

**AMENDED AND RESTATED**  
**TRUST AGREEMENT FOR THE**  
**INDIANA TEAMSTERS HEALTH BENEFITS PLAN**  
**AND THE**  
**INDIANA TEAMSTERS HEALTH BENEFITS FUND RETIREE PLAN**

**Trust for: Plan Numbers 501, 502**  
**Restated: Effective January 1, 2014**

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**AMENDED AND RESTATED OF THE  
TRUST AGREEMENT FOR THE  
INDIANA TEAMSTERS HEALTH BENEFITS PLAN AND THE  
INDIANA TEAMSTERS HEALTH BENEFITS FUND RETIREE PLAN**

THIS AMENDED AND RESTATED TRUST AGREEMENT for the Indiana Teamsters Health Benefits Plan and Indiana Teamsters Health Benefits Fund Retiree Plan (collectively "Plans") is made and entered into effective as of January 1, 2014, by and between certain Locals of the International Brotherhood of Teamsters (collectively "Union", as defined in Section 1.14 below), all Participating Employers (as defined in Section 1.4 below), and the Board of Trustees ("Trustees").

**PRELIMINARY INFORMATION**

Pursuant to an Agreement and Declaration of Trust ("Trust") effective September 28, 1960, by and between the Indianapolis Cleaners and Launderers Club, the Chauffeurs, Teamsters Warehousemen and Helpers Local Union No. 135, including any predecessor local, and certain individual trustees ("Trustees"), a health and welfare fund ("Trust Fund") was created to pay benefits provided under the Local 135 Welfare Plan ("Plan"). The Plan is maintained for the exclusive benefit of Employees of Participating Employers.

The authority to conduct the general operation and administration of the Plan is vested in the Board of Trustees who also serve as the Administrator for the Plan. The Union and the Participating Employers have each appointed four individuals to serve as trustees for the Trust as set forth herein. On June 9, 1995, the Trust was last amended and restated in its entirety, effective January 1, 1995. It has been amended four times since then.

Under Article 10 of the Trust, the Trustees have reserved the power and authority to amend the Trust from time to time as therein provided. The Trustees now desire to restate and

amend the terms of the Trust pursuant to this restated trust agreement ("Trust Agreement"), which serves as the funding vehicle for the Plan.

In addition, effective January 1, 2014, simultaneously with the adoption of this Amended and Restated Trust Agreement, the Trustees are amending the Indiana Teamsters Health Benefits Plan to spin off what was formerly known as the Indiana Teamsters Health Benefits Plan Retiree Program into a separate Plan to be known as the Indiana Teamsters Health Benefit Fund Retiree Plan ("Retiree Plan"). At the same time, the Trustees will adopt separate plan documents for the Retiree Plan, which will become Plan 502. The Retiree Plan will continue to be funded through this Trust Fund. This spin-off will create a second, separate plan for the exclusive benefit of Retirees, the general operation and administration of which will remain vested in the Board of Trustees, who will serve as the Administrator for the Retiree Plan. To accommodate establishment of the Retiree Plan as a separate plan, this Amended and Restated Trust Agreement will reorganize the Trust Fund to make it a master trust that funds both Plans.

WHEREFORE, it is desirable to amend the Trust and to further restate the same, as set forth herein.

## **1. DEFINITIONS**

**1.1. Administrative Manager.** An individual, firm, or corporation who shall, under the direction of the Trustees, administer the office or offices of the Trust Fund and of the Trustees, coordinate and administer the accounting, bookkeeping and clerical services, provide for the coordination of actuarial services furnished by a consulting actuary, prepare (in cooperation where appropriate, with an attorney, consulting actuary, and/or independent auditor) all reports and other documents to be prepared, filed or disseminated by or on behalf of the Trust in accordance with the law, assist in the collection of contributions required to be paid to the Trust Fund by Participating Employers, and perform such other duties and furnish such other services

as may be assigned, delegated or directed, or as may be contracted for, by or on behalf of the Trustees. Any Administrative Manager shall be the custodian of all documents and other records of the Trustees and the Trust Fund.

**1.2. Employee.** Any employee working for a Participating Employer as defined herein, with respect to whose employment the Participating Employer is required to make contributions into the Trust Fund.

**1.3. Participant.** Any Employee or former Employee of a Participating Employer who is or may become eligible to receive a benefit of any type from this Trust Fund or whose beneficiaries may be eligible to receive any such benefit.

