

# NECA-IBEW PENSION TRUST FUND

## Participation Agreement

### (All Non-Bargaining Unit Employees – Percentage of Salary)

1. The undersigned Employer hereby agrees that this Agreement represents the detailed written agreement required by the Labor-Management Relations Act to permit the NECA-IBEW Pension Trust Fund (“Fund”) to receive contributions from Employer designated herein on behalf of all Non-Bargaining Unit Employees (“NBU Employees”) employed by Employer and to allow NBU Employees to participate in the plan sponsored by the Board of Trustees of the NECA-IBEW Pension Trust Fund.

2. The Employer further acknowledges that the Trustees have full discretion and authority to adopt rules and regulations governing the participation of NBU Employees and which may be included in the Fund’s Administrative Rules, Plan Document, the Trust Agreement, or other Plan documents. The Trustees have the authority to amend and interpret these rules and regulations without the consent of the Employer.

3. The Employer agrees to be bound by, and hereby assents to, all of the terms of the Trust Agreement, as amended from time to time, creating the Fund, and the rules and regulations adopted by the Trustees of the Fund pursuant to said Trust Agreement. In the event of a conflict between any term or condition of this Agreement and any term or condition of the Trust Agreement, the Trust Agreement will control.

4. The Employer shall pay monthly to the Trustees a contribution for each NBU Employee based upon the same percentage of salary for each such NBU Employee, which percentage shall be \_\_\_\_ % (not to exceed 20 %) of salary for NBU Employee per pay period plus \_\_\_\_ cents per hour (which latter figure of \_\_\_\_ cents per hour shall not be creditable toward any pension credit(s), but shall be used to defray overall underfunded liability of the Fund, and which figure of \_\_\_\_ cents per hour may be changed from time to time in the sole discretion of the Trustees of the Fund upon written notice). Employer agrees to submit a new Participation Agreement at any time that said percentage is changed so as to specifically provide said percentage rate in a current Participation Agreement. The Employer must contribute for all NBU Employees (and all NBU Employees of the Employer *must* be listed). Employer certifies that any additions or deletions from the NBU Employee list shall be shown at the time of such addition or deletion on a Form substantially as set forth in the Form attached hereto and submitted to the Fund Office so that such Form will correctly and contemporaneously show the current complement of NBU Employees.

For purposes of this agreement, a NBU Employee is a full-time and regular part-time employee, who is not covered by a collective bargaining agreement, that regularly works twenty (20) or more hours cumulatively per week, in order to provide Pension benefits as therein provided. A NBU Employee shall also include any employee who is considered a full-time employee under applicable federal law(s) that require the Employer to remit pension contributions, including, for example, any employee who completes one (1) year of service (*i.e., the employee works 1,000 hours or more during the applicable twelve (12) month period or plan year, as applicable*).

5. It is specifically agreed and understood that the Employer will cooperate in making timely contributions to the Fund (on or before the 15<sup>th</sup> of the following month) and that failure to do so shall subject the Employer to attorney's fees, interest, liquidated damages, audit costs, and any other additional costs assessed pursuant to the terms of the Fund's Trust Agreement. Additionally, the Employer agrees and understands that the Trustees may, on reasonable notice, have a payroll examination conducted by an accountant or its representatives of the Employer's payroll records in connection with the Employer's obligations hereunder.

The Employer further agrees to maintain records with respect to all employees covered by this Agreement sufficient to determine the benefits due or which may become due to such employees under the Fund's governing documents. Employers must also maintain contemporaneous time cards, time sheets, or other written records verifying the eligibility of its employees, hourly and salary alike, and the type of work performed by the employees. In the event that the Employer fails to maintain records required hereunder sufficient to determine an Employee's eligibility for benefits, then the Employer hereby agrees that all hours worked which the employee received pay or was entitled to receive pay from the employer, including but not limited to sick time, vacation, personal leave, leave of absence or any other compensatory time, shall be considered work covered by this Participation Agreement or the collective bargaining agreement, as applicable. Further, failure to maintain said records may result, *in the sole discretion of the Board of Trustees*, in legal action being initiated by the Fund to collect contributions or to seek other legal or equitable relief, a refund of contributions received, employer and/or employee ineligibility to participate in the Fund, and/or a loss of accrued credit/eligibility for employees participating in the Fund which are covered by this Agreement. Notwithstanding the foregoing, the Employer shall not be required to maintain records of *actual* hours worked by employees who are paid a salary and are exempt from overtime under applicable federal and state laws.

