

Summary Plan Description and Plan Document

**For the Minnesota and North Dakota
Bricklayers and Allied Craftworkers**

VACATION FUND

Effective January 1, 2013



**MINNESOTA AND NORTH DAKOTA
BRICKLAYERS AND ALLIED CRAFTWORKERS
VACATION FUND**

SUMMARY PLAN DESCRIPTION

January 1, 2013

FUND OFFICE:

Zenith American Solutions
PO Box 257
Minneapolis, Minnesota 55440-0257
(651) 256-1801
(800) 879-4412

**MINNESOTA AND NORTH DAKOTA
BRICKLAYERS AND ALLIED CRAFTWORKERS
VACATION FUND**

BOARD OF TRUSTEES

As of January 1, 2013 the Trustees are:

Employer Trustees

Jay A. Lommel
Barry Blazevic
Monica Kelley
Martha Henrickson

Union Trustees

Michael J. Cook
Douglas Schroeder
Terry Wong
Michael Ganz
Michael A. Hawthorne, Alternate

THIRD-PARTY ADMINISTRATOR
Zenith American Solutions

LEGAL COUNSEL
Peter M. Rosene, Esq.
Felhaber, Larson, Fenlon & Vogt, P.A.

For Further Information
Call or Write the Vacation Fund Office

MINNESOTA AND NORTH DAKOTA BRICKLAYERS AND ALLIED CRAFTWORKERS VACATION FUND

SUMMARY PLAN DESCRIPTION

1. The Vacation Fund is a trust fund set up to provide benefits to bricklayers and workers in the allied crafts, who perform work under the jurisdiction of the International Union of Bricklayers and Allied Craftworkers, Local 1 Minnesota/North Dakota, its predecessors and successors (the "Union").
2. The Vacation Fund provides Vacation benefits to you based upon the number of hours you work. An Employer contributes to the Vacation Fund according to the applicable Collective Bargaining Agreements.
3. A payout of Vacation benefits occurs twice each calendar year. On or about May 1 of each calendar year, seventy percent (70%) of the amount collected in your Vacation Fund account during the previous calendar year, less any expenses or charges assigned to the account, shall be paid to you. On or about December 1 of each calendar year, but in any event not later than December 31 of each calendar year, the remaining thirty percent (30%) shall be paid to you. Additionally, the Vacation Fund Board of Trustees may pay interest that has accumulated on your Vacation Fund accounts, as the Board of Trustees determines.
4. Upon your death, the amount in your Vacation Fund account, less any expenses or charges assigned to the account, shall be paid to your beneficiary, payable according to the Plan. You may designate a beneficiary to receive the Vacation benefits upon your death by completing a beneficiary designation form furnished by the Fund, and returning the completed beneficiary designation form to the Fund. If no beneficiary is designated by you in writing, or the designated beneficiary is not alive at the time of the payout, then the Fund will deem that your accumulated Vacation benefit be paid to the following persons in the following order of priority: your legally qualified spouse; if no spouse, in equal shares to your children who are living at the time of the payout; if no spouse and no living children, to your parents who are living at the time of the payout, or the surviving parent; and if none of the above, then to your estate.
5. Vacation benefits are in addition to the benefits you receive from the Minnesota and North Dakota Bricklayers and Allied Craftworkers Health Fund, the Minnesota and North Dakota Bricklayers and Allied Craftworkers Pension Fund, or any of several other benefit plans associated with the Union.
6. Your Vacation benefit payment must be cashed or deposited within two (2) years after the issuance of the payment. Vacation benefit payments that have not been cashed or deposited within two (2) years after issuance are null and void, and these Vacation benefits will be forfeited to the Vacation Fund. **To avoid forfeiting your Vacation benefit, you must cash or deposit your benefit payment within two (2) years after it is issued.** It is your responsibility to keep the Fund Office informed of any changes in your mailing address and contact information. If your Vacation benefit payment forfeits to the Fund, then you may still apply to receive your Vacation benefit. In this case, the Fund will charge you an administrative fee in the amount of \$25.00, and the Board of Trustee reserves the right to increase or decrease this administrative fee.
7. You may authorize in writing that the Vacation Fund pays all or a portion of your Vacation benefit to the Union for membership dues and the Minnesota and North Dakota Bricklayers and Allied Craftworkers Apprenticeship Fund for costs and tuition.

