

# **SUMMARY PLAN DESCRIPTION**

**Roofers Local No. 74  
Annuity Plan**

**Dated: June 2018**

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## Introduction to Your Plan

### I. GENERAL INFORMATION

Name of Plan: Roofers Local No. 74 Annuity Plan

Type of Plan: Profit-sharing Plan

Plan Number: 001

Plan Sponsor: The Plan is sponsored by the Union and the Contributing Employers who are represented by:  
  
Board of Trustees  
Roofers Local No. 74 Annuity Fund  
2800 Clinton Street  
West Seneca, NY 14224

Employer Identification Number: 45-2840767

Type of Administration: Jointly Administered Trust

Plan Administrator: Bernadine I. Magney  
Roofers Local No. 74 Annuity Fund  
2800 Clinton Street  
West Seneca, NY 14224

Trustees:      **Employer Trustees:** John Embow  
Grove Roofing  
131 Reading Street  
Buffalo, NY 14220

Stephen Sanders  
Joseph Sanders & Sons  
P.O. Box 814  
Buffalo, NY 14240

Patrick Byrne  
Weaver Metal & Roofing Co.  
40 Appenheimer Street  
Buffalo, NY 14214

**Union Trustees:**

John H. Bernas  
5376 Adams Street  
Hamburg, NY 14075

Nicholas Gechell  
5148 Glendale Avenue  
Hamburg, NY 14075

Stephen Kiebzak  
4 Lena Court  
West Seneca, NY 14224

Plan Year:

June 1<sup>st</sup> - May 31<sup>st</sup>

Agent for Service  
of Legal Process:

The agent for service of legal process is the  
Board of Trustees of Roofers Local No. 74  
Annuity Fund

Legal Counsel:

Lipsitz Green Scime Cambria LLP  
42 Delaware Avenue, Suite 120  
Buffalo, NY 14202

Accountants:

Arcara Zucarelli Lenda & Associates, CPAs, P.C.  
5214 Main Street, Suite 200  
Williamsville, NY 14221

## **II. COLLECTIVE BARGAINING AGREEMENTS**

This Plan is maintained pursuant to one or more Collective Bargaining Agreements. A copy of the Collective Bargaining Agreement between the Union and your Employer may be obtained upon written request to the Fund Office, and is also available for examination at the Fund Office.

## **III. PARTICIPATION**

Before you become a member or a “participant” in the Plan, there are certain participation rules, which you must meet. These rules are explained in this section.

### **Participation Requirements**

You will become a participant in the Plan once you have completed 1,000 Hours of Service as an Employee for one or more contributing Employers.

If you separate from service and subsequently are rehired by a contributing Employer before you have taken a distribution from your individual account, you will continue to participate in the Plan. If you separate from service with your Employer after meeting the eligibility rules and receive a distribution from your individual account, you will be eligible to participate in the Plan once you are re-employed by an Employer.

### **Included Employees**

For purposes of the above, you become an Employee when you begin to work for an Employer who has a Collective Bargaining Agreement with the Union requiring contributions to the Plan on your behalf. You can also become an Employee by working for the Union or for the Plan itself, or for any other contributing fund, if the Trustees agree.

An Hour of Service is an hour worked for an Employer under the Collective Bargaining Agreement with the Union requiring contributions to the Plan.

## **IV. PARTICIPANT ACCOUNTS AND ALLOCATIONS**

### **Accounts**

The Plan Administrator will maintain a “separate” account on paper on your behalf. The balance of your account will represent your share in the trust and may consist of any of the following allocations. Generally your account will increase as employer contributions or rollover contributions are made to it, and it will decrease as administrative charges or benefit distributions are made from it. The following factors will all have a part in determining the amount in your account at any given time:

**Employer Contributions** – Once you have satisfied the requirements for participation, your Employer will contribute to the Plan on your behalf. The amount of the Employer Contributions is based on your hours worked and is specified in the Collective Bargaining Agreement with your Employer. These contributions will be allocated to your account as soon as administratively feasible after they have been received from your Employer.

