

## **STATEMENT OF REHABILITATION PLAN FOR 2020**

### **I. Introduction**

As required under the Employee Retirement Income Security Act (“ERISA”) as amended by the Pension Protection Act of 2006 (“PPA”), on March 27, 2009, the actuary of the Building Material Drivers Union Local 436 Pension Plan ( the “Fund”) first certified that the Fund was in Critical Status for the Plan Year beginning January 1, 2009.

In subsequent annual certifications through 2014 the actuary certified that the Fund was still in Critical Status. However, since 2015 it has been certified to be in a Critical and Declining Status, a status added by the Multiemployer Pension Reform Act.

Once the Fund was certified to be in Critical Status, the Board of Trustees sent a Notice of Critical Status, to interested parties informing them, in part, that (1) the Fund was in Critical Status for the 2009 Plan Year; (2) that certain adjustable benefits might be reduced or removed (3) that employers participating in the Fund (“Employers”) would be obligated to pay a 5% contribution surcharge to the Fund during the initial Critical year, and (4) that the 5% surcharge would increase to 10% in subsequent years.

The 5% contribution surcharge became effective with respect to contributions owed for work performed on and after May 28, 2009. It will continue until the earliest of (1) the date the Fund emerges from Critical Status; (2) the date the Employer enters into a new collective bargaining agreement (“CBA”) with Teamsters Union Local 436 (the “Union”) based on this Rehabilitation Plan and the attached Schedules, as amended from time to time; or (3) the date the Default Schedule described below becomes effective with respect to the Employer as a result of the bargaining parties failing to agree on the Schedule to be applied.

Under ERISA, the Fund generally will be considered to have emerged from Critical Status when the Fund actuary certifies that the Fund is not projected to have an accumulated funding deficiency for a Plan Year or any of the next nine Plan Years, using specified actuarial assumptions and that the criteria that caused its Critical Status has been corrected.

The Fund must emerge from Critical Status by the end of its Rehabilitation Period. The Fund’s Rehabilitation Period will begin on January 1, 2012 and will end ten years later on December 31, 2021.

If it is projected that the Fund will not emerge from Critical by the end of its Rehabilitation Period, it must take “all reasonable measures” which enable it to emerge at a later date or which forestall its possible insolvency.

In the absence of guidance and direction from the Internal Revenue Service in this regard, the Plan's Board of Trustees believes that its actions to date constitute "all reasonable measures". Currently, all active employers have adopted this Rehabilitation Plan for the duration of their most recent collective bargaining agreement. On this basis it is believed that the Fund is making scheduled progress in meeting the requirements of its Rehabilitation Plan as discussed in IRC §432(b)(3)(A)(ii).

The 2009 Rehabilitation Plan, and the attached Schedules which implement it, were based on Fund information as of January 1, 2009 and on reasonable assumptions about how the Fund's assets and liabilities will change in the coming years, particularly as a result of changes in the Fund's investment returns, which are dependent on financial markets.

More specifically, the assumptions used for these projections were the same as those used in the January 1, 2009 actuarial valuation of the Fund. In addition, based on the advice of the Board of Trustees an assumption regarding the future level of work was added. This assumption is not necessary to perform the annual actuarial valuation.

The Building Material Drivers Union Local 436 Pension Plan 2009 Rehabilitation Plan and the Schedules which implement it will apply to all Collective Bargaining Agreements adopted after its effective date November 16, 2009. As required under law, each year after it was adopted; this Rehabilitation Plan will be reviewed. If necessary, the Schedules implementing it will be revised to make sure that adequate progress is being made in achieving its goals.

Any revised Schedules will not affect any Collective Bargaining Agreement that has previously been negotiated under the Rehabilitation Plan unless specified in such agreement. The Board of Trustees has the sole discretion to amend and construe this Rehabilitation Plan, including the Schedules.

## **II. The Rehabilitation Plan**

The Building Material Drivers Union Local 436 Pension Plan 2009 Rehabilitation Plan was adopted by its Board of Trustees at its November 16, 2009 Board meeting. It gives bargaining parties three choices of benefit levels with three corresponding contribution levels. It also includes a Default Option.

The Default Option is triggered if the Union and an Employer cannot reach an agreement regarding the benefit level and contribution rate that will apply prospectively to the Employer's participating Employees. The Default Schedule becomes effective on the earlier of the date that the Secretary of

Labor declares that the bargaining is at an impasse or 180 days after the expiration of the collective bargaining agreement.