DEFINITIONS

- A. Union. The Union is the International Union of Bricklayers and Allied Craftworkers, Local 1 Minnesota/North Dakota, its predecessors and successors.
- B. Employer. An Employer is a person or entity obligated to submit contributions to the Vacation Fund, pursuant to the terms of a written agreement.
- C. Employee. An Employee is an individual who performs Covered Employment (as defined below) for an Employer (as defined above).
- D. Covered Employment. Covered Employment means work performed for an Employer as set forth and defined by the Union's Constitution and By-laws.
- E. Vacation Benefit Year. A Vacation Benefit Year is a calendar year (i.e., begins on January 1 and ends on December 31 of the same year).
- F. Participants. Participants include an Employee, former Employee, Beneficiary or retired Employee, who has a right to a Vacation benefit by virtue of submitted Employer contributions.
- G. Beneficiary. A Beneficiary is a person or persons who will receive your Vacation benefit upon your death.
- H. Vacation Fund. The Vacation Fund was established according to the Minnesota and North Dakota Bricklayers and Allied Craftworkers Vacation Fund Restated Agreement and Declaration of Trust, and it includes all property and money contributed to the Vacation Fund by Employers together with whatever additional income is received from earnings and interest. The terms "Vacation Fund" and "Vacation Plan" are interchangeable.
- I. Employer Contributions. These are payments made by Employers to the Vacation Fund in accordance with a written agreement with the Union.
- J. Forfeiture. When Vacation benefit payments go unclaimed or uncashed for at least two (2) years after issuance, the Fund's Trustees, acting pursuant to the powers delegated to them under the Restated Agreement and Declaration of Trust, will by motion declare the unclaimed Vacation benefit to be forfeited to the Fund. All money forfeited shall become part of the Vacation Fund. If your Vacation benefit payment forfeits to the Fund, then you may still apply to receive your Vacation benefit. In this case, the Fund will charge you an administrative fee in the amount of \$25.00. The Vacation Fund Board of Trustees reserves the right to increase or decrease this administrative fee.

ANSWERS TO QUESTIONS ABOUT YOUR VACATION PLAN

The questions and answers which follow are designed to help you understand the basic provisions of the Vacation Plan. The Vacation Plan Trust, this Summary Plan Description, and the determinations of the Vacation Fund's Trustees govern your rights.

What is the Vacation Fund?

The Vacation Fund is a legal trust fund set up for the purpose of providing Vacation benefits for participating Employees performing Covered Employment. The Restated Agreement and Declaration of Trust, as it is periodically revised and restated, establishes the Vacation Fund, and, along with this SPD, governs the Vacation Fund's operation.

Who administers the Fund?

A Board of Trustees, which serves without compensation, acts on behalf of you and your fellow Participants in managing all aspects of the Vacation Fund's operations. This Board is made up of Union and Employer representatives, whose powers and duties are set forth in the Restated Agreement and Declaration of Trust.

Who contributes to the Vacation Plan?

Participating Employers contribute to the Vacation Fund in accordance with their written agreements with the Union. The Employer contribution amounts vary among the different Union crafts and territories, and this may affect your Vacation benefit amounts. The Board of Trustees may not accept additional Employee contributions.

Who is covered by the Fund?

All Employees who perform work in Covered Employment are covered by the Fund. Payment of your Vacation benefit is dependent upon your Employer's payment of the Vacation Fund benefit contribution.

How do I become a Participant?

As soon as you begin working in Covered Employment, you become an eligible Participant. The amount of your Vacation benefit depends upon the number of hours you worked during the vacation accumulation year, during which your Employer(s) report(s) and pay(s). The amount of your Vacation benefit also depends on the amount your Employer(s) pay(s).

Will I be penalized if I do not work continually in Covered Employment?

No. You will receive Vacation benefits for the amount of time worked, as long as your Employer contributes to the Vacation Fund.

Does the administration of the Vacation Fund cost me anything?

