

EXHIBIT A

IBEW LOCAL 461 FRINGE BENEFIT FUNDS

Delinquency Collection Policy and Procedure As Revised and Amended Through June 1, 2020

The Board of Trustees of the IBEW Local 461 Fringe Benefit Funds hereby adopt the following policy for the collection of delinquent contributions.

SECTION 1 GENERAL POLICY

1. It is the Funds' policy to collect all employer contributions as they are due, and to make such reasonable, diligent and systematic efforts as are appropriate under the circumstances to do so.

2. Employers obligated to contribute to the Fund are bound by the terms and conditions of the Fund's Agreement and Declaration of Trust ("Trust Agreement") as well as this Policy. Employers must make the contributions required by the collective bargaining agreement ("CBA") between the employer and the Union and/or the participation agreement ("PA") between the employer and the Fund. Employers must also submit monthly remittance reports that correctly reflect the contribution rate, the number of employees performing covered work and hours worked by said employees.

3. If an employer ceases to have an obligation to contribute to the Fund under the Fund's Trust Agreement, a CBA, a PA, 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.

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

- a. The right to establish a date on which contributions are due;
- b. 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 auditor to give an unqualified opinion that the proper contributions have been made;

- c. The right to establish an audit program;
- d. The right to require that a delinquent employer pay the cost of an audit, interest, attorneys' fees, accountants' fees and any other expenses incurred by the Fund in determining the amount of a delinquency and in collecting a delinquency;
- e. The right to recover liquidated damages;
- f. The right to require a bond or a cash deposit as security for prompt future payments due from any employer; and
- g. The right to take all 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.

5. The procedures set forth in this Policy shall be followed unless the Board of Trustees determines, in its sole discretion, that they should be waived in a particular instance.

6. 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 OBLIGATION TO MAKE CONTRIBUTIONS

1. When an Employer employs an electrician who has been referred by IBEW Local 461, the Employer must make contributions based upon all wages paid to that individual, irrespective of the specific nature of the work performed under the applicable collective bargaining agreement. The only exceptions are as follows:

- A. No contributions are required when an employee performs bargaining unit work in the jurisdiction of another Local and contributions have been made to that Local's Fringe Benefit funds.

B. No contributions are required to be paid on a bona fide bonuses of an extraordinary nature (i.e. lump sum year-end bonuses, not ordinarily paid as part of a regular payroll period).

2. When a referred electrician is employed by a corporation owned by a relative and enjoys special privileges or status and/or exercises control over the Employer, the employee is deemed an "owner-in-fact". Contributions must be paid based on all compensation paid to the employee but, at a minimum, not less than one thousand seven hundred and fifty hours (1,750) per year.

3. Summer Helpers are employees hired with the written approval of bargaining parties to work between June 1st and September 30th of the year or for such period as has been established by Local 461. No fringe benefit contributions are required to be paid for such employees except to the NEBF.

SECTION 3 COLLECTION PROCEDURES AND OTHER PROCEDURES IN CASES OF DELINQUENCY

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

1. Fringe benefit contribution reports and fringe benefit payments for each month shall be due, payable and must be received no later than the 15th day of the month ("Due Date") following the month in which the work was performed for which contributions are owed.

2. If the required fringe benefit contribution reports and fringe benefit payments are not received by the Due Date, the contribution and report are delinquent.

3. If a fringe benefit contribution report and fringe benefit payment are delinquent, the Funds' administrative manager shall notify the Employer of the delinquency and demand prompt payment by the 20th of the month or the next following business day. When an Employer continues to be delinquent on the 23rd of the month, the Funds shall notify the Employer's employees of the delinquency.

