

**BRICKLAYERS AND ALLIED CRAFTSMEN LOCAL 7 PENSION FUND
APPLICATION TO THE PENSION BENEFIT GUARANTY CORPORATION
FOR A PARTITION ORDER**

EXHIBIT 5A

AMENDED AND RESTATED AGREEMENT AND DECLARATION OF TRUST

FOR THE

BRICKLAYERS & ALLIED CRAFTSMEN LOCAL NO. 7 PENSION FUND

This Amended and Restated Agreement and Declaration of Trust, entered into this 9th day of March, 2012, by and between the persons designated as Trustees by the Bricklayers & Allied Craftsmen Local No. 7 ("UNION TRUSTEES") and the persons designated as Trustees by the Akron Division of the Associated Contractors of Ohio and the Akron Mason Contractors Association ("EMPLOYER TRUSTEES") supersedes, effective March 9, 2012, the Restated Agreement and Declaration of Trust which was effective January 1, 1976 and all subsequent amendments thereto.

WITNESSETH:

WHEREAS, the Union and Employers have entered into certain Collective Bargaining Agreements which provide, among other things, for the establishment of a Pension Fund, and

WHEREAS, to maintain the Pension Fund, the Union and Employers desire to create a Trust Fund which will conform to the applicable requirements of the Labor Management Relations Act of 1947, as amended, the Employee Retirement Income Security Act of 1974, as amended, and qualify as a "qualified trust" and as an "exempt trust" pursuant to the Internal Revenue Code of 1986, Sections 401, 501(a) and other pertinent provisions thereof and all other applicable Federal and State Laws;

NOW, THEREFORE, in consideration of the mutual promises of the parties, a trust has been created and shall be maintained, and it is mutually understood and agreed as follows:

ARTICLE I — DEFINITIONS

SECTION 1 — UNIONS:

The term "Union" as used herein shall mean the Bricklayers & Allied Craftsmen Local No. 7 who has in effect with the Associations and/or with other Employers, pension agreements or Collective Bargaining Agreements providing for the establishment and continuation of a pension plan and trust fund and for the payment of contributions to such fund.

SECTION 2 — EMPLOYER:

The term "Employer" as used herein shall mean:

- (1) The Association of Union Masonry Contractors which is referred to as the Association. Employers who are parties to the Collective Bargaining Agreement with the Union as a result of their affiliation with the Association shall be referred to as Association.
- (2) If the Trustees by resolution so provide and if not judicially determined by a court of final jurisdiction to be a violation of any law or statute, the term "Employer" may also include the Union for its Employees, provided the Union: (1) becomes contractually obligated to make contributions on behalf of its Employees; (2) signs a copy of this Agreement or in some other manner acceptable to the Trustees consents in writing to be bound by the terms of this Agreement; and (3) has been accepted for participation in the Fund by the Trustees on terms which, in their absolute discretion, the Trustees shall determine.
- (3) The Union to the extent, and solely to the extent, that it acts in the capacity of an Employer of its employees on whose behalf it makes contributions to fund the Plan in accordance with the Collective Bargaining Agreement or other written agreement.
- (4) The Trustees of the Plan, or the Trustees of any related employee benefit plan created as a result of collective bargaining between the Union and the Association, to the extent that they act in the capacity of an Employer of their employees on whose behalf contributions to the Plan are made in accordance with the Collective Bargaining Agreement or other written agreement.

SECTION 3 — EMPLOYEE or PARTICIPANT:

- (1) All Employees represented for the purpose of collective bargaining by the Union and whose Employers make contributions to the Trust Fund in accordance with the Collective Bargaining Agreement.
- (2) Employees of other Employers who participate as otherwise permitted by the terms of this Agreement and make contributions to the Trust Fund.

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- (3) An Employee shall not be ineligible to participate in the benefits of the Plan because of his/her participation in a labor dispute or because of his/her absence from work due to such labor dispute or because of his/her being locked out by his/her Employer.
 - (4) The term "Employee" shall not include partners or self-employed persons no matter how designated nor shall it include, with the exception of the Employees of the Union, Employees of the Employer who are considered Non-Collectively Bargained Employees. Such persons are expressly excluded from the benefits provided hereunder.

SECTION 4 – TRUSTEES:

The term "Trustees" as used herein shall mean natural persons designated as Trustees pursuant to Article V of this Agreement and Declaration of Trust.

The term "Union Trustee" as used herein shall mean any Trustee designated solely by the Union in the manner provided herein.

The term "Employer Trustee" as used herein shall mean any Trustee designated by the Akron Division of the Associated Contractors of Ohio and the Akron Mason Contractors Association in the manner provided herein.

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SECTION 5 – AGREEMENT AND DECLARATION OF TRUST:

The term "Agreement and Declaration of Trust" or "Amended and Restated Agreement and Declaration of Trust" as used herein shall mean this instrument, including all amendments and modifications.

SECTION 6 — TRUST FUND:

The terms "Trust Fund" or "Fund" as used herein shall mean the Bricklayers & Allied Craftsmen Local No. 7 Pension Fund and the entire assets thereof, including all funds received or due to be received by the Trustees in the form of Employer Contributions (including delinquent Employer Contributions), together with all contracts (including dividends, interest, refunds, and other sums payable to the Trust Fund on account of such contracts), investments made and held by the Trustees, income, increments, earnings and profits therefrom, and any other property or funds received and held by the Trustees under this Agreement.

SECTION 7 — PENSION FUND or PENSION PLAN:

The term "Pension Fund" or "Pension Plan" as used herein shall mean the plan, program, method, rules and procedure for the payment of benefits from the Trust Fund which have been properly established and adopted by the Trustees.

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SECTION 8 – EMPLOYER CONTRIBUTIONS:

The term "Employer Contributions" as used herein shall mean payments made to the

Trust Fund by an Employer.

SECTION 9 – PARTICIPANT:

The term “Participant” shall mean any Employee or Former Employee who is or may become eligible to receive a benefit of any type from this Fund.

SECTION 10 – ALTERNATE PAYEE

The term “Alternate Payee” means a Spouse, former Spouse, child or other dependent of a Participant who is recognized by a Domestic Relations Order as having a right to receive all, or a portion of, the benefits under this Plan, with respect to the Participant.