The Trustees may charge an amount from your account per month to pay the Fund's administrative expenses. The Trustees may choose not to assess this charge in the event investment earnings are sufficient to pay the administrative expenses.

What happens to my accumulated Vacation Pay when I die?

Your beneficiary will receive your accumulated Vacation benefit. You may designate a beneficiary in writing, and in the absence of a designated beneficiary, the Trustees will make payment as follows:

1. Your legally qualified spouse;
2. If no legally qualified spouse, then to your surviving children equally;
3. If no surviving children, then to your surviving parents or parent; and
4. If no surviving parents, then to your estate.

How much is the Employer Contribution rate?

The Union members, at their annual allocation meeting, decide what part of their wage package will be contributed to the Vacation Fund. Employer contribution rates may differ among the various Union crafts and Union territorial jurisdictions. These differing rates will directly affect your Vacation benefit amounts.

What are my rights if my Vacation Benefits claim is denied?

A federal law named the Employee Retirement Income Security Act (ERISA) gives you the right to appeal any decision of the Board of Trustees. The Board of Trustees has adopted the following appeal procedures:

- A. Send or give a written notice of appeal to the Fund within forty-five (45) days after you receive the decision.
- B. You will shortly thereafter be able to make an appearance before the Vacation Fund's Appeal Board, which is constituted of at least one Union trustee and one Employer trustee. You will be informed in writing of the Appeal Board's decision. If you are dissatisfied with the Appeal Board's decision, you may indicate so in writing to the Board of Trustees.
- C. The Board of Trustees reviews the Appeal Board's decision at its next scheduled meeting or a special meeting, if necessary. At this meeting, the Board of trustees will adopt, revise or reverse the Appeal Board's decision.
- D. If you disagree with the decision of the Board of Trustees, then you may pursue your legal remedies.
- E. You must follow steps A. through D. before you pursue your legal remedies.

Why is the payment schedule split into two (2) separate payments of 70% and then 30%?

To provide a separate summer vacation benefit and a separate holiday benefit.

What happens to my Vacation benefit if my Employer fails to make the required Contributions?

The Fund can make Vacation benefit payments only for contributions actually paid by Employers. The Fund makes a continuing effort to collect contributions from delinquent Employers. If these collection efforts fail (for example, if the Employer has filed a petition for bankruptcy) then you may amend your previous year's tax returns and deduct the amount that should have been contributed by the delinquent Employer.

May I direct my Vacation benefit to be paid for Union Dues or Apprenticeship Costs and Tuition?

Yes. You may authorize in writing that the Vacation Fund pays all or a portion of your Vacation benefit to the Union for membership dues and the Minnesota and North Dakota Bricklayers and Allied Craftworkers Apprenticeship Fund for costs and tuition.

Where can I get further information?

The following documents are available for your inspection at the Fund Office:

Minnesota and North Dakota Bricklayers and Allied Craftworkers Vacation Fund Restated Agreement and Declaration of Trust;

Agreement between Associated General Contractors of Minnesota, Minnesota Concrete and Masonry Contractors Association, and International Union of Bricklayers and Allied Craftworkers Local 1 Minnesota/North Dakota (its predecessors and successors); and

The Fund's Summary Plan Description.

Copies are available, and a reasonable copying fee will be charged.

What happens if I fail to cash or deposit the Vacation benefit payment?

Vacation benefit payments that have not been cashed or deposited within two (2) years after issuance shall be null and void, and your Vacation benefit will be forfeited to the Vacation Fund. If your Vacation benefit payment forfeits to the Fund, then you may still apply to receive your Vacation benefit. In this case, the Fund will charge you an administrative fee in the amount of \$25.00. The Vacation Fund Board of Trustees reserves the right to increase or decrease this administrative fee.

IMPORTANT FACTS ABOUT THE PLAN

The following information provides important facts about the Plan.

Name of Plan:

This Plan is known as the Minnesota and North Dakota Bricklayers and Allied Craftworkers Vacation Fund.

Board of Trustees:

A Board of Trustees is responsible for the operation of this Plan. The Board consists of Employer Trustees and Union Trustees selected by the Employers and the Union, which have entered into Collective Bargaining Agreements.

