

International Association of Sheet Metal, Air, Rail and Transportation Workers ("SMART") Local  
Union No. 36 Welfare Fund  
AMENDED TRUST AGREEMENT  
OF NOVEMBER 1, 2016

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INTERNATIONAL ASSOCIATION OF SHEET METAL, AIR, RAIL AND  
TRANSPORTATION WORKERS ("SMART") LOCAL UNION NO. 36 WELFARE FUND  
AMENDED TRUST AGREEMENT  
OF NOVEMBER 1, 2016

PREAMBLE

This Trust Agreement is amended and restated as of the 1st day of November, 2016, by and between SHEET METAL AND AIR CONDITIONING CONTRACTORS ASSOCIATION OF ST. LOUIS, INC., on behalf of its members who are parties to a Union Agreement and such employers as may subsequently become parties to this Trust Agreement as FIRST PARTY, and INTERNATIONAL ASSOCIATION OF SHEET METAL, AIR, RAIL AND TRANSPORTATION WORKERS ("SMART") LOCAL UNION NO. 36 as SECOND PARTY, and GEORGE L. WELSCH, MICHAEL C. CORRIGAN, and WILLIAM MEEH (who with their successors designated in the manner hereinafter provided are called "Employer Trustees"), and DAVID C. ZIMMERMANN, STEVE KRAMER, and DENNIS WESTRAY (who with their successors designated in the manner hereinafter provided are called "Employee Trustees"), as THIRD PARTY.

In consideration of the payment \$10 by the Association on behalf of Employers, receipt of which is hereby acknowledged by the Trustees, and for other good and valuable consideration the Trust Fund provided for hereunder is amended and restated as of January 1, 2000.

Pursuant to their amendment authority under Section 7.01, the undersigned Trustees hereby adopt this Restated Trust Agreement of November 1, 2016.

DECLARATION OF TRUST

Section 0.01 - General Purposes. The Association and Union have agreed to establish and maintain this Fund to provide health and welfare benefits and programs for Employees, their families and dependents, primarily through Employer contributions pursuant to a Union Agreement, subject to conditions of eligibility set forth in the Plan established by the Trustees. Without intending any limitation by this enumeration, the Plan may include: medical or hospital care, life insurance, disability and sickness benefits, dental and vision care benefits, pharmaceutical benefits, and preventative medical and health programs. Benefits and programs are to be in such form and in such amounts, and subject to such limitations and conditions, as the Trustees decide upon.

Section 0.02 - Union, Association and Employers. The Union, the Association, and the Employers have taken appropriate steps in their respective organizations to authorize and establish this Fund and to execute this amended Trust Agreement. It is agreed by all parties that this Trust Agreement has been properly executed by authorized persons for each party and that the Trustees, named above, have been duly constituted and authorized to serve as such by the party appointing each Trustee.

Section 0.03 - Mutual Agreement. In consideration of the premises and of the mutual covenants and agreements expressed herein, the parties agree to the terms of this Trust Agreement.

Each Employer has agreed to be bound by the terms of this Trust Agreement, by one or more of the following acts: Pursuant to the provisions of a Union Agreement so binding the Employer, pursuant to a Participation Agreement, or by making Employer contributions to this Fund.

By their signatures subscribed hereto the Trustees accept the terms of this Trust Agreement and agree to serve as Trustees.

Section 0.04 - Duration of Trust Fund. The Trust Fund shall continue in existence during the term of this Trust Agreement. This Trust Agreement as amended and restated, shall be effective as of November 1, 2016 and shall continue indefinitely until such time as it may be terminated in accordance with the provisions hereof.

## DEFINITIONS

Each of the following terms is to have the meaning set forth opposite it:

Section 1.01 - Act. The Employee Retirement Income Security Act of 1974 (ERISA), as amended thereto, and any regulations promulgated thereunder.

Section 1.02 - Association - Sheet Metal and Air Conditioning Contractors Association of St. Louis, Inc.

Section 1.03 - Beneficiary. A person or persons designated by an eligible Participant or by the terms of the Plan Document who is or may be eligible for a benefit.

Section 1.04 - Employee. The term "Employee" shall mean a person working under the terms of a Union Agreement, and a person working for the Union. The term "Employee" may also include with the consent of the Trustees: Employees of other Trust Funds established by the Union and the Association, government employees working in any field represented by the Union; other persons for whom contributions are permitted under the terms of a written agreement with the Union or the Trustees (for example, covering an employee who may work from time to time as a superintendent outside the terms of a Union Agreement for an Employer or, pursuant to a participation agreement, office employees of a contributing Employer).

Section 1.05 - Employer or Contributing Employer. The term "Employer" or "Contributing Employer" shall mean: An Employer that is party to, has assented to, or is otherwise bound by a Union Agreement or who agrees in writing to make contributions to this Fund. The Union or the Trustees of any Fund to which the Union is a party shall be considered an Employer solely for the purpose of making Employer contributions to the extent that it chooses to do so, in writing, and shall have no voice in the selection of Employer Trustees. In addition, the Union or a Trust Fund which receives contributions under a Union Agreement may contribute for employees of an Employer pursuant to a contribution supplement program which is approved by the Trustees (for example, the SASMI Pilot Program or the Local 36 EOPR/Equality Fund Program).

Section 1.06 - Fund. The Trust created by this Trust Agreement, which shall include the entire Trust Estate of SMART Local Union No. 36 Welfare Fund as it may, from time to time, be constituted including but not limited to Employer contributions, policies of insurance, securities, and other forms of investments and income therefrom, received by or held by the Trustees for the uses and purposes of this Trust.

Section 1.07 - Name of Fund. The name of the Fund, as amended in 2014, shall be International Association of Sheet Metal, Air, Rail and Transportation Workers ("SMART") Local Union No. 36 Welfare Fund (SMART Local Union No. 36 Welfare Fund).

Section 1.08 - Participant. An Employee who meets the requirements for participation in the Plan, or a former Employee who has retained a right to a benefit under the Plan.

Section 1.09 - Plan Document, or Plan. The written Plan Document, rules and regulations adopted by the Trustees and other written matters establishing the terms and operation of the Welfare Plan established pursuant to this Trust Agreement. The Summary Plan Description (SPD) is the primary Plan Document.



Section 1.10 - Trust Agreement. This SMART Local Union No. 36 Welfare Fund Trust Agreement of November 1, 2016, and as it may be amended.

Section 1.11 - Trustees (or Board of Trustees). The Employee and Employer Trustees designated in this Trust Agreement, together with their successors designated and appointed in accordance with the terms of this Trust Agreement.

Section 1.12 - Union. International Association of Sheet Metal, Air, Rail and Transportation Workers ("SMART") Local Union No. 36.

Section 1.13 - Union Agreement. A Collective Bargaining Agreement between the Association and the Union, and any amendments thereto, and any other Collective Bargaining Agreement between the Union and any person who acts as an Employer, as defined in the Act of persons in a collective bargaining unit represented by the Union which agreement requires Employer contributions to this Fund.

#### BOARD OF TRUSTEES

Section 2.01 - Number. The Trustees shall consist of three natural persons designated by the Union (herein called Employee Trustees), and three natural persons designated by the Association (herein called "Employer" Trustees). The present Employer Trustees are GEORGE L. WELSCH, MICHAEL C. CORRIGAN, and WILLIAM MEEH. The present Employee Trustees are DAVID C. ZIMMERMANN, STEVE KRAMER, and DENNIS WESTRAY.

