



NATIONAL IAM
BENEFIT TRUST FUND

TRUST AGREEMENT

As Amended May 1, 2005

**TRUST AGREEMENT
GOVERNING A
JOINT LABOR-MANAGEMENT
EMPLOYEE WELFARE BENEFIT
TRUST FUND
NATIONAL IAM BENEFIT TRUST FUND**

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**RESTATED AGREEMENT AND
DECLARATION OF TRUST
OF THE NATIONAL
I.A.M. BENEFIT TRUST FUND**

(incorporating amendments adopted through May 1, 2005)

THIS RESTATED AGREEMENT AND DECLARATION OF TRUST was made and entered into as of April 27, 2000 in the City of Washington, District of Columbia, among the Trustees of the National I.A.M. Benefit Trust Fund, and incorporates all amendments adopted thereafter through May 1, 2005.

WITNESSETH:

WHEREAS, the signatory parties (or their predecessors in interest) did execute a trust agreement on August 23, 1973 creating a joint labor-management employee welfare benefit trust fund known as the National I.A.M. Benefit Trust Fund ("Fund") which has been amended from time to time;

WHEREAS, the existing trust agreement was adopted pursuant to Section 302(c) of the Labor Management Relations Act of 1947 ("LMRA") and applicable provisions of the Internal Revenue Code ("IRC");

WHEREAS, various Employers have entered into or expect to enter into collective bargaining agreements with the International Association of Machinists and Aerospace Workers, AFL-CIO ("IAM"), or with affiliated Local or District Lodges, which provide, among other things, for contributions or payments to be made by the Employers to such Fund;

WHEREAS, the sums payable to the Fund are for the purposes of providing health and welfare and related benefits as now or may be hereafter authorized or permitted by law for eligible employees and their beneficiaries.

WHEREAS, it is desired to amend further and restate the terms and conditions under which the Fund is to be continued and administered; and

WHEREAS, the Trustees have the power and authority to amend and restate the Trust Agreement.

NOW, THEREFORE, in consideration of the premises, and the mutual covenants herein contained, it is mutually understood and agreed as follows:

ARTICLE I

GENERAL

SECTION 1. CONTINUATION OF FUND. As hereby continued, the National IAM Benefit Trust Fund shall comprise all assets of the Plan or Plans including without limitation Employer and Employee Contributions made to or for the account of this Fund under Collective Bargaining Agreements, together with any and all investments made and held by the Trustees, or monies received by the Trustees as Contributions or as income from investments made and held by the Trustees or otherwise, and any other money or property, received and/or held by the Trustees for the uses, purposes and trust set forth in this Restated Trust Agreement.

SECTION 2. GENERAL PURPOSE. The Fund shall be a Trust Fund and shall be used for the exclusive purpose of providing welfare benefits to Employees and their beneficiaries under the terms of the Plan or Plans, as determined by the Trustees, and shall further provide the means for financing the reasonable expenses of the Trustees and of the operation and administration of the Fund, in accordance with this Restated Trust Agreement and applicable law. The Plans maintained by the Trust shall be multiemployer welfare plans within the meaning of the Employee Retirement Income Security Act, as amended ("ERISA").

SECTION 3. IRREVOCABLE PURPOSE. The Trust continued hereby shall constitute an irrevocable trust established for the exclusive benefit of Employees, in accordance with Section 302(c)(5) of the Labor Management Relations Act of 1947, as amended, and in accordance with ERISA.

SECTION 4. DURATION OF TRUST. The Trust Fund shall continue in existence on an indefinite basis, contemporaneously with the term of this Restated Agreement and Declaration of Trust.

ARTICLE II

DEFINITIONS

The following definitions shall govern in this Trust Agreement unless the context or subject matter otherwise requires:

SECTION 1. BENEFICIARY. The term "Beneficiary" shall mean any dependent of a participating employee, who is entitled to benefits, as defined in a benefit plan, or any person designated by a participating employee or dependent, or by the terms of a benefit plan, to receive benefits upon the death of such participating employee or dependent.

SECTION 2. BENEFIT PLAN. The term "Benefit Plan" shall mean any lawful employee welfare benefit plan created and administered by the Trustees.

SECTION 3. COLLECTIVE BARGAINING AGREEMENT. The term “Collective Bargaining Agreement” as used herein shall mean any labor contract between an IAM Local Lodge or District Lodge, or the I.A.M. itself, and an Employer (or between a Conjoint Union and an Employer), which provides for Contributions to be made to this Trust Fund in a manner acceptable to the Trustees.

SECTION 4. CONTRIBUTIONS. The term “Contributions” shall mean the payment required of a contributing Employer, or of participating Employees, pursuant to the terms of a Collective Bargaining Agreement, or other participation agreement, for the purpose of providing employee welfare benefits to Employees covered by said agreements and their beneficiaries, and shall also mean the self payments made by participating Employees pursuant to any self payment rules adopted by the Trustees.

SECTION 5. EMPLOYEES.

- (a) The term “Employees” as used herein means all persons within bargaining units represented by an IAM Local or District Lodge, or by the IAM itself, who are employed by Employers, and who are covered by the Fund pursuant to a Collective Bargaining Agreement.
- (b) The term “Employees” also may include employees of the Fund and employees of the I.A.M. and such Local or District Lodges of the I.A.M., I.A.M. National Pension Fund, or Conjoint Union, as are accepted by the Trustees as Employers.
- (c) The Trustees shall have the authority to permit labor organizations (other than the I.A.M. or its affiliated Local and District Lodges) and employers and employer associations with whom such labor organizations bargain, and the employees in the bargaining units covered by collective bargaining agreements, to participate in the Trust Fund.
- (d) The term “Employees” shall not include self employed persons, partners, or sole proprietors of a business organization which is an Employer.
- (e) The Trustees, however shall have the authority to decline or terminate the participation of a particular bargaining unit if (i) the labor organization and the Employer fail to provide the Trustees with a copy of their collective bargaining agreement; (ii) the language of the contribution provisions in the collective bargaining agreement does not meet the requirements established by the Trustees; (iii) the Employer fails to submit a participation agreement binding it to this Trust Agreement, if required by the Trustees; (iv) the negotiated contribution rate is lesser, or greater, than a contribution rate supporting a particular benefit plan then being administered by the Trustees, provided that the Trustees, in their discretion, may accept the different

contribution rate, and establish different eligibility rules or benefit formulas for the employees affected; or (v) there exist other facts and circumstances that, in the Trustees' discretion, justify a declination or termination of participation.

- (f) The Trustees shall have the authority to enter into participation agreements directly with employer associations by the terms of which such an employer association agrees to make contributions to the Trust Fund so that the employees of the employer association can be covered by the benefit plans provided through the Trust Fund.
- (g) The Trustees shall have the authority to enter into participation agreements directly with contributing Employers, who are contributing for their bargaining unit employees, by the terms of which such an Employer agrees to make contributions to the Trust Fund so that the non-bargaining unit employees of the Employer can be covered by the benefit plans provided through the Trust Fund. To the extent allowed by law, the Trustees may deem corporate owner-officers, of participating employers as "participating employees" and permit them to be included as non-bargaining unit employees.
- (h) The only individuals who shall be entitled to participate in and receive benefits from the Trust Fund shall be those employees described above. It is expected that participating Employers will submit contributions only on behalf of such Employees. The receipt by the Trust Fund of contributions which may be submitted on behalf of individuals who are not eligible to participate shall not stop the Trustees from declining or terminating the participation of such individuals nor shall it constitute a waiver of any of the provisions of this Trust Agreement or of the any Plan of Benefits.

SECTION 6. EMPLOYER.