SECTION 11 — BENEFICIARY:

The term “Beneficiary” shall mean a person designated by a Participant or by the terms of the Pension Plan created pursuant to this Agreement and Declaration of Trust, who is or may become entitled to a benefit.

SECTION 12 – ERISA:

The term “ERISA” or “Act” shall mean the Employee Retirement Income Security Act of 1974, as amended, and any regulations promulgated pursuant to the provisions of the Act.

ARTICLE II – CREATION, PURPOSE AND APPLICATION OF THE TRUST FUND

SECTION 1 — CREATION:

The Union and the Association on behalf of the Employers do hereby accept and agree to be bound by the provisions of this Amended and Restated Agreement and Declaration of Trust. All other employers who accept and agree to be bound by this Amended and Restated Agreement and Declaration of Trust shall be deemed a party hereto.

SECTION 2 — APPLICATION OF TRUST FUND:

- (1) The Trust Fund is created, established and maintained and the Trustees agree to receive the Trust Fund, hold and administer it, for the purpose of providing benefits for the Employees, Participants and their Beneficiaries in accordance with the Pension Plan.
- (2) The Trustees shall have the power to use and apply the Trust Fund for the following purposes:
 - (A) To pay or provide for the payment of pension and/or disability benefits to eligible Employees, Participants (and their respective Beneficiaries) and Alternate Payees.
 - (B) To pay or provide for:
 - (i) the payment of all reasonable and necessary expenses, costs and fees having to do with the administration of the Pension Fund;
 - (ii) payment of all reasonable and necessary expenses of collecting Employer Contributions and payments and other moneys and property to which the Fund may be entitled;
 - (iii) payment by the Trustees for reimbursement of reasonable expenses incurred under specific authority granted by resolution of the Trustees and proper administration of the Trust Fund, including employment of such accounting, actuarial, investment professional, legal professional, expert and clerical assistance as the Trustees in their discretion deem necessary or appropriate in the performance of their duties;
 - (iv) expenses of collecting the Employers' Contributions and other monies and property to which the Trust Fund may be entitled;
 - (v) the purchase or lease of such premises, materials, supplies and equipment, and the performance of such other acts as the Trustees, in their sole discretion, find necessary or appropriate in the performance of their duties; and

- (vi) the performance of such other acts as the Trustees find necessary or appropriate in the performance of their duties;
 - (vii) provided, however, that no part of the Trust Fund shall be used for any personal expenses of the Trustees, or the agents or employees of the Trust Fund or Pension Fund.
- (C) To pay or provide for the payment of all real and personal property taxes, income taxes and other taxes or assessments or any and all kinds levied or assessed under existing or future laws upon or with respect to the Trust Fund or any money or property forming a part thereof.
 - (D) To maintain a reserve for expected administrative expenses reasonably anticipated to be incurred.
 - (E) To make any deposits to a Bank, Trust Company, or other insured financial institution for safekeeping and investment.
 - (F) To keep real property purchased by the Trustees registered in the name of the Trustees and keep personal property in the name of the Trustees or in the name of a nominee or nominees, as may be determined within the discretion of the Trustees.

SECTION 3 — LIMITATION OF RIGHTS

The following limitations shall apply to the rights or interests in, or use of the Trust Fund:

- (1) Neither the Union, Employer, Employees, Participants, Beneficiaries, Alternate Payees, nor any other person, association or corporation shall have any right, title or interest in or to the Trust Fund, except as specifically provided by the Pension Plan document and the applicable rules and regulations thereunder. It is the intention of the parties hereto that this section shall not disqualify contributions due from any Employer from being a priority claim in the event of bankruptcy of any such Employer.
- (2) Anything contained in this Amended and Restated Agreement and Declaration of Trust to the contrary notwithstanding, 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 Alternate Payees, Employees, Participants or their Beneficiaries, or for the purposes set forth in Section 2 of this Article.
- (3) No money, property, equity or interest of any nature whatsoever in the Trust Fund, group annuity or other contracts, or any benefits or monies payable therefrom shall be subject to sale, transfer, assignment, encumbrance or other anticipation, nor to seizure or sale under any legal, equitable or other process, and in the event that any claim or benefit shall, because of any debt incurred by or resulting from any other claim or liability against any Beneficiary, or by reason of any sale, assignment, transfer, encumbrance, anticipation or other disposition

made or attempted by said Beneficiary, or by reason of any seizure or sale or attempted sale under any legal, equitable or other process, or in any suit or proceeding become payable, or be liable to become payable to any person other than the Beneficiary for whom the same is intended, as provided herein, and in any pension plan established hereunder, the Trustees shall have power to withhold payment of such claim or benefit to such Beneficiary until such assignment, transfer, encumbrance anticipation or other disposition, writ or legal proceedings cancelled or withdrawn, the Trustees shall have the right to use and apply the benefit as the Trustee may deem appropriate, directly for the support and maintenance of such Beneficiary.

- (4) All funds received by the Trustees hereunder as a part of the Trust Fund shall be deposited by them in such Bank(s), Trust Company or other insured financial institution as the Trustees may designate for that purpose, and all withdrawals of such funds shall be made by the Trustees or their authorized agent.

ARTICLE III — CONTRIBUTIONS

Each Employer shall make prompt contributions to the Trust Fund in such amount and under the terms provided for in the applicable Collective Bargaining Agreement which is in effect from time to time between the Employer or his bargaining representative and the Union, or in such amount and under such terms as may be agreed upon in writing between the Employer and the Union provided that such contributions shall be subject to acceptance by the Trustees. The Employer agrees that there shall be an absolute obligation to the Trust Fund, and such obligation shall not be subject to any set-off or counterclaim which the Employer may have for any liability of the Union.

ARTICLE IV — ESTABLISHMENT OF PENSION PLAN

SECTION 1 — ESTABLISHMENT OF PENSION PLAN

Effective May 1, 1968, the Trustees established and adopted a Pension Plan for the payment of such retirement pension benefit and other benefits as feasible. Such plan conforms, and shall continue to conform, to the applicable sections of the Internal Revenue Code and ERISA for purposes of tax deduction and exemption, and the provisions of, and the purposes set forth in this Agreement. The Trustees hereby agree to continue such Pension Plan in accordance with the applicable Sections of the Internal Revenue Code and ERISA and regulations promulgated thereunder. The Trustees shall not be under any obligation to pay any benefit if such payment will result in loss of the Trust Fund's tax exempt status under the then applicable Internal Revenue Code and any regulations or rulings issued pursuant thereto.

