Steelworkers Pension Trust
Explanation of Withdrawal Liability

This document is intended to provide a general overview of ERISA Withdrawal Liability requirements as they apply to the Steelworkers Pension Trust. It is not intended to provide legal advice, to provide official, complete, or final determinations of an employer's obligations under the Trust or under any other pension plan, or to provide a complete description of an employer's rights and obligations under the Trust or under applicable federal law, and may not be relied upon for such. The Trust encourages readers to seek legal advice regarding their Withdrawal Liability rights and obligations.

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Explanation of Withdrawal Liability

What is Withdrawal Liability?

Withdrawal Liability is an additional financial liability assessed against former Participating Employers by a multiemployer pension plan, such as the Steelworkers Pension Trust. Withdrawal Liability came into existence upon Congress' passage of the Multiemployer Pension Plan Amendments Act of 1980, as amended. Withdrawal Liability is chiefly a mandate and function of federal law and is intended to ensure that a withdrawing employer pays its share of Unfunded Vested Benefits attributable to its employees (see § 4201, *et. seq.*, of the Employee Retirement Income Security Act of 1974 ("ERISA"; 29 U.S.C. 1381, *et. seq.*)).

In the Trust, Withdrawal Liability is assessable if the former Participating Employer completely or partially ceases to have an obligation to contribute to the plan in a plan year in which the plan's assets are less than the present value of all of the nonforefeitable vested benefits accrued under the plan. This difference between the present value of its vested benefits and a plan's assets is the plan's Unfunded Vested Benefits. The amount of withdrawal liability assessed is generally the former Participating Employer's proportional share of Unfunded Vested Benefits. Note that Withdrawal Liability payments do not provide additional benefits to participants, but are applied toward paying down the Trust's Unfunded Vested Benefits.

It should be noted that ERISA defines an "employer" to be not just the individual business that has the obligation to make contributions to a plan, but also to all members of the controlled group of businesses to which the individual business belongs. This is an important consideration in determining not only which individuals or businesses are subject to the liability, but what type of withdrawal liability will attach to those individuals or businesses.

What are the Two Types of Withdrawal?

A former Participating Employer may incur Withdrawal Liability stemming from its participation in the Trust through either a Complete Withdrawal or a Partial Withdrawal. A Complete Withdrawal occurs when that employer no longer has an obligation to contribute to the Trust. An employer, whether or not continuing to participate, may also be deemed to have incurred a Partial Withdrawal from the Trust when the number of contribution base units (CBUs) for a particular bargaining unit (for example, the number of hours worked in a wage month or the total covered employees' gross earnings for a wage month) declines significantly. Again, note that a Participating Employer is not deemed to have incurred Withdrawal Liability if that employer withdraws participation from the Trust during a plan year in which no withdrawal liability is assessable. An explanation of how both Complete Withdrawal Liability and Partial Withdrawal Liability are determined under the Trust is provided below.

What is a Complete Withdrawal?

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A Complete Withdrawal occurs when a Participating Employer no longer has an obligation to contribute to the Trust or has permanently ceased all covered operations. An employer's "obligation to contribute" is defined in ERISA § 4212 (29 U.S.C. § 1392) and arises under one or more collective bargaining agreements (CBAs) or related agreements or as a result of a duty under applicable labor-management relations law. A Participating Employer's obligation to contribute may cease through the collective bargaining process, as when the union and the employer negotiate away such participation. Another way a Participating Employer's obligation to contribute may cease is through the employer's unilateral action, such as failing to pay required contributions, in which case the Trust may terminate the employer's participation. Such a termination would trigger Withdrawal Liability.

How is Complete Withdrawal Liability Determined?

