

PAINTERS AND ALLIED TRADES INTERNATIONAL  
UNION AND INDUSTRY ANNUITY FUND

# Agreement and Declaration of Trust



Effective April 1, 1967  
Amended and Restated as of October 4, 2024

**INTERNATIONAL PAINTERS AND ALLIED TRADES  
INDUSTRY ANNUITY FUND  
AGREEMENT AND DECLARATION OF TRUST**

**AMENDED AND RESTATED  
AS OF OCTOBER 4, 2024**



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**ADOPTED AS OF OCTOBER 4, 2024**

This AGREEMENT AND DECLARATION OF TRUST is made and entered into effective as of October 4, 2024, and is adopted by the Board of Trustees.

**WITNESSETH:**

WHEREAS, the International Painters and Allied Trades Industry Pension Fund was established effective April 1, 1967 pursuant to an Agreement and Declaration of Trust (“Pension Trust Agreement”), and amended from time to time thereafter, for the purpose of providing benefits to employees covered under collective bargaining agreements between the International Union of Painters and Allied Trades and its affiliated Local Unions and District Councils and various employers and covered under the International Painters and Allied Trades Industry Pension Plan, the International Painters and Allied Trades Industry Pension Plan (Canada), and the International Painters and Allied Trades Industry Annuity Plan; and

WHEREAS, the Board of Trustees has determined that it is in the best interest of the participants in each of the plans to provide for separate governing trust agreements for such plans, which will facilitate administration and governance;

WHEREAS, the Board of Trustees now wishes to memorialize trust agreements for each plan;

NOW, THEREFORE, the Pension Trust Agreement is hereby amended and restated to consist of the International Painters and Allied Trades Industry Pension Fund Agreement and Declaration of Trust, the International Painters and Allied Trades Industry Pension Fund (Canada) Agreement and Declaration of Trust, and the International Painters and Allied Trades Industry Annuity Fund Agreement and Declaration of Trust, and the International Painters and Allied Trades Industry Annuity Fund Agreement and Declaration of Trust shall provide as follows:

## **ARTICLE 1 DEFINITIONS**

Unless the context or subject matter otherwise requires, the following definitions shall govern in this Agreement:

### Section 1.01 Appointing Employer

The term "Appointing Employer" means the Contributing Employers authorized to appoint Employer Trustees under Section 3.03 and to terminate the Trust under Section 9.02. An Appointing Employer shall cease to be an Appointing Employer when it admits to its membership entities other than 100% Union Signatory Employers.

### Section 1.02 Beneficiary

The term "Beneficiary" means a person designated by a Participant or by the terms of the Plan to receive benefits that derive from the rights of the Participant.

### Section 1.03 Board of Trustees, Board, Trustees

The term "Board of Trustees," "Board," or "Trustees" means the Union Trustees and the Employer Trustees, collectively.

### Section 1.04 Code

The term "Code" means the Internal Revenue Code of 1986, as from time to time amended, and all rules and regulations promulgated pursuant thereto.

### Section 1.05 Collective Bargaining Agreement

The term "Collective Bargaining Agreement" means any written labor contract by and between an employer and the Union that provides for contributions to this Fund, with any extensions or renewals thereof.

### Section 1.06 Contributing Employer

The term "Contributing Employer" means any person or organization acceptable to the Trustees (through Trustee approval or otherwise in accordance with Trustee procedures) that is required to contribute to the Plan under the terms of a Collective Bargaining Agreement or a Participation Agreement, or any person or organization that is otherwise required by law, to make contributions to the Fund on behalf of its employees. In the case of an employer having more than one place of business, the term "Contributing Employer" shall apply only to the place of business specifically covered by the Collective Bargaining Agreement or Participation Agreement requiring contributions to the Fund except as otherwise required by law. A Contributing Employer that ceases to be a Contributing Employer shall continue to be subject to the provisions of this Trust Agreement to the extent necessary to give effect to any obligations relating to its status as a Contributing Employer.

#### Section 1.07 Effective Date

The term “Effective Date” means October 4, 2024.

#### Section 1.08 Employee

The term “Employee” means any person employed or otherwise engaged, retained and/or utilized by a Contributing Employer and for whom contributions are required to be made to the Fund, including without limitation a shareholder of a corporation or an owner of a limited liability company (“LLC”) duly organized and operated under the laws of a State of the United States who is employed by that corporation or LLC to render services. The term "Employee" shall not include any self-employed person, a sole proprietor of or a partner in an unincorporated business.

#### Section 1.09 Employer Contributions

The term "Employer Contributions" means payments made or that are required to be made to the Fund, including amounts owed but not yet paid, by a Contributing Employer under the provisions of, or in accordance with, a Collective Bargaining Agreement or Participation Agreement. All Employer Contributions are, and shall be considered as, Plan assets from the date on which the hours (whether worked or paid) for which the Contributing Employer is obligated to pay contributions to the Fund accrue, whether or not received by the Fund. No Contributing Employer has any right, title, or interest to any sum payable by the Contributing Employer to the Fund, but not yet paid into the Fund. Title to all Employer Contributions paid into and/or due and owing to the Fund shall be vested in the Trustees.

#### Section 1.10 Employer Trustees

The term “Employer Trustees” means the Trustees appointed in accordance with Section 3.03 and acting in that capacity.

