

**SIXTH AMENDMENT
TO THE
OUTSTATE MICHIGAN TROWEL TRADES PENSION FUND
AGREEMENT AND DECLARATION OF TRUST**

The AGC of Michigan and the Michigan Infrastructure and Transportation Association for the employers and the Michigan State Council, Operative Plasterers and Cement Masons' International Association of the United States and Canada, AFL-CIO and the International Union of Bricklayers and Allied Craftworkers, AFL-CIO, for the employees, pursuant to the amendatory power reserved to them by Article VIII, Section 1 of the Agreement and Declaration of Trust, do hereby amend the Agreement and Declaration of Trust effective June 12, 2008 as follows, the remaining portions of the Agreement and Declaration of Trust being confirmed unchanged hereby:

A new **Section 11** is added to **Article I**, effective June 12, 2008, to read in its entirety as follows:

"Section 11 - Advisory Committee: The term "Advisory Committee" shall mean a committee composed of five representatives from the Unions and five representatives from the Associations, designated in accordance with the procedure set out in Section 1 of Article III. Each Union and Association shall notify the Board of Trustees, in writing, of its designated Advisory Committee representative(s)."

Article III, Section 1, is amended, effective June 12, 2008, to read in its entirety as follows:

"Section 1 - Designation of Trustees: The Fund shall be administered by ten Trustees. The Michigan State Council of the Operative Plasterers' and Cement Masons' International Association of the United States and Canada shall appoint four Trustees and up to four Advisory Committee members. The International Union of Bricklayers and Allied Craftworkers shall appoint one Trustee and up to one Advisory Committee member. The Michigan Infrastructure and Transportation Association shall appoint two Trustees and up to two Advisory Committee members. The AGC of Michigan shall appoint three Trustees and up to three Advisory Committee members."

A new **Section 8** is added to **Article III**, effective June 12, 2008, to read in its entirety as follows:

“Section 8 - Advisory Committee: Members of the Advisory Committee shall have the right to attend and participate in meetings of the Board of Trustees, but shall not have voting privileges under any circumstances.”

A new **Section 9** is added to **Article III**, effective June 12, 2008, to read in its entirety as follows:

“Section 9 - Withdrawal of Party: If any Association or the Union ceases to be a party to a collective bargaining agreement requiring contributions to this Fund, the Association or the Union shall cease being a party to this Trust Agreement, and the Trustee(s) appointed by it shall cease being a Trustee(s).”

Article IV, Section 2, is amended, effective June 12, 2008, to read in its entirety as follows:

“Section 2 - Meetings: Regular meetings of Trustees shall be held at least quarterly, provided, however, that not more than two consecutive meetings may be canceled by vote of the Trustees. The Chairman, Secretary, or any Union Trustee together with any Employer Trustee may call a meeting of the Trustees at any time by giving at least three (3) days' prior written notice of the time and place thereof to the other Trustees. A meeting so called shall be adjourned for a reasonable period upon the request of a Trustee showing a justifiable cause therefore to the other Trustees. Meetings of the Trustees may also be held at any time without such notice if all of the Trustees consent thereto or the date for such meeting had been set by act of the Trustees at a previous meeting. The Trustees may also act by conference telephone call in lieu of a meeting, provided a quorum is present and all notice requirements applicable to regular meetings are met, or in writing, without a meeting, provided that any such action will require unanimous consent of all Trustees. A written record, a copy of which shall be furnished to each Trustee, shall be kept of all business transacted and all matters upon which the Trustees voted.”

IN WITNESS WHEREOF, the Unions and Employer Associations have affixed their signatures to this Sixth Amendment to the Agreement and Declaration of Trust of

the Outstate Michigan Trowel Trades Pension Fund, effective June 12, 2008, on the dates set out.

Michigan State Council, Operative Plasterers' and Cement Masons' International Association of the United States and Canada, AFL-CIO

By: [Signature]

Its: Secretary - Treasurer

Date: 9/10/09

International Union of Bricklayers and Allied Craftworkers, AFL-CIO

By: _____

Its: _____

Date: _____

AGC of Michigan

By: [Signature]

Its: Secretary

Date: 9/10/09

Michigan Infrastructure and Transportation Association

By: [Signature]

Its: VP Engineering

Date: 9/10/09

**FIFTH AMENDMENT
TO THE
OUTSTATE MICHIGAN TROWEL TRADES PENSION FUND
AGREEMENT AND DECLARATION OF TRUST**

The Michigan Chapter, Associated General Contractors of America, Inc. – Labor Relations Division and the Michigan Infrastructure and Transportation Association for the employers and the Michigan State Council, Operative Plasterers and Cement Masons’ International Association of the United States and Canada, AFL-CIO and the International Union of Bricklayers and Allied Craftworkers, AFL-CIO, for the employees, pursuant to the amendatory power reserved to them by Article VIII, Section 1 of the Agreement and Declaration of Trust, do hereby amend the Agreement and Declaration of Trust effective June 1, 2007, to reflect the merger of the Michigan Chapter, Associated General Contractors of America, Inc., Labor Relations Division into a new entity, AGC of Michigan, the remaining portions of the Agreement and Declaration of Trust being confirmed unchanged hereby:

The Associations, as set forth in the **preamble** of the Agreement and Declaration of Trust shall be:

The AGC of Michigan and the Michigan Infrastructure and
Transportation Association.

The second paragraph of **Article III, Section 1** is amended by deleting the term “Michigan Chapter, Associated General Contractors of America, Inc., Labor Relations Division” and replacing it with the term “AGC of Michigan”.

IN WITNESS WHEREOF, the Unions and Employer Associations have affixed their signatures to this Fifth Amendment to the Agreement and Declaration of Trust of the Outstate Michigan Trowel Trades Pension Fund, effective June 1, 2007, on the dates set out.

Michigan State Council, Operative Plasterers' and Cement Masons' International Association of the United States and Canada, AFL-CIO

By: James D. O'Leary
Its: J.D.O.
Date: 8/14/07

International Union of Bricklayers and Allied Craftworkers, AFL-CIO

By: Gerald D. Kelley
Its: EXEC VP
Date: 10/23/07

Michigan Chapter, Associated General Contractors of America, Inc., Labor Relations Division

By: Paul Hume
Its: Secretary
Date: 8/16/07

Michigan Infrastructure and Transportation Association

By: Joe R. [Signature]
Its: VP of Engineering
Date: 8/16/07

**FOURTH AMENDMENT
TO THE
OUTSTATE MICHIGAN TROWEL TRADES PENSION FUND
AGREEMENT AND DECLARATION OF TRUST**

The Michigan Chapter, Associated General Contractors of America, Inc. – Labor Relations Division and the Michigan Road Builders’ Association, Inc., Labor Relations Division for the employers and the Michigan State Council, Operative Plasterers and Cement Masons’ International Association of the United States and Canada, AFL-CIO and the International Union of Bricklayers and Allied Craftworkers, AFL-CIO, for the employees, pursuant to the amendatory power reserved to them by Article VIII, Section 1 of the Agreement and Declaration of Trust, do hereby amend the Agreement and Declaration of Trust effective February 1, 2005, to reflect the merger of the Michigan Road Builders Association, Inc., into a new entity, the remaining portions of the Agreement and Declaration of Trust being confirmed unchanged hereby:

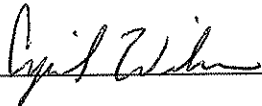
The Associations, as set forth in the **preamble** of the Agreement and Declaration of Trust shall be:

The Michigan Chapter, Associated General Contractors of America, Inc. – Labor Relations Division and the Michigan Infrastructure and Transportation Association.

The second paragraph of **Article III, Section 1** is amended by deleting the term “Michigan Road Builders’ Association, Inc. – Labor Relations Division” and replacing it with the term “Michigan Infrastructure and Transportation Association.”

