

AGREEMENT AND DECLARATION OF TRUST
OF
AUTOMOBILE MECHANICS' LOCAL NO. 701
DEFINED CONTRIBUTION RETIREMENT FUND

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PART 1
CREATION AND PURPOSE

ARTICLE 1
NAME AND EFFECTIVE DATE

Section 1.01. GENERAL: The Trust Fund created as of January 1, 2015, administered by the Trustees named herein, shall be known as the Automobile Mechanics' Local No. 701 Defined Contribution Retirement Fund.

ARTICLE 2
DEFINITIONS

As used in this Agreement and Declaration of Trust, the following terms shall have such meaning as hereinafter set forth:

Section 2.01. UNION: The term "Union" shall mean the AUTOMOBILE MECHANICS' LOCAL NO. 701.

Section 2.02. EMPLOYEE: The term "Employee" as used herein shall mean any person on whose behalf an Employer is or was required to make contributions to the Retirement Fund under a collective bargaining agreement with the Union or pursuant to a Written Agreement.

Section 2.03. EMPLOYER: The term "Employer," as used herein, shall mean any entity that now or hereafter is a party to a collective bargaining agreement with the Union requiring periodic contributions to the Retirement Fund or any entity obligated to contribute to the Retirement Fund pursuant to a Written Agreement.

Section 2.04. TRUSTEES: The Board of Trustees, consisting of Employee Trustees and Employer Trustees, collectively appointed to act hereunder, as the same shall be from time to time constituted.

Section 2.05. EMPLOYEE TRUSTEE: The term "Employee Trustee" or "Union Trustee" shall mean the Trustees appointed by the Automobile Mechanics' Local No. 701, on behalf of the Union, as hereinafter provided, and such Trustees shall represent all Employees as

defined herein and their families and dependents, as appropriate, according to provisions of the Plan.

Section 2.06. EMPLOYER TRUSTEE: The term “Employer Trustee” shall mean the Trustees appointed by Employers in accordance with the provisions of this Agreement and Declaration of Trust and such trustees shall represent all Employers as defined herein. All Employers bound to this Agreement and Declaration of Trust ratify and confirm the appointment of the Employer Trustees and their successors.

Section 2.07. EMPLOYER CONTRIBUTIONS: Payments, including Employee salary deferrals, required to be made by Employers to the Trust Fund in accordance with applicable collective bargaining agreements, or such other Written Agreements requiring the making of such payments.

Section 2.08. AGREEMENT AND DECLARATION OF TRUST: The Agreement and Declaration of Trust set forth in this Instrument established as of the Trust Effective Date, and all the amendments and modifications hereto as shall be hereafter made.

Section 2.09. TRUST FUND OR TRUST OR RETIREMENT FUND OR FUND: The entire trust estate of the Trust Fund created pursuant to this Agreement and Declaration of Trust as is may, from time to time, be constituted, including, but not limited to all funds received by the Trustees in the form of “Employer Contributions,” together with all contracts (including dividends, interest, refunds and other funds payable under such contracts), all investments made and held by the Trustees, and all income, increments, earnings and profits therefrom, and any and all other funds or property received and held by the Trustees by reason of their acceptance of this Agreement and Declaration of Trust.

Section 2.10. RETIREMENT PLAN OR PLAN: The plan, program, method, rules and procedures for the payment of benefits from the Trust Fund, and the amendments thereto, which have been established and adopted by the Trustees.

Section 2.11. ERISA: The “Employee Retirement Income Security Act” of 1974, as amended.

Section 2.12. WRITTEN AGREEMENT: The term “Written Agreement” shall mean any agreement in writing that is approved by the Trustees which specifies the detailed basis on which contributions shall be made to the Fund together with any modification, amendment or renewals thereof, including but not limited to collective bargaining agreements, memoranda of understanding which incorporate by reference collective bargaining agreements or this Trust Agreement, report forms in accordance with which contributions are made and which obligate the Employer to the provisions of this Trust Agreement, non-bargaining unit employee participation agreements or any other agreement obligating the Employer signatory thereto to participate in or be bound by this Trust agreement and/or the Plan established pursuant hereto.

Section 2.13. ADMINISTRATOR: The Administrator of the Fund as that term is used in ERISA shall be the Trustees collectively.

Section 2.14. PLAN MANAGER: The person, firm or corporation employed by the Trustees, charged with record keeping, reporting and disclosure, processing of applications for benefits and related ministerial functions attendant to the administration of the Trust Fund and the Retirement Plan.

Section 2.15. PARTICIPANT: The term “Participant” shall mean any Employee or former Employee who is or may become eligible to receive benefits under the Plan, or whose beneficiaries may become eligible to receive such benefits.

Section 2.16. FIDUCIARY AND NAMED FIDUCIARIES: The term “fiduciary” and “named fiduciaries” shall mean those persons or entities who are so designated and/or defined by the Employee Retirement Income Security Act or interpretations as so defined by the Employee Retirement Income Security Act or have contracted with the Trust to either act as fiduciary or to comply with the standards of a fiduciary as defined by applicable statutes of the United States or have contracted to conduct themselves to the standards of a fiduciary.

Section 2.17. QUALIFYING EMPLOYER INDUSTRY GROUP: The term “Qualifying Employer Industry Group” shall mean a group of Employers from the same or similar industry that has Two Hundred (200) or more Participants. Where a group of Employers have formed an association they shall be presumed to be in the same or similar industry.

Section 2.18. TRUST EFFECTIVE DATE: The term “Trust Effective Date” shall mean January 1, 2015, the date the Trust Fund is established.

ARTICLE 3
CREATION OF THE TRUST FUND

Section 3.01. CREATION: The Automobile Mechanics’ Local No. 701 Defined Contribution Retirement Fund is established pursuant to collective bargaining, and shall on or after the effective date be governed by this Agreement and Declaration of Trust, established as of the Trust Effective Date.

The Union, the Association and all Employers required to make Employer Contributions to the Trust Fund, shall be deemed parties hereto, and shall be bound by the terms and provisions in this Agreement and Declaration of Trust set forth.

Section 3.02. ADOPTION: Whenever hereafter a collective bargaining agreement shall be entered or another Written Agreement entered requiring Employer Contributions to be made to the Automobile Mechanics’ Local No. 701 Defined Contribution Retirement Fund, the Union, and all Employers bound thereby shall be considered to have adopted this Agreement and Declaration of Trust, to be bound by all the terms and conditions herein set forth, and deemed to be a party hereby.

ARTICLE 4
PURPOSE AND APPLICATION OF THE TRUST FUND

Section 4.01. PURPOSE: The Trust Fund is created, established, and maintained, and the Trustees agree to receive, hold and administer it for the exclusive purpose of providing benefits for the Employees, retired Employees, Participants, their dependents and beneficiaries, as authorized under applicable provisions of the Labor-Management Relations Act of 1947, and

the Employee Retirement Income Security Act of 1974, all in accordance with the Retirement Plan.

