

EMPLOYER WITHDRAWAL LIABILITY

- 12.01 For purposes of determining Employer's withdrawal liability under Part I of Subtitle E of ERISA, as amended by the Act, during any particular year that the actuarial assumptions and methods to be applied with respect to that portion of the Vested benefit obligations funded by accumulated assets (valued at market) shall be those contained in regulations issued by the Pension Benefit Guaranty Corporation for corporate plan terminations and which are in effect as of December 31 of the prior year.
- 12.02 The assumptions and methods to be used by the Plan in determining Employer's withdrawal liability may be changed from time to time at more frequent intervals at the discretion of the Board of Trustees upon advice of the actuaries of the Plan that such changes are reasonable.
- 12.03 The reduction of the amount of Employer withdrawal liability determined pursuant to Section 4211 of ERISA, as amended by the Act, by not more than the greater of:
- (a) $\frac{3}{4}$ of 1% of the Plan's unfunded Vested obligations (determined as of the end of the Plan Year ending before the date of withdrawal), or
 - (b) \$100,000, reduced by the amount, if any, by which the amount determined under Section 4211 of ERISA, as amended by the Act, for the Employer, determined without regard to this plan rule or without regard to Section 4209 of ERISA, exceeds \$150,000; and
- 12.04 The above reduction shall not apply to an Employer who withdraws in a Plan Year in which substantially all Employers withdraw from the Plan, or in any case in which substantially all the Employers withdraw from the Plan during a period of one or more Plan Years pursuant to an agreement or arrangement to withdraw, to an Employer who withdraws pursuant to such an agreement or arrangement; and
- 12.05 Any action or proceeding to determine or collect withdrawal liability, if substantially all of the Employers who have withdrawn from the Plan within a period of three Plan Years, an Employer who has withdrawn from the Plan during such period shall be presumed to have withdrawn from the Plan pursuant to an agreement or arrangement, unless the Employer proves otherwise by a preponderance of the evidence.
- 12.06 An Employer who withdraws from the Plan in complete or partial withdrawal is not liable to the Plan if the Employer:
- (a) First has an obligation to contribute to the Plan after the date of enactment of the Multi-employer Pension Plan Amendments Act of 1980, and
 - (b) Had an obligation to contribute to the Plan for no more than or the lesser of:
 - (1) six consecutive Plan Years preceding the date on which the Employer withdraws, or
 - (2) the number of years required for Vesting under this Plan, and
 - (c) Was required to make Contributions to the Plan for each such Plan Year in an amount equal to less than 2% of the sum of all Employer Contributions made to the Plan for each such Plan Year, and
 - (d) Has never avoided withdrawal liability because of the application of this rule with respect to the Plan.
- 12.07 The reduction under Section 21 (a) (3) (E) of the Internal Revenue Code of 1954, as amended, shall apply with respect to the Employees of any Employer who, because of the operation of the above provisions, is not liable to the Plan upon a complete or partial withdrawal.
- 12.08 The share of the Plan's unfunded Vested benefits allocable to a withdrawing Employer shall be the product of:
- (a) The Plan's unfunded Vested benefits as of the end of the Plan Year preceding the Plan Year in which the Employer withdraws, less the value as of the end of such year of all outstanding claims for withdrawal liability which can reasonably be expected to be collected from the Employer withdrawing before such year multiplied by:
 - (b) A fraction:
 - (1) The numerator of which is the total amount required to be contributed by the Employer under the Plan for the last five Plan Years ending before the withdrawal, and
 - (2) The denominator of which is the total of Employer Contributions as reported on Line 14 (c) of Form 5500 or on any predecessor form required by the Department of Labor or the Internal Revenue Service for the five Plan Years ended prior to the year of withdrawal, less any Contributions included in that total made by any substantial Employer that had withdrawn from the Plan within that five-year period. For this purpose, "substantial employer" means:

- (i) An Employer that contributed, in any one of those five Plan Years, at least one percent of total Employer Contributions to the Plan reported for the year or, if lower, \$250,000, and
- (ii) Any other Employer that was a member of an Employer association, a group of Employers covered by a single Collective Bargaining Agreement or a group of Employers covered by agreements with a single labor organization, if the contribution obligations of all members of the group ceased in a single Plan Year and the group's aggregate Contributions to the Plan in any one of the five Plan Years totaled at least one percent of total Employer Contributions to the Plan reported for that year or, if lower, \$250,000.