

**SUMMARY OF MATERIAL MODIFICATIONS TO  
THE HEALTH AND BENEFIT TRUST FUND OF THE INTERNATIONAL UNION OF OPERATING ENGINEERS  
LOCAL UNION NO. 94-94A-94B, AFL-CIO**

**To: All Participants and Beneficiaries in the Health and Benefit Trust Fund of the International Union of Operating Engineers Local Union No. 94-94A-94B, AFL-CIO**

**From: The Plan Administrator of the Health and Benefit Trust Fund of the International Union of Operating Engineers Local Union No. 94-94A-94B, AFL-CIO**

**Re: Changes to the Initial Eligibility Requirements for New Participants**

**Date: December 30, 2013**

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*This document is a Summary of Material Modifications ("SMM") intended to notify you of important changes to the eligibility provisions under the Health and Benefit Trust Fund of the International Union of Operating Engineers Local Union No. 94-94A-94B, AFL-CIO - (the "Fund" or the "Plan"). These changes have been made to comply with the applicable requirements under the Patient Protection Affordable Care Act ("PPACA"), and are effective as of January 1, 2014. This summary is intended to satisfy the requirements for issuance of a SMM under the Employee Retirement Income Security Act of 1974, as amended. You should take the time to read this SMM carefully and keep it with the Summary Plan Description ("SPD") that was previously provided to you. In addition, please note that these changes have been incorporated into the Summary of Benefits Coverage ("SBC") for the Plan. The revised SBC is available on the Plan's website. If you need another copy of the SPD or SBC, or if you have any questions regarding this change to the Plan, please contact the Plan Administrator during normal business hours at: 331-337 West 44<sup>th</sup> Street, New York, New York, 10036, telephone number: (212) 541-9880.*

In accordance with the applicable requirements under PPACA, effective as of January 1, 2014, the Fund will implement new initial eligibility requirements for new participants as follows:

**WHEN COVERAGE BEGINS**

Generally speaking, you will be eligible to participate in the Plan if:

- You are an employee of a Contributing Employer under the terms and provisions of a collective bargaining or other written agreement with the Realty Advisory Board or the International Union of Operating Engineers Local 94-94A-94B, AFL-CIO ("Union") that requires such Contributing Employer to make contributions to the Fund;
- You are an employee of the Fund; or
- You are an employee of the Union, the Training Fund of the I.U.O.E. Local 94-94A-94B, AFL-CIO, or the Annuity Fund of the I.U.O.E. Local 94-94A-94B, AFL-CIO and such Contributing Employer is required to contribute to the Plan pursuant to a participation agreement with the Trust;
- and provided that you meet the other applicable requirements as set forth below.

If you are eligible to participate in the Fund you must be a Member. You may not reject or waive coverage by the Fund for yourself or your Eligible Dependents. Accordingly, there is no "opt-out" provision that would otherwise allow employees and/or Members to reject coverage under the Fund. In this regard, if you are also covered under another group health plan, the Fund will consider such coverage under that plan as secondary coverage and the Fund's coverage as your primary coverage.

**Initial Eligibility for Members Who Are Active**

New members of the Union and new employees of Contributing Employers will have to accrue 400 paid hours in Covered Employment within a six (6) consecutive month measurement period commencing as of their start date of covered employment to become eligible for benefits under the Fund. You will become eligible for benefits under the Fund as of the first day of the second month following the date that you accrued the 400 paid hours in Covered Employment within the applicable six (6) month measurement period. If you don't meet the eligibility requirements in the initial six month measurement period, a subsequent six month consecutive period will begin as of the first date of any subsequent month following your start date. As such, subsequent measurement periods

can overlap, in part, with prior measurement periods. This will enable you to apply the relevant covered hours that span over multiple measurement periods in order to meet the 400 paid hours requirement.