Section 4.02. APPLICATION: The Trustees shall have power and authority to use and apply the Trust Fund as set forth below:

- A. To pay or provide for the payment of benefits to Employees, retired Employees, and their dependents, when found eligible to receive the same, in accordance with the provisions of the Retirement Plan.
- B. To pay or provide for the payment:
 - 1. Of reasonable and necessary expenses, costs and fees having to do with the installation of the Trust Fund;
 - 2. To the Trustees for reimbursement of reasonable expenses incurred under specific authority granted by resolution of the Trustees, such expenses being specifically itemized;
 - 3. Of reasonable education expenses of Trustees, Plan Manager, the attorneys and accountants, properly and actually incurred, or to be properly and actually incurred in the immediate future, such expenses to be properly accounted for;
 - 4. Of proper administration costs of the Trust Fund, including employment of actuarial, legal, professional and clerical assistance, as the Trustees, in their discretion, deem necessary and appropriate in the performance of their duties;
 - 5. Of expenses of collection of Employer Contributions and of other monies or property to which the Trust Fund may be entitled; and
 - 6. Of expenses incurred in the purchase or lease of such premises, materials, supplies and equipment, and for such acts as Trustees, in their sole discretion, find necessary or appropriate in the performance of their duties hereunder provided, however, that no part of the Trust Fund shall be used for personal expenses.

- C. To pay or provide for the payment of all real and personal property taxes, and other taxes or assessments of any and all kinds levied or assessed under existing or future laws upon or in respect to the Trust Fund, or any money or property forming a part thereof.
- D. To maintain such reserves as are appropriate.
- E. To make deposits and payments under any contracts referred to in Article 8, Section 8.03, of this Part 1 providing benefits contemplated herein.
- F. To make any deposit to a bank or trust company which through agreement with the Trustees has been empowered to make benefit payments to eligible Employees, retired Employees, or their dependents.

ARTICLE 5
LIMITATION OF RIGHTS TO THE TRUST FUND

Section 5.01. GENERAL: The following limitations shall apply to the rights or interests or use of the Trust Fund:

- A. Neither the Union, the Employers or the Employees, nor any other person, association or corporation shall have any right, title or interest in or to the Trust Fund except as specifically provided by the Retirement Plan and the applicable rules and regulations thereunder. It is the intention of the parties hereto that this Paragraph A shall not disqualify contributions due from any Employer from being a priority claim in the event of bankruptcy of any such Employer, to the extent such priority may be allowed by law.
- B. Anything contained in this Agreement and Declaration of Trust to the contrary notwithstanding, no part of the corpus or income of the Trust Fund shall be used for or diverted to purposes other than for the exclusive benefit of Employees, retired Employees, or their dependents, or for the purposes and applications of the Trust Fund as in this Agreement and Declaration of Trust set forth.

C. All funds received by the Trustees hereunder, as a part of the Trust Fund, shall be deposited by them in such bank or banks or trust company or trust companies as the Trustees may designate for that purpose, and all withdrawals of such funds shall be made by the Trustees, pursuant to the authorization provided in Part 2, Article 11, of this Agreement and Declaration of Trust.

ARTICLE 6
CONTRIBUTIONS TO THE TRUST FUND

Section 6.01. BASIS OF CONTRIBUTIONS TO PLAN: In order to effectuate the purposes hereof, each Employer shall contribute to the Fund the amount required by any Written Agreement, as defined herein, between the Union or the Trust and the Employer. The rate of contributions shall at all times be governed by the applicable Written Agreement then in force and effect, together with any amendments, supplements or modifications. It shall not be a defense to any claim by the Trustees or an Employee for delinquent contributions from an Employer that such Employer had entered into an agreement with any Employee or any party other than the Union or the Trustees purporting to waive the Employee's rights to strict compliance with the provisions of the applicable collective bargaining agreement or other Written Agreement. With respect to the amount of contributions required thereby, no Employee or other party shall be permitted to contract or otherwise agree with or permit any Employer to provide wage or benefit payments which do not conform to the terms of the applicable collective bargaining agreement or other Written Agreement.

Section 6.02. EFFECTIVE DATE OF CONTRIBUTIONS: All contributions shall be made effective as required by the applicable collective bargaining agreement or other Written Agreement and shall continue to be paid so long as the Employer is so obligated.

Section 6.03. MODE OF PAYMENT: All contributions shall be due and payable on the date set forth in the applicable collective bargaining agreement or other Written Agreement. The time for payment may be extended by the Trustees by resolution, but in no event shall such extension exceed sixty (60) days in accordance with applicable regulations issued by the Secretary of Labor pursuant to ERISA. If such contributions are not received within the period as

so extended, said obligations shall be conclusively deemed to include interest computed from the original due date as defined above.

Section 6.05. REPORT ON CONTRIBUTIONS AND PRODUCTION OF RECORDS: The Employers shall make all reports on contributions required by the Trustees. Each Employer shall promptly furnish to the Trustees, on demand, the names of its 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. The Trustees may at any time have an audit made by an independent accountant or its representatives of the payroll of any Employer in connection with the said contributions and/or reports.

Section 6.06. CONTRIBUTIONS FOR WORK IN OTHER JURISDICTIONS: If, upon audit or otherwise, it is determined that an Employer has failed to pay contributions due for work performed by Employees covered by any bargaining agreement with the Union in the jurisdiction of another local union, then contributions shall be paid, for all hours worked by such Employees, to this Fund.

Section 6.08. NO SET-OFF OR COUNTERCLAIM: The obligation of the Employers to make the required Employer Contributions, as herein specified, shall be absolute and not subject to any set-off or counterclaim the Employer may have, or claim to have for any liability of the Union or an Employee or the Trust.

Section 6.09. CONTRIBUTIONS MADE BY MISTAKE OF FACT OR LAW: The Trustees have full discretion to refund contributions within six months after the Trustees determine that the contributions were made on account of such mistake.

Section 6.10. TRUSTEES' RIGHT TO REFUSE CONTRIBUTIONS: The Trustees may demand that any Employer who establishes a pension plan, profit sharing plan, or savings plan submit a copy of any plan document to the Trustees, and the Trustees may have the document reviewed by a consultant or attorney to determine whether the plan might affect the contributions or benefits which can be made to the Fund under governing law. If it is determined, in the Trustees' discretion, that the Fund would be adversely affected, or if the Employer refuses

to submit a copy of any plan document to the Trustees, the Trustees may remove the Employer from the Plan. If an Employer is removed from the Plan, contributions to the Fund will no longer be accepted from that Employer.

ARTICLE 7
PLAN OF BENEFITS

Section 7.01. BENEFITS:

- A. Trustees: Unless otherwise provided in this Agreement and Declaration of Trust or in the Retirement Plan, the Trustees, as Named Fiduciaries, are authorized to determine all questions arising in the administration, interpretation and application of the Retirement Plan, including questions of eligibility of Employees, the status of the Participants and their beneficiaries, and any other person thereunder. All such determinations of the Trustees shall be binding on all persons.
- B. Trustee Administration of Benefits: In the administration of the Retirement Plan the Trustees, consistent with the purposes of the Trust Fund, shall have power and authority to decide all questions or controversies 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 benefits made by any Employees, or any person, or whether as to the construction of the language or meaning of the Plan of Benefits or rules and regulations adopted by the Trustees or established by this instrument, or as to any writing, decisions, instrument, or account or otherwise, and the decisions of the Trustees, if made in good faith, shall be binding upon all persons dealing with the Trust Fund and claiming any benefits thereunder.

All provisions of this document shall be subject to Trustee discretion as provided in this Section 7.01, Paragraphs A and B, Section 7.03 of this Article and Part 3, Article 17.

Section 7.02. RECIPIENTS OF BENEFITS: Benefits may be provided in accordance with Section 7.01 of this Article only for any Participants as defined in Article 2 of this Agreement and Declaration of Trust, and their beneficiaries.

Section 7.03. ELIGIBILITY REQUIREMENTS FOR BENEFITS: The Trustees shall have full authority to determine eligibility requirements for benefits and to adopt rules and regulations setting forth same which shall be binding on the Employees, Participants and their beneficiaries, except to the extent such authority has been retained by any insurance company with which the Trustees have contracted.

