
**RESTATED AGREEMENT AND
DECLARATION OF TRUST
OF THE
MID-SOUTH CARPENTERS REGIONAL COUNCIL
HEALTH AND WELFARE FUND**

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**RESTATED AGREEMENT AND
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OF THE
MID-SOUTH CARPENTERS REGIONAL COUNCIL
HEALTH AND WELFARE FUND**

WHEREAS, effective the 1st day of July, 1985, the United Brotherhood of Carpenters and Joiners of America and various employers entered into an Agreement and Declaration of Trust establishing the Carpenters National Health and Welfare Fund; and

WHEREAS, said Trust was amended effective March 5, 1997, to provide for the selection of Trustees from Tennessee; and

WHEREAS, said Trust was amended effective August 19, 1997, to change the name of the Trust from the Carpenters National Health and Welfare Trust Fund to the Tennessee Carpenters Regional Council Health and Welfare Fund; and

WHEREAS, said Trust Agreement was Restated effective December 1997 to fully reflect the fact that participating employers and unions are within the jurisdiction covered by the Tennessee Carpenters Regional Council; and

WHEREAS, Carpenters Local 345 Health and Welfare Fund merged with the Tennessee Carpenters Regional Council Health and Welfare Fund effective August 1, 1999; and

WHEREAS, The Trust Agreement was Restated effective January 1, 2002 to incorporate all amendments previously adopted; and

WHEREAS, this Trust Agreement was amended to Rename the Fund the Mid-South Carpenters Regional Council Health and Welfare Fund; and

WHEREAS, an Agreement and Declaration of Trust of the Tri-State Carpenters and Joiners District Council of Chattanooga, Tennessee, and Vicinity Health and Welfare Trust Fund was made and entered into as of the 1st day of May 1968 by and between the Chattanooga Chapter of the Associated General Contractors of America and Tri-State Carpenters and Joiners District Council of Chattanooga, Tennessee, as amended from time to time; and

WHEREAS, it has been deemed to be in the best interest of the beneficiaries and participants of the Mid-South Carpenters Regional Council Health and Welfare Fund and the Tri-State Carpenters and Joiners District Council of Chattanooga, Tennessee, and Vicinity Health and Welfare Trust Fund and as it would further strengthen the Funds and in no way adversely affect the soundness of the Funds that said Agreements and Declarations of Trusts and the assets of same be merged into one operating Trust Fund administered by a Central Board of Trustees; the surviving trust being the Mid-South Carpenters Regional Council Health and Welfare Fund; and

WHEREAS, each of the aforementioned Trust Funds has the power to merge with other health and welfare funds where to do so would not adversely affect the participants of the Pre-merged Funds; and

WHEREAS, the existing Collective Bargaining Agreements contain provisions for the payment of hourly contributions to Health and Welfare Funds consistent with making those contributions to the merged Fund resulting here from; and

WHEREAS, to effectuate the aforesaid purpose, it is desired to restate and maintain the Trust Fund and to continue to conform to the applicable requirements of the Labor Management Relations Act of 1947, as amended, and the rules and regulations issued thereunder, to qualify as

an Exempt Trust pursuant to Section 501(c)(3) of the Internal Revenue Code and the regulations issued thereunder, and to conform to the requirements of the Employee Retirement Income Security Act of 1974 as amended from time to time and the regulations issued thereunder; and

WHEREAS, the Employers, the Unions, the Employer Trustees and the Union Trustees who have subscribed to this Restated Agreement and Declaration of Trust have separately and jointly agreed that this Restated Agreement and Declaration of Trust shall set forth the rights and duties of the Employers and the Unions and the Trustees with respect to the administration and operation of the Trust Fund herein created; and

WHEREAS, NOW, THEREFORE, in consideration of the premises, it is mutually understood and agreed as follows:

ARTICLE I

DEFINITIONS

Section 1.1. EMPLOYER. The term "Employer" as used herein shall mean:

(a) An employer who is a member of, or is represented in collective bargaining by, an association of employers and/or who is bound by a collective bargaining agreement with the Union or Council providing for the making of payments to the Trust Fund with respect to employees represented by the Union or Council.

(b) An employer who has duly executed or is bound by a collective bargaining agreement with the Union or Council providing for the making of payments to the Trust Fund with respect to employees represented by the Union, or who is bound by an agreement to make payments to the Trust Fund with respect to employees other than those represented by the Union or Council.

(c) The Union, Council, or affiliated Training Trust Fund which, for the purpose of making the required contributions into the Trust Fund, shall be considered as the Employer, as that term is defined in Section 1.1(b) of this Article, for whom contributions to the Trust Fund are required to be made by such Union, Council, or Training Trust Fund.

Section 1.2. UNION OR COUNCIL. The term "Union" as used herein shall mean the United Brotherhood of Carpenters and Joiners of America or a local union affiliated with the United Brotherhood of Carpenters and Joiners of America. The term "Council" shall mean a State, District, or Region, or other intermediate body affiliated with the United Brotherhood of Carpenters and Joiners of America such as the Mid-South Regional Carpenters Council.

Section 1.3. EMPLOYEE. The term "Employee" as used herein shall mean:

(a) Any employee working for an Employer as defined herein, and with respect to whose employment an Employer is required to make contributions into the Trust Fund.

(b) An officer or employee of the Union, Council or Training Trust Fund who shall have been proposed for benefits under the Trust Fund by the Union, Council or Training Trust Fund and who shall have been accepted by the Trustees for whom such Union, Council or Training Trust Fund agrees in writing to contribute to the Trust Fund at a fixed rate.

(c) An employee of an Employer, not covered by a collective bargaining agreement, on whose behalf the Employer agrees in writing to make payments or contributions to the Trust Fund.

(d) Employees, if any, of this Trust Fund who are not employed by an Employer as defined in Section 1.1, but as shall be proposed and accepted for such benefits by the Trustees. As to such personnel as are employees of the Trust Fund, the Trustees shall be deemed to be an Employer within the meaning of this Trust Agreement and shall provide benefits for said Employees out of said Trust Fund, on the same basis as for other Employees.

(e) A person, represented by or under the jurisdiction of the Union or Council who shall be employed by a governmental unit or agency, and on whose behalf payment of contributions shall be made at the times and at the rate of payment equal to that paid by an Employer, as defined in Section 1.1 of this Article, in accordance with a written agreement, ordinance or resolution.