IN WITNESS WHEREOF, the Unions and Employer Associations have affixed their signatures to this Fourth Amendment to the Agreement and Declaration of Trust of the Outstate Michigan Trowel Trades Pension Fund, effective February 1, 2005, on the dates set out.

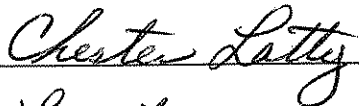
Michigan State Council, Operative Plasterers' and Cement Masons' International Association of the United States and Canada, AFL-CIO

By: 

Its: Secretary - Treasurer

Date: Jan 31, 2005

International Union of Bricklayers and Allied Craftworkers, AFL-CIO

By: 

Its: Trustee

Date: 2/15/05

Michigan Chapter, Associated General Contractors of America, Inc., Labor Relations Division

By: 

Its: Secretary

Date: 4/8/05

Michigan Road Builders Association, Inc. - Labor Relations Division

By: 

Its: Exec. V.P.

Date: 1/26/05

**FOURTH AMENDMENT TO THE
OUTSTATE MICHIGAN TROWEL TRADES PENSION FUND
AGREEMENT AND DECLARATION OF TRUST**

The parties to the Agreement and Declaration of Trust of the Outstate Michigan Trowel Trades Pension Fund, effective January 1, 1971, in the exercise of the amendatory power reserved to them by Article VIII, Section 1, of the Agreement and Declaration of Trust do hereby amend the Agreement and Declaration of Trust, the remaining portions being confirmed unchanged hereby:


Article VI, Section 1(e), is amended, effective April 1, 2000, to add "units in collective investment funds and group trusts," after the phrase "preferred or common stocks,".

A new **Article VI, Section 1(f)** is added, effective April 1, 2000, as follows, and the present Sections 1(f), (g), (h) and (i) are renumbered as Sections 1(g), (h), (i) and (j), accordingly:

"(f) To commingle any funds which, in their sole and absolute discretion, they consider not required for current expenditures, with assets of other trusts or plans through the specific medium of a trust that is created solely for the purpose of the collective investment of pension and profit-sharing plans ("group trust"), provided that the group trust's declaration of trust, as amended from time to time, shall, as required by Revenue Ruling 81-100, be incorporated herein by reference."

IN WITNESS WHEREOF, the Unions and the Associations parties hereto have executed this Fourth Amendment to the Agreement and Declaration of Trust of the Outstate Michigan Trowel Trades Pension Fund on the dates set out below.

**Michigan State Council, Operative Plasterers' and Cement Masons' International Association
of the United States and Canada, AFL-CIO**

By: 

Its: _____

Date: 11-19-01

International Union of Bricklayers and Allied Craftworkers, AFL-CIO

By:

Donald D. Miller

Its:

10 Vice Pres

Date:

12/13/01

Michigan Chapter, Associated General Contractors of America, Inc., Labor Relations Division

By:

Bob Fontana

Its:

SECRETARY

Date:

12/10/2001

Michigan Road Builders Association, Inc. - Labor Relations Division

By:

John B. Quinn

Its:

Labor Consultant

Date:

11/19/01

**FOURTH AMENDMENT TO THE
OUTSTATE MICHIGAN TROWEL TRADES PENSION FUND
AGREEMENT AND DECLARATION OF TRUST**

The parties to the Agreement and Declaration of Trust of the Outstate Michigan Trowel Trades Pension Fund, effective January 1, 1971, in the exercise of the amendatory power reserved to them by Article VIII, Section 1, of the Agreement and Declaration of Trust do hereby amend the Agreement and Declaration of Trust, the remaining portions being confirmed unchanged hereby:

Article VI, Section 1(e), is amended, effective April 1, 2000, to add "units in collective investment funds and group trusts," after the phrase "preferred or common stocks,".

A new **Article VI, Section 1(f)** is added, effective April 1, 2000, as follows, and the present Sections 1(f), (g), (h) and (i) are renumbered as Sections 1(g), (h), (i) and (j), accordingly:

"(f) To commingle any funds which, in their sole and absolute discretion, they consider not required for current expenditures, with assets of other trusts or plans through the specific medium of a trust that is created solely for the purpose of the collective investment of pension and profit-sharing plans ("group trust"), provided that the group trust's declaration of trust, as amended from time to time, shall, as required by Revenue Ruling 81-100, be incorporated herein by reference."

IN WITNESS WHEREOF, the Unions and the Associations parties hereto have executed this Fourth Amendment to the Agreement and Declaration of Trust of the Outstate Michigan Trowel Trades Pension Fund on the dates set out below.

**Michigan State Council, Operative Plasterers' and Cement Masons' International Association
of the United States and Canada, AFL-CIO**

By: 

Its: 

Date: 10, 5, 00

International Union of Bricklayers and Allied Craftworkers, AFL-CIO

By: David D. Miller

Its: Vice President

Date: 1/17/00

Michigan Chapter, Associated General Contractors of America, Inc., Labor Relations Division

By: Robert J. Genta

Its: Secretary

Date: 10/5/2000

Michigan Road Builders Association, Inc. - Labor Relations Division

By: Pat Miller

Its: Secretary

Date: 10/24/00

**THIRD AMENDMENT TO THE
OUTSTATE MICHIGAN TROWEL TRADES PENSION FUND
AGREEMENT AND DECLARATION OF TRUST**

The parties to the Agreement and Declaration of Trust of the Outstate Michigan Trowel Trades Pension Fund, effective January 1, 1971, in the exercise of the amendatory power reserved to them by Article VIII, Section 1, of the Agreement and Declaration of Trust do hereby amend the Agreement and Declaration of Trust, the remaining portions being confirmed unchanged hereby:

Effective January 1, 1998, the Unions, as set forth in the preamble, Page 1 of the Agreement and Declaration of Trust, shall be:

Michigan State Council of the Operative Plasterers' and Cement
Masons' International Association of the United States and Canada
and the International Union of Bricklayers and Allied Craftworkers.

Article I, Section 2, is amended, effective January 1, 1998, to read in its entirety as follows:

"SECTION 2 - CONTRIBUTING EMPLOYER OR EMPLOYER

The term 'Contributing Employer' or 'Employer' shall include:

- a) any member of an Employer Association who is bound by the terms of a collective bargaining agreement between the Union and his Association to make contributions to the Trust Fund; and
- b) any and all individuals, partnerships, or corporations engaged in work using or employing the services of individuals performing job tasks coming within the Jurisdiction of the Union and having a written Agreement requiring contributions to the Trust Fund; and
- c) any Union or an affiliate thereof to the extent, and solely to the extent, that it acts in the capacity of an Employer of Employees in whose behalf it makes contributions to the Trust Fund pursuant to a Pension Agreement; and

- d) any board of trustees, committee or other agency established to administer or be responsible for fringe benefit funds, educational or other programs established through collective bargaining by the Union(s) and an Employer to the extent, and solely to the extent, that it acts in the capacity of an Employer of Employees in whose behalf it makes contributions to the Trust Fund pursuant to a Pension Agreement."

Article I, Section 3, is amended, effective January 1, 1998, to read in its entirety as follows:

"SECTION 3 - EMPLOYEE

The term 'Employee' shall mean:

- a) any person who is or has been engaged by an Employer to perform tasks coming within the Jurisdiction of the Union(s);
- b) any person who, after accruing at least one Year of Service under the terms of the Pension Plan based on employment at the trade, is or has been employed by an Employer to perform tasks outside the Jurisdiction of the Union(s) and whose Employer elects to contribute under such terms and conditions as the Trustees may prescribe;
- c) any person employed in a paid capacity by the Union(s) or an affiliate thereof; and
- d) any person employed by any board of trustees, committee or other agency established to administer or be responsible for fringe benefit funds, educational or other programs established through collective bargaining by the Union(s) and an Employer.

No person who is a proprietor or a partner in an Employer partnership shall be an Employee within the meaning of Section 3."

