

Joint Collection Policy and Procedures

for the

- Southern California Pipe Trades
 - Retirement Fund
 - Health and Welfare Fund
 - Pensioners & Surviving Spouses Health Fund
 - Defined Contribution Fund
 - Christmas Bonus Fund
- Landscape, Irrigation and Lawn Sprinkler Industry
 - Defined Contribution Pension Trust Fund
 - Health & Welfare Benefits Trust Fund
- Plumbers and Pipefitters National Pension Fund
- International Training Fund
- Apprentice and Journeyman Training Trust Fund
- Joint Journeyman and Apprentice Training Committee

1. Southern California Pipe Trades Administrative Corporation

The Southern California Pipe Trades Administrative Corporation (the “Fund Office”) collects Contributions from certain employers who are signatory to one or more collective bargaining agreements (CBAs) with Southern California Pipe Trades District Council No. 16 of the United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States, Canada and Australia (“District Council 16”), or to certain United Association national CBAs when the work is performed in District Council #16, or to participation or other similar agreements with the abovementioned trusts (the “Trust Funds”). A committee, known as the “Joint Delinquency Committee,” oversees the collection of delinquent employer contributions owed to the Trust Funds and other related entities referenced elsewhere herein. The Joint Delinquency Committee shall be constituted as described in the Organizational and Committee Structure and Procedures for the Southern California Pipe Trades and Landscape Industry trust funds.

The Fund Office, through various shared services agreements, also collects fees and dues owed by employers to the California Plumbing and Mechanical Contractors Association, District Council #16 and its affiliated Local Unions, the Piping Industry Progress and Education Labor & Management Cooperation Committee Trust Fund (P.I.P.E.), the Mechanical Service Contractors of San Diego, the Labor Management Compliance Council, and others. Those fees and dues, together with the contributions owed to the Trust Funds are hereinafter collectively referred to as “Contributions.”

The Board of Trustees of each of the Trust Funds, and the governing bodies of all related entities, have delegated to the Joint Delinquency Committee the authority to take all actions set forth in this Policy and Procedures to collect amounts owed by delinquent employers. A Trust Fund or other related entity may withdraw the delegation of authority to the Joint Delinquency Committee to pursue any particular delinquency prior to the Committee entering into a final resolution of the matter or otherwise binding the Trust Fund or other related entity due to the previous delegation.

The Fund Office shall collect Contributions in accordance with the following procedures.

2. Contributions

Contributions are due and payable on the 10th day of each month for all hours worked by each employee through the last payroll period in the prior calendar month.

Contributions to the Southern California Pipe Trades Defined Contribution Fund shall be due as provided by the applicable U. S. Department of Labor regulations (which require that such Contributions be transmitted to the Fund as of the earliest date on with such Contributions can reasonably be segregated from the employer's general assets) provided that such Contributions shall be due in no event later than the 10th day of the month following the month in which the measuring hours were worked.

Concurrently with the payment of Contributions, each employer shall also submit to the Fund Office a monthly remittance report on a form established by the Fund Office, and such report shall be submitted regardless of whether the employer has employed any employees.

Reports submitted and/or Contributions paid more than five days after their due date shall be deemed delinquent, provided that if the 5th calendar day after the due date falls on a weekend or postal holiday, then the reports and Contributions shall be deemed delinquent if not submitted and paid by the next business day.

Contributions shall be deemed paid, and reports deemed submitted, on the date actually received by the Fund Office or by the financial institution where the Fund Office has established a "lock box" for the receipt of Contributions. If mailed, Contributions shall be deemed paid, and reports deemed submitted, on the date postmarked by the United States Postal Service. (Metered postage shall not be considered to be postmarked by the United States Postal Service unless the date of mailing is actually stamped by an employee of the United States Postal Service.) If shipped via a private courier such as FedEx or UPS, Contributions shall be deemed paid, and reports deemed submitted, when the private shipping company's records show that the package was received by the private shipping company.

A check not honored by the bank upon which it is drawn (a non-sufficient-funds or NSF check) shall not be considered timely payment of Contributions, unless the check is made good no later than five days after the due date.

3. Delinquency

Any employer that fails to pay Contributions to the Fund Office by the 5th calendar day after the due date (or if the 5th day after the due date is a weekend or postal holiday, by the next business day) will be deemed delinquent and subject to the following:

- The employer must pay the Trust Funds liquidated damages in the amount of 10% of the unpaid or delinquent Contributions. Liquidated damages shall be paid by the employer in addition to the Contributions owed. This calculation of liquidated damages represents a reasonable and fair estimate of the financial loss sustained by the Trust Funds when an employer fails to pay Contributions in a timely manner.
- If the remittance report form listing employees and hours has not been submitted by the 5th calendar day after the due date (or if the 5th day after the due date is a weekend or postal holiday, by the next business day), the employer shall pay the Trust Funds a late filing fee in the amount of \$200.00.
- The employer shall pay the Trust Funds interest on all unpaid or delinquent Contributions at the rate of 18% per annum from their respective due dates until paid.
- Pursuant to Section C.4.2 of the Master Agreement, the Joint Delinquency Committee may also require that the employer pay Contributions and submit reports semi-monthly on the first and fifteenth day of each month, and an employer required to make such Contributions shall be considered delinquent if Contributions are not paid and/or reports are not submitted within 7 days of these reporting dates.
- The Joint Delinquency Committee may also assess additional liquidated damages against employers that it determines are chronically delinquent by virtue of having been delinquent in reporting hours or paying Contributions more than three times in a rolling 12 month period; but in no case will the total liquidated damages be greater than 20%.
- If a lawsuit is filed to collect the delinquent Contributions, the amount of liquidated damages owed by the delinquent employer to the Trust Funds will be 20% of the amount of the Contributions that are unpaid on the date the complaint is filed, in addition to any liquidated damages owed on delinquent Contributions that were paid before the complaint was filed, and the employer also shall reimburse the Trust Funds for all attorneys' fees incurred collecting the delinquencies.
- The employer must also pay to the Southern California Pipe Trades Defined Contribution Fund lost earnings on all 401(k) contributions not received by the 5th day after the due date, or such earlier date established under Department of Labor regulations, and undertake other corrective actions as required by law.
- Employers who do not cooperate with an audit requested by the Fund Office shall be deemed delinquent, and shall pay the Trust Funds all attorneys' fees incurred in obtaining the records needed to complete an audit and/or in any lawsuit to collect Contributions based on unreported hours, regardless of whether any unpaid Contributions are subsequently discovered.

4. Delinquency Notices

The Fund Office will notify in writing any employer that fails to report to the Fund Office, or who reports but does not pay all Contributions owed, of its delinquency. The Fund Office will also notify in writing the last reported employees of the delinquent employer, request that they keep a copy of their paycheck stubs and a record of the hours worked on specific jobs for lien purposes, and provide to the employees a declaration of hours form. The Fund Office will follow up with phone calls to the employers to collect the delinquent Contributions.

The Fund Office and legal counsel shall submit written quarterly reports on delinquencies to the Joint Delinquency Committee, including information about non-reporting employers and current delinquent amounts.

At the direction of the Joint Delinquency Committee, the Fund Office shall, in accordance with Section C.4.5 of the Master Agreement, notify the Local Unions by registered mail (with a copy to District Council 16) of the employer's delinquency, which shall constitute notice under Section C.4.5, which requires the applicable Local Union(s) to remove employees from a delinquent employer within forty-eight hours of receipt of the notice. The notice will be sent by the Fund Office if the employer becomes delinquent for more than forty-five days, or as otherwise directed by the Joint Delinquency Committee. The Joint Arbitration Board or similar body that is established under the terms of the Master Agreement has given the Joint Delinquency Committee the authority to determine when to send such notices and to direct the Fund Office to send such notices.

5. Waiver of Liquidated Damages and Interest

The assessment of liquidated damages and the \$200 late fee will be waived automatically once each calendar year provided the employer has not been delinquent in any of the three reporting months preceding the waiver month. The employer must apply to the Fund Office in writing for any other waiver of liquidated damages, late fees and/or interest. All such written requests will be reviewed and decided by the Joint Delinquency Committee, except that the Committee may delegate to the Fund Office the authority to compromise nominal amounts, subject to Committee ratification.

6. Owners Under Sections C.1 Through C.4 of the Master Agreement with CPMCA and Related Agreements

If an employer becomes delinquent for more than forty-five days, any individual participating in the Trust Funds as an Owner or Corporate Officer of the employer under Sections C.1 through C.4 of the Master Agreement will be no longer eligible to participate in the Trust Funds as an Owner or Corporate Officer, and all benefits under the Trust Funds' plans will be forfeited except for vested pension benefits and vacation and holiday benefits. This means that after becoming delinquent for more than forty-five days, even if the employer later pays the Contributions and becomes current, the Owner or Corporate Officer will be permanently unable to obtain coverage as an Owner or Corporate Officer under any of the Trust Funds' plans. In advance of the forty-fifth day of the delinquency, the Fund Office will mail a written

notice to the Owner or Corporate Officer of the delinquency and of the possible forfeiture of coverage. If coverage is subsequently lost because of the delinquency, the Fund Office will notify the Owner or Corporate Officer in writing as soon as practicable after the loss of coverage. In accordance with Section C.1.3.4 of the Master Agreement, the loss of coverage will not apply if the employer goes out of business, or the individual Owner or Corporate Officer becomes unemployed, and such individual makes himself or herself available for covered employment by immediately signing the Local Union's out of work list.