**1.4. Participating Employers.** Any association or individual entity who has duly executed a collective bargaining agreement with the Union and who agrees to be bound by this Trust Agreement shall be a "Participating Employer." The term "Participating Employer" may also include, at the Trustees' discretion, the Union to the extent the Union desires to provide benefits under the Plans for employees of the Union. With respect to employees of the Union who provide services to the Indiana Teamsters Health Benefits Fund, the Trustees shall be deemed to be a Participating Employer within the meaning of this Trust Agreement and shall provide benefits for said employees out of this Trust, on the same basis as for other employees.

In addition, the term "Participating Employer" shall include employers participating in the Mid-States Teamsters Health and Welfare Fund at the time that fund merged into the Plan.

**1.5. Plan.** References in the Trust Agreement to the Plan shall mean the Indiana Teamsters Health Benefits Plan. The Plan, as amended from time to time, is incorporated herein by reference, and the terms herein shall have the meanings attributed to them in the Plan. The

Trustees shall not be bound by any Plan amendment until such amendment is adopted by the Trustees.

**1.6. Property.** The word "property" used in the Trust Agreement shall be deemed to refer to any property, real or personal, or part interest therein, wherever situated, including, but without being limited to, preferred and common stocks, shares of investment companies, bonds, notes, debentures, and mortgages, equipment trust certificates, investment trust certificates, interest in partnerships whether limited or general, or in any insurance contract, policy, annuity, or other investment media offered by an insurance company qualified to do business in the State of Indiana.

**1.7. Retiree.** Any former employee of a Participating Employer who has retired from said employment, and meets the eligibility requirements for coverage under the Retiree Plan.

**1.8. Retiree Plan.** References in the Trust Agreement to the Retiree Plan shall mean the Indiana Teamsters Health Benefits Plan Retiree Plan. The Retiree Plan, as amended from time to time, is incorporated herein by reference, and the terms herein shall have the meanings attributed to them in the Retiree Plan. The Trustees shall not be bound by any Retiree Plan amendment until such amendment is adopted by the Trustees.

**1.9. Plan Accounts.** The interest of each of the Plans in the Trust Fund. This separate account shall be maintained for accounting and reporting purposes only, and all assets of the Trust Fund shall remain available for the benefit of all Participants of the Plans at all times.

**1.10. Plans.** The plans for which the Trust Fund, pursuant to the Trust Agreement, holds assets. Currently, the Plans are the Plan and the Retiree Plan.

**1.11. Trust Fund.** References in the Trust Agreement to the Trust Fund shall mean the Indiana Teamsters Health Benefits Fund, and shall refer to all assets held by the Trustees in the Trust.

**1.12. Trust Year.** Trust Year means the calendar year, beginning on January 1 and ending on December 31.

**1.13. Trustees.** The Trustees designated in this Trust Agreement, together with their successors and at the Trustees' discretion, any additional Trustees designated and appointed in accordance with the terms of this Trust Agreement. The Trustees, collectively, shall be the "administrator" of the Plans as that term is used in the Employee Retirement Income Security Act of 1974 ("Act"). The Trustees, collectively shall also be the "Named Fiduciaries" of the Plans as that term is used in the Act.

**1.14. Union.** The union locals that, through a duly executed collective bargaining agreement with one or more Participating Employers, have agreed to be bound by the Trust Agreement shall be collectively referred to as the Union.

## **2. TRUST ADMINISTRATION.**

**2.1. Trust Fund.** The Trustees shall receive and accept for the purposes hereof all property paid to them by or at the direction of any applicable collective bargaining agreement between the Union and any Participating Employer. The Trustees shall hold such property as a commingled fund in which the Plans each shall be deemed to have a proportionate undivided interest. To the extent an asset or charge is identified by the Trustees as allocated to a particular Plan, the Trustees shall allocate such asset or charge to the Plan Account. The Trustees shall hold, invest, reinvest, manage, administer, and distribute property and the increments, proceeds, earnings, and income thereof for the exclusive benefit of the Participants and beneficiaries under the Plans. All assets held by the Trustees in the Trust are referred to herein as the "Trust Fund."

**2.2. Funding Policy.** The funding policy of the Plans shall be determined by the Trustees.

**2.3. Cash Needs.** The Trustees shall from time to time determine the cash requirements of the Plans.

**2.4. Unclaimed Benefit Payments.** If any check in payment of a benefit hereunder which has been mailed by regular United States first-class mail to the last address of the payee furnished to the Trustees by the payee is returned unclaimed, the Trustees shall notify the payee, and/or the Participating Employer if applicable, and shall discontinue further payments to such payee unless and until it receives further instructions.