A new Section 9 is added to Article I, effective January 1, 1998, to read in its entirety as follows:

"SECTION 9 - PENSION AGREEMENT

The term 'Pension Agreement' shall mean any collective bargaining agreement or article thereof or other agreement which provides for Employer Contributions to the Trust

Fund (or adopts, expressly or implicitly, a written agreement which so provides), and details the basis upon which such contributions are to be made and, with respect to Employees working outside the Jurisdiction of the Union(s), the terms and conditions prescribed by the Trustees for acceptance of such Employer Contributions."

A new Section 10 is added to Article I, effective January 1, 1998, to read in its entirety as follows:

"SECTION 10 - JURISDICTION

The term 'Jurisdiction' shall mean the type of work normally claimed by the Union(s) in accordance with the Constitution, By-Laws, rules, regulations, and agreements of the respective International Union which is performed within the geographic area assigned to the Union(s). Work may come within the Jurisdiction of the Union(s) whether or not it is performed for an Employer."

The second paragraph of Article III, Section 1, is amended, effective January 1, 1998, by deleting the term "Michigan Conference of Bricklayers', Masons' and Plasterers' International Union" and replacing it with the term "International Union of Bricklayers and Allied Craftworkers".

Article VI, Section 1(g) is amended, effective January 1, 1989, to read in its entirety as follows:

"(g) Construe the provisions of this Agreement and Declaration of Trust and any Pension Plan developed and published hereunder and any construction adopted by them in good faith shall be conclusive and binding upon all parties interested in this Trust Fund, including, but not limited to, Participants, Beneficiaries, the Union(s), the Employers, the Association(s), any Employee of any Employer and any person claiming rights through or on behalf of any of the foregoing."

IN WITNESS WHEREOF, the Unions and the Associations parties hereto have executed this Third Amendment to the Agreement and Declaration of Trust of the Outstate Michigan Trowel Trades Pension Fund on the dates set out below.

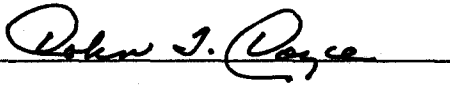
Michigan State Council, Operative Plasterers' and Cement Masons' International Association of the United States and Canada, AFL-CIO

By: 

Its: Chairman

Date: 9/24/98

International Union of Bricklayers and Allied Craftworkers, AFL-CIO

By: 

Its: PRESIDENT

Date: 10-21-98

Michigan Chapter, Associated General Contractors of America, Inc., Labor Relations Division

By: 

Its: SECRETARY

Date: 9/21/98

Michigan Road Builders Association, Inc. - Labor Relations Division

By: 

Its: Secretary

Date: 10/30/98

SECOND AMENDMENT
OF
OUTSTATE MICHIGAN TROWEL TRADES
PENSION FUND
AGREEMENT AND DECLARATION OF TRUST

WHEREAS, effective January 1, 1971, an Agreement and Declaration of Trust was entered into pursuant to which the Outstate Michigan Trowel Trades Pension Fund was established; and

WHEREAS, the parties to said Agreement reserved to themselves the right to amend said Agreement and Declaration of Trust from time to time; and

WHEREAS, the parties now deem it desirable to amend said Agreement and Declaration of Trust to change the requirement for the constitution of a quorum for the transaction of Fund business; and

WHEREAS, the parties now deem it desirable to amend said Agreement and Declaration of Trust to change the number of Trustees and Alternate Trustees appointed by the parent bodies; and

WHEREAS, by the provisions contained in the First Amendment of the Agreement and Declaration of Trust pursuant to which said Fund was established, the Employer parties thereto are the Michigan Chapter, Associated General Contractors of America, Inc., and the Michigan Lathing and Plastering Association; and the Michigan Road Builders Association, Inc. - Labor Relations Division; and

WHEREAS, the Michigan Lathers and Plasters Association ceases to be in existence as determined by a survey/poll conducted by the Trustees and;

WHEREAS, because the Michigan Lathers and Plasters Association is no longer in existence it can no longer be a party to the Agreement and Declaration of Trust.

NOW, THEREFORE, pursuant to the provisions of Section 1, Article VIII of said Agreement and Declaration of Trust it is hereby amended in the following particulars effective October 16, 1986:

- . The first paragraph of Section 1 of Article Six, Quorum Requirements, is amended to read:

" Four Trustees or Alternate Trustees who are acting as Trustees, at least two of whom are Union Trustees and two of whom are Employer Trustees, must be present at any meeting to constitute a quorum."

- . Article III, Appointment of Trustees, Section 1, Designation of Trustees is amended to read:

There shall be ~~Eight~~ Trustees under this Agreement and Declaration of Trust.

The Michigan State Council of the Operative Plasterers' and Cement Masons' International Association of the United States and Canada shall appoint Three Trustees and may also appoint up to Three Alternate Trustees to serve at a meeting in the absence of the Trustees appointed by it. Such Alternate Trustees may be appointed to serve as Alternates to specific Trustees or may be appointed at large to serve at a meeting in the absence of a regular Trustee appointed by the same parent body. The Michigan Conference of the Bricklayers', Masons' and Plasterers' International Union shall appoint one Trustee and may also appoint one Alternate Trustee to serve at a meeting in the absence of its said Trustee. The Trustees and Alternate Trustees appointed by the Unions shall be designated "Union Trustees" and "Alternate Union Trustees," respectively.

The Michigan Chapter, Associated General Contractors of America, Inc. shall appoint two Trustees and may also appoint up to two Alternate Trustees to serve at a meeting in the absence of the Trustees appointed by it. Such Alternate Trustees may be appointed to serve as Alternates to specific Trustees or may be appointed at large to serve at a meeting in the absence of a regular Trustee appointed by the same parent body. The Michigan Road Builders' Association, Inc. - Labor Relations Deivision shall appoint two Trustees and may also appoint up to two Alternate Trustees to serve at a meeting in the absence of the Trustees appointed by it. Such Alternate Trustees may be appointed to serve as Alternates to specific Trustees or may be appointed at large to serve at a meeting in the absence of a regular Trustee appoitned by the same parent body. The Trustees and Alternate Trustees appointed by the Associations shall be designated "Employer Trustees" and "Alternate Employer Trustees," respectively.

The Associations as set forth in the preamble, Page 1 of the Agreement and Declaration of Trust shall be:

Michigan Chapter of the Associated General Contractors of America, Inc., and the Michigan Road Builders Association, Inc. - Labor Relations Division.

IN WITNESS WHEREOF, the Unions and the Associations partieshereto have executed this Second Amendment of the Outstate Michigan Trowel Trades Pension Fund Agreement and Declaration of Trust effective on the 16th day of October, 1986.

MICHIGAN STATE COUNCIL, OPERATIVE
PLASTERERS' AND CEMENT MASONS'
INTERNATIONAL ASSOCIATION OF THE
UNITED STATES AND CANADA

By: Bobby Jones

MICHIGAN CONFERENCE, BRICKLAYERS'
MASONS' AND PLASTERERS' INTERNATIONAL
UNION

By: James J. Benbow

MICHIGAN CHAPTER, ASSOCIATED
GENERAL CONTRACTORS OF AMERICA, INC.