These procedures under Sections C.1 through C.4 of the Master Agreement shall also apply to coverage under the Plumbers and Pipefitters National Pension Fund; but otherwise, the rules of the Plumbers and Pipefitters National Pension Fund shall apply in determining coverage under, and the obligation to contribute to, that Plumbers and Pipefitters National Pension Fund on behalf of Owners and Corporate Officers.

7. Actions by Legal Counsel

If the employer is delinquent for more than thirty days, or if the employer's total delinquency is more than \$25,000.00, or upon request by the Fund Office, legal counsel will immediately send a demand letter and commence all other appropriate actions to collect the amounts due. These actions may include, but are not limited to, assistance with joint check agreements arranged with general contractors, filing stop notices, Miller Act claims and liens on the project. Legal counsel may also institute a lawsuit against the delinquent employer and/or other parties to collect the amounts owed, plus liquidated damages, interest, costs, and attorney fees, and the employer shall be obligated to pay all such amounts regardless of whether the Fund Office has notified the employer regarding the delinquency or taken all the actions set forth above. However, legal counsel shall obtain the approval of the Plumbers and Pipefitters National Pension Fund and/or the International Training Fund before including those funds as a party in any lawsuit.

8. Joint Delinquency Committee

An Employer may request in writing that its delinquencies be paid over time on a payment plan. The Fund Office staff and/or legal counsel will review the request and make a recommendation regarding approval. The Joint Delinquency Committee, or the Chair and Co-Chair of the Joint Delinquency Committee subject to later ratification by the Joint Delinquency Committee, may approve or reject a payment plan. The following must be stated in each payment plan agreement: the amount of the delinquency; the period of time over which the delinquencies will be paid; the agreed payment structure; assessed liquidated damages; and the rate interest on the delinquencies prorated over the term of the payment plan. In addition, and if possible, the individuals who are fiduciaries with respect to the unpaid Contributions must also agree in writing to be individually and personally liable for all payments to be made pursuant to the payment plan agreement. In addition both the employer and the individual fiduciaries must agree to timely pay all Contributions and other amounts owed to the Trust Funds under any collective bargaining agreement by which the employer is bound that accrue before all amounts owed under the payment plan are paid in full, or for such longer period of

time as may be agreed to by the parties, and that any failure to meet any of the agreed upon conditions shall result in a default under the payment plan.

The Joint Delinquency Committee has the authority to compromise any claim or to enter into written settlement agreements with delinquent employers on the terms it deems appropriate. In between meetings of the Joint Delinquency Committee, the Chair and Co-Chair acting jointly shall have the authority to compromise any claim or enter into written settlement agreements with delinquent employers on the terms they deem appropriate, subject to ratification by the Joint Delinquency Committee at their next meeting. The Joint Delinquency Committee also shall have the authority to write off as uncollectible amounts past due when it reasonably believes, after consultation with legal counsel, that the Trust Funds' resources required for additional collection efforts will likely exceed the potential recovery.

Any payment plan or settlement agreement involving more than \$10,000.00 in unpaid Contributions owed to the Plumbers and Pipefitters National Pension Fund and/or the International Training Fund, shall not be binding on those funds unless and until the terms are approved by those funds.

In addition, no amounts owed to the Plumbers and Pipefitters National Pension Fund or the International Training Fund shall be written off as uncollectible unless and until approved by those funds.

9. Payroll Audit Program

The Trustees have hired an accounting firm to conduct periodic audits of the Contributions of the employers. Audits also may be performed by Fund Office employees. These audits shall follow standard industry procedures to determine whether Contributions have been paid on behalf of all covered employees in the correct amounts. The accounting firm shall periodically report the results of its audits to the Fund Office in writing, and those reports shall be submitted for review by the Joint Delinquency Committee. If any unpaid Contributions are discovered in the audit, the employer shall pay liquidated damages and interest to the Trust Funds as described above and reimburse the Trust Funds for the cost of the audit. If the employer does not pay the audit claim, procedures to collect the delinquencies will be instituted against the employer by the Fund Office and/or legal counsel, and the employer shall reimburse the Trust Funds for all legal fees and costs incurred in collecting the audit claim. Audits may be required of any employer at any time at the discretion of the Fund Office or Joint Delinquency Committee.

10. Applying Payments

When a partial payment for a reporting month is received, it generally will not be applied until all Contributions owed for that month have been collected (except for minor shortages). If the Fund Office determines that payment in full is not likely, then the partial payment will be prorated across the entire delinquency, for all hours and all funds for that month.

When several months are delinquent and a payment is received it will be applied to the oldest delinquency unless otherwise directed by the Joint Delinquency Committee. However, payments from a third party covering specific hours or jobs may be applied to those hours or jobs, unless otherwise directed by the Joint Delinquency Committee.

Effective Date: September 1, 2020

Adopted on: _____