

★★ SUMMARY OF MATERIAL MODIFICATIONS ★★

November 2013

To All Employees and Dependents:

This Summary of Material Modifications is an amendment to your Plan Document/Summary Plan Description (SPD) booklet to incorporate recent Trustee actions regarding your Plan. New SPD language is shown in italics throughout.

Definition of “Spouse”

The Plan revises its definition of “spouse” **effective June 26, 2013**, to read as follows:

Spouse means an individual who is the legally recognized spouse of an Employee under the laws of the state in which the marriage or civil union was established. For this purpose, a legal civil union is considered a legal marriage. A certified copy of your marriage certificate or other documentation substantiating status as a spouse may be required to be on file at the Fund Office before claims for your spouse will be processed.

Affordable Care Act Changes

The following changes to comply with the Affordable Care Act will be **effective January 1, 2014**:

Elimination of annual maximum: The annual maximum of \$300,000 per Eligible Person for Essential Health Benefits (including both Comprehensive Major Medical Benefits and Preferred Provider Pharmacy Benefits) is eliminated.

Revised definition of Dependent Child: The definition of Dependent Child no longer excludes coverage for a Child who has coverage available under his own or his spouse’s employer’s group health plan.

A new way to become eligible: Eligibility Rule 1, “How an Employee Becomes Eligible for Benefits,” is revised to read as follows:

You will become covered under the Plan (as may be modified from time to time by the Trustees) on the first day after you meet the Plan’s general substantive eligibility conditions and the Plan’s general waiting period has elapsed, or the first day after you meet the Plan’s alternative substantive eligibility conditions and the Plan’s alternative waiting period has elapsed, whichever comes first.

General Eligibility

You meet the Plan's general substantive eligibility conditions on the day the Plan receives the total number of contributions that your collective bargaining agreement (CBA) says are required for you to become covered.

The Plan's general waiting period begins on the day you meet the Plan's general substantive eligibility conditions and ends on the last day of the month in which the waiting period begins. If you need a copy of your CBA, you can obtain one by contacting the offices of the United Food and Commercial Workers Union Local 1189 at: (218) 728-5174.

Alternative Eligibility

You meet the Plan's alternative substantive eligibility conditions on the day that the Plan receives from you an application for coverage (on a form acceptable to the Plan) demonstrating to the satisfaction of the Trustees that:

- You are currently employed by a contributing Employer in a classification under which you could receive coverage from the Plan under its general eligibility conditions;*
- You have accumulated 1,200 hours of service with your current Employer (excluding hours of service accumulated prior to a period of 26 weeks or more during which you were not employed by your current Employer); and*
- You have paid the total amount that the Plan would require to commence coverage under its general eligibility provisions.*

To determine the amount you must pay to satisfy the Plan's alternative eligibility conditions, contact the Fund Office.

The Plan's alternative waiting period begins on the day you meet the Plan's alternative substantive eligibility conditions and ends on the last day of the second month after the month in which the waiting period begins. For instance, if you meet the Plan's alternative substantive eligibility conditions on June 15, the alternative waiting period ends on August 31.

Coverage under the Plan's alternative eligibility provisions is the same as that which you would receive if you were eligible under the Plan's general eligibility provisions, except that to continue coverage you must make monthly payments of the amount that your Employer would be required to make to continue coverage if you were eligible for coverage under the Plan's general eligibility provisions. Additionally, you may only continue coverage under alternative eligibility while you remain employed by the Employer for whom you worked when you became eligible. If you receive coverage under the Plan's alternative eligibility conditions and subsequently meet the requirements for coverage under the general eligibility conditions, the terms of

your coverage will be governed by the Plan's general eligibility conditions beginning at the time that coverage would have commenced under the general eligibility conditions.