SECTION 2 — ACCEPTANCE AND OPERATION BY TRUSTEES

The Trustees hereby accept and agree to continue active administration of the Pension Plan.

ARTICLE V — TRUSTEES

SECTION 1 — DESIGNATION OF TRUSTEES

- (1) The Trust Fund and the Pension Plan shall be administered by six (6) Trustees consisting of three (3) Union Trustees and three (3) Employer Trustees. The Union Trustees shall be appointed and designated by the Union and shall be vested Participants in the Pension Plan. The Employer Trustees shall be appointed and designated by the Association.
- (2) The above designated Union and Employer Trustees shall be the parties responsible for the administration of this Trust Fund.
- (3) A quorum shall be four (4) Trustees consisting of at least two (2) Union Trustees and two (2) Employer Trustees.
- (4) In the event of a vacancy of a Union Trustee, a successor shall be appointed by the Bricklayers & Allied Craftsmen Local No. 7 within sixty (60) days of the vacancy. In the event of a vacancy of an Employer Trustee, a successor Trustee shall be appointed within sixty (60) days by the Association.
- (5) If a vacancy of either an Employer Trustee or a Union Trustee is not filled within the sixty (60) days, then in such event a majority of the then serving Trustees present and voting shall have the right to fill such vacancy.

SECTION 2 — OFFICERS

The Trustees shall elect a Chairman and a Secretary to serve for the period of one (1) year and until their successors shall be elected. When the Chairman is selected from the Union Trustees, the Secretary shall be selected from the Employer Trustees, and vice versa. The terms shall be the calendar year.

SECTION 3 — ACCEPTANCE OF THE TRUST BY TRUSTEES

A Trustee, upon signing this Amended and Restated Agreement and Declaration of Trust, or, in the case of any successor Trustee, upon written acceptance filed with the other Trustees, shall be deemed to accept the Trust created and established by this Amended and Restated Agreement and Declaration of Trust and consent to act as Trustee and agree to administer the Trust Fund as provided herein.

SECTION 4 — TRUSTEE'S TERM OF OFFICE

- (1) Each Trustee shall continue to serve as such until his death, incapacity, resignation or removal as provided herein.
- (2) A Trustee may resign and remain fully discharged from all future duty or responsibility hereunder by giving notice in writing to the remaining Trustees and to the party designating him or her. The notice shall state the date such

resignation shall take effect and such resignation shall take effect on that date unless a successor Trustee has been appointed at an earlier date, in which event such resignation shall take effect as of the date of filing by the successor of the written acceptance provided for under Section 3 of this Article.

SECTION 5 — REMOVAL OF TRUSTEES

Any Trustee may be removed at any time by the respective appointing entity upon giving written notice to the remaining Trustees. Such removed Trustee shall be fully discharged from all future duty or responsibility herein.

SECTION 6 — SUCCESSOR TRUSTEE

In the event any Trustee dies, becomes incapable of acting, resigns or is removed, a successor Trustee shall be immediately designated. Upon the filing with the remaining Trustees of the Acceptance of the Trusteeship by the designated successor Trustee, such designation shall be effective and binding in all respects.

Any successor Trustee shall, immediately upon his acceptance of the Trusteeship in writing filed with the Trustees, become vested with all the rights, powers and duties of a Trustee hereunder with the like effect as if he had been originally named as a Trustee. No successor Trustee shall be responsible for anything done or committed in the administration of the Fund prior to the date he became a Trustee or subsequent to the time his trusteeship is terminated.

SECTION 7 — COMPENSATION OF TRUSTEES

The Trustees shall serve without compensation from the Trust Fund except for reimbursement of reasonable expenses incurred under specific authority granted by resolution of the Trustees. Payment of lost wages for Union Trustees shall also be permissible.

SECTION 8 — MEETINGS

Regular meetings of Trustees shall be held at least quarterly on dates fixed by the Trustees. The Chairman or the Secretary may call a meeting of the Trustees at any time by giving at least five (5) days written notice of the time and the place thereof to each Trustee. Such notices may be delivered in person, by mail, email or via facsimile. Meetings of the Trustees may also be held at any time without notice if all the Trustees consent thereto. In the event that the Trustees shall unanimously concur in writing upon any proposition, no meeting thereon needs to be held by the Trustees. The vote of the Trustees may be cast by them in person or may be evidenced by written instrument signed by them.

SECTION 9 – ATTENDANCE AT MEETINGS

All official meetings of the Trustees shall be attended only by the Trustees, and such other persons as may be invited or designated by the Trustees or as may be otherwise required by law.