6. As a condition of participation under this Agreement, the Employer agrees to be a party to one or more collective bargaining agreements with a Local Union affiliated with the International Brotherhood of Electrical Workers.

7. This Agreement is not effective until it is accepted by the Trustees and is executed by an authorized representative of the Fund.

8. The Employer hereby accepts as Employer Trustees the present Employer Trustees appointed under said Trust Agreement and all such past or succeeding Employer Trustees as shall have been or will be appointed in accordance with the terms of the Trust Agreement.

9. Either party may terminate this Agreement without cause by delivering a written termination notice via certified mail return receipt requested to the other party. Such termination notice shall be effective the first day of the month following the month in which it is received by the Fund. Upon termination, the Employer will immediately give written notice to all NBU Employees whose participation is terminated.

10. This Agreement shall automatically and immediately terminate, with no notice required to be sent to either party, upon the occurrence of any of the following events:

- A. The Employer terminates its collective bargaining agreement with a Local Union affiliated with the International Brotherhood of Electrical Workers. In such event the termination date of this Agreement shall be the same termination date of the collective bargaining agreement with International Brotherhood of Electrical Workers; or

- B. The Employer becomes at least sixty (60) days delinquent in its contributions owed to the Fund. In such event, the termination date of this Agreement shall be the first day of the first month immediately following the sixtieth (60<sup>th</sup>) day that the Employer is delinquent.

If this agreement is terminated, withdrawal liability will be assessed and collected as provided by the Employee Retirement Income Security Act. See generally, 29 USC 1381 and applicable P.B.G.C. regulations.

11. This Agreement is effective this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

NECA-IBEW PENSION TRUST FUND

EMPLOYER

By: \_\_\_\_\_  
Its Administrator

\_\_\_\_\_  
Name of Employer

\_\_\_\_\_  
Signature of Authorized Agent

Date: \_\_\_\_\_

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

Address: \_\_\_\_\_  
\_\_\_\_\_

**NOTICE:**

TERMINATION OF THIS AGREEMENT MAY TRIGGER AN **ASSESSMENT** OF **WITHDRAWAL LIABILITY** AS PROVIDED BY THE EMPLOYEE RETIREMENT INCOME SECURITY ACT. SEE GENERALLY, 29 U.S.C. 1381 AND APPLICABLE PBGC REGULATIONS. PLEASE DISCUSS THESE CONSEQUENCES WITH YOUR LEGAL COUNSEL PRIOR TO TERMINATING THIS AGREEMENT. YOU MAY REQUEST AN ESTIMATE OF WITHDRAWAL LIABILITY FROM THE FUND OFFICE.

TO: BOARD OF TRUSTEES  
NECA-IBEW PENSION TRUST FUND

This will acknowledge that I have read the NECA-IBEW Participation Agreement for Non-Bargaining Unit Employees and **CHOOSE TO PROVIDE COVERAGE** for **ALL NON-BARGAINING EMPLOYEES** of this organization with the NECA-IBEW Pension Trust Fund.

List **ALL NON-BARGAINING EMPLOYEES** with their social security number and date of hire. Please **NOTIFY** the Fund Office when there are any additions or changes in this list.

**COMPANY NAME:** \_\_\_\_\_

**COMPANY ADDRESS:** \_\_\_\_\_

**EMPLOYER FEDERAL IDENTIFICATION NUMBER:** \_\_\_\_\_ **ACCOUNT #** \_\_\_\_\_

**NON-BARGAINING EMPLOYEES:**

NAME	S.S.N.	HIRE DATE
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Please return this completed form, **within ten (10) working days to:**

NECA-IBEW Pension Trust Fund  
**ATTENTION: Internal Control Department**  
2120 Hubbard Avenue  
Decatur, Illinois 62526-2871