The Trust calculates the amount of an employer's Complete Withdrawal Liability using the method described in ERISA § 4211(c)(3) (29 U.S.C. § 1391(c)(3)); see Declaration of Trust § 27.03), otherwise known as the Rolling-5 Method. Under this method, the Trust first determines an Unfunded Vested Benefit ratio. The Unfunded Vested Benefit ratio is the amount of Unfunded Vested Benefits for the plan year divided by Contributions Received from Continuing Employers during the preceding five plan years. Contributions Received from Continuing Employers is the difference between Total Employer Contributions received by the Trust during the five year period less Contributions Received from Previously Withdrawn Employers during that period. Then, to calculate the amount of a particular employer's share of Unfunded Vested Benefits, the Trust multiplies this ratio by the total amount of contributions due the Trust by that employer over the last five plan years. Finally, the Trust determines whether the subject employer is exempt from Withdrawal Liability as a result of the Trust's Five-Year Free Look provision and, if not, applies any applicable *de minimus* adjustments to the employer's share of Unfunded Vested Benefits to determine that employer's Withdrawal Liability.

For example, for 2011 the actuary has determined that the value of Unfunded Vested Benefits was $599,042,298, Total Employer Contributions due the Trust for plan years 2006 through 2010 was $935,480,976, and Contributions Received from Previously Withdrawn Employers amounted to $19,738,125. Therefore, on December 31, 2010 the unfunded vested benefit ratio was 65.42%, which is $599,042,298 divided by the difference between $935,480,976 and $19,738,125. Consequently, for a Participating Employer who withdraws during plan year 2011, that employer's total contributions due the Trust over the last five plan years would be multiplied by 65.42% to determine that employer's share of Unfunded Vested Benefits or, in other words, that employer's withdrawal liability prior to the application of the Five-Year Free Look and any relevant *de minimus* adjustments.

Complete Withdrawal Liability Example 1:

Q: Employer A withdraws from the Trust during 2011, a year in which the Trust has Unfunded Vested Benefits and an Unfunded Vested Benefit ratio of 65.42%. The sum of Employer A's contributions over the five years from 2006 through 2010 totaled $1,000,000. What is Employer A's share of Unfunded Vested Benefits (prior to application of the Five-Year Free Look or statutory *de minimus* adjustments)?

A: Employer A's share of Unfunded Vested Benefits would be $654,200 (= $1,000,000 x 65.42%). The Trust would then apply against this result the Five-Year Free Look and any statutory *de minimus* adjustments.

Complete Withdrawal Liability Example 2:

Q: Employer B withdraws from the Trust during 2011, a year in which the Trust has Unfunded Vested Benefits and an Unfunded Vested Benefit ratio of 65.42%. The sum of Employer B's contributions over the five years from 2006 through 2010 totaled $195,000. What is the employer's share of Unfunded Vested Benefits (prior to application of the Five-Year Free Look or statutory *de minimus* adjustments)?

A: Employer B's share of Unfunded Vested Benefits would be $127,569 (= $195,000 x 65.42%). The Trust would then apply against this result the Five-Year Free Look and any statutory *de minimus* adjustments.

What are *De Minimus* Adjustments?

The amount of a former Participating Employer's Withdrawal Liability may be reduced or eliminated if the amount of liability falls within one of the *de minimus* exceptions provided by law. ERISA Section 4209 (29 U.S.C. 1389) generally provides that a withdrawing employer's Withdrawal Liability will be eliminated it the employer's share of Unfunded Vested Benefits is less than $50,000; will be reduced by $50,000 if the employer's share of Unfunded Vested Benefits is between $50,000 and $100,000; and will be reduced by an amount equal to $150,000 less the employer's share of Unfunded Vested Benefits if the employer's share of unfunded vested benefits is between $100,000 and $150,000. Below are examples of how the *de minimus* exceptions are applied.

***De Minimus* Adjustments Example 1:**

Q: Borrowing from Complete Withdrawal Liability Example 1 above, Employer A withdraws from the Trust during 2011 with a share of Unfunded Vested Benefits equal to $654,200. Will Employer A be entitled to an adjustment or elimination of Withdrawal Liability due to ERISA's statutory *de minimus* adjustments?

A: Employer A's share of Unfunded Vested Benefits would remain unchanged at $654,200 because this amount exceeds all of the statutory *de minimus* adjustments provided by ERISA.

***De Minimus* Adjustments Example 2:**

Q: Borrowing from Complete Withdrawal Liability Example 2 above, Employer B withdraws from the Trust during 2011 with a share of Unfunded Vested Benefits equal to $127,569. Will Employer B be entitled to an adjustment or elimination of Withdrawal Liability due to ERISA's statutory *de minimus* adjustments?