SECTION 10 — ACTION OF TRUSTEES

- (1) The Trustees may adopt by-laws, rules and/or regulations to govern themselves, which are not inconsistent with any provision of this Amended and Restated Agreement and Declaration of Trust and shall be binding upon all parties hereto, and all persons claiming any benefits provided by the Trust Fund. No bylaw, regulation, rule, action or determination made or adopted by the Trustees, nor any decision or determination made by any arbitrator pursuant to this Section, shall in any manner conflict or be inconsistent (1) with any provision of any applicable Collective Bargaining Agreement, (2) with this Amended and Restated Agreement and Declaration of Trust and (3) with any applicable law.
- (2) The decisions of the Trustees shall be determined by a majority vote. A deadlock shall be deemed to exist whenever a proposal, nomination, motion or resolution made by any Trustee is neither adopted nor rejected by a majority vote of those present and eligible to vote.
- (3) If at any meeting the number of Union Trustees and Employer Trustees present shall be unequal then the group of Trustees lesser in number shall be entitled to cast the same number of votes as the other group of Trustees.
- (4) In the event of such deadlock, the Trustees shall agree to submit the dispute to final and binding arbitration. The Employer Trustees and the Union Trustees shall attempt to mutually select and impartial arbitrator, but in the event no such mutual selection is agreed to within thirty (30) days, then either the Employer Trustees or the Union Trustees, or both, may apply to the American Arbitration Association, in the area in which the Fund maintains its principal office, for the designation of an arbitrator who will decide any matter submitted to arbitration in accordance with the provisions of Article V. The decisions of the arbitrator shall be final and binding. Any arbitrator selected in accordance with this section shall be required to enter his decision within a reasonable time. The scope of any such arbitration shall be limited to the provisions of this Agreement and the provisions of the Plan. The arbitrator shall have no jurisdiction or authority to change or modify the provisions of this Agreement or the Pension Plan or to decide any issues arising out of the interpretation of any Collective Bargaining Agreement, and such arbitrator shall have no power or authority to modify or change any provision in the Collective Bargaining Agreement.
- (5) The arbitrator may not make any decision or finding of fact which would change or alter in any manner any provision of this Trust or which would change the tax free status of this Trust.
- (6) The cost and expense incidental to any arbitration proceedings including the fee and expenses of the impartial arbitrator, and reasonable attorney fees for any general or special legal counsel retained by the Trustees shall be borne by the Trust Fund. If the Union or Union Trustees, or if the Employer Trustees, desire to retain legal counsel to represent them and their interests, each shall bear the expense of their respective special counsel.

ARTICLE VI – POWERS AND DUTIES OF TRUSTEES

SECTION 1 – CONDUCT OF TRUST BUSINESS

The Trustees shall have general supervision of the operation of this Trust Fund and shall conduct the business and activities of the Fund in accordance with this Trust Agreement and applicable law. The Trustees shall hold, manage and protect the Trust Fund and collect the income therefrom and contributions thereto. Any one (1) Trustee may execute legal documents to commence and process duly authorized lawsuits incidental to the administration or purposes of this Trust so long as such commencement is subsequently ratified by the Trustees on or before their next regularly scheduled meeting.

SECTION 2 – USE OF FUND TO PROVIDE BENEFITS

The Trustees shall have the power and authority to use and apply the Trust Fund to pay or provide for the payment of pension, retirement, permanent disability, death, and related benefits to eligible Alternate Payees, Participants (and their Beneficiaries) in accordance with the terms, provisions and conditions of the Pension Plan formulated, agreed upon, and adopted by the Trustees. Such power shall include the authority to enter into agreement with a reputable insurance company licensed to do business in the State of Ohio, a bank or other insured financial institution for the purposes of providing benefits under the terms of the Pension Plan.

SECTION 3 – GENERAL ADMINISTRATION OF THE TRUST FUND

- (1) The Plan shall be administered by the Trustees, who are Fiduciaries under the Plan, in accordance with the powers granted to them by this Agreement. The named Fiduciary may employ one or more persons to render advice with regard to any responsibility such Fiduciary has under the Plan. The Trustees shall make such rules and proscribe such procedures for the administration of the Plan, as they shall deem necessary and responsible. The Board of Trustees, as Plan Administrator, shall have complete control of the administration of the Plan, subject to the provisions hereof, with all powers necessary to enable it to properly carry out its duties in that respect. Not in limitation, but in amplification of the foregoing, the Trustees shall have full authority and discretion to construe, interpret and apply all provisions of the Plan and to determine all questions that may arise hereunder, including all questions relating to the eligibility of Participants to participate in the Plan, the amount of any benefit to which any Alternate Payee, Participant, Beneficiary, spouse, or contingent annuitant may become entitled hereunder and to determine all appeals subsequent to any determination upon application for benefits. Specifically, the Trustees shall have full and complete authority and discretion to make any determinations or findings of facts regarding any claims and appeals of any benefit determinations. Its decisions upon all matters within the scope of its authority shall be final. The Trustees shall have the power and authority to:
 - (A) Require immediate contributions to the Trust Fund by the Employer in accordance with the oral or written agreements between the Employer or

its Collective Bargaining Agent and the Union. Such contributions by the Employer must be the same cents per hour per employee and such contributions must be on a uniform reporting form with the name of the Fund properly identified. The Trustees shall have the power to demand, collect and receive Employer Contributions for the purposes specified herein and to impose reasonable administrative costs and penalties as decided by the Trustees upon delinquency in payment of Employer Contributions; however, it being understood that collection of contributions in policing a delinquent Employer is primarily the responsibility of the Union, under the terms of the Collective Bargaining Agreement and in carrying out this responsibility, the Union will put forth every effort toward the proper and prompt collection of the contributions. In order to carry out and effectuate the purpose thereof, the Trustees shall have the power to specify the time, manner and place of payment of Employer Contributions to the Trust Fund and shall promulgate these requirements;

- (B) Administer the Trust Fund through an Administrative Manager;
- (C) Make such uniform rules and regulations as are consistent with and necessary for effectuating the provisions of this Agreement and Declaration of Trust, including but not limited to the following:
 - (i) To develop procedures for the establishment of credited service of Employees and Employers the opportunity to object thereto, and to establish such facts conclusively;
 - (ii) To prescribe rules and procedures governing conditions of eligibility for Participants, Beneficiaries and Alternate Payees, any schedules of the type, amount and calculation of benefits to be paid (including Notices to Participants' Spouses regarding Qualified Joint and Survivor Annuities) and the application for benefits by Employees, Participants, Beneficiaries and Alternate Payees; it being agreed that a summary of such rules and regulations otherwise referred to as the Pension Plan be published in the form of a Summary Plan Description;
 - (iii) To make determinations which shall be final and binding upon all parties as to the rights of any Employee and any beneficiary to benefits, including any rights any individual may have to request an appeal or hearing regarding any such determination. The Board of Trustees, as Plan Administrator, is vested with all powers necessary to enable it to review all appeals of adverse benefit determinations and to determine all questions that may arise thereunder, including, but not limited to, all questions relating to the eligibility of Participants to participate in the Plan, rollovers, reciprocity contributions and the amount of any benefit to which a