Section 7.04. BASIS OF PROVIDING BENEFITS: Benefits shall be provided and maintained by means of direct payments by the Trust or means of insurance policies maintained by the Trust for the purpose of providing such benefits to Participants of the Plan or other beneficiaries in such amounts and in such manner as the Trustees shall in their sole discretion determine in accordance with Section 7.01 of this Article and all applicable laws and regulations.

Section 7.05. WRITTEN PLAN OF BENEFITS: The detailed basis on which payment of benefits is to be made pursuant to this Agreement and Declaration of Trust shall be specified in writing by appropriate action of the Trustees subject, however, to such changes or modifications as shall similarly be specified in writing by appropriate resolutions of the Trustees.

Section 7.06. TREASURY APPROVAL: The Retirement Plan adopted by the Trustees shall be such as will qualify for approval by the Internal Revenue Service, and as will continue as a qualified Plan, so as to insure that the Employer Contributions to the Retirement Fund are proper deductions for income tax purposes. The Trustees are authorized to make whatever applications are necessary with the Internal Revenue Service to receive and maintain approval of the Retirement Plan. In the event of failure of the Agreement and Declaration of Trust and the Retirement Plan to receive or retain approval as a qualified Agreement and Declaration of Trust and Retirement Plan under such provisions of federal law as are now in effect or as subsequently amended or legislated, or if such approval or any ruling in connection therewith shall result in the Employer Contributions constituting taxable income to Employees or if any ruling in connection therewith shall fail to secure the authorization for the deduction of the Employer Contributions as a business expense to the Employer, the Retirement Trustees shall make such changes as necessary to receive or retain such approval or authority for Employers to deduct payments to the Trust Fund as a business expense without reporting such payments as taxable income to Employees. However, the Trustees shall not be responsible for ensuring that an

Employer does not exceed the limitations the Internal Revenue Code places upon the amount of contributions for an Employee which an Employer may deduct as a business expense.

Section 7.07. AMENDMENT OF PLAN: The Plan may be amended by the Trustees from time to time provided that such amendments comply with the applicable sections of the then applicable Internal Revenue Code, ERISA, all applicable rules and regulations promulgated pursuant to said Statutes, the contract articles creating the Fund, and the purposes as set forth in this Agreement and Declaration of Trust. A copy of each amendment of the Plan shall be adopted and filed by the Board of Trustees as part of the records and minutes of the Board.

ARTICLE 8

ESTABLISHMENT AND ACCEPTANCE OF THE RETIREMENT PLAN

Section 8.01. ESTABLISHMENT: There has been established and adopted a plan to provide for an eligible Participant, retirement benefits, non-forfeitable benefits, and to provide death benefits in the event of the death of an eligible Participant.

The Trustees shall use the Trust Fund to provide such benefits for eligible Participants, and may, from time to time, provide such additional benefits as may be feasible. The Plan shall, at all times, conform to the requirements of ERISA, and the applicable sections of the Internal Revenue Code for purposes of maintaining it as a "Qualified" and "Exempt" Plan, and be maintained in accordance with the provisions of, and for the purposes of this Agreement and Declaration of Trust.

Section 8.02. ACCEPTANCE: The Trustees are agreed to and shall provide the active administration of the Retirement Plan so established and adopted, which sets forth the benefits to be provided from the Trust Fund, the conditions of eligibility for such benefits, the terms of payment, and such other provisions deemed necessary, by the Trustees, to be included therein.

Section 8.03. TRUSTEE AUTHORITY: In the administration of the Retirement Plan, the Trustees are authorized and empowered:

A. To administer the Retirement Plan.

- B. To enter into an agreement with insurance companies licensed to do business in the State of Illinois for the purpose of providing benefits granted under the terms of the Retirement Plan.
- C. To enter into an agreement with a bank or trust company selected by the Trustees or the purpose of providing benefits granted under the terms of the Retirement Plan.
- D. To allocate and charge fees and expenses to participants' accounts. This includes the power and authority to charge the cost of processing domestic relations orders to the account of the subject participant.

PART 2
THE TRUSTEES

ARTICLE 9
DESIGNATION OF TRUSTEES

Section 9.01. APPOINTMENT OF TRUSTEES: The Trust Fund shall be administered by Trustees, even in number, one-half of whom shall be representatives of the Employers and one-half of whom shall be representatives of the Employees. As of the Trust Effective Date, there will be a total of four (4) Trustees. Two (2) Employee Trustees shall be appointed by the Union, and shall act as representatives of all of the Employees for whose benefit the Retirement Plan is maintained and two (2) Employer Trustees shall be appointed by the New Car Dealers Committee of the Chicago Automotive Association (“New Car Dealers”) who will act as the representatives of all the Employers. As of the Trust Effective Date, the New Car Dealers are the only Qualifying Employer Industry Group. However, the total number of Trustees will be increased to six (6) whenever there is a second Qualifying Employer Industry Group, effective the beginning of the next calendar year. The one (1) additional Employer Trustee will be

appointed by the new Qualifying Employer Industry Group and the one (1) additional Employee Trustee will be appointed by the Union.

Whenever there is a third Qualifying Employer Industry Group, the New Car Dealers will relinquish appointing authority for one Employer Trustee to the new group and retain appointing authority for one Employer Trustee, effective the beginning of the next calendar year.

Thereafter, as additional Qualifying Employer Industry Groups are added, the Employer Trustees will represent the three largest industry groups based on the number of Participants employed in each industry group at the end of even numbered calendar years. If an industry is displaced from the three largest, appointing authority for one Employer Trustee will be relinquished by the displaced industry group and shifted to the industry group that is now one of the three largest.

Where a Qualifying Employer Industry Group has formed an employer association, Trustee appointing authority is vested in that employer association. Where a Qualifying Employer Industry Group has not formed an employer association, appointing authority will be vested in the largest company in that industry group determined on the basis of number of Participants employed by each company.

Section 9.02. ACCEPTANCE BY TRUSTEES: Each of the Trustees shall be deemed to accept the Trust governed hereby, to consent to continue to act as Trustee, and to agree to administer the Trust Fund as herein provided.

In the case of any Successor-Trustee, upon acceptance of the Trusteeship, in writing, filed with the Trustees, he shall be deemed to accept the Trust governed hereby, to consent to act as Trustee, and to agree to administer the Trust Fund as herein provided.

Section 9.03. ELECTION OF CHAIRMAN AND SECRETARY: The Trustees shall elect from their number a Chairman and a Secretary to serve until their successors shall have been elected. Whenever one of such offices shall be filled by a Trustee designated as an Employee Trustee, the other shall be filled by one Trustee designated as an Employer Trustee.

ARTICLE 10

MEETINGS OF THE TRUSTEES

Section 10.01. REGULAR MEETING OF TRUSTEES: A Regular Meeting of Trustees shall be held at least twice per calendar year at a date fixed by the Trustees the latest of such meetings to be the Annual Meeting. The Chairman or Secretary upon the written request of any two (2) Trustees may call a special meeting of the Trustees. The request for such meeting to the Chairman or Secretary shall be made at least ten (10) days before such meeting is to be held, stating therein the time, place and date of such meeting. Upon receipt of such written request, the Secretary shall notify all Trustees, in writing, at least seven (7) days before such meeting is to take place.

