

**U.A. LOCAL 467 HEALTH AND
WELFARE TRUST**

**RESTATED
TRUST AGREEMENT**

Effective: January 1, 2019

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U.A. LOCAL 467 HEALTH AND WELFARE TRUST

RESTATED TRUST AGREEMENT

THIS TRUST AGREEMENT (also known as an “Agreement and Declaration of Trust”) previously entered into by and between PLUMBERS, STEAMFITTERS AND REFRIGERATION FITTERS LOCAL UNION NO. 467 OF THE UNITED ASSOCIATION OF JOURNEYMEN AND APPRENTICES OF THE PLUMBING AND PIPEFITTING INDUSTRY OF THE UNITED STATES AND CANADA (hereafter “UA Local 467” or the “Union”) and the NORTHERN CALIFORNIA MECHANICAL CONTRACTORS ASSOCIATION (“NCMCA”), the GREATER BAY AREA ASSOCIATION OF PLUMBING, HEATING, COOLING AND MECHANICAL CONTRACTORS (“GBA”), and the INDUSTRIAL CONTRACTORS, UMIC, INC. (collectively the Associations”), is restated effective as of January 1, 2019. The original Agreement included additional Associations that are no longer in existence and/or are not a party to this Agreement.

Recitals

WHEREAS, U.A. Local 467 and the Associations have determined that it is in the best interests of the Plan Participants and Beneficiaries to update and restate the Trust Agreement given that the Trust Agreement has not been updated in several years;

THEREFORE, it is hereby agreed as follows:

ARTICLE I NAME AND PURPOSE

Section 1 Name of the Health and Welfare Trust

The official name of the Trust is the U.A. LOCAL 467 HEALTH AND WELFARE TRUST. The Health and Welfare Trust has also gone by the name the “Health Trust” or “Trust”.

Section 2 Purpose of Trust Fund

The primary purpose of this Trust is to provide health and welfare benefits for members of U.A. Local 467 and members of other UA Local Unions who are working in the jurisdiction of U.A. Local 467 pursuant to the Collective Bargaining Agreement between U.A. Local 467 and the Associations. Such benefits are to be provided pursuant to Plans of benefits for U.A. Local 467 members, their families, which provide health and welfare benefits. This includes without limitation medical, hospital, surgical, dental, vision, prescription drug, health reimbursement, disability and other similar types of benefits. Benefits are provided to active

employees and dependents and may be provided to retirees and dependents. It is intended that the Plans comply with Internal Revenue Code Section 501(c)(9) and lawful regulations, and that Employer contributions to the Trust are tax-exempt. The list of benefits provided is not intended to be all-inclusive as the Trustees have the discretion to include other benefits, consistent with applicable Internal Revenue Code provisions and lawful regulations.

The Trust Fund shall consist of all employer contributions, employee deferrals (to the 401(k) Plan), and earnings, contributions and investments and reinvestments thereof, and all interest and income thereon (minus expenses), and all other contributions and receipts of every kind received by the Trust. The Trust shall pay the necessary costs of administration and continue this Trust. The Trust shall consist of all assets, property or money held by the Trustees for the uses and purposes of this Trust.

The Trust shall be irrevocable (although it may be terminated) and no part of its corpus or income shall revert to or inure to the benefit of a contributing employer except for the return of erroneous contributions.

Section 3 Effective Date

This Restated Trust Agreement is effective as of January 1, 2019. By adopting this Trust Agreement, the parties and Trustees ratify prior actions taken that are consistent with this Agreement.

ARTICLE II USE OF TERMS

Section 1 Definitions and Interpretations

Where the following words and phrases appear in this Trust Agreement, they shall have the meaning set forth in this Article, unless the context clearly indicates otherwise. Other words and phrases with special meaning are defined where they first appear unless their meaning is apparent from the context.

A. "Associations" means, the Northern California Mechanical Contractors Association ("NCMCA"), the Greater Bay Area Association of Plumbing, Heating, Cooling and Mechanical Contractors and the Industrial Contractors, UMIC, Inc. and their successors and any other Employer Association which may hereafter become signatory hereto. The bargaining parties to this Agreement may authorize other Associations or employers to be a party to this Agreement for whom contributions would be made. Independent contractors who are not a member of an Association are permitted to contribute to the Health and Welfare Trust pursuant to a Collective Bargaining Agreement with U.A. Local 467.

B. "Benefits" means those payments or benefits to which the Participants and beneficiaries are or may become entitled to under any Plan established hereunder

C. "Board of Trustees," "Trustees," or "Board" mean the Board of Trustees created by this Agreement. The individual members of the Board of Trustees are referred to as "Trustees".

