

**NATIONAL STABILIZATION AGREEMENT
OF THE
SHEET METAL INDUSTRY TRUST FUND
AMENDED AND RESTATED RETIREE RULES AND REGULATIONS
AS OF JANUARY 1, 2023**

Table of Contents

PREAMBLE.....	1
SECTION 1. PURPOSE OF PLAN	1
SECTION 2. BENEFIT STATUS.....	1
ARTICLE I DEFINITIONS	1
SECTION 1. ACTIVE PLAN	1
SECTION 2. ADMINISTRATOR.....	1
SECTION 3. BENEFIT	1
SECTION 4. CONTRACT	1
SECTION 5. CONTRIBUTIONS	2
SECTION 6. COVERED EMPLOYMENT	2
SECTION 7. DEPENDENT	2
SECTION 8. ELECTRONIC PROTECTED HEALTH INFORMATION (ePHI).....	2
SECTION 9. EMPLOYER.....	2
SECTION 10. ERISA	2
SECTION 11. FUND; TRUST; TRUST FUND	2
SECTION 12. FUTURE SERVICE CREDIT.....	3
SECTION 13. HCRA BENEFIT	3
SECTION 14. HCRA MEDICAL EXPENSES	3
SECTION 15. HIPAA.....	3
SECTION 16. INTERNATIONAL UNION OR “SMART”	3
SECTION 17. IRC	3
SECTION 18. LOCAL UNION	3
SECTION 19. OWNER	3
SECTION 20. PAST SERVICE CREDIT	4
SECTION 21. PLAN.....	4
SECTION 22. PRODUCTION OR INDUSTRIAL EMPLOYER.....	4
SECTION 23. PROTECTED HEALTH INFORMATION (PHI)	4
SECTION 24. QUALIFIED MILITARY SERVICE.....	4
SECTION 25. QUALIFYING HEALTH PREMIUM EXPENSE.....	4
SECTION 26. RELATED ORGANIZATION.....	4
SECTION 27. RELATIVE	5
SECTION 28. RETIREE.....	5
SECTION 29. RETIREE HEALTH PREMIUM BENEFIT	5
SECTION 30. RETIREMENT.....	5
SECTION 31. SASMI.....	5
SECTION 32. SHEET METAL INDUSTRY	5
SECTION 33. SPOUSE	5
SECTION 34. TRUST AGREEMENT	5
SECTION 35. TRUSTEES.....	5
SECTION 36. YEARS OF SERVICE	5
ARTICLE II ELIGIBILITY	6
SECTION 1. GENERAL ELIGIBILITY	6

SECTION 2. CONTINUATION OF ELIGIBILITY	6
SECTION 3. GENERAL LIMITATIONS ON BENEFIT ELIGIBILITY.....	7
ARTICLE III RETIREE HEALTH PREMIUM BENEFIT	8
SECTION 1. QUALIFICATION REQUIREMENTS.....	8
SECTION 2. AMOUNT OF BENEFIT	9
SECTION 3. QUALIFYING HEALTH PREMIUM EXPENSE.....	9
SECTION 4. PAYMENT	10
SECTION 5. APPLICATION FOR RETIREE HEALTH PREMIUM BENEFITS.....	10
SECTION 6. LIMITATIONS ON RETIREE HEALTH PREMIUM BENEFITS.....	11
ARTICLE IV SERVICE BASED HEALTH CARE REIMBURSEMENT ACCOUNT (HCRA) BENEFIT	11
SECTION 1. QUALIFICATION REQUIREMENTS.....	11
SECTION 2. AMOUNT OF SERVICE BASED HCRA BENEFIT	12
SECTION 3. LIMITATIONS ON SERVICE BASED HCRA BENEFIT	12
ARTICLE V RETIREE HEALTH CARE REIMBURSEMENT ACCOUNT (HCRA) BENEFIT	12
SECTION 1. QUALIFICATION REQUIREMENTS.....	12
SECTION 2. AMOUNT OF BENEFIT	14
SECTION 3. HCRA MEDICAL EXPENSES.....	16
SECTION 4. PAYMENTS	17
SECTION 5. SUSPENSION, TERMINATION AND AMENDMENT	17
SECTION 6. APPLICATION FOR HCRA BENEFITS	18
SECTION 7. LIMITATIONS ON RETIREE HEALTH CARE REIMBURSEMENT ACCOUNT (HCRA) BENEFITS	19
ARTICLE VI PLAN B RETIREE HEALTH CARE REIMBURSEMENT ACCOUNT (HCRA) BENEFIT.....	19
SECTION 1. QUALIFICATION REQUIREMENTS.....	19
SECTION 2. AMOUNT OF BENEFIT	20
SECTION 3. HCRA MEDICAL EXPENSES.....	21
SECTION 4. PAYMENTS	21
SECTION 5. SUSPENSION, TERMINATION AND AMENDMENT	21
SECTION 6. APPLICATION FOR BENEFITS	21
SECTION 7. LIMITATIONS ON PLAN B RETIREE HEALTH CARE REIMBURSEMENT ACCOUNT (HCRA) BENEFITS.....	21
ARTICLE VII LOSS OF QUALIFICATION.....	21
SECTION 1. SUSPENSION OF BENEFITS.....	21
SECTION 2. PERMANENT LOSS OF BENEFITS.....	22
SECTION 3. OFFSET	22
ARTICLE VIII APPLICATION AND APPEAL PROCEDURES FOR BENEFIT PAYMENTS	23
SECTION 1. APPLICATIONS.	23
SECTION 2. APPLICATION PROCESSING	23
SECTION 3. NOTIFICATION TO CLAIMANT OF DECISION	24
SECTION 4. CLAIMS COMMITTEE.....	24
SECTION 5. REVIEW PROCEDURE	24
SECTION 6. DECISION ON REVIEW.....	24
SECTION 7. RECORDS.....	24
SECTION 8. UNIFORM LIMITATIONS PERIOD	24

SECTION 9. BENEFIT OVERPAYMENTS	25
SECTION 10. BENEFIT DEDUCTIONS.....	25
ARTICLE IX ADMINISTRATION OF THE PLAN	26
SECTION 1. POWERS AND AUTHORITY OF TRUSTEES	26
SECTION 2. NONALIENATION OF BENEFITS.....	26
SECTION 3. FUNDING	26
SECTION 4. SOURCE OF PAYMENT	27
SECTION 5. CHOICE OF LAW.....	27
SECTION 6. PRIVACY OF PROTECTED HEALTH INFORMATION	27
SECTION 7. SECURITY OF PROTECTED HEALTH INFORMATION.....	29
ARTICLE X AMENDMENT AND TERMINATION OF THE PLAN	30
SECTION 1. AMENDMENT	30
SECTION 2. TERMINATION OF PLAN.....	30
SECTION 3. RECIPROCITY AND ALTERNATIVE CONTRIBUTIONS.....	30
SECTION 4. SEVERABILITY.....	30

PREAMBLE

SECTION 1. PURPOSE OF PLAN. The plan of benefits as set forth herein represents the Retiree Rules and Regulations adopted by the Trustees of the National Stabilization Agreement of the Sheet Metal Industry Trust Fund to provide benefits described in IRC Section 501(c)(9) for Retirees.

SECTION 2. BENEFIT STATUS. The Contributions by Employers to the Plan and Benefits paid under the Plan shall not be considered wages to a Retiree.

ARTICLE I **DEFINITIONS**

Unless the context or subject matter otherwise requires, the following definitions shall govern in these Rules and Regulations. The masculine gender includes the feminine and neuter genders and a singular noun includes the plural and vice versa.

SECTION 1. ACTIVE PLAN. The term “Active Plan” means the SASMI plan of benefits for eligible employees, including employees of Production & Industrial Employers and SASMI-II before its merger into SASMI, adopted under the Trust Agreement, as in effect as of January 1, 2014 and previously.

SECTION 2. ADMINISTRATOR. The term “Administrator” means the person or his successors selected by the Trustees to administer SASMI on a day-to-day basis and to execute the policies and duties delegated or assigned by the Trustees in accordance with the Trust Agreement.

SECTION 3. BENEFIT. The term “Benefit” means the amount paid or payable from the Plan to a Retiree or his or her Spouse or Dependents for benefits in these Rules and Regulations in accordance with IRC Section 501(c)(9) and related provisions of the IRC.

SECTION 4. CONTRACT. The term “Contract” means:

- (a) a collective bargaining agreement between a Local Union and/or International Union and an Employer requiring the Employer to make periodic contributions to SASMI, and any amendments, modifications or restatements thereof, either directly or through a Local Fund which has entered into an agreement with the Trustees or has an obligation under applicable labor-management relations law,
- (b) a written agreement by which an employee is working as a “salted organizer” and for whom the Local Union or International Union is required to make contributions to SASMI, or

(c) an agreement between the Trustees and a Related Organization for contributions to SASMI and related benefits to full-time employees of the Related Organization.