Notice of a meeting may be delivered in person, by mail, email, or United Parcel Service. Meetings of the Trustees may also be held at any time without notice if all the Trustees consent thereto. In the event that the Trustees shall unanimously concur in writing upon any proposition, no meeting thereon needs to be held by the Trustees. The vote of the Trustees may be cast by them in person or may be evidenced by written instrument signed by them.

Section 10.02. ATTENDANCE REQUIRED FOR BUSINESS TRANSACTIONS: At any meeting of the Trustees, the attendance of four (4) Trustees consisting of two (2) Employer Trustees and two (2) Union Trustees shall be required for the transaction of business.

Section 10.03. UNANIMOUS APPROVAL: On unanimous approval of the Board of Trustees, the number of Trustees may be increased in multiples of two, it being understood that at all times the Trustees representation shall be equal. Provided, however, that for each two Trustees added, the number hereinbefore required for a quorum shall be increased by one.

Section 10.04. VACANCY: In the event there shall be a vacancy on the Board of Trustees, or whenever a member is absent, if such vacancy or absence is among the Employer Trustees, then the vote or votes represented by such vacancy or absence shall be divided equally among the remaining Employer Trustees, each of whom shall be entitled to vote the fractional or whole vote so allocated to him; if such vacancy or absence is among the Employee Trustees, then the vote or votes represented by such vacancy shall be divided equally among the remaining

Employee Trustees, each of whom shall be entitled to vote the fractional or whole vote so allocated to him.

ARTICLE 11
EXECUTION OF DOCUMENTS

Section 11.01. GENERAL: The Trustees shall authorize by resolution the Chairman and Secretary to execute any documents, in writing, on behalf of the Trustees and all persons, partnerships, and corporations may rely thereupon that such document has been duly authorized. Trustees may, in their discretion, designate an authorized person employed by the Trustees to make withdrawals upon specified and separate bank accounts as Trustees may from time to time designate for such purposes.

ARTICLE 12
DEATH, RESIGNATION OR REMOVAL OF A TRUSTEE

Section 12.01. TERM OF TRUSTEES: An Employee Trustee appointed by the Union and an Employer Trustee appointed by an Association shall continue to serve until his death, incapacity, resignation, or removal as provided herein.

Section 12.02. VACANCIES: In the event any Employee Trustee shall die, become incapable of acting, resign, or be removed, a successor Employee Trustee shall immediately be designated by the Union.

In the event any Employer Trustee shall die, become incapable of acting, resign, or be removed, a successor Employer Trustee shall be designated immediately by the Association which appointed the Trustee to be replaced. If the Employer Trustee to be replaced was appointed from an industry which does not have an association, the successor Employer Trustee shall be appointed by the Employer with the greatest number of Participants in that industry.

Any successor Trustee shall, immediately upon his acceptance of the Trusteeship, in writing, filed with the Trustees, become vested with all the property, rights, powers, and duties of a Trustee hereunder with the like effect as if he had been originally named as a Trustee.

Section 12.03. RESIGNATION OF TRUSTEE: A Trustee may resign and remain fully discharged from all future duty or responsibility hereunder by giving notice, in writing, to the

remaining Trustees and to the party designating him, to take effect on a specified future date, and such resignation shall take effect on the said date, unless a successor Trustee shall have been appointed at an earlier date, in which event, such resignation shall take effect as of the date of filing, by the successor, of the written acceptance provided for under "Acceptance of the Trust by the Trustees."

Section 12.04. FORM OF NOTIFICATION OR REMOVAL: In case any Trustee shall be removed, replaced, or succeeded, a certificate in writing by the Secretary of the Union shall be sufficient evidence of the removal or replacement of a Trustee. Such a certificate signed by the Secretary or the Executive Officer of the Association or the entity that appointed the Employer Trustee, shall be sufficient evidence of the removal of a Trustee.

ARTICLE 13

ACTIONS OF THE TRUSTEES

Section 13.01. ADOPT BY-LAWS OR REGULATIONS: The Trustees may adopt by-laws or regulations to govern themselves, which are not inconsistent with any provisions of this Agreement and Declaration of Trust.

Section 13.02. MAJORITY VOTE: The decisions of the Trustees shall be determined by a majority vote. A deadlock shall be deemed to exist whenever a proposal, nomination, motion, or resolution made by any Trustee on a matter of Plan administration is not adopted or rejected by a majority vote. A deadlock concerning Plan administration is subject to arbitration by an impartial arbitrator. A deadlock concerning a "settlor" issue, such as merger or termination of the Trust is not a matter of Plan administration and thus not subject to arbitration.

In the event a deadlock regarding Plan administration arises, the Employer Trustees and Employee Trustees shall meet for the purpose of agreeing upon an impartial umpire to break

such deadlock by deciding the dispute in question. The selection of an impartial umpire shall be by a vote of a majority of the Employer Trustees and a majority of the Employee Trustees. In the event of the inability of the Employer Trustees and the Employee Trustees to agree upon the selection of such impartial umpire, then on the petition of any of the Employee Trustees or any of the Employer Trustees, the District Court of the United States for the Northern District of Illinois, Eastern Division, shall be empowered to make such an appointment. 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 Trustees. The reasonable compensation for such umpire shall be paid from the Fund.

Section 13.03. IMPARTIALITY: Any impartial umpire selected or designated to break a deadlock shall be required to enter his decision within the time fixed by the Trustees.

The scope of any such proceeding before such impartial umpire shall be limited to the provisions of this Agreement and Declaration of Trust and the Retirement Plan established by the Trustees. The impartial umpire shall have no jurisdiction to decide any issues arising under, or involving the interpretation of any pension agreements or bargaining agreements between the Union, the Association, and other Employers, and such impartial umpire shall have no power or authority to change or modify any provisions of such pension agreements or collective bargaining agreements.

ARTICLE 14

LIABILITY OF TRUSTEES

Section 14.01. GENERAL: The Trustees shall discharge their duties with respect to the Plan solely in the interest of the Participants and beneficiaries and for the exclusive purposes of:

- A. Providing benefits to Participants and their beneficiaries;
- B. Defraying reasonable expenses of administering the Plan:
 - 1. With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such

matters would use in the conduct of an enterprise of a like character and with like aims;

2. By diversifying the investments of the Plan so as to minimize the risk of large losses unless under the circumstances it is clearly prudent not to do so; and
3. In accordance with this Trust Agreement and other documents and instruments covering the Plan insofar as such documents and instruments are consistent with the provisions of Title I of ERISA.

Section 14.02. LIABILITY OF TRUSTEES: Each Trustee shall use reasonable care to prevent a co-Trustee from committing a breach of fiduciary duty and the Trustees are expressly authorized by this Trust Agreement to allocate specific responsibilities, obligations or duties among Trustees, in which event a Trustee to whom certain responsibilities, obligations or duties have not been allocated shall not be liable, either individually or as a Trustee, for any loss resulting to the Plan arising from the act or omissions on the part of another Trustee to whom such responsibilities, obligations or duties have been allocated.

No Trustee shall be liable or responsible for a breach of fiduciary responsibility of another fiduciary with respect to the Plan except as such limitation of liability is not permitted by Section 404 of ERISA and except in the following circumstances:

- A. If he participates knowingly in, or knowingly undertakes to conceal, an act or omission of such other fiduciary, knowing such act or omission is a breach;
- B. If by his failure to comply with his obligation to discharge his duties with respect to the Plan solely in the interest of the Participants and beneficiaries thereof as provided herein the administration of his specific responsibilities which gave rise to his status as a fiduciary, he has enabled such other fiduciary to commit a breach; or
- C. If he has knowledge of a breach by such other fiduciary, unless he makes reasonable efforts under the circumstances to remedy the breach.

