

***SUMMARY PLAN  
DESCRIPTION  
FOR THE***

**EMPLOYERS' AND LABORERS'  
INTERNATIONAL UNION OF NORTH AMERICA,  
LOCALS 100 & 397 ANNUITY FUND**

**Effective August 1, 2002  
Amended March 28, 2005**

## TABLE OF CONTENTS

	<u>Page</u>
<b>Introduction</b>	1
<b>I. General Information</b>	2
<b>II. Eligibility</b>	4
<i>When am I covered by the Plan?</i>	4
<i>Do I have to apply to enter the Plan?</i>	4
<b>III. Accounts and Contributions</b>	4
<i>How is the Employer Contribution under the Plan determined?</i>	4
<i>How does my account grow?</i>	5
<i>What is a Rollover Contribution?</i>	5
<i>What are forfeitures?</i>	5
<i>Can I borrow from the Plan?</i>	5
<b>IV. Valuations and Allocations</b>	5
<i>How are Employer contributions credited to my account?</i>	5
<i>How are investment earnings credited to my account?</i>	5
<i>Do I have to pay taxes on contributions or earnings as they are credited to my account?</i>	6
<i>How are expenses charged against my account?</i>	6
<b>V. Vesting and Retirement</b>	6
<i>What does vested mean?</i>	6
<i>When am I vested?</i>	6
<i>Am I vested if I retire, die, or become disabled?</i>	6
<i>Can I lose my vested benefit?</i>	6
<i>When is my Normal Retirement Date?</i>	7
<i>Can I retire early?</i>	7

<b>VI. Methods of Payment</b>	7
<i>When will I receive my benefits?</i>	7
<i>How will my benefits be paid?</i>	7
<i>Can I receive my benefits before I terminate employment?</i>	7
<i>How will my benefits be taxed?</i>	7
<b>VII. Claim Procedures</b>	8
<i>How are claims made?</i>	8
<i>What if my claim is denied?</i>	8
<i>What if I disagree with the reasons for denying my claim?</i>	8
<b>VIII. Your Rights Under ERISA</b>	9
<b>IX. Meaning of Terms</b>	10

**Employers' and Laborers' International Union of North America  
Locals 100 & 397 Annuity Fund**

TO ALL ELIGIBLE EMPLOYEES:

The Trustees of the Employers' and Laborers' International Union of North America, Locals 100 & 397 Annuity Fund are pleased to announce the establishment of the Employers' and Laborers' International Union of North America, Locals 100 & 397 Annuity Fund. This booklet has been prepared to describe the provisions of the Plan. It discusses both the benefits available and the qualifications required in order for an employee to receive benefits.

The Board of Trustees established the Plan after careful consideration of the legal requirements and the retirement needs of the covered Laborers' Union Members. This Plan is a defined contribution, profit sharing plan. A defined contribution plan provides an individual account for each participant which is credited with Employer Contributions, investment earnings and forfeitures and charged with Plan expenses.

The Plan is financed by Employer contributions in accordance with the participating employers' Collective Bargaining Agreements with Local Unions 100 & 397.

It is important that you read this booklet carefully and become familiar with both the eligibility requirements and the different types of benefits offered. You should keep this booklet in a safe place for further reference.

Annually you will receive a detailed report of your Account Summary. If you believe your account, contributions or Hours of Service are not correct you must notify the Plan Administrator within two (2) years for resolution of the disputed Credited Hours.

As your Trustees, we are pleased to be able to provide the Plan which, over time, will be an extremely valuable supplement to your retirement income.

Sincerely yours,

BOARD OF TRUSTEES

UNION TRUSTEES:

Lester Greene  
Glyn Ramage  
Michael Testerman  
Steven Tyler

EMPLOYER TRUSTEES:

Robert Calhoun  
Tim Garvey  
Brian Hayden  
Tim Keeley

## **SECTION I - GENERAL INFORMATION**

### **Name of Plan**

The Plan name is Employers' and Laborers' International Union of North America, Locals 100 & 397 Annuity Fund.