The term “Contract” shall not include a collective bargaining agreement, participation agreement or other agreement containing provisions which the Trustees determine, in their sole discretion, would adversely affect the actuarial standards and/or the financial integrity of SASMI and is not acceptable to the Trustees.

SECTION 5. CONTRIBUTIONS. The term “Contributions” means, unless otherwise directed by the Trustees, the periodic payments made or that are required to be made to SASMI under a Contract, directly or through a Local Union fund.

SECTION 6. COVERED EMPLOYMENT. The term “Covered Employment” means work as an eligible employee under the Active Plan under a Contract for which Contributions to SASMI, including the Article VI, Plan B HCRA, are required.

SECTION 7. DEPENDENT. The term “Dependent” means a child as defined in IRC Section 152(c) who is under age 27 or permanently and totally disabled (regardless of age) under IRC Section 152.

SECTION 8. ELECTRONIC PROTECTED HEALTH INFORMATION (ePHI). The term “Electronic Protected Health Information” means information defined in accordance with 45 CFR §160.103.

SECTION 9. EMPLOYER. The term “Employer” means:

- (a) an employer in the Sheet Metal Industry, including a Production or Industrial Employer, who operates or hereafter operates under a Contract;
- (b) a Related Organization which is required to make contributions to SASMI under a Contract; or
- (c) SASMI (if it chooses to provide SASMI benefits to its employees).

The term “Employer” shall not include an employer whose status as a contributing Employer has been terminated by the Trustees.

SECTION 10. ERISA. The term “ERISA” means the Employee Retirement Income Security Act, codified as 29 U.S.C. §1001 *et seq.*, as amended.

SECTION 11. FUND; TRUST; TRUST FUND. The terms “Fund,” “Trust,” and “Trust Fund” shall mean the National Stabilization Agreement of the Sheet Metal Industry Trust Fund. Further it shall mean the monies and other items of value which comprise the corpus and additions thereto, contributions payable to SASMI, amounts received or held for or on behalf of the

Trustees as well as title to all such monies, and other items of value including contributions owed but not yet received, which shall be vested in the Trustees.

SECTION 12. FUTURE SERVICE CREDIT. In general, the term “Future Service Credit” means the period (measured in years) during which a Retiree was eligible for benefits under the Active Plan after establishing initial eligibility as an employee under the Active Plan. A half-year is credited for each Stabilization Period for which a Retiree was eligible for benefits under the Active Plan and worked at least 100 hours with paid Contributions or received a benefit from the Active Plan. Future Service Credit shall not include any period for which Future Service Credit was cancelled under the Active Plan or any period for which an individual forfeited eligibility or qualification for benefits under the Active Plan at or before Retirement.

For the Purposes of Article VI (Plan B HCRA) only, “Future Service Credit” means the period (measured in years) during which the Retiree was employed by an employer who was making contribution for the Retiree to the Plan B HCRA. An Article VI (Plan B HCRA) Year of “Future Service Credit” is earned when a participant works at least 435 hours with paid Contributions to Plan B HCRA in a Calendar Year.

SECTION 13. HCRA BENEFIT. The term “HCRA Benefit” means payments from an account established under Articles IV, V or VI.

SECTION 14. HCRA MEDICAL EXPENSES. The term “HCRA Medical Expenses” means expenses described in Article V, Section 3.

SECTION 15. HIPAA. The term “HIPAA” means the Health Insurance Portability and Accountability Act of 1996, as amended.

SECTION 16. INTERNATIONAL UNION OR “SMART.” The term “International Union” or “SMART” means the International Association of Sheet Metal Air Rail and Transportation Workers, AFL-CIO, after the merger of the Sheet Metal Workers’ International Association (“SMWIA”) and the United Transportation Union, and the SMWIA only before that date.

SECTION 17. IRC. The term “IRC” means the Internal Revenue Code of 1986, codified as Title 26, U.S.C., as amended.

SECTION 18. LOCAL UNION. The term “Local Union” means any local union of the International Union.

SECTION 19. OWNER. The term “Owner” means a stockholder, officer, director, sole proprietor, partner, principal, trustee or beneficiary or other person with an ownership interest or powers similar to the officers or directors of a corporation whether in an incorporated or unincorporated business.

SECTION 20. PAST SERVICE CREDIT. The term “Past Service Credit” means each calendar year, prior to a Retiree’s first Future Service Credit under the Active Plan, during which he was a member of the International Union. For Purposes of this definition an individual is considered as having become a “member of the International Union” on the first date shown in the membership records of the International Union. To the extent required by applicable federal law, military service will also be included in past service credit.

Past Service Credit will not be credited if it was cancelled under the Active Plan at or before Retirement. With respect to the Article III Retiree Health Premium and the Article IV Service Based HCRA Benefits, Past Service Credit includes time as an SMWIA apprentice. No Past Service is awarded for determining benefits under Article VI (Plan B HCRA).

SECTION 21. PLAN. The term “Plan” means the plan of benefits for Retirees as set forth in these Rules and Regulations, including any amendments, modifications or restatements hereof, to be paid from the assets of the Trust allocated to this plan or the plan as a legal entity under ERISA, as appropriate in context.

SECTION 22. PRODUCTION OR INDUSTRIAL EMPLOYER. The term “Production or Industrial Employer” means an employer in the production or industrial sectors of the Sheet Metal Industry who has operated or who now or hereafter operates under a Contract and includes all employers who contributed to SASMI-II as long as they retain an obligation to contribute to SASMI.

SECTION 23. PROTECTED HEALTH INFORMATION (PHI). The term “Protected Health Information” is defined in accordance with 45 CFR §164.501.

SECTION 24. QUALIFIED MILITARY SERVICE. The term “Qualified Military Service” means a period of service in the uniformed services (as defined in Chapter 43 of title 38, United States Code or prior federal law, including any limits on the duration of an absence or required service credit), which must be credited as service with the Employers for any Benefit under applicable law.

SECTION 25. QUALIFYING HEALTH PREMIUM EXPENSE. The term “Qualifying Health Premium Expense” means an expense described in Article III, Section 3.

SECTION 26. RELATED ORGANIZATION. The term “Related Organization” means a Local Union, the International Union, an affiliated or reciprocal trust fund or employee benefit plan, an employer association or an Employer (with respect to employees not covered under a collective bargaining agreement) which can contribute to SASMI under 29 C.F.R. Section 2510.3-40 without impairing the collectively bargained status of SASMI. The Trustees may allow participation by other employers, who shall be treated as related organizations, at their discretion.

SECTION 27. RELATIVE. The term “Relative” means the spouse of a Retiree and the parents, grandparents, children and brothers and sisters of a Retiree or spouse.

SECTION 28. RETIREE. The term “Retiree” means a person who is eligible for Benefits under Article II of this Plan.

SECTION 29. RETIREE HEALTH PREMIUM BENEFIT. The term “Retiree Health Premium Benefit” means payments under Article III. Effective January 1, 2015, for individuals who retired after January 1, 2010, the Retired Health Premium Benefit is being transitioned into the Service Based HCRA Benefit under Article IV.

SECTION 30. RETIREMENT. The terms “Retirement” or any form of the verb “to retire” means the first day of the month after an application for retirement is filed with a qualified defined benefit pension plan under IRC Section 401 or, if later, the first day of the month for which a pension benefit is paid and payable by such a plan. If the Contract provides for contributions to a defined contribution pension plan and not to any defined benefit pension plan retirement means retirement under the terms of that defined contribution pension plan.

SECTION 31. SASMI. The term “SASMI” means the Trust, Trustees, the Active Plan or this Plan, jointly or severally as appropriate in context.

SECTION 32. SHEET METAL INDUSTRY. The term “Sheet Metal Industry” means any and all types of work within the trade jurisdiction of the Sheet Metal, Air, Rail and Transportation Workers, Sheet Metal Division (“SM”), as described in its Constitution or an amendment thereto; or any other work to which a worker has been assigned, referred, or can perform because of skills and training as a sheet metal worker.

SECTION 33. SPOUSE. The term “Spouse” means a spouse under IRC Section 152 who may receive Benefits from the Plan under the IRC.

SECTION 34. TRUST AGREEMENT. The term “Trust Agreement” means the Agreement and Declaration of Trust establishing the Trust, including any amendments, modifications and restatements thereof.

SECTION 35. TRUSTEES. The term “Trustees” means the Trustees of the Trust, collectively, and shall include their predecessors and successors and their agents or delegees when acting as fiduciaries under ERISA.