**2.5. Duty to Furnish Information.** Both the Participating Employers and the Trustees shall furnish to the other any documents, reports, returns, statements, or other information that the other reasonably deems necessary to perform duties imposed under the Plans or the Trust Agreement or otherwise imposed by law.

**2.6. Withdrawal from the Plans.** In the event that a Participating Employer withdraws from the Plan and ceases making contributions to the Trust Fund on behalf of its Employees, but continues any type of group health coverage thereafter, as of the date of such withdrawal, and the date said contributions cease, any Employees, Retirees, or Participants of the Participating Employer shall no longer be eligible to participate in the Plans. In the event that a Participating Employer withdraws from the Plans and ceases making contributions on behalf of its Employees, but does not continue any group health coverage for its Employees thereafter, the Trustees shall have the power, in their sole discretion, to determine the right of any Retirees to coverage under the Retiree Plan. Nothing in this paragraph shall affect the rights of any Employee, Retiree, or Participant under the Consolidated Omnibus Budget Reconciliation Act of 1989 ("COBRA").

**2.7. Non-Union Employee Participation.** Within the Trustee's discretion, non-Union employees of Participating Employers may participate in the Trust if:

(a) The Employer of the non-Union employee is a Participating Employer as defined herein;

(b) The Participating Employer signs a Participation Agreement in the form required by the Trustees, obligating the Participating Employer to make contributions to the Trust on behalf of the non-Union employee(s); and

(c) Contemporaneously to signing the Participation Agreement, the Participating Employer provides a list detailing the name and title or position of the non-Union employees for whom the Participating Employer is obligated to make contributions to the Trust.

### **3. CONTRIBUTIONS TO THE FUND.**

**3.1. Rate of Contribution.** In order to effectuate the purposes of this Trust, each Participating Employer, and, if applicable, each Participant, shall contribute to the Trust Fund the amount required by the appropriate collective bargaining agreement and/or agreement with the Trustees. The rate of contribution for Participating Employers and active Participants shall at all times be governed by the aforesaid agreements then in full force and effect, together with any amendments, supplements or modifications thereof. The rate of contribution for Retirees shall be established from time to time by the Trustees in their sole discretion, pursuant to the terms of the Retiree Plan.

**3.2. Mode of Payment.** The Trustees shall have the power to specify the exact time and manner in which the payment of contributions to the Trust Fund are to be made, and shall be required to notify the contributing Participating Employers, and Retirees, if applicable, in writing, of these requirements.

**3.3. Delinquent Contributions.** The Trustees, or any duly appointed Administrative Manager when directed by the Trustees, may take any action necessary to enforce payment of the contributions due hereunder, including but not limited to, the right to file law suits, to collect said contributions. The Trustees are hereby authorized to add to the contributions of any delinquent Participating Employer, liquidated damages, for failure to make prompt payments to the Trust Fund as provided for herein and in the respective collective bargaining agreements; and the Trustees are hereby further authorized to collect such liquidated damages, when assessed, in the same manner as for the collection of contributions. The Trustees may adopt rules and regulations with additional details as to delinquent contributions and liquidated damages. It is further expressly agreed and understood that the Trustees may require any employer who has been delinquent to make advance guarantee deposits upon such terms as the Trustees, from time to time, shall set forth, to insure prompt payment of the agreed upon contributions.

**3.4. Report of Contributions.** The Participating Employers shall make all reports of contributions required by the Trustees. The Trustees may at any time have an audit conducted by a qualified representative designated by the Trustees of the payroll and wage records of any Participating Employer in connection with the contributions and/or reports, and the Participating Employer shall make available to such qualified representative designated by the Trustees all payroll, wage or other records necessary to the effectuation of such audit.

**3.5. Responsibility of Participating Employers.** A Participating Employer shall be responsible only for his own contributions and those of his Employees (if applicable) and shall not be responsible for those of any other Participating Employer, except as otherwise provided by law.

#### **4. DISBURSEMENTS FROM THE TRUST FUND.**

**4.1. Trust Payments.** The Trustees shall make payments from the Trust Fund to Participants, their beneficiaries, their medical providers, and such other persons as the Trustees may direct from time to time. Such payments shall be made in such manner, in such amounts, and for such purposes, including the payment of benefits due under the documents governing the Plans, and the payment of expenses of administration of the Plans, as may be specified in the directions of the Trustees. The Trustees shall ensure that any payment directed under this Section conforms to the provisions of the applicable documents governing the Plans, the Trust Agreement, and the provisions of any applicable law. Payments by the Trustees shall be made by its check (or the check of its agent) to the order of the payee. The Trustees shall not incur any liability or other damage on account of any payments or other distributions made by it in accordance with the applicable Plan.