Participant, Beneficiary, spouse or contingent annuitant may become entitled to hereunder. In so acting, the Trustees shall have full and complete authority and discretion to construe, interpret and apply all provisions of the Plan. Specifically, the Trustees shall have full and complete authority and discretion to make any determinations or findings of fact regarding any claims and appeals of any benefit determinations. The decision of the Trustees shall set forth specific reasons for their conclusion, shall be written in a manner calculated to be understood by the Claimant and shall make reference to the pertinent Plan provisions upon which the decision is based. This decision shall be final and binding upon a Claimant, except to the extent that the Claimant may choose to pursue any rights provided for by ERISA Section 502(a) following an adverse benefit determination on appeal;

- (iv) To obtain and evaluate all statistical and actuarial data which may be reasonably required with respect to the administration of the Pension Plan, it being agreed that all information, records, lists or data shall not be divulged by the Trustees unless unanimously authorized by the Trustees;
- (v) To enter into agreements with Trustees of other qualified pension or retirement plans for any approved reciprocal recognition of service credits or payment of benefits based upon such service credits;
- (vi) To make such other rules and regulations as may be necessary for the administration of the Pension Plan which are not inconsistent with the purposes of this Amended and Restated Agreement and Declaration of Trust; and
- (vii) To extend the coverage of the Amended and Restated Agreement and Declaration of Trust and the Pension Plan to additional Unions and employers subject to the approval of the Bricklayers & Allied Craftsmen Local Union 7 and the Associations herein named.

SECTION 4 – AMENDMENT OF PLAN

The Pension Plan may be amended by the Trustees from time to time. Additionally and not by way of limitation, the Trustees may amend the Plan, in the future, or retroactively, where they deem it necessary to maintain the continuation of the Trust Fund's tax exempt status or to preserve compliance with the then applicable Internal Revenue Code, applicable federal statutes, and any regulations or rulings promulgated thereunder.

SECTION 5 – VESTING OF RIGHTS

The Trustees shall establish standards for vesting of benefits which conform to no less than the minimum standards required by law. No Participant, Beneficiary or Employee or other

person shall have any vested interest or right in the Trust Fund except as provided by the Trustees in conformance with the law.

SECTION 6 – INVESTMENTS

- (1) The Trustees shall have the power and authority, in their sole discretion, to invest and reinvest such funds as are not necessary for current expenditures or liquid reserves, as they may from time to time determine. All such investments shall be limited to investments authorized or contemplated by any applicable Federal or State law relating to or governing investments by employee pension or retirement trust funds. The Trustees may sell, exchange or otherwise dispose of such investments at any time, and from time to time and in a manner further provided hereafter in this Article. The Trustees shall also have power and authority (in addition to, and not in limitation of, common law and statutory authority) to invest in any stocks, bonds or other property, real or personal, including improved or unimproved real estate and equity interests in real estate, where such an investment appears to the Trustees, in their discretion and consistent with their fiduciary obligations, to be in the best interest of the Trust Fund and its Alternate Payees, Participants and Beneficiaries, judged by then prevailing business conditions and standards. The Trustees shall have the authority, with respect to any stocks, bonds or other property, real or personal, held by them as Trustees, to exercise all such rights, powers and privileges as might be lawfully exercised by any person owning in his or her own right similar stocks, bonds or other property.
- (2) Delegation and Allocation of Investment Functions
 - (A) The Trustees are authorized, in their discretion, by resolution, to allocate to the Finance Committee such duties and responsibilities to invest and reinvest such Fund assets as they shall specify in such allocation in accordance with this Article.
 - (B) The Trustees shall have the power and authority to appoint one or more Investment Managers (as defined in Section 3(38) of the Act) who shall be responsible for the management, acquisition, disposition, investing and reinvesting of such of the assets of the Trust Fund as the Trustees shall specify. Any such appointment shall reserve to the Trustees the right to terminate the appointment upon thirty (30) days, or less, if consistent with any written contract between the Investment Manager and the Fund. The fees of the Investment Manager, and expenses to the extent permitted by law, shall be paid out of the Trust Fund.
 - (C) In connection with any allocation or delegation of investment functions under Paragraphs (A) and (B) of this subsection (2), the Trustees shall, from time to time, adopt appropriate investment policies and/or guidelines.

(SECTION 7 – DEPOSITS AND DISBURSEMENTS

All Trust Funds not invested shall be deposited by the Trustees in such depository or depositories as the Trustees shall from time to time select. Any deposits or disbursements therefrom shall be made in the name of the Trust in the manner designated by the Trustees and upon the signature(s) of persons designated and authorized by the Trustees or by the Investment Manager appointed in accordance with this Article.

SECTION 8 – BOOKS OF ACCOUNT

The Trustees shall keep true and accurate books of account and records of all their transactions which shall be open to the inspection of any Trustee at all times and which shall be audited at least annually and at such other times as the Trustees shall deem advisable by a certified public accountant selected by the Trustees. Such audits shall be available at all times for inspection by the Union, Employers, or other interested persons at the principal office of the Trust Fund.

SECTION 9 – CONSTRUCTION AND DETERMINATIONS BY TRUSTEES

- (1) Submission to Trustees. All questions or controversies, of whatsoever character, arising in any manner or between any parties or persons in connection with the Trust Fund or the operation thereof, whether as to coverage and eligibility, methods of providing or arranging for pension and other benefits, any claim for benefits preferred by any Participant, Beneficiary or any other person, or whether as to the construction of the language or meaning of the bylaws, rules and regulations adopted by the Trustees or this instrument, or as to any writing, decision, instrument or accounts in connection with the operation of the Trust Fund or otherwise, shall be submitted to the Trustees or, in the case of questions related to claims for benefits, to an Appeals Committee, if one has been appointed, and the decision of the Trustees or Appeals Committee shall be binding upon all persons dealing with the Trust Fund or claiming benefits thereunder.
- (2) Settling Disputes. The Trustees may, in their sole discretion, compromise or settle any claim or controversy in such manner as they think best, and any majority decision made by the Trustees in compromise or settlement of a claim or controversy, or any compromise or settlement agreement entered into by the Trustees, shall be conclusive and binding on all parties participating in and/or interested in this Trust.

SECTION 10 – ALLOCATION AND DELEGATION OF FIDUCIARY RESPONSIBILITIES

(The Trustees may, by resolution, bylaw or by provisions of this Trust Agreement, allocate fiduciary responsibilities and various administrative duties to committees or subcommittees of the Board of Trustees. They may also authorize any person or group of persons to serve in more than one capacity. They may, consistent with the Act, delegate such responsibilities and duties to other individuals as they deem appropriate or necessary. All fiduciaries are to act 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 act in the conduct of an enterprise of a like character with like aims.