By: Bart Carver

MICHIGAN ROAD BUILDERS' ASSOCIATION,
INC. - LABOR RELATIONS DIVISION

By: James W. Menden

FIRST AMENDMENT
OF
OUTSTATE MICHIGAN TROWEL TRADES
PENSION FUND
AGREEMENT AND DECLARATION OF TRUST

WHEREAS, effective January 1, 1971, an Agreement and Declaration of Trust was entered into pursuant to which the OUTSTATE MICHIGAN TROWEL TRADES PENSION FUND was established; and

WHEREAS, the parties to said Agreement reserved to themselves the right to amend said Agreement and Declaration of Trust from time to time; and

WHEREAS, the parties now deem it desirable to amend said Agreement and Declaration of Trust so as to liberalize the requirement for the constitution of a quorum for the transaction of Fund business;

NOW, THEREFORE, pursuant to the provisions of Section 1 of Article VIII of said Agreement and Declaration of Trust it is hereby amended in the following particulars effective July 1, 1973:

The first paragraph of Section 1 of Article IV is amended to read:

" Six Trustees or Alternate Trustees who are acting as Trustees, at least three of whom are Union Trustees and three of whom are Employer Trustees, must be present at any meeting to constitute a quorum. "

IN WITNESS WHEREOF, the Unions and the Associations party hereto have executed this First Amendment of the Outstate Michigan Trowel Trades Pension Fund Agreement and Declaration of Trust this 17th day of JULY, 1973.

MICHIGAN STATE COUNCIL,
OPERATIVE PLASTERERS' AND CEMENT
MASONS' INTERNATIONAL ASSOCIATION
OF THE UNITED STATES AND CANADA

By Charles W. Sak

MICHIGAN CONFERENCE,
BRICKLAYERS' MASONS' AND
PLASTERERS' INTERNATIONAL UNION

By George Spencer

MICHIGAN CHAPTER, ASSOCIATED
GENERAL CONTRACTORS OF
AMERICA, INC.

By Harold

MICHIGAN LATHERS AND PLASTERERS
CONTRACTORS' ASSOCIATION

By James P. Gimpley

MICHIGAN ROAD BUILDERS' ASSOCIATION
INC. - LABOR RELATIONS DIVISION

By W. F. Browning

OUTSTATE MICHIGAN TROWEL TRADES

PENSION FUND

AGREEMENT AND DECLARATION OF TRUST

OUTSTATE MICHIGAN TROWEL TRADES

PENSION FUND

AGREEMENT AND DECLARATION OF TRUST

THIS AGREEMENT AND DECLARATION OF TRUST, effective January 1, 1971, by and between:

the MICHIGAN STATE COUNCIL OF THE OPERATIVE PLASTERERS' AND CEMENT MASONS' INTERNATIONAL ASSOCIATION OF THE UNITED STATES AND CANADA, and the MICHIGAN CONFERENCE OF THE BRICKLAYERS', MASONS' AND PLASTERERS' INTERNATIONAL UNION (hereinafter referred to individually as the "Union" and collectively as the "Unions") each on behalf of its respective affiliated Local Unions which have, and from time to time shall have, in effect collective bargaining agreements requiring contributions to be made by employers into this Pension Fund in behalf of employees working thereunder,

and

the MICHIGAN CHAPTER, ASSOCIATED GENERAL CONTRACTORS OF AMERICA, INC., the MICHIGAN LATHERS AND PLASTERERS CONTRACTORS' ASSOCIATION, and the MICHIGAN ROAD BUILDERS' ASSOCIATION, INC. - LABOR RELATIONS DIVISION (hereinafter referred to individually as an "Association" and collectively as "Associations") representing their respective employer members, together with such other employers as may be, or hereafter become, Contributing Employers as hereinafter defined,

combines, restates, supersedes, and continues the Declaration of Trust which established the Outstate O.P.C.M.I.A. Pension Fund as of May 1, 1963, and the Michigan Highway Construction Industry Cement Masons' Pension Fund, as the same have, from time to time, heretofore been amended; and

WITNESSETH THAT:

WHEREAS, the aforementioned parties have and have had in effect various collective bargaining agreements which provide, inter alia, for contributions to be made to either the Outstate O.P.C.M.I.A. Pension Fund or the Michigan Highway Construction Industry Cement Masons Pension Fund, or for contributions to be held in escrow under the Outstate O.P.C.M.I.A. Pension Fund pending a formal amendment to that Fund's Agreement and Declaration of Trust adding the Michigan Chapter, Associated General Contractors of America, Inc. as an employer party thereto; and

WHEREAS, to assure, insofar as possible, that all contributions made in behalf of an employee working under any of the various collective bargaining agreements negotiated by the Unions and/or their affiliated Local Unions which have heretofore been made into the separate aforementioned predecessor Funds are accumulated to his credit in but one Pension Fund, and that expenses of administration, consulting and other services incident thereto will be minimized; and

WHEREAS, the parties authorized to amend the Declarations of Trust which established the Outstate O.P.C.M.I.A. Pension Fund and the Michigan Highway Construction Industry Cement Masons' Pension Fund, respectively, have already taken appropriate action to authorize the consolidation of the two Funds into a single Fund and the parties which have heretofore been escrowing contributions have agreed to participate in said single Fund; and

WHEREAS, all the parties desire to continue the consolidated Fund in conformance with the applicable requirements of the Labor-Management Relations Act of 1947, as amended, and desire to have the consolidated Fund "qualified" and "exempt" under the applicable provisions of the United States Internal Revenue Code and the rules and regulations issued thereunder:

NOW, THEREFORE, in consideration of the premises and in order to consolidate the aforementioned Trust Funds and escrowed contributions into one Fund to be known as the "OUTSTATE MICHIGAN TROWEL TRADES PENSION FUND", it is mutually understood and agreed as follows:

ARTICLE 1

DEFINITIONS

SECTION 1 - GENERAL

In addition to the definition of the terms "Union", "Unions", "Association" and "Associations" which appear in the preamble hereto wherever used herein, the following words or phrases shall have the respective meanings set forth in the following Sections of this Article 1.

SECTION 2 - CONTRIBUTING EMPLOYER OR EMPLOYER

The term "Contributing Employer" or "Employer" shall include:

- a) any member of an Association who is bound by the terms of a collective bargaining agreement between the Union, the Unions, or any of its affiliated Local Unions and his Association to make contributions to the Trust Fund;

- b) any other Employer engaged in work coming within the jurisdiction of the Unions who contributes to or who is obliged, by a collective bargaining agreement or other agreement, to make contributions to the Trust Fund; and
- c) the Unions to the extent, and solely to the extent, that they act in the capacity of an Employer of their respective business representatives or other employees in whose behalf they make contributions to the Trust Fund.

SECTION 3 - EMPLOYEE

The term "Employee" shall mean any person on whose account an Employer is, or has been, required to make contributions to the Trust Fund, or who is eligible for benefits as provided by the Pension Plan, including business representatives of the Unions and any member of the Unions while employed in a paid capacity by the Unions or affiliates thereof.

SECTION 4 - TRUSTEE

The term "Trustee" shall mean any natural person designated as a Trustee pursuant to Article III, Section 1, or Article III, Section 6 of this Agreement and Declaration of Trust who has evidenced his acceptance of such Trusteeship in writing in accordance with the provisions of Article III, Section 3 of this Agreement and Declaration of Trust.

SECTION 5 - AGREEMENT AND DECLARATION OF TRUST

The term "Agreement and Declaration of Trust" shall mean this instrument, as the same may, from time to time, be amended as hereinafter provided.

SECTION 6 - TRUST FUND OR FUND

The term "Trust Fund" or "Fund" shall mean the OUTSTATE MICHIGAN TROWEL TRADES PENSION FUND and the entire assets thereof, including all funds received by the Trustees in the form of Employer Contributions, together with all contracts (including dividends, interest, refunds and any other sums payable to the Fund on account of such contracts), all investments made and held by the Trustees, all income, increments, earnings and profits therefrom and any and all property or funds received and held by the Trustees under this Agreement and Declaration of Trust. The term "Trust Fund" shall also include all of the assets held under the Outstate O.P.C.M.I.A. Pension Fund and the Michigan Highway Construction Industry Cement Masons' Pension Fund which are delivered, along with all records of said Pension Funds, to the Trustees by the Trustees of said Pension Funds and for which the Trustees have given a valid receipt. The term shall also include all escrowed money and other assets held in escrow by the Trustees of the Outstate O.P.C.M.I.A. Pension Fund which are delivered to the Trustees by the Trustees of said Pension Fund, along with all records related thereto, for which the Trustees have given a valid receipt.

