

USW INDUSTRY 401(k) FUND

POLICY FOR COLLECTION OF DELINQUENT CONTRIBUTIONS

SECTION 1

GENERAL POLICY

It is the policy of the USW Industry 401(k) Fund (“Fund”) to collect all employer contributions as they are due and to make such diligent and systematic efforts as are appropriate under the circumstances to do so.

If an employer ceases to have an obligation to contribute to the Fund under its Trust Agreement, the Standard Form of Agreement for Participation in the USW Industry 401(k) Fund (“SFA”), a collective bargaining agreement (“CBA”), or applicable law, the employer shall remain subject to this Policy with regard to the time period during which the employer was obligated to contribute to the Fund.

The Trustees of the Fund have the legal right to exercise all remedies allowable under the applicable Trust Agreement, the Employee Retirement Income Security Act of 1974, as amended (“ERISA”) and other applicable law, including but not limited to:

1. The right to establish a date on which contributions are due;
2. The right to audit the financial records of the employers, including but not limited to payroll ledgers, federal and state tax returns, IRS Form 941s and such other books and records of the employers that are necessary in order for the auditors to ascertain that the proper contributions have been made;
3. The right to establish a random audit program;
4. The right to require that a delinquent employer pay the cost of an audit, interest, attorneys’ fees, and any other expenses incurred by the Fund in determining the amount of a delinquency and in collecting a delinquency;
5. The right to recover liquidated damages;
6. The right to require a bond or a cash deposit as security for prompt future payments due from an employer that has been habitually delinquent in its contributions to the Fund; and
7. The right to take any other steps and to perform all other acts that are necessary in order to collect contributions due to the Fund in a timely and expeditious manner.

The procedures set forth herein shall be followed unless the Board of Trustees determines that they should be waived in a particular instance.

All questions or disputes relating to the interpretation, meaning and/or application of this policy shall be finally and exclusively resolved by the Board of Trustees in the exercise of its discretion and in the performance of its fiduciary obligations to the Fund's participants and beneficiaries, in the protection of the financial integrity and soundness of the Fund and the efficient and effective administration of the Fund.

SECTION 2

COLLECTION PROCEDURE AND OTHER PROCEDURES IN CASES OF DELINQUENCY

In accordance with the Trust Agreement, ERISA, and the above declaration of policy, the following administrative steps shall be taken to effectuate the collection of delinquent contributions.

1. Unless there is an SFA to the contrary, employer contributions (including Matching Contributions and Employer Contributions) to the Fund are due on the fifteenth day of the month following the payroll period ("Employer Due Date"). For example, employer contributions for January are due February 15th. Contributions shall become delinquent and interest will be assessed if the contributions are not received by the sixteenth day of the month following the payroll period ("Employer Delinquent Date"). For example, January contributions would be delinquent if received on or after February 16th. If there is a contrary SFA, its provisions shall prevail.

In addition, if there is an SFA or other written agreement providing that the employer must pay administration fees and/or participant loan fees, such administration fees and/or participant loan fees will be treated as employer contributions under this Policy and the applicable Employer Due Date for such fees will be 30 days after the Fund provides the Employer written notice of the amount due and the Employer Delinquent Date for such fees will be 31 days after the Fund provides the Employer written notice of the amount due.

2. Employee contributions (including loan repayments) to the Fund are due on the earliest date following the date that such contributions are withheld from the participants' wages and can be reasonably segregated from the employer's general assets for payment to the Fund, but in no event, later than (i) for SFAs entered into before October 1, 2014, the 15th business day of the month following the month in which the amounts would otherwise have been payable to the participant, or (ii) for SFAs entered into on or after October 1, 2014, the 7th business day following the date that such contributions are withheld from the participants' wages ("Employee Due Date"). Contributions shall become delinquent and interest will be assessed on the day following the Employee Due Date if the contributions are not received by the Fund ("Employee Delinquent Date"). These provisions will prevail to the extent provisions in an SFA permit contributions outside of this time period.

3. In the event that the Fund has not received the employer contributions by the Employer Due Date or employee contributions by the Employee Due Date, or both, and to the extent practicable, in addition to the procedures described below, the Fund Office shall contact the employer and the local union by telephone, to attempt to effectuate payment of contributions.

4. Unless there is an SFA to the contrary, interest shall accrue on delinquent employer contributions beginning on the Employer Due Date and shall be assessed if an employer contribution is not received by the Employer Delinquent Date. Effective January 1, 2009, the applicable interest rate is 12%, calculated from the Due Date until the date paid. If there is a contrary provision in a SFA regarding the applicable interest rate, the provisions of the SFA shall prevail.

