

**THE SUPPLEMENTAL UNEMPLOYMENT PLAN OF THE  
LOCAL NO. 85, UNITED ASSOCIATION OF JOURNEYMEN  
AND APPRENTICES OF THE PLUMBING AND PIPEFITTING  
INDUSTRY OF THE UNITED STATES AND CANADA, AFL-CIO**

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**ESTABLISHMENT OF THE PLAN**

The SUPPLEMENTAL UNEMPLOYMENT PLAN OF LOCAL NO. 85, UNITED ASSOCIATION OF JOURNEYMEN AND APPRENTICES OF THE PLUMBING AND PIPEFITTING INDUSTRY OF THE UNITED STATES AND CANADA, AFL-CIO (“the Plan”), was established as of May 1, 1995, pursuant to the, then effective May 1, 1994 Collective Bargaining Agreement between LOCAL NO. 85, UNITED ASSOCIATION OF JOURNEYMEN AND APPRENTICES OF THE PLUMBING AND PIPEFITTING INDUSTRY OF THE UNITED STATES AND CANADA, AFL-CIO and the Saginaw Valley Association of Plumbing-Heating-Cooling Contractors, Inc. The Plan is now hereby restated as of June 1, 2021.

This Plan is intended to meet the requirements of Section 501(c)(17) of the Internal Revenue Code, as amended.

**ARTICLE I  
DEFINITIONS**

Throughout this document, the following terms shall be ascribed the following meaning:

**1.1 Association.** The term “Association” shall mean the Bay Area Association of the Michigan Plumbing and Mechanical Contractors, Inc.

**1.2 Benefit.** The term “Benefit” shall mean the benefit payable to an eligible employee from the Trust Fund Pursuant to the eligibility requirements of the Plan.

**1.3 Contribution.** The term “Contribution” shall mean a payment to the Trust Fund in such amount and at such time as specified from time-to-time in any collective bargaining agreement then in effect between the Association and the Union.

**1.4 Employee.** The term “Employee” shall mean an employee of any employer covered by a collective bargaining agreement between the Union and an employer, and which employee is referred by the Union or who is covered by a valid reciprocal agreement between any trust agreement established pursuant to this Plan and a similar trust outside the jurisdiction of the Union.

**1.5 Employer.** The term “Employer” shall mean:

- a. An employer who is a member of or is represented in collective bargaining by the Association and who is bound by a collective bargaining agreement with the Union providing for the making of payments to the Trust Fund with respect to Employees represented by the Union.

- b. An employer who is not a member of, nor represented in collective bargaining by the Association, but who has duly executed or is bound by a collective bargaining agreement with the Union providing for the making of payments to the Trust Fund with respect to Employees represented by the Union.
- c. The Union, for the purpose of making the required contributions into the Trust Fund, shall be considered as the Employer of the Employees of the Union for whom the Union contributes to the Trust Fund. The Trustees of U.A. Local Union 85 Pension Fund, Health and Welfare Fund, Supervisory Training Fund, Sub Fund and Apprenticeship Fund, for the purpose of making the required contribution into the Trust Fund, shall be considered as the Employer of the Employees of such Trust Funds for whom such Trustees contribute to the Trust Fund.
- d. An employer who does not meet the requirements of the definition of "Employer" as stated in items (a), (b) and (c) of this Section, but who is required to make payments or contributions to, the Trust Fund (1) by any law or ordinance applicable to the State of Michigan or to any political subdivision or municipal corporation thereof or (2) pursuant to any written agreement entered into by such employer with such State or any political subdivision or municipal corporation thereof.

**1.6 Month.** The term "Month" shall mean the monthly period as shown in the report of the Employer required to be made Pursuant to the provisions of the Health & Welfare and Pension Trust Plans for the Union.