The general intent of the Building Material Drivers Union Local 436 Pension Plan 2009 Rehabilitation Plan is to remove all adjustable benefits permitted under law, to provide the bargaining parties with three choices of accrual rates for benefits earned under a new CBA, and to require annual increases in the contribution rates for the next five years to a level that results in the Fund exiting from Critical Status by the end of its Rehabilitation Period, if the underlying assumptions are met or exceeded in aggregate.

The adjustable benefits that will be removed are as follows:

Payment of a minimum of sixty months regardless of whether the participant is still alive (Instead benefits will only be paid while the participant is alive.).

Payment of disability benefits unless a participant already qualifies for these benefits before a new CBA is adopted.

Payment of a \$5,000 lump sum death benefit for death after retirement for active participants not retired as of the effective date of the Rehabilitation plan or who have not retired before a new CBA is adopted.

Early retirement before age 62. Early retirement will only be allowed between age 62 and age 65.

For current members of the bargaining unit, benefit accrual rates and contribution rates (including the 5%/10% surcharge) will remain unchanged and no adjustable benefits will be removed until a new CBA that reflects the requirements of this Rehabilitation Plan is adopted or the Default Option becomes operative.

The three benefit levels in Options A, B, and C that comprise the Rehabilitation Plan are the same in that the same adjustable benefits will be removed from all of them. They differ only in the level of future benefit accruals that will be earned under each of them relative to the benefit accruals before the implementation of this Rehabilitation Plan. The options are as follows:

- |          |  |
|----------|--|
| Option A | 100% of benefit before Rehabilitation Plan                         |
| Option B | 50% of benefit before Rehabilitation Plan                          |
| Option C | 0% of benefit before Rehabilitation Plan, i.e. benefits are frozen |

The Default Option also removes the same adjustable benefits mentioned above. However, the PPA also requires that any monthly benefit accrual rate that exceeds 1% of annual contributions must be reduced to that level.

For participants that are not part of the bargaining unit, (vested terminated participants and participants receiving normal retirement or disability retirement benefits) adjustable benefits will be removed after they have been given the required thirty day notice. The adjustable benefits that will be removed depend on the participant's status in the Plan as follows:

Vested Terminated	Sixty month guarantee Restricted early retirement \$5,000 Death Benefit
Non-Disability Retirement	\$5,000 Death Benefit <sup>1</sup>
Disability Retirement	\$5,000 Death Benefit <sup>2</sup>

### **III. Schedules**

The benefit schedules that implement this 2020 Rehabilitation Plan and which must be provided to the bargaining parties by December 24, 2020 are attached as Table 1 of this document.

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<sup>1</sup> For deaths occurring May 22, 2020 and later.

<sup>2</sup> For deaths occurring May 22, 2020 and later.

CERTIFICATION CONFIRMING ADOPTION OF REHABILITATION PLAN  
FOR THE BUILDING MATERIAL DRIVERS UNION LOCAL 436 PENSION PLAN  
FOR THE 2020 PLAN YEAR

**Whereas**, pursuant to Section 305 of the Employee Retirement Income Security Act ("ERISA") as amended by the Pension Protection Act of 2006 ("PPA"), the Building Material Drivers Union Local 436 Pension Plan ("Fund") was certified to be in Critical Status for the Plan Year beginning January 1, 2020.

**Whereas**, the PPA requires pension plans in Critical Status and Critical and Declining Status to adopt a Rehabilitation Plan aimed at restoring the financial health of the plan.

**Now Therefore**, this is to confirm that the Trustees of the Building Material Drivers Union Local 436 Pension Plan adopted the Rehabilitation Plan effective November 25, 2020.

Date: November 1, 2020

  
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Gary A. Boncella, Administrator