#### Section 1.11 ERISA

The term “ERISA” means the Employee Retirement Income Security Act of 1974, as amended from time to time, and all rules and regulations promulgated pursuant thereto.

#### Section 1.12 Fund

The term "Fund" means the International Painters and Allied Trades Industry Annuity Fund established by this Trust Agreement and consisting of the monies and other items of value that constitute the corpus and additions thereto, contributions payable to the Fund, and amounts received or held for or on behalf of the Trustees.

#### Section 1.13 Fund, Trust Fund

The term “Fund” or “Trust Fund” means all Employer Contributions, accrued earnings thereon, and other money or property that comes into the hands of the Trustees in their capacity as Trustees hereunder.

#### Section 1.14 Fund Administrator

The term “Fund Administrator” shall mean any individual, person or entity that has been appointed by the Trustees to control the day-to-day administration of the Plan and operation of the Fund.

Section 1.15 IUPAT

The term “IUPAT” means the International Union of Painters and Allied Trades.

Section 1.16 Participant

The term “Participant” means an Employee who has met the eligibility requirements specified in the Plan and whose status as a Participant has not terminated pursuant to the Plan.

Section 1.17 Participation Agreement

The term “Participation Agreement” means a written agreement other than a Collective Bargaining Agreement that has been accepted by the Trustees.

Section 1.18 Plan

The term "Plan" shall mean the International Painters and Allied Trades Industry Annuity Plan, as it may be adopted and amended from time to time by the Trustees, specifying, among other things, the detailed basis upon which payments are to be made from the Fund to Participants and Beneficiaries.

Section 1.19 Trust Agreement

The term “Trust Agreement” means this International Painters and Allied Trades Industry Annuity Fund Agreement and Declaration of Trust, and any amendments thereof.

Section 1.20 Union

The term "Union" shall mean the IUPAT and its affiliated Local Unions and District Councils.

Section 1.21 Union Trustees

The term “Union Trustees” means the Trustees appointed in accordance with Section 3.02 and acting in that capacity.

## **ARTICLE 2**

### **ESTABLISHMENT, PURPOSE, AND OPERATION OF TRUST FUND**

#### Section 2.01 Establishment Of Fund.

The Fund shall comprise all assets held by the Fund as of the Effective Date, all assets thereafter received as Employer Contributions, monies received as income from investments held in the Trust Fund, and any other money or property received and/or held by the Trustees on behalf of the Trust Fund. All such assets shall be held in trust for the uses and purposes set forth in this Trust Agreement.

#### Section 2.02 General Purpose.

The Fund has been established and will be maintained for the exclusive purpose of providing retirement and related benefits to Participants and their Beneficiaries, as provided in the Plan, and defraying reasonable expenses of administering and operating the Fund.

#### Section 2.03 Operation.

The Fund is intended to be operated in a manner that will in all respects meet the requirements of section 401(a) of the Code and that will be exempt from income taxation under section 501(a) of the Code. The Fund is further intended to be operated in a manner that complies with ERISA and other applicable law. To the extent that anything herein is inconsistent with ERISA or other applicable law, this Agreement will be deemed amended in such fashion as will implement the purposes of the Fund while continuing to comply with the requirements of ERISA and other applicable law. The Fund is also intended to be operated as a jointly administered pension fund within the meaning of, and in accordance with, section 302(c)(5) of the Labor Management Relations Act of 1947, as amended from time to time, and all rules and regulations promulgated pursuant thereto.



## **ARTICLE 3 TRUSTEES**

### Section 3.01 Board of Trustees.

The Fund shall be operated and administered by a Board of Trustees consisting of up to sixteen Trustees, half of whom shall be Union Trustees as defined in Section 3.02 and half of whom shall be Employer Trustees as defined in Section 3.03. The Board is the "named fiduciary" (as that term is defined in section 402(a)(2) of ERISA) for the Fund, except to the extent that it has designated another entity as a named fiduciary pursuant to Section 4.02. The Board is the "administrator" (as the term is defined in section 3(16)(A) of ERISA) of the Plan and the Fund.

a) As of the Effective Date, the Union Trustees are James A. Williams Jr., Gregg Smith, Paul Canning, Mike Gutierrez, Charlie Meadows, Ron Kniess, Ryan Anderson, and Mark Komaromi.

b) As of the Effective Date, the Employer Trustees are Jerry Haber, Keith Constanzo, Clark B. Anderson, Bradley A. Pinchot, Penny A. McDonald, Paul Morales, Joseph Clabbers, and Thomas E. Carney Jr.

### Section 3.02 Union Trustees.

There shall be a maximum of eight (8) Union Trustees appointed by the IUPAT.

### Section 3.03 Employer Trustees.

a) There shall be a maximum of eight (8) Employer Trustees. The Finishing Contractors Association ("FCA") shall appoint up to six (6) Employer Trustees; provided, however, that the FCA must remain an organization that admits to its membership only 100% Union Signatory Employers in order to maintain its rights hereunder. The Architectural Glass and Metal Association ("AGMA") shall appoint one (1) Employer Trustee; provided, however, that AGMA must remain an organization that admits to its membership only 100% Union Signatory Employers in order to maintain its rights hereunder. The Finishing Contractors Association of Southern California ("FCASC") shall appoint one (1) Employer Trustee; provided, however, that FCASC must remain an organization that admits to its membership only 100% Union Signatory Employers in order to maintain its rights hereunder.

b) At the time of appointment to the Board of Trustees, each Employer Trustee must be an officer or employee of a signatory to a Collective Bargaining Agreement, with a Local Union or District Council in whose geographic jurisdiction its principal place of business is located, that employs an average of twenty-five (25) or more employees. An incumbent Employer Trustee who satisfies these requirements at the time of the Trustee's original appointment as Trustee shall continue to be considered as qualified during the Trustee's tenure for a period of not more than one (1) year after the Trustee leaves such employment with the signatory employer.