**1.7 Plan.** The term "Plan" shall mean the SUPPLEMENTAL UNEMPLOYMENT PLAN OF LOCAL NO. 85, UNITED ASSOCIATION OF JOURNEYMEN AND APPRENTICES OF THE PLUMBING AND PIPEFITTING INDUSTRY OF THE UNITED STATES AND CANADA, AFL-CIO and the same as it may be amended from time-to-time.

**1.8 Plan Administrator.** The term "Plan Administrator" shall mean the person who from time-to-time is appointed by the Trustees and responsible for the administration of the Plan on a day-to-day basis.

**1.9 State Benefit.** The term "State Benefit" shall mean the full amount of unemployment compensation benefits payable to an Employee for a week of unemployment under the Michigan Employment Security Act and the rules and regulations promulgated pursuant thereto.

**1.10 Trust.** The term "Trust" shall mean the Trust Agreement pursuant to which this Plan is established.

**1.11 Trustee.** The term "Trustee" shall mean a trustee elected or appointed to serve as a trustee under the terms of any trust agreement relevant to this Plan and Article V of the Collective Bargaining Agreement, as amended from time-to-time, between the Association and the Union.

**1.12** Trust Fund. The term "Trust Fund" shall mean the fund created in this Plan and consisting of employer contributions made and to be made thereto, together with such other income or accruals thereto subsequent to May 1, 1995 and shall be known as the Supplemental Unemployment Trust Fund of Local Union No. 85, United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada, AFL-CIO.

**1.13** Union. The term "Union" shall mean Local Union No. 85, United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada, AFL-CIO.

**1.14** Week of Unemployment. A "Week of Unemployment" shall coincide with a week of unemployment as determined for purposes of the Michigan Employment Security Act.

## **ARTICLE II** **EMPLOYEE ELIGIBILITY**

**Section 1.** An Employee shall be eligible to receive a Benefit from this Plan for any week during which the Employee is:

- (a) unemployed;
- (b) performs no gainful work for an Employer;
- (c) is eligible to receive a State Benefit or as otherwise determined by the Trustees; and
- (d) has accumulated the initial minimum number of credits required under this Plan.

**Section 2.** An Employee who is otherwise eligible to receive benefits hereunder, except for the reason that he/she has exhausted such benefits, shall nevertheless be eligible to receive benefits under this Plan, provided he/she is otherwise eligible.

**Section 3.** An Employee shall not be eligible to receive a Benefit from this Plan for any week until it has been established to the satisfaction of the Plan Administrator that the Employee is qualified and eligible to receive a Benefit for that week. The Plan Administrator shall not make payment of any Benefit for any week until Employee eligibility has been determined.

**Section 4.** In the event a delay occurs in the payment of a State Benefit to any Employee for the reason that the State Benefit is contested, the Plan Administrator may, upon written petition filed by the Employee, authorize a Benefit to be paid under this Plan to that Employee during the pendency of the Employee's State Benefit contest for a period not to exceed thirteen (13) weeks. If the Plan Administrator pays a Benefit under this Section, the payment must be conditioned upon the Employee's written agreement to repay the Trust Fund for any Benefit received in the event the contested determination culminates in denial of the State Benefit to the Employee.

**Section 5.** In the event an Employee is denied a State Benefit because the Employee refused suitable employment or voluntarily left employment, the Trustees, in their sole discretion, may pay a Benefit to that Employee notwithstanding the State Benefit disqualification. To be eligible for payment of a Benefit under this section, the Employee must otherwise meet the eligibility requirements of the Plan for receipt of a Benefit for that Week of Unemployment and the Employee must file a written petition to the Trustees requesting a Benefit under the Plan.

**Section 6.** No Employee is eligible to receive a Benefit under this Plan if the Employee receives any benefit payments from any Union retirement plan, another U.A. local union-affiliated retirement plan or a Social Security retirement pension.

**Section 7.** No Employee is eligible to receive benefits under this Plan if the Employee refuses a work assignment from an Employer within the jurisdiction of the Union. At their sole discretion, the Trustees may approve the payment of a Benefit from this Plan to an Employee otherwise disqualified under this Section.