- (a) The term "Employer" as used herein shall mean any employer (including employer associations) who now or hereafter has a Collective Bargaining Agreement with an IAM Local or District Lodge or with the IAM itself, or has another written agreement, requiring periodic contributions to the Fund continued by this Restated Trust Agreement, and who adopts and agrees to be bound by the terms and provisions of this Restated Trust Agreement and any amendments and modifications thereof, and who is accepted as an Employer by the Trustees.
- (b) The term "Employer" also shall include the Fund with respect to one or more classes of Fund employees designated in writing by the Trustees.
- (c) The term "Employer" also may include the I.A.M. and such Local and District Lodges of the I.A.M., I.A.M. National Pension Fund,

and Conjoint Unions as are accepted by the Trustees for participation in this Fund. The foregoing references to the IAM and its Local and District Lodges, as well as to Conjoint Unions, as an "Employer" shall not, however, be deemed to convey on such organizations any rights or privileges granted by this Agreement to Employers.

- (d) The Trustees shall have the discretion and authority to adopt rules and procedures for the acceptance, participation, and termination of Employers as they deem appropriate.

SECTION 7. TRUSTEES.

- (a) The term "Employer Trustees" as used herein shall mean the persons who were actively employed or retained by an Employer at the time of their appointment and who are serving as Trustees pursuant to Article III hereof.
- (b) The terms "IAM Trustees" or "Union Trustees" as used herein shall mean the persons employed by the IAM or Local and District Lodges who are serving as Trustees pursuant to Article III hereof.
- (c) The term "Trustees" as used herein shall mean the Employer Trustees and Union Trustees collectively.

SECTION 8. PLAN OR PLAN OF BENEFITS OR EMPLOYEE WELFARE BENEFITS. The terms "Plan," "Plan of Benefits," or "Employee Welfare Benefits" shall mean the plan or plans of benefits established by the Trustees pursuant to this Restated Trust Agreement. This term shall include the current plan of benefits offered by the Fund or any other plan of benefits the Trustees adopt or may adopt from time to time.

SECTION 9. I.A.M. The term "I.A.M." as used herein, shall mean the International Association of Machinists and Aerospace Workers, AFL-CIO.

SECTION 10. LOCAL AND DISTRICT LODGES. The term "Local and District Lodges," as used herein, shall mean any Local or District Lodge affiliated with the IAM or chartered by the IAM which is accepted by the Trustees as a party to this Restated Trust Agreement. Any other union may be treated as a Local or District Lodge hereunder if accepted by the Trustees.

SECTION 11. CONJOINT UNION. The term "Conjoint Union," as used herein, shall mean a labor organization which represents different Employees of an Employer than those represented by the IAM or a Local or District Lodge.

SECTION 12. RESTATED TRUST AGREEMENT. The term "Restated Trust Agreement" or "Restated Agreement and Declaration of Trust" or

“Amended and Restated Trust Agreement” shall mean this instrument, including any amendments hereto and modifications hereof.

SECTION 13. TRUST FUND. The term “Fund” or “Trust Fund” as used herein shall mean the National IAM Benefit Trust Fund as described in Article I.

SECTION 14. PROTECTED HEALTH INFORMATION. The term “Protected Health Information” (“PHI”) means the same as that term is defined in Section 164.501 of the Standards for Privacy of Individually Identifiable Health Information (“Privacy Rules”) issued by the Department of Health and Human Services (“HHS”) (see 45 CFR §§ 160 through 164) and promulgated pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) (42 U.S.C. § 1171 et seq.).

ARTICLE III

THE TRUSTEES

SECTION 1. UNION AND EMPLOYER TRUSTEES. The operation and administration of the Plan or Plans and the Trust Fund shall be the exclusive responsibility of the Union Trustees and Employer Trustees acting jointly with the exception of those responsibilities delegated to investment managers pursuant to Article V hereunder.

SECTION 2. NUMBER OF TRUSTEES. There shall be a total of six (6) Trustees, three (3) of whom will be Employer Trustees and three (3) of whom will be Union Trustees. The Trustees who are serving at a particular time, even though they be fewer in number than the full number of Trustees provided for, shall have all the powers, rights and duties spelled out in this Restated Trust Agreement.

SECTION 3. TERM OF TRUSTEES. Each Trustee, and each future Trustee, shall serve until death, incapacity, resignation, removal, or inability to serve. Any Employer Trustee may be removed in writing by a majority of the remaining Employer Trustees. An Employer Trustee will be automatically removed on the one year anniversary of the date he ceases to be actively employed or retained by an Employer, or employer association, but he shall continue to serve until his successor is designated by the remaining Employer Trustees. Any Union Trustees may be removed in writing by the IAM. Removal of a Trustee shall be effective upon receipt by the Trustees of a statement in writing from the IAM or of a statement in writing from the other Employer Trustees, as the case may be.

SECTION 4. FUTURE TRUSTEES. The successor to any Union Trustee shall be designated in writing by the IAM. The successor to any Employer Trustee shall be designated in writing by the Employer Trustees then remaining in office. Each Employer Trustee must be actively employed or retained by a contributing Employer or employer association at the time of his appointment. Any future Trustee shall, upon his designation as Trustee

and the filing of his written acceptance with the Trustees, become vested with all the property, rights, powers and duties of a Trustee hereunder with the like effect as if originally named as a Trustee. The powers of the Trustees to act will not be impaired or limited in any way pending the designation of a successor Trustee to fill any vacancy.

SECTION 5. ACCEPTANCE OF TRUSTEESHIP. Each of the undersigned Trustees hereby agrees to continue his acceptance of the trusteeship hereunder and agrees to act as Trustee strictly in accordance with the provisions of this Restated Trust Agreement. Each future Trustee must also agree in writing to accept the trusteeship hereunder and must agree to act as a Trustee strictly in accordance with the provisions of this Restated Trust Agreement. Any future Trustee shall, upon his designation as Trustee and the filing of his written acceptance with the Trustees, become vested with all the property, rights, powers and duties of a Trustee hereunder with like effect as if originally named as a Trustee. The Trustees then in office and other necessary persons shall be notified of the appointment of a successor Trustee. The powers of the Trustees to act will not be impaired or limited in any way pending the designation of a successor Trustee to fill any vacancy.

SECTION 6. RESIGNATION OF APPOINTMENT. A Trustee may resign his appointment at any time. Such resignation shall be effective upon the resignation date specified in written notice of resignation addressed to the Chairman and Secretary of the Trustees.

SECTION 7. RETURN OF BOOKS AND RECORDS. In the event of the termination of appointment, resignation, or death of a Trustee, the Trustee (or his legal guardian, heirs, or personal representative) shall, upon the request of the Chairman or the Secretary of the Trustees, forthwith turn over to the Chairman or Secretary any and all records, books, documents, monies had other property in the possession of the Trustee, or under his control, that belong to the Trust Fund or that were received by him in his capacity as Trustee.

ARTICLE IV

MEETINGS AND DECISIONS OF TRUSTEES

SECTION 1. MEETINGS OF TRUSTEES. The Trustees shall hold regular periodic meetings consistent with the needs of Trust Fund business provided that there shall be at least two (2) regular meetings held during each calendar year. The Trustees shall determine the time and place of all such meetings. Either the Chairman or the Secretary or any two (2) Trustees (one Employer Trustee and one Union Trustee) may call a special meeting of the Trustees by giving written notice to all the other Trustees of the time and place of such meeting at least ten (10) days in advance. Such notice shall not be necessary if all Trustees are agreeable to an earlier meeting.

SECTION 2. CHAIRMAN AND SECRETARY.

- (a) The Trustees shall elect one of their number as Chairman and one as Secretary. One of these officers shall be an Employer Trustee and one shall be a Union Trustee. The Chairman and the Secretary shall each hold office indefinitely, provided that when a particular Chairman and Secretary have held office for two (2) years, or at any time thereafter, the Employer Trustees or the Union Trustees may obtain, on their request, a rotation of offices, or a new election, or both. A Chairman or Secretary may resign his office at any time. Such resignation shall be effective upon the resignation date specified in a written notice of resignation addressed to the remaining Trustees. In case of the resignation, death, or termination of appointment of either the Chairman or the Secretary, there shall be a new election of both offices.
- (b) The Chairman shall chair the meetings of the Trustees, shall appoint all committees, and shall carry out such other duties as the Trustees may assign to him. The Secretary, in the absence of the Chairman, shall act in the place of the Chairman and perform the Chairman's duties. The Secretary shall also advise the Trustees about all correspondence and financial reports pertaining to the Trust Fund and shall keep minutes or records of all meetings, proceedings and actions of the Trustees, provided that these particular responsibilities may be delegated to the Fund Director appointed by the Trustees.

