

SECOND INTERIM RULES FOR THE  
**2021 REFERENDUM**  
OF THE INTERNATIONAL UNION,  
UNITED AUTOMOBILE, AEROSPACE,  
AND AGRICULTURAL IMPLEMENT  
WORKERS OF AMERICA

**PREPARED BY THE OFFICE OF THE MONITOR**

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JENNER & BLOCK LLP

As of September 17, 2021

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(as of September 17, 2021)**

Please note that certain dates and deadlines concerning the Referendum have been changed since the initial Interim Rules were issued on August 13, 2021. The revised dates are highlighted yellow in Sections Two through Five of these Second Interim Rules.

**SECTION ONE**

**Introduction**

**1. Role and Authority of the Independent Monitor**

On January 29, 2021, the United States District Court for the Eastern District of Michigan (the “Court”), issued a Consent Decree in the matter of United States v. International Union, United Automobile, Aerospace, and Agricultural Implement Workers of America (the “UAW” or the “Union”), 20 Cv. 13293 (DML-RSW), concluding civil litigation previously brought by the Department of Justice against the Union (the “Consent Decree”). On May 12, 2021, pursuant to the terms of the Consent Decree, and by Order granting the Government’s unopposed motion, Neil M. Barofsky of Jenner & Block LLP was appointed to serve in the capacity as Independent Monitor of the UAW. The Consent Decree provided specific authority for the Independent Monitor to oversee a referendum to be conducted within six months of the Monitor’s appointment (the “Referendum”). Subsequently, by Order dated September 9, 2021, the District Court ordered that the Consent Decree be amended to reflect that the deadline by which the Referendum must be completed is on or before November 29, 2021.

**2. Consent Decree Mandate**

The Consent Decree states:

8. . . . the UAW shall hold a secret ballot vote (a referendum) by all UAW members concerning the method and procedures for the election of the members of the [International Executive Board (“IEB”)]. Specifically, the UAW membership shall vote whether to keep the current method for electing members to the IEB or, instead, the method should be changed to a direct election, sometimes referred to as “one member, one vote,” by which each UAW member shall directly elect the IEB.

9. The UAW agrees that the United States Department of Labor, Office of Labor-Management Standards (“OLMS”) shall, upon request of the Monitor, assist the Monitor in administering the UAW membership vote on the referendum described above to ensure it is conducted consistent with the standards applicable to the officer election provisions established in Title IV of the [Labor Management Reporting and Disclosure Act of 1959 (the “LMRDA”)].

10. The Monitor and the UAW shall develop the rules, method, and ballot language to be used in the referendum, and shall obtain approval from OLMS for those rules, method and ballot language prior to conducting the referendum.

11. At the conclusion of the referendum, the Monitor will prepare a report summarizing the results and provide it to OLMS for approval. If OLMS is satisfied that the referendum was properly conducted and that no violation of the rules may have affected the outcome thereof, the report shall be filed with the Court for final approval. If OLMS fails to endorse the referendum results, it shall state the basis and reasons for its decision in writing not later than 14 days after the results of the referendum are provided to it and provide that to the parties; and the parties may appeal that OLMS decision to the Court. If the Court finds, by clear and convincing evidence (or other standard of proof that is required by law), that the referendum was not properly conducted and that a violation of the rules may have affected the outcome thereof, a new referendum will be held as soon as practicable thereafter using the same provisions and methodology described herein.

12. If the membership of the UAW chooses the “one member, one vote” principle through the referendum, the UAW Constitution shall be amended to incorporate that principle with respect to its IEB elections prior to the next IEB elections taking place at or following the next UAW Constitutional Convention in June 2022. In

*such case, the Monitor will promptly confer with the UAW to draft language amending the UAW Constitution affirming the “one member, one vote” principle for inclusion in the UAW Constitution at the next UAW Constitutional Convention.*

13. *If the membership of the UAW chooses the “one member, one vote” principle through the referendum, the Monitor, in consultation with the UAW, shall develop all election rules and methods for the election of members of the IEB during the period of oversight. Without regard to the method of election – delegate election or direct election – nothing in this consent decree will eliminate or limit a union member’s right to seek relief from the Secretary of Labor and OLMS pursuant to the LMRDA, 29 U.S.C. § 401, et seq.*

Consent Decree, ¶¶ 8-13.

Further, by Order dated September 9, 2021, the District Court ordered that the Consent Decree be amended to reflect that the deadline by which the Referendum must be completed is on or before November 29, 2021.

September 9, 2021, Order, at 2.

### **3. UAW Election Principles**

*The UAW Constitution is the living law of our Union. It guarantees basic trade union rights to all members. It is intended to protect equally the rights of individual members, and of the Union as a whole.*

*The most important of these trade union rights is the right of the membership to fair, democratic election procedures in all instances when they vote to choose their officials. In order to guarantee this right, the UAW Constitution provides basic regulations for the conduct of elections for local union office, convention delegates and stewards and committee members.*

See Preface to the UAW Guide for Local Union Election Committees.

### **4. The Monitor’s Statement of Principles**

As mandated by the Consent Decree and informed by the UAW Guide for Local Union Election Committees and the guidance of OLMS, the 2021 Referendum will be guided by three important principles:

First, the Referendum will be run in a fair and impartial matter, and the Monitor will neither endorse nor give the appearance of endorsing one side of the Referendum question over the other, nor promulgate or enforce any discriminatory Rule.

Second, the oversight of the Referendum will be conducted in strict adherence with the applicable provisions of the Consent Decree, the UAW Constitution, the LMRDA and applicable federal law, and these Referendum Rules.

Third, the Referendum will be conducted consistent with American democratic traditions by protecting the right of every member to vote by secret ballot on the Referendum question. This principle mandates the improvement of accurate membership mailing information to ensure the enfranchisement of as many members as possible; the broad education of members on the fact of the Referendum to facilitate as broadly as possible their participation in it; and the fair counting of ballots and certainty around the accuracy of the Referendum results.

## 5. The Referendum Rules

Pursuant to the Consent Decree, any and all rules imposed for the Referendum require agreement or approval from the Monitor, the UAW, and OLMS (the “Referendum Rules”).

The rules that follow (the “Second Interim Rules”) reflect the efforts by the Monitor to achieve that agreement. However, OLMS and the UAW have reached an impasse on the issue of the use of Union resources to advocate on the Referendum question. Based on the language of the Consent Decree, OLMS has expressed its view that the Referendum must be conducted pursuant to all provisions of Title IV of the LMRDA, including, among other things, the application of section 401(g) which OLMS believes prohibits the use of Union resources from being used to advocate for either side. In order to keep the Referendum process moving ahead towards the deadline issued by the Court

in the Consent Decree, the Monitor, the UAW, and OLMS have agreed to the issuance of these Interim Rules, which include section 401(g)'s prohibition on the use of all Union and employer resources for advocating or promoting a position on this Referendum, while the UAW seeks to work with the Department of Justice to amend the Consent Decree to potentially allow limited and monitored use of Union resources or otherwise modify the application of Title IV to this Referendum. If those efforts are successful, the Monitor will work with the UAW and OLMS to update these rules. **Unless and until that happens (i.e., until updated rules are finalized), and as detailed below, any use of Union resources to advocate for either side of the Referendum will be a violation of these Second Interim Rules and is strictly prohibited.**

These Second Interim Rules are being issued in connection with the Court's September 9, 2021 Order, amending the Consent Decree to extend the deadline for completion of the Referendum to November 29, 2021.

The use of the term "Referendum Rules" herein refers to both these Second Interim Rules and any future updated rules.

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## SECTION TWO Referendum Overview

### 1. The Referendum

In accordance with the Consent Decree, the Referendum is to be held on a single question: whether to keep the current method of electing members of the IEB in which elected local union delegates to the UAW's Constitutional Convention vote for IEB members, or whether the method should be changed to a direct election by which each UAW member shall directly elect the members of the IEB. The Referendum will be conducted by secret mail-in ballot and overseen by the Monitor working in consultation with OLMS. An election vendor selected by the UAW in consultation with the Monitor (the "Election Vendor") will oversee all mailings, collections, and tabulations of the secret ballots.<sup>1</sup>

### 2. The Electorate

All UAW members in good standing as of **November 19, 2021**, are eligible to vote in the Referendum, including members who are part time workers, reinstated members, and retired members (the "Electorate"). See LMRDA, Title IV, Section 401(e); UAW Constitution, Article 38, Section 10(a). A member's dues obligation must be current in order to be in good standing and be eligible to vote. This means that a member must not be delinquent in the payment of dues at the time of voting. A member in good standing whose dues have been checked off by the employer may not be disqualified from voting because of any delay or failure by the employer to send the dues to the local union. A member who has failed to pay dues can lose good standing. No trial or notice is required.

Members who work only part time but pay the required dues may not be denied the right to vote. Reinstated members who have regained good standing lost because of a previous dues delinquency cannot be restricted from voting. Any member in good

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<sup>1</sup> Multiple vendors may be needed to undertake the various tasks necessary to facilitate the Referendum. Nonetheless, the term "Election Vendor" is utilized throughout the Referendum Rules even if it may ultimately refer to multiple vendors.

standing who is retired shall be entitled to a “retired membership status” which, without being required to pay membership dues during the period of such retirement, shall entitle her/him to all of the privileges of membership, including the right to vote in this Referendum. See UAW Constitution, Article 6, Section 19.

All members will receive a ballot in October 2021. **To have a vote counted in the Referendum, however, the members must assure that they are in good standing by November 19, 2021, at which time a final list of eligible members will be provided to the Election Vendor.** To the extent that the member can take whatever measures are necessary to ensure that they are officially in good standing with the Union, they should do so before **November 19, 2021**. Only the votes of members in good standing as of **November 19, 2021**, at 5 p.m. ET, will be counted.

### 3. General Time Frames

The Referendum shall be conducted pursuant to the specific schedule included herein. Initially, there will be a multi-month process to update and improve the Union’s lists of members’ and retired members’ mailing addresses and e-mail addresses. In October 2021, using the improved mailing list, the Election Vendor will print and mail secret ballots to the Electorate. These ballots will be returned by mail to a centralized location and in November 2021, the Election Vendor will count the votes subject to established protocols. With respect to all dates contained herein – with the exception of the final deadline for the vote as set by the Court (**November 29, 2021**) and the deadline by which a member must be in good standing for their vote to be counted (**November 19, 2021**) – all dates are targets and should be considered approximate subject to further modification.

### 4. Mailing List Improvement

The Monitor will work with the IEB, UAW counsel, and other UAW personnel (the “Union Leadership Team”) to connect with local unions to update the mailing lists of all their members and retired members. This will be a multi-phase process. The Monitor and the Union Leadership Team will jointly communicate to the members and leadership of the local unions instructing the members to immediately update their mailing and e-mail addresses with their local unions. Local union leadership should update their membership lists and, for most local unions, this information should be updated on the

Union's centralized database. Local union leadership will provide the updated lists to the Union Leadership Team and update the Union's centralized database, and from these sources, the Union Leadership Team will create a global mailing list (the "Global Mailing List"). In August 2021, the Election Vendor will utilize the Global Mailing List to send a postcard notifying members and retired members of the upcoming Referendum. Undelivered and returned post cards will be collected in order to identify individual members whose recorded addresses may not be accurate. The Union Leadership Team will communicate this information to local union leaders, and another effort will be undertaken to correct the addresses where possible. No later than **October 8, 2021**, the Union Leadership Team will provide a final list to the Election Vendor to be used as the Global Mailing List for the official ballot mailing, as well as additional mailings from Union members and groups, as described herein.

#### **5. Ballot**

Once approved by OLMS, the final ballot package will be mailed out by the Election Vendor on **October 19, 2021**. The ballot will ask the Electorate to vote for either the existing convention delegate voting system or the direct election system. The ballot package will include a description of both systems drafted by the Monitor, after considering input from interested parties, using clear and neutral language explaining the two options.

#### **6. Advocacy and Communications to the Electorate**

Individual members and groups in the Union will be permitted to advocate for either side of the Referendum question, as detailed in Section Four below. Individuals and groups in the Union wishing to formally participate in a coalition in support of either side of the Referendum question must register with the Monitor by **September 22, 2021**. Any registered individuals or groups will be invited to participate in an organized Referendum Forum webcast and will be able to advocate their position as contemplated in Section Four below.

#### **7. Announcement of the Result and Report to OLMS and to the Court**

At the conclusion of the vote tabulations, the Monitor will announce the unofficial result of the Referendum vote and prepare a report summarizing the results to OLMS.

OLMS will review the Referendum record to determine whether it was properly conducted, and, if satisfied, the report of the Referendum will be filed with the Court. The Court will make a final determination as to the validity of the Referendum results, and once approved, the election system voted for by the majority of the Electorate will be utilized in future IEB elections, including the 2022 election of IEB members.

**8. Complaints and Protest**

Members with questions or complaints regarding the Referendum process and procedures should contact the Monitor using the hotline e-mail and phone number provided at the end of the Referendum Rules. Formal protests regarding the Referendum results will be subject to the process described herein.

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### SECTION THREE

#### Schedule

The following is a calendar of the major events related to the Referendum.

#### **Week of July 12, 2021**

- The process of updating the mailing lists maintained by the Union began, including instructing members (including retired members) to update their mailing address and e-mail addresses. The Monitor and the IEB issued formal communications to local Union officials by mail and posted a communication to the members on the Union website, as well as sending an e-mail communication to those members whose e-mail addresses have been provided to the central Union database. Additional means of communicating such as local union websites and Facebook pages, work site bulletin boards, and if possible, in Solidarity, the Union magazine, may also be used as part of this process.

#### **Wednesday, July 28, 2021**

- Initial deadline for members to advise local unions of address changes. Nonetheless, members should continue to update their addresses with the Union beyond this initial deadline.

#### **Friday, August 13, 2021**

- Deadline for the UAW to complete creation of the Global Mailing List using the internal database and information received from local unions. The Union will promptly transmit the Global Mailing List to the Election Vendor for postcard mailing.

**Friday, August 27, 2021**

- Referendum notice postcards mailed to members using Global Mailing List.
- On a rolling basis, as “undelivered” postcards are returned, the Election Vendor will create lists of members whose addresses still require updating. This information will be provided to the Union Leadership Team, who will use these lists to work with local union leaders to undertake additional measures to correct and update mailing lists.
- At the time of the postcard mailing, the Global Mailing List will be available for use by individuals or groups registering with the Monitor to advocate on behalf of one side or the other of the Referendum question. The process and protocols for accessing this resource are described below.

**Wednesday, September 22, 2021**

- Deadline by which individuals or organized groups wishing to formally participate in a coalition in support of either side of the Referendum question and participate as described in Section Four below must register with the Monitor.

**Thursday, October 7, 2021, 6 p.m. ET**

- Referendum Forum webcast event about Referendum, featuring registered individuals and groups wishing to be heard on the Referendum question.

**Friday, October 8, 2021**

- Deadline for the Union to provide final Global Mailing List to Election Vendor for ballot mailing.

**Tuesday, October 19, 2021**

- Mail-in ballots distributed by Election Vendor to all eligible voters using final Global Mailing List commencing at 10 a.m. ET.

**Monday, November 29, 2021 (CONSENT DECREE DEADLINE)**

- All ballots must be received by the designated U.S. Post Office to be picked up by the Election Vendor by **Monday, November 29, 2021, at 10 a.m. ET.**
- As soon as practicable, the Election Vendor begins tabulation of ballots under oversight of Monitor Team and OLMS.
- Once the tabulation is complete, the unofficial results of the Referendum are announced by the Monitor.

**After the Votes are Counted**

- The Monitor will prepare a report summarizing the Referendum process and result and provide it to OLMS for approval.
- If OLMS endorses the Referendum result, the report shall be filed with the Court for final approval.
- If OLMS fails to endorse the Referendum, that decision is appealable to the Court. If the Court finds that the Referendum was not properly conducted and that a violation of the rules may have affected the outcome, a new Referendum will be held as soon as practicable.

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## SECTION FOUR

### Advocacy Around Referendum Question

Consistent with the Consent Decree, the UAW Constitution, the LMRDA and applicable federal law, and these Referendum Rules, interested Union members, individually or in concert with other members, may seek to advocate on behalf of one side of the Referendum question or the other.

#### 1. Freedom to Advocate

A Union member, including a member who is a Union officer or employee, has the right to participate in campaign activities, including the right to openly support or oppose either side of the Referendum question and to make personal contributions to the advocacy of either side of the Referendum question. Members will be permitted to use employer or Union bulletin boards to advocate for either side of the Referendum question, to solicit support, to distribute leaflets or literature, to conduct rallies, to hold fundraising events, or to engage in similar activities on employer or Union premises, except as otherwise prohibited or limited by the employer's rules, the UAW Constitution, or the Referendum Rules.

Any improper advocacy, as defined by the Monitor, whether by word of mouth or otherwise, and expressly including any threats, intimidation, retaliation, penalty, discipline or improper interference or reprisal of any kind, or any similar conduct is strictly prohibited, and reports of such violations shall be investigated by the Monitor.

#### 2. Equal Access

Individual members or groups of members are permitted to communicate with the Electorate in favor of either side of the Referendum question. In the interest of facilitating equal access to the most significant Union resources – such as the Union's Global Mailing List – the Monitor invites individuals or groups within the Union to register with the Monitor via e-mail at [UAWMonitor-Election@jenner.com](mailto:UAWMonitor-Election@jenner.com) no later than **September 22, 2021**, if they wish to participate in a coalition supporting either side of the

Referendum. The Monitor will approve the registration of such individuals or coalitions as long as they are members in good standing with the Union who will attest to their good faith use of the process to advocate in connection with the Referendum question and for no other purpose. This registration effort is in no way intended to limit individual UAW members or other groups of UAW members from independently expressing their views on the Referendum question, but rather to provide an organized way for the Monitor to facilitate equal access to those organized groups and individuals supporting each side. At a minimum, a group must be registered with the Monitor in order (i) to be eligible to utilize the Global Mailing List for the purposes of mass communication with the Electorate; and (ii) to participate in an organized Referendum Forum webcast. The Monitor will oversee the use of these Union resources and, as described herein, prescribe additional rules if necessary. At all times, the Monitor will apply these rules fairly, equitably, and uniformly to individuals or coalitions irrespective of their position on the Referendum question.

### **3. Use of Union/Employer Resources**

Federal law prohibits the use of any Union or employer resources to promote the candidacy of any person in a Union election, and Union officers and employees may not campaign for a candidate on time paid for by the Union. See LMRDA, Title IV, Section 401(g). This prohibition on the use of Union or employer resources in candidate elections extends beyond funds to include things such as (but not limited to) computer equipment and networks, facilities, vehicles, paid time, and contact lists or systems that were created or compiled as part of official duties or functions. OLMS has advised the Monitor of its view that the language of the Consent Decree mandates that this provision also be applied to the Referendum, and, accordingly, employer or Union resources at either a local or international level may not be used to advocate for either side of the Referendum question at this time. As referenced in Section One, this issue is currently under discussion by the parties to the Consent Decree (the UAW and the Department of Justice), and it is anticipated that, if the Consent Decree is amended, this issue will be addressed differently in updated, final Referendum Rules. For the purposes of these Second Interim Rules, however, this blanket prohibition of the use of Union and employer resources applies effective immediately and until Final Rules are issued.

As per these Second Interim Rules, for the time being and until Final Rules are issued, Union and employer resources cannot be used to advocate directly, or by

facilitating or managing others, for or against either side of the Referendum question. This interim prohibition includes, by way of example, the following non-exhaustive list of expenditures:

- Union funds – at the International or Local Union level – and employer funds cannot be used to pay for any expenditures in connection with advocating for or against either side of the Referendum question. This includes, but is not limited to, mailings (whether postal or e-mail), phone calling or other forms of telemarketing, hard copy literature distributed in any form, merchandising, promotional events or items, and advertising buys in any medium or jurisdiction.
- The Union’s Global Mailing List can be utilized by groups of members and individual members for the purpose of mailings to advocate for or against either side of the Referendum question, provided that the group/individual pays for its own mailing and Union funds are not used. Anyone seeking to do so must contact the Monitor to make the necessary arrangements.
- Union or employer equipment (including copiers, computers, printers, telephones, e-mail, etc.), office space, office supplies, websites, newsletters, social media, membership lists, facilities, cash, or any other financial or in-kind resources cannot be used to advocate for or against either side of the Referendum question.
- Advocacy for a position on the Referendum question – through oral or written speech – cannot be conducted on union or employer time (including during union meetings or training events). Employer rules regarding traditional campaigning in candidate elections must be followed for this Referendum. These rules apply to any union (including the national, state association, local, and any other union) and to any employer (whether or not they employ union members).
- The Second Interim Rules do not prevent Union officers and employees from advocating a position on the Referendum outside of working hours. Any official or employee doing so should be careful to document that these efforts are outside of working hours in order to be able to justify these efforts if there is a future inquiry. For the purposes of the Second Interim Rules, “incidental” advocacy is not prohibited, such as responding to a direct question or statement regarding the Referendum, or correcting a misstatement. However, if such a response is

protracted or otherwise interferes with the work of the Union, it may be deemed as advocacy using Union resources.

To reiterate, this list is not meant to be exhaustive. If you have any questions about whether any action or statement will run afoul of this prohibition, please e-mail the Monitor hotline to get specific guidance before engaging in the uncertain conduct.

#### **4. Access to the Global Mailing List**

Persons or groups registered as discussed above will have the opportunity to apply to make reasonable use of the Global Mailing List to distribute literature to all or any portion of the Electorate. The Global Mailing List will be maintained by the Election Vendor, updated as per the schedule contained in these Referendum Rules. Requests from registered persons or groups to use the Global Mailing List will be accepted by the Election Vendor at any time after the Election Vendor has commenced its work on this Referendum, but any mailing would occur no sooner than the official mailing of the postcard in August 2021, as referenced herein. At no time will any address list of the membership be released to any individual member or group. All mailings – whether postal mail or e-mail – will be facilitated by the Election Vendor. Processes and procedures for utilizing membership mailing lists through the Election Vendor will be established. All costs for mailings will be the responsibility of the requesting registered group, and the Election Vendor will apply a uniform pricing schedule for all mailings associated with this Referendum. No entities outside the Union and its members will be permitted access to membership lists for any purpose.

#### **5. Additional Rules and Restrictions**

Consistent with the goals of fairness and equal access, the Monitor reserves the right to promulgate additional rules or restrictions on advocacy efforts at any time, including imposing additional limits on such efforts.

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## SECTION FIVE

### Voting

#### 1. Process

All voting will be conducted on or about the schedule set forth above, absent unforeseen events. The Election Vendor will mail the ballot package to the Electorate starting on **Tuesday, October 19, 2021**, at 10 a.m. ET. Returned ballots must be received through the postal mail at the designated U.S. Postal facility by **Monday, November 29, 2021, at 10 a.m. ET**. No ballots will be accepted through any other process or procedure other than those set out by these Referendum Rules, which requires all ballots to be returned to the Election Vendor by postal mail.

#### 2. Invasion of Ballot Secrecy

This Referendum will be carried out consistent with the secret ballot provision of Title IV of LMRDA, Section 401(b). No Union member, officer, employee, business agent, steward or any other person or entity may demand or require any member to give or show his or her ballot to any other person or entity, or demand or require any member to mark his or her ballot in the presence of any other person. A Union member may not give his or her unsealed ballot, marked or unmarked, to any other person or entity.

#### 3. Observers and Inspection of Membership List

The Referendum will be carried out consistent with the provisions of Title IV of LMRDA, Section 401(c). This section sets forth rules regarding candidates' rights to observe voting at the polls and the vote tabulation process, and to inspect the membership list. As indicated above in Section One, the UAW and the Department of Justice are presently discussing modifying the Consent Decree to address several aspects of the governing law to this Referendum. Accordingly, these provisions may be addressed differently in updated, final Referendum Rules, but for the purposes of these Second Interim Rules, this section applies in total on these issues.

#### **4. Tabulation and Announcement of the Referendum Result**

The Election Vendor shall tabulate the votes as soon as practicable after the deadline by which all ballots must be received. The Election Vendor will establish guidelines regarding the handling and counting of ballots, and they will be made available to review after the Election Vendor is engaged. Consistent with Title IV of LMRDA, Section 401(c), upon completion of the vote count by the Election Vendor, under the supervision of the Monitor, the Monitor shall announce the unofficial result of the Referendum which will be posted on the Union website. Announcement of the Referendum result does not constitute certification, which is required before the result is official.

#### **5. Certification of the Referendum Result**

After the Referendum process is completed in accordance with the Referendum Rules, the Monitor shall prepare and submit a report summarizing the Referendum to OLMS. OLMS will review the Referendum to determine whether it was properly conducted, and, if satisfied, the report of the Referendum will be filed with the Court. The Court will make a final determination as to the validity of the Referendum result, and, once approved, the Monitor will certify the result.

In the event that violations of the Referendum Rules or applicable law occurred that may have affected the outcome of the Referendum, as determined by OLMS or the Court, a new referendum will be held as soon as practicable thereafter using the same provisions and methodology described herein. The Monitor will promptly promulgate a schedule for a rerun referendum.

#### **6. Preservation of Referendum Records**

Pursuant to Title IV of the LMRDA, Section 401(e), all ballots and records pertaining to the Referendum shall be preserved under the auspices of the Monitor for one (1) year following the conclusion of the Referendum.

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## SECTION SIX Complaint and Protest Procedure

### 1. Questions and Complaints

If any individual has a question or complaint about the Referendum process and procedures, he or she should contact the Referendum e-mail hotline at [UAWMonitor-Election@jenner.com](mailto:UAWMonitor-Election@jenner.com) or call 212-303-2529. Any potential violation of the Referendum Rules should be reported immediately so that the matter can be investigated where appropriate and corrective action be taken, if necessary.

### 2. Filing a Formal Protest

After the conclusion of the Referendum, a formal protest of the result based upon a potential violation of the Referendum Rules or applicable law may be filed by any member of the Union in good standing as defined above. A protest must be filed with the Monitor within seven (7) days of the time when the complainant becomes aware or reasonably should have become aware of the action under protest, but no later than seven (7) days after the Monitor's filing of its final report of the Referendum with OLMS. A protest must be filed in writing by delivering a letter to the Monitor at the address on the last page of the Rules by personal delivery, overnight mail, or email. The protest shall contain a clear and concise statement of the grounds for the protest and the complainant's name, address, email address, phone number, and local union affiliation. The complainant bears the burden of presenting some evidence of the alleged improper conduct. The Monitor must provide a copy of the protest to any other person or entity whom the Monitor determines may be a subject of the protest decision or remedy. The person or entity who is the subject of the protest shall have the opportunity to present evidence and/or legal argument to the Monitor.

### 3. Resolving a Protest

The Monitor may undertake an investigation with or without a protest having been filed, if he believes that the Referendum Rules have been violated or that any other conduct has occurred which may prevent or has prevented a fair, honest, and open Referendum. The Monitor has the right to conduct interviews and request and receive documents. If appropriate, the Monitor may hold a hearing to hear evidence on the conduct in question.

The Monitor shall, in his discretion, consult OLMS in connection with issuing a written decision, making findings of fact, and ordering appropriate relief. All relevant parties shall be notified promptly of the decision, which must be obeyed unless and until it is stayed or overturned by order of the Court.

### 4. Appeal to the District Court

Any person who alleges that they were aggrieved by a decision of the Monitor under these procedures may seek review before the Court within thirty (30) calendar days after service of the Monitor's decision.

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**SECTION SEVEN****Administration****1. Role of the IEB and the UAW**

Officers and members of the IEB and employees of the UAW shall carry out the responsibilities assigned to them in the Referendum Rules in a competent manner that is free of discrimination or partisanship.

**2. Enforcement of the Rules and Additional Rules**

The Monitor expressly reserves the right to issue orders to enforce the Referendum Rules and any rights and prohibitions contained therein, and to make application to the Court for enforcement as may be required. The Referendum Rules are not intended to be exhaustive and may be amended without notice at any time by the Monitor. Additional rules may be promulgated as needed during the Referendum period.

**3. Role of OLMS**

It should be clearly understood that all phases of the Referendum are subject to Department of Labor supervision. No aspect will be conducted without prior consultation with and approval of OLMS.

**4. Monitor Team for the Referendum**

Neil Barofsky, Esq., Monitor  
Kali Bracey, Esq., Jenner & Block LLP

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