### Section 3.04 Acceptance of Trusteeship.

The Trustees named in Section 3.01 agree to accept the Trust created and established by this Trust Agreement and consent to act as Trustees therefor. The signature of a Trustee to this Trust Agreement or

any counterpart hereof shall be conclusive evidence of the Trustee's acceptance as aforesaid. Each additional or successor Trustee shall execute a written acceptance in a form satisfactory to the Trustees 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 therefor.

Section 3.05 Terms of Trustees.

Each Trustee shall continue to serve as such until the Trustee's death, incapacity, resignation, or removal, as hereinafter provided.

Section 3.06 Removal of Trustees.

The IUPAT, FCA, or AGMA, or FCASC may remove any Trustee(s) appointed by it at any time, for any reason, with or without cause, by providing a notice in writing to the Fund Administrator, and such removal will be effective upon the date the notice is received by the Fund Administrator (or, if later, the date specified in the notice).

Section 3.07 Resignation of Trustees.

A Trustee may resign and become and remain fully discharged from further duty or responsibility hereunder upon giving at least thirty (30) days' advance written notice to the Fund Administrator, or such shorter notice as the remaining Trustees may accept as sufficient, in which notice there shall be stated a date when such resignation shall take effect. Such resignation shall take effect on the date specified in the notice unless a successor Trustee has been appointed at an earlier date, in which event such resignation shall take effect immediately upon the appointment of such successor Trustee.

Section 3.08 Successor Trustees.

If a Trustee dies, resigns, or is removed, a successor Trustee shall be appointed by filing with the Fund Administrator a writing certifying the designation of a successor. Designation of such successor Trustee shall become effective on the date specified in the notice.

Section 3.09 Vesting of Powers and Duties.

Any successor Trustee shall, immediately upon the Trustee's appointment and acceptance in writing filed with the Fund Administrator, become vested with all the property, rights, powers and duties of a Trustee hereunder with like effect as if originally named as a Trustee and all the Trustees then in office.

Section 3.10 Trustee Vacancies.

No vacancy or vacancies in the office of Trustee shall impair the power of the remaining Trustees to administer the affairs of this Fund provided there are sufficient Trustees to constitute a quorum for the transaction of business as hereinafter provided.

Section 3.11 No Compensation.

The Trustees will serve without compensation from the Fund for their duties hereunder, except for reimbursement of expenses as permitted by applicable law.

Section 3.12 Liability.

To the extent permitted by law:

a) The Trustees shall not be personally answerable for any liabilities or debts of the Plan or the Fund incurred by them as Trustees, but said debts and liabilities shall be paid out of the Trust Fund;

b) No Trustee shall be personally liable for any error of judgement or for any Claims (as that term is defined in subsection (d) of this Section 3.12) arising out of any act or omission of such Trustee or any acts or omissions of any other Trustee, or any agent elected or by or acting for the Trustees;

c) The Trustees shall not be personally liable for the proper application of any part of the Fund or for any other liabilities arising in connection with the administration of the Plan or the Fund;

d) To the extent not covered by insurance, the Fund shall protect, indemnify and hold harmless the Trustees and their employees and other agents, from and against any and all liabilities, damages, taxes, judgments, debts, assessments, penalties, losses, expenses, attorneys' fees, costs and claims (hereinafter collectively referred to as "Claim") incurred by any such person(s) as a result of any act, omission or conduct committed by said person (s) in connection with the performance of the person's powers, duties, responsibilities or obligations under the Plan, the Fund, this Agreement, the Act, the Code or other applicable laws, except with respect to Claims as to which there is a final judgment of such person's own fraud or willful misconduct.

## **SECTION 4 TRUSTEE POWERS AND DUTIES**

### Section 4.01 General Powers and Duties.

The Trustees shall at all times act in accordance with the terms and conditions of the Plan, this Trust Agreement and applicable laws governing the administration of pension plans and pension funds qualified under the Code and subject to ERISA. In addition to any other powers or duties which may be set forth herein or conferred or imposed by applicable laws, the Trustees shall have the following powers and duties in relation to the Plan and the Fund:

- a) to adopt a plan of benefits and a summary plan description, as each may be amended from time to time;
- b) to lease or purchase such premises, supplies and equipment and to hire or retain such administrative, secretarial and clerical staff and such investment advisors, consultants, actuaries, accountants, lawyers and other professional advisors as the Trustees may deem necessary for the proper administration of the Plan and the Fund;
- c) to prescribe rules and procedures governing the application by Participants and Beneficiaries for benefits under the Plan and the furnishing of any evidence necessary to establish their entitlement to such benefits provided such rules and procedures are consistent with the Plan and requirements of applicable law;
- d) to resolve all disputes and make all determinations (including factual and legal determinations) concerning the eligibility, entitlement or payment of benefits to a Participant or Beneficiary and to construe and interpret, and/or apply the provisions of this Trust Agreement and the Plan relating to the entitlement to or payment of benefits or any other issue of plan administration;
- e) to maintain or retain an agent (or agents) to maintain the official documents and records of the Plan and the Fund for all purposes;
- f) to keep current and accurate accounts and records of its transactions which shall be examined at least annually by a certified public accountant or chartered accountant selected by the Trustees to retain the services of any persons or entities the Trustees deem necessary or desirable to assist the Trustees in carrying out their duties under this Agreement or the Plan;
- g) to appoint an auditor, who shall be a licensed public accountant, to prepare a report to be delivered to each Trustee no later than is required by applicable law relating to the financial position of the Fund and the operation of the Plan for any fiscal year;
- h) to appoint an actuary or an accountant to prepare a valuation of the Plan and such other reports, statements or other material as may be required in the administration of the Plan and the Fund under applicable laws;
- i) to review such documents, records and other information as it may deem necessary to perform its duties hereunder;

j) to prepare or cause to be prepared and distributed or filed all records, information returns and reports necessary to comply with any reporting, information or disclosure requirement imposed by applicable law;

k) to withhold, or cause to be withheld, from payments out of the Fund such taxes or other assessments in such amounts as may be required by applicable law and to ensure the same are remitted to the appropriate governmental authorities in accordance with applicable law;

l) to prepare or obtain, or cause to be prepared or obtained, all forms and documents necessary or desirable for the efficient administration of the Plan and the Fund;

m) to obtain annual reports of the receipts and disbursements of any custodian appointed pursuant to Section 4.02;

n) to transfer any assets and/or liabilities to or from, or effect any merger of the Fund with, another retirement plan on such terms and under such conditions as the Trustees in their discretion may determine; provide, however, that in the case of any such transfer or merger, provisions shall be made so that no accrued benefit of a Participant or Beneficiary will be lower immediately after the effective date of the transfer or merger than the benefit immediately before that date.

o) to make rules for the conduct of the affairs of the Trustees and to specify the duties and powers of the Co-Chairs;

p) to settle, compromise, adjust or submit to arbitration, any claims, debts or damages, in favor of or against, or due or owing to or from the Plan or the Fund, to commence or defend suits or legal or administrative proceedings, and to represent the Plan or the Fund in all suits or legal proceedings;

q) to file requests for determinations, rulings and other forms of administrative guidance with the United States Department of Labor, the Internal Revenue Service, and/or any other administrative or regulatory agencies in the United States; and

r) to do all other acts which the Trustees may deem necessary for the proper conduct of the Trustees and the proper administration of the Plan and the management of the Fund, in accordance with this Agreement, the Plan and applicable laws, whether or not expressly authorized herein.

#### Section 4.02 Delegation by Trustees.

To the extent permitted by law, the Trustees may delegate responsibilities to one or more agents (including, without limitation, investment manager(s) within the meaning of section 3(38) of ERISA, custodian(s) or investment advisors) to carry out any act required to be done under this Trust Agreement. No Trustee shall be liable for the acts or omissions of an investment manager or shall be under an obligation to invest or otherwise manage any asset of the Fund that is subject to the management of such investment manager.

#### Section 4.03 Receipt Of Payments.

The Trustees are hereby authorized to receive Employer Contributions and are hereby vested with all right, title and interest in and to such monies and all interest accrued thereon and appreciation thereof.

The Trustees shall receive all such payments and hold the same in trust subject to the terms of the Plan and this Agreement, and for the uses and purposes of the Plan and the Fund and may deposit all or a portion of such monies with such person or entity as it may appoint for this purpose.

#### Section 4.04 Payment Of Benefits.

All benefits that are determined in accordance with the terms of the Plan shall be paid from the Fund unless such benefits are covered by an insurance contract purchased with Fund assets pursuant to Section 4.06.

#### Section 4.05 Other Payments from the Fund.

a) Investment management, custodial fees and investment fund expenses (together with other costs and expenses, such as brokerage commissions, postage and insurance charges, which are customarily charged by an investment manager, dealer or broker in connection with the sale, investment and reinvestment of the assets of a pension fund) incurred in connection with a particular investment fund shall be charged against that investment fund. All other compensation, costs, charges and expenses incurred in the administration of the Plan and the Fund shall be paid from the Fund.

b) All taxes or penalties levied or assessed upon or in respect of the Plan or the Fund against any money, property or securities forming a part thereof or in respect of any transaction relating to the Plan or the Fund shall be paid from the Fund if the Trustees agree with the correctness or applicability of such levy or assessment.

#### Section 4.06 Insurance Contracts.

The Trustees may enter into such insurance contracts and policies, including group annuity contracts, and, with respect to such contracts and policies, may make such premium or other payments thereon, make such elections thereunder, agree to any alteration, modification or amendment thereof, and take such actions with respect thereto as the Trustees may in their sole discretion determine.