### **Name and Address of Employer**

The Plan is maintained pursuant to various collective bargaining agreements between the Employers' and Laborers' International Union of North America, Locals 100 & 397 and various Contributing Employers, which agreements require the employers to contribute to the Plan. Upon written request, the Board of Trustees will advise you as to whether a particular employer contributes to the Plan. You may receive a copy of any collective bargaining agreement by making a written request to the Board of Trustees. A reasonable fee may be charged for copying. You may also examine copies of such agreements at the office of the Union on reasonable notice.

### **Plan Identification Numbers**

For purposes of identification, the Internal Revenue Service has assigned the Plan the following Employer Identification Number 37-6085017 and Plan Number 002.

If the need arises to write anyone about one of the Plan, identify the Plan by name and by the EIN and Plan Number.

### **Plan Year**

Plan Years begin on August 1<sup>st</sup> and end on the subsequent July 31<sup>st</sup>. All benefit and service calculations are based on the Plan Year.

### **Type of Administration**

The type of administration of the Plan is trust administration. Assets of the Plan are accumulated and benefits are paid under the trust (Employers and Laborers Locals 100 & 397 Annuity Fund). The Board of Trustees holds all of the assets of the Plan in trust. The Board of Trustees invests the assets of the Plan for the benefit of the Plan Participants.

### **The Plan Administrator and Plan Sponsor**

Board of Trustees of the Employers' and Laborers'  
International Union of North America,  
Locals 100 & 397 Annuity Fund  
c/o Qualified Benefits Consultants, Inc.  
4940 Washington Blvd.  
St. Louis, MO 63108  
(314) 367-6555

### **Agent for Service of Legal Process**

Service of legal process may be made upon the Plan Administrator at the address above or on any of the Trustees (listed below).

#### Union

Lester Greene  
Glyn Ramage  
Michael Testerman  
Steven Tyler

#### Management

Robert Calhoun  
Tim Garvey  
Brian Hayden  
Tim Keeley

### **Type of Plan**

The Plan is a defined contribution, profit sharing plan. This type of plan provides individual accounts for each participant.

### **SPD Effective for Active Participants**

If you are retired, vested terminated employee, or a beneficiary, your benefits may not be in accordance with this Summary Plan Description but instead may be determined under the Plan documents in effect at the time you last worked in a job for which contributions were due to the Plan.

### **SPD is a Summary Only**

Your Summary Plan Description is intended as an easily understood explanation of the general provisions of the Plans. The Plan and Trust documents are the final word on all questions. If you have any questions, you have the right to see the Plan Document, as well as a copy of the Collective Bargaining Agreement, or to ask the Plan Administrator for clarification of any provisions. Although the language in this Summary Plan Description is not complicated, it may contain terms that are new to you. Section IX - Meaning of Terms can help you with unfamiliar words.

### **Trustees' Right to Amend or Terminate the Plan**

The Trustees intend to continue the Plan indefinitely. However, because future changes in conditions cannot be foreseen, the Trustees, necessarily, reserve the right to change, suspend or terminate the Plan at any time. In the event of termination of the Plan, the assets shall be used to provide benefits and pay administrative expenses as required by law.

## **Trustees' Right to Interpret, Construe, and Apply Plan Documents**

The Trustees have the right, authority and discretion to interpret, construe and apply the terms of this Summary Plan Description, the Plan Document, the Trust Document and any other documents pursuant to which the Plan is maintained. This right, authority and discretion extends to ambiguous terms contained in such documents and to terms regarding eligibility and benefits, and any other terms of such documents. The Trustees' determinations are intended to be subject to the most deferential standard of judicial review.

## **SECTION II – ELIGIBILITY**

### **When am I covered by the Plan?**

The Plan is open to all employees who work in Covered Employment and all full-time employees of the Union. You begin participation in the Plan on the date you complete One (1) Hour of Service for a contributing Employer. The earliest date you could begin participation is August 1, 2002, the effective date of the Plan.