SECTION 11 – COMMITTEES OF THE BOARD OF TRUSTEES

- (1) The standing committees of the Board of Trustees may consist of an Appeals Committee, an Executive Committee, a Finance Committee, a Collection and Delinquency Committee, and such other standing committees as the Trustees may wish to create by bylaw or resolution.
- (2) Appointment of Committee Members. Each committee shall consist of an equal number of Employer and Union Trustees. A quorum of a committee shall be at least half the number of members of the Committee. If the Union Trustee group and/or the Employer Trustee group, respectively, nominate a Trustee of their group for membership on any committee, the Chairman shall appoint such nominee in filling any vacancy. Appointment as a member of any committee shall be communicated to the appointee by the Pension Fund's Administrative Manager in writing. Any resignation of a Trustee as a committee member shall be submitted in writing to the Administrative Manager, who shall promptly notify the Chairman of the Board of Trustees.
- (3) Removal of Committee Members. Any appointed member of any committee may be removed from membership in the committee at any time for any reason by the group of Trustees appointing him or her.
- (4) Appeals Committee. The Trustees may appoint an Appeals Committee to hear any appeals filed by a Participant upon an adverse benefit determination by the Plan. The Trustees may allocate to the Appeals Committee the authority to make decisions upon any appeal of an adverse benefit determination. Any determinations upon appeal shall be made in a manner consistent with this Article.
- (5) Executive Committee. The Trustees may appoint an Executive Committee which shall supervise the operation of the Trust Fund between meetings of the Board of Trustees. The Executive Committee shall formulate general or specific policies for submission to and consideration by the Trustees. It shall advise the officers in matters of policy and administration not inconsistent with the Trust Agreement or any policy or decision heretofore adopted or made by the Trustees. Pending the convening of a meeting of the Board of Trustees, it shall decide and pass upon matters requiring immediate action, subject to ratification at the next meeting of the Trustees to whom a report shall be made of any such immediate action. The Executive Committee shall also perform such other functions, duties and responsibilities as may be delegated or assigned to it by the Board of Trustees, or as may be delegated to it pursuant to this Article. Actions taken or duties performed under such allocation of authority shall not be subject to ratification by the full Board of Trustees.

- (6) Finance Committee. The Finance Committee shall review the investment policies of the Trustees and the activities of any Investment Manager(s) which may have been appointed by the Trustees. It shall make appropriate recommendations to the full Board of Trustees on any matter entrusted to it. With respect to assets of the Trust Fund which the Trustees have not specified to be managed by an Investment Manager, appointed pursuant to this Article, and subject to such limitations and requirements as may be contained in this Trust Agreement or in the Act, the Trustees may allocate to the Finance Committee the authority to authorize and approve the investment of Trust Fund assets in investments permitted under this Article, subject to pertinent investment policies and guidelines adopted by the Board of Trustees.
- (7) Collection and Delinquency Committee. The Collection and Delinquency Committee shall formulate policies and procedures in regard to the collection of delinquent payments and contributions due the Fund. It shall collaborate with the Administrative Manager and with legal counsel in the administration of such policies and procedures and make appropriate reports and recommendations to the Trustees. The Trustees may allocate to the Collection and Delinquency Committee authority to initiate legal actions to collect any delinquent Employer Contributions and liquidated damages or other obligations owed to the Trust Fund.

SECTION 12 – ADMINISTRATIVE MANAGER

The Trustees may employ or contract for the services of an individual, firm or corporation, to be known as “Administrative Manager”, who shall, under the direction of the Trustees or under the direction of any appropriate committee of the Trustees, administer the office or offices of the Trust Fund and of the Trustees, coordinate and administer accounting, bookkeeping and clerical services, provide for the coordination of actuarial services furnished by the consulting actuary, prepare (in cooperation where appropriate with the consulting actuary and independent auditor) all reports and other documents to be prepared, filed or disseminated by or on behalf of the Trust in accordance with the law, assist in the collection of contributions required to be paid to the Trust Fund by Employers and perform such other services as may be assigned, delegated or directed or as may be contracted by or on behalf of the Trustees. The Administrative Manager shall be the custodian on behalf of the Trustees of all documents and other records of the Trustees and of the Trust Fund.

SECTION 13 – ADDITIONAL AUTHORITY

The Trustees shall have the authority, in addition to such other powers as are set forth herein or conferred by law,

- (1) to enter into any and all contracts and agreements required to carry out the terms of this Trust Agreement or to provide for the administration of the Trust Fund;

- (2) to keep property and securities registered in the names of the Trustees or of the Fund, or in the name of any other individual or entity duly designated by the Trustees;
- (3) to do all acts, whether or not expressly authorized herein, which the Trustees deem necessary or proper for the protection of the property held hereunder;
- (4) to sell, exchange, lease, convey, mortgage or dispose of any property, whether real or personal, at any time forming a part of the Trust Fund upon such terms as they may deem proper, and to execute and deliver any and all instruments of conveyance, lease, mortgage and transfer in connection therewith; and
- (5) to establish and carry out funding policies and administrative procedures consistent with the objectives of the Pension Plan, ERISA and the Internal Revenue Code of 1986, as amended.

SECTION 14 — BONDS

The Trustees shall obtain from an authorized surety company all bonds required by law, covering such persons and in such amounts (but not less than required by law) as the Trustees, in their discretion, may determine. The cost of premiums for such bonds shall be paid out of the Trust Fund.

SECTION 15 — INSURANCE

The Trustees may obtain and maintain policies of insurance, to the extent permitted by law, to insure themselves, the Trust Fund, and employees or agents of the Trustees and of the Trust Fund, while engaged in business and related activities for and on behalf of the Trust Fund (1) with respect to liability for damage to others as a result of acts, errors or omissions of the Trustees, employees or agents, respectively, provided such insurance policy shall provide for such recourse by the insurer against Trustees as directed by law, and (2) with respect to injuries received or property damage suffered by them. Premiums for such policies of insurance shall be paid out of the Trust Fund.