For example, if you begin Covered Employment on January 15, 2014 and accumulate at least 400 hours on February 28, 2014, you will be eligible to participate in the Plan on April 1, 2014. If, however, you begin Covered Employment on January 15, 2014 and do not accumulate at least 400 hours through June 15, 2014 (i.e., the last day of the initial measurement period), you will not be eligible for coverage under the Fund until you satisfy the hours requirement for a subsequent measurement period. As an example, this could be achieved by accumulating the necessary hours in a subsequent measurement period that for instance runs from March 1, 2014 through August 31, 2014. If, during this subsequent measurement period (i.e., March through August), you accrue the required 400 hours on August 17, 2014, you will be able to participate in the on October 1, 2014.

Exception: If you were affiliated with Local 94B and were transferred to Local 94 or 94A you will have a waiting period of one (1) month before becoming eligible to first participate in the Plan. Additionally, if you were affiliated with an employer from the School Division and transferred to an employer with the Commercial Division you will have a waiting period of one (1) month before becoming eligible to first participate in the Plan. For purposes of the one (1) month waiting period, if you begin employment before the 16<sup>th</sup> of any month you will be deemed to have commenced employment on the first of that month and if you began after the 15<sup>th</sup> you will be deemed to have started the first of the next month.

After meeting this initial eligibility requirement, you must meet the continuing quarterly eligibility/work requirements to continue to be eligible for coverage under the Plan. The Plan's continuing eligibility requirements are not impacted by the above-discussed changes. However, eligibility will cease as of the last day of the month following the month in which you terminate covered employment or, if earlier, the last day of the month in which you fail to accumulate at least 400 paid hours of covered employment in accordance with the continuing eligibility requirements under the Plan.

*This SMM is intended to provide you with an easy-to-understand description of certain changes to the Plan. While every effort has been made to make this description as complete and as accurate as possible, this SMM, of course, cannot contain a full restatement of the terms and provisions of the Plan, If any conflict should arise between this SMM and the Plan, or if any point is not discussed in this SMM or is only partially discussed, the terms of the Plan will govern in all cases.*

*The Board of Trustees or its duly authorized designee, reserves the right, in its sole and absolute discretion, to amend, modify or terminate the Plan, or any benefits provided under the Plan, in whole or in part, at any time and for any reason, in accordance with the applicable amendment procedures established under the Plan and the Agreement and Declaration of Trust establishing the Plan (the "Trust Agreement"). The Trust Agreement is available at the Fund Office and may be inspected by you free of charge during normal business hours.*

*No individual other than the Board of Trustees (or its duly authorized designee) has any authority to interpret the plan documents, make any promises to you about benefits under the Plan, or to change any provision of the Plan. Only the Board of Trustees (or its duly authorized designee) has the exclusive right and power, in its sole and absolute discretion, to interpret the terms of the Plan and decide all matters arising under the Plan.*

#### IMPORTANT NOTICE REGARDING THE PLAN'S GRANDFATHERED PLAN STATUS

Trustees believe that the Plan is a "grandfathered plan" as such term is defined under PPACA (more commonly known as Health Care Reform). As permitted by Health Care Reform, a grandfathered health plan can preserve certain basic health coverage that was already in effect when Health Care Reform was enacted. Being a grandfathered health plan means that the medical coverage that you have elected under the plan may not include certain consumer protections of Health Care Reform that apply to other group health plans, for example, the requirement for the provision of preventive health services without any cost sharing (i.e., copayments, coinsurance, deductibles). However, grandfathered health plans must comply with certain other consumer protections in Health Care Reform, for example, the elimination of lifetime limits on benefits and extension of coverage to dependents until age 26. Questions regarding which protections apply and which protections do not apply to a grandfathered health plan and what might cause a plan to change from grandfathered health plan status can be directed to the Plan Administrator during normal business hours at: 331-337 West 44th Street, New York, New York, 10036, telephone number: (212) 541-9880. You may also contact the Department of Labor at (866) 444-3272 or [www.dol.gov/ebsa/healthreform](http://www.dol.gov/ebsa/healthreform). This website has a table summarizing which protections do and do not apply to grandfathered plans.