### **Do I have to apply to enter the Plan?**

The Plan does not require any application. You are automatically enrolled once eligible. You should complete a beneficiary form in case of your premature death.

## **SECTION III – ACCOUNTS AND CONTRIBUTIONS**

A separate account is established for each participant. It is credited with Employer contributions, investment earnings and forfeitures and charged with expenses. Under the Plan, the Trustees invest the Plan Assets. The Administrator will provide you with an Account Summary Report annually detailing the activity in your account.

### **How is the Employer Contribution under the Plan determined?**

Through negotiations with the contributing Employers, Employers' and Laborers' International Union of North America, Locals 100 & 397 Annuity Fund initially negotiated a contribution rate of \$1.00 per hour. Effective August 1, 2006 the rate was increased to \$1.20 per hour and effective August 1, 2007 the rate was increased to \$1.50 per hour. You receive credit for the Employer contributions made on your behalf based on the hours you work during a Plan Year.

### **How does my account grow?**

Your account is **credited** with the following:

- Employer Contributions made on your behalf based on your hours worked,
- Your share of the Plan's investment earnings and changes in the value of the investments,
- if applicable, your share of any forfeited amounts of former Employees (these are amounts left behind by Employees who stopped working before they were 100% vested in their benefit), and
- Employee rollovers.

Your account is **charged** with Plan expenses.

### **What is a Rollover Contribution?**

A rollover contribution is a direct transfer of your retirement benefits from another qualified plan to this Plan. Rollover contributions may be made to this Plan at any time after you become an Employee.

### **What are Forfeitures?**

If a participant terminates employment under the Plan and does not have a vested right to Employer contributions made on their behalf, the monies they leave behind are called forfeitures. See Section V for a discussion of vesting rights. The forfeitures are first used to pay Plan expenses and then allocated to the remaining participants in proportion to the Employer contributions made on their behalf during that Plan Year.

### **Can I borrow from the Plan?**

No. The Plan does not allow for participant loans.

## **SECTION IV – VALUATIONS AND ALLOCATIONS**

### **How are Employer Contributions credited to my account?**

Employer contributions will be credited to your account each month based on the hours you work for a contributing Employer. Time-and-a-half is credited at 1½ times the negotiated contribution rate and double time is credited at 2 times the negotiated contribution rate.

### **How are investment earnings credited to my account?**

Under the Plan, the investment earnings of the entire Trust account are determined. These earnings are credited to your individual account at the end of each Plan Year in relation to your beginning account balance plus a proportionate share of the contributions made on your behalf less any distributions made from your account.



**Do I have to pay taxes on contributions or investments earnings as they are credited to my account?**

No. You do not have to pay income taxes on Employer contributions or investment earnings allocated to your account. You will be responsible for paying income taxes when you receive a distribution from the Plan.

**How are expenses charged against my account?**

Under the Plan, expenses are first offset by forfeitures left behind by terminated participants. Expenses remaining, if any, are charged to each account based on the value of the account.

**SECTION V – VESTING AND RETIREMENT**

**What does vested mean?**

Vested means that you have a right to a benefit under the Plan that cannot be taken away from you. Vesting protects your benefits if you terminate employment.

**When am I vested?**

Your account balance will be vested after you complete 5 Years of Vesting Service or complete a career total of 10,000 Hours of Service. Plan Years in which you work less than 500 Hours of Service are not included. If you do not have 5 Years of Vesting Service and have less than 10,000 Hours of Service over your career, you are not vested.

A Year of Vesting Service is a Plan Year during which you are credited with 1,000 Hours of Service.

You are 100% vested in your Rollover contributions at all times.

**Am I vested if I retire, die, or become disabled?**

Yes. You are 100% vested in your account balance on your Normal or Early Retirement Date. In addition, if you retire due to Total and Permanent Disability or you die while in Covered Service, you are also fully vested in your account balance under the Plan.