**4.2. Taxes and Expenses.** The Trustees shall pay from the Trust Fund all expenses of the Trust and any real and personal property taxes, income taxes, and other taxes levied or assessed under existing or future laws against the Trust Fund.

#### **5. POWERS AND DUTIES OF THE TRUSTEES.**

**5.1. Exercise of Powers and Authority.** The Trustees, in administering the Trust, shall have such power and authority (including discretion with respect to the exercise of that power and authority) as may be necessary, advisable, desirable, or convenient to the Trustees, in their sole discretion, subject to the provisions of this Trust Agreement, including the power and authority:

(a) to construe and interpret the terms of the Plans, to make eligibility determinations, to establish policies and rules pursuant to which the Trust Fund and the Plans are established and administered, and to make any other decisions with respect to benefits under the Plans;

(b) to invest and reinvest all assets of the Trust;

(c) to purchase insurance in any amount for the purpose of insuring any or all benefits provided for in the Plans;

(d) to acquire, by purchase, exchange, subscription, or other means, any securities or other property and to retain those securities or other property in trust; provided, however, the Trustees shall not maintain the indicia of ownership of any Trust assets outside the jurisdiction of the district courts of the United States except as permitted by regulations issued by the United States Secretary of Labor;

(e) to sell at public or private sale for cash or on credit, convey, lease for long or short term, or convert, redeem, exchange, or abandon all or any part of the Trust Fund;

(f) to hold part or all of the Trust Fund uninvested as may be appropriate to provide reasonable liquidity for the Trust;

(g) to contract, give options, or make guaranty and indemnification agreements;

(h) to adjust, settle, contest, compromise, or arbitrate any controversy, claims, debts, or damages due or owing to or from the Trust; and to sue, commence, or defend any legal proceeding in reference thereto;

(i) to take, renew, extend, foreclose, or otherwise deal with any mortgage or other security; to reduce interest on obligations held by it; to bid in property foreclosure, and to take deeds in lieu of foreclosure, with or without paying a consideration therefor;

(j) to exercise itself, or by general or limited power of attorney, or refrain from exercising any right, including the right to vote, incident to any securities or other property held by it;

(k) to register any Trust assets in its own name, in the name of its agent, or in the name of a nominee or to hold any instrument in bearer form (but the books and records of the Plans shall at all times show that such investments are part of the Trust Fund);

(l) to retain, manage, operate, repair, improve, and mortgage or lease for any period, any real estate held by the Trustees;

(m) to borrow or raise funds for purposes of the Trust and, for any sums so borrowed, issue its promissory note or notes as Trustees (but without liability on the individual Trustees) and secure the repayment thereof by pledging all or any part of the Trust Fund, except insurance and annuity contracts; provided, however, that no person lending money to the Trustees shall be bound to see to the application of the money loaned or to inquire into the validity, expediency, or propriety of any such borrowing;

(n) to organize corporations and create trusts under the laws of any state for the purpose of acquiring and holding title to any securities or other property that it is authorized to acquire under the Trust Agreement and to exercise with respect thereto the powers set out in this Trust Agreement;

(o) to consult with and rely on the advice of legal counsel;

(p) to engage one or more independent qualified accountants to perform all services as may be required by law or deemed necessary by the Trustees;

(q) to employ suitable agents in furtherance of its duties hereunder;

(r) to make, execute, acknowledge, and deliver any and all instruments necessary or appropriate to carry out the powers herein granted;

(s) to collect any and all money and other property due to the Trust and to issue full discharge therefor;

(t) to consent to or participate in a reorganization, recapitalization, consolidation or merger;

(u) to exercise generally any of the powers of an owner with respect to all or any part of the Trust Fund;

(v) to take all actions consistent with this Trust Agreement necessary or appropriate to administer or carry out the purposes of the Trust and the Plans; provided, however, the Trustees need not take any action unless in its opinion there are sufficient Trust assets available for the expense thereof or provision is first made for its indemnification;

(w) to appoint, employ, or contract with an Administrative Manager to act at the direction of the Trustees;

(x) to form committees of the Board of Trustees to perform specified functions of the Trustees, including but not limited to a Finance Committee and an Appeals Committee. Each committee shall consist of an equal number of Employer Trustees and Union Trustees, but consist of less than the full Board of Trustees. The Board of Trustees shall have the power to name original and replacement members of any committee; and

(y) to consider and take any and all actions the Trustees deem appropriate to accept another multi-employer trust as a merger into this Trust. This shall include, but not be limited to, executing any merger agreements or other documents the Trustees determine are appropriate.

