

## **AMENDMENT TO AGREEMENT AND DECLARATION OF TRUST OF THE INDUSTRY AND LOCAL 338 PENSION FUND**

**WHEREAS**, Article XI of the Agreement and Declaration of Trust (the “Trust Agreement”) of the Industry of Local 338 Pension Fund provides that the Trustees may amend the Trust Agreement from time to time;

**NOW THEREFORE**, Article III of the Trust Agreement, as amended, is hereby further amended as follows, effective September 18, 2017. New language is indicated by **double-underlined and bolded text** and deleted language is indicated by ~~double-strikethrough and bolded text~~.

### **ARTICLE III**

**Section 1.** The Trustees under this Trust Agreement, who shall be Trustees of the Trust created and established by Article II hereof, shall be ~~six~~ **five** in number, three of whom shall be Union Trustees and ~~three~~ **two** of whom shall be Employer Trustees. The Trustees, by unanimous vote, may increase the number of Trustees at any time, ~~provided that there shall be an equal number of Union Trustees and of Employer Trustees~~. The Trustees shall be named fiduciaries under the Employee Retirement Income Security Act of 1974, as amended.

**Section 2.** Local 445, I.B.T., Local 687, I.B.T., and Local ~~693~~ **317**, I.B.T., shall each appoint one Union Trustee. ~~As of June 19, 2014, the three Union Trustees are Adrian Huff, Mickey Smith, and Roberta Dunker.~~ The Union Trustee must be actively employed by the appointing entity or must be requested to act as a Union Trustee by the appointing entity. Each Union Trustee shall consent to and accept his/her appointment as Union Trustee. Each individual so appointed shall serve at the pleasure of the appointing entity.

**Section 3.** The ~~three~~ Employer Trustees shall be appointed by an Employer. ~~As of June 19, 2014, the three Employer Trustees are JoEllen Vavasour, Theresa Bresten, and Christopher Palmer.~~ The Employer Trustee must be actively employed by the appointing entity or must be requested to act as an Employer Trustee by the appointing entity. Each Employer Trustee shall consent to and accept his/her appointment as an Employer Trustee. Each individual so appointed shall serve at the pleasure of the appointing entity.

**Section 4.** Each Trustee shall continue to serve as such until the Trustee’s death, incapacity, resignation or removal, as herein provided.

**Section 5.** A Trustee may resign and become and remain fully discharged from all further duty or responsibility hereunder upon giving thirty days’ notice in writing to the remaining Trustees, 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; and such resignation shall take effect on the date specified in the notice unless a successor Trustee shall

have been appointed at an earlier date, in which event such resignation shall take effect immediately upon the appointment of such successor Trustee.

**Section 6.** A Union Trustee may be removed at any time through a written statement by the principal officer of the Local Union that appointed him/her as Union Trustee, which shall serve as sufficient evidence of the action taken by the Local Union.

**Section 7.** An Employer Trustee may be removed at any time through a written statement by a duly authorized representative of the Employer that appointed him/her as Employer Trustee, which shall serve as sufficient evidence of the action taken by the Employer.

**Section 8.** In the event a vacancy occurs among the Employer Trustees, whether by resignation, incapacity, death or removal, or in the event that an increase in the authorized number of Trustees shall create a vacancy, the remaining Employer Trustees shall select a successor or additional Trustee. Such successor or additional Trustee shall satisfy the requirements of Section 3 herein. The Union shall have no right to participate in any way in the selection of any Employer Trustee whether or not it makes contributions to the Trust Funds for its employees.

**Section 9.** In the event a vacancy occurs among the Union Trustees, whether by resignation, incapacity, death or removal, a successor Union Trustee shall be designated by the Local Union that appointed such Union Trustee. In the event that an increase in the authorized number of Trustees shall create a vacancy, an additional Union Trustee shall be designated by a majority of the Union Trustees.

**Section 10.** It is the intention hereof that the Pension Trust Fund shall at all times be administered by ~~two an equal number of~~ Employer Trustees and **three** Union Trustees, but in the event of a vacancy or vacancies, until the designation of a successor Trustee or Trustees as hereinabove provided, the remaining Trustees shall have full power to act and shall act.

**Section 11.** Any successor Employer Trustee or any successor Union Trustee shall immediately upon his/her designation as a successor Trustee and his/her acceptance of the trusteeship in writing filed with the Trustees become vested with all the property, rights, powers and duties of a Trustee hereunder with like effect as if originally named as a Trustee and all the Trustees then in office and the insurance carrier of each Policy and all other necessary parties if any, shall be immediately notified.

IN WITNESS WHEREOF, the Trustees have executed this Amendment on this 25<sup>th</sup> day of January, 2018.

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Employer Trustee

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Union Trustee