#### Section 4.07 Investment Powers.

Subject to the provisions of this Agreement, the Trustees are authorized to invest and reinvest the Fund, without distinction between capital and income, in such investments as the Trustees in their absolute discretion consider advisable from time to time without being limited in any way by the laws of any jurisdiction purporting to limit the investments that may be made by trustees, provided that such investments are not prohibited by laws applicable to pension plans governed by ERISA and qualified under the Code, and to take any and all actions with respect to holding, buying, selling or exchanging such investments as the Board in its discretion may deem appropriate including, without limiting the generality of the foregoing:

a) to invest and reinvest in any type of investments, including in one or more regulated investment companies under section 3 of the Investment Company Act of 1940 (including without limitation mutual funds, closed-end funds, unit investment trusts, and exchange-traded funds), real estate investment trusts, small business investment companies, bank common trust funds under §584 of the Internal Revenue Code of 1986, collective investment funds under 12 CFR 9.18, group trusts described in Revenue Ruling 81-100, insurance company separate accounts and group annuity contracts, limited

partnerships, or other commingled investment vehicles permitted for a pension plan by applicable law, including hedge funds and private placements not registered with the Securities & Exchange Commission or Commodities Futures Trading Commission, notwithstanding that the bank or trust company is a fiduciary, investment manager, or is otherwise a party-in-interest of the Plan, and the assets so invested shall be subject to all the provisions of the instruments establishing such funds as they may be amended from time to time, which shall be incorporated and made a part of this Trust as if fully set forth herein.

b) to sell at public or private sale, to grant options, convert, redeem, exchange for other securities or property or otherwise dispose of all or any securities at any time held as part of the Fund, for such consideration, and for cash or on credit (or partly for cash and partly on credit), and upon such terms and conditions as the Board deems advisable;

c) to vote upon any stock, bond or other security, to give general or special proxies or powers of attorney with or without power of substitution, to exercise any conversion privilege, subscription right, warrant or other right or option, and to any payment incidental thereto and to oppose, or to consent to or otherwise participate in, corporate reorganizations, amalgamations, mergers, consolidations other changes affecting corporate securities, and to delegate discretionary powers and to pay any assessments or charges in connection therewith, to accept and hold any shares or securities which may be issued as a result of any corporate reorganization or other change affecting corporate securities and generally to exercise any of the powers of an owner with respect to stocks, bonds, securities or other property held as part of the Fund;

d) to cause any securities or other property held as part of the Fund to be registered in its own name as trustee or in the name of one or more of its nominees as trustee, provided that any such property shall be deemed to be held by the Trustees for the purposes of this Agreement; to hold any securities in bearer form if the investment is not registrable or it would not be in the best interests of the Plan to do otherwise and to hold securities of an issuer utilizing a book based central depository system for which certificates are not issued, provided the books and records of the Board shall at all times show all such securities or the proportionate interest thereof that forms part of the Fund;

e) to utilize the services of the Depository Trust Company and/or the Federal Reserve Book-Entry System and to deposit assets of the Fund in the custody of another financial institution or depository authorized to act as a custodian of a qualified pension plan fund according to the law of the jurisdiction in which such institution or depository is located;

f) to the extent permitted by law, to lend any securities or other property of the Fund, upon such terms as may be set out in any written securities loan agreement approved by the Trustees; provided that all such loans are fully consistent with ERISA and the Code (or other applicable law), and that cash or other collateral having a fair market value (as of the close of business on the business day immediately preceding the date of such loan or such other date as may be required by law) equal to at least such percentage of the then fair market value of the securities or other property loaned as may be required under ERISA is pledged to the Fund by the borrower and continues to be maintained in such manner until such loan is repaid;

g) to keep such portion of the Fund in cash as the Trustees deem advisable for the reasonable current cash requirements of the Fund, provided that, if the Trustees deem it advisable, all or a portion of

all such cash balances shall be invested at the end of each business day in an overnight short-term investment fund or equivalent arrangement or account with a chartered bank or trust company authorized to carry on business in the United States; and

h) to the extent that the Trustees authorize a participant-directed investment program, the Trustees shall have the power and authority to promulgate rules and regulations with respect to the implementation and operation of such investment program (e.g., concerning the frequency and timing of Participant elections and changes in investment elections related to the contributions allocated to Participant accounts and the ability to transfer assets between investment funds) and take such other steps in order for the Plan to qualify under section 404(c) of ERISA. The Trustees also shall be authorized to take such actions as they, in their discretion, deem necessary and appropriate in connection with the operation of such investment program (including, without limitation, the retention of consultants or service providers to perform advisory, investment management, recordkeeping and/or custodial functions). The Trustees, from time to time, in their sole discretion, may select the investment funds available under the Plan, increase or decrease the number of investment funds available, delete a current investment fund, add a new investment fund, replace a current investment fund with a new investment fund, and establish such default investment fund procedures as they, in their discretion, consider to be necessary to provide for the investment of a Participant's account in the Plan to the extent the Participant fails to direct the investment of all or a portion of such account.

#### Section 4.08 Bonding.

The Trustees and any employees of the Trust Fund who handle money, securities or negotiable paper on behalf of the Fund or who is otherwise entrusted with any portion of the Fund shall be bonded under a fidelity bond issued by a reputable insurance carrier meeting all applicable legal requirements in the amount required by section 412 of ERISA, and the cost of premiums for such bonds shall be paid out of the Trust Fund.

#### Section 4.09 Trustees' Insurance.

To the extent permitted by law, the Trustees may authorize the purchase of liability insurance for themselves and for any other fiduciary employed by them, and for any other person to whom a fiduciary duty with respect to the Trust Fund has been delegated, and the cost of premiums for such insurance shall be paid out of the Trust Fund.