Section 1.4. PARTICIPANT. The term "Participant" as used herein shall mean any Employee or former Employee of an Employer who pursuant to the Plan adopted under this

Agreement is or may become eligible to receive a benefit of any type from this Fund or whose Beneficiaries may be eligible to receive any such benefits.

Section 1.5. BENEFICIARY. The term "Beneficiary" as used herein shall mean a person designated by a Participant or by the terms of the plan of benefits established pursuant to the Trust Agreement (such as a dependent or member of the family of a Participant) who is or may become entitled to a benefit thereunder.

Section 1.6. TRUSTEES. The term "Trustees" as used herein shall mean the Trustees designated in this Trust Agreement, together with other Trustees and the successors designated and appointed in accordance with the terms of this Trust Agreement. The Trustees, collectively, shall be the administrator of this Fund as that term is used in the Employee Retirement Income Security Act of 1974 ("the Act").

Section 1.7. TRUST FUND. "Trust", "Trust Fund" and "Fund" as used herein shall mean the entire trust estate of the Mid-South Carpenters Regional Council Health and Welfare Fund as it may, from time to time, be constituted, including, but not limited to, policies of insurance, investments, and the income from any and all investments, Employers' contributions and any and all other assets, property or money received by or held by the Trustees for the uses and purposes of this Trust.

Section 1.8. TRUST AGREEMENT. The terms "Agreement" and "Declaration of Trust" or "Trust Agreement" as used herein shall mean this instrument, including all amendments and modifications as may from time to time be made.

Section 1.9. ACT. The term "Act" as used herein shall mean the Employee Retirement Income Security Act of 1974, any amendments as may from time to time be made and any regulations promulgated pursuant to the provisions of the Act.

ARTICLE II

CREATION AND PURPOSES OF FUND

Section 2.1. The Mid-South Regional Council Health and Welfare Fund has been created, established and maintained, and the Trustees agree to receive, hold and administer the Trust Fund, for the purpose of providing health and welfare benefits as now are, or hereby may be, authorized or permitted by law for Participants and their Beneficiaries and in accordance with the provisions herein set forth.

ARTICLE III

BOARD OF TRUSTEES

Section 3.1. NUMBER, APPOINTMENT, TERM. The Fund shall be initially administered by a Board of sixteen (16) Trustees consisting of the existing Trustees from the Mid-South Carpenters Regional Council Health and Welfare Fund and the former Tri-State Carpenters and Joiners Health & Welfare Trust Fund of whom half shall be Employer Trustees, and half shall be Union Trustees. After the first year of operation, it is expressly desired to reduce the number of the Trustees to twelve (12) Trustees, half of whom shall be Employer Trustees and half of whom shall be Union Trustees. The Trustees shall serve without compensation but they shall be reimbursed for all reasonable and necessary expenses properly and actually incurred by them in connection with the performance of their official duties as trustees.

Section 3.2. IDENTITY OF TRUSTEES. As of the effective date of this Agreement, those persons who are appointed as Trustees shall sign an Acceptance of Trust which will be attached to this Agreement.

Section 3.3. TENURE. Each Trustee shall serve terms of no more than three (3) years unless renewed by the appointing party. Each Trustee shall serve until his death, incapacity, resignation, removal or termination of his term.

Section 3.4. RESIGNATION AND REMOVAL. A Trustee may resign and become and remain fully discharged from all further duty or responsibility hereunder upon giving thirty (30) days' notice in writing to the remaining Trustees or such shorter notice as the remaining Trustees may accept as sufficient, in which notice there shall be stated a date on which such

resignation shall take effect; and such resignation shall take effect on the date specified in the notice unless a Successor Trustee shall have been appointed at an earlier date, in which event such resignation shall take effect immediately upon the appointment of such Successor Trustee. Any Trustee may be removed from office for cause pursuant to appropriate procedures.

Section 3.5. APPOINTMENT AND ELECTION OF OTHER AND SUCCESSOR TRUSTEES.

In the event of a vacancy for any reason in the offices of either Union or Employer Trustees or if additional Trusteeships are created, Trustees shall be elected in the following manner:

(1) Each Union Trustee will be appointed by the Executive Secretary of the Regional Council of the United Brotherhood of Carpenters and Joiners of America.

(2) Each Employer Trustee shall be selected by the then seated Employer Trustees by majority vote.

(3) If the Union or Employers are unable to select a Trustee in accordance with this section, either may petition a U.S. District Court Judge in the State of Tennessee to appoint a Trustee.

Section 3.6. ASSUMPTION OF OFFICE OF TRUSTEES. Any Trustee shall immediately upon his appointment as a Trustee and his acceptance of the Trusteeship in writing, as provided in Section 3.2 and Section 3.7, become vested with all the property, rights, powers and duties of the Trustee hereunder with like effect as if originally named a Trustee without the necessity of any formal conveyance or other instrument of title.

Section 3.7. ACCEPTANCE OF THE TRUST BY TRUSTEES. A Trustee shall execute a written acceptance in a form satisfactory to the Trustees and consistent with the Act and thereby shall be deemed to have accepted the Trust created and established by this Trust Agreement and to have consented to act as Trustee and to have agreed to administer the Trust Fund as provided herein. Such written acceptance shall be filed with the Fund's Administrative Manager who shall notify the remaining Trustees of the receipt of such acceptance.

Section 3.8. LIMITATION OF LIABILITY OF TRUSTEES. No Trustee shall be liable or responsible for his own acts except as otherwise provided for by law. No successor Trustee shall in any way be liable or responsible for anything done or committed in the administration of the Trust prior to the date he became a Trustee. The Trustees shall not be liable for the acts or omissions of any investment manager, attorney, agent or assistant employed by them in pursuance of this Agreement, if such investment manager, attorney, agent or assistant was selected pursuant to this Trust Agreement and such person's performance was periodically reviewed by the Trustees who found such performance to be satisfactory; provided that nothing herein shall relieve any Trustee of any liability with regard to the performance of Trust Fund employees.

Section 3.9. OFFICE OF THE FUND. The Trust Fund shall be domiciled in the State of Tennessee. The administration office may be at one or more locations established in the discretion of the Trustees, and the books and records pertaining to the Trust Fund and its administration shall be maintained there.