5. Interest shall accrue on delinquent employee contributions beginning on the Employee Due Date and shall be assessed if an employee contribution is not received by the Employee Delinquent Date. Effective January 1, 2009, the interest rate is 12% as calculated on the Employee Delinquent Date.

6. On the applicable Employer Delinquent Date or the Employee Delinquent Date (or the nearest business day thereto), a computer generated delinquency report shall be produced and reviewed by the Fund Office. Such report shows the name of the delinquent company and any delinquency of hours or money from the prior month.

7. The Fund Office will send a written notice to the employer for accounts that have not been paid one month from the Employer Due Date and Employee Due Date, as applicable, advising the employer that the applicable contributions must be received immediately. This notice shall state that in addition to the delinquent contributions, the employer is liable for interest charges and may be liable for liquidated damages, attorneys' fees and court costs incurred in the collection of the contributions. Copies of the letter will be sent to the Local Union Representative and Director of the applicable Union Region. [A sample letter is attached as Exhibit A.]

8. The Fund Office shall send a second notice to the employer for accounts that have not been paid two months from the applicable Employer or Employee Due Date, with copies to the Local Union Representative and Director of the applicable Union Region. This notice shall state that in addition to the delinquent contributions, the employer is liable for interest charges and may be liable for liquidated damages, attorneys' fees and court costs incurred in the collection of the contributions. The notice shall also advise that if payment is not received, the delinquency will be referred to legal counsel for collection. [A sample letter is attached as Exhibit B.]

9. Claims for amounts due that have not been paid within three months of the applicable Employer or Employee Due Date shall be referred to legal counsel if such amounts exceed \$1,000.

10. If an employer pays the principal amount of the delinquent contributions but does not pay accrued interest and/or any other amounts owed, acceptance of the principal amount shall not constitute a waiver of the claim for accrued and unpaid interest and/or any other amounts.

11. At the beginning of each calendar year, as soon as administratively feasible, all accounts will be reviewed and interest owed on delinquent contribution payments made during the prior calendar year will be calculated and billed. Interest under \$50 due on delinquent contribution payments made for 2013 or earlier will not be billed. All interest on delinquent contribution payments made beginning in 2014 will be billed, but collection of interest will be pursued only when the total amount of interest (plus contributions, if any) due equals \$50 or more. Notwithstanding the above, interest on delinquent contributions may be calculated and assessed more frequently as otherwise determined by the Board of Trustees.

12. If contributions decline significantly (by 10% or more) from preceding contributions, the Fund Office shall contact the employer and the Local Union for an explanation of the decline. If the decline is not explained, the Fund Office shall report the situation to the Board of Trustees for review at their next regularly scheduled meeting or earlier if more immediate action appears necessary.

SECTION 3

LEGAL ACTION AND SETTLEMENT

1. If contributions from an employer are not received within three months from the applicable Employer or Employee Due Date then the delinquent account is referred to legal counsel for collection if the amount involved exceeds \$1,000. The Fund Office will provide notice to counsel that details the delinquency and any other amounts that may have accrued, such as overages or shortages with copies to the Local Union Representative and Director of the applicable Union Region and a copy of the current SFA, if applicable, attached.

2. Legal counsel shall send a letter to the employer demanding payment of the delinquent employer or employee contributions, as applicable plus interest and notifying the employer that it may also be liable for liquidated damages, and attorneys' fees and costs if the amount is not immediately paid. In the event an employer fails to pay the delinquent contributions and interest within 10 (ten) days after legal counsel's demand for payment, counsel shall initiate legal action, unless counsel recommends a different course of action that is approved by the Trustees based upon pertinent factors which include, but are not limited to, the following:

- a. the amount of the delinquency;
- b. the length of time the delinquent amount has been owed;

- c. the financial condition of the employer;
- d. the employer's past performance as a contributing employer;
- e. the likelihood of collecting on a judgment once it is obtained;
- f. any other factor that, in the discretion of legal counsel, may have a material bearing on the collection of the delinquent contributions.

A lawsuit shall not be commenced if the Board of Trustees determines there is a likelihood that the costs of the suit will exceed the recovery.

Unless the Trustees direct otherwise, a lawsuit shall be commenced on recommendation of legal counsel for any amounts that are delinquent for three months with no response to counsel's letter.

3. Legal counsel is authorized to enter into settlement negotiations, either orally or in writing, with delinquent employers. Without further approval of the Board of Trustees, legal counsel may agree to the immediate payment of the full amount owed, but any settlement that waives or compromises the amount owed, including interest, liquidated damages, attorneys' fees or costs, must be approved by the Board of Trustees.