Section 2.02 - Tenure. A Trustee shall serve until he dies, becomes incapable of acting hereunder, resigns, or is removed as herein provided.

Section 2.03 - Removal and Appointment of Trustees. The Union may remove an Employee Trustee at any time by a decision of the Business Manager of the Union. The Union by decision of the Business Manager shall designate a new Trustee to fill any vacancy among the Employee Trustees. The Union shall promptly notify all Trustees in writing of any removal or appointment by certification of the Business Manager.

The Association by resolution of its Board of Directors may remove an Employer Trustee at any time. It shall designate a new Trustee to fill any vacancy among the Employer Trustees. The Association by certification of its President or Secretary shall promptly notify all Trustees in writing of any removal or appointment.

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 Section 411 (a) of the Act stating a prohibition against persons convicted of certain crimes serving as Trustees during a stated disqualification period.

Section 2.04 - Resignation. Any Trustee may resign and become and remain fully discharged from all further duty or responsibility hereunder upon giving 30 days notice in writing to the remaining Trustees and to the party by whom he was appointed, or such shorter notice as the remaining Trustees may accept as sufficient; such notice should state a date on which the resignation shall take effect, and if it fails to do so, it should take effect at a date designated by the remaining Trustees; however, if a successor Trustee has been appointed and has accepted his Trusteeship in writing at an earlier date than that set forth in the notice of resignation, the resignation shall be deemed to have taken place at such earlier date.

Section 2.05 - Duty to Fill Vacancy. All vacancies in the position of Trustee must be filled within 60 days from the effective date of vacancy. At the end of 60 days any Trustee or Participant (or any party authorized to appoint a Trustee if that party itself is not in default in so appointing) may secure a mandatory injunction, or other equitable relief, to compel the party or parties failing to make the appointment to fill the vacancy.

Section 2.06 - Successor Trustees. Any Successor Trustee, named and appointed as herein provided, upon his acceptance in writing of the terms of this Trust Agreement as a Trustee, filed with the remaining Trustees, or the Fund's Administrative Manager (who shall so notify the remaining Trustees), shall be vested with all of the property and other rights, powers, and duties of a Trustee hereunder.

Section 2.07 - Power to Act During Vacancy. No vacancies in the office of Trustee shall impair the power of the remaining Trustees, acting in the manner herein provided in this Trust Agreement, to administer the affairs of the Fund.

Section 2.08 - No Compensation to Trustees. Persons serving as Trustees shall receive no compensation from this Fund for performance of their duties as Trustees. They shall be reimbursed out of the Fund for all reasonable and necessary expenses which they incur in the performance of their duties, as authorized by the Trustees; such expenses may include (but are not limited to) transportation, meals, lodging, registration fees, and incidental expenses for attendance at educational programs for Trustees.

Section 2.09 - Co-Chairmen and Secretary. The Trustees shall select two of their number to serve as Co-Chairmen, one to be an Employer Trustee and the other to be an Employee Trustee.

The term of office of each shall be for one year, or until a successor is selected; an incumbent may serve successive terms without limitation. The Co-Chairmen will alternate at presiding at meetings of the Trustees. A Secretary shall be appointed by the Trustees to keep records and minutes of all meetings and proceedings of the Trustees (or this function may be delegated to an Administrative Manager or other agent of the Trustees).

Section 2.10 - Meetings: Quorum and Voting.

(a) To constitute a quorum for the transaction of business, the presence of four Trustees, at least two of whom shall be Employer Trustees and two of whom shall be Employee Trustees, is required, except in cases where there are two vacancies in the office of either Employer Trustees or Employee Trustees, in which case the presence of the remaining such Trustee shall be counted as two for purposes of establishing quorum. Each Trustee present shall have one vote; a majority of votes cast shall determine the decision on any matter. If at any meeting the number of Employer and Employee Trustees present shall be unequal, then the votes of the Trustees from the group that is lesser in number shall be increased proportionately so that collectively they equal the same number of votes as those of the Trustees of the group that is greater in number; example: if three Employer Trustees are present and two vote for a motion and one against and two Employee Trustees are present one voting for and one voting against, the motion will carry by 3-1/2 votes for to 2-1/2 votes against.

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

(c) Absent a prohibition under the law or this Trust Agreement, the Trustees may ratify any matter not previously approved.

Section 2.11 - Deadlock of Board of Trustees.

(a) A deadlock shall be deemed to exist whenever a proposal, nomination, motion or resolution concerning this Fund made or proposed by any one of the Trustees is neither adopted nor rejected by a majority vote (that is, if there is a tie vote) and the maker of the proposal, nomination, motion or resolution notifies the remaining Trustees in writing that a deadlock exists.

(b) In the event of such deadlock arising, the Trustees shall meet for the purpose of agreeing upon an impartial umpire 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, on the petition of either group of Trustees, the District Court of the United States for the Eastern District of Missouri, Eastern Division shall appoint 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. If the Trustees cannot agree upon a joint submission of the issue to be arbitrated, each group of Trustees shall submit its version of the issue in writing to the umpire; the umpire shall determine the issue and state it in his decision. The reasonable compensation of such umpire and the reasonable expenses (including, without limitation, attorneys and reporter fees) incident to any proceedings instituted to break a deadlock shall be paid by the Fund (unless the Union and Association agree to other arrangements for payment).

Section 2.12 - Meetings: Time and Place. The Trustees may provide for regular meetings for which no notice need be given. Either of the Co-Chairmen or any two other Trustees, may call a meeting of the Trustees at any time by giving at least five days' written notice of the time and place thereof to each Trustee. Meetings of the Trustees may also be held at any time without notice if all the Trustees consent thereto, in writing before or after the meeting; written consent is not needed with respect to any person who actually attends the meeting. Written notices and consent include notices and consent by electronic means including, but not limited to, email.

Section 2.13 - Trustees May Act Without Meeting.

(a) The Trustees may act in any matter without the holding of a meeting by written consent of all of the Trustees, or in such manner as authorized (or ratified) by the Trustees.

(b) In the place of a meeting where the Trustees are physically present in the same room, the Trustees may meet by telephone or through other means of communication where all of the Trustees participating may concurrently hear or see, and respond to, all communications addressed to those participating. The rules for meetings, in Sections 2.10 through 2.12, shall apply.

Section 2.14 - Certification of Trustee Action. Action of the Trustees shall be certified by the signature of at least one Employee Trustee and one Employer Trustee, at least one of whom shall be a Co-Chairman or Secretary. The Trustees may provide for other methods of certification.

Section 2.15 - Limitation of Liability of Trustees. No Trustee shall be liable or responsible for his own acts or for any acts or defaults of any other fiduciary or party-in-interest or any other person except in accordance with applicable Federal law. To the extent permitted by law each of the Trustees shall be indemnified and held harmless by the Fund from all liability to which they, or any of them, may be subjected by reason of any action taken in the exercise of reasonable care in their official capacity as Trustee, including all expenses reasonably incurred in their defense.