SECTION 3. QUORUM. In all meetings of the Trustees, two Trustees shall constitute a quorum for the transaction of business provided that there is at least one Employer Trustee and one Union Trustee present at the meeting and at all meetings the Employer Trustees and the Union trustees shall have equal voting strength. The vote of any absent Trustee shall be cast by the Trustees present, designated by the same party, with the same force and effect as if such absent Trustee were present.

SECTION 4. MAJORITY VOTE OF TRUSTEES. All action by the Trustees shall be by majority decisions of the Employer and Union Trustees. Such majority vote shall govern not only this Article but any portion of this Restated Trust Agreement which refers to action by the Trustees. In the event any matter presented for decision cannot be decided because of a tie vote, or because of the lack of a quorum at two consecutive meetings, the matter may then be submitted to arbitration as hereinafter provided.

SECTION 5. ACTION BY TRUSTEES WITHOUT MEETING. Action by the Trustees may also be taken by them in writing without a meeting; provided, however, that in such cases there shall be unanimous written concurrence by all of the Trustees. Any such action shall be reported in the minutes of the next formal meeting.

SECTION 6. MINUTES OF MEETINGS. The Trustees shall keep minutes of all meetings but such minutes need not be verbatim. Copies

of all minutes shall be sent to all Trustees. Minutes of a meeting will be reviewed and approved by the Trustees at a subsequent meeting.

SECTION 7. ARBITRATION OF DEADLOCKED ISSUES.

- (a) In the event the Employer Trustee and Union Trustee should deadlock on any matter submitted for their concurrence, the dispute may be referred by either group of Trustees to an impartial arbitrator in accordance with the labor arbitration rules of the American Arbitration Association. A deadlock shall be deemed to occur when there is a tie vote on any motion before the Trustees.
- (b) The Trustees shall attempt to agree on the joint submission of a statement of the issue in dispute. However, if the Trustees cannot jointly agree upon such a statement, each group of Trustees shall submit to the arbitrator, in writing, its version of the issue in dispute. As part of his award, the arbitrator shall state his determination as to the exact issue.
- (c) The expenses of any such arbitration, including any court proceedings relating thereto and the fee of the arbitrator and the reasonable attorney and witness fees of the parties, shall be chargeable to the Trust Fund.
- (d) The decision and award of the arbitrator shall be final and binding upon the Trustees and upon all parties whose interests are affected thereby.
- (e) The procedures specified in this Section shall be the sole and exclusive procedure for the resolution of deadlocked issues.

SECTION 8. AUTHORIZED SIGNATURES. The Chairman and the Secretary or any two authorized Trustees (one Employer Trustee and one Union trustee) shall sign all negotiable instruments, certificates, contracts, government reports, and other legal documents on behalf of the Trust Fund, provided that the authority for signing negotiable instruments may be delegated to the Fund Director appointed by the Trustees, corporate trustee (if any), depository bank, or custodian bank. All persons doing business with the Trust Fund may rely on such signatures.

If the Trust Fund issues benefit checks to Employees or their Beneficiaries, the signatures of the Chairman and Secretary or of another signer designated by the Trustees may be affixed thereto by a facsimile signature device, under safeguards determined by the Trustees.

SECTION 9. COMPENSATION AND EXPENSES. No Trustee shall receive any compensation from the Trust Fund for services as a Trustee except as may be allowed under ERISA, and as may be authorized by the Trustees.

Each Trustee shall be reimbursed out of the Trust Fund for all expenses properly and actually incurred by him in the administration of the Trust

Fund. The Trustees shall establish the conditions for the payment of compensation (if any) and for the reimbursement of expenses.

SECTION 10. BENEFITS TO TRUSTEES NOT PROHIBITED.

Nothing in this Trust Agreement shall prohibit a Trustee from receiving any benefits under the terms of a benefit plan, if he is otherwise eligible for the same as a participating Employee or as a beneficiary of a participating Employee.

ARTICLE V

POWERS, DUTIES AND OBLIGATIONS OF TRUSTEES

SECTION 1. DUTIES AND OBLIGATIONS OF TRUSTEES.

- (a) It shall be the general duty of the Trustees to receive the Contributions from contributing Employers and any Contributions from participating Employees and any other income or assets that they may receive and, with such, to create and administer a Plan or Plans of Benefits for the Employees and their Beneficiaries. Additionally, the Trustees shall have the specific duties set forth in this Trust Agreement and such other duties as are imposed upon them by Section 302(c) of the LMRA, ERISA, and other applicable laws.
- (b) Except as may be expressly limited by the terms of this Restated Trust Agreement, the Trustees shall have full and exclusive authority to control and administer the Trust Fund and the Plan or Plans of Benefits which they create.
- (c) The authority of the Trustees not only encompasses the specific powers recited in the various paragraphs of this Trust Agreement but also includes the general power to do all things and take all actions, including the expenditure of Trust Fund monies, which they may deem necessary to carry out the purpose of this Trust Agreement. The Trustees may implement their powers through the adoption of appropriate motions, resolutions, or administrative rules and regulations.

SECTION 2. COMPLIANCE WITH THE INTERNAL REVENUE CODE. The Trustees shall administer the Trust Fund and the benefit plans so that, to the extent allowed in the Internal Revenue Code, Employer Contributions are tax deductible, the Trust Fund is tax exempt, and the value of the employee welfare benefits is excludable from the recipients' taxable income.

SECTION 3. BASIS OF PAYMENTS TO AND FROM TRUST FUND. The basis on which Contributions of Employers and Contributions of Employees (if any) are made shall be as specified in the underlying Collective Bargaining Agreement or participation agreement. The basis

on which benefits are paid out of the Trust Fund shall be as specified in the Plan or Plans of Benefits.

SECTION 4. APPLICATION OF TRUST FUND ASSETS. As required by Section 403(c)(1) of ERISA, the assets of the Trust Fund shall never inure to the benefit of any Employer and shall be held for the exclusive purposes of providing benefits to Employees and their Beneficiaries and defraying reasonable expenses of administering the Plan.

SECTION 5. FIDUCIARY DUTIES. Each Trustee shall discharge his duties with respect to the Plans and this Trust with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims. Each Trustee shall use reasonable care to prevent a co-trustee from committing a breach of fiduciary duty. The Trustees are the “Named Fiduciary” and the “Administrator” of the Fund as those terms are defined in ERISA. Except as provided in this Trust Agreement or as determined by the Trustees, all actions taken by the Trustees that are fiduciary, or would otherwise be considered settlor, actions shall be considered fiduciary actions within the meaning of ERISA.

SECTION 6. DESIGNATION OF FUND DIRECTOR. The Trustees may appoint one or more Fund Directors to carry out such administrative responsibilities as the Trustees may instruct.

SECTION 7. ALLOCATION OF TRUSTEES’ RESPONSIBILITIES.

- (a) The Trustees may allocate fiduciary responsibilities among the Trustees, or to committees of the Trustees, and they may delegate fiduciary duties to persons other than the Trustees and delegate Trustee responsibilities to investment managers as provided in this Restated Trust Agreement and in accordance with the requirements of ERISA.
- (b) In the event the Trustees elect to allocate any of the stated responsibilities they shall do so by the adoption of a motion or resolution calling for the appointment of a committee of Trustees (consisting of equal numbers of Employer Trustees and Union Trustees) and specifying the particular responsibility that is being allocated. With respect to the responsibility that is allocated, the committee shall have all the powers of the full Board of Trustees. Any action to be taken by the committee shall be determined according to the voting formula contained in Article IV hereof. If the committee members deadlock on any matter submitted for their concurrence, such matter shall be referred to the full Board of Trustees for review and action.
- (c) In the event the Trustees elect to delegate investment responsibility they shall do so by the adoption of a motion or resolution making the delegation to a designated investment

manager. The delegation shall be effective when the investment manager accepts the delegation and acknowledges in writing his status as a fiduciary with respect to the Trust Fund.

