

THE BORGWARNER INC.

SUPPLEMENTAL UNEMPLOYMENT BENEFIT PLAN

FOR FURLOUGH SITUATIONS

AND SUMMARY PLAN DESCRIPTION

August 1, 2020

**SUPPLEMENTAL UNEMPLOYMENT BENEFIT PLAN
AND
SUMMARY PLAN DESCRIPTION OF FURLOUGH BENEFITS
FOR
BORGWARNER INC.**

INTRODUCTION

BorgWarner Inc. (“BorgWarner” or “Plan Sponsor”) has established the BorgWarner Inc. Supplemental Unemployment Benefit Plan (the “Plan”) to provide supplemental unemployment benefits to certain employees of BorgWarner, including its participating subsidiaries and affiliates (“Company”) who have been involuntarily separated from service with the Company on a temporary basis for a minimum of 2 weeks. The Plan is intended to provide benefits starting in week 3 through week 12 of the furlough period.

This Plan is designed to be an “employee welfare benefit plan,” as defined in Section 3(l) of the Employee Retirement Income Security Act of 1974, as amended (“ERISA”). Benefits provided under the Plan are designed to supplement State unemployment compensation benefits that such employees are entitled to receive on account of their involuntary furlough with the Company

This Plan is governed by ERISA and, to the extent not preempted by ERISA, the laws of the State of Michigan. This document constitutes both the official plan document and the required Summary Plan Description (“SPD”) under ERISA.

The Plan Administrator is Transition Services, Inc. (“TSI”), which the Company has selected to administer this Plan. Questions pertaining to benefits under this Plan should be directed to the Plan Administrator. The Plan Administrator’s address and telephone number are set forth in the section titled “Supplemental Information” below.

I. ELIGIBILITY FOR BENEFITS

A. You are eligible for a Plan benefit if you meet all of the following conditions:

1. you were a full-time employee of the Company employed in the United States on the date your employment with the Company was temporarily suspended by the Company (“furlough” or “furloughed”); and
2. the furlough by the Company was involuntary, was without Cause as defined below (as determined by the Company), lasts at least 3 regular work weeks consecutively, and is the direct result of the Company’s reduction in force, a program of layoffs, the closing of a plant, the discontinuance of operations, or other similar conditions as determined by the Company;

3. you are entitled to receive State unemployment compensation benefits on account of your suspension of employment by the Company and you provide proof of your entitlement to such State unemployment compensation benefits in a manner acceptable to the Plan Administrator, or you are ineligible for such State unemployment compensation benefits solely because: (i) you do not have sufficient wage credits under State law, (ii) you have not met the waiting period required by State law, or (iii) you have exhausted the duration of benefits under State law; and
4. you are not an Excluded Employee for any of the reasons described below.

B. Notwithstanding the above sentence, you are an Excluded Employee and are not eligible for a Plan benefit if any of the following apply:

1. You have an agreement or arrangement with the Company which provides termination or severance benefits or other such payments as a result of your furlough, layoff, and/or termination of employment, including but not limited the Company's transitional income plan; or
2. You are a temporary employee, a summer internship employee, an independent contractor (even if the Internal Revenue Service characterizes or recharacterizes such person as a common law employee); or are a leased employee within the meaning of Section 414(n)(2) or Section 414(o)(2) of the Code; or
3. Your temporary suspension of work lasts less than the 2 week elimination period or is part of a location's regularly scheduled shutdown (for example, planned shutdowns that occur in July or December for 1 to 2 weeks); or
4. You are covered by a collectively bargained agreement and/or are represented by a union. This includes, but is not limited to employees represented by the union in Ithaca, NY; or
5. You are not entitled to receive State unemployment compensation benefits for any reason other than (i) not having sufficient wage credits under State law, (ii) not having met the waiting period required by State law, or (iii) having exhausted the duration of benefits under State law; or
6. Your employment by the Company was not involuntarily suspended as a direct result of a reduction in force, a program of layoffs, the discontinuance of a plant or operations, or other similar conditions; or
7. Your suspension of employment by the Company was voluntary, including, but not limited to, resignation, retirement, strike, work stoppage or other labor dispute, failure to return to work after an approved leave of absence, failure to accept transfer to another job offered by the Company, reduction or change of work duties, reduction of work hours, change of job title, completion of temporary or contract employment, or entering military duty or