If you wish to contact the Board of Trustees, you may use the address and telephone number below:

Board of Trustees
Minnesota and North Dakota
Bricklayers and Allied Craftworkers Vacation Fund
c/o Zenith American Solutions
PO Box 257
Minneapolis, Minnesota 55440-0257
651-256-1801
800-879-4412

As of January 1, 2013 the Trustees of the Plan are:

Employer Trustees

Jay A. Lommel
CAMCO Concrete & Masonry Company
P.O. Box 7413
St. Cloud, MN 56302

Barry Blazevic
ADB Construction Company, Inc.
9240 Cottonwood Lane North
Maple Grove, MN 55369

Monica Kelley, Esq.
Gray Plant Mooty
500 IDS Center
80 South Eighth Street
Minneapolis, MN 55402

Martha Henrickson
Associated General Contractors of Minnesota
525 Park Street, Suite 110
St. Paul, MN 55103

Union Trustees

Michael Ganz
328 United Labor Centre
312 Central Avenue SE
Minneapolis, MN 55414

Michael J. Cook
328 United Labor Centre
312 Central Avenue SE
Minneapolis, MN 55414

Terry Wong
328 United Labor Centre
312 Central Avenue SE
Minneapolis, MN 55414

Douglas Schroeder
328 United Labor Centre
312 Central Avenue SE
Minneapolis, MN 55414

Michael A. Hawthorne, Alternate
328 United Labor Centre
312 Central Avenue SE
Minneapolis, MN 55414

Plan Sponsors & Administrators:

The Plan Sponsor is the Board of Trustees. The Third-Party Administrator is Zenith American Solutions. Its address is the same as the Board of Trustees.

Identification Numbers:

The numbers assigned to the Plan by the Board of Trustees pursuant to instructions of the Internal Revenue Service is 501. The number assigned to the Plan by the Internal Revenue Service is 23-7068471.

Agent for Service of Legal Process:

Peter M. Rosene is the Fund attorney and the Plan's agent for service of process. Mr. Rosene's office is located at Felhaber, Larson, Fenlon & Vogt, P.A., 444 Cedar Street, Suite 2100, St. Paul, Minnesota, 55101.

Service of process can also be upon any individual Trustee. The Plan is maintained pursuant to collective bargaining agreements between the Employers and the Union. The Fund's Third-Party Administrator will provide you, upon written request, information as to whether a particular Employer is contributing to the Plan according to its agreement with the Union.

Source of Contributions:

The benefits described in this summary are provided through negotiated contributions paid by Employers. The amounts of contributions, and the Employees on whose behalf contributions are made, are determined by the provisions of the collective bargaining agreements.

Vacation Fund's Assets and Reserves:

All assets are held in trust by the Board of Trustees for the purpose of providing benefits to eligible Participants and defraying reasonable expenses.

Plan Year:

The Plan Year is defined as the calendar year (i.e., January 1 through December 31).

Type of Plan:

This is a defined contribution welfare plan (non-retirement) maintained for the purpose of providing Vacation benefits to eligible Participants.

Eligibility and Benefits:

The types of benefits provided and the Plan's requirements with respect to eligibility as well as circumstances that may result in disqualification, ineligibility and denial or loss of any benefits are fully described in this summary.

Rights and Responsibility:

As someone who is eligible for benefits from this Plan, you should be aware of the fact that the benefits are paid in accordance with Plan provisions out of a trust fund, which is used solely for that purpose. If you have any questions or problems as to benefit payments, you have the right to get answers from the Fund's Trustees.

The basic rights have now been incorporated in the Employee Retirement Income Security Act, which Congress adopted in 1974, for application to all benefit plans. Those rights are set forth in the following section.

Forfeiture:

Your Vacation Fund benefit payment must be cashed or deposited within two (2) years after issuance. Vacation benefit payments that have not been cashed or deposited within two (2) years after issuance are null and void, and your Vacation benefit will be forfeited to the Vacation Fund. If your Vacation benefit payment forfeits to the Fund, then you may still apply to receive your Vacation benefit. In this case, the Fund will charge you an administrative fee in the amount of \$25.00. The Vacation Fund Board of Trustees reserves the right to increase or decrease this administrative fee.