- (d) In the event the Trustees elect to allocate or delegate Trustee responsibilities they shall periodically review the performance of the persons to whom such responsibilities have been allocated or delegated.

SECTION 8. CONSTRUCTION OF AGREEMENT. The Trustees have the full and exclusive discretionary authority to determine all questions of coverage and eligibility, methods of providing benefits, and all other related matters. The Trustees have full discretionary power to interpret the provisions of this Restated Agreement and Declaration of Trust, as well as the provisions of any Plan or Plans of Benefits and any rules, regulations, or procedures created pursuant to this Restated Trust Agreement or the Plan or Plans of Benefits. The Trustees shall have the authority to amend or terminate the Plan or Plans of Benefits presently being administered through the Trust Fund, or any Plans hereafter adopted, including amendments that expand, restrict, or terminate all or part of the rules relating to eligibility for benefits, or to the amount and nature of such benefits, as they may determine. Amendments may be made on a prospective or retroactive basis. The terms used herein and any construction or interpretation adopted by the Trustees in the exercise of this discretionary authority shall be binding upon the IAM, the IAM Local and District Lodges, the Employers and the Employees and their families, dependents, beneficiaries and legal representatives, and on any other person or organization.

SECTION 9. GENERAL POWERS. The Trustees are hereby empowered, in addition to other such powers as set forth herein or conferred by law:

- (a) To establish, interpret, and administer a Plan or Plans of Benefits on behalf of the Employees and their Beneficiaries.
- (b) To enter into any and all contracts and agreements for carrying out the terms of this Restated Agreement and Declaration of Trust and for the administration of the Trust Fund and do all acts as they in their discretion may deem necessary and advisable.
- (c) To commence or defend any legal, equitable, or administrative proceedings in connection with the Fund and represent the Fund in such proceedings; to compromise, settle, arbitrate, and release claims or demands in favor of or against the Trust Fund or the Trustees on such terms and conditions as the Trustees in their discretion may deem advisable.
- (d) To establish and accumulate as part of the Trust Fund a reserve or reserves, adequate, in the opinion of the Trustees, to carry out the purposes of the Trust Fund.

- (e) To borrow money for the Trust Fund with or without security, as they may deem necessary in the administration of the Trust Fund and the benefit plans.
- (f) To pay out of the 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 Fund or any money, property, or securities forming a part thereof.
- (g) To pay or provide for the payment of all reasonable expenses of the administering this Trust Fund, the Fund and the Benefit Plan or Plans and to make appropriate allocations of common administrative expenses and disbursements shared or to be shared with any other Plan, Fund, or Trust.
- (h) To demand, collect, receive, and hold contributions or payments from any source whatsoever to the extent permitted by law, to take any action the Trustees find necessary or desirable to collect contributions or payments due to the Fund, to pay or provide for the payment of all reasonable and necessary expenses of collecting Contributions and payments.
- (i) To adopt rules by the terms of which refunds of Contributions may be made to an Employer or Employee where the Employer or Employee has paid such contributions in error, provided that Employer refunds shall be made only as permitted in Section 403(c) of ERISA.
- (j) To invest, reinvest or have invested and reinvested the assets of the Fund in any type of investment, without distinction between principal and interest, and to take any and all action with respect to holding, buying, selling, lending or maintaining such investments as the Trustees, in their sole discretion, may deem appropriate. The Trustees have the authority, with respect to any stocks, bonds, or other real or personal property to exercise all the rights, powers, and privileges which might be lawfully exercised by a person owning similar property in his sole right.
- (k) To register securities or other Trust Fund property in the name of the Trust Fund or of the Trustees, or, in the names of one or more nominees of the Trustees; to hold instruments in bearer form.
- (l) To retain such portions of the assets of the Fund in cash or cash equivalents as the Trustees may determine to be desirable.
- (m) With respect to the purchase and sale by the Fund of real property, the Trustees may hold real property located within the United States either in the name of the National IAM Benefit Trust Fund or in a separate trust in the name of two or more of the Trustees without disclosing the ownership of the Fund. The Trustees shall have the full powers of control and supervision

with respect to such real property, including without limiting the generality of the foregoing the power to lease, mortgage, grant, convey, bargain and sell or otherwise encumber or alienate the whole or any part of the same, for such consideration and on such terms as the Trustees shall deem proper, and the Trustees, may execute, acknowledge and deliver any and all instruments necessary or desirable in connection therewith.

- (n) In their discretion, to appoint one or more investment managers, as defined in ERISA, and enter into agreements with such investment managers, in accordance with the requirements of ERISA, delegating to the investment manager the responsibility to control and manage, acquire, and dispose of all or a portion of the assets of the Trust Fund as the Trustees may specify.
- (o) In their discretion, to employ a qualified investment consultant to assist the Trustees in exercising their investment powers and authority by reviewing the investment performance, the investment policy, and the types and kinds of investments made by the Trustees and/or investment managers.
- (p) In their discretion and to the extent they deem it wise, beneficial or desirable, to appoint one or more banks or trust companies as corporate trustee which shall be an investment manager within the meaning of ERISA, to invest or reinvest those assets of the Fund which shall be transferred to it by the Trustees from time to time. The Trustees may from time to time enter into a trust agreement with each such corporate trustee upon such terms and conditions as the Trustees shall determine without limit with respect to the powers which the Trustee may grant to any such corporate trustee to the fullest extent permitted by law, including provision for the investment by the corporate trustee of Fund assets through the medium of a trust fund created and maintained by the corporate trustee for the collective investment of funds of trusts for employee benefit plans qualified under Section 401(a) of the IRC (or corresponding provisions of any subsequent Federal revenue law in effect at the time) and provisions for investment in any other type of investment without regard to any restrictions imposed by law upon investments by fiduciaries.
- (q) In their discretion to purchase or otherwise acquire and to retain for such period of time as they deem wise the securities of investment companies registered under the Investment Company Act of 1940 in such amounts as the Trustees may determine from time to time.
- (r) In their discretion and to the extent they deem it wise, beneficial, or desirable, to enter into a contract or contracts with an insurance company or companies to which deposits may be made from time to time, all on such terms and conditions as may

be agreed upon the Trustees and the insurance company issuing such contract. The Trustees may but need not designate or appoint the insurance company issuing such contract as an Investment Manager within the meaning of ERISA.

- (s) In their discretion, to enter into and terminate agency or custody agreements with banks or trust companies chosen by them, under which agreements the Trustees may turn over to such banks or trust companies all or a portion of the funds held by them in the Fund for safekeeping, investment or reinvestment, on such terms as the Trustees determine to be advisable.
- (t) In their discretion and to the extent they deem it wise, beneficial, or necessary to enter into a contract or contracts with one or more persons or organizations registered as an investment adviser under the Investment Advisers Act of 1940 for the purposes of allocating the Trustees' responsibility to invest and reinvest those assets of the Trust Fund which shall be specified by the Trustees from time to time. The Trustees may, but need not, appoint any such investment adviser as an Investment Manager within the meaning of ERISA.
- (u) In their discretion and to the extent they deem it wise, beneficial, or desirable, to appoint a bank or trust company as master trustee and to enter into a trust agreement allocating to such master trustee the exclusive responsibility for the custody and control of those assets of the Fund which shall be transferred by the Trustees from time to time. The Trustees from time to time may enter into a trust agreement with such master trustee upon such terms and conditions as the Trustee shall determine, including that the provisions that the master trustee shall follow the directions of one or more Investment Managers appointed by the Trustees pursuant to the preceding subparagraphs. Without limit with respect to the powers which the Trustees may grant to such master Trustee, the trust agreement may provide for the investment by the master trustee of the plan assets through the medium of a trust fund created and maintained by the master trustee as trustee for the collective investment of funds or trusts for employee benefit plans qualified under Section 401(a) of the IRC (or corresponding provisions of any subsequent Federal revenue law in effect at the time).
- (v) In their discretion, to invest the assets of the Fund in a common, collective, or commingled trust fund, to the extent permitted by ERISA or other applicable law. To the extent monies or other assets are transferred to a collective trust in exchange for an interest in the collective trust, the form and conditions of the collective trust alone will govern the investment duties, responsibilities, and powers of the Trustees of the collective trust; and to the extent required by law, those terms, responsibilities,

and powers will be incorporated herein by reference and will be part of this Restated Trust Agreement.