**Rollover Contributions** – This plan accepts rollover distributions from other plans, subject to Trustee review. The Trustees have the right to request any documentation that may allow them to review the qualified tax status of the transferring plan. In the event you elect to rollover or transfer a distribution from another plan to the Roofers Local No. 74 Annuity Plan, the amount of the distribution will be added to your account and shall share in the earning and losses of the Fund as described below.

**Earnings and Losses** – The fair market value of the Plan’s investments and assets will be determined as of May 31<sup>st</sup> each year, the Anniversary Date, and at such other times as the Trustees deem appropriate. Any investment earnings or losses and expenses will be proportionately allocated among existing Participant accounts.

**Administrative Expenses** – In the course of administering the Plan, the Trustees from time to time will need to pay certain expenses associated with operating the Plan in a sound manner. These expenses may be proportionately allocated among all of the participants’ accounts. However, there are certain expenses that will be paid from just your account. These are expenses that are specifically incurred by, or attributable to you. For example, if you are married and get divorced, the Plan may incur additional expenses if a court mandates that a portion of your account be paid to your ex-spouse. These additional expenses will be paid directly from your account (and not the accounts of other participants) because they are directly attributable to your benefit under the Plan. The Trustees retain the right to decide how administrative expenses will be allocated.

An Administrative Account has been established under the Plan to be funded by administrative fees and Employer Contributions not allocated to any Participant’s Account. The Administrative Account will be used for Plan expenses and obligations under the Uniformed Services Employment and Reemployment Rights Act (“USERRA”).

## **Limitations**

You should be aware that the law imposes certain limits on how much money may be allocated to your account for a year. These limits are extremely complex but generally no more than the lesser of \$55,000 or 100% of your compensation may be allocated to you (excluding earning and losses) in any year. The Trustees will inform you if these limits have affected you.

## **V. VESTING**

You will become 100% (fully) vested in your Account, including Employer Contributions and rollover/transfer contributions plus any earnings that they generate, immediately upon your effective date of participation as described in Section III – Participation.

Your vested benefit will normally be distributed to you or your beneficiary upon your death, retirement or termination of employment.

## **VI. DISTRIBUTION OF BENEFITS**

At your election, your benefits may be distributed on or after the occurrence of any of the following events:

- Retirement
- Death
- Hardship
- Termination of employment

However, you may delay distribution until you reach age sixty-two (62).

### **Retirement**

You may retire on or after age fifty-five (55) or when you have retired with a benefit from the Roofers Local No. 74/No. 203 Pension Fund. At the time of your retirement the Trustees shall make payment of the entire amount in your account. The distribution of your account will be made in a single lump sum payment of cash as soon after the Anniversary Date (May 31) of the Plan as is administratively practicable.

### **Death**

In the event of your death prior to the commencement of benefit payments, the Trustees will pay the entire amount in your account to your Beneficiary. Your Beneficiary will receive the distribution in a single lump sum payment equal to your account balance as soon after the next Anniversary Date as is administratively practicable.

If you are married at the time of your death, your Beneficiary is your spouse unless you elect otherwise. Your spouse must consent to this election in writing on a form provided by the Trustees and must be witnessed by a Plan Administrator, a Plan Representative or a Notary Public. Your spouse must consent to the beneficiary(s) chosen by you on the form described above. He/She must acknowledge the effect of such waiver. Please refer to Section VIII. below.

### **Hardship**

You may make a hardship withdrawal of your account balance under the following circumstances:

- To pay for medical care expenses that were previously incurred by you, your spouse or your dependents, or for expenses necessary for any of those persons to obtain medical care. Medical care expenses include amounts paid for the diagnosis, cure, mitigation, treatment or prevention of disease, or for the purpose of affecting any structure or function of the body and transportation primarily for and essential to the medical care described in this section;
- To pay for costs directly related to the purchase of your principal residence. (This does not include mortgage payments);
- Funeral expenses for a member of your family;
- Payment of tuition, related educational fees, and room and board expenses for the next twelve (12) months of post-secondary education for you, your spouse, your children, or your dependents;
- Payments necessary to prevent your eviction from or foreclosure on the mortgage of your principal residence; or
- Expenses for the repair of damage to your principal residence that would qualify for the casualty deduction on your federal income tax return.