If an Investment Manager or Managers have been appointed as provided herein, no Trustee shall be liable for the acts or omissions of such Investment Manager or Managers or be

under an obligation to invest or otherwise manage any asset of the Plan which is subject to the management of such Investment Manager.

The Trustees are also permitted, in accordance with Section 404(c) of ERISA and other governing law to choose to permit Participant or beneficiary exercise of control over the assets of his account, including direction of the investment of these assets.

Nothing in this Trust Agreement shall preclude a Trustee or other fiduciary from purchasing insurance to cover liability for a breach of fiduciary responsibility from and for his own account, nor shall anything herein preclude the Association, an Employer or the Union from purchasing insurance to cover potential liability of one or more persons who serve in a fiduciary capacity with respect to the Plan.

So long as the Trustees discharge their duties in accordance with the requirements of Section 14.01 of this Article:

- A. The Trustees shall be fully protected in acting upon any instrument, certificate, or paper believed by them to be genuine and to be signed or presented by the proper person or persons, and shall be under no duty to make any investigation or inquiry as to any statement contained in writing, but may accept the same as conclusive evidence of the truth and accuracy of the statement therein contained.
- B. Neither the Employers, nor the Union, shall in any way be liable in any respect for the acts, omissions or obligations of the Trustees, individually or collectively.
- C. The Trustees shall not be liable in any respect for the failure to collect delinquent contributions when such failure is occasioned by an Employee's lack of timely, reasonable notice of such delinquency or failure or refusal to cooperate with the Trustees, the Plan Manager or legal counsel in the efforts to collect such delinquent contributions.

The Trustees may from time to time consult with the Trust's legal counsel and shall be fully protected in acting upon such advice of counsel to the Trust as respects legal questions;

acting on the advice of counsel shall be prima facie evidence that the Retirement Trustee or Trustees have acted in good faith.

The Trustees may employ and seek advice from a recognized consultant in connection with the delayed basis upon which retirement payments may be made consistent with the sound administration, protection and maintenance of the Retirement Trust, and shall be fully protected in acting and relying upon advice.

Section 14.03. LIABILITY INSURANCE: Nothing herein contained shall be construed to preclude purchase by the Trustees, as an expense of the Trust Fund, of insurance for the fiduciaries hereunder or for the Retirement Plan to cover the liability or losses resulting from acts or omissions of a fiduciary, provided such insurance permits recourse by the insurer thereunder against the fiduciary in the case of a breach of fiduciary obligation of such fiduciary.

The Trustees or any of them may, but without expense to the Trust Fund, purchase insurance for their own account to cover liabilities for their acts or omissions hereunder.

PART 3
ADMINISTRATION OF THE TRUST FUND

ARTICLE 15
GENERAL PROVISIONS

Section 15.01. GENERAL: The Trustees, who are hereby designated as Named Fiduciaries, shall have all powers necessary to carry out the control, management and administration of the Trust Fund and the Retirement Plan. The Trustees shall administer the same in accordance with the terms and provisions of this Agreement and Declaration of Trust and the Retirement Plan.

Without limiting the generality of the foregoing, the Trustees, as Named Fiduciaries, are authorized:

- A. Except as to their responsibility with respect to the control of the assets of the Trust Fund:
 - 1. To delegate specific fiduciary responsibilities to any one or more of them;

2. Upon unanimous approval of all Trustees to delegate to a person, not a Trustee, a specific fiduciary responsibility, whose performance in regard thereto shall be periodically reviewed and evaluated by the Trustees.
- B. To determine all questions arising in the administration, interpretation, and application of the Retirement Plan, including questions of eligibility of Employees, retired Employees, and of any other person thereunder.

Unless otherwise provided in this Agreement and Declaration of Trust or in the Retirement Plan, the Trustees, as Named Fiduciaries, are authorized to determine all questions arising in the administration, interpretation and application of the Retirement Plan, including questions of eligibility of Employees, the status of Participants and beneficiaries, and any other person thereunder. All such determinations of the Trustees shall be binding on all persons.

ARTICLE 16

ESTABLISHMENT OF FUNDING PROCEDURES

Section 16.01. GENERAL: Upon this Agreement and Declaration of Trust becoming effective, the Trustees shall develop a policy for the funding of the Retirement Plan consistent with its needs and the requirements of ERISA. The policy so developed shall be reduced to writing and incorporated as a part of the records of the Trustees.

At least annually, at a meeting called for such purpose upon a date specified by the Trustees, the funding policy shall be reviewed and all actions taken thereon fully recorded in the minutes of such meeting as a part of the records of the Trustees.

In the development of a policy for the funding of the Retirement Plan, the Trustees shall consult with the accountants, actuaries, and Finance Committee designated by the Trustees, and other professional help employed by the Trustees.

Section 16.02. TRUSTEE APPOINTMENT: The Trustees may appoint one or more Investment Managers, qualified pursuant to provisions of Section 3 (38)(B) of ERISA and who

shall, before assuming any duties or authority hereunder, acknowledge in writing that he is a fiduciary with respect to the Retirement Plan, to manage and control all or part of the Trust Fund with power to direct the acquisition and disposition of such assets. An Investment Manager shall have the responsibility to implement the policy for the funding of the Retirement Plan as developed by the Trustees and communicated to the Investment Manager in writing. An Investment Manager so appointed shall serve at the pleasure of the Trustees, but may resign, by written resignation directed to the Trustees, at any time.

ARTICLE 17
DUTIES AND POWERS OF THE TRUSTEES

Section 17.01. TRUSTEE POWERS AND AUTHORITY: In the administration of the Retirement Plan, the Trustees, consistent with the purposes of the Trust Fund, shall have power and authority to:

- A. Require timely contributions to the Trust Fund by Employers in accordance with Written Agreements between the Employer or his collective bargaining agent and the Union. The Trustees shall have power to demand, collect, and receive Employer Contributions for the purpose specified herein and shall have power to specify the time, manner, and place of payment thereof, and the right to institute, prosecute or intervene in any proceedings at law or in equity or in bankruptcy as may be necessary or desirable to effectuate the collection of Employer Contributions. The Trustees are further empowered to audit the books and records of any Employer and to obtain all documents determined by the auditor to be necessary to perform and complete the audit. 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:

1. To assess and receive from such Employer all costs of the audit.
2. To assess and receive from such Employer as liquidated damages such Amounts as may be assessed by the Trustees pursuant to Part 1, Article 6, Section 6.04 herein.
3. 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.
4. 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.

5. To assess and receive from such Employer, as prescribed in Part 1, Article 6, Section 6.04 herein, interest on the amount found to be delinquent or any other amount determined by the Trustees to be in the best interest of the Trust, calculated from the first of the month for which the contributions are due.
6. To require such Employer to furnish to the Trustees a bond, with reputable surety thereon:
 - a. with the Trustees as obligees thereunder;
 - b. in an amount determined by the Trustees consistent with the anticipated future obligations of such Employer; and

- c. with notice provisions acceptable to the Trustees consistent with the purposes of such bond.

The remedies provided herein shall be exclusive of any other remedies available to the Trustees, and shall have no effect upon such remedies.

