

**FIRST AMENDMENT TO THE  
PLAN OF THE LOCAL UNION 513 PENSION FUND  
RULES AND REGULATIONS**

**Restated Effective January 1, 2015**

Pursuant to the provisions of Section 9 of the Plan of the Local Union 513 Pension Fund Rules and Regulations ("Plan"), the Trustees of the Plan hereby amend the Plan as follows in order to clarify the intent of the Plan language.

- 1. Section 3.9 of the Plan is deleted and replaced with the following:**

**Section 3.9. Disability Pension-Eligibility and Commencement.**

A Participant may retire on a Disability Pension provided he is totally and permanently disabled as defined in Section 3.12, has at least 5 Pension Credits, and if his disability occurs on or after May 1, 2009, he worked a total of at least 500 hours in Covered Employment during the 36 months prior to the month during which his disability occurred. A Disability Pension shall commence the first day of the month following the month in which the Participant completes his application for a Disability Pension, provided that his application for a Disability Pension is approved by the Trustees or their designee.

If, at the time an application for a Disability Pension is approved by the Trustees or their designee, the Participant has begun receiving an Early Retirement Pension, and if the effective date of the disability is prior to the effective date of the Early Retirement Pension, then the Early Retirement Pension may be rescinded in favor of the Disability Pension. When the Disability Pension is put into pay status, the Participant will receive an adjustment representing the excess of the retroactive Disability Pension benefits owed over the Early Retirement Pension benefits received, adjusted for interest. If the effective date of the disability is not prior to the effective date of the Early Retirement Pension, then the Early Retirement Pension may not be rescinded and the Disability Pension will not be payable.

However, if the Participant does not submit an application for a Disability Pension and proof of total and permanent disability (under Section 3.14(a)) until six (6) months or more following receipt of such proof, then the Early Retirement Pension will be converted to a Disability Pension effective with the beginning of the month when such evidence was submitted. The requirement that the effective date of the disability be prior to the effective date of the Early Retirement Pension still applies.

Disability Pension benefits, because they are ancillary rather than accrued benefits under applicable law, are not an accrued benefit under this Plan. Therefore, it is within the Trustees' discretion to amend this Plan to reduce or terminate Disability

Pension benefits or alter the conditions for receipt of same.

**2. Section 3.12 of the Plan is deleted and replaced with the following:**

**3.12. Disability Defined.**

A Participant shall be considered totally and permanently disabled only if:

- (1) the Participant provides proof of total and permanent disability as set out in Section 3.14(a);
- (2) the Participant is prevented by his disability from engaging in any gainful pursuit in Covered Employment; and
- (3) the Participant's disability is expected to be permanent and continuous during the remainder of his life.

**3. Section 3.14 of the Plan is deleted and replaced with the following:**

**3.14. Proof of Total and Permanent Disability.**

- a. The Trustees (or their designee) may accept the certification of any duly licensed medical practitioner acceptable to the Board of Trustees (or their designee) that the Participant is totally and permanently disabled, or the Trustees (or their designee) may require that the Participant applying for a Disability Pension submit to an examination by a physician or physicians selected by the Trustees (or their designee), and additionally may require such Participant to submit to re-examination periodically, as the Trustees (or their designee) may direct. The Trustees shall accept as evidence of total and permanent disability, a determination by the Social Security Administration that the Participant is entitled to a Social Security Disability Benefit in connection with his Old Age and Survivors Insurance Coverage.
- b. Disability Pension payments shall cease if the Disability Pensioner ceases to be totally and permanently disabled as defined in Section 3.12.
- c. The determination of the Board of Trustees (or their designee), in their sole discretion, of total and permanent disability shall be final and binding on all concerned.

**4. Section 3.15 of the Plan is deleted and replaced with the following:**

**3.15. Cessation of Total and Permanent Disability.**



Any Participant retiring under the Disability Pension provisions of the Plan who subsequently ceases to be totally and permanently disabled (as defined in Section 3.12) may:

- a. apply for an Early Retirement or Regular Pension, provided he has fulfilled the requirements for such benefit. The benefit shall become payable for the month immediately following the month in which the Disability Pension shall terminate, and the amount shall be based on the then-attained age of the Pensioner, or
- b. return to Covered Employment and resume the accrual of Pension Credits.

**5. Section 7.4 of the Plan is deleted and replaced with the following:**

**Section 7.4. Right of Appeal.**

If a Claimant's application for benefits under this Plan has been denied, in whole or in part, a written notice will be mailed to the Claimant within 90 days (45 days where the claim is for disability benefits) setting forth the specific reasons for the denial, specific reference to pertinent Plan provisions on which the denial was based, a description of any additional material or information necessary for the Claimant to perfect his claim, an explanation of why such material or information is necessary, and an explanation of the Plan's Review Procedure.

Any Claimant whose claim has been denied in whole or in part may request a full and fair review by filing a written application with the Fund Office not more than 180 days after receipt by the Claimant of written notification of denial of the claim. A Claimant's appeal must state the reason(s) the Claimant disagrees with the decision on his claim. A Claimant may submit written comments, documents, records and other information related to his claim.

Any Claimant appealing the denial of his claim (hereinafter referred to as the "Appellant") shall be entitled to be represented by a duly authorized representative without expense to the Plan. The Appellant or his representative may review pertinent documents and submit records, documents, written comments and other information related to the Appellant's appeal. No Appellant or representative shall be entitled, as a matter of right, to appear personally before the Board of Trustees and no hearing shall be required to be held in connection with any such review.

The review will be decided by the Board of Trustees or a person or committee designated by the Trustees. The decision will be communicated to the Appellant and no deference will be given to the original decision on the claim. Individuals involved in making the initial decision will not participate in the decision on appeal.

The decision on a review shall be made promptly, and shall not ordinarily be made

later than 60 days (45 days where the appeal relates to a claim for disability benefits) after the Plan's receipt of a request for review, unless special circumstances require an extension of time for processing, in which case a decision shall be rendered as soon as possible, but not later than 120 days (90 days where the appeal relates to a claim for disability benefits) after receipt of a request for review. Written notice of the extension shall be furnished to the Appellant prior to the commencement of the extension.

If the appeal is denied, the Appellant will receive a written notice that includes the specific reason(s) for the decision; reference to the Plan provisions on which the decision was based; a statement that the Appellant is entitled to receive, upon request and free of charge copies of all documents and other information relevant to the appeal; and a statement that the Appellant has the right to bring a civil action under ERISA if he is not satisfied with the decision on appeal.

If the decision on a claim or the decision on a review is not furnished within the time limits set forth herein, the claim or the review shall be deemed to have been denied. No claim shall be deemed to have been denied until the Claimant has exhausted all of the procedures set forth herein.

While claimants have the right to bring timely legal action for benefits under ERISA, no action at law or in equity may be brought by any Participant or Beneficiary after the expiration of three (3) years from the date the Board of Trustees provides written notice of a decision on an appeal of an adverse benefit determination. Failure to bring an action within this three (3) year period shall forever bar such action. Any action at law or in equity, brought by a Participant or Beneficiary, must be brought in the United States District Court for the Eastern District of Missouri.

IN WITNESS WHEREOF, the Trustees have hereby adopted the First Amendment to the Plan of the Local Union 513 Pension Fund Rules and Regulations Restated Effective January 1, 2015, by affixing their signatures as of this 11<sup>th</sup> day of June, 2015.

**Union Trustees**

Patricia P. Summers  
David H. H.  
Robert C. H.

**Employer Trustees**

Jay Schuttehenrich  
Nick Noonan  
Charles P. Kowalski