Section 2.16 - Principal Office of the Fund. The principal office of the Fund is presently located at 2319 Chouteau Ave., St. Louis, Missouri, 63103; it may be changed by the Trustees. Its location is to be known to interested parties. At such office, and at such other place as may be required by law, there shall be maintained the documents and reports of the Fund required by law to be made accessible to Participants and Beneficiaries.

Section 2.17 - Status of Trustees Under Statutes. For the purpose of complying with Section 302(c)(5)(B) of the Labor Management Relations Act of 1947, the Employers shall be represented, in the administration of the Fund, by the Employer Trustees, and the participating Employees shall be represented by the Employee Trustees.

For the purpose of complying with various provisions of the Act, the Trustees shall be considered as "Named Fiduciaries", "Fiduciaries", the "Plan Administrator", and the "Plan Sponsor", as those terms are used in the Act [ERISA].

Effective January 1, 2000, all "settlor type" decisions of the Board of Trustees or the Board's delegatee, the Plan's Administrative Manager, are made as ERISA fiduciaries and are governed by the fiduciary provisions of ERISA absent a written motion approved by the Board of Trustees that the Board of Trustees or the Administrative Manager are acting in a settlor capacity in making such settlor decision. All reasonable and necessary expenses related to a "settlor type" decision made by the Board of Trustees or the Administrative Manager as ERISA fiduciaries shall be paid from Plan assets.

## CONTRIBUTIONS AND REPORTS

Section 3.01 - Employer Contributions. Employers shall make Employer contributions to the Fund only as required by the Union Agreement or any other agreement, to which the Employer is a party.

The Trustees shall be accountable only for payments actually received by them.

Section 3.02 - Reports and Employer Records.

(a) Each Employer shall prepare report forms for the Trustees as required by a Union Agreement or as may be required by the Trustees. Reporting forms are to be made available to Employers by the Trustees, upon request. The report is to state the name of each Employee for whom contributions are due, the Employee's social security number (or other approved ID number), wage rate, straight time and overtime hours of the Employee for which contributions are due, the Employee's wages for which contributions are due, and the amount of contributions due to the Fund for the period covered, together with any other information required by the report form.

(b) Employer shall furnish to the Trustees, upon request, such additional reports and information as may be necessary to the performance of the Trustees' duties under this Trust Agreement even though an Employer may be alleging that it has no current obligation to make any contributions to the Fund. Employer shall permit inspections of its payroll records of employees for whom contributions may be due at reasonable times by the Trustees, even though Employer may be contending contributions are not due. Payroll records include, but are not limited to, records of hours worked and wages paid, including records describing the work performed (which job); individual employee earning records; federal returns including Form 941 payroll returns, W-2's, W-3's, 1099's, and 1096's; monthly contribution reports for all employee benefit funds; cash disbursement records; pertinent personnel information such as start date, termination date; general ledger; record of any payments for leased employees; and, income tax return for the business (corporate return or, if employer is a DBA, the individual return).

Section 3.03 - When Payments and Reports Due.

(a) Payments into the Fund by Employers shall be made monthly, or more frequently if required by agreement with a Union, by the dates specified in a Union Agreement; if no date is specified in a Union Agreement, payments shall be made no later than the 10<sup>th</sup> day following the end of the month for which any contribution is due or at such date as the Trustees establish. Contributions shall be sent to the principal office of the Fund, unless some other place is designated by a Union Agreement or by the Trustees. Monthly report forms shall accompany contributions.

(b) Contributions may be directed to a common depository or agent, for this Trust Fund and other Trust Funds, if the Trustees of this Fund approve such an arrangement. In such event, this Trust Fund shall have a continuing property interest in the common remittance by an employer to the extent shown in the Employer monthly report, until such interest is received by this Fund.

Section 3.04 - Contributions for Employees Not Working Under a Union Agreement. With respect to any Employee or dependent of a deceased Employee whose initial or continued status as an Employee is not intended to be supported by contributions required by his work under the terms of a Union Agreement, the Trustees are to determine the amount of contribution required for coverage of any such person. The Trustees may change these amounts from time to time. The Trustees may terminate the coverage of persons not working under the terms of a Union Agreement because of delinquency in payment for such coverage, or for any other reason, in the discretion of the Trustees.

Section 3.05 - Authority to Collect Employer Payments and Other Obligations to the Fund. The Trustees have the power to demand, collect, and receive all contributions and other obligations due to the Fund, and may hold the same until applied to the ultimate purposes herein

provided. The Trustees may take such steps, including the institution or prosecution of or the intervention in, any proceeding at law or in equity or in bankruptcy, or otherwise, as may be necessary or desirable, in their opinion, to effectuate the collection of such contributions or other obligations. The Trustees may appoint an agent to receive contributions in the agent's name or in such name as the Trustees agree to.

Section 3.06 - Expenses of Collection. The Trustees may require the payment by an Employer of interest and liquidated damages (as provided in the applicable Union Agreement or as determined by the Trustees) and of other costs and expenses (including but not limited to fees of attorneys and accountants) incurred by the Trustees by reason of the delinquency of such employer in paying contributions or in filing reports.

Section 3.07 - Trustee Enforcement Rights Separate From Those of the Union. The rights of the Trustees to enforce any obligations to the Trust Fund as set forth in this Trust Agreement or in any Union Agreement, shall be in addition to and separate from any rights which the Union may have to enforce any of those same obligations. The exercise by the Trustees or by the Union of any of the various rights available to them for enforcement of such Employer obligations shall not constitute a waiver of the right to pursue any other remedy available to either the Trustees or to the Union under this Trust Agreement, any Union Agreement, or any law to enforce such obligations.

#### TRUSTEES DUTIES AND POWERS

Section 4.01 - Hold Fund in Trust. The Trustees shall receive Employer contributions, investment income, and any other money or property due to or belonging to the Fund and hold, manage and protect them in Trust for the uses and purposes set forth herein. The Trustees shall have general supervision of the operation of the Fund and shall conduct the business and activities of the Fund in accordance with this Trust Agreement and applicable law.

Section 4.02 - General Powers and Duties. The Trustees shall discharge their duties with respect to the Fund solely in the interest of Employees and Beneficiaries and -

1. For exclusive purpose of:
  - (i) Providing benefits to Participants and their Beneficiaries; and
  - (ii) Defraying reasonable expenses of administering the Fund;

2. With 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;
3. 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
4. In accordance with the documents and instruments governing the Fund, such as, this Trust Agreement, the Plan Document, and the Union Agreement, insofar as such documents and instruments are consistent with the provisions of the Act.

Section 4.03 - More Specific Powers and Duties. Specifically, but not by way of limitation, the Trustees are authorized:

1. Administrative Expenses. To pay all reasonable and necessary expenses of establishing and maintaining the Fund, collecting contributions or other monies due the Fund, and administering the affairs of the Fund, including (at the discretion of the Trustees) but not limited to employment of Administrative Manager and other agents or employees on a full or part-time basis, securing office space for the administration of the Fund, employing attorneys, accountants, actuaries, data processors, administrative organizations consultants, or other specialists, leasing or purchasing supplies, equipment, materials and services.
2. Benefits. To establish and maintain a Benefit Program in keeping with the provisions of Article V. Benefit payments may be directly from the Trust Fund or may be made in whole or in part through insurance companies or through other agents on behalf of the Fund.
3. Reserves. To establish and accumulate such reserve funds as the Trustees, in their discretion, deem necessary or desirable to accomplish the purposes of the Fund in accordance with law.
4. Other Expenses. To pay all reasonable and necessary authorized expenses incurred by any Trustee related to his trusteeship not specified in this Trust Agreement.