B. Make such uniform rules and regulations as are consistent with and necessary for effectuating the provisions of this Agreement and Declaration of Trust, including but not limited to the following:

1. To develop procedures for the establishment of eligibility of Employees, including the means of affording Employees and Employers the opportunity to object thereto, and to establish such facts conclusively.
2. To prescribe rules and procedures governing the application for benefits by Employees, retired Employees, their dependents, and their beneficiaries and determination of benefits to be paid. Such rules and regulations and the Retirement Plan shall be published in the form of a uniform booklet.
3. To make determinations which shall be final and binding upon all parties as to the rights of any Employee, retired Employee, and their dependents, and any beneficiary to benefits, including any rights an individual may have to request a hearing with respect to any determination.
4. To obtain and evaluate all statistical and actuarial data which may be reasonably required with respect to the administration of the Retirement Plan, it being agreed that all information, records, lists of Employers and Employees, and all other data which may come into the hands of the Trustees are to be considered confidential and private records of the Trust Fund, and no information from such records, lists, or data shall be divulged by the Trustees, unless unanimously authorized by the Trustees.
5. To make reciprocal agreements with trustees administering other retirement plans that have been established by unions and employers, to provide for the reciprocal

transfer of credited service and/or Employer Contributions between such other retirement plans and this Retirement Plan in the case of employees transferring their employment to such employers.

6. To make such other rules and regulations as may be necessary for the administration of the Retirement Plan which are not inconsistent with the purpose of this Agreement and Declaration of Trust.
- C. Exercise all rights or privileges granted by the provisions of any contract entered into by the Trustees and any insurance company, and to agree with such insurance company to any alteration, modification, amendment, or cancellation of such contract, or to take any other action respecting such contract which they in their discretion may deem necessary or advisable.
 - D. Enter into agreements, contracts, and other instruments for the deposit of funds with banks, trust companies, or other institutions which accept and hold monies on deposit, and to authorize such depository to act as custodian of the funds, whether in case of securities or other property.
 - E. To exercise the fullest measure of discretion allowed under law in deciding all questions or controversies 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 made by any Employees, or any person, or whether as to the construction of the language or meaning of the rules and regulations adopted by the Trustees or established by this instrument, or as to any writing, decisions, instrument, or accounts or otherwise, and the decisions of the Trustees, if made in good faith, shall be binding upon all persons dealing with the Trust Fund or claiming any benefits thereunder.
 - F. To establish an office for the transaction of its business, including the right to lease or construct the premises in which the same is to be located, to be made known to the parties interested in the Trust Fund. At such office, there shall be maintained books and records pertaining to the Trust Fund and its administration.

- G. To enter into an Agreement with a bank or trust company selected by the Trustees to act as depository for safekeeping of the assets of the Trust Fund.

Section 17.02. ADDITIONAL POWERS: In addition to such other powers as are set forth herein or conferred by law, the Trustees shall have power and authority to:

- A. Invest and reinvest the Trust Fund in such securities or property, real or personal, which may include, but shall not be limited to, common and preferred stocks, bonds, investment only type contracts, group annuity and other insurance contracts or policies, mortgages and other evidences of indebtedness or ownership, within or without the State of Illinois, and without regard to any rule or statute of any state or sovereign body prescribing investments eligible for Trust Funds. Provided, however, nothing herein contained shall be construed to authorize the Trustees to acquire or hold an "employer security" or "employer property" as such terms are defined in ERISA.
- B. Exercise any voting rights, conversion privilege, subscription right or other right and privilege, including agreements with reference to reorganization, consolidation, merger and dissolution, readjustment of financial structure or sale of assets of any corporation or other organization, as owners of the securities or other obligations which form a part of the Trust Fund.
- C. Collect all interest, dividends, rents, issues, income and profit arising from the Trust Fund.
- D. Keep property purchased by the Trustees registered in the name of the Trustees or in the name of a nominee or nominees, as may be determined within the discretion of the Trustees.
- E. Sell, exchange, lease, convey, or dispose of any property at the time forming part of the Trust Fund or the whole thereof upon such terms as they may deem proper and to effect and deliver any and all instruments of conveyance and transfer in connection therewith.

- F. Enter into any and all contracts and agreements for carrying out the terms of this Agreement and Declaration of Trust 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, agreements, and acts shall be binding and conclusive on the Union, Association, Employers, and Employees, retired Employees, and their dependents and beneficiaries.
- G. Do all acts, whether or not expressly authorized herein, which the Trustees deem necessary or proper for the protection of the Trust Fund held hereunder and their judgment shall be final.
- H. Charge, as an expense of the Trust Fund, Employer Contributions made by the Trustees on behalf of any of their Employees pursuant to the Written Agreement entered into by them as hereinbefore provided.
- I. Choose, in accordance with Section 404(c) of ERISA and other governing law, to permit Participant or beneficiary exercise of control over the assets in his account, including direction of the investment of these assets.
- J. To extend the coverage of this Agreement and Declaration of Trust to such other Employers and Employees as the Trustees shall agree upon, provided such Employers and Employees are required to conform to the terms and conditions of the Trust.
- K. To obtain restitution from a Participant, beneficiary or any other person who has been unjustly enriched as a result of any erroneous payments or overpayments of benefits under the Plan through any lawful means, including judicial proceedings. This power includes the promulgation of provisions of the Plan or Summary Plan Description governing such proceedings, including the award of attorneys' fees to the Plan upon collection of such amounts as restitution.
- L. The Trustees shall have the authority to enter into a contract provision authorizing the indemnification of a service provider where they determine, in their sole discretion, that such a provision is required by necessity and that entry into a

contract containing such a provision would be in the interests of Plan Participants and beneficiaries.

Section 17.03. ACCURATE RECORDS OF TRANSACTIONS: The Trustees shall keep true and accurate books of account and records of all their transactions which shall be open to the inspection of any Trustee at all times, and which shall be audited at least annually and at such other times as the Trustees shall deem advisable by a certified public accountant selected by the Trustees. Such audits shall be available at all times for inspection by the Union, Association, Employers, Employees or other interested persons at the principal office of the Trust Fund.

Section 17.04. TRUSTEE CANNOT LEND MONEY TO AN EMPLOYER: Except to the extent as may have heretofore been, or may hereafter be, authorized by ERISA, the exemptions, rules and regulations promulgated thereunder, the Trustees are not authorized to lend any money or grant any extension of credit to an Employer required to make Employer Contributions to the Trust Fund.

Section 17.05. DELEGATION OF DUTIES: The Trustees may assign from time to time various administrative matters to such committees and subcommittees of Trustees, experts, or other individuals or organizations as they may deem appropriate or necessary in their sole discretion. Committees and subcommittees of Trustees shall consist of an equal number of Employer and Union Trustees. Only the Trustee shall have the authority to approve, modify the terms of, or terminate any loan. The Trustees, from time to time as appropriate, shall determine any loan. The Trustees, from time to time as appropriate, shall determine and modify the loan and investment policies of the Fund, including the diversification of investments so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so.

Section 17.06. PLAN MANAGER: The Trustees may employ or contract for the services of a person to be known as "Plan Manager" who shall, under the direction or delegation by the Trustees or any appropriate committee of the Trustees, perform all or any part of these or other functions: process applications for and make initial determinations on payments of benefits; administer the office or offices of the Fund and of the Trustees; coordinate and administer the accounting, bookkeeping and clerical services; provide for coordination of

actuarial services; prepare or have prepared (in cooperation where appropriate with an actuary, attorney, insurance company, or accountant) all reports or other documents to be prepared, filed or disseminated by or on behalf of the Fund in accordance with the law; assist in the collection of contributions; perform such other duties or services as may be assigned, delegated, directed or contracted by or on behalf of the Trustees; and act as the custodian of all documents and other records of the Fund and of the Trustees.