**5.2. Resolution of Disputes Regarding Trust Administration.** In the event that the Trustees deadlock on the administration of the Trust Fund and there is no neutral person empowered to breach such deadlock, the Trustees shall agree upon an impartial umpire to decide the dispute. In the event of their failure to agree within a reasonable length of time to an impartial umpire to decide such dispute, upon the petition of either the Union Trustees or the

Employer Trustees, an impartial umpire shall be appointed by the District Court of the United States for the district where the Trust Fund has its principal office or the United States District Court for the Southern District of Indiana.

**5.3. Investment in Insurance Contracts.** The Trustees may invest all or a portion of the Trust Fund pursuant to one or more agreements with insurance companies qualified to do business in the State of Indiana. Any portion of the Trust Fund invested pursuant to such an agreement may be held by the insurance company.

**5.4. Investment Policy.** The Board of Trustees shall establish and carry out an investment policy and method for the assets of the Plans subject to its direction and management which is consistent with the objectives of the Plans and the requirements of ERISA. At least annually, the Trustees shall review the investment policy and methods. The Trustees shall make investments consistent with the investment policy and the cash requirements of the Plans.

**5.5. Prohibited Transactions.** The Trustees shall not engage in any action or make any investment that would violate ERISA, the Code, or any other applicable law. Notwithstanding anything in the Plans or the Trust Agreement to the contrary, the Trustees shall not be required by the Union or any Participating Employer to engage in any action, or to make any investment which is contrary to law or to the terms of the Plans or the Trust Agreement.

**5.6. Authority of Individual Co-Trustees.** In the case of individual co-trustees, any action to be taken by the Trustees shall only be taken upon the authorization or vote of a majority of such individual co-trustees, which authorization or vote must be in writing signed by a majority of such individual co-trustees; provided, however, the co-trustees may delegate a particular function, power, or authority, to an individual co-trustee by written authorization signed by all of the individual trustees. When such action is so authorized by individual

co-trustees, no person dealing with the Trustee shall be required to make inquiry as to the authority of the Trustee to do any act hereunder. Any such person shall be entitled, conclusively, to assume that the Trustee is properly authorized to do any act which the Trustee purports to do hereunder, and any such person shall be under no liability to any person, whomsoever, for any act done hereunder pursuant to such written direction of the Trustee. When such action is so authorized by individual co-trustees, any such person may conclusively assume that the Trustee has full power and authority to receive and give receipt for any money or property becoming due and payable to the Trustees, and no such person shall be bound to inquire as to the disposition or application of any money or property paid or delivered to the Trustee, or paid or delivered in accordance with such written direction of the Trustees.

**6. ACCOUNTS OF THE TRUSTEES - RECORDKEEPING AND VALUATION.**

The Trustees shall maintain or cause to be maintained suitable records, data, and information relating to their responsibilities hereunder. The Trustees shall keep accurate and detailed accounts of all investments, receipts, disbursements, and other transactions hereunder.

Within sixty (60) days after the close of each Trust Year, and at more frequent intervals if agreed to by the parties hereto, the Trustees shall render a written account showing in reasonable summary form the investments, receipts, disbursements, and other transactions engaged in during the preceding Plan Year or fiscal period, and setting forth the assets and liabilities of the Trust. Such account shall be open to inspection during regular business hours for a period of sixty (60) days immediately following the date on which the account is finalized and notice is given to Participating Employers. Except as may be otherwise provided in ERISA, upon the expiration of such sixty (60) day period, the Trustees shall be forever released and discharged from all liability and accountability to anyone with respect to the propriety of acts and transactions shown in such

account, except with respect to any such acts or transactions as to which a Participating Employer has filed written objections with the Trustees within such sixty (60) day Period.