**TABLE 1**  
**BUILDING MATERIAL DRIVERS UNION LOCAL 436 PENSION PLAN**  
**2020 REHABILITATION PLAN SCHEDULES**

	DESCRIPTION OF BENEFITS		FUTURE HOURLY CONTRIBUTION RATES										FACTOR TO APPLY TO CURRENT RATE <sup>3</sup>
	FUTURE ACCRUAL RATE <sup>1</sup>	ADJUSTABLE BENEFITS REMOVED		\$2,700	\$2,500	\$2,300	\$2,100	\$1,750	\$1,525	\$1,302	\$1,002	\$318	
		FULL SERVICE(32 Years) MONTHLY BENEFIT		\$2,700	\$2,500	\$2,300	\$2,100	\$1,750	\$1,525	\$1,302	\$1,002	\$318	
OPTION A and DEFAULT	100%	-60 Month Guarantee -Disability Benefit -\$5,000 Death Benefit -Early Retirement -1% of contribution accrual if current accrual is larger <sup>2</sup>	Current	\$5.55	\$5.30	\$5.05	\$4.80	\$4.30	\$4.05	\$3.60	\$3.10	\$1.96	1.0000
			First Rate	\$6.45	\$6.16	\$5.87	\$5.58	\$5.00	\$4.71	\$4.18	\$3.60	\$2.28	1.1622
			Second Rate	\$7.35	\$7.02	\$6.69	\$6.36	\$5.70	\$5.37	\$4.76	\$4.10	\$2.60	1.3243
			Third Rate	\$8.25	\$7.88	\$7.51	\$7.14	\$6.40	\$6.03	\$5.34	\$4.60	\$2.92	1.4865
			Fourth Rate	\$9.15	\$8.74	\$8.33	\$7.92	\$7.10	\$6.69	\$5.92	\$5.10	\$3.24	1.6486
			Fifth Rate	\$10.05	\$9.60	\$9.15	\$8.70	\$7.80	\$7.35	\$6.50	\$5.60	\$3.56	1.8108
			ANNUAL INCREASE	\$0.90	\$0.86	\$0.82	\$0.78	\$0.70	\$0.66	\$0.58	\$0.50	\$0.32	
			% ANNUAL INCREASE	16.22%	16.22%	16.22%	16.22%	16.22%	16.22%	16.22%	16.22%	16.22%	16.22%
OPTION B	50%	-60 Month Guarantee -Disability Benefit -\$5,000 Death Benefit -Early Retirement	Current	\$5.55	\$5.30	\$5.05	\$4.80	\$4.30	\$4.05	\$3.60	\$3.10		1.0000
			First Rate	\$6.25	\$5.97	\$5.69	\$5.41	\$4.84	\$4.56	\$4.05	\$3.49		1.1261
			Second Rate	\$6.95	\$6.64	\$6.33	\$6.02	\$5.38	\$5.07	\$4.50	\$3.88		1.2523
			Third Rate	\$7.65	\$7.31	\$6.97	\$6.63	\$5.92	\$5.58	\$4.95	\$4.27		1.3784
			Fourth Rate	\$8.35	\$7.98	\$7.61	\$7.24	\$6.46	\$6.09	\$5.40	\$4.66		1.5045
			Fifth Rate	\$9.05	\$8.65	\$8.25	\$7.85	\$7.00	\$6.60	\$5.85	\$5.05		1.6306
			ANNUAL INCREASE	\$0.70	\$0.67	\$0.64	\$0.61	\$0.54	\$0.51	\$0.45	\$0.39		
			% ANNUAL INCREASE	12.61%	12.61%	12.61%	12.61%	12.61%	12.61%	12.61%	12.61%	12.61%	12.61%
OPTION C	0% (FREEZE)	-60 Month Guarantee -Disability Benefit -\$5,000 Death Benefit -Early Retirement	Current	\$5.55	\$5.30	\$5.05	\$4.80	\$4.30	\$4.05	\$3.60	\$3.10		1.0000
			First Rate	\$6.05	\$5.78	\$5.50	\$5.23	\$4.69	\$4.41	\$3.92	\$3.38		1.0901
			Second Rate	\$6.55	\$6.26	\$5.95	\$5.66	\$5.08	\$4.77	\$4.24	\$3.66		1.1802
			Third Rate	\$7.05	\$6.74	\$6.40	\$6.09	\$5.47	\$5.13	\$4.56	\$3.94		1.2703
			Fourth Rate	\$7.55	\$7.22	\$6.85	\$6.52	\$5.86	\$5.49	\$4.88	\$4.22		1.3604
			Fifth Rate	\$8.05	\$7.70	\$7.30	\$6.95	\$6.25	\$5.85	\$5.20	\$4.50		1.4505
			ANNUAL INCREASE	\$0.50	\$0.48	\$0.45	\$0.43	\$0.39	\$0.36	\$0.32	\$0.28		
			% ANNUAL INCREASE	9.01%	9.01%	9.01%	9.01%	9.01%	9.01%	9.01%	9.01%	9.01%	9.01%

1 As a % of January 1, 2009 accrual rate

2 The reduction to 1% of contributions only applies to the Default Option and only if the monthly accrual rate is larger than 1% of annual contributions.

3 If a contribution rate is not shown in this table multiply that current contribution rate times the factors shown in this column.