Section 17.07. PROHIBITED TRANSACTIONS: Notwithstanding any of the foregoing or any other provision of this Agreement and Declaration of Trust, in no event may the Trustees or any fiduciary of the Plan engage in "prohibited transactions" as defined by ERISA, or any other transaction subsequently declared as prohibited transactions by any court or agency or competent jurisdiction or by subsequent amendments to ERISA except as specifically permitted by law.

Section 17.08. EMPLOYER COOPERATION: All Trustees, directors, officers, employees or other representatives of any Employer Association or Union party to this Trust Agreement shall be required to assist and cooperate with authorized representatives of the Fund, including its attorneys, auditors, or any other authorized representatives in the prosecution of claims for or against the Fund. Specifically, an Employer shall provide to the Trustees on request for inspection and copying in the course of any audit deemed necessary or advisable by the Trustees the following information:

- A. All individual payroll records requested by the Trustees.
- B. All time records which are the basis of the above-mentioned individual payroll records.
- C. All State unemployment tax returns as requested by the Trustees.
- D. All Employer contribution report forms.
- E. All other relevant records which would tend to show the Employer's compliance with the terms of the Trust.

It is understood that the Trustees do not contemplate and shall not review Employer records personally, but rather the Trustees will have available to them the auditor's report which shall remain confidential as to all business matters with the one exception that they may be used for all relevant matters involving nonpayment of proper benefits. In all other respects, the audit shall remain confidential.

Further, in the event no time records of hours worked are available which indicate whether such hours are straight time or overtime, all hours paid shall be deemed to have been at straight time for purpose of computing contributions owed.

Section 17.09. COMPENSATION AND EXPENSES: The Employer Trustees and Union Trustees shall not be paid any compensation for their services hereunder for attendance at regular or special meetings of the Trustees, but the Trustees may be reimbursed for expenses properly and actually incurred for attending regular or special meetings of the Trustees or committees or subcommittees, or while performing specific assignments. Trustees shall be compensated only in accordance with the provisions of ERISA and any rules or regulations promulgated pursuant thereto, as the same may be interpreted and construed by any court or agency of competent jurisdiction.

Section 17.10. NO ONE MAY ACT AS AGENT WITHOUT WRITTEN AUTHORITY: No individual or person may act as agent for the Trust Fund unless specifically authorized in writing by the Trustees. No Employer or Union, or any representative of any Employer or Union in such capacity, is authorized to interpret the Retirement Fund, nor can any such person act as agent of the Trustee. Only the Plan Manager, as designated by the Board of Trustees, and the Board of Trustees, are authorized to interpret the Retirement Plan within the scope of their respective authorities.

ARTICLE 18

MERGER AND CONSOLIDATION

Section 18.01. GENERAL: The Trustees are authorized to cause the Retirement Fund to be merged or consolidated with, or into, another multi-employer fund similarly created. Such merger or consolidation shall be effected only with the advice of counsel and based on sound actuarial data furnished to the Trustees as is required to assure that such merger or consolidation

is undertaken in the best interests of the Employees, but shall, in all events, be in accordance with any limitations as may be prescribed by the provisions of ERISA or the Provisions of that Act, as amended. Any Trustee decision concerning merger or consolidation is a "settlor" issue which does not concern administration and which shall not be resolved by an impartial umpire appointed pursuant to this Agreement and Declaration of Trust and the Labor Management Relations Act.

PART 4
AMENDMENTS AND TERMINATION

ARTICLE 19
AMENDMENTS

Section 19.01. GENERAL: This Agreement and Declaration of Trust and/or the Plan adopted pursuant thereto, may be amended in any respect from time to time by the Trustees, provided that each amendment shall be duly executed in writing by the Trustees and annexed hereto. As to any amendment, the Trustees, in their sole discretion, shall have full power to fix the effective date thereof.

Section 19.02. NO CONFLICTING AMENDMENTS: No amendment may be adopted which will alter the basic principles of this Agreement and Declaration of Trust, be in conflict with the collective bargaining agreements with the Union, as such Agreements affect contributions to the Fund created hereunder, be contrary to the laws governing trust funds of this nature, or be contrary to any agreements entered into by the Trustees.

Section 19.03. COPIES TO TRUSTEES: Whenever an amendment is adopted in accordance with this Article, a copy thereof shall be distributed to all Trustees, and the Trustees shall so notify all necessary parties and shall execute any instrument or instruments necessary in connection therewith.

ARTICLE 20
TERMINATION OF TRUST

Section 20.01. TERMINATION: This Agreement and Declaration of Trust shall cease and terminate upon the happening of any one or more of the following events:

- A. In the event there are no individuals living who can qualify as Employees hereunder.
- B. The withdrawal of every Employer from the Plan or the cessation of the obligation of all Employers to contribute under the Plan.
- C. There is no longer in force and effect a Written Agreement or other obligation between any Employer and the Union or the Fund requiring contributions to the Fund.
- D. In the opinion of the Trustees, the Fund is inadequate to carry out the intent and purpose of this Agreement and Declaration of Trust, or to meet the payments due or to become due under this Agreement and Declaration of Trust to persons already receiving benefits; provided, however, that termination for such reasons shall be in strict compliance with ERISA.

Section 20.02. METHOD OF TERMINATION: This Agreement and Declaration of Trust may be terminated by an instrument in writing duly executed by the parties creating same, but only in strict compliance with the provisions of ERISA, any rules or regulations promulgated pursuant thereto and any other applicable laws or regulations.

Section 20.03. TRUSTEE OBLIGATIONS UPON TERMINATION: In the event of the termination of this Agreement and Declaration of Trust, the Trustees shall apply the Fund to pay or to provide for the payment of any and all obligations of the Fund and shall distribute and apply any remaining surplus in such manner as will, in their opinion, best effectuate the purposes for the exclusive benefit of the Employees, their families, beneficiaries, or dependents, or the administrative expenses of the Fund or for other payments in accordance with the provisions of the Fund. Under no circumstances shall any portion of the Corpus or income of the Fund, directly or indirectly, revert or accrue to the benefit of any contributing Employer or Union.

Section 20.04. NOTIFICATION OF TERMINATION: Upon termination of the Fund in accordance with this Article, as governed by the applicable provisions of ERISA and any rules and regulations promulgated pursuant thereto, the Trustees shall forthwith notify the Union and each Employer and also all other necessary parties; and the Trustees shall continue as Trustees for the purpose of winding up the affairs of the Trust.

PART 5
MISCELLANEOUS PROVISIONS

ARTICLE 21
PROVISIONS RELATING TO THE UNION AND THE EMPLOYERS

Section 21.01. EMPLOYER'S LIABILITY: Nothing in this Agreement and Declaration of Trust shall be construed as making the Union or any Employer liable for the payments required to be made by any other Employer. Each Employer's liability shall be limited solely to the payment of the amount due under the applicable collective bargaining agreement or Written Agreement requiring the making of Employer Contributions to the Trust Fund, except as otherwise provided herein.

Section 21.02. NO EMPLOYER LIABILITY FOR TRUSTEE NEGLECT: None of the Employers shall be liable for the failure of the Trustees to provide the benefits authorized in the Retirement Plan for any Employee, retired Employee, their dependents, or their beneficiaries, or for any default or neglect of the Trustees.

Section 21.03. EMPLOYER'S RESPONSIBILITY: Each Employer shall promptly furnish to the Trustees, on demand, any and all necessary records of dates of birth, social security numbers, amount of wages paid and hours worked, any other payroll records and information including state and federal employment tax returns, that the Trustees may require in connection with the administration of the Trust Fund and for no other purposes. The Trustees or their authorized representatives may examine the payroll books and records, including state and federal employment tax returns of each Employer, whenever such examination is deemed necessary by the Trustees in connection with the proper administration of the Trust.