4. In the event an Employer has failed or fails to make required contributions, the Trustees are authorized and empowered:

- A. to impose on and receive from each Employer all costs of any audit;
- B. to assess and receive from such Employer as liquidated damages an amount up to twenty percent (20%) of the amount found to be delinquent, in that the failure of the Employer to make the required payment of contributions imposes additional burden and expense upon the Trustees in the collection thereof, in the administration of the Funds, including but not limited to the communication with said Employer, and, in addition thereto may cause a loss of benefits to covered employees, all of which are difficult of accurate ascertainment;
- C. to assess and receive from such Employer the lost interest from the delinquent amounts, to be calculated at a ten percent (10%) annual rate compounded monthly throughout the period of delinquency;
- D. to impose on and receive from such Employer any amounts the Trustees are required to pay for benefit of an eligible employee of such Employer, or a covered employee who would be eligible except for the failure of such Employer to make required contributions on his or her behalf;
- E. to impose on and receive from such Employer all costs, audit expenses, actuarial expenses, and attorney's fees incurred by the Trustees in enforcing the provisions hereof, whether by litigation or otherwise;
- F. to require such Employer to make weekly deposits of contributions in an amount determined by the Trustees, based on objective standards, provided that the Trustees have given such Employer reasonable notice of such requirement for weekly deposits, the amount to be deposited, the date such deposits are due and the basis on which the weekly deposit is determined and required;
- G. to require such Employer to furnish to the Trustees a bond, with reputable surety thereon,
- (1) with the Trustees as obligee thereunder,
 - (2) in an amount, determined by the Trustees, consistent with the anticipated future obligations of such Employer, and
 - (3) with notice provisions acceptable to the Trustees consistent with purposes of such bond; and/or
- H. to require such Employer to furnish the Trustees an acceptable personal guaranty and/or irrevocable letter of credit.

5. Acceptance of a partial payment shall not constitute a waiver of the remainder of the Fund's claim against an Employer. For example, if an employer pays the principal amount of the delinquency but does not pay accrued interest and/or any other amounts owed, acceptance of the principal amount shall not constitute a waiver of the Fund's claim for accrued and unpaid interest and/or any other amounts.

6. An Employer who does no work in Local 461's area during a month must still file a timely fringe benefit contribution report showing no hours worked.

7. An Employer who is no longer working in the area must file a contribution report marked "Final Report".

8. If a check submitted by an Employer in payment of fringe benefits is dishonored by a bank for insufficient funds ("NSF check") the Employer will be charged for all expenses resulting from the NSF check, as well as liquidated damages, when applicable. An Employer who submits a second NSF check to the Funds will thereafter be required to make fringe benefit payments with certified or cashier's checks for a period of time determined by the Funds.

SECTION 4 LEGAL ACTION AND SETTLEMENT

1. When a delinquency matter is referred to the Funds' legal counsel for collection, legal counsel shall send a letter to the employer demanding payment of the delinquent contributions and notifying the employer that it is also liable for interest and liquidated damages.

2. In the event an employer fails to pay the delinquent contributions, interest and liquidated damages within ten (10) days after legal counsel's demand for payment, and delinquent contributions and interest exceed \$1,000, legal counsel shall initiate legal action, unless legal counsel recommends a different course of action based upon pertinent factors which include, but are not limited to, the following:

- a. the financial condition of the employer;
- b. the probability of collecting on a judgment once it is obtained;
- c. the employer's past performance as a contributing employer;
- d. the amount of the delinquency;

- e. the length of time the delinquent amount has been owed;
- f. the likelihood that the costs of the suit will exceed the recovery;
and
- g. any other factor that legal counsel believes may have a material bearing on the collection of the delinquent contributions.

Any recommendation by legal counsel against initiating suit to collect delinquent contributions shall be submitted to the Board of Trustees. In that event, a lawsuit shall not be commenced pending action of the Trustees on the recommendation of legal counsel. The Board of Trustees reserves the right to reject a recommendation by legal counsel and to direct the commencement of a suit. Unless the Trustees, in their discretion, direct otherwise, a lawsuit will not be commenced if contributions and interest do not exceed \$1,000.