D. "Collective Bargaining Agreement" means any agreement, oral or written, express or implied, entered into by the Union with any Employer, as defined in the Labor Management Relations Act of 1947, as amended (29 U.S.C. 141, et seq.) covering wages, rates of pay, hours of labor, or other conditions of employment, or any of them, of employees represented for the purposes of collective

bargaining by the Union and which agreement provides for payment by the Individual Employer into the U.A. LOCAL 467 HEALTH AND WELFARE TRUST FUND (hereinafter "Trust Fund"). Employer, as used above in this section, includes any person acting as an agent of an employer, directly or indirectly.

"Collective Bargaining Agreement" means a collective bargaining agreement, subscription agreement or other written agreement entered into by the Union with any eligible Employer or Employer Association, which provides for employer contributions into this Health and Welfare Trust, including any amendment, modification or extension of any such Agreement.

E. "Employer" means any business entity, individual, corporation or other entity, including a self-employed person or owner-operator which is represented by an Association, and which provides for employer contributions to the various benefit trust funds established by Local 467 and the Associations, or is an employer who has entered into a participation, subscription or other agreement with the Fund which provides for contributions to the Fund.

The term "Employer" may include the Union, Apprenticeship Program, Association or other employer or association approved by the Board of Trustees, so long as the inclusion of any such entity or employer does not jeopardize the tax-exempt status of the Plan or Trust and is otherwise allowed under applicable law. The Board of Trustees has the full and absolute discretion to determine which employers and employees participate in the Plans.

The Board may condition its approval of a particular employer in such manner as it deems necessary to assure the financial integrity of the Trust and equity among Employers and Participants. Failure of the Board to grant such approval or agree on such conditions shall not be subject to arbitration.

F. "Employee" means (1) any Employee covered by a collective bargaining agreement between the Union and an Association or an individual Employer, and on whose behalf an Employer is obligated to make contributions to this Fund; and (2) Employees of an Employer who, pursuant to resolution of the Board of Trustees, are included in a Plan and on whose behalf such Employer makes contributions to this Fund on behalf of such Employees on the same basis as are made by Employer parties to collective bargaining agreements.

"

"Employee" may also include the employees of the Union, the Associations, non-bargaining unit employees of employers and owners if the inclusion of such Employees or individuals does not jeopardize the tax-exempt status of the Plan or Trust and is otherwise allowed by applicable law. The Trustees may, however, establish different rules for these categories of employees (i.e., non-bargaining unit employees).

G. "ERISA" means the Employee Retirement Income Security Act of 1974, as amended, and any lawful regulations issued thereunder.

H. "Participant" means a person who is or was in Covered Employment or who may become eligible for benefits under any Plan established hereunder.

I. "Trust Agreement" means this Restated Health and Welfare Trust Agreement and any changes, amendments and modifications hereto.

J. "Trust Fund" or "Fund" means the Trust Fund established by this Agreement and any future contributions and earnings and shall include the entire Trust estate (including the funds and other assets held) which is created and established pursuant to this Agreement.

K. "Union" or "UA Local 467" means Local Union No. 467 of the United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada, AFL-CIO, a labor organization as defined in the Labor Management Relations Act of 1947, as amended (29 U.S.C. 141, et seq.) and any successor.

Section 2 Titles and Headings Not to Control

The titles to Articles and headings of paragraphs in this Agreement are placed for the convenience of reference and for any conflict, the text of this Agreement rather than such titles or headings shall control.

Section 3 Standards of Interpretation

This Trust Agreement is designed and intended to comply with ERISA and the interpretation of any Plan, or the Trust Agreement shall be adopted as is consistent with applicable law. The Board of Trustees is vested with the power to interpret this Trust and any Plan established thereunder, and the Board's interpretation shall be final and conclusive.

If the Trustees determine or are advised that regulations, rulings, or Court action may determine issues or disputes, the Trustees may defer action for a reasonable period in making a determination hereunder or until they can determine what is a proper determination of that issue.

The Board of Trustees, and any entity or person approved by the Board, shall have the full discretionary authority to determine eligibility for benefits and to construe the terms of this Trust Agreement and any retirement plan, and any regulations, policies or rules issued thereunder.

The Board of Trustees may delegate to the Chair and Co-Chair to make decisions on behalf of the full Board of Trustees between meetings and at any other time in order to improve the efficiency of the administration of the Trust and in the best interests of the Participants.

ARTICLE III TRUST FUND

Section 1 Payment of Contributions

Each Employer shall make such Employer contributions to the Trust Fund as are required by the Collective Bargaining Agreement, including any payments made directly to a related Trust or Labor Management Cooperation Fund for transfer to this Trust. Payments should be accompanied by complete reports on forms furnished or approved by the Trust, or as provided in the bargaining agreement, so that the contributions can be allocated properly and accurately. Such Employer contributions shall be used for and not be diverted to purposes other than to provide benefits under the Plan and pay reasonable costs.