4. Legal counsel may, without Board consultation, reject any proposal for settlement that contemplates payment of amounts due over a period of time, if its acceptance would result in collection of less than the total amount owed. Such rejection shall be subject to the Board of Trustees' subsequent review.

5. Unless the Trustees specifically agree to the contrary, no settlement may permanently waive the collection of interest, liquidated damages or attorneys' fees, although any settlement may suspend the collection of interest, liquidated damages, or attorneys' fees until a subsequent delinquency if the current collection of those amounts would involve unwarranted expense.

6. The Board of Trustees reserves the right to accept or reject an employer's proposal regarding any delinquent contributions, interest, liquidated damages, and attorneys' fees over a period of time and to compromise any claim or delinquent account as recommended by legal counsel; provided however, that any such decision to extend the time for payment, or to compromise the amount owing, must comply with the Department of Labor Prohibited Transaction Exemption 76-1.

7. Settlements calling for payments over time or compromising the amount, including interest, liquidated damages, attorneys' fees or costs, must be in writing and signed on behalf of the Fund and the employer unless it would be inappropriate under the circumstances to do so.

8. Notwithstanding the procedures set out in this policy, the Board of Trustees may refer any delinquent account to legal counsel at an earlier or later date than provided for herein when circumstances warrant that collection action be expedited or delayed.

9. The Trustees may, from time to time, appoint a Committee of at least one Employer and one Union Trustee to act on behalf of the Board of Trustees, as provided for under this policy.

SECTION 4

PAYROLL AUDIT POLICY

1. a. The Board of Trustees shall have discretion in determining which employers will be audited each year based on the particular facts and circumstances. Except as provided in subsection (b) below, each employer shall be audited at least once during a five-year period, such date to commence from the date of the last audit of the employer.

b. The Board of Trustees may waive the requirement that each employer be audited every five years in the case of an employer:

- (1) who during the last three years had 5 or fewer employees because an audit would not be cost effective; or
- (2) whose past audits showed that the employer had been consistently accurate and an audit, in the Trustees' discretion, would be unlikely to find discrepancies.

c. In the cases of new employers or employers filing a petition in bankruptcy, an audit shall be performed. In addition, subsequent audits of any employer whose initial audit discloses under reporting will be scheduled early enough to avoid the running of the applicable statute of limitations.

d. Notwithstanding the guidelines of this Section, the Trustees may, in the exercise of their discretion, determine that an audit schedule should not be followed in a particular instance. For example, if facts and circumstances indicate that a particular employer may be reporting inaccurately or inconsistently, the Trustees may direct that auditors conduct an audit.

e. The period audited shall be five (5) years, unless circumstances dictate otherwise.

2. If an employer ceases to have an obligation to contribute to the Fund under its Trust Agreement, a CBA, a SFA, or applicable law, the employer shall remain subject to these audit procedures for the purpose of verifying that the employer made the proper contributions during the time period in which the employer was obligated to contribute to the Fund.

3. Prior to conducting each audit, the Fund auditor shall notify the Fund Office and review the employer's CBA and any pending issues. The Fund Office will forward a letter to the employer advising it of the impending audit, citing the Trustees' authority to conduct the audit and describing the records required.

4. If during a payroll audit the Fund auditor encounters an issue of interpretation of the CBA or an employer takes a position inconsistent with the auditor's understanding of such CBA, the Auditor shall seek the opinion of the Union. In the event there is a conflict between the documents and the employer's interpretation, the Fund auditor shall present the issue in writing to the Board of Trustees for a decision before completing the payroll audit.

5. After an audit of an employer is conducted, the Fund auditor shall review with the employer the auditor's findings. After providing the employer with a reasonable time to respond to the auditor's findings, the auditor shall issue a final report to the Fund with its payroll audit findings.

6. Upon receipt of the Fund auditor's report, the Fund Office shall send a letter to the employer demanding payment of any amounts found to be due by the auditor. The letter shall state that interest on the delinquent contributions shall be calculated as set forth in Section 2, paragraphs 4 and 5, calculated separately as to each person the employer is delinquent in making contributions on behalf of, for the specific time period the employer was delinquent for that employee. For purposes of implementing the procedures set out in Sections 2 and 3 of this Policy, the Employer or Employee Delinquent Date, as applicable, shall be twenty (20) days after the Fund Office's letter described herein.