3. Legal counsel is authorized to enter into settlement negotiations (including the sending of a demand letter or other correspondence), 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 and if, in the attorney's opinion, it is unreasonable. Such rejection shall be subject to the Board of Trustees' subsequent review. Only the Trustees may approve a proposal to extend the time of payment.

5. Any settlement may postpone the collection of interest, liquidated damages, or attorneys' fees until a subsequent delinquency if the current collection of those amounts would involve unwarranted expense. Any written settlement providing for the nonpayment of interest, liquidated damages, costs or attorneys' fees shall reserve to the Trustees the right to collect such amounts in the event the employer is again delinquent in paying Contributions within thirty-six months after the settlement is consummated.

6. The Board of Trustees reserves the right to accept or reject an employer's proposal to pay delinquent contributions, interest, liquidated damages, and attorneys' fees over a period of time and/or to compromise any claim or delinquent account. In taking any action pursuant to the preceding sentence, the Board of Trustees shall consider the advice of legal counsel and comply with Prohibited Transaction Exemption 76-1 promulgated by the United States Department of Labor.

7. No settlement shall be valid unless it is in writing and signed on behalf of the Funds and the employer.

8. The Board of Trustees may refer any delinquent account to legal counsel at an earlier or later date than provided for in this Policy when circumstances warrant that collection action be expedited or delayed.

9. The Board of Trustees may appoint a Delinquency Committee of at least one Employer Trustee and one Union Trustee to exercise the powers and perform the duties of the Board of Trustees under this Policy.

SECTION 5 CONTROVERSIES AND DISPUTES

1. In any controversy, claim, demand, suit at law, or other proceeding between any Employer and the Trustees, the Trustees shall be entitled to rely upon any facts appearing in the records of the Trustees, certified to the Trustees by the Unions or the Employers, any facts which are of public record and any other evidence pertinent to the issue involved.

2. The determination of the Trustees shall be binding on all parties and in the event the determination is subject to review by a court or other authorized person or body, the decision by the Trustees shall be sustained, unless it is determined that the Trustees acted in an arbitrary and capricious manner. All questions and controversies, of whatsoever character arising in any manner or between any parties or persons in connection with the Trust or the operation thereof, including the construction of language or meaning of the rules and regulations adopted by the Trustees, the Trust Agreement or this Policy, shall be submitted to the Trustees or the Trustees' designee for decision, and the decision of the Trustees or their designee shall be binding upon all persons dealing with the Trust or a participating Fund.

3. An Employer who has been assessed liquidated damages shall have the right to appeal such assessment to the Trustees. Said appeal shall consist of:

First - submit a letter to:

Board of Trustees
IBEW Local 461 Fringe Benefit Funds
c/o TIC International Corporation
6525 Centurion Drive
Lansing, MI 48917

explaining the circumstances for the late payment and stating the reasons the Trustees should consider waiving the assessment; and

Second - if, after review of the Employer's appeal letter, the Board of Trustees, or Committee thereof, determines that the assessment stands, the Employer shall have the right to request a personal appearance before the Board of Trustees, or Committee thereof; and

Third - to pursue other legal actions only after the first and second steps of this appeal process have been exhausted.

The Funds may conduct a payroll audit of an Employer in question at any time during this Delinquency Procedure.

SECTION 6 OBLIGATION TO MAINTAIN RECORDS AND PAYROLL AUDIT POLICY

1. Federal law requires all contributing employers to maintain records that are sufficient to allow the Funds to verify the accuracy of all contributions and hours and to determine all amounts that may be owed to the Funds. Employers are also required to maintain records identifying work on individual jobs with addresses of those job sites, and the amount of time spent by bargaining unit employees on those jobs. Accurate record-keeping is especially important when bargaining unit employees perform work outside the jurisdiction of Local 461 and

the Employer maintains that fringe benefit contributions for this work are owed to another Local Union. If no accurate records are maintained, the Funds shall have the right to presume that all work done by bargaining unit employees was performed in Local 461's jurisdiction and that fringe benefit contributions are owed for this work.