Section 21.04. FORM OF PAYMENT: All payments due to or from the Trust Fund shall be by check, bank draft, postal money order, or other recognized written method of transmitting money or its equivalent.

Section 21.05. TERMINATION OF PARTICIPATION: An Employer shall cease to be an Employer within the meaning of this Agreement and Declaration of Trust when he is no

longer obligated, pursuant to a Written Agreement or other legally enforceable obligation, to make contributions to this Retirement Fund.

If an Employer ceases to comply with the definition of Employer, as set forth in Article 1, or if an Employer is declared by the Trustees to have ceased participation in the Retirement Plan by virtue of his failure to make the required contributions, it shall be deemed a termination of participation by that Employer and the following shall apply:

- A. Employment by that Employer after termination shall not be credited as Covered Employment; and
- B. There shall be no refund of contributions or reversions of assets to a terminated Employer, directly or indirectly, or to a pension trust or annuity contract or pension plan of a terminated employer, or to a Union.

ARTICLE 22
PROVISIONS RELATING TO TRUSTEES

Section 22.01. COMPLIANCE: No person, corporation or association dealing with the Trustees shall be obliged to see to the application of any funds or property of the Trust Fund, or to see that the terms of this Agreement and Declaration of Trust or of the Retirement Plan have been complied with or be obliged to inquire into the necessity or expedience of any act of the Trustees. Every instrument effected by the Trustees, whether executed by all of them or in the manner specified in Part 2, Article 11, shall be conclusive in favor of any person, partnership, corporation or association relying thereon that:

- A. At the time of delivery of said instrument, this Agreement and Declaration of Trust was in full force and effect; and
- B. Said instrument was effected in accordance with the terms and conditions of this Agreement and Declaration of Trust; and
- C. The Trustees were duly authorized and empowered to execute such instrument.

Section 22.02. LEGAL COUNSEL: The Trustees may, in their discretion, employ legal counsel concerning any legal question arising out of this Agreement and Declaration of Trust or the administration of the Retirement Plan.

Section 22.03. JUDICIAL PROTECTION: The Trustees may seek judicial protection by any action or proceeding they may deem necessary to settle their accounts, or to obtain a judicial determination or declaratory judgment as to any questions or construction of this Agreement and Declaration of Trust or instructions as to any action thereunder. Any such determination shall be binding upon all parties to or claiming under this Agreement and Declaration of Trust.

Section 22.04. LEGAL ACTION: The cost and expenses of any action, suit or proceeding brought by or against the Trustees or any of them (including counsel fees) shall be paid from the Trust Fund, except in relation to matters as to which it shall be adjudged in such action, suit or proceedings that the acts or omissions of the Trustees constitute a breach of the fiduciary obligations of such Trustee.

Section 22.05. WITHHOLDING PAYMENTS: 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 an adjudication of such question or dispute, satisfactory to the Trustees, in their sole discretion, shall have been made, or the Trustees shall have been adequately indemnified against loss to their satisfaction.

ARTICLE 23

PROVISIONS AS TO BONDS AND NOTICE

Section 23.01. BOND REQUIREMENT: All of the Trustees and each Employee employed by the Trustees who may be engaged in receiving or withdrawing of monies of the Trust Fund shall be bonded in an amount which shall not be less than ten percent (10%) of the amount of the funds handled by the Trustees, or such Employee, as the case may be. In no event shall such bond be less than One Thousand Dollars (\$1,000) nor more than Five Hundred Thousand Dollars (\$500,000), except that if the Secretary of Labor, pursuant to the provisions of ERISA, shall direct a bond in excess of Five Hundred Thousand Dollars (\$500,000), the bond shall be in such amount as the Secretary shall direct. The cost of premiums for such bonds shall be paid out of the Trust Fund.

Section 23.02. NOTICE REQUIREMENT: Notice given to a Trustee, the Union, the Association, Employer, or Employee, or any other person, shall, unless otherwise specified herein, be sufficient if in writing and delivered to or sent by first class mail or certified mail to the last address as filed with the Trustees. Except as herein otherwise provided, the delivery of any statement or documents required hereunder to be made to a Trustee, Union, Association, Employer, or Employee shall be sufficient if delivered in person or if sent by first class mail or certified mail to his or its last address as filed with the Trustees.

ARTICLE 24
ADDITIONAL MISCELLANEOUS PROVISIONS

Section 24.01. VESTED RIGHTS: No Employee or any person claiming by or through such Employee, including his family, dependents, beneficiary and/or legal representative, shall have any right, title or interest in or to the Fund or any property of the Fund or any part thereof, except as may be specifically determined by the Trustees and required by ERISA or the Internal Revenue Code.

Section 24.02. ENCUMBRANCE OF BENEFITS: The benefit or claim shall be free from the interference and control of any creditor, and no benefit or claim shall be subject to assignment or other anticipation, nor to seizure or sale under any legal, equitable or other process, and 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 beneficiary, or by reason of any sale, assignment, transfer, encumbrance, anticipation or other disposition made or attempted by said 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 beneficiary for whom the same is intended, as provided herein and in any Retirement Plan established hereunder, the Trustees shall have power to withhold payment of such claim or benefit to such 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 benefit that, as to the Trustees, may seem best for the support and maintenance of such beneficiary.

Section 24.03. PAYMENTS TO PERSONS UNDER LEGAL DISABILITY: In case any benefit payments hereunder become payable to a person under legal disability, or to a person not adjudicated incompetent but, by reason of mental or physical disability, in the opinion of the Board, is unable to administer properly such payments, then such payments may be paid out by the Board for the benefit of such person in such of the following ways as it thinks best, and the Board shall have no duty or obligation to see that the payments are used or applied for the purpose or purposes for which paid.

- A. Directly to any such person;
- B. To the legally appointed guardian or conservator of such person;
- C. To any spouse, parent, brother or sister of such person for his welfare, support and maintenance;
- D. By the Board using such payments directly for the support, maintenance and welfare of any such person.

ARTICLE 25
SITUS AND CONSTRUCTION OF TRUST

Section 25.01. SITUS: The State of Illinois 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 such State, except to the extent such law is pre-empted by federal law. Jurisdiction and venue for all litigation under federal statutes shall be in the Federal District Court for the Northern District of Illinois.

Section 25.02. CONSTRUCTION OF TERMS: Wherever any words are used in this Agreement and Declaration of Trust in the masculine gender they shall be construed as though they were also in the feminine in all situations where they would so apply, and wherever any words are used in this Agreement and Declaration of Trust in the singular form they shall be construed as though they were also used in the plural form in all situations where they would so apply, and wherever any words are used in this Agreement and Declaration of Trust in the plural

form they shall be construed as though they were also used in the singular form in all situations where they would so apply.

Section 25.03. SEVERABILITY: All provisions of this Trust Agreement are intended to comply with ERISA, the Labor Management Relations Act of 1947 as amended and all other applicable laws, rules and regulations. However, should any provision of this Trust Agreement or of the Plan or rules and regulations adopted thereunder or in any collective bargaining agreement or Written Agreement be deemed or held to be unlawful or invalid for any reason, such fact shall not adversely affect the provisions herein and therein contained unless such illegality shall make impossible or impractical the functioning of the Trust and the Plan, and in such case the appropriate parties shall immediately adopt a new provision to take the place of the illegal and/or invalid provision.