The Trustees shall determine the fair market value of the Trust Fund as of the close of business on the last business day of the Plan Year. Nothing contained in the Trust Agreement or in the Plans shall deprive the Trustees of the right to have a judicial settlement of its accounts. In any proceedings for a judicial settlement of the accounts of the Trustees or for instructions in connection with the Trust, the only necessary parties thereto, in addition to the Trustees, shall be a Participating Employer. No Participant or other person having or claiming any interest in the Trust Fund shall be entitled to any notice of service of process (except as required by law). Any judgment, decision, or award entered in any such proceeding or action shall be conclusive upon all interested persons.

**7. LIMITATIONS OF RESPONSIBILITY AND INDEMNIFICATION.**

The Trustee's responsibilities and liabilities shall be subject to the following limitations, to the extent permitted by ERISA:

(a) The Trustees shall have no duties other than those expressly set forth in this Trust Agreement or the Plans and those imposed on the Trustees by ERISA or other applicable laws.

(b) The Trustees shall be responsible only for money and property actually received by the Trustees. The Trustees shall not be responsible for any insurance contracts or policies issued by an insurance company.

(c) The Trustees shall not be required to give any bond or other obligation to secure the due performance of the Trust by it, unless required by law.

(d) No successor Trustees shall in any way be liable or responsible for anything done or committed in the administration of the Trust prior to the date they become a Trustee.

(e) The Trustees shall not be liable for the acts or omissions of any investment manager, attorney, agent or assistant, employed by them in pursuance of this Agreement, if such investment manager, attorney, agent or assistant was selected pursuant to this Trust Agreement and such person's performance was periodically reviewed by the Trustees who found such performance to be satisfactorily provided.

**8. RELIANCE ON COMMUNICATIONS.**

The Trustees shall be fully protected in acting upon any instrument, certificate, or paper of a Participating Employer believed by it to be genuine and to be signed or presented by any authorized person. The Trustees shall be under no duty to make any investigation or inquiry as to any statement contained in any such writing but may accept the same as fully authorized.

The Trustees may rely on any instrument in writing purporting to have been signed by a majority of the Trustees as conclusive evidence of the fact that a majority of the Trustees have taken the action stated to have been taken in such instrument.

**9. APPOINTMENT, RESIGNATION, AND REMOVAL OF TRUSTEES.**

**9.1. Appointment of Trustees.** The Fund shall be jointly administered by Trustees selected by the Participating Employers and by the Union, with the number of Employer Trustees being at all times equal to the number of Union Trustees. At the time of execution of this restated Trust Agreement, that number of Trustees for each the Union and the Participating Employers is four (4) for a total of eight (8) Trustees, but at their discretion, the Trustees may increase that number to five (5) for a total of ten (10) Trustees. The Trustees shall retain the power to reduce that number at any time, so long as the number of Union Trustees and Employer Trustees remains equal at all times. The Union Trustees shall serve as representatives of the employees and the Employer Trustees shall serve as representatives of the Participating Employers.

In general, the Employer Trustees shall be appointed by the Participating Employers, and the Union Trustees shall be appointed by the Executive Board of the Union Effective as of April 30, 2004, as a result of the merger between the Fund and the Teamsters Joint Council 69 Construction and Materials Division Health and Welfare Fund, four (4) additional Trustees were be appointed to serve as Trustee for the Fund. The President of Joint Council 69 appointed two (2) Union Trustees, and Indiana Constructors, Inc. shall appointed two (2) Employer Trustees.

All Trustees shall serve pursuant to the terms of this Agreement and their terms shall continue until such Trustee's resignation pursuant to Section 9.3 or removal pursuant to Section 9.4 or 9.5. Upon the resignation or removal of any Union Trustee, a successor trustee shall be appointed by the Executive Board of the Union. Upon the resignation or removal of any Employer Trustee, a successor trustee shall be appointed by the Participating Employers in whatever manner they deem appropriate, provided, however, that the Indiana Constructors, Inc. shall retain the right to appoint two (2) Employer Trustees.

If a Trustee shall die, become incapable of acting as such, resign or be removed, a successor Trustee shall be immediately appointed by the Participating Employers or the Union, whichever had appointed the predecessor Trustee. In the event that the number of Union Trustees and Employer Trustees become unequal, for up to 90 days, the group with the additional Trustee or Trustees shall disqualify from acting or voting a sufficient number of Trustees so that the number of voting Employer and Union Trustees shall always remain equal. Thereafter, in the event that the number of Union Trustees and Employer Trustees remains unequal for more than 90 days without the appointment of a sufficient number of successor trustees to render the two sides equal, then one or more trustees from the side with the greater number of trustees shall be

removed by the applicable appointing party until such time as a sufficient number of additional successor trustees are appointed to render the two sides equal.