**Section 8.** Notwithstanding any other provision of this Plan to the contrary, no Employee shall receive or be entitled to a Benefit under this Plan during any labor dispute between the Union and an Employer resulting in a work stoppage or during a work stoppage in support of any labor union or organization.

### **ARTICLE III** **SUPPLEMENTAL UNEMPLOYMENT BENEFITS**

**Section 1.** Commencing May 1, 1996, the Plan Administrator shall pay pursuant to the direction of the Trustees to all eligible employees such supplemental weekly benefits for economic unemployment as are provided for herein. The Benefit afforded by this Plan shall only be such as can be provided from the assets of the Trust Fund. In the event the Trust Fund is exhausted in the regular course of administering the Plan or in the event of the termination of the Plan, there shall be no liability or obligation on the part of the Union or any Employer to make any Contributions beyond those provided for in an applicable Collective Bargaining Agreement. Individual employees have no vested interest in Contributions made to the Plan and no vested right to any withdrawals except as provided for under the Plan, subject to the limitations of the assets of the Trust Fund and those of applicable law.

**Section 2.** The supplemental Benefit payment under this Plan to an eligible Employee in the case of economic unemployment shall be in an amount set by the Trustees in their sole discretion.

**Section 3.** Benefits shall be paid weekly.

**Section 4.** Application for benefits under this Plan shall be made by an Employee upon such forms or in such manner as determined by the Trustees. The application shall be supported by any documentary evidence, public records, or such other evidence as the Trustees may require. An Employee may be required to execute such consents for the release of information and records as the Trustees may determine to be reasonably necessary for the proper investigation and determination of any application for Benefit.

**Section 5.** An Employee's application for benefits under this Plan must be mailed in or brought in person to the Plan Administrator, in the form of a receipt from an Employee's State Benefit unemployment check. An application must be made within ninety (90) days of the first Monday following the week in which the Employee is eligible to receive a State Benefit, or is otherwise qualified under the Plan.

**Section 6.** No Employee shall be eligible to receive a benefit under the Plan for any period or waiting period for which the Employee is ineligible to receive a State Benefit except as otherwise provided in this Plan. The commencement of eligibility under this Plan shall coincide with the commencement of eligibility for the Employee's State Benefit or as otherwise provided in the Plan.

**Section 7.** The Trustees shall have the authority to recover from any Employee any Benefit paid under the Plan where it is later determined by the Plan that the Employee was not entitled to receipt of the Benefit. This is true for any reason, including of the payment was by mistake or otherwise. The Employee who has received such a Benefit is required to repay the Trust Fund the amount of that Benefits. An Employee's failure to make repayment will disqualify that Employee from receiving any further Benefit from the Plan until repayment is made.

**Section 8.** The Benefit payable under this Plan is a supplemental unemployment benefit due to economic conditions. Any Benefit paid from this Plan is not and shall not be construed as a payment of wages or as any form of remuneration. An Employee's receipt of a Benefit under this Plan is not intended to have any effect upon the Employee's eligibility for a State Benefit.

**Section 9.** No Benefit payable at any time under the Plan shall be subject in any manner to alienation, sale, transfer, assignment, pledge, attachment or encumbrance of any kind; any attempt to alienate, sell, transfer, assign, pledge or otherwise encumber any such Benefit whether presently or thereafter payable shall be null and void. The Trust Fund shall not in any manner be liable for, recognize or be subject to the debts or liability of an Employee. If an Employee shall attempt to alienate, sell, transfer, assign, or otherwise encumber that Employee's Benefit available under this Plan, or if by reason of the Employee's bankruptcy, legal disability or for any other reason such Benefit would devolve to or upon any other person, the Trustees are empowered to terminate the Employee's interest, hold the same and apply the same for the benefit of such Employee's spouse, children or other dependents as the Trustees deem proper in fulfilling the purposes of this Plan.