7. Costs for payroll audits are paid by the Fund except that in the case where an employer underpaid contributions during the audit period, in an amount that is the greater of \$5,000 or 5% of the contributions of the employer, payroll audit costs will be charged to the employer. For purposes of this paragraph, the cost of the payroll audit includes any and all payroll audit costs incurred, including any payroll audit costs incurred after the Fund Office sends the letter described in paragraph 6 above. Payment of payroll audit costs is due on the 30th day following the date the Fund sends the employer a letter demanding payment of such payroll audit costs ("Payroll Audit Cost Due Date"). If payment of the payroll audit costs is not received by the Payroll Audit Cost Due Date, interest will be assessed at a rate of 12%, calculated from the Payroll Audit Cost Due Date until the date paid.

8. In the event an employer refuses to permit an audit upon request by the Trustees, or if the employer refuses the Fund auditor access to pertinent records, then the Fund auditor shall refer the matter to legal counsel. Legal counsel shall thereafter demand in writing that the employer make available such books and records as are necessary for the Fund auditor to conduct an audit. If the records are still not made available, upon approval of the Board of Trustees, counsel shall institute legal action to enforce the Trustees' right to conduct a payroll audit and the employer shall pay to the Fund all costs and attorneys' fees incurred as a result of the employer's refusal to permit an audit or refusal to make available all pertinent records.

9. If a payroll audit identifies an overpayment by the employer, the payroll auditor shall advise the employer that (a) to receive a refund, the employer must submit a request to the Board of Trustees in writing, stating the reason for the overpayment; (b) the Board of Trustees will decide in its sole discretion whether a refund will be granted; (c) any such refund shall be recovered by the employer through a credit against future contributions as determined by the Board and communicated to the employer in writing; and (d) any attempt by the employer to recoup any overpayment through a procedure other than the one described in this paragraph (for instance, by the employer unilaterally taking a credit) shall result in the automatic forfeiture of the refund and the treatment of any credit taken by an employer as a delinquent contribution.

SECTION 5

MISTAKEN CONTRIBUTIONS

1. Subject to the terms and conditions of this policy, an employer that makes a contribution to the Fund in excess of the amount required by the terms of the employer's CBA, the SFA, the Trust or applicable law and under a mistake of fact or law may request a refund of the amount of such mistaken contributions.

2. Effective November 24, 2008, no refund of contributions shall be granted by the Fund without a written request for such refund having been received by the administrative manager of the Fund within three years after the date that such contributions were received by the Fund, unless the mistaken contributions were discovered pursuant to a payroll audit conducted on behalf of the Fund.

Effective November 24, 2008, where mistaken contributions are discovered pursuant to a payroll audit conducted on behalf of the Fund, no refund of contributions shall be granted by the Fund without a written request for such refund having been received by the administrative manager of the Fund by the later of (a) three years after the date that such contributions were received by the Fund, or (b) 90 days following the date of the applicable auditor's report.

3. Any refund of excess contributions made to an employer shall not include interest or investment earnings attributable to the overpayment and shall be reduced by the amount of any investment losses attributable to the overpayment. Investment losses shall be calculated by the Fund based on the participants' account balances on the day the excess contributions were made through the day on which contributions are returned. If a Fund incurred a direct or indirect cost, expense or liability as a result of an excess contribution, any refund or such contribution shall be reduced by the full value of such cost, expense or liability.

4. The obligation to discover and delineate the amount of mistaken contributions within the time limits provided within the policy is the sole and exclusive responsibility of the employer.

5. The request of the employer for refund of mistaken contributions must be in writing and shall not be effective until it is received by the administrative manager of the Fund.

6. The request of the employer must contain copies of all documentation upon which the employer relies to substantiate its request or which may be required by the Fund to verify the exact amount of the mistaken contributions.

7. The refund of contributions shall be considered as returned within the required period if the employer established to the satisfaction of the Trustees its right to a refund of contributions within 6 months after the date on which the Trustees determine that a mistake occurred.

8. The failure and/or refusal of the employer promptly and fully to comply with any or all of the provisions of this policy shall result in the denial of the request for the refund of mistaken contributions.

9. As used in this policy, the term "refund" means the offset of previously-submitted mistaken contributions against currently due contributions ("credits"). As such, upon approval of the administrative manager, an employer may be permitted to credit contributions, less the Fund's set-offs described in this policy, against current contributions only to the same extent and under the same terms and conditions as such employer may be entitled to a refund under this policy. Any employer attempt to recoup any contribution through a procedure other than the one described in this paragraph (for instance by the employer unilaterally taking a credit) shall result in the automatic forfeiture of the refund and the treatment of any credit taken by the employer as a delinquent contribution.

