B 10 (Official Form 10) (12/11)

UNITED STATES BANKRUPTCY COURT District of Delaware		PROOF OF CLAIM
Name of Debtor: K-T Contract Services	Case Number: 12-10054/12-10060	
NOTE: *Do not use this form to make a claim for an administrative expense that arises after the bankruptcy filing. You may file a request for payment of an administrative expense according to 11 U.S.C. § 503.*		
Name of Creditor (the person or other entity to whom the debtor owes money or property): Western Conference of Teamsters Pension Trust Fund		COURT USE ONLY
Name and address where notices should be sent: Russell J. Reid of Reid, Pedersen, McCarthy & Ballew, LLP 100 West Harrison Street, North Tower, Suite 300 Seattle WA 98119 Telephone number: (206) 285-0464 email: rjr@rpmb.com		☑ Check this box if this claim amends a previously filed claim. Court Claim Number:_____ (*If known*) Filed on:_____
Name and address where payment should be sent (if different from above): same as above Telephone number: email:	RECEIVED JAN 10 2013 BMC GROUP	☐ Check this box if you are aware that anyone else has filed a proof of claim relating to this claim. Attach copy of statement giving particulars.

1. Amount of Claim as of Date Case Filed: $ 983,996.02

If all or part of the claim is secured, complete item 4.

If all or part of the claim is entitled to priority, complete item 5.

☐ Check this box if the claim includes interest or other charges in addition to the principal amount of the claim. Attach a statement that itemizes interest or charges.

2. Basis for Claim: Withdrawal liability under ERISA 29 USC Sec. 1381 et seq.
(See instruction #2)

3. Last four digits of any number by which creditor identifies debtor:	3a. Debtor may have scheduled account as:	3b. Uniform Claim Identifier (optional):
5 9 3 6	215936 (See instruction #3a)	(See instruction #3b)

4. Secured Claim (See instruction #4)
Check the appropriate box if the claim is secured by a lien on property or a right of setoff, attach required redacted documents, and provide the requested information.

Nature of property or right of setoff: ☐ Real Estate ☐ Motor Vehicle ☐ Other
Describe:

Value of Property: $_____

Annual Interest Rate_____% ☐ Fixed or ☐ Variable
(when case was filed)

Amount of arrearage and other charges, as of the time case was filed, included in secured claim, if any:
$_____

Basis for perfection: _____

Amount of Secured Claim: $_____

Amount Unsecured: $_____

5. Amount of Claim Entitled to Priority under 11 U.S.C. § 507 (a). If any part of the claim falls into one of the following categories, check the box specifying the priority and state the amount.

☐ Domestic support obligations under 11 U.S.C. § 507 (a)(1)(A) or (a)(1)(B).

☐ Wages, salaries, or commissions (up to $11,725*) earned within 180 days before the case was filed or the debtor's business ceased, whichever is earlier – 11 U.S.C. § 507 (a)(4).

☐ Contributions to an employee benefit plan – 11 U.S.C. § 507 (a)(5).

Amount entitled to priority:
$_____

☐ Up to $2,600* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use – 11 U.S.C. § 507 (a)(7).

☐ Taxes or penalties owed to governmental units – 11 U.S.C. § 507 (a)(8).

☐ Other – Specify applicable paragraph of 11 U.S.C. § 507 (a)(__).

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02385

**Amounts are subject to adjustment on 4/1/13 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.*

6. Credits. The amount of all payments on this claim has been credited for the purpose of making this proof of claim. (See instruction #6)

7. Documents: Attached are **redacted** copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. If the claim is secured, box 4 has been completed, and **redacted** copies of documents providing evidence of perfection of a security interest are attached. *(See instruction #7, and the definition of "**redacted**".)*

DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.

If the documents are not available, please explain:

8. Signature: (See instruction #8)

Check the appropriate box.

☐ I am the creditor. ☑ I am the creditor's authorized agent. (Attach copy of power of attorney, if any.) ☐ I am the trustee, or the debtor, or their authorized agent. (See Bankruptcy Rule 3004.) ☐ I am a guarantor, surety, indorser, or other codebtor. (See Bankruptcy Rule 3005.)

I declare under penalty of perjury that the information provided in this claim is true and correct to the best of my knowledge, information, and reasonable belief.