8. Your suspension of employment was a result of your disability or death; or
9. Your employment by the Company was suspended for Cause (as determined by the Company). The term "Cause" means, as determined within the sole discretion of the Company, the following: (i) your intentional dishonest or illegal conduct which injures to the Company or which results in an improper substantial personal benefit; (ii) breach of any provision of any employment, nondisclosure, non-competition, or similar agreement or Company policy to which you are bound; (iii) the conviction of or plea of guilty or no contest to a felony or any crime involving moral turpitude; (iv) your nonperformance or dereliction of duty; (v) your poor performance; (vi) your insubordinate conduct; (vii) your failure to improve work performance per a written performance improvement plan; or
10. you are receiving disability benefits; or
11. you are an employment grade 16 or above; or
12. you fail to follow your obligations set forth under this Plan.

II. BENEFIT COMMENCEMENT

If you are eligible for a Plan benefit as outlined above, your benefits payments will commence after (1) you file an initial claim for unemployment benefits with the appropriate State agency; and (2) any state imposed waiting period has elapsed. Benefits will begin on Monday of the third calendar week after you file an initial claim for unemployment benefits with the appropriate State agency and so inform the Plan Administrator before 12pm (EST) on Thursday of that week.

Because you must be entitled to receive State unemployment compensation to qualify for the Plan Benefits, please note that the Plan benefits will not commence until the above requirement is satisfied. Although Plan benefits will commence once this requirement is met, Plan benefits will not be paid retroactively to the date your furlough began.

You may be eligible to receive paid leave to cover the time between your first day of furlough and when the Plan benefit begins ("Notice Pay"). Notice Pay, however, is not governed under this Plan and is determined by each Company location in its own discretion.

III. AMOUNT OF BENEFITS AND DEDUCTIONS

The amount of your Plan benefit is based on: (i) your weekly Company base pay on the date your furlough began (excluding overtime, shift premiums, etc.), and (ii) the State unemployment compensation you are entitled to receive; and will be calculated as 70% of your base wages for a maximum of 10 weeks.

Your weekly Plan benefit will equal (A) 70% of your weekly Company base pay as in effect on the date of your furlough began, minus (B) the State unemployment compensation benefit you are entitled to receive for that same weekly period, including any additional Federal

or State payments (including but not limited to payments made under the Federal Pandemic Unemployment Compensation Program). Notwithstanding anything herein to the contrary, in no event will the benefit paid to you under this plan exceed two times the lesser of your annualized compensation or the maximum amount that may be taken into account under a qualified plan pursuant to Section 401(a)(17) of the Code.

***Example:** You were paid a weekly wage of \$1000 prior to your involuntary separation from service. 70% of your weekly wage is \$700. Your current State unemployment compensation benefit is \$300 per week. Your weekly Plan benefit will be \$700 - \$300 for a total SUB plan weekly benefit of \$400.*

***Note:** Your weekly Plan benefit added to the State unemployment compensation benefit will equal 70% of your previous base salary divided by 52 weeks.*

Your Plan benefit will also be reduced by the amount paid to you under any federal, state or local law (including, by way of example only, the Worker Adjustment and Retraining Notification Act) which requires a formal notice period, pay in lieu of notice, and any other severance payments or similar payments.

Federal and any state and local income tax withholding will be deducted from your Plan benefit payments. Payroll Taxes are not due on, and will not be deducted from, your Plan benefits.

IV. DURATION OF BENEFITS

Plan Benefits are intended to cover weeks 3-12 of your furlough period. The Plan Benefits shall cease after week 12 of your furlough. Your Plan benefits will end as of the earliest of: (i) the date on which your benefit duration period has ended, (ii) the date you become ineligible to receive State unemployment compensation benefits unless such ineligibility is on account of you having exhausted the duration of benefits under State law, (iii) the date you obtain any employment, either with the Company or with any other employer or (iv) the date you become an Excluded Employee as defined above. Notwithstanding anything herein to the contrary, in no event will any benefits be paid to you under this Plan for more than 10 weeks or after the end of the second calendar year following the year in which you are on suspension.