Section 3.10. OFFICERS OF TRUSTEES. The Trustees shall elect a Chairman and a Secretary from among the Trustees to serve one year terms. When the Chairman is an Employer

Trustee, the Secretary shall be a Union Trustee, and vice visa. The Chairman and the Secretary positions shall alternate on a yearly basis between Union and Employee Trustees. The Secretary or such other person as the Trustees may designate, shall keep minutes and records of all meetings, proceedings and acts of the Trustees and shall, with reasonable promptness, send copies of such minutes and records to all Trustees. The Chairman and in his absence a Trustee selected by the Trustees present, shall preside at all meetings of the Trustees.

Section 3.11. TRUSTEES TO ACT WITHOUT COMPENSATION. The Trustees shall act in such capacity without compensation, but they shall be entitled to reimbursement for the expenses properly and actually incurred in the performance of their duties with the Trust Fund, including, without limitation, attendance at meetings or other functions of the Board of Trustees or its committees or while on business of the Board of Trustees, attendance at institutes, seminars, conferences, or workshops for or on behalf of the Trust Fund.

Section 3.12. RECORDS OF TRUSTEE TRANSACTIONS. The Trustees shall keep true and accurate books of account and a record of all of their transactions and meetings (including actions taken at such meetings and by informal action of the Trustees), which records and books shall be audited at least annually by a certified public accountant. A copy of each audit report shall be available for inspection by interested persons at the principal office of the Trustees.

Section 3.13. POWER TO ACT IN CASE OF VACANCY. No vacancy or vacancies on the Board of Trustees shall impair the power of the remaining Trustees, acting in the manner provided by this Trust Agreement, to administer the affairs of the Trust Fund notwithstanding the existence of such vacancy or vacancies.

Section 3.14. MEETINGS; NOTICES. The Trustees shall meet at least quarterly each twelve months and at such other times as they deem it necessary to transact their business. The Chairman or the Secretary of the Board of Trustees may, and upon the written request of any two (2) Trustees shall, call a meeting of the Trustees at any time by giving at least five (5) days' written notice of the time and place thereof to the remaining Trustees. A meeting of the Trustees may be held at any time without notice if all the Trustees consent thereto in writing.

Section 3.15. ATTENDANCE AT MEETINGS; MINUTES. All official meetings of the Trustees shall be attended only by the Trustees and shall not be open to the public, except that there may attend such other persons as may be designated by the Trustees or when invited to do so, and as may be otherwise required by law. Written minutes, a copy of which shall be furnished with reasonable promptness to each Trustee, shall be kept of all business transacted and of all matters upon which voting shall have occurred and the vote of each Trustee shall be recorded. Such minutes shall be approved by the Trustees at their next meeting.

Section 3.16. QUORUM.

(a) Four (4) Union Trustees and four (4) Employer Trustees present in person at any meeting of the Board of Trustees shall constitute a quorum for the transaction of business (so long as there is at least 1 Union and 1 Employer Trustee present). If at any meeting the number of Employer and Union Trustees present shall be unequal, then the group of Trustees lesser in number shall be entitled to cast the same number of votes as the other group of Trustees. In the event there shall be present at any meeting less than all of the Trustees of a group and such Trustees shall be unable to agree as to the manner in which the vote of the absent Trustee shall be cast, then action on the matter under consideration shall be postponed until all Trustees of the group shall be present.

(b) A quorum of a committee of the Board of Trustees, established in accordance with Section 5.7 of this Trust Agreement or otherwise, shall be a majority of the members of the committee, except as may be provided otherwise by the Trustees or by law.

(c) Any action taken by the Trustees, except as herein otherwise provided, shall be by affirmative vote of a majority of the votes cast at a meeting. The Trustees must cast their votes in person.

Section 3.17. ACTION WITHOUT MEETING.

(a) Action by the Trustees on any proposition may also be taken without a meeting if all of the Trustees agree thereon in writing.

(b) Tele-conference meetings are permissible upon agreement of all Trustees. Action taken at any tele-conference will be reviewed and ratified at the next meeting following the tele-conference. Minutes will be prepared of any tele-conference meeting and acted upon in the next meeting.

Section 3.18. REPORTS. All reports required by law to be signed by one or more Trustees may be signed by the Chairman and Secretary of the Board of Trustees provided that the Board of Trustees may by resolution appoint one or more of the other members of the Board of Trustees to sign such report on behalf of the Trustees.

Section 3.19. MANNER OF ACTING IN THE EVENT OF DEADLOCK.

(a) A deadlock shall be deemed to exist whenever a proposal, nomination, motion or resolution made or proposed by any one of the Trustees is not adopted or rejected by a majority vote and the maker of the proposal, nomination, motion or resolution notifies the remaining Trustees in writing that deadlock exists.

(b) In the event of such deadlock arising, the Trustees shall meet for the purpose of agreeing upon an impartial umpire (may be selected from an FMCS or AAA arbitration panel) to break such deadlock by deciding the dispute in question. In the event of the inability of the Trustees to agree upon the selection of such impartial umpire within a reasonable time, then any of the Trustees may petition a Federal District Court in Tennessee for appointment of such impartial umpire. Such impartial umpire shall immediately proceed to hear the dispute between the Trustees and decide such dispute, and the decision and award of such umpire shall be final and binding upon the parties. The reasonable compensation of such umpire and the costs and expenses (including, attorneys' fees and reporters fees) incidental to any proceedings instituted to break a deadlock shall be paid by the Trust Fund.

(c) Any impartial umpire selected or designated to break a deadlock shall be required to enter his decision within a reasonable time fixed by the Trustees. The scope of any such proceedings before such impartial umpire shall be limited to the provisions of this Trust Agreement and to the provisions of the rules, regulations and bylaws adopted by the Trustees and to the plan of benefits established by them. The impartial umpire shall have no jurisdiction or authority to change or modify the provisions of this Trust Agreement or to decide any issue arising under or involving the interpretation of any collective bargaining agreements between the Union or Council, and Employers or an association of Employers, and such impartial umpire shall have no power or authority to change or modify any provisions of any such collective bargaining agreements.

Section 3.20. REMOVAL OF TRUSTEE (VIOLATION OF ACT). The Board of Trustees shall initiate action to cause the removal of any fellow member Trustee who may be

serving as a Trustee in violation of the Act. The vacancy or vacancies caused by such a removal shall be filled in accordance with Section 3.5 of this Article.