- (w) To engage independent certified public accountants, enrolled actuaries and qualified legal counsel to perform all services as may be required by applicable law and such other services as the Trustees determined to be appropriate.
- (x) To designate an agent for service of legal process.
- (y) To obtain policies of insurance, to the extent permitted by law, to insure the Trustees, the Trust Fund, employees and agents of the Trustees and of the Trust Fund while engaged in business and related activities for and on behalf of the Trust Fund with respect to liability as a result of facts, errors, or omissions of the Trustees, employees, or agents, and with respect to injuries or property damage. The cost of the premiums for such policies of insurance will be paid out of the Trust Fund to the extent permitted by ERISA.
- (z) To enter into an agreement or arrangement with other similar trust funds for the operation of a joint administrative office which shall administer the office or offices of the Trust Fund, coordinate and administer the accounting, bookkeeping, and clerical services, provide for the coordination of actuarial service furnished by the consulting actuary, prepare (in cooperation with the appropriate consulting actuary and independent auditor) all reports and other documents to be prepared, filed, or distributed by the Fund in accordance with law, assist in the collection of amounts due to the Fund and perform such other duties and furnish other services as may be assigned, delegated, or directed or as may be contracted by or on behalf of the Trustees.
- (aa) To exercise their discretionary authority to make all determinations concerning matters of benefit coverage and eligibility, type, amount, and duration;
- (bb) To adopt rules and regulations by the terms of which reasonable penalties or forfeitures may be imposed upon Employees or Beneficiaries who (i) falsify any information requested of them in the administration of the Trust Fund and the benefit plans, or (ii) fail to provide requested information within a reasonable time.
- (cc) To correct the Trust Fund records whenever errors are discovered and to terminate participation, adjust eligibility credits or benefits, or seek the recovery of benefit overpayments, as they may determine.
- (dd) To participate in the non-profit foundations, corporations, councils, committees, or other organizations that have as their purpose (i) the alleviation of physical or mental disease, or of

other conditions or hazards that require the care or service being paid for through the benefit plans administered by the Trustees, or (ii) the improvement in the availability of, and equality of, medical care, or of the reduction in the cost of such care or services. If the Trustees act to participate in any such non-profit organization, the membership or participation fees of the organization shall be chargeable to the Trust Fund.

- (ee) To the extent that such is not prohibited by ERISA, to make loans, grants, or donations to any such non-profit organization, in reasonable amounts, out of the uncommitted reserves of the Trust Fund.
- (ff) To participate in non-profit foundations, corporations, councils, committees, or other organizations which sponsor educational programs or provide educational materials pertaining to the administration of trust funds of this nature and of employee benefit plans, the cost of which shall be chargeable to the Trust Fund.
- (gg) To purchase educational materials and to provide for the attendance of the Trustees, or of such of their employees (if any), as they may designate, at educational conferences and meetings, the cost of which shall be chargeable to the Fund.
- (hh) To coordinate the administration of the Trust Fund and of the benefit plans with the administration of related employee benefit trust funds and benefit plans, to such extent as they may determine.
- (ii) To establish such procedures, rules, and regulations which they deem appropriate to effectuate the purposes of this Restated Trust Agreement and not inconsistent with the terms hereof.
- (jj) To do any and all acts, whether or not expressly authorized herein, which the Trustee may deem appropriate to accomplish the general objectives and purposes of this Restated Agreement.

SECTION 10. AUTHORITY TO ENTER INTO MERGER AGREEMENTS WITH OTHER TRUSTEES.

- (a) It is recognized that at some time or times in the future, the Trustees may deem it in the best interest of the Trust Fund and of the Employers, employer associations, labor organizations, and Employees to accept the merger of another employee welfare benefit trust fund into the Trust Fund, or to merge the Trust Fund into another employee welfare benefit trust fund.
- (b) In the event that another employee welfare benefit trust fund is to be merged into the Trust Fund, the Trustees shall have the authority to negotiate and consummate an appropriate merger agreement, and pursuant thereto, to accept a transfer of the remaining monies, assets, and liabilities from the other trust fund.

- (c) In the event the Trust Fund is to be merged into another employee welfare benefit trust fund, the Trustees shall have the authority to negotiate and consummate an appropriate merger agreement.

SECTION 11. PERSONAL LIABILITY.

- (a) Neither the Trustees nor any individual or successor Trustee shall be personally answerable or personally liable for any liabilities or debts of the Fund contracted by them as such Trustees, or for the non-fulfillment of contracts, but the same shall be paid out of the Fund and the Fund is hereby charged with a first lien in favor of such Trustee for his or their security and indemnification for any amounts paid out by any such Trustee for any such liability of any kind which the Trustees or any of them may incur hereunder; provided, however, that nothing herein shall exempt or relieve a Trustee from liability or responsibility for the breach of any responsibility, obligation, or duty imposed upon fiduciaries by ERISA, or entitle such Trustee to indemnification by the Fund for any amounts paid or incurred as a result thereof.
- (b) The Trustees and each individual Trustee shall not be liable for any error of judgment or for any loss arising out of any act or omission in the execution of their duties so long as they act in good faith and in accordance with the responsibilities, obligations, and duties imposed upon fiduciaries by ERISA; nor shall any Trustee be personally liable for the breach of fiduciary responsibility of another Trustee, or of any agent or attorney elected or appointed by or acting for the Trustees, unless
 - (i) he participates knowingly in, or knowingly undertakes to conceal, an act or omission of such other fiduciary, knowing such act or omission is a breach;
 - (ii) by his failure to comply with Section 404(a)(1) of ERISA in the administration of his specific responsibilities which give rise to his status as a Trustee, he has enabled such other fiduciary to commit a breach;
 - (iii) he has knowledge of a breach by such other fiduciary, unless he makes reasonable efforts under the circumstances to remedy the breach; or
 - (iv) he has not taken reasonable care to prevent a co-trustee from committing a breach.
- (c) The Trustee shall be fully protected in acting upon any instrument, certificate, or paper reasonably believed by them to be genuine and to be signed or presented by the proper person or persons, and shall be under no duty to make any investigation or inquiry as to any statement contained in any such writing, but

may accept the same as conclusive evidence of the truth and accuracy of the statements therein contained, unless under the circumstances it is clearly prudent not to do so.

- (d) Neither the Employers, nor the Local or District Lodges of the IAM, or the IAM itself, shall in any way be liable in any respect for any of the acts, omissions, or obligations of the Trustees, individually or collectively.
- (e) The Trustees may from time to time consult with the Trust's legal counsel, actuary, and any other professional advisors. To the extent permitted by ERISA, the Trustees will be protected in acting upon the advice of such professionals.

SECTION 12. BOOKS OF ACCOUNT. The Trustees shall keep true and accurate books of account and records of all transactions of the Trust Fund which will be open to the inspection of each of the Trustees at all times and which shall be audited annually, or more often if the Trustees so decide, by a certified public accountant selected by the Trustees. A copy of such audit shall be available at all times upon reasonable notice for inspection by interested persons at the principal office of the Fund.