While you are receiving Plan benefits, you must confirm your continuing eligibility by contacting the Plan Administrator at least once each week. You will receive separate instructions on how to confirm your continuing eligibility by calling a toll-free telephone number or over the Internet. If you fail to confirm your continuing eligibility, your benefits will be suspended until you contact the Plan Administrator or the Plan Administrator is able to contact you. Once you contact the Plan Administrator within the required time-frame, your benefits will be paid to you retroactively. The Company and Plan Administrator will also receive reports from the State employment agency, and your Plan benefits will cease if you are no longer receiving State unemployment compensation benefits, unless you stop receiving State

benefits only because you have exhausted all weeks of benefits available under State law. Eligibility for benefits will expire after fourteen days have passed without your initial benefit activation or if fourteen days have passed without your reporting your continuing eligibility for Benefits to the Benefit Administrator.

V. PAYMENT OF BENEFITS

Benefit payments will be made in the same manner as your payments were made while employed (or weekly if required by state regulations), provided that Plan benefits will be suspended if you have not confirmed your continuing eligibility by 12pm (EST) on Thursday in accordance with instructions provided by the Plan Administrator. It is your responsibility to notify the Plan Administrator promptly of any change in your name, address, or employment status or any change affecting your income tax withholding (*e.g.*, your marital status).

VI. BENEFITS NOT ASSIGNED OR ALIENATED

Plan benefits are for eligible employees and may not be assigned or transferred except as otherwise required by applicable law. This means that, except as required by law, Plan benefits are not subject to sale, assignment, anticipation, alienation, or any other form of voluntary transfer. Plan benefits generally are subject to attachment, garnishment, or levy by creditors or government agencies in accordance with applicable State or federal law.

VII. RECOVERY OF BENEFIT OVERPAYMENTS

If it is determined that any Plan benefits paid to you should not have been paid or should have been paid in a lesser amount, you will be notified and shall repay the amount of the overpayment to the Company.

VIII. FUNDING

The Plan is funded exclusively by the Company. The Plan Administrator will calculate the benefit payments and submit the payment amounts to the Company for payment through the Company payroll. The Plan Administrator is not obligated to pay any benefits. Payment of all benefits remain the obligation of the Company.

VIII. CLAIMS PROCEDURES

If you are eligible for a Plan benefit, you will be paid in accordance with the terms of the Plan. If you believe there has been an error in the determination of either your eligibility for Plan benefits or the amount of Plan benefits for which you are eligible, you may submit a claim, in writing, to the Plan Administrator. That claim will be reviewed by the Plan Administrator and the Company, and a written decision will be made within 90 days thereafter, unless special circumstances require an extension of time for processing the claim. If an extension is required, you will be given notice of the extension before the end of the initial 90-day period, explaining the reason for the extension and the expected decision date. The extension will not exceed 90 days from the end of the initial 90-day period. In the event that a written decision is not furnished to you within these timeframes, you may deem the claim denied for purposes of further review (described below).

In reviewing claims, the Company will make all determinations that relate to or are based on your employment history for example, your base pay or salary, years of continuous employment, the reason for termination, and initial eligibility for benefits, or your reemployment by the Company. The Plan Administrator will accept and rely upon such determinations by the Company. The Plan Administrator will make all determinations that relate to events after the termination of your employment (other than your reemployment by the Company) – including, for example, your continuing eligibility for benefits based on reports from a State employment agency and your confirmation to the Plan Administrator of continuing eligibility.

If your claim is denied, you will be given a written notice that includes the reason for denial, references to the applicable Plan provisions, an explanation of the claim review procedure, and, if applicable, an explanation of what additional information is needed to perfect the claim.

You may request in writing a review of the denied claim within 60 days after you receive written notification of the denial of your claim. The Plan Administrator and the Company will review your claim and a written decision will be sent to you within 60 days after the Plan Administrator's receipt of a request for review (or up to 120 days under special circumstances).