Your eligibility for single versus family coverage for your eligible Dependents also is determined by your CBA. If family coverage is not provided automatically under your CBA, you do have the opportunity to purchase family coverage by notifying your Employer of your desire for this benefit. You will be personally responsible for paying the difference between the single and family coverage contribution. You may elect to purchase family coverage within two months of the date on which you become eligible for coverage under the Plan. The Plan's Dependent waiting period begins on the day the Plan receives notice of your election and your payment, if applicable, and ends on the last day of the month that follows the month in which the waiting period begins.

Subrogation and Reimbursement

Effective November 1, 2013, the Plan revises its subrogation and reimbursement provisions to read as follows:

The Plan has a first priority subrogation and reimbursement right if it provides benefits resulting from or related to an Injury, occurrence, or condition for which the Eligible Person has a right of redress against any third party.

This means that if the Plan pays benefits which are, in any way compensated by a third party, such as an insurance company, the Eligible Person agrees that when a recovery is made from that third party, the Plan is fully reimbursed out of that recovery for the benefits the Plan previously paid. If the Eligible Person does not agree to the Plan's subrogation and reimbursement rules, benefits shall not be paid. For example, the subrogation and reimbursement right may apply if an Eligible Person is injured at work, in an automobile accident, at a home or business, in an assault, or in any other way for which a third party has or may have responsibility. If a recovery is obtained from a third party, such as an insurance company, the Plan shall be paid first and to the full extent of the benefits it paid. The Eligible Person receives payment only after the Plan is fully reimbursed.

The following are the Plan Document rules that apply to the Plan's right of subrogation and reimbursement:

- (a) Subrogation and Reimbursement Rights in Return for Benefits: In return for the receipt of benefits from the Plan, the Eligible Person agrees that the Plan has the subrogation and reimbursement rights as described in this Subrogation and Reimbursement section. Further, the Eligible Person shall sign a form acknowledging the Plan's subrogation and reimbursement rights prior to payment, or further payment, of benefits. Benefits may not be paid if an acknowledgment form is not on file for the Eligible Person. Benefits may not be paid if the Eligible Person refuses to sign the acknowledgment. The Plan's subrogation and reimbursement rights to benefits paid prior to Plan notice of a subrogation and reimbursement right are not impacted if the*

Eligible Person refuses to sign the acknowledgment. The Plan has the sole discretion to determine, calculate, and/or itemize which benefits paid by the Plan are subject to the Plan's subrogation and reimbursement rights.

- (b) Constructive Trust or Equitable Lien: The Plan's subrogation and reimbursement rights grant the Plan an equitable lien on the proceeds of any recovery obtained by the Eligible Person from a third party, whether by settlement, judgment, or otherwise. The Plan's recovery operates on every dollar received by the Eligible Person from a third party. When a recovery is obtained, the recovery proceeds are held in trust for the Plan. The Plan then imposes a constructive trust or equitable lien on the recovery proceeds and is paid to the full extent of its equitable subrogation and reimbursement rights. If the Eligible Person fails to hold the recovery proceeds in trust or in any other way prejudices or adversely impacts the Plan's subrogation and reimbursement rights, the Plan reserves the right to, among other things, pursue all available equitable action and offset any future benefits payable to the Employee, Dependent, or Beneficiary under the Plan. If the Plan initiates an equitable action for reimbursement, the Plan is seeking to enforce an equitable lien by agreement.*
- (c) Plan Paid First: Amounts recovered or recoverable by or on the Employee's, Dependent's, or Participant's behalf are paid to the Plan first, to the full extent of its subrogation and reimbursement rights, and the remaining balance, if any, to the Eligible Person. The Plan's subrogation and reimbursement right comes first even if the Eligible Person is not paid for all of his or her claims for damages. If the Plan's subrogation and reimbursement rights are not fully satisfied directly by a third party, the Plan's right to reimbursement may be enforced to the full extent of any recovery that the Eligible Person may have received or may be entitled to receive from the third party.*
- (d) Right to Take Action: The Plan's right of subrogation and reimbursement is an equitable one and applies to all categories of benefits paid by the Plan. The Plan and any other Plan member can bring an action (including in the Eligible Person's name) for specific performance, injunction, to enforce an equitable lien by agreement, or any other equitable action necessary to protect its rights in the cause of action, right of recovery, or recovery by an Eligible Person. The Plan shall commence any action it deems appropriate against an Eligible Person, an attorney, or any third party to protect its subrogation and reimbursement rights. The subrogation and reimbursement right applies to claims of Eligible Dependents covered by the Plan regardless of whether such Dependent is legally obligated for expenses of treatment.*
- (e) Applies to All Rights of Recovery or Causes of Action: The Plan's subrogation and reimbursement rights apply to any and all rights of recovery or causes of action the Eligible Person has or may have against any third party.*
- (f) No Assignment: The Eligible Person cannot assign any rights or causes of action he or she may have against a third party to recover medical expenses without the express written consent of the Plan.*