Section 4.04 - Deposit and Withdrawal of Funds and Securities. The Trustees shall deposit all monies received by them in such banks or financial institutions as they may designate for that purpose in the name of SMART Local Union No. 36 Welfare Fund. All withdrawals of funds, securities, or other property of the Fund from any bank or other party holding them, shall be made only upon written authority of all of the Trustees or upon written authority of such Trustee or other party, or in such other manner, as the Trustees authorize in writing.



Section 4.05 - Investment Authority.

(a) General Types of Investment. The Trustees may retain such amounts in checking accounts, without earning interest, as they deem necessary for payment of current benefits, expenses, or other obligations of the Fund. The Trustees shall invest and reinvest the remaining assets of the Trust in such securities or other investments as a reasonably prudent person would invest in, under applicable law for the investment of employee welfare trust funds, including but not limited to bank deposits of all kinds, savings and loan association share accounts or certificates, bonds and notes (whether secured or unsecured) of private and public obligors, mortgages, deeds of trust, real property, mutual fund shares, pooled investment trusts, common and preferred stocks, and other securities, and deposits or other contractual arrangements with insurance companies. The Trustees shall have the authority, with respect to any stocks, bonds or other property, real or personal, held by them as Trustees, to exercise all rights, powers and privileges, or to delegate them, as might be lawfully exercised by any person owning similar stocks, bonds and other property in his or its own right.

(b) Insurance Contracts. The Trustees may enter into a contract or contracts with an insurance company, or companies in order to fund all or part of the program and benefits to be provided thereunder, or such other basis as the Trustees may agree upon and may use available funds as premiums or deposits under any such contract or contracts.

(c) Fiduciary Bank Deposits. All or part of the Fund's assets may be invested in deposits which bear a reasonable interest rate in a bank or similar financial institution supervised by the United States or a State if such bank or other institution is a fiduciary of the Fund and if such type of investment is expressly approved by the Trustees or if such investment is at the direction of a party authorized by the Trustees to make investments for this Fund (other than such bank or institution or affiliate thereof).

Section 4.06 - Delegation and Allocation of Investment Functions. The Trustees, with respect to all or any part of the assets of the Fund, may appoint an Investment Manager or Managers to manage (including the power to acquire and dispose of) any assets of the Fund. No Trustee shall be liable for the acts or omissions of such Investment Manager, or be under an obligation to invest or otherwise manage any asset of the Fund which is subject to the management of any Investment Manager. Such Investment Manager must meet the requirements of Section 3(38)(B) & (C) of the Act.

Section 4.07 - Allocation and Delegation of Fiduciary Responsibilities. The Trustees may allocate fiduciary responsibilities and various administrative and other duties to committees of the Board of Trustees, and they may delegate or allocate such responsibilities and duties to one or more Trustees or other persons, in their sole discretion, to the extent permitted by the Act.

Such allocation or designation shall be by resolution at a meeting, or by written instrument approved by the Trustees.

Section 4.08 - Funding Policy Procedure. The Board of Trustees shall establish and carry out the funding policy requirements of the Act.

Section 4.09 - Committees of the Board of Trustees.

(a) Authority to Create Committees. The Board of Trustees may appoint committees, including but not limited to an Executive Committee, an Eligibility Committee, a Finance Committee, and an Employer Accounts Committee by resolution or written instrument of the Board of Trustees.

(b) Appointment of Committee Members. Each committee shall consist of an equal number of Employer and Employee Trustees, appointed and subject to removal at any time by the Board of Trustees. Appointment or removal shall be stated in a resolution of the Board of Trustees or by written instrument of the Trustees. A Committee member may resign by serving copies of his resignation upon all of the members of the Board of Trustees.

(c) Executive Committee. The Trustees may appoint an Executive Committee which will supervise the operation of the Fund between meetings of the Board. It shall formulate general or specific policies for consideration by the Board. It shall direct and advise the agents and employees of the Fund between meetings of the Board; it will take no action directly contrary to any Resolution or written instrument of the Board or in any area within the express authority of any other Committee of the Board of Trustees; it shall avoid action on other than routine or minor matters. It shall report its actions in writing, to the Board, or see that they become part of the minutes of the next meeting of the Board of Trustees, for ratification by the Board of Trustees. The Executive Committee shall also perform such other functions, duties and responsibilities as may be delegated or assigned to it by the Board of Trustees, to the extent permitted by law; any actions taken or duties performed under such allocation shall not be subject to ratification by the full Board, unless such allocation provides otherwise.

(d) Eligibility Committee. The Trustees may appoint an Eligibility Committee which shall formulate rules and procedures for the processing of applications for, and the determination of payment of, benefits and make appropriate reports and recommendations on these subjects to the Board. The Eligibility Committee is authorized to review any application for benefits with regard to eligibility and amount thereof (to the extent that determination of amounts does not rest with an insurance carrier) and make appropriate determinations with respect thereto. It shall conduct such reviews in accordance with the established claim review procedures of this Fund.

(e) Finance Committee. The Trustees may appoint a Finance Committee which shall review the investment policies of the Trustees and the activities of any Investment Managers which may have been appointed by the Trustees. It shall make appropriate recommendations to the full Board of Trustees on any matter entrusted to it.

(f) Employer Accounts Committee. The Trustees may appoint an Employer Accounts Committee which shall formulate policies and procedure in regard to the collection of delinquent payments and contributions due the Fund, and may settle claims concerning these matters. It shall collaborate with counsel and other agents of the Fund, in the administration of such policies and procedures and make appropriate reports and recommendations to the Trustees. It may authorize legal actions to collect accounts, to the extent that the Board of Trustees has not provided other authorization or procedures with respect to the initiation of such legal actions.

Section 4.10 - Administrative Manager or Managing Trustee. The Trustees may employ or contract for the services of a person or organization to be known as "Administrative Manager, or Managing Trustee" 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: 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 law; assist in the collection of contributions; perform such other duties or services as may be assigned, delegated or directed or contracted by or on behalf of the Trustees; be the custodian of all documents and other records of the Fund and of the Trustees.

All or any part of these functions may be assigned to one or more persons (or organizations) who do not have the title of Managing Trustee or Administrative Manager. The naming of functions above is not intended to limit allocation or delegation as to other functions not named.

Section 4.11 - Limitation of Trustee Liability - As to Agents and Others.

(a) Whenever, pursuant to this Trust Agreement, or other lawful procedures, the Trustees allocate or delegate any of their responsibilities or authority, to one or more other Trustees, a committee of Trustees, or to any other persons, the Trustees so allocating or delegating shall not be liable for any act or omission of such Trustees, committee of Trustees, or persons in carrying out such responsibilities and duties -- to the extent that such limitation of liability is permitted by law.

(b) Further, and not by way of limitation, the Trustees shall not be liable for the acts or omissions of any investment manager, attorney, actuary, accountant, or of any agent or employee employed by them in pursuance of this agreement, if such person 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 Corporate Trustee of any liability with regard to the performance of its employees.