SECTION 7 - EMPLOYER CONTRIBUTIONS

The term "Employer Contributions" shall mean payments made in behalf of Employees to the Trust Fund by a Contributing Employer.

SECTION 8 - PENSION PLAN

The term "Pension Plan" shall mean the plan, program, methods and procedures for the payment of benefits from the Trust Fund (directly or indirectly) by the Trustees in accordance with such eligibility requirements as the Trustees may, from time to time, adopt and promulgate, which shall be known as the "OUTSTATE MICHIGAN TROWEL TRADES PENSION PLAN".

ARTICLE II

CREATION, PURPOSE, AND APPLICATION OF THE TRUST FUND

SECTION 1 - CREATION OF TRUST

There is hereby created a Trust Fund known as "OUTSTATE MICHIGAN TROWEL TRADES PENSION FUND", which Fund is a consolidation of the Outstate O.P.C.M.I.A. Pension Fund, the Michigan Highway Construction Industry Cement Masons' Pension Fund, and the assets heretofore held in escrow by the Trustees of the Outstate O.P.C.M.I.A. Pension Fund.

The Fund hereby created constitutes an irrevocable trust for the purposes set forth herein and is to be managed in the sole discretion of the Trustees, subject to the limitations contained herein, and all applicable Federal, State and Local Laws.

SECTION 2 - PURPOSE AND APPLICATION OF TRUST FUND

The Trust Fund is created, established, and maintained and the Trustees agree to receive the Trust Fund and to hold and administer it for the purpose of providing benefits for the Employees and their beneficiaries in accordance with the Pension Plan. Benefits shall be limited to those which can be financed from the Fund after payment of authorized expenses.

To effect the aforesaid, 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 benefits to Employees and their beneficiaries when found eligible to receive the same.
- b) To pay or provide for the payment of all reasonable and necessary expenses, costs, and fees, having to do with the implementation of the Pension Plan and proper administration of the Trust Fund and Pension Plan, including employment of such actuarial, legal, professional, and clerical assistance, as the Trustees, in their discretion, deem necessary or appropriate in the performance of their duties, and also including reasonable compensation for their services as Trustees, if approved by Resolution of the Trustees.

- c) To Pay or provide for the payment of all real and personal property taxes, income taxes and other taxes or assessments of any and all kinds levied or assessed under existing or future laws upon or in respect to the Trust Fund, the Pension Plan, or any money or property forming a part thereof.
- d) To establish, accumulate, and maintain, as part of the Trust Fund, an adequate reserve to carry out the purposes of the Trust.
- e) To make deposits and payments pursuant to any contract referred to in Section 3. b) of this Article providing benefits contemplated herein.
- f) To make any deposits to a Bank or Trust Company which, through agreement with the Trustees, has been empowered to make investments or benefit payments to eligible Employees or beneficiaries.

SECTION 3 - PENSION PLAN AND BENEFIT CONTRACTS

The Trustees are hereby further empowered and authorized:

- a) To establish a Pension Plan which shall set forth the benefits to be provided from the Trust Fund, the conditions of eligibility for such benefits, the terms of payment, and such other items as the Trustees shall deem it necessary to include, and to amend such Pension Plan, from time to time, if, in their discretion, such amendment is necessary or desirable.
- b) To enter into an agreement with a reputable insurance company licensed to do business in the State of Michigan for the purpose of providing benefits granted under the terms of the Pension Plan.
- c) To enter into an agreement with a Bank or Trust Company selected by the Trustees for the purpose of providing benefits granted under the terms of the Pension Plan.
- d) To enter into an agreement with a Bank or appropriate investment advisory company selected by the Trustees to provide investment counsel and to act as depository for safekeeping of the assets of the Trust Fund, and the Trustees may delegate the power to invest the assets of the Fund to such Bank or advisory company selected by the Trustees with prudence and care.

SECTION 4 - LIMITATION OF RIGHTS TO TRUST FUND

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

- a) Neither the Unions, Associations, Contributing Employers, Employees, 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 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.
- b) Anything contained in this 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 Employees, retired Employees, or their beneficiaries, or for the purposes set out in Section 2 of this Article.
- c) Except with respect to voluntary requests by retired Employees for the withholding of Federal Income Tax as permitted by Law, no money, property, equity, or interest of any nature whatsoever in the Trust Fund, group annuity or other contracts, or in any benefits or monies payable or to be payable therefrom, shall be subject in any manner, by any Employee, retired Employee or beneficiary or creditor or any person claiming through any of them, to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, garnishment, attachment, lien, or charge, and any attempt to cause the same to be subject thereto shall be ipso facto null and void.
- d) All funds received by the Trustees hereunder as part of the Trust Fund shall be deposited by them in such Bank or Banks as the Trustees may designate for that purpose, and all withdrawals of such funds from such Bank or Banks shall be made only upon the signatures of the Chairman and the Secretary, jointly, or, in the absence of either or both officers, upon the signature of any of the remaining Employer or Union Trustees, as provided by proper Resolution adopted by the Trustees, provided, however, that no withdrawal shall ever be made unless upon two joint signatures, one of which is that of an Employer Trustee and the other that of a Union Trustee.

ARTICLE III

APPOINTMENT OF TRUSTEES

SECTION 1 - DESIGNATION OF TRUSTEES

There shall be twelve Trustees under this Agreement and Declaration of Trust.

The Michigan State Council of the Operative Plasterers' and Cement Masons' International Association of the United States and Canada shall appoint five Trustees and may also appoint up to five Alternate Trustees to serve at a meeting in the absence of the Trustees appointed by it. Such Alternate Trustees may be appointed to serve as Alternates to specific Trustees or may be appointed at large to serve at a meeting in the absence of a regular Trustee appointed by the same parent body. The Michigan Conference of the Bricklayers', Masons' and Plasterers' International Union shall appoint one Trustee and may also appoint one Alternate Trustee to serve at a meeting in the absence of its said Trustee. The Trustees and Alternate Trustees appointed by the Unions shall be designated "Union Trustees" and "Alternate Union Trustees", respectively.

The Michigan Chapter, Associated General Contractors of America, Inc. shall appoint three Trustees and may also appoint up to three Alternate Trustees to serve at a meeting in the absence of the Trustees appointed by it. Such Alternate Trustees may be appointed to serve as Alternates to specific Trustees or may be appointed at large to serve at a meeting in the absence of a regular Trustee appointed by the same parent body. The Michigan Lathers and Plasterers Contractors' Association shall appoint one Trustee and may also appoint one Alternate Trustee to serve at a meeting in the absence of its said Trustee. The Michigan Road Builders' Association, Inc. - Labor Relations Division shall appoint two Trustees and may also appoint up to two Alternate Trustees to serve at a meeting in the absence of the Trustees appointed by it. Such Alternate Trustees may be appointed to serve as Alternates to specific Trustees or may be appointed at large to serve at a meeting in the absence of a regular Trustee appointed by the same parent body. The Trustees and Alternate Trustees appointed by the Associations shall be designated "Employer Trustees" and "Alternate Employer Trustees", respectively.

SECTION 2 - OFFICERS

The Trustees shall elect two officers, one a Chairman and the other a Secretary, to serve for the period of one (1) year and until their successors shall be elected. When the Chairman is elected from among the Employer Trustees, the Secretary shall be elected from among the Union Trustees and vice versa. The officers shall be elected annually in the month of January or when a vacancy is created by death, resignation, or removal of a Trustee serving as an elected officer.

SECTION 3 - ACCEPTANCE OF THE TRUST BY TRUSTEES

A Trustee or Alternate Trustee, by signing this Agreement and Declaration of Trust, or, in the case of any successor Trustee or Alternate Trustee, upon filing a written Acceptance of Trusteeship, shall hereby accept the Trust created and established by this Agreement and Declaration of Trust and consent to act as Trustee or Alternate Trustee and agree to administer the Trust Fund as provided herein.