- (g) Full Cooperation: The Eligible Person shall cooperate fully with the Plan and do nothing to prejudice or adversely affect the Plan's subrogation and reimbursement rights. The Eligible Person, whether personally or through an attorney, must periodically update the Plan on the status of any action against a third party. The time period between updates must not exceed 45 days. The Eligible Person must notify the Plan before executing any settlement agreement with a third party, regardless of whether the settlement agreement purports to include or exclude the Plan's subrogation or reimbursement interest. Benefits may be denied if the Eligible Person does not cooperate with the Plan.
- (h) Notification to the Plan: The Eligible Person must promptly advise the Plan Administrator, in writing, of any claim being made against any person or entity to pay the Eligible Person for his or her Injuries, Illness, or death. Further, the Eligible Person must periodically update the Plan regarding the claim and notify the Plan of a settlement prior to reaching a compromise of his or her claims.
- (i) Third Party: Third party includes, but is not limited to, all individuals, entities, federal, state or local governments, and insurers (including, but not limited to, liability, medical expense, wage loss, worker's compensation, premises liability, no fault, uninsured or underinsured motorist insurers), who reimburse, compensate, or pay for an Eligible Person's losses, damages, Injuries, or claims relating in any way to the Injury, occurrence, conditions, or circumstances leading to the Plan's payment of benefits. This right of subrogation and reimbursement exists regardless of whether the policy of insurance is owned by the Eligible Person.
- (j) Apportionment, Comparative Fault, Contributory Negligence. Equitable Defenses Do Not Apply: The Plan's subrogation and reimbursement rights include all portions of the Eligible Person's claims regardless of any allocation or apportionment that purports to dispose of any portion of the claims not otherwise subject to subrogation, including, but not limited to, any apportionment for pain and suffering, wage loss, partial or total disability, or to a spouse for loss of consortium. The Plan's subrogation and reimbursement rights are not affected, reduced, or eliminated by comparative fault, contributory negligence, the double-recovery rule, the make-whole or common-fund doctrines, or any other equitable defenses.
- (k) Attorney's Fees: The Plan shall not be responsible for any attorney's fees or costs incurred by the Eligible Person in any legal proceeding or claim for recovery, under the common-fund doctrine or any other legal theory, unless prior to incurring such fees or costs, the Trustees agree in writing to pay all or some portion of attorney's fees or costs.

- (l) *Course and Scope of Employment: If the Plan has paid benefits for any Injury which arises out of and in the course and scope of employment, the Plan's right of subrogation and reimbursement shall apply to all awards or settlements received by the Eligible Person regardless of how the award or settlement is characterized and regardless of whether the Plan has intervened in the action. If attorney's fees are awarded to the Eligible Person's attorney from the Plan's recovery, the Eligible Person shall reimburse the Plan for the attorney's fees.*

Please keep this Notice with your Plan Document/Summary Plan Description (SPD) booklet for future reference. If you have any questions, please feel free to contact the Fund Office.

Yours very truly,

THE BOARD OF TRUSTEES

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