ARTICLE IV

CONTRIBUTIONS AND COLLECTIONS

Section 4.1. EMPLOYER CONTRIBUTIONS.

(a) Each Employer shall make prompt contributions or payments to the Trust Fund in such amount and under the terms as are provided for in the applicable collective bargaining agreement in effect from time to time between the Employer or his bargaining representative and the Union or Council, provided, however, that payments shall be made no later than the twentieth (20th) day following the last day of the month in which the work was performed for which such contributions in such amount and under such terms as such Employer may be obligated, in writing, to make, provided that such contributions shall be subject to acceptance by the Trustees. The Employer agrees that such contributions shall not be subject to set-off or counterclaim which the Employer may have for any liability of the Union or Council, or of an Employee.

(b) Contributions to the Fund shall be paid to the Trustees or to such depository as the Trustees shall designate, only by check, bank draft, money order, wire transfer, or other recognized method of transmitting money or its equivalent, made payable to the order of the Mid-South Carpenters Regional Council Health and Welfare Fund. The payment of contributions shall be made periodically at such times as the Trustees shall specify by rules and regulations.

(c) Each Employer shall be responsible only for the contributions payable by him on account of Employees covered by him, except as may be otherwise provided by law.

Employer associations or groups shall not be responsible for the contributions, payments or other obligations of any other Employer, or otherwise.

Section 4.2. RECEIPT OF PAYMENT AND OTHER PROPERTY OF TRUST. The Trustees or such other person or entity designated or appointed by the Trustees, in accordance with Section 3.5 of Article V are hereby designated as the persons to receive the payments heretofore or hereafter made to the Trust Fund by the Employers. The Trustees are hereby vested with all right, title, and interest in and to such moneys and all interest which may be accrued therein, and are authorized to receive and be paid the same.

Section 4.3. COLLECTION AND ENFORCEMENT OF PAYMENTS. The Trustees or such committee of the Board of Trustees, or the Fund Administrative Manager, if one has been appointed and when directed by such committee or by the Board of Trustees, shall have the power to demand, collect and receive Employer payments and all other money and property to which the Trustees may be entitled, and shall hold the same until applied to the purposes provided in this Trust Agreement. They shall take such steps, including the institution and prosecution of, or the intervention in, such legal or administrative proceedings as the Trustees in their sole discretion determine to be in the best interest of the Trust Fund for the purpose of collecting such payments, money and property, without prejudice, however, to the rights of the Union or Council to take whatever steps it deems necessary and wishes to undertake for such purposes.

Section 4.4. PRODUCTION OF RECORDS. Each Employer shall promptly furnish to the Trustees, on demand, the names of his Employees, their Social Security numbers, the hours worked by each Employee and such other information as the Trustees may reasonably require in

connection with the administration of the Trust Fund and for no other purpose. The Trustees may, by their respective representatives, audit and examine the pertinent employment and payroll records of each Employer at the Employer's place of business whenever such examination is deemed necessary or advisable by the Trustees in connection with the proper administration of the Trust Fund. The Union or Council shall, upon the request of the Trustees, promptly furnish information with respect to an Employee's employment status.

Section 4.5. COLLECTION COSTS. In the event that upon audit made by the Trustees and/or upon other evidence it is found by the Trustees that an Employer has failed to make required Employer Contributions, the Trustees are authorized and empowered:

- (a) To impose and receive from such Employer all costs of the audit; and
- (b) To impose and receive from such Employer interest at the rate of 1.5% per month of the unpaid balance or the rate established in Section 6621 of the Internal Revenue Code of 1954, whichever is greater; and
- (c) To assess or receive from such Employer as liquidated damages an amount equal to twenty percent (20%) of the amount found to be delinquent in that the failure of the Employer to make the required payment of Employer Contributions imposes additional burden and expense upon the Trustees in the collection thereof; in the administration of the Trust Fund, including but not limited to the processing of late contribution reports, correspondence and other communication with said Employer; and, in addition thereto may cause a loss of benefits to Employees, and loss of benefit of the use of amounts required to be paid, all of which are difficult of accurate ascertainment; and

(d) To impose and receive from such Employer any amounts Trustees are required to pay for the benefit of an eligible Employee of such Employer, or an Employee who would be eligible except for the failure of such Employer to make required contributions in his behalf; and

(e) To impose and receive from such Employer all costs, audit expenses and attorneys fees incurred by the Trustees in enforcing the provisions hereof, whether by litigation or otherwise; and

(f) To require such Employer to make weekly deposits of Employer Contributions in an amount determined by the Trustees, based on objective standards, provided that the Trustees have given such Employer reasonable notice of such requirement for weekly deposits, the amount to be deposited, the date such deposits are due and the basis on which the weekly deposit is determined and required; and

(g) To require such Employer to furnish to the Trustees a bond, with reputable surety thereon,

(1) with the Trustees as obligees thereunder,

(2) with an amount determined by the Trustees, consistent with the anticipated future obligation of such Employer,

(3) with notice provisions acceptable to the Trustees consistent with the purposes of such bond.

Section 4.6. EFFECT OF NONPAYMENT. Nonpayment, by any Employer, of any contribution or other moneys owed to the Fund shall not relieve any other Employer of his or its obligation to make required payments to the Trust Fund.

Section 4.7. CONTRIBUTIONS FROM PARTICIPANTS. The Trustees may accept contributions from Participants to maintain eligibility or to pay part or all of the cost of any benefit.

ARTICLE V

POWERS AND DUTIES OF TRUSTEES

Section 5.1. CONDUCT OF TRUST BUSINESS. The Trustees shall have general supervision of the operation of this Trust Fund and shall conduct the business and activities of the Trust Fund in accordance with this Trust Agreement and applicable law. The Trustees shall hold, manage and protect the Trust Fund and collect the income therefrom and contributions thereto. The Trustees may, in the course of conducting the business of the Trust, execute all instruments in the name of the Board of Trustees, which instruments shall be signed by the Chairman and Secretary of the Board of Trustees, provided, however, any one Trustee may execute legal documents to commence and process law suits to enforce trust collections on behalf of the Trustees.