A hardship distribution shall be limited to 75% of your Account value, valued as of the last Anniversary Date, or the total amount of the hardship expense, which ever is less, and will be made in a single lump sum payment. Applications for hardship withdrawals must be made within 60 days of the end of the Plan Year in which the expenses were incurred.

The Plan imposes a minimum amount of \$500 for hardship distributions.

You will only be allowed two hardship withdrawals from the Plan in a calendar year. You will be charged with a \$75 administrative fee for your second withdrawal in a calendar year.

### **Termination of Employment**

Termination of Employment will occur upon the earlier of (i) a severance of employment with all Employers as a result of a physical or mental impairment which is evidenced by a Social Security disability award, or (ii) after a twenty-four (24) consecutive month period during which you do not complete an Hour of Service. Distribution of the balance in your account will be made in a single lump sum payment as soon after the next Anniversary Date as is administratively practicable.

### **Termination of the Plan**



Notwithstanding the foregoing, in the event that this Plan terminates, the Trustees will distribute the balance in your account as of the date of termination. Distribution will be made in a single lump sum payment.

## **VII. HOW YOUR BENEFITS WILL BE PAID**

### **Single Lump Sum Distribution**

The standard form of benefit payment under the plan is a Single Lump Sum Distribution. Application for a benefit distribution must be made in writing with the Plan Administrator. Payment of this form of benefit will be made as soon as administratively feasible following your retirement. If your vested Account balance is less than \$5,000, the Trustees may distribute your benefits without your consent. If your Vested Account balance exceeds \$5,000, no distribution can be made without your consent.

You may elect whether to receive the distribution or to roll over the distribution to another retirement plan such as an individual retirement account (“IRA”). At the time of your termination of employment, the Plan Administrator will provide you with further information regarding your distribution rights.

If the amount of the distribution is more than \$1,000 and you do not elect either to receive or to roll over the distribution, then your distribution must be rolled over to an IRA. The IRA provider will invest the rollover funds in a type of investment designed to preserve principal and provide a reasonable rate of return and liquidity (e.g., an interest-bearing account, a certificate of deposit or a money market fund). The IRA provider will charge your account for any expenses associated with the establishment and maintenance of the IRA and with the IRA investments. You may transfer the IRA funds, at any time and without cost, to any other IRA you choose. You may contact the Plan Administrator for further information regarding the Plan’s automatic rollover provisions, the IRA provider, and the fees and expenses associated with the IRA.

### **Distribution Rules**

GENERALLY, WHENEVER A DISTRIBUTION IS TO BE MADE TO YOU ON OR AS OF AN ANNIVERSARY DATE, IT MAY BE MADE ON SUCH DATE OR AS SOON THEREAFTER AS IS PRACTICABLE. HOWEVER, UNLESS YOU ELECT IN WRITING TO DEFER THE RECEIPT OF BENEFITS, NO DISTRIBUTION MAY BEGIN LATER THAN THE 60TH DAY AFTER THE CLOSE OF THE PLAN YEAR IN WHICH THE LATEST OF THE FOLLOWING EVENTS OCCURS:

- the date on which you reach the age of 65;
- the 5th anniversary of the year in which you became a participant in the Plan;
- the date you terminated employment with your Employer.

Regardless of whether you elect to delay the receipt of benefits, there are other rules, which generally require minimum payments to begin no later than the April 1st following the year in which you reach age

70½ unless you are still in Covered Employment and elect to defer your distribution. You should see the Trustees if you feel you may be affected by this rule.

## **VIII. DEATH BENEFITS**

### **Death Benefit Distributions**

If you die before your retirement benefits begin, your entire Account balance will be payable to your designated Beneficiary. Your Beneficiary will receive benefits in the form of a single lump sum payment. (See Section VII. – “How Your Benefits Will Be Paid” above).