**Section 10.** The Benefit payable pursuant to the terms of this agreement shall be in a weekly amount set by the Trustees in their sole discretion. In setting the weekly Benefit amount, the Trustees may consult with an actuary and may cause the Benefit and/or the maximum Employee credits to be increased or decreased under the Plan. Any adjustments under this Section shall be prospective only and shall have no retroactive effect. Any change in the weekly Benefit shall be effective the first of the Month following the change approved by the Trustees.

**Section 11.** The effective date for the payment of benefits hereunder is determined to be May 1, 1996.

**ARTICLE IV**  
**ACCOUNTING OF EMPLOYEE BENEFITS**

**Section 1.** The Trustees shall keep and maintain an Employee accounting for purposes of determining payments for each Employer contributing to the Plan which shall reflect the following Information:

- a. The amounts contributed to the Plan by an Employer as provided hereunder;
- b. The credits accumulated by each Employee;
- c. The periods of time for which Contributions are made and credits accumulated; and
- d. The payments made under the Plan to an Employee.

**Section 2.** The accounting for each Employee is for the sole purpose of determining eligibility and for other statistical purposes and shall not be construed to create any vested right by any Employee in the Trust Fund except as such Employee may be otherwise eligible under this Plan.

**ARTICLE V**  
**CREDITS**

**Section 1.** Each Employee shall acquire one credit for each month in which the Employee works at least sixty (60) hours and fewer than one hundred and twenty (120) hours for an Employer. An Employee earns two credits for each Month the Employee works one hundred and twenty (120) hours or more for an Employer. In computing hours of work in each Month, the total number of hours for which the Employee received wages from an Employer will be considered hours of work.

**Section 2.** No Employee shall be eligible to receive any Benefit under this Plan until the Employee has initially accumulated a minimum of thirteen (13) credits under this Plan. Once an Employee has met the minimum initial credit requirement of thirteen (13) credits, the Employee need not reach the minimum number of thirteen (13) credits again even if the Employee's accumulated credits fall below a total of thirteen (13). The Trustees reserve the right to waive the initial eligibility requirement of thirteen (13) credits at their discretion. Effective March 26, 2020, participants do not have to meet the thirteen (13) credit requirement in order to receive Supplemental Unemployment Benefits. This temporary waiver will expire effective upon its repeal by the Trustees.

**Section 3.** On the effective date of this Plan and until such time as the number of accruable credits is increased by the Trustees, no Employee shall be permitted to accumulate or accrue more than 26 credits. The Trustees, at their sole discretion, may increase or decrease credit requirements of this Article.

**Section 4.** One of an Employee's credits shall be cancelled for each week of Benefits paid to that Employee by the Plan.

**Section 5.** If an Employee has no contributions reported or owing for the Employee's work for an Employer for any twelve (12) consecutive Month period, that Employee's full balance of accumulated credits shall be cancelled. However, no credits shall be cancelled for any Employee if during the twelve (12) consecutive Month period, the Employee:

- a. Is a member of the Union performing work outside the jurisdiction of the Union, but dispatched by and under the jurisdiction of another U.A. local union, but this subsection shall not apply in a case where the Employee is recalled for employment by the Union and unreasonably fails to return;
- b. Is unable to work due to any injury, sickness or disease;
- c. Is in active service of the armed forces of the United States of America;

The Trustees have the authority to waive the cancellation of credits under other circumstances not otherwise covered by the specific exceptions of this section where the Trustees, in their sound discretion, find that equity dictates such a waiver.

**Section 6.** The Trustees shall have the authority to cancel part or all of the accumulated credits of any Employee upon a determination by the Trustees upon substantial and credible evidence that such Employee has obtained any benefit under this Plan by virtue of false and material misrepresentation in connection with and which has induced a payment benefit to such member.

**Section 7.** Notwithstanding anything to the contrary, no Employee shall receive any credits where the Employee is working within the jurisdiction of the Union under a travel card and is a member of another U.A. local union having a reciprocal agreement with the Union whereby the benefit contributions earned by the Employee are returned to the benefit funds of the U.A. local union in which the Employee is a member.