(c) 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.

Section 4.12 - 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 persons involved;

(b) to keep property and securities registered in the names of the Trustees or of the Fund or in the name of any other persons duly designated by the Trustees to the extent permitted by the Act;

(c) 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;

(d) to enter into contracts with parties, Employees, Beneficiaries, and any other persons as the Trustees deem appropriate to carry out the purposes of the Fund and to carry out all the rights and duties of the Fund under such contracts. To settle any disputes which may arise under any such contract or any other business between the Fund and any other person.

(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;

(f) to sell, exchange, lease, convey, mortgage or dispose of any property, whether real or personal, at any time forming 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.

(g) to purchase, lease on a long term basis, or otherwise acquire such land and buildings, office furnishings, furniture and equipment, bookkeeping and recordkeeping equipment, systems and facilities, computers, and related items as the Trustees believe appropriate in carrying out their functions. Such arrangements may be made in conjunction with other Trust Funds, or other parties or the Trustees may make arrangements for leasing space, equipment or other facilities to other Trust Funds or other parties.

Section 4.13 - Defense of Lawsuit.

(a) The Union and Association recognize that individuals serving as Trustees perform needed and valuable service to the Participants, to the parties, and to the community for which they receive no monetary compensation. Therefore, it is intended that the assets of the Trust Fund shall be used to protect them from monetary liability for their good faith actions in their capacity as Trustees to the maximum extent permitted by law. Further, and not by way of limitation, the Trustees should be protected against liability when they rely upon the advice of counsel or other professionals. Any protection in this Trust Agreement for a Trustee is intended to apply to incumbent Trustees and former Trustees and to their personal representatives, heirs, and legatees.

(b) The Trustees are authorized to pay the expenses, including, but not limited to, attorneys fees, expert and other witness fees, court costs, accountant and clerical expenses reasonably necessary for defense in the event any lawsuit is filed against the Fund. They may also to the extent permitted by law, pay such defense expenses when one or more Trustees is named as a defendant, if it appears to the Board of Trustees that the Trustee (or Trustees) was acting in good faith. If there is a substantial question as to whether the Trustee (or Trustees) was acting in good faith, then the Board of Trustees may decline to authorize such defense expenditures, or may require security from the Trustee or Trustees before providing such defense to protect the Fund in the event that a court should rule that such defense may not be paid with Fund assets.

(c) In the event that the Trust Fund does not authorize defense for a Trustee who is sued, if the Trustee provides his own defense, or incurs any expense in his own defense unless a court finds that he should be personally liable, the Fund is authorized to reimburse him for all such reasonable expenses; if the matter is resolved, by settlement or otherwise, without a final court decision on this subject, then the Board of Trustees should determine whether the expenses shall be reimbursed based on their judgment of the matter. Such reimbursement is to be to the extent permitted by law.

Section 4.14 - General Broad Powers of Trustees. In addition to the powers and duties specifically set forth in this Trust Agreement, the Trustees shall have the additional powers and authority necessary to effectuate the purposes and provisions of the Trust Agreement that can be reasonably construed as being impliedly authorized under the Trust Agreement. In

exercising their powers and duties, the Trustees shall have discretionary authority in all matters pertaining to the administration of the Trust Fund.

Section 4.15 - Liability of Fund as Entity. No Trustee shall be personally answerable or liable for any liabilities or debts of the Fund, nor for the inability of the Fund to fulfill any contract or obligation. All liabilities and obligations of the Fund shall be paid by the Fund itself.

Section 4.16 - Bonding. The Trustees and persons handling funds of the Fund shall be bonded in such amounts as the Trustees deem appropriate, but the amount and form of bond must meet the minimum requirements of applicable law. The cost of bonding shall be paid by the Fund.

Section 4.17 - Insurance and Indemnification. 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 acts, errors, or omissions of such Trustee or Trustees, employees or agents, respectively, provided such insurance policy shall provide recourse by the insurer against fiduciaries as may be required by law; (2) with respect to injuries to the person or property of other persons; (3) with respect to the protection of buildings and equipment owned by the Fund against hazards of fire, theft, and natural disasters; (4) with respect to any policies of insurance required by law and (5) with respect to such other hazards to which the Trustees believe the property or records of the Fund may have exposure. The cost of the premiums for such policies of insurance shall be paid out of the Trust Fund.

The Trustees are authorized to enter into indemnity agreements and to provide insurance for the purpose of protecting the Contract Administrator of the Trust Fund, or other agents of the Trust Fund for the purpose of protecting them against liability for any negligence, acts or omissions for which they may be charged in connection with their position or duties for the Trust Fund.

Section 4.18 - Accountant. The Trustees shall engage one or more independent qualified public accountants, to perform an annual audit, and such other services as may be required by applicable law or which the Trustees deem appropriate. A copy of the audit report shall be furnished by the accountant to each Trustee, the Union and the Association and shall be available for inspection by interested persons at the principal office of the Trustees.

Section 4.19 - Recordkeeping, Reports and Information.

(a) Recordkeeping. The Trustees shall keep accurate books of account, records of Fund transactions, and records of their own actions (including actions taken at meetings of the Trustees and outside of meetings). The Trustees shall maintain the records for such periods as are required by law, or such longer periods as they deem appropriate and may make such provisions as they deem appropriate for microfilming or other reproduction or preservation or destruction of records.

(b) Reports required to be signed by any one or more of the Trustees, to the extent permitted by law, may be signed by such Trustee or Trustees as the Board of Trustees determines; in the absence of such determination, each such report shall be signed by at least one Employer and one Employee Trustee, one of whom should be a Co-Chairman or Secretary if they are available at the time signing is required.

(c) The Trustees shall take steps to provide information to Employees and Beneficiaries, as they deem appropriate, and as required by law.

Section 4.20 - Regulations. The Trustees shall have the power to adopt and promulgate such regulations as they deem necessary and proper. The Trustees may amend or rescind any regulation at any time. All regulations shall be binding on all parties hereto and all persons claiming any rights under this Trust Agreement.

Section 4.21 - Reliance on Documents.

(a) Reliance By Trustees. The Trustees, to the extent permitted by applicable law shall incur no liability in acting upon any instrument, application, notice, request, letter, telegram, or other paper or document believed by them to be genuine and accurate. Any Trustee, to the extent permitted by applicable law, may rely upon any instrument in writing purporting to have been signed or authorized by a majority of the Trustees, or as accurately stating actions taken by the Board of Trustees, when such instrument has been signed by a majority of the Trustees, or it has been executed as authorized by this Trust Agreement or by regulations or procedures established by the Board of Trustees.

(b) Reliance By Others. No party dealing with Trustees in relation to the Fund shall be obligated to see to the application of any money or property of the Fund or to see that the terms of this Trust have been complied with, or be obliged to inquire into the necessity or expediency of any acts of the Trustees, and every instrument executed by the Trustees shall be conclusive in favor of every person relying thereon: (1) that at the time of the delivery of said instrument the Trust herein created was in full force and effect; (2) that said instrument was executed in accordance with the terms and conditions contained in this Trust Agreement; and (3) that the Trustees are duly authorized and empowered to execute such instrument -- unless such person had actual knowledge that any of the matters referred to above was not true.