Section 5.2. USE OF FUND. The Trustees shall have the power and authority to use and apply the Trust Fund for the following purposes:

(a) To pay or provide for the payment of all reasonable and necessary expenses of collecting the Employer contributions and payments and other moneys and property to which they may be entitled and of administering the affairs of this Trust, including the employment of such administrative, legal, expert and clerical assistance, the purchase or lease of such premises, materials, supplies and equipment and the performance of such other acts as the Trustees, in their sole discretion, find necessary or appropriate in the performance of their duties.

(b) To provide health and welfare and related benefits to eligible Participants and Beneficiaries in accordance with a plan of benefits provided through policies of insurance or other health programs and facilities in accordance with Section 5.3 of this Article or established

forms and in such amounts and may contain such provisions and be subject to such limitations and conditions as the Trustees, in their sole discretion, may from time to time determine and shall cover such Participants and Beneficiaries as the Trustees, pursuant to the provisions hereof, shall from time to time determine eligible for benefits as herein provided. The Trustees may exercise all rights and privileges granted to the policyholder by the provisions of each contract or policy of insurance, and may agree with the insurance carrier to any alteration, modification or amendment of such contract or policy, and may take any action respecting each such contract or policy, and the insurance provided thereunder, which they, in their sole discretion, may deem necessary or advisable and such insurance carrier shall not be required to inquire into the authority of the Trustees with regard to any dealings in connection with such contract or policy. The Trustees are expressly authorized, by unanimous vote, to establish and maintain a plan or plans to provide any and all of the health and welfare benefits, as the Trustees in their sole discretion may determine, directly out of the Trust Fund in accordance and upon compliance with Section 5.2(e) of this Article, in lieu of, or in combination with, coverage provided by an insurance carrier or carriers.

Section 5.4 INVESTMENTS.

(a) The Trustees shall have the power and authority, in their sole discretion, to invest and reinvest such funds as are not necessary for current expenditures or liquid reserves, as they may from time to time determine, in such investments as are legal investments under applicable State and Federal law relating to the investment of the employee welfare trust funds, not limited, however, by any limitation restricting investments in common stock to a percentage of the Fund or to a percentage of the total market value of the Fund. The Trustees may sell,

exchange or otherwise dispose of such investments at any time and, from time to time, as provided in Section 5.10(f). The Trustees shall also have power and authority (in addition to, and not in limitation of, common law and statutory authority) to invest in any stocks, bonds, or other property, real or personal, including improved or unimproved real estate or equity interests in real estate, where such an investment appears to the Trustees, in their discretion and consistent with their fiduciary obligations, to be prudent and in the best interest of the Trust Fund and its Participants and Beneficiaries, judged by then prevailing business conditions and standards. The Trustees shall have the authority, in respect to any stocks, bonds or other property, real or personal, held by them as Trustees, to exercise all such rights, powers and privileges as might be lawfully exercised by any person owning similar stocks, bonds or other property in his own rights.

(b) Delegation and Allocation of Investment Functions.

(1) The Trustees shall have the power and authority to appoint one or more investment managers (as defined in Section 3(38) of the Act) who shall be responsible for the management, acquisition, disposition, investing and reinvesting of such of the assets of the Trust Fund as the Trustees shall specify. Any such appointment may be terminated by the Trustees upon thirty (30) days' written notice. The fees of such investment manager, and its expenses to the extent permitted by law, shall be paid out of the Trust Fund.

(2) In connection with any allocation or delegation of investment functions under paragraph (1) of this subsection (b), the Trustees shall, from time to time, adopt appropriate investment policies or guidelines.

Section 5.5. DEPOSITS AND DISBURSEMENTS. All Trust funds not invested shall be deposited by the Trustees in such depository or depositories as the Trustees shall from time to time select, and any such deposit or deposits, or disbursements therefrom, shall be made in the name of the Trust in the manner designated by the Trustees and upon the signature(s) of persons designated and authorized by the Trustees.

Section 5.6. ALLOCATION AND DELEGATION OF FIDUCIARY RESPONSIBILITIES.

The Trustees may by resolution or by provisions of this Trust Agreement, allocate fiduciary responsibilities and various administrative duties to committees or subcommittees of the Board of Trustees, and they may delegate such responsibilities and duties to other individuals as they may deem appropriate or necessary in their sole discretion and consistent with the Act.

Section 5.7. COMMITTEES OF THE BOARD OF TRUSTEES.

(a) Standing Committees. The standing committees of the Board of Trustees may consist of such standing committees as the Trustees may wish to create by resolution.

(b) Appointment of Committee Members. Each committee shall consist of an equal number of Union and Employer Trustees. A quorum of a committee shall be as provided in Section 3.16(b). Trustees shall be appointed to such committees by resolution of the Board of Trustees. Any resignation of a Trustee as a committee member shall be submitted, in writing, to the Chairman and Secretary of the Board of Trustees.

(c) Removal of Committee Members. Any appointed member of any committee may be removed from membership in such committee by resolution of the Board of Trustees at any time and for any reason.

Section 5.8. FUND ADMINISTRATIVE MANAGER. The Trustees may employ or contract for the services of an individual, firm or corporation, to be known as "Fund Administrative Manager," who shall, under the direction of the Trustees administer the office or offices of the Trust Fund and of the Trustees, coordinate and administer the accounting, bookkeeping and clerical services, provide the data for actuarial services furnished by the consulting actuary, prepare (in cooperation where appropriate with the consulting actuary and independent auditor) all reports and other documents to be prepared, filed or disseminated by or on behalf of the Trust in accordance with law, assist in the collection of contributions required to be paid to the Trust Fund by Employers and perform such other duties and furnish such other services as may be assigned, delegated or directed or as may be contracted by or on behalf of the Trustees. The Administrative Manager shall be the custodian on behalf of the Trustees of all documents and other records of the Trustees and of the Trust Fund.

Section 5.9. BYLAWS, RULES AND REGULATIONS.

(a) The Trustees are hereby empowered and authorized to promulgate any and all necessary rules and regulations which they deem necessary and desirable to facilitate the proper administration of the Trust Fund, provided the same are not inconsistent with the terms of this Trust Agreement. All rules and regulations adopted by action of the Trustees shall be binding upon all parties hereto, all parties dealing with the Trust Fund and all persons claiming any benefits hereunder.