SECTION 36. YEARS OF SERVICE. The term “Years of Service” means a Retiree’s Future Service Credit and Past Service Credit earned and retained under the Active Plan before Retirement. With respect to the Article III, Retiree Health Care Premium, and Article IV Service Based HCRA, Years of Service shall also include time as a member of the International Union; including time as an apprentice.

For the purposes of Article VI (Plan B HCRA), a Year of Service means a Retiree's Future Service Credits earned while actively employed by an Employer who was making contribution for the Retiree to the Plan B HCRA. In general, Past Service Credit is not counted in determining Article VI (Plan B HCRA) benefits.

ARTICLE II **ELIGIBILITY**

SECTION 1. GENERAL ELIGIBILITY. An individual must satisfy the following requirements in order to be eligible for any Benefit under this Plan in addition to any additional requirements for a specific Benefit.

- (a) The individual must have worked in Covered Employment after January 1, 2002, except that with regards to Article VI (Plan B HCRA) an individual must have been employed by an employer who was making contribution for that individual to the Plan B HCRA after January 1, 2016. As of January 2016, the contributions to Plan B HCRA, which are set out in the Contract, cannot be less than \$0.25/hour nor more than 2% of the total wage package.
- (b) The individual must be eligible for a pension from the Sheet Metal Workers' National Pension Plan or another defined benefit pension plan (or, if none, defined contribution pension plan) maintained pursuant to a Contract.
- (c) The individual is not a current employee whose status would impact the Plan's designation as a Retiree-Only Plan under ERISA 732(a).

SECTION 2. CONTINUATION OF ELIGIBILITY. Eligibility for Retiree Benefits is maintained and continued even if an individual ceases work in Covered Employment or ceases participation in the Active Plan before Retirement under the following circumstances:

- (a) An eligible employee who, on termination of Covered Employment, had, prior to termination of participation in the Active Plan, a combination of five (5) or more Years of Service under either the Active Plan or Plan B HCRA shall not lose eligibility for Benefits as a Retiree under this Plan, but Benefits under each Plan will be based only on actual Years of Service contributed to the Active Plan and/or Plan B HCRA (the Retiree Plan).
 - (1) An eligible employee who, on termination of Covered Employment, has less than five (5) combined Years of Service under the Active Plan and Plan B HCRA will lose all credit for Years of Service before the termination unless he or she returns to Covered Employment within five (5) years of termination and earns at least one (1) Year of Service after returning to work under a Contract requiring contributions to the Active Plan or Plan B HCRA.

(2) In determining whether an eligible employee will lose credit for Years of Service before the termination of Covered Employment, an eligible employee who entered Qualified Military Service and returned to work under a Contract or was available for and seeking work under a Contract within the time limits required by law following his discharge from Qualified Military Service shall be considered to have earned those Years of Service immediately prior to returning to work under a Contract (or being available for said work). An individual will not be eligible for Benefits from this Plan while in military service unless so required by applicable federal law.

(3) In determining whether an eligible employee will lose credit for Years of Service before the termination of Covered Employment, eligibility will not be lost for prior Years of Service where the Contract of the Local Union under which an employee had been working terminated and the Local Union again becomes a party to a Contract within a reasonable period of time from termination, as determined by the Trustees.

(b) An employee who accepts a full-time position, either elected or appointed, with any Local Union or the International Union shall be considered to have earned those Years of Service immediately prior to Retirement.

(c) An eligible employee under the Active Plan or working under a Contract requiring contributions to Plan B HCRA who becomes an Owner of a business in the Sheet Metal Industry with a Contract shall be considered to have earned those Years of Service immediately prior to Retirement.

SECTION 3. GENERAL LIMITATIONS ON BENEFIT ELIGIBILITY.

(a) No Vesting. Benefits are not vested nor guaranteed in any way. The Trustees reserve the right, in their sole and absolute discretion to amend, modify or terminate any or all of the provisions of the Plan. Benefits to current and future Retirees may be reduced or eliminated at any time.

(b) Plan Changes. The Trustees may, in their discretion, increase or decrease eligibility requirements, reduce the duration of Benefits, reduce the amount of Benefits, or waive eligibility or qualification restrictions in special circumstances, as the Trustees, in their discretion, deem consistent with the financial and actuarial integrity of SASMI. This discretion extends to reducing benefits for those who are retired and receiving benefits as well as to future eligibility for payment.

(c) Work Restriction. This is a Retiree-Only Plan under section 732(a) of ERISA. Therefore, an individual and his or her Spouse and Dependents are not eligible for payment of Benefits under this Plan for any time that the individual is a current employee.

ARTICLE III
RETIREE HEALTH PREMIUM BENEFIT

SECTION 1. QUALIFICATION REQUIREMENTS. A Retiree or his Surviving Spouse qualifies for benefits under this Article if all of the following conditions are met.

- (a) The Retiree is eligible for Benefits under Article II, Sections 1 and 2, and does not forfeit his participation or qualification for Benefits under Article II, Section 3, or Article VII. This benefit does not apply to a Retiree who is only eligible for HCRA B benefits.
- (b) The Retiree retired from work in the Sheet Metal Industry with an Employer on or after January 1, 2002.
- (c) At the time of Retirement, the Retiree was:
 - (1) age 50 or older with thirty (30) or more Years of Service, or
 - (2) age 62 or older with twenty-five (25) or more Years of Service.
- (d) The Retiree had at least five (5) years of Future Service Credit in the ten (10) Stabilization Periods immediately prior to Retirement or had Contributions received totaling 3500 hours in the five (5) calendar years immediately prior to retirement.
- (e) The Retiree did not receive benefits from the Active Plan exceeding the Contributions paid for his work.
- (f) An application is filed in accordance with procedures established by the Trustees before April 1 after a Retiree attains age 70½ or, if the individual is still working at age 70½, then within a reasonable time after retirement.
- (g) The Retiree
 - (1) retired before January 1, 2010 and began receiving the Retiree Health Premium Benefit under this Article III prior to January 1, 2015 and has not exhausted his benefit; or
 - (2) retired before January 1, 2010 but did not begin receiving the Retiree Health Premium under this Article III prior to January 1, 2015, and meets the other requirements of this Article III.

A Participant who retired on or after January 1, 2010 will not be eligible for a Retiree Health Premium under this Article III.

- A participant who retired on or after January 1, 2010 and began receiving the Retiree Health Premium Benefit prior to January 1, 2015, received the remainder of this benefit as a Service Based HCRA under Article IV.
- Participants who retire on or after January 1, 2010 received or will receive a benefit, provided they are eligible for benefits, under Article IV, Service Based HCRA.

SECTION 2. AMOUNT OF BENEFIT. The benefit under this Article is determined under the following rules.

- (a) The benefit is a reimbursement equal to the lesser of:
 - (1) \$100 per month, or
 - (2) the Qualifying Health Premium Expense documented by the Retiree or surviving Spouse for a month.
- (b) The payment will continue for a maximum of 120 months, provided the Retiree remains in good standing.
- (c) In the event of death of a Retiree, his surviving Spouse will continue to receive the benefit for the remaining balance of the 120-month period.
- (d) The benefit and all payments under this Article stop on the death(s) of the Retiree and his surviving Spouse. There are no benefits to Dependents, beneficiaries, heirs or an estate for any unused months.

SECTION 3. QUALIFYING HEALTH PREMIUM EXPENSE. A qualifying health premium expense is a payment that satisfies the following conditions.

- (a) The payment is made by a Retiree or surviving Spouse.
- (b) The payment is made to an employee welfare benefit plan with respect to a group health plan (as defined in section 607(1) of ERISA), a health maintenance organization or an insurance company that is qualified to provide medical insurance in the state of residence of a Retiree or surviving Spouse.
- (c) The payment is a traditional medical insurance premium payment, payment of an “applicable premium” (as defined in section 604 of ERISA) or other payment in the nature of a traditional periodic insurance premium for medical care.
- (d) The payment is not otherwise compensated by insurance, a medical carrier or another third party.

- (e) The payment does not exceed the actual cost of the health insurance premium for medical care.
- (f) The payment is not for insurance or a benefit plan that will pay or reimburse:
 - (1) expenses which would be incurred or paid without regard to sickness, such as food or lodging outside of hospital care;
 - (2) expenses for general health, such as a vacation, or
 - (3) capital expenses which improve the value of property or which are not made primarily for medical care.
- (g) This benefit does not reimburse items not covered under the IRC 213.

SECTION 4. PAYMENT. Payment of the retiree health premium benefit will be made under the following rules.

