

AMENDMENT NO. 9
TO THE
SAN DIEGO ELECTRICAL HEALTH & WELFARE TRUST
PLAN DOCUMENT
(Revised & Restated January 1, 2012)

Effective June 1, 2013.

The San Diego Electrical Health & Welfare Trust Plan Document shall be amended as follows:

1. The paragraph headlined as Third Party Claims, Part Two of the Plan, under General Provisions of the Plan Document shall be amended in its entirety as follows:

Third Party Claims. If a **Covered Person** receives benefits from this **Trust** for **Bodily Injuries** or illnesses sustained from the acts or omissions of any third party, the **Trust** shall have the right to be reimbursed in the event the **Covered Person** recovers all or any portion of the benefits paid by the **Trust** by legal action, settlement, or otherwise, regardless of whether such benefits were paid by this **Trust** prior to or after the date of any such recovery. The **Covered Person** will not be entitled to receive any benefits for such expenses under this **Trust** unless he executes a Subrogation Agreement agrees in writing to the following conditions:

A. Reimbursement to Trust. To authorize reimbursement to the **Trust** to the extent of all benefits paid by this **Trust** as a result of such injuries immediately upon obtaining any monetary recovery from any party or organization whether by action at law, settlement or otherwise by virtue of executing a Subrogation Agreement, with the understanding that any and all monies recovered from any third party are to be deposited in an exclusive bank account to be established in joint name including the **Trust**, or into a representing attorney's client trust account. No monies shall be withdrawn from such account without express written acknowledgment and authorization from this Plan's Administrator. Any payment received by the participant or the participant's eligible dependents is subject to a constructive trust. Any third-party payment received by the participant or the participant's eligible dependents must be used first to provide restitution to this Plan to the full extent of the benefits paid or payable under this Plan

(1) This Plan does not recognize the Make-Whole Doctrine. This Plan is entitled to obtain restitution of any amounts owed to it either from third-party funds received by the participant or the participant's eligible dependents, regardless of whether the participant or the participant's eligible dependents have been made whole for losses sustained at the hands of the third party.

(2) This Plan expressly rejects the Common Fund Doctrine with respect to payment of attorney's fees. A Plan representative may commence or intervene in any proceeding or take any other necessary action to protect or exercise this Plan's equitable (or other) right to obtain full restitution.

B. Assignment of Rights. To irrevocably assign to the **Trust** all rights to recover monetary compensation from the third party to the extent of all benefits paid by this Plan and to give notice of this assignment directly to such third parties, their agents or insurance carriers, or to any agent or attorney who may represent the **Covered Person**. The assignment shall entitle the **Trust** to reimbursement from any sums to be held or received by the following third parties which are due to the **Covered Person** prior to any distribution of funds to the **Covered Person**, and shall provide that such parties shall specifically direct that any and all monies recovered from any third party are to be deposited in an exclusive bank account to be established in joint name including the Trust, or into a representing attorney's client trust account. No monies shall be withdrawn from that account without the knowledge and expressed approval of the **Trust**. The parties who shall be bound by such assignment are:

- (1) Any party or its insurance carriers making payments to or on behalf of the **Covered Person**; or,
- (2) Any agent or attorney receiving payments for or on behalf of the **Covered Person**.

C. Notice. To notify the **Trust** of any claim or legal action asserted against any third party or any insurance carrier(s) for such injuries or illnesses, as well as the name and address of such third parties, insurance carrier(s), any agent or attorney who is representing or acting on behalf of the **Covered Person** or the estate of the **Covered Person**, or any person claiming a right through such **Covered Person**, on a form to be supplied by the **Trust**.

D. Proration of Reimbursement. If the "net recovery" received by the **Covered Person** from all sources, whether from more than one tortfeasor, under any Worker's Compensation law or otherwise is less than two times the amount of the benefits paid by this Plan the **Trust** has the right to be repaid from the net recovery received by the **Covered Person** from any party or its insurance carrier according to the following schedule as full settlement for all benefits paid by this **Trust**:

<u>Percentage of Subrogation</u>	<u>Net Recovery v. Trust Payment</u>
100%	2 times or more
75%	1½ times or more
66⅔%	Equal or more
50%	½ or more
33⅓%	Less than ½

For the purpose of this Section "net recovery" means the actual amount to be received by the **Covered Person** after deducting all attorney fees and costs.