A: Employer B's share of Unfunded Vested Benefits would be entitled to a reduction because the amount falls within the range of *de minimus* adjustment values provided by ERISA. Here, Employer B's Withdrawal Liability would be reduced to $105,138. This amount was determined by subtracting from $150,000 Employer B's share of Unfunded Vested Benefits, resulting in a reduction of $22,431. By applying the reduction of $22,431 against Employer B's share of Unfunded Vested Benefits of $127,569, the *de minimus* adjustment reduces the amount of Withdrawal Liability due the Trust to $105,138.

***De Minimus* Adjustments Example 3:**

Q: Employer C withdraws from the Trust during 2011 with a share of Unfunded Vested Benefits equal to $87,257. Will Employer C be entitled to an adjustment or elimination of Withdrawal Liability due to ERISA's statutory *de minimus* adjustments?

A: Employer C's share of Unfunded Vested Benefits would be entitled to a reduction because the amount falls within the range of *de minimus* adjustment values provided by ERISA. Here, Employer C's Withdrawal Liability would be reduced to $37,257. This amount was determined by subtracting $50,000 from Employer C's share of Unfunded Vested Benefits. By applying the reduction of $50,000 against Employer C's share of Unfunded Vested Benefits of $87,257, the *de minimus* adjustment reduces the amount of Withdrawal Liability due the Trust to $37,257.

***De Minimus* Adjustments Example 4:**

Q: Employer D withdraws from the Trust during 2011 with a share of Unfunded Vested Benefits equal to $42,008. Will Employer D be entitled to an adjustment or elimination of Withdrawal Liability due to ERISA's statutory *de minimus* adjustments?

A: Employer D's share of Unfunded Vested Benefits would be eliminated because the amount falls within the range of *de minimus* adjustment values provided by ERISA. Here, Employer D's Withdrawal Liability would be reduced to $0. Because Employer D's share of Unfunded Vested Benefits was less than $50,000, the *de minimus* adjustment eliminates the amount of Withdrawal Liability due the Trust.

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What is a "Free Look" Window?

Withdrawal liability does not apply if the plan provides a "free look" window for new Participating Employers and one of those new Participating Employers withdraws during that window in which the criteria is satisfied. The Trust provides a five-year free look window as provided in Declaration of Trust § 27.03 (see attached). A Participating Employer who makes a Complete or Partial Withdrawal within the Free Look window will be exempt from Withdrawal Liability if the following criteria are satisfied:

- The employer first had an obligation to contribute after the enactment of MEPPA (9/26/1980),
- The employer had an obligation to contribute for not more than five years (years required for vesting),
- The employer was required to make contributions to the Trust in an amount equal to less than 2% of the total contributions, and
- The employer has never avoided Withdrawal Liability because of the application of this section with respect to the Trust.

Five Year Free Look Example:

Q: The first wage month for which Employer E had begun participating in the Trust was July 2009. What is the last wage month for which contributions are due before which the Five Year Free Look would expire?

A: The last wage month for which contributions are due before which the Five Year Free Look (and Withdrawal Liability exemption) would expire would be wage month wage month May 2014, provided their contributions were less than 2% of the total contributions. Once hours accrue in wage month June 2014, contributions are due in July 2014 for that June 2014 wage month and the five years will have concluded. If Employer E withdraws from the Trust before hours have accrued in wage month June 2014 and their contributions were less than 2% of the total contributions, then Employer E will be exempt from Withdrawal Liability.

What is a Partial Withdrawal?

Partial Withdrawals are defined in ERISA § 4205 (29 U.S.C. § 1385) and generally occur in one of two ways. The first way in which a Partial Withdrawal may occur is by a "70% decline in contributions." A 70% decline in contributions is found when the contribution base units for each of the prior three plan years is less than 30% of the employer's contribution base units for

the "high base year". The determination of whether a Partial Withdrawal is triggered due to a 70% decline in contributions and the value of the Partial Withdrawal Liability is explained in greater detail below.