(b) The Trustees, shall, by resolution, adopt rules or regulations in respect to eligibility of Participants and Beneficiaries for the benefits herein provided, which rules or

regulations may be changed and modified from time to time in such manner and to such extent as the Trustees may deem expedient and necessary in the proper administration of the Trust Fund.

(c) No rule or regulation action or determination made or adopted by the Trustees, nor any decision or determination made by any impartial umpire appointed pursuant to Section 3.15 of this Agreement, shall in any manner conflict or be inconsistent (1) with any provision of the applicable current collective bargaining agreement in effect, or which may be made, between an Employer and the Union or Council, (2) with this Trust Agreement and (3) with any applicable Federal, State or local law. (However, the Trustees shall not be bound by the provisions of any collective bargaining agreement which would produce inconsistent or discriminatory results between groups participating in the Fund).

Section 5.10. ADDITIONAL AUTHORITY. The Trustees are hereby empowered, in addition to such other powers as are set forth herein or conferred by law,

(a) to enter into any and all contracts and agreements for carrying out the terms of this Trust Agreement and for the administration of the Trust Fund, and to do all acts as they, in their discretion, may deem necessary or advisable, and such contracts and agreements and acts shall be binding and conclusive on the parties hereto and on the Participants involved;

(b) to keep property and securities registered in the names of the Trustees or the Fund;

(c) to establish and accumulate as part of the Trust Fund such reasonable reserve funds as the Trustees, in their sole discretion, deem necessary or desirable to carry out the purposes of such Trust Fund;

(d) to pay out of the Trust Fund all real and personal property taxes, income taxes and other taxes of any and all kinds levied or assessed under existing or future laws upon or in respect to the Trust Fund, or any money, property, or securities forming a part thereof;

(e) to do all acts, whether or not expressly authorized herein, which the Trustees may deem necessary or proper for the protection of the property held hereunder; and

(f) to sell, exchange, lease, convey, mortgage or dispose of any property, whether real or personal, at any time forming a part of the Trust Fund upon such terms as they may deem proper, and to execute and deliver any and all instruments of conveyance, lease, mortgage and transfer in connection therewith.

Section 5.11. BONDS. The Trustees shall obtain from an authorized surety company such bonds as may be required by law, covering such persons and in such amounts (but not less than required by law) as the Trustees, in their discretion, may determine. The cost of premiums for such bonds shall be paid out of the Trust Fund.

Section 5.12. INSURANCE. The Trustees may in their discretion obtain and maintain policies of insurance, to the extent permitted by law, to insure themselves, the Trust Fund as such, as well as employees or agents of the Trustees and of the Trust Fund, while engaged in business and related activities for and on behalf of the Trust Fund (1) with respect to liability to others as a result of the acts, errors or omissions of such Trustee or Trustees, employees or agents, respectively, provided such insurance policy shall provide recourse by the insurer against Trustees as may be required by law and (2) with respect to injuries received or property damages suffered by them. The cost of the premiums for such policies or insurance shall be paid out of the Trust Fund provided, however, that the Trustees may purchase insurance containing a

nonrecourse option only as permitted by the Act, and the premium for such option may not be paid from the Fund.

Section 5.13. INFORMATION TO PARTICIPANTS AND BENEFICIARIES. The Trustees shall provide Participants and Beneficiaries such information as may be required by law.

Section 5.14. ACCOUNTANTS AND ACTUARIES. The Trustees shall engage one or more independent qualified public accountants and one or more enrolled actuaries to perform all services as may be required by applicable law and such other services as the Trustees may deem necessary.

Section 5.15. CONSTRUCTION AND DETERMINATIONS BY TRUSTEES. Subject to the stated purposes of the Fund and the provisions of this Agreement, the Trustees shall have full and exclusive authority and discretion to determine all questions of coverage and eligibility, methods of providing or arranging for benefits and all other related matters. They shall have full power to construe the provisions of this Agreement, the terms used herein and the bylaws and regulations issued thereunder. Any such determination and any such construction adopted by the Trustees in good faith shall be binding upon all of the parties thereto and the beneficiaries hereof. No matter respecting the foregoing or any difference arising thereunder or any matter involved in or arising under this Trust Agreement shall be subject to the grievance or arbitration procedure established in any collective bargaining agreement between an Employer or association of Employers and the Union or Council, provided, however, that this clause shall not affect the rights and liabilities of any of the parties under any of such collective bargaining agreements.

Section 5.16. LIABILITY. The Trustees, to the extent permitted by applicable law, shall incur no liability in acting upon any instrument, application, notice, request, signed letter, telegram, or other paper or document believed by them to be genuine and to contain a true statement of facts and to be signed by the proper person.

Section 5.17. RELIANCE ON WRITTEN INSTRUMENTS. Any Trustee, to the extent permitted by applicable law, may rely upon any instrument in writing purporting to have been signed by a majority of the Trustees as conclusive evidence of the fact that a majority of the Trustees have taken the action stated to have been taken in such instrument.

Section 5.18. RELIANCE BY OTHERS. No party dealing with the Trustees shall be obligated (a) to ensure that any funds or property of the Trust are used only for the stated Trust purposes, or (b) to see that the terms of this Trust Agreement have been complied with or (c) to inquire into the necessity of expediency of any act of the Trustees. Every instrument executed by the Trustees shall be conclusive evidence in favor of every person relying thereon (a) that at the time of the execution of said instrument, the Trust was in full force and effect, (b) that the instrument was executed in accordance with the terms and conditions of this Trust Agreement, and (c) that the Trustees were duly authorized and empowered to execute the instrument.

Section 5.19. MULTIPLE BENEFIT SCHEDULES. The Trustees shall be authorized to accept contributions at more than one rate and they shall provide different schedules of benefits appropriate for each such rate of contributions. Further, the Trustees shall be authorized to establish more than one schedule of benefits for the same hourly contribution rate.

ARTICLE VI

CONTROVERSIES AND DISPUTES

Section 6.1. RELIANCE ON RECORDS. In any controversy, claim, demand, suit at law or other proceeding between any Participant, Beneficiary or any other person and the Trustees, the Trustees shall be entitled to rely upon any facts appearing in the records of the Trustees, any instruments on file with the Trustees, with the Union or Council or with the Employers, any facts certified to the Trustees by the Union or Council or the Employers, and facts which are of public record and any other evidence pertinent to the issue involved.