**Can I lose my vested benefit?**

No. Under no circumstance can a participant who is vested lose their interest in the vested portion of their account. The value of your vested interest can go down only if the Trust loses money on investments or through plan expenses.

### **When is my Normal Retirement Date?**

Your Normal Retirement Date is the first day of the month coincident with or next following age 62. If still employed in Covered Employment, you will become 100% vested on this date regardless of your Years of Service.

### **Can I retire early?**

Yes. Your Early Retirement Date is the first of the month following the date you are 55 and have 5 Years of Service. If you are eligible for Early Retirement, you are 100% vested.

## **SECTION VI – METHODS OF PAYMENT**

### **When will I receive my benefits?**

If you terminate your employment because of retirement, death or Total and Permanent Disability, your distribution from the Plan will be paid as soon as administratively feasible following the end of the Plan Year. If you terminate employment for any other reason, your vested account balance will be paid as soon as administratively feasible after the end of the second Plan Year during which you have no hours.

### **How will my benefits be paid?**

Single sum distributions are the only allowable form of distribution under the Plan.

If your vested account value is less than \$1,000 (\$5,000 prior to March 28, 2005), your distribution will be made in cash.

If your vested account value is \$1,000 or more, you may elect to receive a distribution or defer it until your Normal Retirement Date. You can receive a cash distribution or you can rollover your account into an Individual Retirement Account or another retirement plan to keep your retirement savings tax deferred.

### **Can I receive my benefits before I terminate employment?**

No. There are no in-service or hardship distributions allowed.

### **How will my benefits be taxed?**

You will receive a notice with information regarding rollovers and taxation and an election for tax withholding when you are eligible to receive a distribution. In certain cases, favorable tax treatment may apply; however, you should consult your tax advisor for specific details on your particular situation.

## **SECTION VII – CLAIM PROCEDURES**

### **How are claims made?**

All inquiries and requests should be submitted, in writing, to the Trustees. About three months before your Retirement Date, you should file a written request to receive benefits. Within 60 days of your request, you will be notified of its acceptance or denial.

### **What if my claim is denied?**

If your claim is denied you will be given, in writing:

- ✓ the specific reasons for denial,
- ✓ the specific Plan provisions on which the denial is based,
- ✓ a description and reason for needing any additional material or information needed to reconsider the claim, and
- ✓ an explanation of the review procedure and time limits applicable, including your right to bring a civil action under ERISA following an adverse determination on re-view.
- ✓ With respect to a claim for disability benefits, to the extent such decision was based on medical considerations, an explanation of the reasons, applying the terms of the Plan to your medical circumstances, or a statement that the explanation will be furnished free of charge to you upon request.

### **What if I disagree with the reasons for denying my claim?**

If a claim is denied, you or your authorized representative will have 60 days (180 days for disability claims) to submit a written appeal to the Board of Trustees after receiving the denial. You may submit additional documents and information. You will be provided upon request and free of charge copies of documents and information relevant to your claim. Claim appeals for the Annuity Plan should be submitted to:

Trustees of Employers and Laborers Locals 100 and 397 Annuity Plan  
c/o Qualified Benefits Consultants, Inc.  
4940 Washington Blvd.  
St. Louis, MO 63108  
(314) 367-6555

The Trustees will consider all information submitted in connection with your request for review and make a final written decision on a claim review within 60 days. The Trustees must give specific reasons and references to the Plan provisions on which the decision was based. The 60 days may be extended for another 60 days if the Trustees find that special circumstances require an extension of time. The decision of the Trustees shall be binding on all parties.

With respect to claims for disability benefits that are denied based upon medical reasons, the Trustees will not defer to the original decision maker; will have the decision on appeal made by a named fiduciary who is neither the original decision-maker nor his subordinate; will consult with a health care professional who was not consulted in connection with the original decision and is not the subordinate of a professional who was consulted, and who

has experience and training in the field of medicine involved in the decision; and shall identify the experts whose advice was obtained in connection with the original decision.