- (a) Reimbursement will be made after the end of each calendar quarter up to the amount of maximum benefit for the months during the calendar quarter.
- (b) Payment will only be made on application and submission of documentation of a Qualifying Health Premium Expense that is sufficient to satisfy Internal Revenue Service requirements for payment of an unreimbursed medical expense that is not subject to federal income tax.
- (c) Reimbursement will not be made for a period greater than six (6) months from the receipt of application or proof of payment.
- (d) The retiree health premium benefit will be effective at the Retiree's earliest possible eligibility date (or a later date specified by the Retiree) when the Retiree makes application for retiree health premium benefits within six (6) months after he or she is eligible to receive the retiree health premium benefit. In the event that a Retiree first applies more than six (6) months after initial eligibility, retiree health premium benefit reimbursements will only be paid for expenses after the date of an application. The beginning date for payment shall not alter the maximum term of the benefit under Section 2.

SECTION 5. APPLICATION FOR RETIREE HEALTH PREMIUM BENEFITS. An application for retiree health premium benefits is subject to the following requirements.

(a) An application shall be made in writing in the form and at such times as established from time to time by the Administrator, as approved and authorized by the Trustees.

(b) An application for retiree health premium benefits shall include the documentation required to support a deduction for a Qualifying Health Premium Expense as an expense for medical care under IRC Section 213, disregarding the limitation based on adjusted gross income in that section, and such other information as deemed necessary by the Trustees.

SECTION 6. LIMITATIONS ON RETIREE HEALTH PREMIUM BENEFITS. A Retiree shall cease to be eligible for retiree health premium benefits and forfeit any Benefits which would otherwise have been payable upon a loss of eligibility, termination of participation or loss of qualification as and to the extent provided in Articles II and VII.

ARTICLE IV

SERVICE BASED HEALTH CARE REIMBURSEMENT ACCOUNT (HCRA) BENEFIT

SECTION 1. QUALIFICATION REQUIREMENTS. A Retiree or his Surviving Spouse qualifies for Service Based HCRA under this Article IV if all of the following conditions are met.

(a) The Retiree is eligible for Benefits under Article II, Sections 1 and 2, and does not forfeit his participation or qualification for Benefits under Article II, Section 3, or Article VII. This benefit does not apply to a Retiree who is only eligible for HCRA B benefits.

(b) The Retiree retired from work in the Sheet Metal Industry with an Employer on or after January 1, 2010

(c) At the time of Retirement, the Retiree had twenty-five (25) or more Years of Service and was eligible for and was receiving an early, normal or disability retirement from the National Pension Fund or another retirement plan maintained pursuant to a Contract.

(d) The Retiree had at least five (5) years of Future Service Credit in the ten (10) Stabilization Periods immediately prior to Retirement or had Contributions received totaling 3500 hours in the 5 years immediately prior to retirement.

(e) The Retiree did not receive benefits from the Active Plan exceeding the Contributions paid for his work.

(f) An application is filed in accordance with procedures established by the Trustees, before the April 1st after a Retiree attains 70½ or, if the individual is still working at age 70½, then within a reasonable time period after retirement. A participant is permitted to

permanently opt out of and waive future reimbursements from the HCRA at least annually. This opt-out feature is intended to that the individual will not be precluded from claiming a Code § 36B premium tax credit.

- (g) The Retiree has, or is eligible for, a HCRA account under Article V of this Plan.
- (h) The Retiree and the Surviving Spouse have not exhausted Retiree Health Premium benefits under Article III.

SECTION 2. AMOUNT OF SERVICE BASED HCRA BENEFIT. The benefit under this Article IV is a post retirement increase to the Article V HCRA equal to \$12,000, less any benefits received under the Retiree Health Premium Benefit (Article III).

SECTION 3. LIMITATIONS ON SERVICE BASED HCRA BENEFIT. A Retiree shall cease to be eligible for the Service Based HCRA benefit upon a loss of eligibility, termination of participation or loss of qualification as and to the extent provided in Articles II and VII.

ARTICLE V RETIREE HEALTH CARE REIMBURSEMENT ACCOUNT (HCRA) BENEFIT

SECTION 1. QUALIFICATION REQUIREMENTS. A Retiree or Surviving Spouse qualifies for benefits under this Article V if all of the following conditions are met.

- (a) The Retiree is eligible for Benefits under Article II, Sections 1 and 2, and does not forfeit his participation nor qualification for Benefits under Article II, Section 3 or Article VII. This benefit does not apply to a Retiree who is only eligible for HCRA B benefits.
- (b) The Retiree retires from work in the Sheet Metal Industry with an Employer on or after January 1, 2010.
- (c) At the time of retirement, the Retiree is
 - (1) eligible for and receiving an Early Retirement from the National Pension Fund or another retirement plan maintained pursuant to a Contract with ten (10) or more Years of Service,
 - (2) eligible for and receiving a Normal Retirement from the National Pension Fund or another retirement plan maintained pursuant to a Contract with five (5) or more Years of Service, or
 - (3) has been found eligible for Social Security Disability Benefits at any age with ten (10) or more Years of Service at the time of Retirement and receiving a

Retirement from the National Pension Fund or another retirement plan maintained pursuant to a Contract.

(d) The Retiree has at least two (2) years of Future Service Credit at Retirement.

(e) An application is filed in accordance with procedures established by the Trustees before the April 1st after a Retiree attains age 70½ or, if the individual is still working at age 70 ½, then within a reasonable time period after retirement. A participant is permitted to permanently opt out of and waive future reimbursements from the HCRA at least annually. This opt-out feature is intended to that the individual will not be precluded from claiming a Code § 36B premium tax credit.

(f) If a Retiree who has been paid a Vacation Benefit under the Active Plan, as in effect before 2014, returns to work after 2010 and reestablishes Initial Eligibility, they are eligible for a HCRA calculated as set out in Article V, Section 2(f)(3), the Vacation Benefit received will be treated as any other pre-reestablishment of eligibility (first retirement) benefit from the Active Plan.

(g) HCRA Eligibility for Travelers Performing Occasional Work Under a SASMI Contract. An individual will be eligible for benefits under this Section if all of the following requirements are met:

(1) The individual worked in Covered Employment after January 1, 2010 (the rules related to Covered Employment that generated contributions to Article VI (Plan B HCRA) are described in that Article);

(2) The individual is eligible for and receiving a regular, early, or disability pension from the Sheet Metal Workers' National Pension Plan or another defined benefit pension plan (or, if none, defined contribution pension plan) maintained pursuant to a Collective Bargaining Agreement with a SMART Local based upon at least five (5) or more years of service;

(3) The individual has at least two (2) Years of Future Service Credit (4 Stabilization Periods with contributions for at least 100 hours in the Stabilization period) at the time of retirement;

(4) The individual is not a current employee whose status would impact the Plan's designation as a Retiree-Only Plan under ERISA 732(a); and

(5) An application is filed in accordance with procedures established by the Trustees before the April 1st after a Retiree attains age 70½ or, if the individual is still working at age 70 ½, then within a reasonable time period after retirement. A participant is permitted to permanently opt out of and waive future reimbursements from the HCRA at least annually. This opt-out feature is intended

to that the individual will not be precluded from claiming a Code § 36B premium tax credit.

The rules related to the calculation of the benefit and to reimbursable expenses and the procedures for receiving benefits are as set out in this Article V.

SECTION 2. AMOUNT OF BENEFIT. The benefit under this Article is the sum of (a) plus (b) multiplied by (c), the product of which is reduced by (d).

(a) All of an Eligible Retiree's years of Future Service Credit, up to a maximum of thirty-seven and one half (37.5) years, are multiplied by 4 percent (4%) to determine a percentage (up to a maximum of 150%). Effective with years of Future Service Credit earned starting with Stabilization Period 2018-A the multiplier will be increased from 4% to 4.5%. This is a prospective change that does not impact the multiplier used for prior years of Future Service Credit, does not change the multiplier for years of Past Service Credit, and does not change the maximum percentage of 150%.

(b) The Retiree's years of Past Service Credit are multiplied by one percent (1%). The Years of Past Service Credit cannot exceed the lesser of (1) twenty-three (23) years or (2) thirty-seven and one half (37.5) years less the Years of Future Service Credit.

(c) The total Years of Service and Contributions paid to SASMI for work by the Retiree while participating in the Active Plan (not including contributions to Plan B HCRA) shall be used in the calculation even if there was a loss or forfeiture of benefits under the Active Plan. The Trustees have the discretion to include hours on which contributions were due and not paid under the Active Plan.

(d) Benefit Adjustment. The allowance calculated using (a), (b) and (c) above, is adjusted (reduced) by the amount of all Active Plan SASMI benefits paid to or on behalf of the Retiree (not Retiree Health Premium Benefits or Service Based HCRA benefits).