Section 4.22 - Lawsuits Involving Fund. Suits by or against the Fund may be filed in the name of SMART Local Union No. 36 Welfare Fund . Service of process upon the Fund may be achieved by serving the Administrative Manager or Managing Trustee, any other person that the Trustees designate for service of process, or as otherwise provided by law.

## BENEFIT PROGRAM

Section 5.01 - Benefits and Classes of Persons Covered. The Fund shall be used and applied to provide eligible Employees and their dependents with benefits in keeping with the purposes of this Fund as set forth in Section 0.01 (but not necessarily limited to the specific benefits mentioned in Section 0.01).

The Trustees may provide different kinds of benefit programs, or benefits in different amounts for different classes or categories of Employees or their dependents B for example, for retired Employees, dependents of deceased Employees, Employees for whom certain levels of Employer contributions are received, Employees working under different Union Agreements, or non-bargaining unit (contractor office) employees, etc. The form and amount of benefits, and classes of Employees or dependents eligible for any particular benefits are to be determined by the Trustees and may be changed from time to time pursuant to reasonable standards. The naming of the specific type of benefit or class or person is not intended to require the Trustees to provide, or to continue in effect, any particular type of benefit or to provide it for any particular class of persons.

Section 5.02 - Use of Independent Contractor. The Trustees may contract with one or more administrative agents, insurance companies, or other persons to provide all or any part of the administrative services or of the Benefit Program adopted by the Trustees; or, the Trustees may provide all or any part of the administrative services of Benefit Program by direct payment from the Fund without the use of any other such party.

Section 5.03 - Benefit Program - Eligibility B Loss of Coverage. The Trustees shall adopt a Benefit Program setting forth the benefits provided by the Fund and the persons eligible for each benefit. The Trustees may change or delete any aspect of the Benefit Program, both with respect to benefits provided, classes or persons covered and rules of eligibility, or any other matter including (but not limited to) termination of coverage in the event of delinquency in payment of contributions or for other reasons. Said Benefit Program shall be maintained to comply with all applicable laws such as the Health Insurance Portability and Accesibility Act (HIPAA), the Mental Health Parity and Addition Equity Act (MHPAEA), and the Affordable Care Act (ACA).



Section 5.04 - Insurance Policies. If the Trustees decide to provide any part of the Benefit Program through insurance, they may obtain such policies of insurance, in such forms, and in such amounts, with such provisions, and subject to such limitations and conditions, as the Trustees, in their sole discretion, may from time to time determine and shall from time to time determine eligible for benefits. 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 contracts or policies.

Section 5.05 - Plan Document for Benefits Not Provided By Insurance. The Trustees shall set forth, to the extent they are not contained in any insurance policy, eligibility rules for all parts of the Benefit Program and benefits to be provided in a written Plan Document, which may be amended at any time by the Trustees. In lieu of having a separate Plan Document, the Trustees may use the Summary Plan Description (SPD) as the total Plan Document describing the entire Benefit Program.

Section 5.06 - Multiple Benefit and Contribution Schedules. While it is intended that contributions to the Fund and benefits provided by the Fund are to be on a substantially uniform basis for the different classes of Employees and Participants, the Trustees may deviate from this principle when they deem it appropriate. For example, when a new employer or group of employers becomes party to this Fund, lower contribution rates may be permitted for a period of time than would otherwise be required for the level of benefits being provided and eligibility requirements may be temporarily waived or modified. For example the Trustees may set up different schedules of benefits for Employees working under different Union Agreements, for non-bargaining unit (contractor office) employees, or for working employers (owner members).

Section 5.07 - Optional Benefits Prohibited. No Employee, Beneficiary, or other person shall have the rights, privilege or option to receive, instead of the benefits provided by the Fund: (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.

Section 5.08 - Application for Benefits. Persons seeking benefits from the Fund shall submit written applications, in a form approved by the Trustees. Applicants for benefits shall provide

all information relative to their application for benefits required by the Trustees and shall cooperate fully in making information available to the Trustees in any investigation which the Trustees undertake concerning an application for benefits, including but not limited to: authorizing the Trustees to inspect and copy records of any hospital, clinic, government agency, employer or physician; authorizing the Trustees to inspect the records of the Division of Workmen=s Compensation with respect to any claims of a person for Workmen=s Compensation benefits; furnishing information on other insurance or third party benefits for which they may be eligible. If a person applying for the Trustees to process or investigate the application, the Trustees may deny the application, or make whatever disposition they feel is equitable under the circumstances.

Section 5.09 - Loss of Benefits for Misrepresentation or Failure to Pay Obligations to Fund.

(a) If an applicant for benefits knowingly falsifies or misrepresents any matter with respect to his application for benefits, the Trustees may deny all or any part of the application for benefits even though this may result in a loss to the applicant of all or part of the benefits to which he would have otherwise been entitled had he not falsified or misrepresented.

(b) Claims for benefits by any covered Employee or Beneficiary or a covered Employee may be reduced or offset to the extent that such person or Beneficiary (such as a dependent of an Employee) has any unpaid obligation due to the Fund.

Section 5.10 - Persons Entitled to Receive Benefits in the Event of Death. If the benefit in question is provided through an insurance policy, any death benefit shall be paid in accordance with the terms of that insurance policy. Otherwise, payment of any benefits due by reason of death, shall be paid in accordance with the terms of the Plan Document (SPD). With respect to any benefit, due by reason of the death of an Employee, or owing and unpaid at the time of the death of an Employee, where there is no clear provision indicating the party to whom any money due shall be paid, the Trustees, in their discretion may pay such amount to any one or more of the following: a person providing services to the deceased Employee, such as a doctor or hospital, or for funeral services and burial; a surviving spouse, surviving child; a surviving parent.

Section 5.11 - If the Beneficiary is a Minor, etc. If any benefit (not covered under the terms of an insurance policy) becomes due to a minor or incompetent, the Trustees, in their discretion may make such payment to a person or institution providing care for the minor or incompetent, even though such person is not a court appointed guardian. Payments made shall be a complete discharge of the Trustee=s obligation and the Trustees shall not be liable for the application of the money so paid.

Section 5.12 - Trustees Liable Only for Payment. The Trustees shall be fully discharged from all liability to an Employee, beneficiary, dependent, hospital, doctor, or to anyone else by payment in accordance with the terms of the Trust Agreement or Benefit Program. The Trustees shall be under no obligation to see to the distribution or application of any money so paid.

Section 5.13 -Amendment of Plan. The Plan may be amended by the Trustees in writing from time to time. The amendments may be prospective or may apply retroactively to the extent permitted by applicable law.

### TITLE AND RIGHTS TO FUND

Section 6.01 - Title or Interest. It is agreed that this Fund is a Trust created pursuant to Section 302(c)(5) of the "Labor Management Relations Act of 1947," as amended, and is intended to be in compliance with applicable provisions of the Internal Revenue Code and of the Act. The Title to all property in said Fund shall be vested in and remain exclusively in the Trustees of the Fund; no Employers, Employees, nor the Union, nor the Association, nor any person claiming by, through or under any of them, shall have any right, title or interest in, or to the Fund, or any part thereof, except such rights as conferred by the terms of the Trust Agreement.