IX. PLAN INTERPRETATION

The Plan Administrator has full discretion to construe and interpret the terms and provisions of the Plan, except that the Company has full discretion to determine initial eligibility for benefits. Their interpretations and constructions are final and binding on all parties.

X. AMENDMENT AND TERMINATION

The Employee Benefits Committee (“EBC”) of BorgWarner Inc. has the power to terminate the Plan or to amend the Plan at any time for any reason and to amend further or cancel any such amendment. Any amendment shall be effective in the manner and at the time set forth therein, with or without prior notice to any employee or former employee, and the Company, the Plan Administrator and all persons eligible to receive benefits under the Plan shall be bound thereby.

Upon any termination of the Plan, the Plan will terminate in all respects except that the assets then remaining in the Plan will be used to pay expenses of administration and to pay all Benefits due to eligible Employees.

XI. ERISA RIGHTS STATEMENT

Participants in the Plan are entitled to certain rights and protections under the Employee Retirement Income Security Act of 1974 (“ERISA”). ERISA provides that all participants shall be entitled to:

1. Examine, without charge, at the Plan Administrator’s office and at other specified locations, such as H.R. offices of BorgWarner Inc. located at 3850 Hamlin Rd., Auburn Hills, MI 48326, all documents governing the Plan, including insurance contracts (if any), and a copy of the latest annual report (Form 5500 series) filed by the Plan with the U.S. Department of Labor and available at the Public Disclosure Room of the Pension and Welfare Benefit Administration.

2. Obtain, upon written request to the Plan Administrator, copies of documents governing the operation of the Plan, including any insurance contracts (if any), and copies of the latest annual report (Form 5500 series) and updated summary plan description. The Plan Administrator may make a reasonable charge for the copies.

In addition to creating rights for plan participants, ERISA imposes duties upon the people who are responsible for the operation of employee benefit plans. The people who operate the 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 the Company or any other person, may fire you or otherwise discriminate against you in any way to prevent you from obtaining a Plan benefit or exercising your rights under ERISA.

If your claim for a Plan benefit is denied or ignored, in whole or in part, you have a right to know why this was done, to obtain copies of documents relating to the decision without charge, and to appeal any denial, all within certain time schedules, which are described in the section titled “Claims Procedures” above.

Under ERISA, there are steps you can take to enforce the above rights. For instance, if you request a copy of Plan documents or the latest annual report from the Plan and do not receive them within 30 days, you may file suit in a Federal court. In such a case, the court may require the Plan Administrator to provide the 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 that is denied or ignored, in whole or in part, you may file suit in a state or Federal court but only if you have exhausted the Plan’s claims and appeals procedures. If it should happen that 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 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 the 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 your 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.

XII. SUPPLEMENTAL INFORMATION

PLAN SPONSOR:

BorgWarner Inc.
3850 Hamlin Road
Auburn Hills, MI 48326
EIN: 13-3404508

PLAN ADMINISTRATOR:

Transition Services, Inc.
201 Broad Street, Sixth Floor
Stamford, CT 06901-2048
[203 975 2181]

PLAN NAME:

BorgWarner Inc. Supplemental
Unemployment Benefit Plan

TYPE OF PLAN:

Supplemental Unemployment Benefit Plan,
a type of welfare benefit plan

**AGENT FOR SERVICE OF LEGAL
PROCESS:**

Transition Services, Inc.
201 Broad Street, Sixth Floor
Stamford, CT 06901-2048
ATTN: Corporate Secretary
700

PLAN NUMBER:

700

PLAN'S FISCAL YEAR:

Calendar Year

FUNDING MEDIUM:

Plan benefits are paid and payable only from the general assets of the Plan Sponsor. TSI has no obligation to pay benefits if the Plan Sponsor has not provided sufficient funds for benefits and any related taxes.

TYPE OF ADMINISTRATION:

Contract Administration

XII. EXECUTION

To record the adoption of the Plan effective as of August 1, 2020 Felecia Pryor has executed this document this 1st day of August 2020.

BorgWarner Inc.

By: Felecia Pryor
Felecia Pryor
Executive Vice President, Chief Human
Resources Officer