SECTION 4 - TERM OF TRUSTEESHIP

Each Trustee and Alternate Trustee shall continue to serve as such until his death, incapacity, resignation, or removal as provided herein.

SECTION 5 - RESIGNATION OF TRUSTEE

A Trustee or Alternate Trustee may resign and remainfully discharged from all future duty or responsibility hereunder by giving notice in writing to his appointive body and the remaining Trustees, which notice shall state the date on which such resignation shall take effect and such resignation shall take effect on the said date unless a successor Trustee or Alternate Trustee shall have been appointed at an earlier date, in which event such resignation shall take effect on the date of appointment of the successor.

SECTION 6 - SUCCESSOR TRUSTEES

If any Trustee shall die, become incapable of acting, resign, or be removed, a successor Trustee shall be designated immediately, by the party which appointed him, to fulfill his unexpired term. If any Trustee shall die, become incapable of acting, resign, or be removed, a successor Alternate Trustee may be designated by the party which appointed him to fill his unexpired term. Upon filing of an Acceptance of Trusteeship by the designated successor Trustee or Alternate Trustee, such designation shall be effective and binding in all respects.

Any successor Trustee or Alternate Trustee, immediately upon his Acceptance of Trusteeship in writing and filed with the Trustees, shall become vested with all of the property, rights, powers and duties of a Trustee or Alternate Trustee hereunder with the like effect as if he had been originally named as a Trustee or Alternate Trustee.

SECTION 7 - REMOVAL OF TRUSTEES

Any Trustee or Alternate Trustee may be removed at any time by the party which appointed him. Such removed Trustee or Alternate Trustee shall be fully discharged from all future duty or responsibility herein.

ARTICLE IV

ACTION BY TRUSTEES

SECTION 1 - QUORUM REQUIREMENTS

Eight Trustees or Alternate Trustees who are acting as Trustees, at least four of whom are Union Trustees and four of whom are Employer Trustees, must be present at any meeting to constitute a quorum.

Any action by the Trustees may be taken either at a meeting at which a quorum is present or, in writing, without a meeting. All actions at a meeting at which a quorum is present shall be by majority rule, and all Trustees must cast their votes in person. All actions taken without a meeting shall be by unanimous written concurrence of all Trustees.

At any time any vote or other action is taken by the Trustees, the Employer Trustees and Union Trustees present shall have equal voting strength; the votes of any absent Employer Trustees being equally divided among the Employer Trustees present and the votes of any absent Union Trustees being equally divided among the Union Trustees present. No voting by proxy shall be permitted.

SECTION 2 - MEETINGS

The Chairman, Secretary, or any other two Trustees may call a meeting of the Trustees at any time by giving at least three days prior written notice of the time and place thereof to each Trustee. A meeting so called shall be adjourned for a reasonable period upon the request of any Trustee showing a justifiable cause therefor to the other Trustees. Meetings of the Trustees may also be held at any time without such notice if all the Trustees consent thereto in writing.

A written record, a copy of which shall be furnished to each Trustee, shall be kept of all business transacted and of all matters upon which voting shall have occurred.

SECTION 3 - DEADLOCKS

A deadlock shall be deemed to exist (1) whenever a proposal, nomination, motion or resolution made by any Trustee is not adopted by a majority vote (unless the same has been defeated by a majority vote) and the supporters of the proposal, nomination, motion or resolution notify the remaining Trustees, in writing, that a deadlock exists; or (2) whenever a quorum is lacking at a meeting duly called, and at least two Trustees from either group of Trustees notify the remaining Trustees, in writing, that a deadlock exists by reason of such lack of a quorum. In the event of such deadlock arising, the Trustees shall meet for the purpose of agreeing upon an impartial umpire to break such deadlock by deciding the dispute in question.

In the event of the inability of the Trustees to agree upon the selection of such impartial umpire, then, on the petition of any of the Trustees, the applicable District Court of the United States shall be empowered to make such an appointment. Such impartial umpire shall immediately proceed to hear the dispute between the Trustees and decide such dispute and the decision and award of such umpire shall be final and binding upon the parties and the reasonable compensation for such umpire shall be paid from the Fund.

Any impartial umpire chosen or designated to break a deadlock shall be required to enter his decision within a reasonable time, unless a specified time is fixed by the Trustees or by the Court. The scope of any arbitration proceeding before such impartial umpire shall be limited to the provisions of this Agreement and Declaration of Trust and the Pension Plan, and shall not involve collective bargaining agreements, nor shall such impartial umpire have the power or authority to change or modify any provisions of such collective bargaining agreements, and/or of this Agreement and Declaration of Trust.

SECTION 4 - BY-LAWS

The Trustees may adopt by-laws, rules or regulations to govern themselves, which are not inconsistent with any provisions of this Agreement and Declaration of Trust.

ARTICLE V

EXECUTION OF INSTRUMENTS - LIMITATION OF LIABILITY

SECTION 1 - EXECUTION OF INSTRUMENTS

The Trustees may authorize, by resolution, any one or more of the Trustees 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 - LIMITATION OF TRUSTEES' LIABILITY AND INDEMNIFICATION

No Trustee acting hereunder shall be liable for any action taken, or omitted, by him in good faith, nor for the acts or omissions of any Insurance Carrier, Bank or Trust Company, or any action taken by, or on the advice of, any agent, employee, attorney, consultant or other professional advisor selected by the Trustees with reasonable care, nor for the acts or omissions of any other Trustees; nor shall any Trustee be individually or personally liable for any of the obligations of the Trustees acting as such or of the Fund. No Trustee shall be liable or responsible for any acts or defaults of any Co-Trustee or predecessor Trustee, or for any loss or expense resulting from or occasioned by anything done or neglected to be done in the administration of the Trust Fund prior to his becoming a Trustee.

Each Trustee, whether or not then in office, shall be indemnified by the Fund against all counsel fees, costs and expenses reasonably incurred by or imposed upon him in connection with or resulting from any action, suit or proceeding to which he may be made a party by reason of his being, or having been a Trustee of the Fund, except in relation to matters as to which a recovery shall be had against him by reason of his having been finally adjudged in such action, suit or proceeding to have been guilty of dishonest or felonious action or inaction in the performance of his duties as such Trustee. To provide such protection, the Trustees are authorized to obtain an appropriate liability insurance policy and to pay the premium therefor from the Trust Fund.

The foregoing right to indemnity shall include reimbursement of the amounts and expenses paid in settling any such action, suit or proceeding when settling appears to be in the interests of the Fund, and has been approved by the Board of Trustees, and shall not be exclusive of other rights to which such Trustee may be entitled as a matter of law, it being the intent hereby to indemnify the Trustee or Trustees against all honest mistakes in judgment and all other acts or omissions to act taken in good faith and not dishonest and/or felonious.

SECTION 3 - LIMITATION OF UNION, EMPLOYERS' AND ASSOCIATIONS' LIABILITY

Nothing in this Agreement and Declaration of Trust shall be construed as making the Unions, Associations, or any Contributing Employer liable for the payments required to be made by any other Employer or for the obligations of any Trustee even where such a Trustee may be an officer of or otherwise associated in some way with it.

SECTION 4 - LIMITATION OF INSURANCE OR TRUST COMPANY'S OR BANK'S LIABILITY

Nothing in this Agreement and Declaration of Trust shall be construed as making any Insurance or Trust Company or Bank, directly or indirectly, a party hereto or as imposing any obligations on such Company. The obligations, if any, of any Insurance or Trust Company or Bank, shall be contained in a contract or other agreement between the Trustees and such Insurance Company or Trust Company or Bank.