If you are married at the time of your death, your spouse will be the Beneficiary of the death benefit, unless you otherwise elect in writing on a form to be furnished to you by the Trustees. **IF YOU WISH TO DESIGNATE A BENEFICIARY OTHER THAN YOUR SPOUSE, HOWEVER, YOUR SPOUSE MUST IRREVOCABLY CONSENT TO WAIVE ANY RIGHT TO THE DEATH BENEFIT. YOUR SPOUSE’S CONSENT MUST BE IN WRITING, BE WITNESSED BY A NOTARY OR A PLAN REPRESENTATIVE AND ACKNOWLEDGE THE SPECIFIC NONSPOUSE BENEFICIARY.**

Since your spouse has certain rights in the death benefit, you should immediately report any change in your marital status to the Trustees.

## **IX. PARTICIPANT WITHDRAWALS**

### **Withdrawals**

The only time you may make an advance withdrawal of your account is due to hardship. Refer to Section VI for more specific information regarding Hardship Withdrawals.

## **X. MISCELLANEOUS**

### **Tax Treatment of Distributions From Your Plan**

Whenever you receive a distribution from your Plan, it will normally be subject to income taxes. The tax treatment may also depend on your age when you receive the distribution. Certain distributions made to you when you are under age 59½ could be subject to an additional 10% tax.

You may, however, reduce, or defer entirely, the tax due on your distribution through use of one of the following methods:

(a) The rollover of all or a portion of the distribution to an Individual Retirement Account (IRA) or another qualified employer plan. This will result in no tax being due until you begin withdrawing funds from the IRA or other qualified employer plan. The rollover of the distribution,

however, MUST be made within strict time frames (normally, within 60 days after you receive your distribution). Under certain circumstances all or a portion of a distribution may not qualify for this rollover treatment. In addition, most distributions will be subject to mandatory federal income tax withholding at a rate of 20%. This will reduce the amount you actually receive. For this reason, if you wish to rollover all or a portion of your distribution amount, the direct transfer option described in paragraph (b) below would be the better choice.

(b) You may request for most distributions that a direct transfer of all or a portion of your distribution account be made to either an Individual Retirement Account (IRA) or another qualified employer plan willing to accept the transfer. A direct transfer will result in no tax being due until you withdraw funds from the IRA or other qualified employer plan. Like the rollover, under certain circumstances all or a portion of the amount to be distributed may not qualify for this direct transfer. If you elect to actually receive the distribution rather than request a direct transfer, then in most cases 20% of the distribution amount will be withheld for federal income tax purposes.

WHENEVER YOU RECEIVE A DISTRIBUTION, THE TRUSTEES WILL DELIVER TO YOU A MORE DETAILED EXPLANATION OF THESE OPTIONS. HOWEVER, THE RULES WHICH DETERMINE WHETHER YOU QUALIFY FOR A FAVORABLE TAX TREATMENT ARE VERY COMPLEX. YOU SHOULD CONSULT WITH QUALIFIED TAX COUNSEL BEFORE MAKING A CHOICE.

### **Domestic Relations Order**

As a general rule, your interest in your account, including your “vested interest,” may not be alienated. This means that your interest may not be sold, used as collateral for a loan, given away or otherwise transferred. In addition, your creditors may not attach, garnish or otherwise interfere with your account.

There is an exception, however, to this general rule. The Trustees may be required by law to recognize obligations you incur as a result of court ordered child support or alimony payments. The Trustees must honor a “qualified domestic relations order.” A “qualified domestic relations order” is defined as a decree or order issued by a court that obligates you to pay child support or alimony, or otherwise allocates a portion of your assets in the Plan to your spouse, former spouse, child or other dependent. If a qualified domestic relations order is received by the Trustees, all or a portion of your benefits may be used to satisfy the obligation. The Trustees will determine the validity of any domestic relations order received.