Print Name: Russell J. Reid
Title: Attorney
Company: Reid, Pedersen, McCarthy & Ballew LLP
Address and telephone number (if different from notice address above):

(Signature) 01/08/2013 (Date)

Telephone number: email:

Penalty for presenting fraudulent claim: Fine of up to $500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.

INSTRUCTIONS FOR PROOF OF CLAIM FORM

The instructions and definitions below are general explanations of the law. In certain circumstances, such as bankruptcy cases not filed voluntarily by the debtor, exceptions to these general rules may apply.

Items to be completed in Proof of Claim form

Court, Name of Debtor, and Case Number:
Fill in the federal judicial district in which the bankruptcy case was filed (for example, Central District of California), the debtor's full name, and the case number. If the creditor received a notice of the case from the bankruptcy court, all of this information is at the top of the notice.

Creditor's Name and Address:
Fill in the name of the person or entity asserting a claim and the name and address of the person who should receive notices issued during the bankruptcy case. A separate space is provided for the payment address if it differs from the notice address. The creditor has a continuing obligation to keep the court informed of its current address. See Federal Rule of Bankruptcy Procedure (FRBP) 2002(g).

1. Amount of Claim as of Date Case Filed:
State the total amount owed to the creditor on the date of the bankruptcy filing. Follow the instructions concerning whether to complete items 4 and 5. Check the box if interest or other charges are included in the claim.

2. Basis for Claim:
State the type of debt or how it was incurred. Examples include goods sold, money loaned, services performed, personal injury/wrongful death, car loan, mortgage note, and credit card. If the claim is based on delivering health care goods or services, limit the disclosure of the goods or services so as to avoid embarrassment or the disclosure of confidential health care information. You may be required to provide additional disclosure if an interested party objects to the claim.

3. Last Four Digits of Any Number by Which Creditor Identifies Debtor:
State only the last four digits of the debtor's account or other number used by the creditor to identify the debtor.

3a. Debtor May Have Scheduled Account As:
Report a change in the creditor's name, a transferred claim, or any other information that clarifies a difference between this proof of claim and the claim as scheduled by the debtor.

3b. Uniform Claim Identifier:
If you use a uniform claim identifier, you may report it here. A uniform claim identifier is an optional 24-character identifier that certain large creditors use to facilitate electronic payment in chapter 13 cases.

4. Secured Claim:
Check whether the claim is fully or partially secured. Skip this section if the claim is entirely unsecured. (See Definitions.) If the claim is secured, check the box for the nature and value of property that secures the claim, attach copies of lien documentation, and state, as of the date of the bankruptcy filing, the annual interest rate (and whether it is fixed or variable), and the amount past due on the claim.

5. Amount of Claim Entitled to Priority Under 11 U.S.C. § 507 (a).
If any portion of the claim falls into any category shown, check the appropriate box(es) and state the amount entitled to priority. (See Definitions.) A claim may be partly priority and partly non-priority. For example, in some of the categories, the law limits the amount entitled to priority.

6. Credits:
An authorized signature on this proof of claim serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

7. Documents:
Attach redacted copies of any documents that show the debt exists and a lien secures the debt. You must also attach copies of documents that evidence perfection of any security interest. You may also attach a summary in addition to the documents themselves. FRBP 3001(c) and (d). If the claim is based on delivering health care goods or services, limit disclosing confidential health care information. Do not send original documents, as attachments may be destroyed after scanning.

8. Date and Signature:
The individual completing this proof of claim must sign and date it. FRBP 9011. If the claim is filed electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what constitutes a signature. If you sign this form, you declare under penalty of perjury that the information provided is true and correct to the best of your knowledge, information, and reasonable belief. Your signature is also a certification that the claim meets the requirements of FRBP 9011(b). Whether the claim is filed electronically or in person, if your name is on the signature line, you are responsible for the declaration. Print the name and title, if any, of the creditor or other person authorized to file this claim. State the filer's address and telephone number if it differs from the address given on the top of the form for purposes of receiving notices. If the claim is filed by an authorized agent, attach a complete copy of any power of attorney, and provide both the name of the individual filing the claim and the name of the agent. If the authorized agent is a servicer, identify the corporate servicer as the company. Criminal penalties apply for making a false statement on a proof of claim.

DEFINITIONS

Debtor
A debtor is the person, corporation, or other entity that has filed a bankruptcy case.

