Amendments Act of 1980 (“MPPAA”), a statutory amendment to the Employee Retirement Income Security Act of 1974, as amended (“ERISA”). These rules shall be interpreted consistently with all applicable laws and policies under ERISA. The statutory provisions, and accompanying regulations, are incorporated herein by reference.

**Section 1.     Method for Computing Withdrawal Liability**

The Trustees of the CWA/ITU Negotiated Pension Plan have adopted the statutory formula provided in the Multiemployer Pension Plan Amendments Act of 1980. Withdrawal liability shall be calculated under the presumptive method set forth in ERISA Section 4211(b). Quarterly payments shall be calculated using the funding assumption used for the most recent actuarial valuation for the plan.

The liability is subject to the “De Minimis Rule”. The amount of the liability is reduced by a deductible of \$50,000, except that the deduction is reduced by \$1 for each \$1 that the liability amount exceeds \$100,000. As a result, a liability assessment of \$150,000 or more is not subject to any deductible.

**Section 2.     Actuarial Assumptions for Computing Withdrawal Liability**

The Plan Actuary will set the assumptions for the purpose of determining unfunded vested benefits of a plan for computing withdrawal liability of an employer in accordance with ERISA §4213.

**Section 3.     Review of Withdrawal Liability**

An employer that is assessed withdrawal liability may seek review through the following procedures. The time limits for invoking these procedures are set forth in ERISA §§ 4219 and 4221.

a.       Request for Review

Pursuant to ERISA § 4219(B)(2)(A), an employer may:

- (1)     request the NPP to review any specific matter relating to determination of the withdrawal liability or the payment schedule;
- (2)     identify any inaccuracy in the assessment; and/or
- (3)     furnish any additional relevant information.

Any such Request for Review shall be made in writing, addressed to the Administrator, and shall identify the specific matter which the employer challenges or questions.

The Administrator shall make a preliminary examination of each Request for Review. The Administrator shall then either issue a ruling on the Request for Review or refer the matter to the Trustees for a final ruling. If the matter is submitted to the Trustees, each Trustee may be consulted and vote individually if the Administrator determines that a formal meeting is not practical.

b. Arbitration

An employer that wishes to submit any disputes concerning withdrawal liability to arbitration under ERISA § 4221 shall do so under the auspices of the New York Regional Office of the American Arbitration Association (“AAA”). The employer must initiate the arbitration proceeding in accordance with the AAA rules and simultaneously serve upon the Administrator written notice of the initiation of arbitration and the issues that shall be contested.

The employer shall pay the filing fee necessary to initiate the arbitration. Unless the Administrator expressly agrees otherwise in writing, all arbitration hearings will be held in New York, NY.

c. Payment of Withdrawal Liability

An employer shall pay the amount determined to be its withdrawal liability over the period of years necessary to amortize the amount in level annual payments, calculated as if the first payment were made on the first day of the year following the year of withdrawal and as if each subsequent payment were made on the first day of each subsequent year. The amount of each annual payment shall be calculated in accordance with ERISA § 4219(c)(1)(C). Withdrawal liability shall be payable in accordance with the schedule set forth by the Plan beginning no later than 60 days after the demand is made, notwithstanding any request for a review or appeal of the determination of the amount of such liability or of the schedule. Each annual payment shall be payable in four (4) quarter-annual installments. If a payment is not made when due, interest on the payment shall accrue at one-percent per month of delinquency from the due date until the date on which the payment is made.

d. Litigation

As provided by ERISA §§ 4201 and 4301, any party to an arbitration under ERISA § 4221 may file suit in United States District Court to enforce, vacate, or modify the arbitration award.

In litigation, the NPP shall be entitled to all remedies permitted by law. Liquidated damages shall be 20% (or such higher percentage as may be permitted under federal or state law) of the amount owed by the employer, unless the NPP is entitled to a greater sum by a doubling of the interest.

**Section 4. Withdrawal Liability Estimate**

Any employer who wishes to request an estimate of its potential withdrawal liability may do so by submitting a written request for same, accompanied by a check in the sum of \$1,500 made payable to the CWA/ITU Negotiated Pension addressed to the Plan Administrator.

**Section 5. Default**

In the event an employer is assessed withdrawal liability and defaults on its obligations thereunder, the outstanding amount of the withdrawal liability shall immediately become due and payable. A default occurs if:

- a. The Employer fails to make, when due, any payments of withdrawal liability, if such failure is not cured within 60 days after such Employer receives written notification from the Fund of such failure; or
- b. The Trustees, in their discretion, deem the Fund insecure as a result of any of the following events with respect to the Employer:
  - (1) 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
  - (2) the Employer's failure or inability to pay its debts as they become due;
  - (3) the commencement of any proceedings by or against the Employer (with or without the Employer's consent) pursuant to any bankruptcy or insolvency laws or any laws relating to the relief of debtors, or the readjustment, composition or extension of indebtedness, or to the liquidation, receivership, dissolution or reorganization of debtors;
  - (4) the withdrawal, revocation or suspension, by any governmental or judicial entity or by any national securities exchange or association, of any charter, license, authorization, or registration required by the Employer in the conduct of its business;
  - (5) the failure of the Employer to respond to an information request made by the Plan in accordance with Section 4219(a)(1) of ERISA; and
  - (6) any other event or circumstance which in the judgment of the Trustees materially impairs the Employer's creditworthiness or the Employer's ability to pay its withdrawal liability when due.