You have the right to receive free copies of all documents the Trustees have with regard to your claim and appeal. You must make a written request for such copies. You also have the right to file a civil action under Section 502 of ERISA if you are unhappy with the Trustees' decision on your appeal. You must file any such action no later than two years after the date the Trustees notify you of their decision on your appeal. If you do not file the action within that time period, you will lose your right to do so.

## **SECTION VIII – YOUR RIGHTS UNDER ERISA**

As a Participant in this Plan, you are entitled to certain rights and protections under the Employee Retirement Income Security Act of 1974 (ERISA). ERISA provides that all Plan participants shall be entitled to:

### **Receive Information About Your Plan and Benefits**

- (1) Examine, without charge, at the Plan Administrator's office and at other specified locations all Plan documents, including collective bargaining agreements, and a copy of the latest annual report (Form 5500) filed by the Plan with the U.S. Department of Labor and available at the Public Disclosure Room of the Pension and Welfare Benefit Administration.
- (2) Upon written request to the Plan Administration, obtain copies of all Plan documents and other Plan information including collective bargaining agreements, latest annual reports (Series 5500), and updated summary plan description request to any Plan. The Administrator may make a reasonable charge for the copies.
- (3) Receive a summary of the Plan's annual financial report. The Plan Administrator is required by law to furnish each participant with a copy of this Summary Annual Report.
- (4) Obtain a statement telling you whether you have a right to receive a pension at Normal Retirement age, (age 62) and if so, what your benefits would be at Normal Retirement age if you stop working under the Plan now. If you do not have a right to a pension, the statement will tell you how many more years you have to work to earn a right to a pension. This statement must be requested in writing and is not required to be given more than every 12 months. The Plan must provide the statement free of charge.

### **Prudent Actions by Plan Fiduciaries**

In addition to creating rights for Plan participants, ERISA imposes duties upon the people who are responsible for the operation of the employee benefit Plan. The people who operate your Plan, called "fiduciaries" of the Plan, have a duty to do so prudently and in the

interest of you and other Plan participants. No one, including your employer or any other person, may dismiss you or otherwise discriminate against you in any way to prevent you from obtaining a benefit or exercising your rights under ERISA.

### **Enforce Your Rights**

If your claim for a benefit is denied or ignored in whole or in part, you have the right to receive a written explanation of the reason for the denial, to obtain copies of documents relating to the decision without charge, and to appeal any denial, all within certain time schedules.

Under ERISA, there are steps you can take to enforce the above rights. For example, if you request materials from the Plan and do not receive them within 30 days, you may file suit in a federal court. In such a case, the court may require the Plan Administrator to provide the materials and pay you up to \$110 a day until you receive the materials unless the materials were not sent because of reasons beyond the control of the Administrator.

If you have a claim for benefits which is denied or ignored, in whole or in part, you may file suit in a state or federal court. In addition, if you disagree with the plan's decision concerning the qualified status of a domestic relations order, you may file suit in Federal court. If it should happen that 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 court costs and legal fees. If you are successful, the court may order the person you have 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 is frivolous.

### **Assistance with Your Questions**

If you have any questions about your Plan, you should contact the Plan Administrator. If you have any questions about this statement or about your rights under ERISA, or if you need assistance in obtaining documents from the plan administrator, you should contact the nearest office of the Pension and Welfare Benefits Administration, U.S. Department of Labor, listed in your telephone directory or the Division of Technical Assistance and Inquiries, Pension and Welfare Benefits Administration, U.S. Department of Labor, 200 Constitution Avenue N.W., Washington, D.C. 20210. You may also obtain certain publications about your rights and responsibilities under ERISA by calling the publications hotline of the Pension and Welfare Benefits Administration.

## **SECTION IX – MEANING OF TERMS**

Be sure that you understand each of the following terms.