## **ARTICLE 5 CONTRIBUTIONS TO THE FUND**

### Section 5.01 Contributing Employers.

a) All Contributing Employers are bound by the terms of this Agreement, including any amendments hereto as the Trustees may adopt pursuant to Article 8, and by all rules, regulations, and policies established by the Trustees.

b) All Contributing Employers will make contributions as required by the Collective Bargaining Agreement or Participation Agreement or as otherwise required by law.

c) A Contributing Employer shall cease to be a Contributing Employer when it is no longer required to make contributions to the Fund under Section 5.01(b) above or, as determined by the Trustees, when it fails to comply with its legal obligations under ERISA, the Code, or the terms of this Trust Agreement.

### Section 5.02 Rate Of Contributions.

Except as required by law, each Contributing Employer shall contribute to the Fund the amount required by its Collective Bargaining Agreement or Participation Agreement and the rate of contribution shall at all times be governed by the Collective Bargaining Agreement or Participation Agreement then in force and effect, together with any amendments, supplements or modifications thereto. On matters other than contribution rates, contributions to the Plan shall be governed by the Plan and this Trust Agreement.

### Section 5.03 Mode Of Payment.

All contributions shall be payable to the "IUPAT Industry Annuity Fund" and shall be paid in the manner and form determined by the Trustees.

### Section 5.04 Default In Payment.

Non-payment by a Contributing Employer of any contributions when due shall not relieve any other Contributing Employer of its obligation to make payment. In addition to any other remedies to which the parties may be entitled, a Contributing Employer who has failed to timely report and/or pay its contributions will be required at the discretion of the Trustees to pay such reasonable rate of interest as the Trustees may fix on the money due to the Trustees from the date when the payment was due to the date when payment is made, together with all expenses of collection (including without limitation attorneys' fees and costs) incurred by the Trustees and such liquidated damages as may be assessed by the Trustees.

### Section 5.05 Report On Contributions.

Each Contributing Employer shall make all reports on contributions in such manner and form as required by the Trustees.

### Section 5.06 Due Date of Employer Contributions and Reports.

If the Collective Bargaining Agreement or Participation Agreement does not provide a due date for the reporting and payment of contributions, said contributions shall be due the Fund on or before the 20<sup>th</sup> day of the month following the month in which the hours were worked unless otherwise determined by the Trustees.

Section 5.07 Audits.

The Trustees may at any time have an audit performed by an accountant or other representative of the Fund (“Auditor”) of all of a Contributing Employer’s payroll, wage and cash disbursement records, general ledger, tax returns, and all other financial records (“Records”) that the Auditor deems necessary to determine the accuracy, completeness and timeliness of the Contributing Employer’s contributions, including Records relating to individuals performing services for the Contributing Employer for whom the Contributing Employer takes the position that no contributions are due. If the Contributing Employer fails to provide all of the Records requested by the Auditor, the Trustees may require that the Contributing Employer pay to the Fund all costs incurred as a result of such failure, including without limitation attorneys’ fees and costs. The Trustees may require a Contributing Employer found delinquent or in violation of the Plan (or Trustee rules, regulations or policies) as a result of an audit to pay to the Fund the cost of the audit as well as interest and liquidated damages on the delinquent contributions.

Section 5.08 Limit Of Contributing Employer's Liability.

Except as otherwise provided in this Article 5 or otherwise provided by law, the financial liability of any Contributing Employer shall in no event exceed the obligation to make contributions as set forth in its applicable Collective Bargaining Agreement.

## **ARTICLE 6 MEETINGS AND DECISIONS OF TRUSTEES**

### Section 6.01 Officers of Trustees.

There shall be two Co-Chairs, one from among the Union Trustees and one from among the Employer Trustees. The Union Co-Chair shall be selected by majority vote among the Union Trustees. The Employer Co-Chair shall be selected by majority vote among the Employer Trustees. The terms of each Co-Chair shall commence on the date of selection and shall continue until the Co-Chair's successor has been selected in accordance with this Section 6.01.

### Section 6.02 Meetings of Trustees.

Meetings of the Trustees shall be held at such place or places as may be agreed upon by the Co-Chairs and may be called by them upon twenty (20) days' notice to the other Trustees and may be held at any time without such notice if all the Trustees consent thereto in writing. The Co-Chairs may also convene a virtual meeting of the Trustees (including by telephone conference) called upon five (5) days' notice to the other Trustees.

### Section 6.03 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 the Trustees.

### Section 6.04 Quorum.

In all meetings of the Trustees, two Trustees shall constitute a quorum for the transaction of business provided there is at least one Employer Trustee and one Union Trustee present at the meeting. Participation by one or more Trustees at a meeting by means of a conference telephone or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time shall constitute presence at a meeting for all purposes of this Article. If, at any time, there is an unequal number of Employer Trustees and Union Trustees in attendance, the Employer Trustees and the Union Trustees, respectively, shall have equal voting strength, with the vote(s) of the absent Trustee(s) divided pro rata among the Trustees of similar status (*i.e.*, Employer or Union, as the case may be) that are present.

### Section 6.05 Majority Vote of Trustees.

All action by the Trustees under this Trust Agreement shall be by majority decision of the Employer Trustees and Union Trustees.