(1) For individuals who retired prior to January 1, 2016, SASMI benefits paid include the amount of any potential Severance Benefit under the Active Plan as of December 31, 2009, whether or not actually paid at that level, with appropriate adjustments to reflect later reduction of the Severance Benefit and avoid duplicative reductions.

(2) For individuals who retire January 1, 2016 or later, SASMI benefits paid include:

(i) Severance Benefits paid under the Active Plan. Severance Benefits will be deemed paid if the check for benefits is mailed even if not cashed; and

(ii) Severance Benefits for which a Retiree met all the requirements for eligibility at the time of Severance of Employment (as defined in the Active Plan) even if the benefit has not yet been applied for; and

(iii) Severance Benefits for which a Retiree met all the requirements for eligibility at the time of Severance of Employment (as defined in the Active Plan) even if the benefit is forfeited for failure to timely apply within 23 months of severance of employment as required by the Active Plan (Article VII and Article XI, Section 6).

For individuals who retire January 1, 2016 or later, SASMI benefits paid do not include Severance Benefits for which a Retiree is not eligible because of a transfer to a non-SASMI Local Union provided that the individual continued to accrue credit in a SMART local or national pension for at least five (5) years after the transfer and there was not a failure to timely apply. For example, if a Retiree loses eligibility for a Severance because of transfer to a Local Union that does not have a Contract requiring contributions to SASMI and continued to work in that Local for at least five years then that unavailable Severance Benefit will not be used when adjusting the HCRA benefit.

(e) Calculation of Active Plan SASMI benefits paid to or on behalf of the Retiree. Effective January 1, 2020, the following shall be considered Active Plan SASMI benefits paid for purposes of paragraph (d), above:

(1) amounts used to offset obligations to SASMI and subtracted by the Active Plan when calculating the Net Contributions Remaining; and

(2) amounts paid to the National Benefit Funds, a governmental entity or any third party pursuant to an assignment, judgment or lien.

(f) **Benefits After Returning to Work and Re-Retiring.**

AN EMPLOYEE IS ONLY ELIGIBLE ONE TIME FOR ADDITIONAL BENEFITS AFTER RETIREMENT. If, after an Employee retires, returns to work, re-retires and requests that their HCRA be recalculated that Employee returns to work again then their HCRA will not again be recalculated. An Employee who anticipates retiring and returning to work more than once can wait until after the final retirement to apply for recalculation of their HCRA.

(1) If a Retiree returns to work and, therefore, loses Retiree status, after establishing an HCRA Account then upon retiring again their HCRA Account will be increased by the same percentage based on the

Contributions paid for work after initial Retirement as at initial Retirement (see Article V, Section 2, for information about percentage).

- (2) If a Retiree who has not established a HCRA account because their benefit calculated under Article V, Section 2 was \$0 returns to work, a HCRA will be established based on the return-to-work contributions using the percentage in Article V, Section 2 for the initial pre-retirement calculation.
- (3) If a Retiree who has not established a HCRA account because the first retirement was before 2010 (including but not limited to, Retirees who received a Vacation Benefit from the Active Plan) returns to work then a HCRA will be established based on the return-to-work contributions using the percentage that applied in calculating their Severance Benefit.

NOTE: Retirees who return to work and regain eligibility are eligible for “non-deduct” benefits such as the Physical Exam benefit but not for the “deduct” benefits including un/underemployment and welfare benefits.

NOTE: 100% of the contributions of Retirees who return to work are used to determine their additional HCRA contribution (based on their percentage in Article V, Section 2) regardless of whether the employee regained eligibility.

(g) The benefit provided by this subsection is defined and limited to credits to a “Retiree Health Care Reimbursement Account” for a Retiree from this Plan and its assets, which can only be used to reimburse (or, in limited cases, pay) for HCRA Medical Expenses. The account is solely a bookkeeping account and is not vested nor segregated or held in individual trust apart from Plan assets for the Retiree or anyone else.

(h) The amount of a Retiree’s HCRA will be increased by, if eligible, the Service Based HCRA Benefit provided for under Article IV and, if applicable, by any Plan B HCRA amount under Article VI.

SECTION 3. HCRA MEDICAL EXPENSES. The Retiree Health Care Reimbursement Account under this Article will only reimburse:

- (a) expenses incurred on or after January 1, 2014 while the Retiree was not a current employee under ERISA Section 732(a);
- (b) which are not otherwise compensable by (or the responsibility of) an insurance carrier, a group health plan or other third party; and
- (c) which would be deductible under IRC Section 213 (without regard to any percentage of income limitation), other than lodging expense (under IRC Section 213(d)(2) or otherwise), transportation or travel; meals; construction, repair, alteration or

renovation of residential or other premises; or legal fees even if deductible in whole or in part under IRC Section 213.

The eligible medical expenses include medical home services which satisfy the other rules with adequate documentation of the medical expense under IRC rules and regulations.

SECTION 4. PAYMENTS. Payments from the account under Section 2 of this Article will be made under the following rules.

(a) Payment is not available before Retirement or the date of the first credit to the account, generally six (6) months after Retirement.

(b) A Retiree can claim reimbursement from the account for HCRA Medical Expenses by filing a SASMI form for reimbursement and agreeing to have payments electronically transferred.

(1) Reimbursement will be made as soon as administratively possible up to the balance of the account. SASMI will generally collect and reimburse eligible claims over \$200.00 on a quarterly basis, or annually for smaller amounts, up to the balance in the account but may reimburse sooner and on lesser amounts if administratively possible.

(2) A claim that exceeds a current balance will be reimbursed up to the balance in the account.

(3) SASMI may pay a recurring HCRA Medical Expense, such as premium payments, directly to a Trustee approved provider.

(c) Payment will only be made on application and submission of documentation of an HCRA Medical Expense that is sufficient to satisfy Internal Revenue Service requirements for payment of an unreimbursed medical expense that is not subject to federal income tax under the IRC.

(d) Reimbursement will not be made for expenses submitted to SASMI more than two (2) years after the date that the expense was incurred (or a shorter period, if required by IRS rules).

(e) Claims may only be submitted for HCRA Medical Expenses incurred for an eligible Retiree and his or her Spouse or Dependents. A non-disabled dependent child is covered until the end of the year (December 31) in which the child turns 27. A surviving Spouse may continue to submit claims after the death of the Retiree.

SECTION 5. SUSPENSION, TERMINATION AND AMENDMENT.

- (a) Benefits under this Article will terminate on payment of HCRA Medical Expenses equal to the full sum of the Retiree's account.
- (b) The account and all benefits under this Article will be cancelled if there is no eligible living Retiree, Spouse or Dependent. After the death of an eligible Retiree and his or her eligible Spouse, any remaining account balance will be split evenly among eligible Dependents for whom claims may be submitted until they no longer are eligible Dependents or the depletion of the account. There is no cash-out of an unused account balance or any benefits for an estate (except as allowed by IRC Section 213 for payment of expenses within one year of death) or anyone else in absence of an eligible living individual.
- (c) The account and benefits under this Article are not assignable. Except as expressly provided above in paragraph (b) and in this Article V, Section 4(b)(3), SASMI will not pay a health care provider or anyone other than an eligible living Retiree, Spouse or Dependent.
- (d) The HCRA Benefit is intended to be and remain a "health reimbursement account" funded solely by Employer contributions under the current IRC and applicable regulations and rulings and will be interpreted, administered and revised accordingly.
- (e) Pursuant to IRS guidance, by participating in the HCRA, a participant is not eligible to enroll in a qualified health plan which is offered in the individual market through an Exchange established under the Affordable Care Act and receive premium assistance credits. Accordingly, a participant is permitted to permanently opt out of and waive future reimbursements from the HCRA at least annually. This opt-out feature is intended to that the individual will not be precluded from claiming a Code § 36B premium tax credit. You may opt out by providing written notice to the Fund Office.

SECTION 6. APPLICATION FOR HCRA BENEFITS. HCRA Benefits require an initial application and separate claims forms.

- (a) A Retiree must file an initial application to set up an account for HCRA Benefits and begin credits to the account. The application must be filed with SASMI on the SASMI application form in use at the time of the application.
- (b) After an HCRA Benefit account is established with a positive balance, an eligible Retiree must submit a reimbursement claim form used by SASMI at the time after payment of a HCRA Medical Expense incurred by the Retiree or eligible Dependent. After the death of an eligible Retiree, the Retiree's eligible Spouse or, after the death of a Retiree and his or her Spouse, an eligible adult Dependent or representative of an eligible minor Dependent may submit claims for HCRA Medical Expenses.

(c) A claim for reimbursement of an HCRA Medical Expense must include the documentation required to support a deduction of the expense as a medical expense deduction under IRC Section 213 (disregarding the limitation based on adjusted gross income in that section) and such other information as deemed necessary by the Trustees. A claim can be denied for failure to submit supporting documentation on a timely basis.