Any Insurance or Trust Company or Bank may take, or rely upon, or allow any action solely upon the execution of any instrument by the Trustees or any person designated by the Trustees, without inquiry into the Trust Agreement.

ARTICLE VI

ADMINISTRATION OF THE TRUST FUND

SECTION 1 - GENERAL

The administration of the Trust Fund shall be vested wholly in the Trustees, and for such administration, the Trustees, consistent with the purposes of this Trust Fund, shall have the power and authority to:

- (a) Require immediate contributions to the Trust Fund by Employers in accordance with applicable collective bargaining agreements. The Trustees shall have the power to demand, collect and receive contributions for the purposes specified herein and to impose a reasonable cost of collection assessment upon a delinquent Employer, as decided by the Trustees, for delinquency in payment of contributions. They shall also have the power and authority, where authorized by applicable collective bargaining agreements, to require Employers who have a history of failing to make required contributions within the prescribed time to post with them a cash bond in a reasonable and sufficient amount so as to assure collection of future contributions. In order to carry out and effectuate the purposes hereof, the Trustees shall have the power to specify the time, manner and place of payment of contributions to the Trust Fund and shall promulgate and publicize these requirements.
- (b) Administer the Trust Fund and the Pension Plan by either (i) employing suitable personnel, leasing office space, purchasing necessary equipment and supplies, and actively assuming clerical administration thereof, or (ii) retaining, on a contract basis, a responsible firm or individual to perform the required administrative services.
- (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 being limited to the following:
 - 1) To develop procedures for the establishment of credited service of Employees, including the means of affording Employees and Employers the opportunity to object thereto, and to establish such facts conclusively.
 - 2) To prescribe rules and procedures governing the application for benefits by Employees and beneficiaries.

- 3) To make determinations which shall be final and binding upon all parties as to the rights of any Employee or any beneficiary to benefits, including any rights any individual may have to request a hearing with respect to any such determination.
 - 4) To obtain and evaluate all statistical and actuarial data which may be reasonably required with respect to the administration of the Pension Plan.
 - 5) 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 Agreement and Declaration of Trust.
 - 6) To make reciprocal agreements with the Trustees of other Pension Trusts and/or Plans established by Unions and Employers, to provide for the reciprocal transfer of credited service and/or money between such Pension Trusts and/or Plans and this Pension Trust and Plan if actuarially practical; and to merge or consolidate this Trust Fund and Pension Plan with any other Fund or Plan established by Unions and Employers, where the Trustees deem it desirable to do so and where such merger can be effectuated on an actuarially sound basis, so that the pensions and other benefits payable from this Trust Fund are not endangered, and only upon the advice and recommendation of an actuary.
- (d) Exercise all rights or privileges granted by the provisions of any contract entered into by the Trustees and any Insurance Company, and to agree with such Insurance Company to any alteration, modification, amendment or cancellation of such contract, or to take any other action respecting such contract which they in their discretion may deem necessary or advisable.
- (e) Invest and reinvest any funds which, in their sole and absolute discretion, they consider not required for current expenditures in such bonds, notes, debentures, mortgages, equipment trust certificates, preferred or common stocks, or in other property, real or personal, or any other securities which are considered lawful and to sell or dispose of such assets at any time as they may determine in their sole discretion.
- (f) Enter into agreements, contracts and other instruments for the deposit of funds with Banks, Trust Companies or other institutions, which accept and hold monies on deposit, and to authorize such depository to act as custodian of the funds, whether in cash or securities or other property, and, upon proper Resolution may delegate the authority to such depository or depositories selected by the Trustees with prudence and care to convert, invest and reinvest the funds, entirely or in part, into securities of any kind and nature whatsoever.

- (g) Construe the provisions of this Agreement and Declaration of Trust and the Pension Plan and the terms used herein, and any construction adopted by the Trustees in good faith shall be binding upon the Unions, the Associations, the Contributing Employers, and Employees and their beneficiaries, and any and all other parties in interest.
- (h) In addition to such other powers as are set forth herein or conferred by law:
 - 1) To sell, exchange, lease, convey or dispose of any property at any time forming a part of the Trust Fund or the whole thereof upon such terms as they may deem proper and to effect and deliver any and all instruments of conveyance and transfer in connection therewith.
 - 2) To enter into any and all contracts and agreements for carrying out the terms of this Agreement and Declaration of Trust and for the administration of the Trust Fund and Pension Plan and such contracts, agreements, and acts shall be binding and conclusive on the Unions, Associations, Contributing Employers, and Employees and their beneficiaries, and any and all other parties in interest.
 - 3) Do all acts whether or not expressly authorized herein which the Trustees, in their sole discretion, deem necessary, advisable or proper for the protection of the Trust Fund held hereunder and the Pension Plan administered hereunder, and their judgment shall be final.
- (i) Administer the Trust Fund and Pension Plan in conformity with this Agreement and Declaration of Trust, as from time to time amended, and in conformity with all applicable laws.

SECTION 2 - BOOKS OF ACCOUNT:

The Trustees shall keep true and accurate books of accounts and records of their transactions which shall be open to the inspection of any Trustee at all times and which shall be audited at least annually by an independent Certified Public Accountant selected by the Trustees. Such audits shall be available at all reasonable times for inspection by the Unions, the Associations, Contributing Employers or other interested persons at the principal office of the Trust Fund.

ARTICLE VII

MISCELLANEOUS PROVISIONS

SECTION 1 - EMPLOYERS' OBLIGATION TO FURNISH INFORMATION:

Each Employer shall promptly furnish to the Trustees on request any and all records concerning the classification of his Employees, 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 Pension Plan and for no other purpose. Each Employer shall also submit, in writing to the Trustees, at such regular periodic intervals and in such forms as the Trustees may establish, such of the above data as may be requested by the Trustees. The Trustees or their authorized representatives may examine the payroll books and other related records of each Employer whenever such examination is deemed necessary or advisable by the Trustees in connection with the proper administration of the Trust and the collection of contributions claimed to be due or past due from such Employer. The Union shall promptly furnish to the Trustees, upon request, any and all information concerning their participating members which the Trustees may require in connection with the Trust Fund or Pension Plan and for no other purpose.

SECTION 2 - DEALINGS WITH TRUSTEES:

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 Agreement and Declaration of Trust 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 V, Section 1, 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 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 Agreement and Declaration of Trust and the Pension Plan; and
- (c) The Trustees were duly authorized and empowered to execute such instrument.

SECTION 3 - NOTICES:

Notice given to a Trustee, Union, Association, Contributing Employer, Employee, or any other person, unless otherwise specified herein, shall be sufficient, if in writing and delivered to or sent by postpaid first class mail or prepaid telegram to the latest address as filed with the Trustees. Except as herein otherwise provided, the delivery of any statement or document required hereunder to be made to a Trustee, Union, Association, Contributing Employer, Employee 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 - TRUSTEES' DISCRETION:

Any questions arising in connection with the administration of this Agreement and Declaration of Trust and the Pension Plan, not herein specifically provided for, shall be left to the sole discretion of the Trustees, and their decision thereon shall be final and binding upon all interested parties.

SECTION 5 - ADVICE OF COUNSEL:

The Trustees may, in their discretion, employ legal counsel on a regular retainer basis or upon any special legal question arising out of this 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 acting and relying upon the advice of such counsel.

SECTION 6 - LEGAL ACTION BY TRUSTEES:

The Trustees may take any legal action or proceeding or make such settlement thereof as they deem necessary to settle their accounts, or to obtain a judicial determination or declaratory judgment as to any question of construction of this Agreement and Declaration of Trust or the Pension Plan, or for instruction as to any action thereunder or in the administration thereof. Any such determination shall be binding upon all parties to or claiming under this Agreement and Declaration of Trust or the Pension Plan.

SECTION 7 - COSTS OF SUIT:

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

SECTION 8 - BONDING COVERAGE:

All the Trustees and each employee employed by the Trustees who may be engaged in the handling 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 (but for not less than any amount or type of coverage required by any applicable law). The cost of premiums for such bonds shall be paid out of the Trust Fund.