### **Pension Benefit Guaranty Corporation**

Benefits provided by your Plan are NOT insured by the Pension Benefit Guaranty Corporation (PBGC) under Title IV of the Employee Retirement Income Security Act of 1974 because the insurance provisions under ERISA are not applicable to your Plan.

### **USERRA**

A federal law was passed in 1994 called the Uniformed Services Employment and Reemployment Rights Act (“USERRA”) that grants certain rights to individuals who spend time serving in the military. Individuals who leave their employment for military service and return to work with their prior Employer

must be credited with any annuity contributions that would have been made to the Plan on their behalf but for their military service.

If you leave Covered Employment for military service, upon your return to Covered Employment within the time periods set forth in USERRA, you will be credited with the Employer Contributions that would have been made on your behalf but for such military leave. The amount of Contributions that will be credited to your Account will be determined based on the average daily Contributions that were received by the Plan on your behalf during the twelve-month period immediately preceding your absence due to military service. Employer Contributions due for your benefit will first be paid from the Plan's Administrative Account with the balance, if any, paid by the Roofing Industry Promotional Fund of Western New York.

## **XI. CLAIMS BY PARTICIPANTS AND BENEFICIARIES**

Benefits will be paid to participants and their beneficiaries without the necessity of formal claims. You or your beneficiaries, however, may make a request for any Plan benefits to which you may be entitled. Any such request must be made in writing, and it should be made to the Plan Administrator. (See the Section I in this Summary entitled "GENERAL INFORMATION ABOUT YOUR PLAN.")

Your request for Plan benefits shall be considered a claim for Plan benefits, and it will be subject to a full and fair review. If your claim is wholly or partially denied, the Plan Administrator will furnish you with a written notice of this denial. This written notice must be provided to you within a reasonable period of time (generally 90 days) after the receipt of your claim by the Plan Administrator. The written notice must contain the following information:

- the specific reason or reasons for the denial;
- specific reference to those Plan provisions on which the denial is based;
- a description of any additional information or material necessary to correct your claim and an explanation of why such material or information is necessary; and
- appropriate information as to the steps to be taken if you or your beneficiary wishes to submit your claim for review.

If notice of the denial of a claim is not furnished to you in accordance with the above within a reasonable period of time, your claim will be deemed denied. You will then be permitted to proceed to the review stage described in the following paragraphs.

If your claim has been denied, and you wish to submit your claim for review, you must follow the Claims Review Procedure.

### **The Claims Review Procedure**

Upon the denial of your claim for benefits, you may file your claim for review, in writing, with the Board of Trustees.

**YOU MUST FILE THE CLAIM FOR REVIEW NO LATER THAN 60 DAYS AFTER YOU HAVE RECEIVED WRITTEN NOTIFICATION OF THE DENIAL OF YOUR CLAIM FOR BENEFITS.**

You may review all pertinent documents relating to the denial of your claim and submit any issues and comments, in writing, to the Trustees.

Your claim for review must be given a full and fair review. The Trustees will act upon the appeal as soon as possible but no later than the date of the first Board meeting following the date the Trustees receive a request for review, unless the request for review is filed within thirty (30) days prior to the date of such meeting. In such case, a determination will be made no later than the date of the second Board meeting following the date the Plan receives a request for review. If special circumstances (such as the need to hold a hearing) require a further extension of time for processing, the Plan Administrator shall notify the claimant in writing describing the special circumstances and the date by which a determination will be rendered. The determination shall be rendered no later than the date of the third Board meeting following the date the Plan receives a request for review. The Plan Administrator shall notify the claimant of the Trustees determination as soon as possible but no later than five (5) days after the determination is made. Such notification shall include all of the information described above, with respect to the Initial Review, as well as a statement that the claimant is entitled to receive, upon request and free of charge, reasonable access to and copies of all documents.

The Trustees' decision on your claim for review will be communicated to you in writing and will include specific references to the pertinent Plan provisions on which the decision was based.

If the Trustees' decision on review is not furnished to you within the time limitations described above, your claim will be deemed denied on review.

## **XII. STATEMENT OF ERISA RIGHTS**

### **Explanation of Your ERISA Rights**

As a participant in the Roofers Local No. 74 Annuity Plan, you are entitled to certain rights and protection under the Employee Retirement Income Security Act of 1974 ("ERISA"). ERISA provides that Plan participants shall be entitled to:

- Examine, without charge at the Fund Office and at other specified locations, such as worksites and union halls, all Plan documents including insurance contracts, collective bargaining agreements and copies of all documents filed by the Plan with the U.S. Department of Labor, such as detailed annual reports and plan descriptions.

- Obtain copies of all Plan documents and all other Plan information upon written request to the Plan Administrator. The Plan Administrator may make a reasonable charge for the copies.
- 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 the summary annual report.
- Obtain a statement telling you whether you have a right to receive a benefit at Normal Retirement Age (age 65 under the Plan) and if so, what your benefits would be at Normal Retirement Age if you stopped working under the Plan now. If you do not have a right to a benefit, the statement will tell you how many more years you have to work to obtain a right to a benefit. This statement must be requested in writing and is not required to be given more than once a year. The Plan must provide this statement free of charge.

In addition to creating rights for Plan participants, ERISA imposes duties upon the people who are responsible for the operation of an 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 and beneficiaries. No one, including your employer, your Union or any other person, may fire you or otherwise discriminate against you in any way to prevent you from obtaining a retirement benefit or exercising your rights under ERISA.

If your claim for a retirement benefit is denied in whole or in part, you must receive a written explanation of the reason for the denial. You have a right to have the Plan review and reconsider your claim. Under ERISA, there are steps you can take to enforce these rights. For instance, if you request materials from the Plan and do not receive them within thirty (30) days, you may file suit in a federal court. In such case, the court may require the Plan Administrator to provide these 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 Plan 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. If it should happen that the 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 that 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.

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 Employee Benefits Security Administration, U.S. Department of Labor, listed in the telephone directory or the Division of Technical Assistance and Inquiries, Employee Benefits Security 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 Employee Benefits Security Administration.

### **XIII. AMENDMENT AND TERMINATION OF YOUR PLAN**

#### **Amendment**

The Trustees have the right to amend your Plan at any time. In no event, however, will any amendment

- authorize or permit any part of the Plan assets to be used for purposes other than the exclusive benefit of participants or their beneficiaries; or
- cause any reduction in the amount credited to your account.

#### **Termination**

The Trustees have the right to terminate the Plan when there is no longer a collective bargaining agreement in force between the Union and an Employer requiring contributions to the Plan. Upon termination, all amounts credited to your accounts will continue to be 100% vested.

### **XIV. PLAN INTERPRETATION AND DETERMINATIONS**

The Board of Trustees and/or its duly authorized designee(s) has the exclusive right, power, and authority, in its sole and absolute discretion, to administer, apply and interpret the Plan, including this booklet, the trust agreement and any other Plan documents, and to decide all matters arising in connection with the operation or administration of the Plan or trust underlying it. Without limiting the generality of the foregoing, the Board of Trustees and/or its duly authorized designee(s) shall have the sole and absolute discretionary authority to:

- Take all actions and make all decisions with respect to the eligibility for, and the amount of, benefits payable under the Plan;
- Formulate, interpret and apply rules, regulations and policies necessary to administer the Plan in accordance with the terms of the Plan;
- Decide questions, including legal or factual questions, relating to the calculation and payment of benefits under the Plan;
- Resolve and/or clarify any ambiguities, inconsistencies and omissions arising under the Plan, including this booklet, the trust agreement, any collective bargaining agreement or participation agreement or other Plan documents;
- Process and approve or deny benefit claims; and
- Determine the standard of proof required in any case.

All determinations and interpretations made by the Board of Trustees and/or its duly authorized designee(s) shall be final and binding upon all participants, beneficiaries and any other individuals claiming benefits under the Plan, and shall be given deference in all courts of law to the greatest extent permitted by applicable law.