Creditor
A creditor is a person, corporation, or other entity to whom debtor owes a debt that was incurred before the date of the bankruptcy filing. See 11 U.S.C. §101 (10).

Claim
A claim is the creditor's right to receive payment for a debt owed by the debtor on the date of the bankruptcy filing. See 11 U.S.C. §101 (5). A claim may be secured or unsecured.

Proof of Claim
A proof of claim is a form used by the creditor to indicate the amount of the debt owed by the debtor on the date of the bankruptcy filing. The creditor must file the form with the clerk of the same bankruptcy court in which the bankruptcy case was filed.

Secured Claim Under 11 U.S.C. § 506 (a)
A secured claim is one backed by a lien on property of the debtor. The claim is secured so long as the creditor has the right to be paid from the property prior to other creditors. The amount of the secured claim cannot exceed the value of the property. Any amount owed to the creditor in excess of the value of the property is an unsecured claim. Examples of liens on property include a mortgage on real estate or a security interest in a car. A lien may be voluntarily granted by a debtor or may be obtained through a court proceeding. In some states, a court judgment is a lien. A claim also may be secured if the creditor owes the debtor money (has a right to setoff).

Unsecured Claim
An unsecured claim is one that does not meet the requirements of a secured claim. A claim may be partly unsecured if the amount of the claim exceeds the value of the property on which the creditor has a lien.

Claim Entitled to Priority Under 11 U.S.C. § 507 (a)
Priority claims are certain categories of unsecured claims that are paid from the available money or property in a bankruptcy case before other unsecured claims.

Redacted
A document has been redacted when the person filing it has masked, edited out, or otherwise deleted, certain information. A creditor must show only the last four digits of any social-security, individual's tax-identification, or financial-account number, only the initials of a minor's name, and only the year of any person's date of birth. If the claim is based on the delivery of health care goods or services, limit the disclosure of the goods or services so as to avoid embarrassment or the disclosure of confidential health care information.

Evidence of Perfection
Evidence of perfection may include a mortgage, lien, certificate of title, financing statement, or other document showing that the lien has been filed or recorded.

INFORMATION

Acknowledgment of Filing of Claim
To receive acknowledgment of your filing, you may either enclose a stamped self-addressed envelope and a copy of this proof of claim or you may access the court's PACER system (www.pacer.psc.uscourts.gov) for a small fee to view your filed proof of claim.

Offers to Purchase a Claim
Certain entities are in the business of purchasing claims for an amount less than the face value of the claims. One or more of these entities may contact the creditor and offer to purchase the claim. Some of the written communications from these entities may easily be confused with official court documentation or communications from the debtor. These entities do not represent the bankruptcy court or the debtor. The creditor has no obligation to sell its claim. However, if the creditor decides to sell its claim, any transfer of such claim is subject to FRBP 3001(e), any applicable provisions of the Bankruptcy Code (11 U.S.C. § 101 *et seq.*), and any applicable orders of the bankruptcy court.

Mail to:
United States Bankruptcy Court
Attn: Claims
824 Market Street, 3rd Floor
Wilmington, DE 19801

WESTERN CONFERENCE OF TEAMSTERS PENSION TRUST
EMPLOYER WITHDRAWAL LIABILITY CALCULATIONS
FOR A COMPLETE WITHDRAWAL IN PLAN YEAR 2012
Estimate Worksheet

11/14/2012

Control Group Employer: CUSA K-TCS, LLC

Link #: 05611

Withdrawal Date: 11/14/2012

1. Liability for the Amount of Western Conference of Teamsters Plan's Unfunded Vested Benefits as of December 31, 2011 :

a) Years (Inclusive)	Employers' Contributory Hours All Affiliated Accounts	Employer' s Obligated Contributions All Affiliated Accounts
2011	271,623.30	$277,050.59
2010	305,208.40	$311,306.00
2009	410,721.00	$307,233.21
2008	509,338.10	$219,919.16
2007	460,767.00	$79,888.55