### Section 6.06 Impartial Arbitrator.

In the event any matter presented for decision cannot be decided because of a tie vote at a meeting, or because of the lack of quorum at two consecutive meetings, not including committee meetings, the matter shall be submitted to arbitration. If the Trustees cannot agree on an arbitrator within fifteen (15) business days of the date on which the dispute arose, either the Employer Trustees or the Union Trustees or both may apply to the District Court of the United States for the District in the area in which the Fund

maintains its principal office for the designation of an arbitrator. The hearing will be conducted within fifteen (15) days from the date on which the arbitrator has been selected or designated, or such longer period to which the Trustees and arbitrator agree, and will take place in Hanover, Maryland, unless otherwise agreed by the Trustees and the arbitrator. The decision of the arbitrator shall be final and binding. The cost and expense incidental to any arbitration proceedings, including the fee, if any, of the impartial arbitrator, the attorneys and other professionals, shall be proper charges against, and paid from, the Fund.

Section 6.07 Minutes of Meetings.

The Trustees shall keep minutes of all meetings, but such minutes need not be verbatim. Copies of the minutes shall be sent to all Trustees.

## **ARTICLE 7 COMMITTEES**

### Section 7.01 Allocation of Responsibility.

The Trustees may allocate any of their responsibilities under this Trust Agreement to one or more committees. To the extent that such responsibilities are so allocated, the remaining Trustees shall not be liable for any loss to the Trust resulting from the acts or omissions of those specific committees, except as ERISA otherwise requires.

### Section 7.02 Committee Members.

Each committee shall consist of two or more Trustees, provided that representation on such committee by Union Trustee and Employer Trustees shall be equal at all times. Half of the members of any such committee shall be selected by and serve at the will of the Union Co-Chair and the other half shall be selected by and serve at the will of the Employer Co-Chair.

### Section 7.03 Committee Meetings, Decisions, and Procedures.

a) Each committee shall hold meetings at such time and place and upon such notice as it may from time to time determine. The quorum requirements for committee shall be determined by the Trustees. All decisions by any such committee at a meeting shall be made by majority vote.

b) A meeting of any committee may be held by means of such telephone, electronic or other communication facilities as permit all persons participating in the meeting to communicate with each other simultaneously and instantaneously. A committee member participating in such a meeting by such means is deemed to be present at the meeting. Any decision made by a committee at such a meeting shall be effective only if consented to by a majority of Union Trustees and a majority of the Employer Trustees participating in the meeting and ratified by all committee members participating in the meeting no later than the next regular meeting of the full Board of Trustees. Provided such written affirmation is given, such decision shall be effective from the date of the meeting.

c) Decisions of a committee may also be made without a meeting by obtaining the unanimous written consent of all members of the committee then in office. In the event that the members of any committee are unable to agree on any matter, the matter shall be referred to the Board.

d) Each committee shall keep minutes of all meetings, but such minutes need not be verbatim. Copies of the minutes shall be sent to all committee members.

e) All actions taken by any committee shall be reported to Trustees at their next meeting, and the Trustees shall ratify or repudiate such actions.

### Section 7.04 Resignation; Successor Committee Members

a) Any member of a committee may resign from such committee on giving one month written notice to the Trustees and to the remaining member(s) of the committee and will be replaced by the Union or Employer Co-Chair, as applicable.

b) Any member of a committee who ceases to be a Trustee will automatically cease to be a member of such committee and will be replaced by the Trustee who appointed the committee member.

## **ARTICLE 8 AMENDMENTS TO TRUST AGREEMENT**

### Section 8.01 Amendment.

This Trust Agreement may be amended in any respect from time to time by the Trustees, provided that each amendment shall be duly executed in writing by the Trustees.

Except as required by law, no amendment may be adopted that would alter the first sentence of Section 11.01 or affect contributions due under a Collective Bargaining Agreement. In addition, any amendment that would result in the FCA having the right to appoint fewer than seventy-five percent (75%) of the Employer Trustees must receive the affirmative vote of a majority of the FCA appointed trustees.

### Section 8.02 Notification Of Amendment.

Whenever an amendment is adopted in accordance with this Article 8, a copy thereof shall be distributed to all Trustees, and the Trustees shall so notify all necessary parties and shall execute any instrument or instruments necessary in connection therewith.

## **ARTICLE 9 TERMINATION OF TRUST**

### Section 9.01 By the Trustees.

This Trust Agreement may be terminated by an instrument in writing executed by all the Trustees when there is no longer in force and effect a Collective Bargaining Agreement between a Contributing Employer and the Union requiring contributions to the Fund.

### Section 9.02 By the Appointing Employers and the IUPAT.

This Trust Agreement may be terminated by an instrument in writing duly executed by the Appointing Employers and the IUPAT.

### Section 9.03 Procedure on Termination.

In the event of the termination of this Trust Agreement, the Trustees shall apply the Fund to pay or to provide for the payment of any and all obligations of the Fund and shall distribute and apply any remaining surplus in such manner as will, in their opinion, best effectuate the purpose of the Fund consistent with applicable law: provided; however, that no part of the corpus or income of said Fund shall be used for or diverted to purposes other than for the exclusive benefit of the Participants or their Beneficiaries, or for repayment of the administrative expenses of the Fund, or for other payments in accordance with the provisions of this Trust Agreement.