SECTION 13. EXECUTION OF DOCUMENTS. The Trustees may authorize an Employer Trustee and a Union Trustee or any joint group equally composed of the Employer and Union Trustees to jointly execute any notice or other instrument in writing and all persons, partnerships, corporations, or associations may rely thereupon that such notice or instrument has been duly authorized and is binding on the Fund and the Trustees.

SECTION 14. DEPOSIT AND WITHDRAWAL OF FUNDS.

- (a) All monies received by the Trustees hereunder shall be deposited by them in such bank or banks as the Trustees may designate for the purpose and all withdrawals of monies from such account or accounts shall be made only by checks signed by the Trustees authorized in writing by the Trustees to sign such checks. Except as hereinafter provided, no check shall be valid unless signed by two persons of whom one shall be a Union Trustee and one an Employer Trustee.
- (b) The Employer Trustee shall designate in writing the name or names of an Employer Trustees who may sign checks in the above manner, and the Union Trustee shall likewise designate in writing the name or names of the Union Trustees who may sign checks in the above manner.
- (c) The Trustees may, in their discretion, designate and authorize an employee of the Fund to sign checks upon such separate and specific bank account or bank accounts as the Trustees may designate and establish for that purpose.

SECTION 15. SURETY BONDS. The Trustees and every person who handles funds or other property hereunder shall be bonded so as to provide protection to the Fund against loss by reason or acts of fraud or dishonesty on the part of any Trustee or such person, directly or through connivance with others, all as required by Section 412 of ERISA. The cost of the premiums of such bonds will be paid out of the Trust Fund.

SECTION 16. PROTECTED HEALTH INFORMATION. The Trustees are authorized to receive, maintain, use, and disclose Protected Health Information (“PHI”) pursuant to the conditions set forth below. Each Trustee shall certify in writing that he will comply with these conditions. Each Trustee will agree to:

- (a) not use or further disclose PHI received from the Fund other than as permitted in the Fund’s written privacy policy or as required by law;
- (b) ensure that any agents, including subcontractors, to whom a Trustee provides PHI received from the Fund agree to the same restrictions and conditions that apply to the Trustee with respect to PHI;
- (c) not use or disclose PHI received from the Fund for employment-related actions and decisions or in connection with any other benefit or employee benefit plan;
- (d) report to the Fund’s privacy officer any use or disclosure of PHI received from the Fund that is inconsistent with the uses or disclosures provided for in this section of which the Trustee becomes aware;
- (e) make PHI received from the Fund available to individuals for inspection or amendment as required by law;
- (f) make PHI received from the Fund available to provide an accounting of disclosures as required by the, Fund;
- (g) make internal practices, books, and records relating to the use and disclosure of PHI received from the Fund available to the Secretary of the Department of Health and Human Services for purposes of determining compliance by the Fund with the applicable federal regulations;
- (h) if feasible, return or destroy PHI received from the Fund and retain no copies of PHI when no longer needed for the purpose for which disclosure was made, except that, if such return or destruction is not feasible, limit further uses and disclosures to those purposes that make the return or destruction of the PHI infeasible;
- (i) ensure adequate separation between the Trustees and the Fund by limiting disclosure of PHI to the Trustees as plan sponsors and to be accessed and used only for the plan administrative functions that the Trustees perform; and

- (j) agree to provide an effective mechanism to resolve any issues of a Trustee's noncompliance with this section by taking appropriate action which may include, but is not limited to, limiting or placing special conditions on a non-compliant Trustee's access or use of PHI from the Fund.

SECTION 17. ELECTRONIC PROTECTED HEALTH INFORMATION.

In the event that electronic PHI is used or disclosed by a Trustee, the Trustee must:

- (a) reasonably and appropriately safeguard electronic PHI created, received, maintained, or transmitted to or by the Trustee on behalf of the Fund;
- (b) implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic PHI that the Trustee creates, receives, maintains or transmits on behalf of the Fund;
- (c) ensure that any agents, including a subcontractor, to whom a Trustee provides electronic PHI received from the Fund agrees to implement reasonable and appropriate security measures to protect the electronic PHI;
- (d) report to the Fund's security officer any security incident of which the Trustee becomes aware; and
- (e) ensure the adequate separation between the Trustee and the Fund, which is supported by reasonable and appropriate security measures, by limiting disclosure of electronic PHI to the Trustee as plan sponsor and by accessing and using electronic PHI only for Plan administrative functions that the Trustee performs.

ARTICLE VI

CONTRIBUTIONS AND COLLECTIONS

SECTION 1. RATE OF CONTRIBUTIONS. In order to effectuate the purposes hereof, each Employer shall contribute to the Fund the amount required by the Collective Bargaining Agreement between Employer and the IAM Local or District Lodge or the IAM itself or by any other agreement or law requiring contributions to the Fund with respect to Employees described in Article I. The rate of Contributions shall at all times be governed by the aforesaid Collective Bargaining Agreement then in force and effect and by any other such agreement to the extent that such Contribution rate is consistent with the rules adopted by the Trustees and this Restated Trust Agreement.

SECTION 2. EFFECTIVE DATE OF CONTRIBUTIONS. All Contributions shall be made effective as required by the Collective

Bargaining Agreement or by any other agreement or law and shall continue to be paid as long as the Employer is so obligated pursuant to the Collective Bargaining Agreement with the IAM Local or District Lodge, or the IAM itself or by such other agreement or law, or until it ceases to be an Employer within the meaning of this Restated Trust Agreement Declaration of Trust as hereinafter provided.

SECTION 3. *MODE OF PAYMENT AND REPORT ON CONTRIBUTIONS.* All Contributions shall be payable to the National IAM Benefit Trust Fund and shall be paid in the manner and form determined by the Trustees. The Employer shall make all reports on Contributions required by the Trustees in the performance of their duties under this Restated Agreement and Declaration of Trust.

SECTION 4. *DELINQUENT CONTRIBUTIONS.*

- (a) Each Employer shall be obligated to make Contributions when due.
- (b) Failure of an Employer to make Contributions when due shall not relieve any other Employer of its obligation to make payments to the Fund. An Employer shall be considered to be delinquent in the payment of Contributions if he (i) fails to submit a Contribution reporting form, and the Contributions detailed therein, by the close of business on the due date, or (ii) fails to submit Contributions on behalf of all the Employees for whom Contributions are required by the underlying Collective Bargaining Agreement or other participation agreement or (iii) fails to compute properly the Contributions according to the required Contribution formula specified in the underlying Collective Bargaining Agreement or other participation agreement.
- (c) The Trustees shall undertake reasonable efforts, at the expense of the Trust Fund, to collect known delinquent Contributions and related claims.

SECTION 5. *AUDIT OF EMPLOYER BOOKS AND RECORDS.*

- (a) The Trustees may, by their representative, examine the pertinent records of each Employer, whenever such examination is deemed in necessary or advisable in connection with the administration of the Trust Fund. The Trustees shall have the authority, at the expense of the Trust Fund, to audit at any time the payroll books and records of an Employer, as they may deem appropriate. Such payroll audit may be undertaken pursuant to a routine payroll audit program or on an individual basis.
- (b) Whenever a payroll audit is authorized, the contributing Employer involved shall make available to the Trustees, or the qualified public accountant designated by them, its payroll books and records and any other pertinent records. Such books and records shall include

but not be limited to (i) all records which the Employer may be required to maintain under Section 209(a) of ERISA, and (ii) time cards, payroll journals, payroll check registers, cancelled payroll check, copies of the Employer's federal, state, and local payroll tax reports, and all other documents and reports that reflect the hours and wages, or other compensation, of the employees or from which such can be verified.

- (c) In the event the payroll audit discloses that the Employer has not paid Contributions as required by the underlying Collective Bargaining Agreement or other participation agreement the Employer shall be liable for the costs of the audit. The Trustees shall have the authority, however, to waive all or part of such costs for good cause shown. Moreover, if the audit shows an underreporting of Contributions, the Employer shall pay liquidated damages of 20% on the underreported Contributions plus interest at the rate of 18% per year from thirty (30) days after written notice of the underreported Contributions is sent to the Employer if payment in full is not made within that thirty (30) day period.