SECTION 7. LIMITATIONS ON RETIREE HEALTH CARE REIMBURSEMENT ACCOUNT (HCRA) BENEFITS. A Retiree shall cease to be eligible for retiree health care reimbursement account benefits and forfeit any Benefits which would otherwise have been payable upon a loss of eligibility, termination of participation or loss of qualification as and to the extent provided in Articles II and VII.

ARTICLE VI

PLAN B RETIREE HEALTH CARE REIMBURSEMENT ACCOUNT (HCRA) BENEFIT

SECTION 1. QUALIFICATION REQUIREMENTS. A Retiree qualifies for benefits under this Article if all of the following conditions are met.

- (a) The Retiree is eligible for Benefits under Article II, Sections 1 and 2, and does not forfeit his participation nor qualification for Benefits under Article II, Section 3 or Article VII.
- (b) The Retiree retires from work in the Sheet Metal Industry with an Employer on or after January 1, 2017.
- (c) At the time of retirement, the Retiree is age 50 or totally disabled from any occupation as shown by a Disability Pension or Social Security.
- (d) The Retiree has at least one (1) year of Future Service Credit (435 hours) as defined for this Plan B HCRA.
- (e) An application is filed in accordance with procedures established by the Trustees before April 1 after a Retiree attains age 70½ or, if the individual is still working at age 70½, then within a reasonable time frame after retirement.
- (f) If a Retiree begins receiving benefits and dies prior to using all his or her benefits, then his surviving Spouse may continue to use the benefit for the remainder of the surviving Spouse's life. In the event an individual who would have met the requirements of this Article VI, Section 1, dies before retirement or before first applying for this benefit, then the surviving Spouse or qualified dependent may apply and begin receiving benefits at that time.

(g) A non-disabled dependent child is covered until the end of the year (December 31) in which the child turns 27, a disabled dependent child is covered after age 27, as long as they are dependent on the Retiree or the surviving Spouse.

SECTION 2. AMOUNT OF BENEFIT.

(a) The Benefit available under this Article shall be the total of contributions made on the Participant's behalf to the Plan B HCRA as set out in Section 2(b), adjusted to reflect addition of interest credits and the application of administrative charges.

(b) Interest credits will be applied at the end of any Calendar Year in which the Member has at least one (1) hour of HCRA B contributions. In Calendar Years in which the Member has no hours of HCRA B contributions no additional interest will be received and the benefit amount will be frozen as of the last Calendar Year in which there was at least one hour of HCRA B contributions, and the Member got interest for that year.

(c) Interest credits are applied to the accumulated Plan B HCRA balance of contributions and prior interest credits on an annual compounded basis. The current interest credit is 3%. In addition to the general limitations in Article X, Section 1, the Trustees may increase or decrease the interest credit amounts in the future. At the discretion of the Trustees, these adjustments to interest credits may be applied only prospectively.

(d) There are no administrative charges applied to the HCRA benefit for eligible retirees or for participants who continue to work in the Industry in work for which contributions are made to SASMI. However, if a participant has 5 consecutive calendar years with no Contributions to SASMI, an annual administrative charge may be assessed against the accumulated HCRA benefit.

(e) Upon retirement and application for benefits, interest credits for the year in which the individual retired and applied for benefits will be applied and the amounts from this HCRA B account will be combined into a single account with any amounts credited under Article V (Retiree Health Care Reimbursement Account (HCRA) Benefits).

(f) Notwithstanding the above,

(1) if an otherwise eligible individual accepts employment in the Sheet Metal Industry that is not covered by a Contract, no interest will be applied to any Plan B HCRA contributions that were received prior to that disqualifying employment. Upon eligibility for the Plan B HCRA benefit that individual will be entitled to a benefit equal to the contributions actually paid and received under a Contract requiring contributions to Plan B HCRA without any interest credits but subject to any applicable administrative charges.

(2) if the Contract of the Local Union under which an Employee had been working and which required Contributions to this Plan B HCRA terminates and the Local Union ceases to require Contributions to SASMI then that individual will be entitled to a benefit equal to the contributions actually paid and received under a Contract requiring contributions to Plan B HCRA without any interest credits but subject to any applicable administrative charges.

(3) if an individual who has lost the right to interest credits under paragraphs (1) or (2) above returns to work under a Contract requiring contributions to HCRA B then interest will be applied prospectively to the full account balance for each Calendar Year in which the Member has at least one hour of HCRA B contributions, but previously forfeited interest will not be returned.

SECTION 3. HCRA MEDICAL EXPENSES. The Plan B Retiree Health Care Reimbursement Account under this Article will only reimburse expenses incurred on or after January 1, 2017, as provided for under Article V, Section 3.

SECTION 4. PAYMENTS. Payments from the account under Section 2 of this Article will be made in accordance with Article V, Section 4.

SECTION 5. SUSPENSION, TERMINATION AND AMENDMENT. In addition to the provisions in Article II, Section 3 and Article VII, benefits under this Article will terminate in accordance with Article V, Section 5.

SECTION 6. APPLICATION FOR BENEFITS. Applications under this Article will be made in accordance with the procedures found in Article V, Section 6.

SECTION 7. LIMITATIONS ON PLAN B RETIREE HEALTH CARE REIMBURSEMENT ACCOUNT (HCRA) BENEFITS. A Retiree shall cease to be eligible for retiree health care reimbursement account benefits and forfeit any Benefits which would otherwise have been payable upon a loss of eligibility, termination of participation or loss of qualification as and to the extent provided in Articles II and VII.

ARTICLE VII LOSS OF QUALIFICATION

SECTION 1. SUSPENSION OF BENEFITS. Benefits will stop under the following circumstances but may resume when the Retiree returns to retired status.

(a) Notwithstanding any other provision of the Plan, a Retiree is disqualified from payment of Benefits which would otherwise have been payable for any period that a Retiree is a current employee under Section 732(a) of ERISA.

(b) Benefits will be suspended for any period that a Retiree's pension benefit (from a Sheet Metal Workers' National Pension Plan or another defined benefit or defined contribution pension plan maintained pursuant to a Contract) is suspended or stopped.

(c) Benefits will be suspended for any period that group health plan eligibility is re-established as an active employee.

SECTION 2. PERMANENT LOSS OF BENEFITS. Except as set out below, eligibility for Benefits that would otherwise have been payable shall be lost immediately and forever in the following circumstances. A Retiree who loses Benefits under this section shall cease to be a Retiree in the Plan and will no longer be eligible for any Benefits under the Plan.

(a) A Retiree works or accepts any employment in the Sheet Metal Industry from an employer who is not party to a collective bargaining agreement with the International Union or a Local Union.

(b) A Retiree becomes an Owner of a business in the Sheet Metal Industry with no Contract.

Amounts in a Retiree's HCRA account under Article VI, Plan B HCRA, are not lost under these circumstances.

SECTION 3. OFFSET.

(a) Any Benefits due an Owner or Spouse of an Owner who fails to pay Contributions or other amounts to SASMI shall be reduced by the amount not paid and interest on that amount under Section 502(g) of ERISA. The same rule shall apply to any other Retiree who is personally responsible for an Employer's failure to make payment to SASMI. This applies to amounts available under all benefits including Article VI, Plan B HCRA. The procedure set out in this section relates to the calculation of benefits, it is not a denial of benefits. This procedure may change the amount of an obligation, but it does not eliminate the existence of the Plan's obligation to pay the benefit as calculated, even if the calculated amount is \$0. The implementation and use of this procedure cannot be waived, released, discharged or otherwise modified in the calculation of any person's benefits without a specific reference to this plan section and to the plan benefit(s) to which the waiver, release, discharge, etc is meant to apply.

(b) If, after an offset under this provision, any SASMI benefits remain then SASMI shall honor an explicit assignment, judgment (entered on or after January 1, 2010), or lien for delinquent contributions and other amounts in favor of the National Benefit Funds and against an Owner, spouse of an Owner, or an Employee who is personally responsible for an Employer's failure to make the payments due to the National Benefit Funds which are the subject of the assignment, judgment or lien. Subject to the following limitations:

- (1) When the individual whose benefits are subject to attachment is neither the Owner nor the spouse of the Owner the individual must be personally named in the assignment, judgment or lien, or must have personally acknowledged the obligation in writing;
- (2) Any amounts paid to the other National Benefit Funds shall be net of estimated taxes which shall be paid in the same way as any other taxable benefit and a W-2 or 1099 issued to the individual; and
- (3) If the individual appeals a determination that payment is due to the National Benefit Funds, then the payment shall not be made to either the individual or the National Benefit Funds until the matter is resolved.