**Section 8.** The Trustees, in their sole discretion, have the authority to enter into reciprocity agreements with other employee benefit trust funds providing similar benefits to those provided through this Trust Fund for the exchange of eligibility credits or monies or for the payment of pro-rata benefits for the purpose of protecting Employees.

## **ARTICLE VI** **APPEALS**

**Section 1.** Any employee whose request for benefits is denied by the Plan Administrator and who disagrees with such determination shall have the right, by written petition to the Trustees, to have a review and redetermination by the Trustees. Such employee shall have the right to petition in writing to the Trustees within thirty days from the date of such denial, to appear personally for such review and to provide additional in support of his/her claim. The Trustees shall make such review and redetermination promptly and the employee shall be notified in writing of the results and any reason therefor. Additionally, the written notice sent by the Trustees shall contain a statement informing the claimant that he or she must commence legal

action under ERISA 502(a), if at all, no later than one (1) year from the date of mailing by the Plan Administrator of the notice of the adverse benefit determination on appeal.

**Section 2.** A claimant must bring a judicial or extra-Plan administrative action for Plan benefits or a clarification of the right to future benefits (including, but not limited to, a civil action under Section 502(a) of ERISA) within one (1) year following the final adverse benefit determination by the Board of Trustees or, if applicable, an independent review organization retained by the Fund. If a final adverse benefit determination is not timely made, the date on which the final adverse benefit determination is deemed to have been made under the Plan shall be the date of the final adverse benefit determination for purposes of this one (1) year limitation. A failure by a Plan Participant(s) or beneficiary(ies) to file a claim or request for review or appeal from any adverse benefit determination within the time permitted by the Plan's claims procedures (or regulations governing those claims procedures) is a final adverse benefit determination for purposes of this one (1) year limitation on the day following the last day for timely filing such claim, request for review or appeal.

The above one (1) year limitation shall supersede any limitation period otherwise imposed by federal common law, provided the Board of Trustees will be bound by a contrary final judicial determination with respect to specific claimant(s), but only with respect to that/those specific claimant(s).

After the expiration of the above one (1) year period, no further action for benefits or to clarify the right to future Plan benefits, however characterized or of whatever nature, may be brought by or on behalf of such Participant(s) or beneficiary(ies) and such decision, including any adverse benefit determination, will be final and binding with respect to the affected Participant(s) or beneficiary(ies). A claimant shall be precluded from presenting evidence in any legal action that was not timely presented to the Trustees as part of the Plan's review process and timely determinations under this Article.

- a. A Participant or Beneficiary who seeks to enforce specific Plan provisions must bring a legal or extra-Plan administrative action (including, but not limited to, a civil action under Section 502(a) of ERISA) within one (1) year following the date on which the claim to enforce such provision accrues under federal common law. The above one (1) year limitation shall supersede any limitation period otherwise imposed by federal common law, provided the Board of Trustees will be bound by a contrary final judicial determination with respect to specific Participant(s) or beneficiary(ies), but only with respect to that/those Participant(s) or beneficiary(ies). After the expiration of the above one (1) year period, no further action to enforce Plan provision(s), however characterized or of whatever nature, may be brought by (or on behalf of such Participant(s) or beneficiary(ies) and such decision, including any adverse benefit determination, will be final and binding.
- b. Exhaustion of internal Plan remedies shall be jurisdictional to any judicial or extra-Plan administrative action to the extent permitted by ERISA and federal law.
- c. Notwithstanding anything in the Plan or Trust to the contrary, the provisions of subparagraphs (a), (b) and above shall be severable and the invalidity of all or part of such

provisions shall not affect the validity and enforceability of the remainder of such provisions.