### Section 9.04 Notification of Termination.

Upon termination of the Fund in accordance with this Article, the Trustees shall promptly notify each Local Union and/or District Council of the Union and each Contributing Employer, and all other necessary parties; and the Trustees shall continue as Trustees until the affairs of the Trust are wound up.



## **ARTICLE 10 MISCELLANEOUS PROVISIONS**

### Section 10.01 Non-Reversion.

Under no circumstances shall any portion of the corpus or income of the Fund, directly or indirectly, revert or accrue to the benefit of any Contributing Employer or the Union. Notwithstanding the foregoing, to the extent permitted by ERISA, the Code and other applicable law, in the event that any payment to the Fund has been made by mistake of fact or law, the Trustees may in their sole discretion return such contribution to the Contributing Employer before six months after they (or their designee) determine, in their sole discretion, that such payments were made by mistake of fact or law, and the Contributing Employer shall have the burden of providing that such payments were made by mistake.

### Section 10.02 Rights in Fund.

No person shall have any legal or equitable right or claim under the Plan or against the Union, any Contributing Employer, or the Trustees unless the right is specifically provided in this Trust Agreement or in the Plan, as they may be amended from time to time, or is conferred by affirmative action of the Trustees. In no event shall any Participant or Beneficiary have any interest in any specific asset of the Trust Fund.

### Section 10.03 Assignment Of Benefits.

No monies, property or equity of any nature whatsoever, in the Fund, or contracts or benefits or monies payable therefrom, shall be subject in any manner by an Employee or person claiming through such Employee to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, garnishment, mortgage, lien or charge, and any attempt to cause the same subject thereto shall be null and void, except for a qualified domestic relations order (as defined in section 206(d)(2) of ERISA) or as may otherwise be permitted by law.

### Section 10.04 Situs.

The assets of the Fund shall be maintained within the jurisdiction of the District Courts of the United States in accordance with applicable federal law and regulations. All questions pertaining to validity, construction and administration of this Agreement in relation to the United States plans shall be determined in accordance with federal law or, when reference to state law is necessary or appropriate, the laws of the State of Maryland.

### Section 10.05 Construction Of Terms.

Whenever any words are used in this Trust Agreement in the masculine gender, they shall be construed as though they were also in the feminine gender or neuter in all situations where they would so apply, and wherever any words are used in this Trust Agreement in the singular form, they shall be construed as though they were also used in the plural form in all situations where they would so apply, and wherever any words are used in the Trust Agreement in the plural form, they shall be construed as though they were also used in the singular form in all situations where they would so apply.

Section 10.06 Certification of Trustees' Actions.

The Co-Chairs may execute any certificate or document jointly on behalf of the Trustees and such execution shall be deemed execution by all the Trustees. All persons having dealings with the Fund or with the Trustees shall be fully protected in reliance placed on such duly executed documents.

Section 10.07 Notification to Trustees.

The address of each of the Trustees shall be that stated on the signature page of this Trust Agreement. Any change of address shall be effected by written notice to the Trustees.

Section 10.08 Severability.

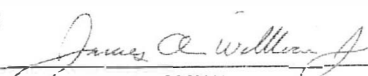
Should any provision in this Trust Agreement be deemed or held to be unlawful or invalid for any reason, such fact shall not adversely affect the provisions herein and therein contained unless such illegality shall make impossible or impractical the functioning of the Trust and the Plan, and in such case the appropriate parties shall promptly adopt a new provision to take the place of the illegal or invalid provision.


Section 10.09 Titles.

The title headings to the various Sections and Articles are for the purpose of convenience only and shall not have any legal significance apart from the text.


IN WITNESS THEREOF, the undersigned do hereby cause this Agreement and Declaration of Trust to be executed, effective as of October 4, 2024.

UNION TRUSTEES

BY:   
James A. Williams, Jr.


BY:   
Gregg Smith

BY:   
Paul Canning

BY:   
Mike Gutierrez

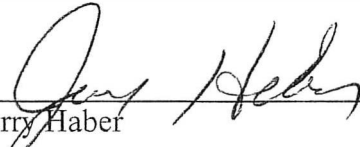
BY:   
Charlie Meadows

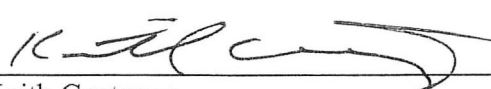
BY:   
Ron Kniess


BY:   
Ryan Anderson

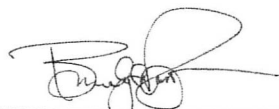
BY:   
Mark Komaromi


EMPLOYER TRUSTEES

BY:   
Jerry Haber


BY:   
Keith Costanzo

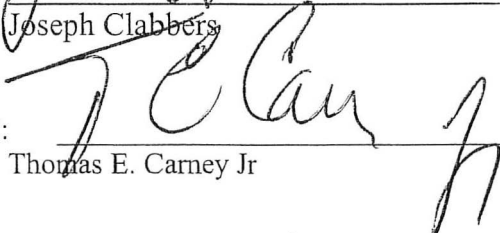
BY:   
Clark B. Anderson

BY:   
Bradley A. Pinchot

BY:   
Penny A. McDonald

BY:   
Paul Morales

BY:   
Joseph Clabbers

BY:   
Thomas E. Carney Jr