SECTION 6. LIQUIDATED DAMAGES AND INTEREST.

- (a) It is recognized and acknowledged by all parties, including the Employers, that the prompt and accurate payment of Contributions is essential to the maintenance of an employee benefit trust fund and the benefit plans and that it would be extremely difficult, if not impossible, to fix the actual expense and damage to the Trust Fund that would result from the failure of a participating Employer to pay the required Contributions within the time period provided. Therefore, if any Employer shall be delinquent in the payment of Contributions such Employer shall be liable, in addition, for liquidated damages of twenty percent (20%) of the amount of the Contributions which are owed. In addition, the delinquent Contributions shall bear interest at the rate of eighteen percent (18%) per annum from the due date until they are paid. The Trustees shall have the authority, however, to waive all or part of the liquidated damages or interest for good cause shown and may from time to time change the applicable percentages for liquidated damages and interest, but on a uniform basis for all Employers.
- (b) The Trustees may adopt such additional rules and regulations to enforce the collection of delinquent Contributions and other amounts due as they deem necessary, including the adoption of special rules applicable to Employers who are repeatedly delinquent.

SECTION 7. ATTORNEY FEES AND COURT COSTS. The Trustees shall have the power to take any action necessary to enforce the payment of Contributions, liquidated damages, interest, and other amounts due, including, but not limited to, the institution of or intervention

in any legal, equitable, or administrative proceedings, and all reasonable expenses incurred by the Fund in enforcing the payment of Contributions, liquidated damages, interest or other amounts due, including but not limited to reasonable attorney's fees, accountants' fees, and court costs which shall be added to the obligation of the defaulting Employer in addition to the amount due. The Employer agrees that such sums, together with liquidated damages and the interest set forth above, shall be included in any judgment issued by a court. The Trustees shall have the authority to settle or compromise any claims, suits, or legal actions for less than the full amount dues when in their discretion, they deem it in the best interest of the Fund.

SECTION 8. PROTECTION OF EMPLOYEES IN CASES OF DELINQUENCY. To protect Employees and Beneficiaries in situations where Employees may be denied eligibility or benefits because the Employer is delinquent in the payment of contributions, the Trustees shall have the discretionary authority to extend eligibility to such Employees or to direct the payment of benefits to them, or to their Beneficiaries, in whole or in part, as they may determine.

Any such extension of eligibility or the payments of benefits shall not, however, release the delinquent Employer from the responsibility for payment of the Contributions owed.

SECTION 9. COORDINATION WITH PROVISIONS IN COLLECTIVE BARGAINING AGREEMENTS. In the event the underlying Collective Bargaining Agreement contains provisions relating to delinquencies that specify additional remedies, or obligate the delinquent Employer to greater amounts of liquidated damages, interest, or attorney fees than those set forth herein, the Trustees at their option may pursue the additional remedies or impose the greater charges. The Trustees shall not be obligated, however, to pursue the collection of delinquent accounts through the grievance-arbitration procedures (if any) provided for in the underlying collective bargaining agreement.

SECTION 10. CONTRIBUTIONS HELD IN TRUST. The Trustees shall receive and hold the Contributions herein provided for any other money, income, rebate, dividend, or return of premium or property which may be entrusted to them, as Trustees hereunder, with the powers and duties and for the uses, purposes, and trusts set forth in this Restated Trust Agreement. Neither the Union, the Employers, Employees, or their Beneficiaries shall have any right, title, or interest on or to the Trust Fund or any part thereof except as required by law.

ARTICLE VII

PLAN OF BENEFITS

SECTION 1. DESIGN OF THE BENEFIT PLANS. The Trustees shall have the full discretion and authority to determine the details of the

benefit plans, including the determination of the rules under which Employees shall be eligible for benefits and the nature and amount of such benefits. The Trustees shall also have the full discretion and authority to determine whether benefits shall be extended to Beneficiaries of Employees and, if so, to determine which class or classes of Beneficiaries shall be eligible for benefits, the eligibility rules which will apply to such class or classes of Beneficiaries, and the nature and amount of such benefits. If there are different Contribution rates, the Trustees may establish different eligibility rules, or benefit formulas, for the Employees and their Beneficiaries who are affected thereby.

SECTION 2. RECIPIENTS OF BENEFITS. Benefits may be provided in accordance with Section 1 of this Article for any Employees of a contributing Employer covered by a Collective Bargaining Agreement between the Employer and IAM Local or District Lodge, or the IAM or other class of Employees defined in Article I, or their Beneficiaries.

SECTION 3. ELIGIBILITY REQUIREMENTS FOR BENEFITS. The Trustees shall have full discretion and the sole and absolute authority to determine eligibility requirements for benefits and duration of benefits; to adopt and interpret rules and regulations setting forth the same; and to determine questions of eligibility. Such requirements, rules, regulations, determinations, and interpretations shall be binding on the Employers, Employees, their Beneficiaries, dependents and any other person making claims. In addition, the decision of the Trustees with respect to any exercise of this discretion shall be made in good faith and shall be final and binding on the Employers, Employees, their Beneficiaries, dependents, and any other person making claims.

SECTION 4. MEANS OF PROVIDING BENEFITS. The Trustees shall have the full discretion and authority to provide the benefits, in whole or in part, directly from the Trust Fund or to contract with an insurance carrier, service organization, health maintenance organization, or other entity, to underwrite or provide such benefits.

SECTION 5. FACILITY OF PAYMENT. The Trustees shall have the full discretion and authority to adopt rules by the terms of which benefit payments owing to minors or incompetents may be paid instead to a person or institution providing care or other services to such minor or incompetent, even though a legal guardianship does not exist. Benefit payments made under any such rules shall fully discharge the Trust Fund's obligation to the minor or incompetent.

SECTION 6. SELF-PAYMENTS BY EMPLOYEES. The Trustees shall have the full discretion and authority to include provisions in the benefit plans by the terms of which Employees, during periods of strikes, lockouts, Employer delinquencies, leaves of absence, disabilities, layoffs, termination, or retirement may be permitted to make contributions in their own behalf.

ARTICLE VIII

CONTROVERSIES AND DISPUTES

SECTION 1. RELIANCE ON RECORDS. In connection with any controversy, claim, demand, lawsuit or other proceeding between a labor organization, Employer, employer association, related trust fund, Employee, Beneficiary, or any other person and the Trustees, the Trustees are entitled to rely, to the extent permitted by ERISA, on any facts that appear in the records of the Trustees; any documents on file with the Trustees; any facts which are in the public record; and any other evidence pertinent to the issue involved.

SECTION 2. SUBMISSION TO TRUSTEES. All questions or controversies of any type that arise in any manner or between any persons in connection with the Trust Fund or the operation of the Trust Fund including, but not limited to, a claim for benefits by an Employee, Beneficiary, or any other person, or concerning the interpretation of the language or meaning of the Plan or Plans of Benefits or this Trust Agreement or the rules and procedures adopted by the Trustees, or concerning any decision, document or account in connection with the operation of the Trust Fund or otherwise, will be submitted to the Trustees and the decision of the Trustees will be binding upon all persons dealing with the Trust Fund or claiming benefits under the Trust Fund.

SECTION 3. SETTLING DISPUTES. The Trustees may, in their sole discretion, compromise or settle any claim or controversy in the manner that they determine to be in the best interest of the Fund. Any decision made by the Trustees to compromise or settle a claim or controversy, or any compromise or settlement agreement entered into by the Trustees, will be final and binding on all parties interested in this Trust.

SECTION 4. WITHHOLDING PAYMENT. If a question or dispute arises concerning the proper person or persons to whom a payment is to be made under the benefit plan or this Trust, the Trustees may withhold the payment until there has been an adjudication of the question or dispute which is satisfactory to the Trustees in their sole judgment or until the Trustees have been fully protected against loss by an indemnification agreement or bond which the Trustees, in their sole judgment, determine is adequate.