The second way in which a Partial Withdrawal occurs is by a partial cessation of the employer's contribution obligation. A partial cessation of an employer's contribution obligation (as defined in the second prong of ERISA § 4205) occurs when the employer permanently ceases to have an obligation to contribute under one or more, but not all, of the CBAs and either (1) continues to perform work in the jurisdiction of the CBA of the type for which contributions were previously required, or (2) transfers such work to another location, or (3) continues to perform work at the facility of the type for which the obligation to contribute ceased.

Again, it should be noted that ERISA defines an "employer" to be not just the individual business that has the obligation to contribute to the Trust, but also any other members of a controlled group of businesses to which the individual business belongs.

How is Partial Withdrawal Liability determined due to a 70% decline in Contributions?

Partial withdrawal liability as a result of a 70% decline in contributions is determined in accordance with ERISA § 4206 (29 U.S.C. § 1386) and involves a series of three steps. First, a bargaining unit's contribution basis is determined and the appropriate data needed to make the determination is accumulated. A participating employer contributes to the Trust on behalf of a particular bargaining unit under one of three bases: as a flat amount per hour worked by each covered employee, as a percentage of each covered employee's gross earnings, or as a fixed amount per month. An eight-year history is accumulated of the total annual contribution base units upon which the participating employer contributed on behalf of the bargaining unit in question. Recall that an employer is defined under ERISA as being all of the members of a controlled group of businesses. Therefore, when determining whether a Partial Withdrawal has been triggered and what the value of that Partial Withdrawal Liability may be, the Trust accumulates data and calculates the liability based on the combined information of all participating employers of that controlled group of businesses.

Second, the Trust determines whether a partial withdrawal has been triggered. The formula for determining whether a partial withdrawal is triggered by a 70% decline in contributions begins with determining the bargaining unit's "three-year testing period." The "three-year testing period" is the period consisting of the three years immediately preceding the plan year in question. The year of partial withdrawal is deemed to be the first year in the three-year testing period. For example, when determining whether a partial withdrawal has occurred in 2009 the Trust would in 2012 treat the years 2011, 2010, and 2009 as the "three-year testing period." Next, the "base year range" is determined, which consists of the five plan years immediately preceding the beginning of the three-year testing period. For a partial withdrawal in 2009 the Trust would treat the years 2004 through 2008 as the "base year range." Next, the "high base year" is determined. The "high base year" is an average of the two plan years within the "base year range" that had the highest total annual contribution base units. Finally, if for

each year in the "three-year testing period" the employer's contribution base units do not exceed 30% of the contribution base units of the high base year, then a partial withdrawal has been triggered on the last date of the three-year testing period, or December 31, 2011 in this example.

Once the Trust determines that a partial withdrawal has occurred, the final step is to ascertain the value of any partial withdrawal liability that may be assessed the employer. The amount of the liability is equal to the complete withdrawal liability that would otherwise be assessable to the employer had the employer withdrawn in the first year of the "three-year testing period" described above, multiplied by an allocation percentage. The allocation percentage is based on a formula equal to one minus the result of the employer's CBUs for the plan year following the plan year in which the partial withdrawal occurs (i.e. 2012 in the previous example) divided by the average of all CBUs upon which the employer contributed during the "base year range" (2004 to 2008 as described previously).

Partial Withdrawal Due to a 70% Decline in Contributions – Example 1:

Q: In early 2013, the Trust performs an analysis of the contribution base units that each Participating Employer reported to the Trust in 2012. The purpose of the study is to determine whether any employer triggered Partial Withdrawal Liability and, if so, the value of that employer's liability. Until recently, one such employer, Employer F, contributed to the Trust through two separate collective bargaining agreements, one on behalf of covered employees at its Spring City facility and the other on behalf of its employees at its Winter Park facility. Employer F contributes on an "hours worked" basis and has experienced a steady decline in operations over the last few years. Employer F's history of annual contribution base units are shown below.