Section 6.2. SUBMISSION TO TRUSTEES. All questions or controversies, of whatsoever character, arising in any manner or between any parties or persons in connection with the Trust Fund or the operation thereof, whether as to any claim for any benefits proffered by any Participant, Beneficiary or any other person, or whether as to the construction of the language or meaning of the rules and regulations adopted by the Trustees or this instrument, or as to any writings, decision, instrument or accounts in connection with the operation of the Trust Fund or otherwise, shall be submitted to the Trustees or, in the case of questions related to claims for benefits, to an Appeals and Review Committee, if one has been appointed, and the decision of the Trustees or Appeals and Review Committee in their discretion shall be binding upon all persons dealing with the Trust Fund or claiming benefits thereunder to the extent permitted by law and regulation.

Section 6.3. SETTLING DISPUTES. The Trustees may in their sole discretion compromise or settle any claim or controversy in such manner as they think best, and any majority decision made by the Trustees in compromise or settlement of a claim or controversy,

or any compromise or settlement agreement entered into by the Trustees, shall be conclusive and binding on all parties interested in this Trust to the extent permitted by law and regulation.

ARTICLE VII

BENEFICIAL RIGHTS

Section 7.1. NO RIGHTS, TITLE OR INTEREST OF EMPLOYERS AND UNION.

No Employer or Union or Council or Employees or Participant and their Beneficiaries shall have any right, title or interest in or to the Trust Fund or any part thereof.

Section 7.2. LIMITATIONS UPON BENEFICIAL RIGHTS OF EMPLOYEES. No Employee, Participant or any Beneficiary of a Participant shall have any right, title or interest in or to the Trust Fund or any part thereof. However, any Participant who shall be covered by an insurance policy, or his Beneficiaries under such policy, shall be entitled to the benefits in the forms and amounts and subject to the terms and conditions of such insurance policy and of this Trust. Said benefits paid from this Trust shall be free from the interference and control of any creditor, and no benefits shall be subject to any assignment or other anticipation, nor subject to seizure or sale under any legal, equitable or any other process. In the event that any claim or benefit shall, because of any debt incurred by or resulting from any other claim or liability against any Participant or Beneficiary, by reason of any sale, assignment, transfer, encumbrance, anticipation or other disposition made or attempted by said Participant or Beneficiary, or by reason of any seizure or sale or attempted sale under any legal, equitable or other process, or in any suit or proceeding, become payable, or be liable to become payable, to any person other than the Participant or Beneficiary for whom the same is intended, as provided herein, pursuant thereto, the Trustees shall have the power to withhold payment of such benefit to such Participant or Beneficiary until such assignment, transfer, encumbrance, anticipation or other disposition, writ or legal process is canceled or withdrawn in such manner as shall be satisfactory

to the Trustees. Until so canceled or withdrawn, the Trustees shall have the right to use and apply the benefits, as the Trustees may deem best, directly for the support and maintenance of such Participants or Beneficiary. Notwithstanding any provisions contained in this Section to the contrary, any Participant or Beneficiary may assign hospital, surgical and medical benefits to any hospital or medical provider rendering services to the Participant or Beneficiary.

Section 7.3. OPTIONAL BENEFITS PROHIBITED. No Employee or Participant shall have the right, privilege or option to receive, instead of the benefits provided hereunder,

(a) any part of the contributions payable by Employers under this Trust Agreement;

(b) a cash consideration either upon termination of the plan of benefits provided hereunder or upon such Employee's or Participant's withdrawal from coverage under this Fund, either voluntarily or through severance of employment with any particular Employer; or

(c) the cash surrender value of any policy of insurance in lieu of the benefits provided in said policy.

ARTICLE VIII

TERMINATION OF TRUST

Section 8.1. CONDITIONS OF TERMINATION. This Trust Agreement shall cease and terminate upon the happening of any one or more of the following events:

(a) In the event the Trust Fund shall, in the opinion of the Trustees, be inadequate to carry out the intent and purpose of this Trust Agreement, or be inadequate to meet the payments due or to become due under this Trust Agreement and under the plan of benefits to Participants and Beneficiaries already drawing benefits;

(b) In the event there are no individuals living who can qualify as Employees hereunder;

(c) In the event of termination by action of the settlors;

(d) In the event of termination as may be otherwise provided by law.

Section 8.2. PROCEDURES IN EVENT OF TERMINATION. In the event of termination, the Trustees shall

(a) make provision out of the Trust Fund for the payment of expenses incurred up to the date of termination of the Trust and the expenses incidental to such termination;

(b) arrange for a final audit and report of their transactions and accounts, for the purpose of termination of their Trusteeship;

(c) apply the Trust Fund to pay any and all obligations of the Trust and distribute and apply any remaining surplus in such manner as will, in their opinion, best effectuate the purposes of the Trust and the requirements of law;

(d) give any notices and prepare and file any reports which may be required by law.

ARTICLE IX
MISCELLANEOUS

Section 9.1. LAW APPLICABLE. This Trust is restated and accepted in the State of Tennessee and all questions pertaining to the validity or construction of this Trust Agreement and of the acts and transactions of the parties hereto shall be determined in accordance with the laws of the State of Tennessee, except as to matters governed by Federal law.

Section 9.2. SAVINGS CLAUSE. Should any provision of this Trust agreement be held to be unlawful, or unlawful as to any other person or instance, such fact shall not adversely affect the other provisions herein contained or the application of said provisions to any other person or instance, unless such illegality shall make impossible the functioning of this Fund.

Section 9.3. COVERAGE OF ADDITIONAL BARGAINING UNITS.

(a) Extension of Coverage. The Trustees shall have the power to extend the coverage of this Trust Agreement to additional employees or associations of employers and their employees represented by labor organizations other than the Union or Council, subject to the conditions established by the Trustees. Any one such group of employees represented by an additional Union or Council shall be referred to herein as "additional collective bargaining unit." Such additional employers, additional associations and additional unions hereby designate as their Trustees in the operation and administration of the Fund such Trustees as are currently serving as Trustees and their successors, selected in the manner provided in this Trust Agreement.

(b) Termination of Coverage.