**ARTICLE VIII
APPLICATION AND APPEAL
PROCEDURES FOR BENEFIT PAYMENTS**

SECTION 1. APPLICATIONS.

- (a) Filing of Applications. An application for a Benefit shall be available from SASMI or other persons authorized by the Trustees and shall be filed with the SASMI office.
- (b) Application Information. An application for a Benefit shall be made in writing and shall include information deemed necessary by the Trustees such as wages, source and amount thereof, and such other information as the Trustees may reasonably require in order to determine whether the Retiree or other claimant is entitled to a Benefit.
- (c) Fraudulent or Deceptive Statements. If the Trustees determine that an application for benefits has been intentionally falsified by a Retiree, Spouse, or Dependent, for the purpose of attempting to receive benefits not otherwise payable, the result will be disqualification from any Benefits payable and future Benefits for a period of one (1) year. If the falsification is committed by a representative of a Retiree or other person, the person shall be subject to any available remedy under applicable law.

SECTION 2. APPLICATION PROCESSING. An application or other claim for Benefits is complete when the Retiree or other claimant has furnished the information required. SASMI then shall determine whether a Retiree is entitled to such Benefit and, if so entitled, shall arrange for the payment of the Benefit as soon as practicable. SASMI and the Claims Committee may expedite handling of a claim and extend the deadline for a request for review of a claim as necessary to maintain a reasonable claims procedure under ERISA and applicable regulations.

SECTION 3. NOTIFICATION TO CLAIMANT OF DECISION. If a Benefit application is granted, the Administrator shall make payment to the claimant in accordance with the Plan. If a claim (as defined under Section 502 of ERISA) is wholly or partially denied, the claimant shall be so notified within ninety (90) days after receipt of the application or, in special circumstances and with notice to the claimant within 90 days, up to 180 days. A denial shall include the specific reason for the denial, specific references to the Plan provisions on which the denial is based, a description of any additional material or information necessary for the claimant to complete the claim, including an explanation of why such material is necessary, and an explanation of the Plan's claims review procedure.

SECTION 4. CLAIMS COMMITTEE. The Trustees may appoint a claims committee, consisting of one or more persons, to carry out their functions with respect to the claims and review procedure specified in this Article. The claims committee shall have scheduled meetings to consider requests for review.

SECTION 5. REVIEW PROCEDURE. A claimant who has received a notice that his application has been denied may request a review of such notice of denial within one hundred eighty (180) days of the notice or a longer period allowed by the claims regulations under Section 503 of ERISA for a specific claim. In addition, a claimant who has not received a decision on an application by the deadline may request a review of his request. The claimant shall request a review in a written application to the Trustees. The claimant may have the opportunity to review pertinent documents and may submit issues and comments to the Trustees in writing. The claimant may have representation in connection with this review procedure.

SECTION 6. DECISION ON REVIEW. Upon receipt of a request for review, the Trustees or the Claims Committee shall render a decision at the next scheduled meeting of the Trustees or the Claims Committee scheduled at least 30 days after receipt of the request for review or as soon as possible thereafter after receipt of the request for review, or, in special circumstances and with notice to the claimant before the initial deadline, the next scheduled meeting of the Trustees or the Claims Committee. The decision of the Trustees or the Claims Committee shall be in writing and shall include the specific reason(s) for the decision and specific reference to the Plan provisions on which the decision is based. Requests for review shall be considered at least once during each quarter of each calendar year by the Trustees or the Claims Committee.

SECTION 7. RECORDS. SASMI shall maintain a record of all applications for Benefits, requests for review and responses thereto, as required by ERISA.

SECTION 8. UNIFORM LIMITATIONS PERIOD.

- (a) A claimant has a duty to present a claim for payment to SASMI before other legal action. To the fullest extent allowed by applicable law, no administrative proceedings, arbitration, lawsuit or other legal action on a claim against SASMI or its fiduciaries without filing of an application for Benefits or other claim for payment with SASMI and timely completion of the claims procedure in this Article.

(b) Except to the extent otherwise required by applicable law, no administrative proceedings, arbitration, lawsuit or other legal action on such claim for Benefits or other requests for payment from SASMI or its fiduciaries in connection with a claim for Benefits or other payments from SASMI or its fiduciaries (including without limitation, monetary remedies or awards for failure to respond to a request for documents or retroactive payments) shall be instituted against SASMI or its fiduciaries more than one hundred eighty (180) days after the earliest of:

- (1) the last date for timely request for review of a denied claim;
- (2) the date of a written determination or response by the Plan to a timely request for review on a claim, or
- (3) the last date for a timely response by the Plan to a request for review or other request under ERISA and applicable regulations.

(c) The Administrator or legal counsel to the Trustees may agree to extend any time limits for review or other proceedings in writing to a claimant.

SECTION 9. BENEFIT OVERPAYMENTS.

(a) If there is an overpayment or a payment on an ineligible claim that isn't repaid within 30 days of notice of the erroneous payment then the payment will be reported to the IRS as a taxable event.

(b) If there is a payment in excess of the amount available in the Retiree's HCRA, the recipient shall be required to make repayment to the Plan upon receiving written notice of such obligation from the Trustees. The Trustees additionally may take legal action to recover the amount from the Retiree or other recipient of an overpayment. In any such action, the Retiree or other recipient of an overpayment shall be obligated to pay reasonable attorney's fees and any other fees or costs related to recovery of the overpayment and interest on the overpayment.

SECTION 10. BENEFIT DEDUCTIONS. The Trustees may, as they deem prudent, deduct or withhold from the amount of any Benefit, as computed under the Plan:

- (a) any amount required to be withheld by the Trustees by reason of any law or regulation or final court decree, or
- (b) any amount for payment of taxes or otherwise to any federal, state or municipal government, and

- (c) the amount withheld or deducted shall, when paid to the appropriate recipient, discharge and release the obligation of the Plan to the Retiree or claimant for any Benefit.

ARTICLE IX
ADMINISTRATION OF THE PLAN

SECTION 1. POWERS AND AUTHORITY OF TRUSTEES. The Trustees are the plan administrator of the Plan under ERISA and are appointed under the Trust Agreement. They shall have the powers and authority with respect to the Plan provided to them in the Trust Agreement and applicable law. The decision of the Trustees on any matter relating to the Plan shall be final and binding. The powers of the Trustees include sole and absolute authority to determine:

- (a) the standard of proof required in any case;
- (b) the application and interpretation of these Rules and Regulations;
- (c) entitlement to, duration, amount of, or limitations on qualification for or loss of benefit eligibility; and
- (d) the Contributions paid or payable to SASMI for a Retiree's work, the Years of Service to be credited to a Retiree, the benefits paid to a Retiree and any and all other factors affecting the amount of Benefits payable by the Plan.

SECTION 2. NONALIENATION OF BENEFITS. No attempt to subject a Benefit or portion thereof to alienation, sale, transfer, assignment, pledge, attachment, garnishment, execution, or encumbrance of any kind shall be valid and enforceable. The Trustees may terminate the interest of a Retiree in the Benefit or a portion thereof and apply the amount of such Benefit or portion thereof to or for the benefit of such Retiree's Spouse, Dependents or other appropriate recipient as the Trustees may determine and any such application shall be a complete discharge of all liability with respect to such Benefits. This provision against alienation of benefits does not apply to the Offset provided for in Article VII, Section 3 in connection with amounts due to SASMI or to the other National Benefit Funds.

SECTION 3. FUNDING.

- (a) An employer will pay contributions to the Plan or Trust, for allocation to the Plan as directed by the Trustees, as required by law, a Contract, or the Trust Agreement and pay interest, liquidated damages and costs of collection (including audit and attorney fees) as required by the Contract, Trust Agreement or applicable law.
- (b) All Contributions are, and shall be considered as, Plan assets from the date on which the earnings on which the employer is obligated to pay contributions to Plan or

Trust accrue, whether or not such contributions are collected or received by Plan or Trust, and shall be held by an Employer in trust as a fiduciary for the Plan or Trust. No Employer has any right, title, or interest to any sum payable by the Employer to Plan or Trust, but not yet paid to Plan or Trust. Title to all contributions paid and/or due and owing to Plan or Trust shall be vested in the Trustees.

(c) In the case of an Employer that fails to make the contributions to the Plan for which it is obligated, in accordance with the terms and conditions of a Contract, the Trust Agreement or another agreement, the Trustees may bring an action on behalf of the Plan pursuant to ERISA Section 502(g)(2) to enforce the employer's obligation. In any such action in which judgment is awarded in favor of the Plan, the employer shall pay to the Plan, in accordance with the court's award:

- (1) the unpaid contributions;
- (2) interest on the unpaid contributions;
- (3) liquidated damages;
- (4) reasonable attorney's fees and any other fees or costs related to the delinquency or collection; and
- (5) other appropriate legal and equitable relief.