ARTICLE IX

LIMITATIONS

SECTION 1. LIABILITIES AND DEBTS OF TRUST FUND. No Trustee, Employer, employer association, labor organization, Employee, or Beneficiary shall be responsible for the liabilities or debts of the Trust Fund.

SECTION 2. LIABILITIES AND DEBTS OF PARTICIPATING PARTIES. No Employer, employer association, or labor organization shall become responsible by reason of their participation in the Trust Fund for the liabilities or debts of any other Employer, employer association, or labor organization.

SECTION 3. PERSONAL LIABILITIES OF TRUSTEES. No Trustee shall incur any personal liability in connection with the administration of the Trust Fund or the benefit plans, except for such liability that may be established in accordance with Section 409(a) of ERISA.

Except as may be required by applicable provisions of ERISA, no Trustee shall be held personally liable for any breach of fiduciary responsibilities in connection with the administration of the Trust Fund or the Plan or Plans of Benefits where it is established (a) that the responsibilities at issue were lawfully allocated or delegated to other Trustees or fiduciaries, or (b) that in carrying out the responsibilities at issue the Trustee reasonably relied upon the advice given by the administrative agent or by one or more of the advisers retained by the Trustees.

No Trustee shall be personally liable for a breach of fiduciary responsibilities if such breach was committed before he became a Trustee or after he ceased to be a Trustee.

SECTION 4. JUDGMENTS AGAINST TRUST FUND. Any money judgment against the Trust Fund shall be enforceable only against the Trust Fund entity and shall not be enforceable against any Trustee or other person, unless liability against the Trustee or other person, in his individual capacity, is established in accordance with Section 409(a) of ERISA.

SECTION 5. PARTICIPATING PARTIES' RIGHTS. Except as specifically provided for in this Trust Agreement or in the Plan or Plans of Benefits, no Employer, employer association, labor organization, or employee, nor any Beneficiary of an Employee shall have any right, title, or interest in or to the Trust Fund, in or to the Contributions, or in or to the benefits provided.

No Employee shall be entitled to receive any part of the Contributions in lieu of the benefits provided through the Plan or Plans of Benefits, nor shall an Employee who does not qualify for benefits, or his Employer, have any claims to Contributions which may have been paid on his behalf.

SECTION 6. CESSATION OF PARTICIPATION. In the event an Employer, employer association, or labor organization, or groups thereof should cease their participation in the Trust Fund, there shall be no division or allocation of any of the monies or assets of the Trust Fund, except as may be required by law.

SECTION 7. PROTECTION OF TRUST FUND, CONTRIBUTIONS, AND BENEFITS. No part of the Trust Fund (including the Contributions) or the benefits payable under the Plan or Plans shall be subject in any manner, by an Employee or Beneficiary, to anticipation, alienation, sale, transfer, assignment, encumbrance, or charge, and any such attempt shall be null and void, provided that the Trustees may in their discretion follow requests from an Employee or Beneficiary to pay benefits directly to a doctor, hospital, or other person or institution that has treated or cared for, or provided services or goods to, the Employee or Beneficiary.

Further, no part of the Trust Fund (including the Contributions) or the benefits payable under the Plan or Plans of Benefits shall be liable for the debts of an Employee or Beneficiary, nor be subject in any manner to assignment, garnishment, attachment, lien, charge, or any other legal process brought by any person against an Employee or Beneficiary, and any such attempt shall be null and void.

SECTION 8. RELIANCE UPON WRITTEN DOCUMENTS. The Trustees may act upon any written letter, report, certificate, instrument, or other document submitted to them by any Employer, labor organization, Employee, or Beneficiary, or by any other person, where such document appears to be genuine and to be assigned by the proper person or persons and the Trustees shall be under no duty to make any investigation or inquiry as to any statement contained in any such document.

SECTION 9. AGENTS OF TRUST FUND. The Trust Fund is an entity separate and apart from the Employers, employer associations, and labor organizations. Accordingly, unless authorized in a motion or resolution of the Board of Trustees, no Employer, employer association, or labor organization, nor any individual employed thereby, shall have any authority to act or function for or on behalf of the Trust Fund or as an agent thereof.

Likewise, unless authorized in a motion or resolution of the Board of Trustees no individual Trustee shall have any authority to act or function for or on behalf of the Trust Fund or as an agent thereof.

ARTICLE X

MISCELLANEOUS

SECTION 1. TRUST FUND OFFICES. The Trust Fund shall maintain a principal office and sub-offices, where necessary, in such locations as the Trustees may determine.

SECTION 2. APPLICABLE LAWS AND REGULATIONS. This Restated Trust Agreement shall be applied, and the Trust Fund shall be administered, in accordance with Section 302(c) of the LMRA, ERISA, the IRC, and the regulations pertinent thereto, and other applicable statutes and regulations, as such statutes and regulations presently exist or as they may hereafter be amended.

SECTION 3. SERVICE IN MORE THAN ONE FIDUCIARY CAPACITY. Any Trustee or other person who is a fiduciary may serve the Trust Fund in more than one fiduciary capacity.

SECTION 4. NOTICES. Any written notice permitted or required by this Restated Trust Agreement shall be personally delivered to the person for whom it is intended, or sent to such person at his residence or business address by first class mail or prepaid telegram.

SECTION 5. SEVERABILITY. If any provisions of this Restated Trust Agreement, or of the benefit plans, is held to be illegal or invalid for any reason, such illegality or invalidity shall not affect the remaining portions of the Restated Trust Agreement or of the benefit plans.

SECTION 6. TITLES AND WORDS. The titles of the various articles and sections of this Restated Trust Agreement are inserted solely for convenience of reference and are not a part of, nor shall they be used to construe, any term or provision hereof. Whenever any words are used herein in the masculine gender they shall be construed as though they were used in the feminine gender, and words in singular form shall be construed as though they were used in the plural form, in all cases where they would so apply.

ARTICLE XI

AMENDMENTS AND TERMINATION

SECTION 1. AMENDMENTS. This Trust Agreement may be amended at any time by the Trustees provided, that such amendments shall not change the basic purpose of the Trust Fund as stated in Article I, Section 2, or allow the assets of the Trust Fund to be expended other than as stated in Article V, Section 4.

SECTION 2. TERMINATION. This Restated Trust Agreement may be terminated by an instrument in writing, executed by the Trustees upon the happening of any one or more of the following events:

- (a) If the Trust Fund is, in the opinion of the Trustees, inadequate to carry out the intent and purpose of this Trust Agreement, or is inadequate to meet the payments due or to become due under this Trust Agreement and under the Plan or Plan of Benefits to Employees and Beneficiaries;
- (b) If there are no individuals living who can qualify as Employees or Beneficiaries hereunder;
- (c) When there is no longer in force and effect Collective Bargaining Agreements or signed stipulations requiring contributions to the Trust Fund.

SECTION 3. ALLOCATION UPON TERMINATION. In the event of the termination of this Restated Trust Agreement, the Trustees shall make provisions out of the Trust Fund for the payment of expenses incurred up to the date of termination of the Trust and the expenses incidental to such termination; arrange for a final audit and report of their transactions and accounts for the purpose of termination of their trusteeship; give any notice and prepare and file any reports which may be required by law; and apply the Trust Fund in accordance with the provisions of the Plan of Benefits. No part of the corpus or income of the Trust Fund shall be used for or diverted to purposes other than for the exclusive benefit of the Employees and their Beneficiaries or the administration expenses of the Trust Fund. Under no circumstances shall any portion of the Trust Fund, either directly or indirectly, revert or accrue to the benefit of any contributing Employer, or the Union.

SECTION 4. NOTIFICATION OF TERMINATION. Upon termination of the Trust Fund, in accordance with this Article, the Trustees shall forthwith notify the Union, all Employers, and all other interested parties. The Trustees shall continue as Trustees for the purpose of winding up the affairs of the Trust Fund.