**STATEMENT OF RIGHTS UNDER
EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974**

As a Participant in the Minnesota and North Dakota Bricklayers and Allied Craftworkers Vacation Fund, you are entitled to certain rights and protections under the Employee Retirement Income Security Act of 1974 (ERISA). Although these rights and protections first became a part of the federal law with the passage of ERISA, the Trustees have always considered the fair management of this Plan as their primary objective. The Trustees, therefore, intend to fully comply with all aspects of the law and encourage you to first seek assistance by contacting the Fund Office when questions or problems that involve the Plan arise.

ERISA provides that all Plan Participants shall be entitled to:

- A. Examine, without charge, at the Fund Office and at other specified locations, such as at the Union, all documents governing the Plan, including collective bargaining agreements and a copy of the latest annual report (Form 5500 Series) filed by the Plan with the U.S. Department of Labor.
- B. Obtain, upon written request to the Fund Office, copies of documents governing the operation of the Plan, including collective bargaining agreements, and copies of the latest annual report (Form 5500 Series) and updated summary plan description. The Board of Trustees may make a reasonable charge for the copies.
- C. Receive a summary of the Plan's annual financial report. The Board of Trustees is required by law to furnish each Participant with a copy of this summary annual report.
- D. Receive a periodic report describing your accumulation of Vacation Fund benefit.

In addition to creating rights for Plan Participants, ERISA imposes duties upon the people who are responsible for the operation of the Plan. The people who operate the Plan, called "fiduciaries" of the Plan, have a duty to do so prudently and in the interest of Plan Participants and Beneficiaries. No one, including the Contributing Employers, Union, or any other person, may fire you or otherwise discriminate against you in any way to prevent you from obtaining a Vacation benefit or exercising your rights under ERISA.

If a request for a Vacation benefit is denied in whole or in part, a written explanation of the reason for the

denial must be received. You have the right to have the Plan review and reconsider your claim. Under ERISA, there are steps that can be taken to enforce the above rights. For instance, if you request materials from the Plan and do not receive them within thirty (30) days, you may file suit in a federal court. In such a case, the court may require the Board of Trustees to provide the materials and pay you up to \$110.00 a day until you receive the materials, unless the materials were not sent because of reasons beyond the control of the Board of Trustees. If a request for benefits is denied or ignored, in whole or in part, a suit may be filed in a state or federal court.

When you do not deposit your Vacation benefit payment within two (2) years after it is issued, the trustees, acting pursuant to the Declaration of Trust, will, by motion declare your Vacation benefit to be forfeited to the Fund. All money forfeited shall become part of the general fund.

If the Plan fiduciaries misuse the Plan's money or if you are discriminated against for asserting your rights, you may seek assistance from the U. S. Department of Labor, or you may file suit in a federal court. The court will decide who should pay the court costs and legal fees. If you are successful, the court may order the person sued to pay these costs and fees. If you lose, the court may order you to pay these costs and fees, for example, if it finds your claim frivolous.

If you have any questions about the Plan, you should contact the Fund Office. If you have any questions about this statement or about your rights under ERISA, you should contact the nearest office of the Office of Employee Benefits Security Administration (Kansas City Regional Office), U.S. Department of Labor, 2300 Main St, Ste. 1100 Kansas City, MO 64108, (816) 285-1800, or the Division of Technical Assistance and Inquiries, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210.

PROCEDURE FOR OBTAINING ADDITIONAL PLAN DOCUMENTS

If you wish to inspect or receive copies of additional documents relating to this Plan, contact the Fund Office at the address or phone number at the front of this Summary Plan Description. You will be charged a reasonable fee to cover the cost of any materials you wish to receive.

Nothing in this statement is meant to interpret or change in any way the provisions expressed in the Plan. The Board of Trustees reserves the right to amend, notify or discontinue all or part of this Plan whenever, in its judgment, conditions so warrant.

**MINNESOTA & NORTH DAKOTA BRICKLAYERS
AND ALLIED CRAFTWORKERS
VACATION FUND**

c/o Zenith American Solutions
P.O. Box 257
Minneapolis, Minnesota 55440-0257

Return Service Requested