SECTION 16 — INFORMATION PROVIDED TO PARTICIPANTS AND BENEFICIARIES

The Trustees shall provide Participants and Beneficiaries all of the information mandated by law.

SECTION 17 — ACCOUNTANTS

The Trustees shall engage one or more independent qualified public accountants to perform services required by law and such other services as the Trustees deem necessary to the proper administration of the Fund.

SECTION 18 — REPORTS

All reports required by law to be signed by one or more Trustees shall be signed by all of the Trustees, provided that all of the Trustees may appoint in writing, or by resolution adopted and recorded in the minutes, one or more of their members to sign such report on behalf of the Trustees.

SECTION 19 – RECORDS OF TRUSTEE TRANSACTIONS

Records and books kept by the Trustees, the Pension Plan and Trust shall be audited at least annually by a certified public accountant. A copy of each audit report shall be furnished to any Employer Association and the Union, and to such other parties or persons required by law, and shall be available for inspection by interested persons at the principal office of the Trustees.

SECTION 20 — LIABILITY

The Trustees, to the extent permitted by applicable law, shall incur no liability in acting upon any instrument, application, email, facsimile, notice, request, signed letter, telegram, or other paper or document believed by them to be genuine and to contain a true statement of facts, and to be signed by the proper person.

SECTION 21 – RELIANCE ON WRITTEN INSTRUMENTS

Any Trustee, to the extent permitted by applicable law, may rely upon any instrument in writing purporting to have been signed by a majority of the Trustees as conclusive evidence of the fact that a majority of the Trustees have taken the action so stated in such instrument.

SECTION 22 – RELIANCE BY OTHERS

- (1) No party dealing with the Trustees shall be obligated (1) to see the application to the stated Trust purposes, of any funds or property of the Trust Fund or (2) to see that the terms of this Trust Agreement have been complied with or (3) to inquire into the necessity or expediency of any act of the Trustees.
- (2) Every instrument executed by the Trustees shall be conclusive evidence in favor of every person relying thereon (1) that at the time of the execution of said instrument, the Trust was in full force and effect, (2) that the instrument was executed in accordance with the terms and conditions of this Trust Agreement and (3) that the Trustees were duly authorized and empowered to execute the instrument.

SECTION 23 – DISCHARGE OF LIABILITY

The receipt by the Trustees of any money or property or checks (after such checks are honored at the bank and paid to the Trust Fund) shall discharge, to the extent such payment applies, the person or persons paying or transferring the same.

ARTICLE VII — EXECUTION OF INSTRUMENTS – LIABILITY

SECTION 1 — EXECUTION OF INSTRUMENTS

Except as provided in Article VI, the Trustees shall have authority by resolution of at least one (1) Employer and one (1) Union Trustee or the Chairman to execute any instrument, in writing, on behalf of the Trustees and all persons, partnerships and corporations may rely thereupon that such instrument has been duly authorized.

SECTION 2 -- LIABILITY OF TRUSTEES

- (1) Neither the Trustees nor any Trustee shall be liable for any honest error of judgment, nor shall they or he or she be personally liable for any liability or debt of the Trust Fund contracted or incurred by them or him or her nor for the non-fulfillment of any contract nor for any other liability arising in connection with the administration or the existence of the Trust Fund; provided however, nothing herein shall exempt the Trustees or any Trustee from any liability, obligation or debt arising out of their or his or her acts or omissions done or suffered in bad faith or through gross negligence or willful misconduct.
- (2) The Trustees and each Trustee shall be fully protected in acting upon any instrument, certificate or paper believed by them or him or her to be genuine and to be signed or presented by the proper person or persons and shall be under no duty to make any investigations nor inquiry as to any statement contained in any such record but may accept the same as exclusive evidence of the truth and accuracy of the statements therein contained.

SECTION 3 — LIABILITY OF UNIONS, EMPLOYERS AND TRUSTEES

Nothing in this Amended and Restated Agreement and Declaration of Trust shall be construed as making the Union, an Employer Association or any Employer liable for the payments required to be made by any other employer, and each Employer's liability shall be limited solely to the payment of the amount due under any applicable Collective Bargaining Agreement.

ARTICLE VIII – MISCELLANEOUS PROVISIONS

SECTION 1 – EMPLOYERS’ OBLIGATION TO FURNISH INFORMATION:

Each Employer shall promptly furnish to the Trustees on demand any and all necessary records of his or her Employees concerning the classification of such Employees or Participants, their names, social security numbers, amounts of wages paid and hours worked and any other payroll records and information that the Trustees may require in connection with the administration of the Trust Fund and for no other purpose. The Trustees or their authorized representative may examine the payroll records and records of each Employer whenever such examination is deemed necessary by the Trustees in connection with the proper administration of the Trust Fund.

SECTION 2 — DEALINGS WITH TRUSTEES

- (1) No person, partnership, corporation or association dealing with the Trustees shall be obliged to see to the application of any funds or property of the Trust Fund, or to see that the terms of this Amended and Restated Agreement and Declaration of Trust or of the Pension Plan have been complied with, or be obliged to inquire into the necessity or expedience of any act of the Trustees; and every instrument effected by the Trustees, whether executed by all of them or in the manner specified in Article VI or Article VII, shall be conclusive in favor of any person, partnership, corporation, or association relying thereon that:
 - (A) At the time of delivery of said instrument, this Amended and Restated Agreement and Declaration of Trust was in full force and effect, and
 - (B) Said instrument was effected in accordance with the terms and conditions of this Amended and Restated Agreement and Declaration of Trust, and
 - (C) The Trustees were duly authorized and empowered to execute such instrument.

SECTION 3 — NOTICES

Notice given to a Trustee, the Union, Employer(s), any Employer Association(s) or any other person shall, unless otherwise specified herein, be sufficient if in writing and delivered to or sent by postpaid first class mail to the last address filed with the Trustees. Except as herein otherwise provided, the delivery of any statement or document required hereunder to be made to a Trustee, the Union, Employer(s), Employer Association(s) or any other person shall be sufficient if delivered in person or if sent by postpaid first class mail to his or its last address, as filed with the Trustees.