Section 6.02 - No Creditor Rights.

(a) No benefits or money payable from this Fund shall be subject to any manner of anticipation, alienation, sale, transfer, assignment, pledge, encumbrance by any person claiming or entitled to benefits hereunder except as expressly permitted by the Trustees under the terms of this Trust Agreement or the Plan Document or by Regulation; nor shall any benefit payment nor the right to any benefit payment or any interest in this Fund be subject to seizure by any creditor of any person entitled to an interest herein under any execution, writ, or proceedings at law or in equity, except as expressly authorized by this Trust Agreement, the Plan Document, or by regulation adopted by the Trustees.

(b) In the event any attachment, garnishment, levy, or other legal process of any kind is served upon the Fund by any creditor of an employee or beneficiary claiming rights to any benefit due to an employee or beneficiary, the Trustees may withhold payment of the benefit until the creditor's attempt to secure the benefit has been quashed or otherwise withdrawn.

(c) IRS Levies. Notwithstanding the provisions of Paragraph (a) of this section, the Trustees are authorized to recognize and give effect to the extent of the present right of a Participant to any benefit or as otherwise required by law, to a levy or judgment of Internal Revenue Service.

Section 6.03 - Exclusive Benefit of Employees. It shall be impossible by operation of this Trust Agreement, by termination thereof, by power of revocation or amendment, by the happening of any contingency, by collateral agreement, or by any other means for any part of the corpus or income of the Fund to be used or diverted for purposes other than for the exclusive benefit of Employees, their dependents and their beneficiaries, except for the payment of reasonable expenses of administering the Fund.

Section 6.04 - Refund of Employer Contributions. In no event shall any Employer, directly or indirectly, receive any refund on contributions made to the Fund, except in case of a bona fide erroneous payment or overpayment of contributions in which case a refund shall be made to the extent permitted by law.

Section 6.05 - Limitation of Employer Liability. Upon payment of Employer Payments due the Trustees and the filing of related reports, an Employer's obligation to the Fund shall be fulfilled (except in cases where there are additional obligations by reason of delinquency in filing reports or in Employer Payments). The Employer shall not be obligated to see to the application of any funds of the Trust or to see that the terms of the Trust have been complied with.

Section 6.06 - The Fund Is Separate Entity From Union, Employers, and Associations. This Fund is a separate entity from the Union, Employers, and Association. Except to the extent authorized by the Board of Trustees, neither the Employers, the Union, the Association, nor any officer, representative or agent of any of these shall have any authority to act by or on behalf of the Fund and the Fund shall not be bound by, responsible for, or liable for any unauthorized acts by them. Conversely, the Union, the Employer, and the Association shall not be bound by, responsible for, nor liable for acts of the Trustees of the Fund or any agent of the Fund.

#### AMENDMENTS AND CONSTRUCTION

Section 7.01 - Amendments. The Trust Agreement may be amended in writing (including retroactive amendments) to any extent permitted by law at any time with approval of all of the Trustees or by the Union and the Association.

Trustee Amendments may be made by resolution at a meeting of the Trustees, or by writing signed by all of the Trustees. A Trustee not present at a meeting may indicate in writing his approval of an amendment either before or after a meeting. The Trustees will notify both the Union and the Association of any Amendments approved by the Trustees after their approval of an Amendment.

Section 7.02 - Governing Law. The Trust is created and accepted in the State of Missouri. All questions pertaining to the validity and construction of this Trust Agreement, the benefit plan, and of the acts and transactions of the Trustees or of any matter affecting the Fund shall be determined under Federal law where applicable Federal law exists; where no applicable Federal law exists the laws of the State of Missouri shall apply.

Section 7.03 - Separability Clause. Should any provision contained in this Trust Agreement, in the Plan Document, in any Regulation or in any Resolution of the Board of Trustees, be deemed or held to be unlawful, such illegality shall not adversely affect the other provisions herein and therein contained, unless such illegality shall make impossible or impracticable the functioning of such agreement, plan or program. No such provision shall be deemed or held unlawful unless so found by a Court or government body of competent jurisdiction.

Section 7.04 Gender and Number. Any reference to the masculine gender shall also include the feminine, and any reference to the singular may also apply to the plural, and vice versa, unless the context requires otherwise, or the result would be unreasonable.

Section 7.05 - Successors and Assigns. This Trust Agreement shall be binding upon the parties hereto, their successors and assigns, whether by merger, consolidation or otherwise.

Section 7.06 - Interpretation. The Trustees shall have the discretionary authority to construe this Trust Agreement, regulations, the Plan document, the Summary Plan Description, forms used by the Trust Fund, motions and other parts of the minutes of Trustees' meetings, resolutions of the Trustees, and all other documents and written materials used by or applicable to the Trust Fund. The Trustees' interpretation shall be binding on the parties hereto, Employees, their dependents and beneficiaries and all other persons.

#### TERMINATION OR MERGER

Section 8.01 - When Termination Occurs. The Fund created by this Trust Agreement shall cease and terminate upon the happening of any of the following events: (a) by mutual consent of the Union and Association in writing; (b) by unanimous agreement of the Trustees in writing if one year elapses during which there is no longer in force any Union Agreement requiring contributions to this Fund; (c) by unanimous agreement of the Trustees in writing in the event the Trust Fund shall, in the opinion of the Trustees, be inadequate to carry out the intent or 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, and no remedial action has been taken by the Union and Association within a reasonable period of time after such condition arises and after the Trustees have given the Union and Association notice of such condition in writing; (d) in the event there are no individuals living who can qualify as Employees hereunder; (e) in the event of termination as may be otherwise required by law.

Section 8.02 - Notice of Termination. Upon such termination, the Trustees shall notify the Employers, Association, Union, and all other necessary parties and shall continue as Trustees for the purpose of winding up the affairs of the Trust.

Section 8.03 - Method of Dissolution. In the event of the termination of this Fund, the Trustees shall liquidate the Fund in the manner hereinafter provided within a reasonable period of time. They shall pay or provide payment of all obligations of the Fund to creditors including the expenses of administering the termination of the Fund. After such allowance for expenses, the Trustees shall continue benefit programs (to the degree and for the time feasible considering the funds available and the benefit liabilities to be incurred, in the discretion of the Trustees) for the benefit of one or more classes of Employees and their dependents who were employed by contributing Employers or otherwise covered by the Fund at the date of termination of the Fund.

As part of the expenses of termination, the Trustees may secure insurance or bonding for indemnification to protect the Trust Fund, Trustees and their agents against claims of any kind which may arise after termination of the Trust.

Section 8.04 - Merger. By agreement of the Union, the Association and a majority of the Trustees, the Fund may be merged or consolidated with another trust established for similar purposes as this Fund, under terms and conditions agreeable to the respective Boards of Trustees, subject to the approval of the Union and the Association.

Section 8.05 - Reciprocity Agreements. The Trustees may enter into such reciprocity agreements, or similar agreements, with other Trust Funds providing similar types of benefits, as they determine to be in the interest of this Fund.