2. The Board of Trustees shall have discretion in determining which employers will be audited in each year. Each Employer shall generally be audited at least once every three (3) years and the period covered by the audit shall be at least twelve months. The Board of Trustees shall also have the authority to order a "for cause" audit should circumstances arise that concern an employer's contribution obligations to the Funds.

3. Each new Employer shall be audited within the first year of its participation and each Employer that terminates its participation in the Funds or files a petition in bankruptcy, or has such a petition filed against it, shall be audited as soon as practicable following such termination or petition.

4. The Trustees may, in the exercise of their discretion, determine that the guidelines set forth in Paragraphs 1 through 3 above should not be followed in a particular instance. For example, the Trustees may decide not to conduct an audit during the prescribed time period if the Employer has consistently reported accurately.

5. If an Employer ceases to have an obligation to contribute to the Fund under the Trust Agreement, CBA, PA 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 Funds.

6. Prior to conducting each audit, the Funds' auditor shall meet with the administrative manager to review the Employer's CBA or PA and any attendant problems. The Funds' auditor shall notify the Employer in writing of the impending audit, citing the Trustees' authority to conduct the audit and describing the records required.

7. If the Funds' 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 Audit Committee or the Board

of Trustees. If the Local Union agrees with the Employer's interpretation or position, that shall resolve the matter, unless such interpretation or position is, in the view of the auditor, clearly inconsistent with the language of the governing documents. In such an event, or if the Union and Employer disagree, the Funds' auditor shall present the issue in writing to the Board of Trustees for a decision.

8. After an audit of an Employer is conducted, the Funds' 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 Funds with its payroll audit findings.

9. If an audit discloses a net underpayment, the Funds shall send a letter to the Employer advising of the underpayment, as well as any additional amounts due under this Policy, and requesting the Employer to reconcile the auditor's findings with the Employer's records or make payment within thirty (30) business days.

10. Upon receipt of the Employer's reconciliation or after the expiration of thirty business days, whichever is earlier, the administrative manager shall send a final letter to the Employer, with a copy to the auditor, requesting payment of the contributions found to be due by the auditor, together with all other amounts due under this Policy.

11. The date ten (10) days after the Funds' final letter shall be treated as the Due Date under this Policy, except that the Due Date shall be the date the contributions were required to be paid to the Fund under a CBA, the Trust Agreement, PA or applicable law if the Trustees determine that the Employer has engaged in a pattern or practice of under-reporting with respect to its contribution obligations.

12. If the Funds' auditor determines that such action is warranted by evidence suggesting a pattern of substantial underpayments or failure to monitor the contribution obligation by an Employer, the auditor may recommend that the Board of Trustees require the Employer to post a performance bond or other security as acceptable to the Trustees. (The Board of Trustees may require an employer to pay for the cost of an audit if there is a finding of a delinquency of the lesser of ten percent of the average annual contribution for the year of audit or the cost of the audit.)

13. If an Employer refuses to permit an audit upon request by the Trustees, or if the Employer refuses the Funds' auditor access to pertinent records, then the Funds' auditor shall contact the administrative manager, who shall in turn 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 Funds' auditor to conduct an audit. If necessary, upon approval of the Board of Trustees, counsel shall institute legal action to enforce the Trustees' right to conduct a payroll audit.

14. If a payroll audit identifies a net overpayment by the employer, the payroll auditor shall advise the employer of its right to request a refund or credit under the policies and procedures adopted by the Board of Trustees.

15. Procedures for handling mistaken contributions shall be governed by Section 403 of ERISA. The Trustees may refund mistaken Employer contributions that were paid to the Funds within the year prior to the date that Trustees first became aware that the contributions were made in error. Contributions paid to the Funds more than one year prior to the date the Trustees first became aware that the contributions were made in error shall not be refundable.