(1) The Trustees may, by resolution, terminate coverage by and under this Trust Agreement of any such "additional collective bargaining unit", effective as of the last day of any calendar month not earlier than four (4) months after the adoption of such resolution, (i) if the Trustees in their sole discretion determine that continued coverage would be a detriment to the Employees, Participants and their Beneficiaries represented by the Union and for whose benefit this Trust was originally created or (ii) if the Trustees determine that contributions are not being made by such additional collective bargaining unit employers timely and in accordance with the requirements of this Trust Agreement.

(2) An additional union may, on behalf of the Employees, Participants and Beneficiaries, in an additional collective bargaining unit represented by it, terminate coverage by and under this Trust Agreement of any such additional collective bargaining unit, effective as of the last day of any calendar month not earlier than four (4) months after the additional union serves written notice of such termination to the Trustees.

(3) Any such termination of coverage shall terminate the eligibility for benefits of all Participants and their Beneficiaries in such additional collective bargaining unit as of the effective date of such termination. Notwithstanding such termination of coverage, no payments whatsoever shall be made from or out of the Trust Fund to or for the benefit of the Employees, Participants and their Beneficiaries of such additional collective bargaining unit or to any other trust fund or other entity created for the purpose of providing health and welfare benefits to the employees of such additional collective bargaining unit and, upon such termination of coverage, the additional union representing the Employees, Participants and their

Beneficiaries of such additional collective bargaining unit, and such Employees, Participants and their Beneficiaries themselves, or any person claiming by or through or under any of them, shall have no further right, title or interest in or to the Trust Fund, or any part thereof, excepting, only, that any authorized regular benefits, or the balance thereof, payable to individual Participants and their Beneficiaries under bona fide claims accruing either prior to the effective date of such termination of coverage attributable to eligibility credits or bank of hours accumulated or earned by such Participants and their Beneficiaries prior to such date may continue to be paid after such termination.

Section 9.4. RECIPROCITY AGREEMENTS. The Trustees, may, in their sole discretion, enter into such reciprocity agreement or agreements with other welfare funds as they determine to be in the best interests of the Trust Fund, provided that any such reciprocity agreement or agreements shall not be inconsistent with the terms of this Trust Agreement or the collective bargaining agreements under which this Trust Agreement is maintained.

Section 9.5. MERGER. The Trustees shall have the power to merge with any other fund established for similar purpose as this Trust Fund under terms and conditions mutually agreeable to the respective Board of Trustees. No withdrawing union or group shall be entitled to any portion of the assets or reserves.

Section 9.6. REFUND OF CONTRIBUTIONS. In no event shall any Employer, directly or indirectly, receive any refund on contributions made by them to the Trust except to the extent permitted by Section 402(c)(2) of ERISA. Nor shall an Employer directly or indirectly participate in the disposition of the Trust Fund. Upon payment of contributions to the Trustees, all responsibilities of the Employer for each contribution shall cease and the Employer shall have no

responsibilities for the actions of the Trustees, nor shall an Employer be obligated to see to the application of any funds or property of the Trust or to see that the terms of the Trust have been complied with.

Section 9.7. JUDICIAL SETTLEMENTS AND ACTION BY TRUSTEES. The Trustees shall be entitled, at any time, to have judicial settlement of their accounts and to seek judicial protection by any action or proceeding they determine necessary and, further, to obtain a judicial determination or declaratory judgment as to any question of construction of this Trust Agreement or for instructions as to any action thereunder and, further, as to any question relating to the discharge of their duties and obligations under, or in connection with the administration of, this Trust and as to the distribution of assets belonging to the Trust. Any such determination, decision or judgment shall be binding upon all parties to this Trust Agreement and upon all parties relying upon or claiming under this Trust Agreement.

Section 9.8. WITHHOLDING PAYMENT. In the event any question or dispute shall arise as to the proper person or persons to whom any payments shall be made hereunder, the Trustees may withhold such payment until there shall have been made an adjudication of such question or dispute which, in the Trustees' sole judgment, is satisfactory to them, or until the Trustees shall have been fully protected against loss by means of such indemnification agreement or bond as they, in their sole judgment, determine to be adequate.

Section 9.9. GENDER. Whenever any words are used in this Trust Agreement in the masculine gender, they shall also be construed to include the feminine or neutral general in all situations where they would so apply; and whenever any words are used in the singular, they

shall also be construed to include the plural in all situations where they would so apply and wherever any words are used in the plural, they shall also be construed to include the singular.

Section 9.10. AMENDMENT TO ADJUST AGREEMENT. The provisions of this Trust Agreement may be amended at any time by an instrument in writing executed by the Trustees, provided that no amendment shall (1) divert or provide for the use of the Trust Fund then in the hands of the Trustees from the purposes of this Trust Fund to provide group insurance in the event of death, illness or accident to the Employees, Participants or to their Beneficiaries as herein above set forth, or (2) for the payment of such benefits as may be authorized under Sections 5.2 or 5.3 of Article V hereof. It is further provided that no amendment

(a) shall provide for the use or application of the Trust Fund for any purpose other than those set forth in Sections 2.1 and 5.2 hereof; or

(b) permit the return to, or payment of the Trust Fund, or any part thereof, to any Employers, except a contribution or other payment made by mistake to the extent permitted by Section 403(c) of ERISA; or

(c) so amend this Trust Agreement that there shall not be an equal number of Employer Trustee and of Employee Trustees to administer the Trust.

All amendments shall be effective upon passage, unless otherwise provided, and shall be subsequently reduced to writing.

Section 9.11. ARTICLE AND SECTION TITLES. The Article and Section titles are included solely for convenience and shall, in no event, be construed to affect or modify any part of the provisions of this Trust Agreement or be construed as part thereof.

Section 9.12. SITUS. The State of Tennessee shall be deemed the situs of the Trust Fund created hereunder. All questions pertaining to validity, construction and administration shall be determined in accordance with the laws of the State of Tennessee or ERISA.

Date: October 1, 2010.

At Nashville, Tennessee.

IN WITNESS WHEREOF, the undersigned do hereby cause the instrument to be executed by their offices as duly authorized or, in the case of Trustees, in their individual capacity.

UNION TRUSTEES

[Signature]
[Signature]
Donald J. [Signature]
Michael B. [Signature]
[Signature]
Tim A. Brown

~~_____~~

EMPLOYER TRUSTEES

[Signature]
[Signature]
Cory [Signature]
[Signature]
Malik [Signature]

~~_____~~