#### MISCELLANEOUS PROVISIONS

Section 9.01 - Employer Tax Deductibility. This Trust Agreement is subject to obtaining and retaining such approval of the Internal Revenue Service as the Employers and the Trustees may

find necessary to establish the deductibility for tax purposes of any and all payments made by Employers hereunder under applicable provisions of the Internal Revenue Code for which the Employers may be held liable. In the event Employers have any problem in this regard with tax deductibility, the Union and Association shall promptly meet to solve this problem, which solution may include retroactive Amendments to this Trust Agreement, or if necessary, to find some other system for providing the Employees with benefits equivalent to those provided herein.

Section 9.02 - Impossibility of Performance. To the extent permitted by law, neither the Employers, the Association, the Union, nor the Trustees shall be responsible for the validity of any insurance policy or undertakings of outside parties, nor for the failure on the part of any insurance company or outside party to make any payment or provide any benefit under any policy or contract, nor for the action of any party which may render such policy or contract unenforceable in whole or in part; nor shall they be responsible for any inability to perform or delay in performing any act occasioned by any restriction or provision of any insurance policy or contract or imposed by any insurance company or outside contracting party. In the event that it becomes impossible for the Trustees to perform any action, then such act as can be performed, which in the discretion of the Trustees most nearly carries out the intent and purpose of the Trust Agreement or of any benefit plan or program, shall be performed in lieu thereof; all parties to this Trust Agreement, employees, dependents and their beneficiaries, or any other party in any way interested therein, shall be bound by the act so performed by the Trustees under such conditions.

Section 9.03 - 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 9.04 - Judicial Settlements and Action By Trustees. The Trustees shall be entitled, at the expense of the Fund, at any time, to have a judicial settlement of their accounts, 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 actions 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 Fund and as to the distribution of assets belonging to the Fund. Any such determination, decision or judgment shall be binding upon all parties to, or claiming under, this Trust Agreement.

Section 9.05 - Employers May Act for Association. Should the Association be dissolved or cease to perform its functions hereunder for a period of 60 consecutive calendar days, after written notice to it by any of the Trustees or by the Union requesting performance of any such function, then notwithstanding anything to the contrary herein contained, whatever provision is made herein for action to be taken by the Association, the Employers may, take such action directly by majority vote of such Employers present at any meeting called by any five or more Employers or called by the Trustees, and notices required to be served hereunder on the Association may, in lieu thereof, be served on the Employers. Notice of the call of any such meeting shall be given in writing, by mail (including electronic mail) or delivery, to all Employers at least five days prior to the meeting and shall specify the time, purpose, place and date of the meeting.

Section 9.06 - Employers That Are Not Association Members. Any Employer that is not an original party to this Trust Agreement may become a party hereto by agreement with the Union to make contributions to the Fund, on the same basis as other contributing Employers. Any Employer, not a member of the Association who executes a Union Agreement or agrees with the Union to make contributions to the Fund or becomes a party signatory to this Trust Agreement, agrees and consents as follows: (a) That he is bound by this Trust Agreement, and any amendments which may be made to it as provided herein; and (b) that the Employer Trustees selected by the Association are acting for him as Employer in all matters pertaining to this Fund and that he is bound by their action.

Section 9.07 - Unauthorized Participation. The only individuals who shall be entitled to Participant in and receive benefits from the Fund are those meeting the definition of Employee in Section 1.04 of this Trust Agreement. It is assumed that Employers will submit contributions only on behalf of such employees. The receipt by the Fund of contributions which may be submitted on behalf of individuals who are not eligible to participate shall not prevent the Trustees from declining or terminating the participation of such individuals, and it shall not constitute a waiver of any of the provisions of this Trust Agreement by the Trustees.

#### DISPUTES, CLAIMS AND APPEALS

Section 10.01 - Reliance on Records. In any controversy, claim, demand, suit at law, or other proceeding between any Employee, 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 instrument on file with the Trustees, with a Union, or with an Employer, any facts certified to the Trustees by a Union, an Employer, or any party providing services (such as a hospital or doctor), any facts which are public records, and any other evidence pertinent to the issues involved.



Section 10.02 - Settlement of Disputes. The Trustees may in their sole discretion compromise or settle any claim or controversy in such manner as they deem best; any compromise or settlement of a claim or controversy shall be conclusive and binding on all persons interested in this Fund.

Section 10.03 - Claims for Benefits and Denial of Claims. All claims for benefits must be submitted to the Fund in writing in accordance with procedures established by the Trustees as set out in the Plan Document (and which are incorporated herein), except that where the Trustees have provided any benefit through an insurance policy, the procedures are to be established by the insurance company.

Section 10.04 - Appeals. All Appeals, 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 benefits by any Employee, Beneficiary, or any other person, or whether as to the construction of the language or meaning of any regulations, programs, documents, procedures, or policies of the Fund or of this Trust Agreement, or as to any writing, decision, instrument or accounts in connection with the operation of the Fund or otherwise must be presented to the Trustees for decision by the Trustees or a party designated by the Trustees.

If any Employee, Beneficiary, or other party (including but not limited to an heir or legatee) has any complaint with respect to any action (or failure to act) of the Trustees, whether for failure to pay all or part of a claim, or for any other matter whatsoever, an appeal must be filed with the Trustees through the Appeal Procedure established by the Trustees as set out in the Plan Document (and which are incorporated herein), except that where the Trustees have provided any benefit through an insurance policy, the procedures are to be established by the insurance company.

This Section shall not apply to any benefit or right to the extent which it is covered or purports to be covered by an insurance policy procured by the Trustees; the resolution of such matters shall be handled directly with the insurance company, rather than through the Trustees.

Section 10.05 - No Court Action: Exception. No action at law or in equity or otherwise, may be brought on any claim or other matter whatsoever against the Fund, the Trustees, or any of them, unless the Appeal Procedure has been followed. This provision, permitting court action, shall not be deemed to extend or reinstate any claim or cause of action which has expired under the time limits set forth in this Trust Agreement, or in any Plan Document or regulations of the Trustees or under any Statute if such time limit has already expired. This Section shall not apply to matters covered entirely, or purportedly covered, by the terms of any insurance policy procured by the Trustees where the action is brought against the insurance company and not the Trustees.

Section 10.06 - Representative of Appealing Party. Any right granted to the party appealing may be exercised by a representative who has been authorized by the appealing party to act on his behalf in connection with the appeal.

Section 10.07 -Discretionary Authority. The Board of Trustees and any person or persons designated by the Trustees to decide the appeal shall have discretionary authority to decide the appeal and, in matters pertaining to the appeal, to exercise the discretionary authority to interpret Plan documents.

The undersigned Trustees have approved this Restated Trust Agreement effective November 1, 2016.

So approved:

EMPLOYEE TRUSTEES

EMPLOYER TRUSTEES

\_\_\_\_\_  
David C. Zimmermann

\_\_\_\_\_  
George L. Welsch

\_\_\_\_\_  
Steve Kramer

\_\_\_\_\_  
Michael C. Corrigan

\_\_\_\_\_  
Dennis Westray

\_\_\_\_\_  
William Meeh

Trustees of Sheet Metal Local 36 Welfare Plan

LOCAL 36 SHEET METAL WORKERS  
ST. LOUIS CHAPTER, AFL-CIO

INTERNATIONAL ASSOCIATION,  
SHEET METAL AND AIR  
CONDITIONING CONTRACTORS  
ASSOCIATION

