

Effective January 2022

Important Notice

To All Participating Employers

This document sets forth Electrical Insurance Trustees/EIT Benefit Funds Delinquency Collection Policy.

Electrical Insurance Trustees

Delinquency Collection Policy and Procedure

1. **DUE DATE.** An Employer's contribution and payroll report are due on the fifteenth day of the month ("Due Date") following the month in which work was performed. Payroll reports and contributions must be sent electronically to EIT. Employers who fail to submit a payroll report electronically will be charged a \$125.00 processing fee per report. Employers who fail to submit contributions electronically will be charged a fee of \$25.00 per processed check.
2. **DELINQUENT DEFINED.** If a contribution and payroll report are not received by the Due Date, they are delinquent. If the Due Date is a Saturday, Sunday or holiday, the contribution and payroll report must be received by the next business day. If only a part of the amount is paid, the shortage is delinquent.
3. **ADDITIONAL CHARGE FOR DELINQUENCY.** Failure to pay the contribution by the Due Date will result in liquidated damages of one percent (1%), multiplied by the total amount due for each day late, up to ten percent (10%).
4. **PAST DUE DATE AND AMOUNT.** If an Employer's delinquent payment is not received by the last day of the month ("Past Due Date") following the month in which work was performed, the Trustees will assess additional liquidated damages and interest as follows:
 - a) Liquidated damages at the rate described in item (3) above, plus an additional five percent (5%) of the delinquent amount. If the delinquent payment is not received by the last day of the month following the Past Due Date, another five percent (5%) in liquidated damages will be assessed.
 - b) Interest at the rate of one percent (1%) will be assessed for each month, or a part thereof, that a payment is late.

As soon as reasonably possible following the Past Due Date, the Trust office will notify the delinquent Employer that failure to pay the amount due will result in liability for additional liquidated damages, interest, attorneys' fees and costs, and jeopardizes coverage and eligibility for its Employees.
5. **CLAIM ON BOND AND NOTICE TO EJAB.** If an Employer is delinquent in the amount of \$25,000 or more, the Trust office will promptly file a claim on the Employer's Fringe Benefit Bond and send a notice to the Electrical Joint Arbitration Board. If an Employer's delinquent payment is not received by the last day of the month following the Past Due Date, regardless of the amount of the delinquency, the Trust office will send a notice to the Employer's surety and to the Electrical Joint Arbitration Board.
6. **PAYMENT REQUIRED AND SUSPENSION OF COVERAGE.**
 - a) Hours for which an Employer is delinquent do not count in determining eligibility under the Insurance Trust.
 - b) Failure to pay the delinquent amount in full by the fifteenth day of the month following the Past Due Date will result in a suspension of coverage and eligibility under the Insurance Trust for claims incurred after that date, and the suspension will continue until eligibility and coverage are reinstated by the Trustees. If an Employer remains delinquent after the Past Due Date, the Trust office will promptly send a notice to (a) the Employer for distribution to Employees, (b) affected Employees at their last address in the Insurance Trust records and (c)

Local Union No. 134, which explains that coverage under the Insurance Trust will be suspended. If the Trust office has no address for an Employee, the notice to the Union and his Employer will substitute for notice to the Employee. The Employer must post the notice at the location for other Employee notices.

- c) It is the intent of the Parties that an Employee should not continue to work for an Employer who is delinquent in making contributions to the Electrical Insurance Trustees and that while an Employee remains employed by a delinquent Employer, to the extent permitted by law, the Employee will not receive health and welfare benefits. If they deem it prudent, the Trustees may defer suspension of coverage and eligibility as otherwise required by this Agreement while pursuing other means of curing the delinquency, including in the case of a bankrupt Employer an application to the bankruptcy court for any relief to which the Trustees may be entitled.
 - d) Suspension of coverage does not relieve the Employer of its obligation to pay contributions.
7. **REFERRAL TO LEGAL COUNSEL.** The Fund Administrator will refer any delinquency which remains unpaid 90 days after the Due Date and which is more than \$5,000 to Fund Counsel for legal action. Notice of the referral will be provided to the Chicago and Cook County Chapter, N.E.C.A., the Local 134 Business Manager and affected Employees. If Fund Counsel files suit to collect the delinquency, the Employer is liable for the amount of the contributions, liquidated damages, interest, and all costs of recovery, including but not limited to attorneys' fees and court costs.
8. **DEPOSIT.** If an Employer fails to make the full monthly contribution by the Due Date three (3) times in any twelve (12) month period, the Trustees will require the Employer to post a cash deposit which is the lesser (a) of three (3) months of estimated contributions, based on the Employer's last twelve (12) payroll reports, or (b) the amount on the following schedule:

| <u>Number of Employees</u> | <u>Deposit Required</u> |
|----------------------------|-------------------------|
| 1 – 5 | \$10,000.00 |
| 6 – 10 | \$20,000.00 |
| 11 – 20 | \$40,000.00 |
| 21 – 50 | \$100,000.00 |
| 51 – 75 | \$150,000.00 |
| Over 75 | \$150,000.00 |

plus an additional amount determined by this schedule for increments of Employees beyond Seventy-five (75).

The term of the deposit is for a period of one (1) year.

The deposit will only be used to guarantee contributions and related liquidated damages, interest and cost of collection, and shall be in addition to other security hereunder.

The term of the deposit will automatically renew if the Employer is again delinquent during the year the deposit is required to be maintained.

9. **THE FOLLOWING WILL ALSO BE PROCESSED AS DELINQUENCIES:**
- a) Liquidated Damages. Assessments for liquidated damages must be paid by the last day of the month in which assessed. If assessed liquidated damages are not paid by the last day of the

month in which assessed, they will be treated the same as delinquent contributions except that liquidated damages will not be assessed for the late payment of liquidated damages.

- b) If a check for contributions is dishonored for any reason, the contributions will be treated as unpaid. In addition to their remedies hereunder, the Trustees may pursue any other remedies they may have against the Employer or any other person under any applicable law.
 - c) Any amounts assessed the Trust office pursuant to any rule adopted by the Trustees, including but not limited to any assessment for failure to permit a payroll audit, will be treated the same as delinquent contributions, and must be paid by the end of the month in which assessed.
10. **CONTROVERSIES AND DISPUTES.** In any controversy, claim demand, suit at law or other proceeding between an Employer or any other person and the Trustees, the Trustees are entitled to rely upon any facts appearing in the records of the Trustees, certified by the Union or an Employer, any facts which are of public record, and any other evidence pertinent to the issue involved.

The Trustees have discretionary authority to determine all questions and controversies relating to the Trust, including the construction of any rules or regulations adopted by the Trustees. The decision of the Trustees is binding upon all persons dealing with the Trustees. If a determination of the Trustees is subject to review by a court or other authorized person or body, the decision by the Trustees must be sustained unless it is determined that the Trustees acted in an arbitrary and capricious manner.

11. **PAYROLL AUDIT.** The Trustees are authorized to conduct payroll audits of Employers from time to time as the Trustees deem desirable. If an Employer fails to schedule an audit for a date within 30 days of the Trustees' notice of audit or if an Employer refuses to schedule an audit, the Trustees shall immediately assess the Employer \$1,000. The Trustees shall assess the Employer an additional \$2,000 if the audit is not scheduled by the end of the following month. Thereafter, the Trustees shall assess the employer \$3,000 per month until the Employer complies. If an audit discloses an underpayment, liquidated damages of fifteen percent (15%), multiplied by the amount of the underpayment, will be assessed. If the underpayment and liquidated damages are not paid by the last day of the month following at least fifteen (15) days notice by the Trust office, the same rules above that apply to delinquent contributions will apply except that the total liquidated damages will not exceed twenty percent (20%) of the underpayment. If the audit discloses an underpayment of three percent (3%) or more of the total contributions due for the audit period, the cost of the audit (deemed to be \$750.00) will be paid by the Employer. If Fund Counsel files suit to collect an underpayment or to enforce the Trustees' right to conduct an audit, the Employer will be liable for any attorneys' fees and costs incurred by the Trustees in addition to any underpayment, liquidated damages and interest.
12. The failure of an Employer to comply with the above provisions is a breach of the Collective Bargaining Agreement.