b)	Sum of all contributions obligated to be made by the employer under the Plan, 2007 through 2011 :	$1,195,397.51
c)	Sum of all contributions made, 2007 through 2011, by all employers who had an obligation to contribute under the Plan and had not withdrawn before 12/31/2011 :	$6,241,800,771.03
d)	Factor for Employer's share of Unfunded Vested Benefits (Line 1b divided by Line 1c):	0.00019151485
e)	Amount of Plan's Unfunded Vested Benefits as of 12/31/2011 :	$5,137,962,000.00
f)	Employer's share of Unfunded Vested Benefits (Line 1d multiplied by Line 1e):	$983,996.02
g)	Less DeMinimis, if Line F is less than $100,000, then the DeMinimis is the smaller of $50,000 or the amount of liability. If Line F is greater than $100,000, then the DeMinimis is $50,000 reduced by the amount in excess of $100,000. The DeMinimis does not apply if Line F is greater than $150,000.	$0.00
h)	Employer's Liability (Line 1f - Line 1g):	$983,996.02

2. Account Number(s) - Accounts under common control ("affiliated" accounts):

215936

Section 6. – Agreements Covering Employees in the Western States Food Processing Industry Employees Pension Plan:

These Rules shall not preclude recognition as a Pension Agreement of a collective bargaining agreement covering Employees who are participants in the Western States Food Processing Industry Employees Pension Plan provided the agreement complies with any limitations on contributions rules applicable to such agreement adopted by the Trustees from time to time pursuant to Article I, Section 2, of the Agreement and Declaration of Trust.

Section 7. – Exemptions from 1,000 Hour Requirements:

(a) 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.

(b) An application for exemption under subsection (a) must be made to the Trustees no later than July 1, 1979, if the exemption is for an agreement which is recognized as a Pension Agreement on April 19, 1979.

Section 8. – Effective Dates:

No written agreement entered into, extended, renewed, or replaced after April 19, 1979, 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 with respect to employment rendered after December 31, 1979. If an agreement covering Employees in the Food Processing Industry and recognized as a Pension Agreement on April 19, 1979, is not revised prior to January 1, 1980, to comply with these Rules with respect to employment rendered after December 31, 1979, then effective with the close of business December 31, 1979:

(1) such agreement shall cease to be recognized as a Pension Agreement for any purpose under the Agreement and Declaration of Trust or the Plan,

(2) no contributions shall be accepted by the Trustees under such agreement with respect to employment completed after December 31, 1979,

(3) the Employees covered by such agreement shall cease to be Covered Employees and shall accrue no further benefits under the Plan, and

(4) the Employer shall not be considered as maintaining the Plan with respect to the collective bargaining unit or units covered by such agreement.

Withdrawal of recognition of Pension Agreement status shall not relieve the Employer of his obligation to the Trust Fund under the agreement to make Employer Contributions for employment completed prior to January 1980.

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*)

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 20, 2004, and unless otherwise noted, applies to complete or partial withdrawals occurring after April 19, 2004.* 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.

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* The Rules and Procedures were further amended March 23, 2011 and July 12, 2011.

(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)(2) 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 the 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 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 of 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 it's 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 Section 16(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.

(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 Attibutable 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 or 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 part 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 appropriate 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.

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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.

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 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 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 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 part 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 fee 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 is 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).

THE HONORABLE KEVIN GROSS
Chapter 11

UNITED STATES BANKRUPTCY COURT FOR THE
DISTRICT OF DELAWARE

In re: K-T CONTRACT SERVICES, Debtor.	CASE NO. 12-10054 AND 12-10060 CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 8th day of January, 2013, she caused to be served the original Amended Proof of Claim on:

BMC Group, Inc.
Attn: Coach America Claims Processing
PO Box 3020
Chanhassen MN 55317-3020

with true and correct copies being served via U.S. Postal Service on:

The Honorable Kevin Gross
U. S. Bankruptcy Court
District of Delaware
824 N. Market Street, 3rd Floor
Wilmington Delaware 19801

DATED this 8th day of January, 2013.

Shelly Trahin

Reid, Pedersen, McCarthy & Ballew, L.L.P.
ATTORNEYS AT LAW
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Russell J. Reid
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David W. Ballew
Thomas A. Leahy
John Lee

www.rpmb.com

January 8, 2013

BMC Group, Inc.
Attn: Coach America Claims Processing
PO Box 3020
Chanhassen MN 55317-3020

Re: K-T Contract Services
Case No. 12-10054/12-10060

Dear Gentlemen/Ladies:

Enclosed please find Amended Proof of Claim in the above referenced bankruptcy action to be filed on behalf of Western Conference of Teamsters Pension Trust Fund.