Employer F -- Contribution Basis History

Location	Bargaining Unit Entry Date	2004 Hours Worked	2005 Hours Worked	2006 Hours Worked	2007 Hours Worked	2008 Hours Worked	2009 Hours Worked	2010 Hours Worked	2011 Hours Worked	2012 Hours Worked
Spring City, PA	7/1/73	104,538	102,498	99,204	90,080	67,190	44,502	25,062	26,312	30,312
Winter Park, FL	8/1/97	25,054	31,694	36,816	38,656	35,280	30,730	15,152	10,240	5,120
Totals		129,592	134,192	136,020	128,736	102,470	75,232	40,214	36,552	35,432

Has Employer F triggered a Partial Withdrawal in 2011 or 2012?

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A: As shown below, Employer F has not partially withdrawn from the Trust as of December 31, 2011, but has as of December 31, 2012.

Determination of Partial Withdrawal Liability Trigger

	Testing as of	12/31/2011		12/31/2012
"Base Year Range"		2004-2008		2005-2009
Highest CBU in Base Year Range		136,020		136,020
2nd Highest CBU in Base Year Range		134,192		134,192
"High Base Year" (Average)		135,106		135,106
Three-Year Testing Period		2009-2011		2010-2012
Highest CBU in Three-Year Testing Period		75,232		40,214
Ratio		55.7%		29.8%
Partial Withdrawal Triggered? (Ratio less than 30%)		No		Yes

What is a Partial Withdrawal due to a Partial Cessation of the Contribution Obligation?

As explained previously, an employer's "obligation to contribute" is defined in ERISA § 4212 (29 U.S.C. § 1392) and arises under one or more collective bargaining agreements (CBAs) or related agreements or as a result of a duty under applicable labor-management relations law. A partial cessation of an employer's contribution obligation (as defined in the second prong of ERISA § 4205) occurs when the employer permanently ceases to have an obligation to contribute under one or more, but not all, of the CBAs and either (1) continues to perform work in the jurisdiction of the CBA of the type for which contributions were previously required or (2) transfers such work to another location or (3) continues to perform work at the facility of the type for which the obligation to contribute ceased.

As for the Partial Withdrawal Liability value, it would be determined in the same manner as a Partial Withdrawal due to a 70% Decline in Contributions.

How is Withdrawal Liability Paid?

Withdrawal Liability is amortized using a discount rate of 6.25% and is paid on a quarterly basis. Once a particular employer's withdrawal liability is determined, the Trust will send the employer a Demand Letter, which will include a schedule of quarterly payments. The first payment is due within sixty days of the date of the notice.

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The number of payments over which the Withdrawal Liability is to be paid is determined in three steps. First, a maximum three consecutive year average of Contribution Base Units over the last ten years preceding the year of withdrawal are determined. Next, this maximum three year average is multiplied by the highest contribution rate at which the employer contributed over the last ten years, including the year of withdrawal. This result becomes the annual Withdrawal Liability payment amount. Finally, the number of quarterly periods required for the employer to pay its total Withdrawal Liability is determined based on the Trust's actuarial assumed rate of return, the annual Withdrawal Liability payment and the total amount of Withdrawal Liability due. The period to amortize the Withdrawal Liability is limited to 20 years. Therefore, an employer's Withdrawal Liability is the lesser of the amount allocated or the 20-year present value of the annual payment.

In the event a former Participating Employer misses a scheduled payment, the Trust will send a Default Notice to the employer. Once the Default Notice is issued, the employer has sixty (60) days to come current with its scheduled payments. In the event the employer fails to come current after 60 days of the date of the Default Notice, then the employer will be in default of its Withdrawal Liability obligation and the entire remaining Withdrawal Liability balance will become due immediately with interest.

What Actuarial Assumptions are Used in Determining Withdrawal Liability?

The Trust's actuary currently applies the same actuarial methods and assumptions as those used in completing its actuarial valuation for the Trust. Also, the discount rate used to calculate the value of vested benefits for withdrawal liability purposes is 7.25%, which is the same rate used in the Trust's valuation for funding. A copy of the Trust's most recent Actuarial Valuation Report is currently available at a cost of $0.25 per page. Please contact the Trust to purchase a copy of the report.

How is the Trust's Audit Process Affected by Withdrawing Participating Employers?

As withdrawal liability amounts and calculations are dependent upon the accuracy of participation and contribution data, the Trust maintains its right under law to perform a final audit of an employer's payroll and employment records. This right survives the date in which an employer withdraws from the Trust.