E. Subrogation. The Plan shall have the independent right to bring suit in the name of the **Covered Person**. The Plan shall also have the right to intervene in any action brought by the **Covered Person** against any third party, to and including the insurance carrier of the **Covered Person** under any uninsured or under-insured motorist provision or policy. The **Covered Person** further agrees to take no action inconsistent with the requirements of this provision.

F. Cooperation With Trust. The **Covered Person**, as well as their attorney or agent shall cooperate fully with the Trustees in the exercise of any Assignment or right of Subrogation, and not to take any action or refuse to take any action which would prejudice the rights of the Trust.

G. Withholding Future Benefits. To acknowledge that this **Trust** shall have the Right of Recovery against the **Covered Person**, should the **Covered Person** fail to execute an Assignment, Subrogation Agreement or any other documents required herein, the **Trust** may withhold future benefit payments to be made on behalf of the **Covered Employee** or any of their **Covered Dependents** until such time as the **Trust** is fully protected as provided for in this Section.

H. Disclaimer. If there is any reasonable cause to believe that the injuries or illnesses sustained by a **Covered Person** were in any way the result of the acts or omissions of a third party or parties, but the **Covered Person** disclaims any third party involvement, the **Trust** shall have the right to require the **Covered Person** (or the **Covered Dependent** if the **Covered Person** is a **Dependent**) to sign a declaration, under penalty of perjury, regarding such disclaimer as a pre-condition to the payment of any benefits.

I. Separate Rights. Each of the provisions set forth about relating to the right of this **Trust** to receive reimbursement for **Eligible Expenses** paid to or on behalf of a **Covered Person** because of injuries sustained relating to or resulting from the acts and omissions of any third party is separate and any illegality or invalidity of any one provision shall not affect the legality or validity of any other provision.

J. Medical Expenses Incurred After Settlement or Final Judgment in Third Party Claim. In the event a **Covered Person** incurs medical expenses relating to his or her injuries or disabilities which are the subject of a Subrogation Agreement following any settlement or final judgment received from the third party (ies) responsible for the injuries, the Plan shall have no further responsibility to pay for such medical expenses. The **Covered Person** shall agree to release and hold the **Trust** harmless from any further obligations under the Subrogation Agreement for any future medical expenses incurred following any settlement or final judgment received from the third party(ies) responsible for the injuries. However, provisions can be made by the **Covered Person** for the continued payment of such medical expenses by the third party(ies) pursuant to a settlement agreement which is approved by the **Trust** in writing prior to the execution thereof. In that event, the rights of the **Covered Person** to the continued payment of medical expenses shall also be assigned to the **Trust** under the Subrogation Agreement and the **Covered Person** shall be required to reimburse the **Trust** for 100% of all medical expenses paid by the **Trust** under this provision following execution and payment by the responsible third party(ies) under the settlement agreement or final judgment.

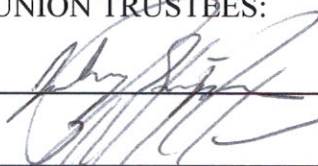
K. Direction to Agent or Attorney. The **Covered Person** shall direct that the agent or attorney shall readily comply with the terms of the Subrogation Agreement, with the obligation to deposit any and all monies recovered in the exclusive bank account referenced above, or into a representing attorney's client trust account, with the obligation that no monies shall be withdrawn from such account without express written acknowledgment and

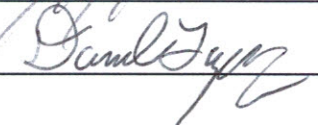
authorization from the **Trust**. Finally, the **Covered Person** shall direct the agent or attorney to reimburse the **Trust** in accordance with the Reimbursement Schedule as outlined above.

L. Medical Bills Received After Settlement. In the event a bill for medical services applicable to the accident is received by the Trust Office after settlement with the **Trust** in accordance with the Plan's "Right of Recovery" it will become the **Covered Person's** financial responsibility, in accordance with the reimbursement schedule, to the extent the bill had been remitted on a more timely basis and would have been paid by the **Trust** prior to settlement, and for which the **Trust** would have been reimbursed for part or all of the amount paid as part of said settlement.

IN WITNESS THEREOF, the Board of Trustees has caused this Amendment to the Plan Document to be signed this 23rd day of May 2013 to be effective June 1, 2013.

UNION TRUSTEES:





EMPLOYER TRUSTEES:

