

2016 NOV 30 PM 11:28

# STS STEEL, INC.

ENGINEERS • FABRICATORS • ERECTORS

11/21/16

Top Hat Plan Exemption  
Employee Benefits Security Administration  
U. S. Department of Labor  
200 Constitution Avenue N.W., Room N-1513  
Washington, D.C. 20210

2520163470034

Re: STS Steel, Inc. Phantom Stock Plan

Dear Sir or Madam:

Pursuant to Department of Labor Regulation §2520.104-23, this statement is filed in compliance with the reporting and disclosure requirements of Part 1 of Title I of the Employee Retirement Income Security Act of 1974. STS Steel, Inc. maintains a deferred compensation plan for a select group of management or highly compensated employees. The following information is provided in accordance with DOL Regulations §2520.104-23(b)(1):

STS Steel, Inc.  
10 Rush Street (Formerly 301 Nott Street)  
Schenectady, New York 12305

Employer Identification Number: 14-1653226

It is hereby declared that STS Steel, Inc. maintains a plan primarily of the purpose of providing deferred compensation for a select group of management or highly compensated employees.

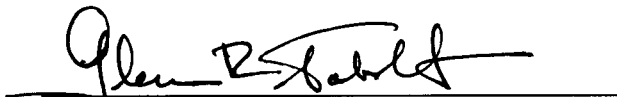
The number of top-hat plans maintained by the Employer: One

The number of Participants in this top hat plan is One.

The number of Participants in each of the other top hat plans maintained by the Employer: N/A. The Plan was adopted effective as of January 1, 2017.

Sincerely,

STS STEEL, INC.

  
Glenn R. Tabolt, President

Enclosures



AISC QMS Certification for Buildings and Advanced Bridges  
with Fracture Critical and Sophisticated Paint Endorsements

10 Rush Street • Schenectady, NY 12305 • PH (518) 370-2693 • FAX (518) 370-2696 • www.stssteel.com

An Affirmative Action - Equal Opportunity Employer  
Employee Owned Company

**STS STEEL, INC.**  
**PHANTOM STOCK PLAN**  
(Effective as of January 1, 2017)

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## STS STEEL, INC.

### Section 1. Purpose.

The purpose of this Plan is to keep personnel of experience and ability in the employ of the Company and to compensate them for their contributions to the growth and profits of the Company and thereby induce them to continue to make such contributions in the future. This Plan's provisions are intended to meet the requirements of Internal Revenue Code Section 409A and Internal Revenue Code Section 409(p).

### Section 2. Definitions.

Except as otherwise indicated below, all definitions in this Plan shall have the same meaning as the ESOP.

#### **APPRAISAL**

The valuation report of the Company which is prepared by the Independent Appraiser for ESOP purposes.

#### **BOARD**

The Board of Directors of the Company.

#### **CHANGE IN CONTROL**

A change in the ownership or effective control of the Company, or a change in the ownership of a substantial portion of the assets of the Company, as such terms are defined and in accordance with Treasury Regulation Section 1.409A-3(i)(5).

#### **COMPANY**

STS Steel, Inc.

#### **EFFECTIVE DATE**

The Effective Date of this phantom stock plan is January 1, 2017.

**EMPLOYER**

STS Steel, Inc.

**INDEPENDENT APPRAISER**

The business appraiser who performs the Company valuation for ESOP purposes as defined in Section 2 of the ESOP plan document.

**ESOP**

The Company's Employee Stock Ownership Plan and Trust established effective as of January 1, 2009 and amended from time to time.

**PARTICIPANT**

An employee selected by the Board pursuant to Section 4 of this Plan.

**PHANTOM SHARES**

Shares of phantom stock of the Company reserved pursuant to Section 3 hereof and any such phantom shares allocated to a Participant pursuant to this Plan.

**PLAN**

The STS Steel, Inc. Phantom Stock Plan.

**PLAN BENEFIT**

The benefit of Phantom Shares allocated under this Plan.

**PLAN YEAR**

The 12-month period ending on December 31.

### **RESTRICTED PERIOD**

The vesting period as defined in Section 8(c) of this Plan.

### **SEPARATION FROM SERVICE**

A Participant separates from service with the Employer if the employee dies, retires, or otherwise has a termination of employment with the Company, as such terms are defined and in accordance with Treasury Regulation Section 1.409A-1(h).

### **YEAR OF SERVICE**

For purposes of vesting under Section 8 of the Plan, all Plan Years beginning on or after the Effective Date during which an eligible Participant has completed 1,000 or more Hours of Service.

### **Section 3. Phantom Share Reserve.**

Awards under this Plan shall be granted to a Participant in the form of Phantom Shares of Company stock. There shall be established a Phantom Share Reserve to which shall be credited Eleven Thousand One Hundred Eleven (11,111) shares of the phantom stock. The Board shall allocate Phantom Shares from the Phantom Share Reserve from time to time in accordance with the criteria set forth in Section 5 of this Plan.

The Company currently has One Hundred Thousand (100,000) shares of common stock issued and outstanding (the "Common Stock"). In the event that the shares of Common Stock of the Company should, as a result of a stock split or stock dividend or combination of shares or any other change, or exchange for other securities, by reclassification, reorganization, merger, consolidation, recapitalization or otherwise, be increased or decreased or changed into or exchanged for a different number or kind of shares of stock or other securities of the Company or of another corporation, the number of Phantom Shares then remaining in the Phantom Share Reserve shall be appropriately adjusted to reflect such action. Upon the allocation of the Phantom Shares hereunder, this reserve shall be reduced by the number of shares so allocated, and upon forfeiture thereof pursuant to Section 8(d)(ii) or Section 10 hereof, the Phantom Share

Reserve shall be increased by such number of shares, and such Phantom Shares may again be the subject of allocations hereunder.

**Section 4. Eligibility.**

The Board may, in its sole discretion, select any salaried executive employee of the Company (including officers and directors, except for persons serving as directors only) to be eligible to receive an allocation of Phantom Shares pursuant to this Plan (a "Participant").

In selecting those eligible Participants, the Board shall consider the position and responsibilities of the eligible employees, the value of their services to the Company and such other factors as the Board deems pertinent.

**Section 5. Award of Phantom Share Allocations.**

Awards under this Plan shall be granted to a Participant in the form of phantom shares of Company stock ("Phantom Shares"). The Board shall calculate the number of Phantom Shares, if any, available for allocation each Plan Year. The number of Phantom Shares available for allocation each Plan Year shall be One Thousand One Hundred Eleven (1,111) Phantom Shares per year, per participant. Notwithstanding the preceding sentence, the Board may, in its sole discretion, elect not to allocate all of the Phantom Shares available for allocation in a given Plan Year, and accumulate such Phantom Shares for allocation in subsequent Plan Years.

Since the Company elects to be taxed as a small business corporation as defined in Section 1361(a) of the Internal Revenue Code (aka an "S" Corporation"), notwithstanding the foregoing, no allocations shall be made to this Plan which would violate Section 409(p) of the Internal Revenue Code ("Section 409(p)"). In order to satisfy Section 409(p), the Company may limit Participant's allocations. If such limit on allocations does not satisfy Section 409(p), the Company may make a pro rata reduction of Participants' accounts in this Plan and allocated Phantom Shares (unrestricted) shall be forfeited. If a pro rata reduction to Participants' Accounts is necessary to satisfy Section 409(p), then non-vested Phantom Shares (restricted shares) shall be forfeited first, before vested Phantom Shares are forfeited. Notwithstanding the foregoing, any such limits or reductions to Section 409(p) shall be made first to this Plan before reducing or limiting allocations in the ESOP.

In the event that, as the result of a stock split or stock dividend or combination of shares or any other change, or exchange for other securities, by reclassification, reorganization, merger, consolidation, recapitalization or otherwise, the Participant shall, subject to restrictions in this Plan, be entitled to new or additional or different Phantom Shares.

The aggregate number of Phantom Shares which may be allocated pursuant to this Plan shall not exceed the amount available in the Phantom Share Reserve.

Notwithstanding the foregoing, the allocation of Phantom Shares shall not extend beyond five (5) Plan Years beginning in the Plan Year in which a Participant first becomes eligible (the "Allocation Period").

The allocation of Phantom Shares to a Participant's Account shall occur as soon as administratively feasible after the close of the Plan Year.

**Section 6. Form of Allocations.**

Each allocation shall specify the number of Phantom Shares subject thereto.

At the time of making any allocation the Board shall advise the Participant thereof by delivery of written notice in the form of **Exhibit A** hereto annexed.

**Section 7. Consideration.**

Phantom Shares shall be issued as compensation for continued employment. No additional consideration shall be required from a Participant other than continued employment with the Company.

**Section 8. Restrictions and Vesting Period.**

(a) The Participant shall not have the right to vote the Phantom Shares, and the Participant shall not have the right to receive dividends or S Corporation Distributions on the Phantom Shares.

(b) Except as otherwise specifically provided in this Plan, none of the Phantom Shares shall be sold, exchanged, transferred, pledged, hypothecated or otherwise disposed of.

(c) Vesting Period: If the employment of a Participant shall be terminated for any reason, voluntary or involuntary, with or without cause, at any time prior to the end of the Vesting Period, the Participant's Plan Benefit shall be forfeited. The term "Vesting Period" shall mean a vesting period commencing on the first day of the Plan Year in which the Participant first becomes eligible to participate in the plan and ending upon the earliest of the following events:

- (i) Participant's death, or
- (ii) Participant's Normal Retirement (as defined in the ESOP), or
- (iii) there is a Change in Control in which the Participant is involuntarily terminated by the Company or a successor company, or
- (iv) the Participant's Plan Benefit is deemed nonforfeitable (100% vested) by the Board of Directors at their discretion, or
- (v) the Participant completes fifteen (15) Years of Service.

**Section 9. Finality of Determinations.**

The Board shall administer this Plan, and construe its provisions; any determination by the Board (except insofar as it shall make recommendations only) in carrying out, administering or construing this Plan shall be final and binding for all purposes and upon all interested persons and their heirs, successors, and personal representatives.

**Section 10. Limitations.**

No person shall at any time have any right to receive an allocation of Phantom Shares hereunder and no person shall have authority to enter into an agreement for the making of an allocation or to make any representation or warranty with respect thereto.

Participants shall have no rights in respect thereof except as set forth in this Plan. In the event that any attempt shall be made to sell, exchange, transfer, pledge, hypothecate or otherwise dispose of any Phantom Shares, then the Phantom Shares which are the subject of such attempted disposition shall be deemed to be forfeited.

Neither the action of the Company in establishing this Plan, nor any action taken by it or by the Board under this Plan, nor any provision of this Plan, shall be construed as giving to any person the right to be retained in the employ of the Company.

**Section 11. Time of Distribution.**

Distribution of a Participant's vested Plan Benefit will be made in a lump sum as soon as administratively feasible after the Participant incurs a Separation From Service from the Employer.

Notwithstanding the foregoing, the Board retains the discretion to eliminate the lump sum distribution form and distributions may be made in substantially equal installments over a period of time not to exceed five (5) years.

Notwithstanding the foregoing, at the Board's sole discretion, the Board may allow acceleration of distribution but only in such circumstances as allowed by Treasury Regulation Section 1.409A-3(j). Such circumstances include de minimis distributions in amounts not exceeding \$10,000, distributions necessary to avoid a nonallocation year under Code Section 409(p), distributions for an Unforeseeable Emergency (as defined in Treasury Regulation Section 1.409A-3(i)(3)), and distributions for a Disability (as defined in Treasury Regulation Section 1.409A-3(i)(4)).

**Section 12. Restriction on Diversification of Investments.**

A Participant shall not be entitled to diversify the Participant's Plan Benefit hereunder in the same manner as ESOP Participants are entitled to diversify their investments under Section 17(a) of the ESOP.

**Section 13. Form of Distribution.**

Distribution of Plan Benefits will be made entirely in cash.

**Section 14. Amendment, Suspension or Termination of the Plan in Whole or in Part.**

The Board may amend, suspend or terminate this Plan in whole or in part at any time, provided that such amendment shall not affect adversely rights or obligations with respect to allocations theretofore made.

**Section 15. Governing Law.**

The Plan shall be governed by the laws of the State of New York.

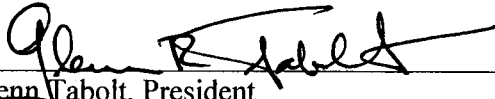
**Section 16. Expenses of Administration.**

All costs and expenses incurred in the operation and administration of this Plan shall be borne by the Company.

*[Signature Page to Follow]*

STS STEEL, INC.

Date: 11/11, 2016

By:   
Glenn Tabolt, President

**CERTIFIED MAIL**



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STS Steel, Inc.  
10 Rush Street  
Schenectady, NY 12305



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20210

U.S. POSTAGE  
SCHENECTADY, NY  
12305  
NOV 23, 19  
AMOUNT  
**\$7.36**  
R2304M11363B-14

**RETURN RECEIPT  
REQUESTED**

Top Hat Plan Exemption  
Employee Benefits Security Administration  
U.S. Dept. of Labor  
200 Constitution Ave. N.W. Rm. N-1513  
Washington, D.C. 20210