SECTION 6

LIQUIDATED DAMAGES, ATTORNEYS' FEES AND COSTS

1. After an action is filed for delinquent contributions, liquidated damages shall be calculated from the applicable Employer or Employee Due Date. The amount of the liquidated damages shall be the greater of:

- a. Interest on the delinquent contributions determined in accordance with Section 2, paragraphs 5 and 6, or Section 4, paragraph 6; or
- b. 20% of the delinquent Contributions.

2. After an action is filed for delinquent contributions, attorneys' fees shall be due to the Fund from a delinquent employer at the hourly rate charged to the Fund for such services, for all time spent by counsel in collection efforts pursuant to Section 3 hereof or in enforcing the Board of Trustees' right to payroll audits pursuant to Section 4 hereof.

3. All costs (including but not limited to attorneys' and accountants' fees) incurred 1) to determine, discover and collect delinquent contributions, 2) to obtain the information necessary or to properly allocate, credit and record such contributions as necessary to administer

the Fund, 3) to enforce the Trustees' right to audit the employer's payroll records, shall be due to the Fund from the delinquent employer, including, but not limited to, routine audit fees incurred to verify that contributions are properly made to the Fund, any other fees incurred in determining, discovering and collecting contributions from the employer, arbitration fees, filing fees, arbitrator's fees, fees for service of process, travel, copying charges, postage, expert fees, and such other costs as would otherwise be charged to the Board of Trustees to determine, discover and collect any of the amounts described herein.

SECTION 7

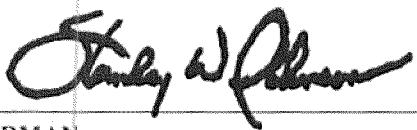
REPORTS

1. The Administrative Manager shall prepare a delinquency report to be presented at each Board of Trustees meeting. The report shall identify all delinquent employers, the amount owed, and the applicable Employer or Employee Delinquent Date of the delinquent contributions. The determination of the Board with respect to action on such delinquent employers and the specific basis therefor, shall be recorded in the minutes.

2. The Administrative Manager shall maintain a file of currently effective CBA's and other agreements detailing the basis upon which employers are obligated to make contributions.


3. All written settlements of delinquencies shall be on file in the Administrative Manager's office.

Date: 9-9-14



CHAIRMAN

Date: 9-9-14



SECRETARY

**EXHIBIT A
FIRST NOTICE LETTER**

[To be sent by the Administrative Manager on Fund letterhead one month after the applicable Employer or Employee Due Date to employers delinquent in contributions.]

[Date]

Re: DELINQUENT CONTRIBUTIONS

Dear :

Your contributions and remittance report to the Fund for _____ in the estimated amount of \$ _____ were due on _____ and have not been received. Interest has accrued on your delinquent contributions from the date the contributions were due at a rate of twelve percent (12%) [or insert other rate as applicable]. To avoid incurring additional penalties, you must send your contributions immediately. Your failure to make payments will result in additional liability for increased interest charges, liquidated damages, attorney's fees, auditor's and accountant's fees and/or court or arbitrator's costs incurred in the collection of the delinquency.

If your contributions and report have been mailed, please disregard this notice. If you employed no one during the above period, write "None" across the report and return the report to the Fund Office.

Sincerely,

For the Board of Trustees

cc: Local Union Representative
Director of the applicable Union Region

**EXHIBIT B
SECOND NOTICE LETTER**

**[To be sent by the Administrative Manager on Fund letterhead
one month after the date of the first notice to all delinquent employers.]**

[Date]

*Certified Mail
Return Receipt Requested*

Re: DELINQUENT CONTRIBUTIONS

Dear :

We have already notified you that you are delinquent in your contributions to the Fund for the period of _____ in the estimated amount of \$ _____ and interest on that amount in the estimated amount of \$ _____. As a result of your delinquency, consistent with Section 502(g)(2) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), you are liable for the unpaid contributions, interest on the unpaid contributions accrued from the date contributions were due at a rate of 12% [or insert other rate as applicable], and you may be liable for an additional amount equal to the greater of the interest on the unpaid contributions or liquidated damages of up to 20% of the amount of the unpaid contributions. Attorneys' fees, accountants' fees, and all costs incurred in the determination and collection of the delinquent contributions also may be imposed.

If payment in full is not received within 30 days of this letter, this matter will be referred to the Fund's attorney for collection.

Sincerely,

For the Board of Trustees

cc: Local Union Representative
Director of the applicable Union Region