Additionally, I have enclosed one extra copy to be conformed as evidence of the filing and returned to me in the self addressed stamped envelope I have provided. Thank you.

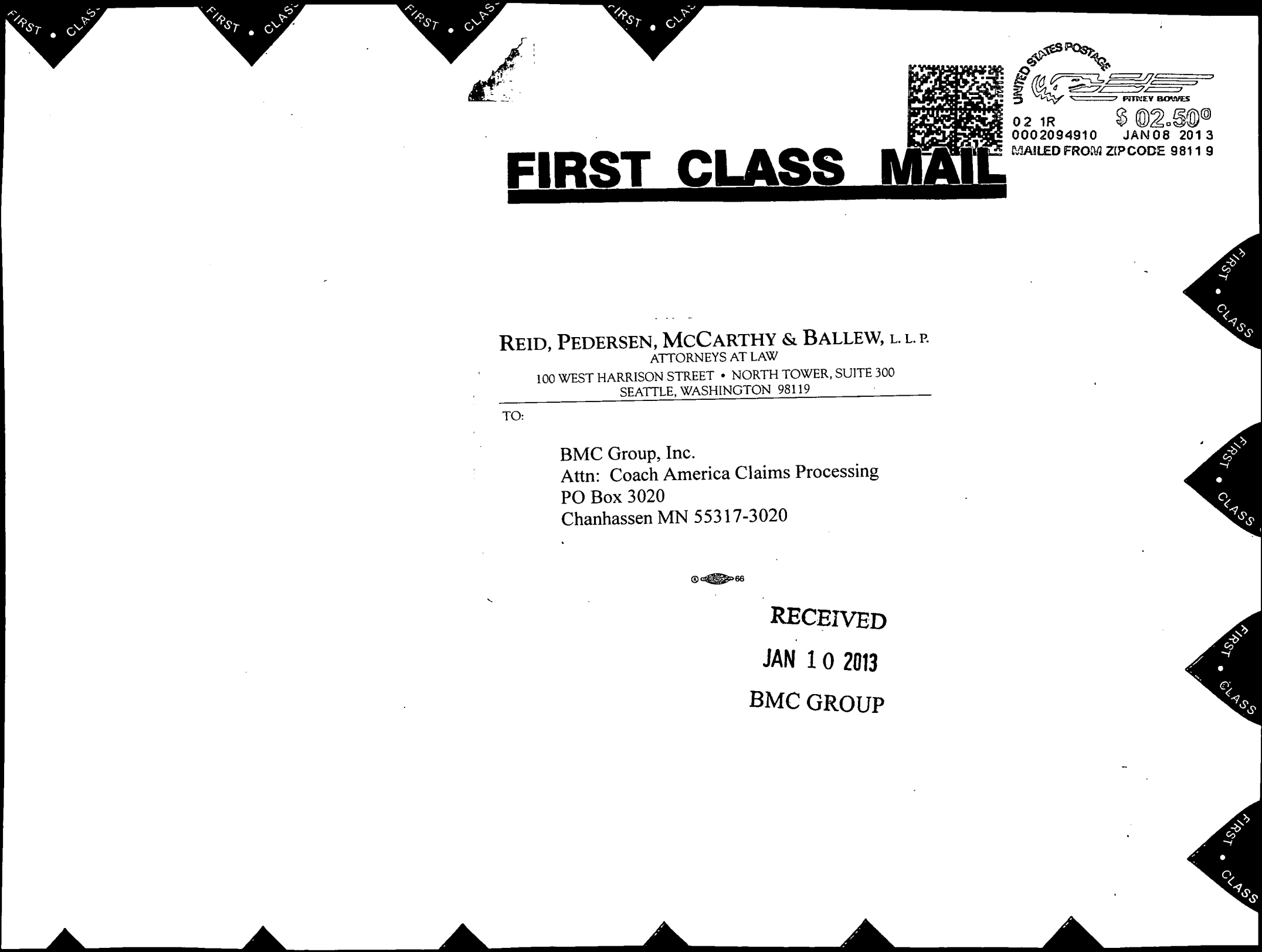
Should you have any questions please do not hesitate to call.

Yours very truly,

Russell J. Reid

RJR:sa
Enclosures

cc: The Honorable Kevin Gross (w/encs.)



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JAN 10 2013
BMC GROUP