**9.2. Acceptance of the Trust by Trustees.** The Trustees and each co-trustee hereby accept the trust under the Trust Agreement.

A subsequently appointed Trustee shall execute a written acceptance in a form satisfactory to the Trustee and consistent with the Act and thereby shall be deemed to have accepted the Trust created and established by this Trust Agreement and to have consented to act as Trustee and to have agreed to administer the Trust Fund as provided herein. Such written acceptance shall be filed with the other Trustees.

**9.3. Resignation of Trustee.** Any individual co-trustee may resign at any time on thirty (30) days' notice in writing to the Board of Trustees, or such shorter notice as the remaining Trustees accept as sufficient. Any individual co-trustee may be removed by the Board of Trustees at any time upon sixty (60) days' notice in writing to the individual co-trustee. Upon such resignation or removal of an individual co-trustee, the Union or the Participating Employers (whichever appointed the departing trustee) shall appoint a successor co-trustee who shall have the same powers and duties as those conferred upon the Trustees hereunder. The resignation of a Trustee shall take effect on the date specified in the notice of resignation, unless a successor Trustee is appointed at an earlier date, in which case the resignation shall take effect immediately upon the appointment of the successor Trustee. The resigning Trustee shall become and remain fully discharged from any liability for anything occurring after the effective date of their resignation.

**9.4. Removal of Trustee.** Each Trustee shall serve at the pleasure of the respective group which he represents, but no group shall have the right to remove a Trustee without a

successor being simultaneously designated. In order to remove a Trustee, the appointing group must notify the affected Trustee and all the other Trustees in writing of such action and must also, in the same letter, notify the Trustees of the successor Trustee.

**9.5. Removal of Trustee by Trustees (Violation of Act).** The Board of Trustees shall initiate action to cause the removal of any fellow member Trustee who may be serving as a Trustee in violation of the Act. The vacancy or vacancies caused by such a removal shall be filled in accordance with Section 9.1 of this Article.

## **10. AMENDMENT.**

**10.1. Amendment of Trust Agreement.** This Trust Agreement may be amended by majority vote of the Trustees provided that such amendment shall be duly executed in writing by a majority of the Trustees at any time or from time to time and in any manner, subject to the terms and conditions of any applicable collective bargaining agreements, the Plans, and applicable law.

**10.2. Amendment of Plan.** The Plans may be amended in writing from time to time by a majority vote of the Trustees as provided in the applicable Plan documents.

## **11. TERMINATION.**

This Trust Agreement and the Trust created hereby may be terminated at any time by the Trustees, and upon such termination the Trust Fund shall be paid out by the Trustees after the settlement of its final account. Notwithstanding the foregoing, the Trustees shall not be required to pay out any assets of the Trust Fund upon termination of the Trust until the Trustees have determined (i) that all provisions of law with respect to such termination have been complied with; and (ii) after the Trustees have made a determination of the fair market value of the assets of the Plans, that the assets of the Plans are sufficient to discharge when due all obligations of the Plans required by law.

## **12. MISCELLANEOUS.**

**12.1. Construction and Governing Law.** This Trust Agreement shall be construed, enforced, and administered and the validity thereof determined in accordance with the Code, ERISA and, when not inconsistent with ERISA or the Code, the laws of the State of Indiana. If any provision of the Trust Agreement is held to violate the Code or ERISA or be illegal or invalid for any other reason, that provision shall be deemed to be null and void, but the invalidation of that provision shall not otherwise affect the Plans or Trust.

Words used herein in the masculine gender shall be construed to include the feminine gender, where appropriate, and words used herein in the singular or plural shall be construed as being in the plural or singular where appropriate. The headings and subheadings in this Trust Agreement are inserted for convenience of reference only and are not to be considered in the construction of any provision of the Trust Agreement.

In resolving any conflict among provisions of this Trust Agreement and in resolving any other uncertainty as to the meaning or intention of any provision of this Trust Agreement, the interpretation that (i) causes the contributions of any Participating Employer to the Trust to be deductible for federal income tax purposes, and (ii) causes the Plans and Trust to comply with all applicable requirements of ERISA and the Code, shall prevail over any different interpretation.