SECTION 4 — ADVICE OF COUNSEL

The Trustees may, in their discretion, employ legal counsel upon any legal question arising out of this Amended and Restated Agreement and Declaration of Trust or the administration of the Pension Plan, and any action taken by the Trustees upon the advice of

counsel shall be regarded as prudent and the Trustees shall be held completely harmless and fully protected in actions made in reliance upon the advice of such counsel.

SECTION 5 — LEGAL ACTION BY TRUSTEES

The Trustees may seek judicial protection by any action or proceeding they may deem necessary to settle their accounts, or to obtain a judicial determination or declaratory judgment as to any question of construction of this Amended and Restated Agreement and Declaration of Trust or instruction as to any action thereunder. Any such determination shall be binding upon all parties to or making a claim under this Amended and Restated Agreement and Declaration of Trust.

SECTION 6 — COSTS OF SUIT

The costs and expenses of any action, suit, or proceeding brought by or against the Trustees or any of them (including legal fees) shall be paid from the Trust Fund, except in relation to matters as to which it shall be adjudged in such actions, suit or proceeding that such Trustee was acting in bad faith or was grossly negligent or willful in the performance of his or her duties thereunder.

SECTION 7 — FIDELITY BONDS

All of the Trustees and each Employee employed by the Trustees who may be engaged in receiving or withdrawing of monies of the Trust Fund shall be bonded by a duly authorized surety company for such sums as the Trustees from time to time shall determine and as required by Federal laws. The cost of premiums for such bonds shall be paid out of the Trust Fund.

SECTION 8 — PAYMENTS TO OR BY TRUST FUND

All payments due to or from the Trust Fund shall be made by bank draft, check, cashiers check, money order, postal money order, wire transfer or other recognized written method of transmitting money or its equivalent.

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ARTICLE IX – AMENDMENTS

This Amended Agreement and Declaration of Trust may be amended in any respect from time to time by a majority vote of the Trustees, such amendment to be approved by the Union and Employers named herein, except that no amendment shall divert the Trust Fund, as constituted immediately prior thereto or in any part thereof, to a purpose other than as set forth herein, nor shall there be any amendments which would change the equality of number of Union Trustees and Employer Trustees, nor eliminate the requirement of an annual audit nor the payment of necessary expenses.

ARTICLE X – TERMINATION OF TRUST

SECTION 1 – CONDITIONS OF TERMINATION

- (1) This Amended and Restated Agreement and Declaration of Trust shall cease and terminate upon the happening of any one or more of the following events:
 - (A) In the event the Trust Fund shall be, in the opinion of the Trustees, inadequate to carry out the intent and purpose of this agreement or to meet the payments due or to become due under this Agreement to persons already receiving benefits;
 - (B) In the event there are no individuals living who can qualify as Employees, Participants and/or Beneficiaries hereunder;
 - (C) In the event of termination by action of the Union and the respective Employers or Employer Associations.

SECTION 2 — PROCEDURES IN EVENT OF TERMINATION

- (1) In the event of termination, the Trustees shall:
 - (A) Make provisions for the payment of expenses incurred up to the date of termination of the Trust and the expenses incident to such termination.
 - (B) Arrange for a final audit and report of their transactions and accounts, for the purpose of termination of their Trusteeship.
 - (C) Apply the Trust Fund to pay any and all obligations of the Trust and distribute and apply any remaining surplus in such manner as will, in their opinion, best effectuate the purposes of the Trust and comply with applicable law.

ARTICLE XI — SITUS AND CONSTRUCTION OF TRUST

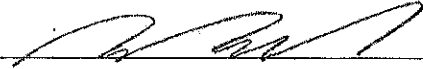
This Trust is accepted by the Union and the Associations in the State of Ohio and all questions pertaining to its validity, construction and administration shall be determined in accordance with Federal law and the State of Ohio. If, for any reason, any provision of this Agreement shall be, is or is hereafter determined by decision, act or regulation of a duly constituted body or authority to be in any respect invalid, it shall not nullify any of the other terms and provisions of this Agreement, and in such respect or respects as it may be necessary to conform this Agreement with the applicable provision of law in order to prevent the invalidity of such provision or provisions, then the said provision or provisions shall be deemed automatically amended to conform with such rule, law, regulation, act or decision.

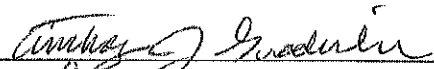
SIGNATURE PAGE


IN WITNESS WHEREOF, upon resolution of the Board of Trustees duly made, seconded and approved, the Trustees of the Bricklayers & Allied Craftsmen Local No. 7 Pension Fund have affixed their signatures as approval and ratification of the foregoing Amended and Restated Agreement and Declaration of Trust as of the 9th day of March, 2012.

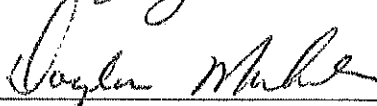
EMPLOYER TRUSTEES

UNION TRUSTEES











**AMENDMENT NO. 1 TO THE
AMENDED AND RESTATED AGREEMENT AND DECLARATION OF TRUST
FOR THE
BRICKLAYERS AND ALLIED CRAFTSMEN LOCAL NO. 7 PENSION FUND**

WHEREAS, the Trust was amended and restated effective March 9, 2012; and

WHEREAS, Article IX permits the Trustees to amend or modify this Trust at any time by majority vote; and

WHEREAS, the Trustees desire to amend the Trust to alter the rules governing a quorum.

NOW THEREFORE, the Board of Trustees has declared and agreed that the Trust shall be amended as follows:

A. Effective September 15, 2017, Article V, Section 1, Subsection (3) shall be amended to read as follows:

- (3) A quorum shall consist of three (3) Trustees, one of which must be a Union Trustee and one of which must be an Employer Trustee. If at any meeting the number of Union Trustees and Employer Trustees present shall be unequal then the group of Trustees lesser in number shall be entitled to cast the same number of votes as the other group of Trustees.

B. Except as herein expressly amended or modified herein, all of the terms and provisions of the TRUST are hereby affirmed.

IN WITNESS WHEREOF, this Amendment No. 1 has been executed by the Trustees on this 15th day of September, 2017.

MANAGEMENT TRUSTEES

UNION TRUSTEES