## **ARTICLE VIII** **FINANCING OF PLAN**

**Section 1.** A Trust Agreement has been executed between the Association and the Union and subscribed and accepted by the Trustees under the terms of which a Supplemental Unemployment Benefit Trust Fund has been established to receive and hold contributions payable by the Employers, interest and other income, and from which are to be paid the Benefits provided under this Plan and the expenses of operating the Plan.

**Section 2.** The Employers shall have no right, title or interest in the contributions made by them or any of them to the Trust Fund and no part of the Trust Fund shall revert to the Employers or to any of them.

**Section 3.** The benefits of this Plan shall be only such as can be provided by the assets of the Trust Fund and there shall be no liability or obligations on the Part of the Employers to make any further contributions to the Trust Fund in the event of termination of the Plan.

**Section 4.** If any benefit payment made by the Trustees out of the Trust Fund is unclaimed for a period of twelve (12) months, it shall revert to and become part of the Trust Fund, free and discharged from any claim by anyone thereafter.

**Section 5.** No Employee, former Employee, retired Employee, beneficiary or any person claiming by or through any such person, shall have any right, interest or title to any benefits under the Trust Agreement, the Plan or the Trust Fund, except as such right, interest or title shall have been specifically granted pursuant to the terms of said Plan, and there shall be no vesting of benefits in any Employee, former Employee or retired Employee.

**Section 6.** Where an Employee as herein defined, is working within the jurisdiction of the Union under a travel card and is a member of another U.A. local union having a reciprocal agreement with the Union whereby benefit contributions earned by an Employee are returned to the benefit funds of the U.A. local union in which the Employee is a member, the Employer contributions for such Employee shall be removed from the Trust Fund by the Trustees and handled in a manner consistent with such reciprocal agreement upon, notification to the Employee(s) by the Trustees.

## **ARTICLE IX** **AMENDMENTS TO PLAN**

**Section 1.** This Plan may be amended by the Trustees from time-to-time, provided that such amendments comply with the applicable section of the then applicable Internal Revenue Code, all applicable federal statutes and regulations, the Trust Agreement creating the Trust Fund, and the purposes as set forth in this Plan. Additionally, and not by way of limitation, the Trustees may amend the Plan, into the future, or retroactively, where they deem it necessary to maintain the continuation of the Trust Fund's tax-exempt status or to preserve compliance with

the then applicable Internal Revenue Code, applicable federal statutes, and any regulations or rulings issues with respect thereto.

**ARTICLE X**  
**ADDITIONAL PARTIES TO AGREEMENT**

**Section 1.** This Plan and the terms thereof may be ratified by an additional employer or employers or association of employers and upon ratification of the Plan it shall be considered as if said employer, employers or association of employers was an original signatory to this Plan; provided, however, that said ratification shall not change or alter the membership of the Trustees without the prior written consent of the original parties signatory to this Plan.

**ARTICLE XI**  
**TERMINATION**

**Section 1.** In the event the Trust Fund is terminated at any time, the monies and other property in the Trust Fund shall be allocated as follows:

- a. First, all outstanding claims for benefits payable by the Trust Fund and Plan shall be liquidated and paid;
- b. Second, all other outstanding debts, including any taxes owing by the Trust Fund, if any, shall be paid;
- c. Third, the Trustees shall then continue to pay supplemental unemployment benefits to eligible beneficiaries under rules and regulations of the Trust Fund for as long as it is financially and otherwise practicable to do so, and any surplus remaining thereafter shall be distributed and applied in such manner as will, in the opinion of the Trustees and consistent with Internal Revenue Service laws, best effectuate the purpose of the Trust Fund, consistent with the applicable law.

IN WITNESS OF WHICH, the parties have signed and executed this Plan on May 14, 2021.

Employer Trustees

  
\_\_\_\_\_  
Jason Sample

  
\_\_\_\_\_  
Ryan Katz

  
\_\_\_\_\_  
B.J. Prime

Union Trustees

  
\_\_\_\_\_  
Frank Rump

  
\_\_\_\_\_  
Justin Pomerville

  
\_\_\_\_\_  
Jamie Badour