**12.2. No Reversion.** Except as provided in this Section, no portion of the principal or the income of the Trust Fund shall revert to the Union or any Participating Employer, or ever be used for or diverted to any purpose other than for the exclusive benefit of participants in the Plans and persons claiming under or through them pursuant to the Plans; provided, however, that if a contribution or any portion thereof is made by a Participating Employer by a mistake of fact, the Trustees shall, upon written request of the Participating Employer, return such amounts as

may be permitted by law to the Participating Employer, within one (1) year after the date of payment to the Trustees.

**12.3. Non-Alienation of Benefits.** No benefit under the Plans may be assigned or alienated except as may be provided under the Plans or under the Trust Agreement, or as required by law.

**12.4. Duration of Trust.** Unless sooner terminated, the Trust created under the Trust Agreement shall continue for the maximum period of time permitted by the laws of the State of Indiana.

**12.5. No Guarantees.** Neither the Union nor the Trustees guarantees the Trust Fund from loss or depreciation, or the payment of any amount which may become due to any person under the Plans or the Trust Agreement.

**12.6. Parties Bound.** This Trust Agreement shall be binding upon the parties hereto, all Participating Employers and all Participants in the Plans, including persons claiming under or through them pursuant to the Plans, and, as the case may be, the heirs, executors, administrators, successors, and assigns of each of them.

**12.7. Necessary Parties to Disputes.** Necessary parties to any accounting, litigation, or other proceedings relating to the Trust Agreement shall include only the Trustees, and the Union or a Participating Employer. The settlement or judgment in any such case in which the Trustees are duly served or cited shall be binding upon all Participants in the Plans and their beneficiaries and estates, and upon all persons claiming by, through, or under them.

**12.8. Severability.** If any provisions of the Trust Agreement shall be held by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions of the Trust Agreement shall continue to be fully effective.

**12.9. Supersession.** The terms of the Trust Agreement shall supersede any previous agreement between the parties pertaining to the Trust.

**12.10. Acceptance of Trust.** The Trustees and each co-trustee hereby accept the trust under the Trust Agreement.

**12.11. Counterparts.** This Trust Agreement may be executed in one (1) or more counterparts, each of which shall constitute an original.

**12.12. Effective Date and Provisions.** This amended and restated Trust shall become effective and binding on all Participating Employers and the Union at the time that it is executed by the Trustees. All Employers who enter into collective bargaining agreements requiring contributions to this Trust Fund, by the execution of said agreement, also agree to sign a "Participation Agreement," in a form to be approved by the Trustees, signifying their participating in this Trust Fund. By signing a collective bargaining agreement requiring participation in this Fund and/or by signing a "Participation Agreement," an Employer thereby accepts and ratifies all provisions of this Trust Agreement and all actions that have been taken by the Trustees hereunder; said Employer also accepts and designates as his representative the management Trustee or Trustees serving as the representatives of the Participating Employers.

The Trust Agreement is executed this 20<sup>th</sup> day of December, 2013.

UNION TRUSTEES:

\_\_\_\_\_

Danny L. Barton

B. R. Buhle

Brian Buhle

Robert Warnock III

Robert Warnock, III

Mike Hubrecht

Mike Hubrecht

MANAGEMENT TRUSTEES:

Jim Nordhoff

Jim Nordhoff

David Heyde

David Heyde

Eric Lis

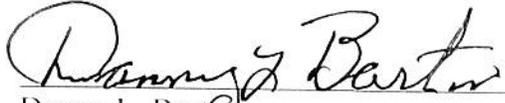
Mike LaGrange

Mike LaGrange

16564533.1

The Trust Agreement is executed this 20<sup>th</sup> day of December, 2013.

UNION TRUSTEES:

  
\_\_\_\_\_  
Danny L. Barton

\_\_\_\_\_  
Brian Buhle

\_\_\_\_\_  
Robert Warnock, III

\_\_\_\_\_  
Mike Hubrecht

MANAGEMENT TRUSTEES:

\_\_\_\_\_  
Jim Nordhoff

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David Heyde

\_\_\_\_\_  
Eric Lis

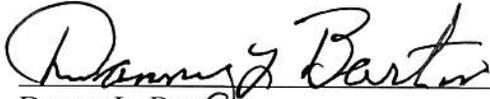
\_\_\_\_\_  
Mike LaGrange

16564533.1

The Trust Agreement is executed this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

UNION TRUSTEES:

MANAGEMENT TRUSTEES:

  
\_\_\_\_\_  
Danny L. Barton

\_\_\_\_\_  
Jim Nordhoff

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Brian Buhle

\_\_\_\_\_  
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Mike Hubrecht

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Mike LaGrange

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