SECTION 9 - PRIVACY OF RECORDS:

All information, records, lists of Employers and Employees and all other data which may come into the hands of the Trustees or their agents are to be considered confidential and private records of the Trust Fund and no information from such records, lists, or data shall be divulged unless authorized by action of the Trustees, or under compulsion of law.

SECTION 10 - IRREVOCABILITY:

In no event shall the Employers, directly or indirectly, receive any refund of contributions made by them to the Trust Fund, except in the case of a bona fide mistake, and only then upon determination by, and approval of, the Board of Trustees.

ARTICLE VIII

AMENDMENTS

SECTION 1 - METHOD OF AMENDMENT

This Agreement and Declaration of Trust may be amended in any respect from time to time by written agreement between the Unions and the Associations or by unanimous action of all of the Trustees, provided that, if amended by Trustee action, such amendment shall not become effective until fifteen days after a copy of the amendment is sent by certified mail to all of the Unions and the Associations and only then if neither of the Unions or any of the Associations objects thereto within said fifteen days. No amendment shall divert the Trust Fund as constituted immediately prior thereto or any part thereof to a purpose other than as set forth herein, nor shall there be any amendments which will eliminate the requirement of an annual independent audit, provide for the Fund to be held in trust other than by an equal number of Union Trustees and Employer Trustees, eliminate provisions for the settling of deadlocks, or be inconsistent with the provisions of applicable collective bargaining agreements.

This Agreement and Declaration of Trust may be appropriately amended to provide for the absorption by this Trust Fund of any other Pension Fund in which Employees represented by the Unions participate and may be amended to provide for additional representation on the Board of Trustees in the event another Association party to such other Pension Fund desires representation hereon, provided that equal representation between Union and Employer Trustees is at all times maintained.

SECTION 2 - INTERNAL REVENUE REQUIREMENTS

Any amendment of this Agreement and Declaration of Trust may be made (retroactive, if necessary) to obtain or maintain the qualification of the Pension Plan and this Trust under the appropriate provisions of the Internal Revenue Code and the rules and regulations issued thereunder so that the income of the Trust Fund may be exempt from taxation and so that contributions of Employers may be deductible for Federal Income Tax purposes.

ARTICLE IX

TERMINATION OF TRUST

SECTION 1 - WHEN TERMINATION OCCURS:

This Agreement and Declaration of Trust shall remain in full force and effect unless and until:

- (a) Effective action is taken by the Unions and the Associations which results in its termination;
- (b) No funds be left for administration in the Trust; or
- (c) No individuals remain alive who can qualify for benefits hereunder.

SECTION 2 - PROCEDURES UPON TERMINATION:

In the event of termination, the Trustees shall:

- (a) Make provision from the Trust Fund for the payment of expenses to date of termination 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; and
- (c) Apply the Trust Fund to pay any and all obligations of the Trust and Pension Plan to the extent possible and distribute and apply any remaining surplus in such manner as will, in their opinion, best effectuate the purposes of the Trust.

ARTICLE X

SITUS AND CONSTRUCTION OF TRUST

SECTION 1 - CONTROLLING LAW

The validity of this Agreement and Declaration of Trust or any of its provisions shall be determined under and construed according to the laws of the State of Michigan and any applicable and paramount Federal statutes.

SECTION 2 - SEPARABILITY

In the event any provision of this Agreement and Declaration of Trust shall be held illegal or invalid for any reason, said illegality or invalidity shall not affect the remaining parts of the Agreement, but it shall be construed and enforced as if said illegal or invalid provisions had never been inserted herein, provided the basic purposes hereof can be effectuated through the remaining valid provisions.

SECTION 3 - TITLES

Titles of Articles and Sections are for general information only and this Agreement is not to be construed by reference thereto.

SECTION 4 - COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which shall have the force of an original and said counterparts shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the Unions and the Associations have executed this Agreement and Declaration of Trust as of the day and year first above written.

MICHIGAN STATE COUNCIL,
OPERATIVE PLASTERERS' AND
CEMENT MASONS' INTERNATIONAL
ASSOCIATION OF THE UNITED STATES
AND CANADA

By Edward R. Kyein

MICHIGAN CHAPTER, ASSOCIATED
GENERAL CONTRACTORS OF
AMERICA, INC.

By Mike Bell

MICHIGAN CONFERENCE,
BRICKLAYERS', MASONS' AND
PLASTERERS' INTERNATIONAL
UNION

By George Lerner

MICHIGAN LATHERS AND
PLASTERERS CONTRACTORS'
ASSOCIATION

By Paul B. Borman

MICHIGAN ROAD BUILDERS'
ASSOCIATION, INC. - LABOR
RELATIONS DIVISION

By R. F. Manning

ACCEPTANCE OF TRUSTEESHIP

We, the undersigned, having been designated to serve as Union Trustees, Alternate Union Trustees, Employer Trustees, or Alternate Employer Trustees, as the case may be, in accordance with the Agreement and Declaration of Trust establishing the Outstate Michigan Trowel Trades Pension Fund, do hereby accept the Trust created and established by the aforesaid Agreement and Declaration of Trust, consent to act as Trustees or Alternate Trustees thereunder, as the case may be, and agree to administer the Trust Fund in accordance with the provisions of said Agreement and Declaration of Trust.

<u>Signature</u>	<u>Designation</u>	<u>Date of Acceptance</u>
<u>Edward R. Ryan</u>	<u>Union Trustee</u>	<u> </u>
<u>Charles W. Sak</u>	<u>Union Trustee</u>	<u> </u>
<u>Clayton Morris</u>	<u>Union Trustee</u>	<u> </u>
<u>John H. Miccicco</u>	<u>Union Trustee</u>	<u> </u>
<u>Albert Johnson</u>	<u>Union Trustee</u>	<u> </u>
<u>George Spener</u>	<u>Union Trustee</u>	<u> </u>
<u>Bobby Jones</u>	<u>Alternate Union Trustee</u>	<u> </u>
<u>Joe Brock</u>	<u>Alternate Union Trustee</u>	<u> </u>
<u>James Miller</u>	<u>Alternate Union Trustee</u>	<u> </u>
<u>Albert Withers</u>	<u>Alternate Union Trustee</u>	<u> </u>
<u> </u>	<u>Alternate Union Trustee</u>	<u> </u>
<u> </u>	<u>Alternate Union Trustee</u>	<u> </u>

ACCEPTANCE OF TRUSTEESHIP

We, the undersigned, having been designated to serve as Union Trustees, Alternate Union Trustees, Employer Trustees, or Alternate Employer Trustees, as the case may be, in accordance with the Agreement and Declaration of Trust establishing the Outstate Michigan Trowel Trades Pension Fund, do hereby accept the Trust created and established by the aforesaid Agreement and Declaration of Trust, consent to act as Trustees or Alternate Trustees thereunder, as the case may be, and agree to administer the Trust Fund in accordance with the provisions of said Agreement and Declaration of Trust.

Signature

Designation

Date of Acceptance

R. F. Browning

Employer Trustee

Phil Bell

Employer Trustee

Paul Bauman

Employer Trustee

Charles Brown

Employer Trustee

Roger Gayman

Employer Trustee

William M. Dixon

Employer Trustee

Alternate Employer Trustee

Alternate Employer Trustee

Alternate Employer Trustee

Alternate Employer Trustee

Alternate Employer Trustee

Alternate Employer Trustee

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Signature

Designation

Date of Acceptance

Employer Trustee

Employer Trustee

Employer Trustee

Employer Trustee

Employer Trustee

Employer Trustee

Alternate Employer Trustee

Alternate Employer Trustee

Alternate Employer Trustee

Alternate Employer Trustee

Alternate Employer Trustee

Alternate Employer Trustee