### **Employer Association**

The Employer Associations means the Associated General Contractors of Illinois.

## **Employer or Participating Employer**

An Employer or Participating Employer means any employer who is a party to a Collective Bargaining agreement with the Union requiring contributions under the Plan or who agrees in writing to make contributions to the Fund.

## **Hours of Service**

An Hour of Service is each hour you work for which you are entitled to pay from an Employer who is required to make contributions to this Plan. This includes actual, as well as, overtime hours and paid periods of non-working time such as vacation, holidays, sickness, or Total and Permanent Disability. Hours of Service also include each hour for which back pay has been awarded or agreed to by an employer.

There are additional rules in the Department of Labor regulations concerning Hours of Service and this Plan is operated consistently with those rules.

In addition, if you are working under the Plan, leave a contributing Employer and engage in qualified military service, and then return to employment under the Plan, pursuant to the rules set out in Federal law, you will receive credit under the Plan for the period of qualified military service based on your pre-employment work levels. In addition, you will not incur a Break-in-Service during your period of qualified military service. You must notify the Board of Trustees when you leave Covered Employment to enter the military and when you return to Covered Employment after military service.

For purposes of vesting only, the Plan also counts as Hours of Service hours you work for an employer who contributes to this Plan but in a position for which the employer is not obliged to contribute on your behalf. These hours are counted for vesting only if they are continuous with (not separated by quit, discharge or other interruption) your employment with that same employer in a job for which contributions were due to this Plan.

## **Normal Retirement Date**

Your Normal Retirement Date is the first day of the month coincident with or next following your 62<sup>nd</sup> birthday.

## **One Year Break in Service**

You will have a One Year Break in Service, for the purpose of the Plan, in any Plan Year during which you do earn less than 500 Hours of Service.

However, you will not have a One Year Break in Service if you do not earn at least 500 Hours of Service during a plan year because of an absence for:

- your pregnancy;
- the birth of your child;
- the placement of a child for adoption with you; or
- the caring for your child during the period immediately following such a birth or placement.

Up to 500 Hours of Service for such an absence will be counted, but only for purposes of preventing a Break in Service.

### **Permanent Break in Service**

If you Terminate Covered Employment and are not vested, and the total of your consecutive One-Year Breaks in Service exceeds the greater of (1) your Years of Service or (2) five, you will lose all Years of Service and Hours of Service earned before you Terminated Covered Employment. Thus, you will incur a Permanent Break in Service, and you will be treated as a new participant for all purposes of the Plan.

For example, if you (1) had four years of Vesting Service at the time of your Termination of Covered employment, (2) you were not vested, and (3) resumed Covered employment after incurring four or more consecutive One-Year Breaks in Service (calendar years during which you did not earn more than 500 Hours of Service), then your earlier Service will not be counted in determining whether you are eligible for Plan benefits when you later Terminate Covered Employment.

### **Qualified Domestic Relations Order (QDRO)**

A Qualified Domestic Relations Order (QDRO) is an order entered by a state court or agency pursuant to a state's domestic relations laws that requires the Plan to pay part or all of your benefits to your spouse, former spouse, child or other dependent. Such orders must meet certain requirements of federal law in order to be deemed "qualified." If the Board of Trustees receives such an order and determines it is qualified, the Board of Trustees must pay out your benefits as required by the order.

### **Total and Permanent Disability**

If due to a physical or mental disability originating during Covered Employment, you are totally unable to perform work for an Employer and this disability is verified by Social Security Administration and/or a doctor and approved by the Trustees, then you are Totally and Permanently Disabled.

### **Union**

The Union means Local Unions 100 & 397 of the Laborers' International Union of North America.

### **Vesting Service**

For purposes of vesting, a Year of Service shall mean a Plan Year in which you complete 1,000 Hours of Service in covered Employment.

### **Year of Service**

For all purposes under the Plan, a year of service is a Plan Year in which you have at least 1,000 Hours of Service.