(d) Nothing in this section shall be construed as a waiver or limitation on the rights or ability of the Plan, Trustees or Union to enforce an Employer's contribution obligation in any other type of proceeding.

(e) The Trustees may refuse any monies tendered which they find inconsistent with the financial integrity or actuarial soundness of SASMI.

SECTION 4. SOURCE OF PAYMENT. Benefits under the Plan are payable only from Plan assets. The Trustees, Employers, Local Union or International Union have no liability for payment of Benefits.

SECTION 5. CHOICE OF LAW. All questions pertaining to validity, construction and administration of the Plan shall be determined in accordance with ERISA and, where reference to state law is necessary or appropriate, the law of the District of Columbia.

SECTION 6. PRIVACY OF PROTECTED HEALTH INFORMATION. In accordance with the HIPAA Privacy Rule in 45 C.F.R. Part 160 and Subparts A and E of Part 164, the Trustees and SASMI will only disclose Protected Health Information in accordance with the following rules:

- (a) Hybrid Entity. SASMI is designated a “hybrid entity” as defined under 45 CFR §164.504. As such, the rules in subsections (b) to (n) below apply only with respect to the group health benefit operations of SASMI, directly or in relation to another covered entity under HIPAA.
- (b) Unauthorized Use or Disclosure. Protected Health Information will only be used or disclosed as permitted or required by SASMI documents or as required by law.
- (c) Subcontractors and Agents. The Trustees and SASMI will require each agent and subcontractor to whom they provide Protected Health Information to agree to written contractual provisions that the agent or subcontractor will be subject to the same restrictions and conditions that apply to SASMI with respect to Protected Health Information.
- (d) Permitted Purposes. Protected Health Information will not be used or disclosed for employment-related actions and decisions or in connection with any other benefit or employee benefit plan of the employers who contribute to SASMI.
- (e) Reporting. The Trustees and SASMI will report and record uses or disclosures of Protected Health Information that are inconsistent with those permitted by law of which they become aware.
- (f) Protected Health Information Availability. Protected Health Information will be made available to Retirees at the SASMI office so that Retirees can inspect and copy their own individual Protected Health Information.
- (g) Protected Health Information Correction. Participants or others who are eligible for health benefits will be permitted to amend or correct Protected Health Information that is incorrect or incomplete and SASMI will incorporate any such amendments or corrections provided by the Plan.
- (h) Accounting. The Trustees and SASMI will make Protected Health Information available to permit an accounting of disclosures;
- (i) Government Agencies. Internal practices, books and records relating to the use and disclosure of Protected Health Information will be made available to the Department of Health and Human Services for purposes of determining SASMI’s compliance with HIPAA;
- (j) Return or Destruction of Protected Health Information. All Protected Health Information the Trustees and SASMI maintain in any form will be returned or destroyed if feasible, and no copies of such information will be retained, when such information is no longer needed for the purpose for which disclosure was made. If such return or

destruction is not feasible, further uses and disclosures will be limited to those purposes that make the return or destruction of this information infeasible;

(k) Minimum Necessary Standard. The Trustees and SASMI will use their best efforts to request only the minimum necessary type and amount of Protected Health Information needed to carry out the functions for which the information is requested.

(l) Adequate separation. The Trustees will ensure that adequate separation exists between SASMI employees who perform functions related to its health care component and other employees of SASMI so that Protected Health Information will be used only for any group health benefit functions performed by SASMI. For purposes of establishing adequate separation, the Trustees will certify the employees or classes of employees that will have access to Protected Health Information for administrative purposes.

(m) Non-compliance. Improper uses or disclosures of Protected Health Information may be reported to the privacy official of SASMI or the privacy official's designee for handling HIPAA violations.

(n) Non-compliance by Business Associate. The Trustees and SASMI will not be liable for a breach of the HIPAA Privacy requirements by a business associate under HIPAA, except as required by law.

SECTION 7. SECURITY OF PROTECTED HEALTH INFORMATION. In accordance with the HIPAA Security Rule in 45 CFR Part 160 and Subparts A and C of Part 164, the Trustees and SASMI, with respect to the group health benefit operations of SASMI, directly or in relation to another covered entity under HIPAA, will safeguard Electronic Protected Health Information by:

(a) Administrative, Physical, and Technical Safeguards. Implementing administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of Electronic Protected Health Information that SASMI creates, receives, maintains, or transmits on behalf of a group health plan.

(b) Security of Adequate Separation. Ensuring that the "adequate separation" between a group health plan and other offices or plans of the union or employers described in the "Privacy of Protected Health Information" section is supported by reasonable and appropriate security measures.

(c) Subcontractors and Agents. Ensuring that any agent, including a subcontractor, to whom it provides Electronic Protected Health Information agrees to implement reasonable and appropriate security measures to protect such information.

(d) Reporting. Reporting any security incident of it becomes aware.

(e) The provisions in Sections (a) through (d) above do not apply to Electronic Protected Health Information that a plan sponsor receives; (1) pursuant to 45 C.F.R.

§164.504(f)(1)(ii) or (iii), or, (2) through a valid authorization in accordance with 45 C.F.R. §164.508.

(f) The HIPAA Security Rule regulations, 45 C.F.R. Parts 160, 162, and 164, are incorporated herein by reference. Unless defined otherwise, all capitalized terms herein have the definition given to them by the Security Rule. If any other provision(s) of the Plan conflicts with this Section, this Section shall control.

ARTICLE X

AMENDMENT AND TERMINATION OF THE PLAN

SECTION 1. AMENDMENT. No Retiree or person claiming through a Retiree shall have any right, title or interest in SASMI, its assets or Benefits until the Retiree is qualified and receives payment. Benefits under the Plan are not vested and may be amended or modified by the Trustees at any time before payment. No amendment or modification may cause a reversion of any Plan assets to the Employers nor permit any Plan assets to be used for or diverted to any purpose other than the exclusive benefit of the Retirees and other beneficiaries of the Plan and payment of administrative expenses.

SECTION 2. TERMINATION OF PLAN. Upon termination of the Plan, the assets then remaining in the Plan shall be used to pay expenses of administration and to pay Benefits to Retirees or other eligible persons, unless sooner exhausted. Thereafter, the Trustees shall determine the disposition of any remaining assets of the Plan in any fashion not inconsistent with the purposes of the Plan, and in accordance with ERISA Section 403(d)(2). Under no circumstances shall any money or assets remaining in the Plan be returned to or inure to the benefit of an Employer, a Local Union or the International Union.

SECTION 3. RECIPROCITY AND ALTERNATIVE CONTRIBUTIONS. The Trustees may, in their sole discretion, enter reciprocal agreements with other employee benefit plans or Local Unions which shall form part of this Plan or accept contributions from Employers at non-standard rates. Absent other direction of the Trustees, any and all Benefits under the Plan will be pro-rated and adjusted based on the amount of such contributions in relation to the standard SASMI contribution rate for a building trade's journeyman for work covered by an alternative contribution.

SECTION 4. SEVERABILITY. Should any provision in the Plan presently or hereafter in effect be deemed or held to be invalid under the provisions of ERISA, other applicable state or federal law or to impair SASMI's status as an organization exempt from federal income tax, such invalidity or impairment shall not adversely affect the other provisions of the Plan. The Plan shall be construed and shall be automatically amended (including creation of separate plans) to eliminate the invalidity or impairment, with such retroactive effect as is necessary or appropriate. If the invalidity or impairment shall make impossible or impractical the functioning

of the Plan, the Plan shall terminate unless the Trustees shall approve a different course of action.

We have signed this document to evidence and memorialize our prior and current resolutions to be effective January 1, 2020 on _____, 2019.

UNION TRUSTEES

EMPLOYER TRUSTEES





Anthony Michael Castrello
Anthony Michael Castrello (Jan 9, 2022 09:33 EST)

Daniel Monahan
Daniel Monahan (Apr 11, 2022 08:31 EST)

Donald Duane
Donald Duane (Nov 9, 2022 29:45 EST)

DEB
DEB (Nov 9, 2022 07:25 EST)

Kolby Hanson
Kolby Hanson (Nov 9, 2022 16:24 PST)

Frank May

779733v4.doc/September 26, 2019

amend and plan docs for signature

Final Audit Report

2022-11-19

Created:	2022-11-08
By:	Ken Colombo (kcolombo@smwnbf.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAADJoJ3J2ItUUG0IGkJ3CG_zxUPX5Ae0s

"amend and plan docs for signature" History

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-  Email viewed by John Daniel (johnd@smart265.org)
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-  Document emailed to danm@jemonahan.com for signature
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 Agreement completed.
2022-11-19 - 3:02:41 AM GMT