Section 2 Limitations on Liabilities of Employers

No Employer guarantees the level of Plan benefits adopted by the Trustees nor are Trustees to be deemed agents of any employer signatory to a Collective Bargaining Agreement nor is any action by the Trustees to be deemed an action on behalf of any such employer.

Section 3 Procedure for Payment of Employer Contributions

Payments to this Trust Fund shall be due and payable at the place designated by the Board of Trustees and in such installments and at such times as required by this Trust Agreement and/or the applicable Collective Bargaining Agreement. Each payment or installment shall be accompanied by a report in such form as the Board of Trustees, or its delegate, may require. The Board of Trustees requires an Employer to submit monthly reports, known as transmittal reports, including when an Employer has no Covered Employees during a particular month. The Board of Trustees has the discretion to require electronic submittal of monthly reports if deemed appropriate.

The payments provided for herein are due and payable on or before the date specified in the Collective Bargaining Agreement, but if not specified, by the fifteenth (15th) day of the current month ("due date") and are for hours worked in the preceding month but are considered delinquent if not received by the twentieth (20th) day of the current month as provided in Section 4 below. The Employers obligate themselves to the Trust to make contributions required under the Collective Bargaining Agreement and as such are fiduciaries within the meaning of the Employee Retirement Income Security Act. Payments required to be made pursuant to the Collective Bargaining Agreement or Subscription Agreement are considered Plan Assets upon the due date for contributions once the Participants have worked the Covered Employment requiring contributions by a specified date and the individuals who make the determination to pay or not pay such contributions are considered fiduciaries in making such decisions.

An Employer may be compelled by the Trust or its assignee by way of subpoena, civil discovery or other legal proceeding, to prepare, submit and file with the Trust proper reports for any period for which the Employer has failed to file. Monthly transmittal reports are due each month even if the Employer has no hours to report (unless the Employer is otherwise advised by the Trust and/or a designated person or entity, such as the third party administrative firm which administers the retirement and health care plans).

The Board of Trustees is authorized to adopt Delinquency and Collection Procedures to implement the applicable provisions of this Trust Agreement and may establish rules for the waiver of liquidated damages (such as if an employer has been delinquent only once in a twelve-month period). The Board of Trustees may also delegate to the Chair and Co-Chair to make decisions between meetings, as well as providing legal counsel with the direction and discretion on how to proceed with litigation and/or settlement proposals.

Section 4 Delinquent Contributions

An Employer shall be considered delinquent if late payment or underpayment occurs because it (a) fails to submit a contribution report with the full contribution by the due date (20th day of the month; or (b) fails to submit contributions on behalf of all Employees for whom contributions are required by the Collective Bargaining Agreement; or (c) fails to properly compute the contributions according to the applicable contributions formula, or (d) otherwise fails to meet its obligations hereunder or under the applicable Collective Bargaining Agreement. The Board Trustees or other delegate, may, in the event of repeated

delinquencies by the same Employer, make special rules applicable to that Employer, including without limitation, advancing the due date, requiring a bond (or greater bond) or other security against future delinquencies, or establishing special fees. The Board of Trustees has the discretion to determine that any Employer contribution designated to be for monthly contributions may instead be used for the payment of liquidated damages, interest, attorney fees and other amounts owed by such Employer.

The acceptance and cashing of any checks for contributions, and the disposition of the monies for hours covered thereby in accordance with this Trust Agreement, shall not release or discharge the individual Employer from his or her or its obligations under the Collective Bargaining Agreement for hours worked under said agreement for which no (or an insufficient amount of) contributions have actually been received, notwithstanding any statement, restriction or qualification appearing on the check or any attachment thereto.

The Board of Trustees may enter into a Joint Services Agreement(s) or similar arrangement with other related Trust Funds and/or related entities to share in the cost of delinquent contribution legal actions, payroll audits and other administrative efforts (or have a similar arrangement or account in which expenses are shared). The Board has total and absolute discretion to enter into such an arrangement and/or Agreement and may do so for certain delinquencies and audits, and not for others. The Board of Trustees is authorized to delegate to a related entity or other entity (or may itself accept such responsibility) the primary responsibility for handling collections, including filing legal actions and approving payroll audits for all related funds and entities.

Section 5 Supervision, Control and Direction of Trust

The Board of Trustees shall have the continuing supervision, control and direction of the Trust for the uses, purposes and duties set forth in this Trust Agreement and it is vested with all right, title and interest to it. The Trust shall be administered by the Board of Trustees for the exclusive benefit of Participants pursuant to the provision of this Trust Agreement. Notwithstanding anything to the contrary contained in this Trust Agreement and any modification, amendment, extension or renewal hereof, no portion of the Trust shall at any time revert to, or be recoverable by the Employer, the Associations, or the Union, or be used for or diverted to, purposes other than for the exclusive benefit of Participants, and the payment of the administrative expenses of the Trust (except for a refund of erroneous payments as approved by the Board of Trustees).

Section 6 Limitation of Rights

Any Employer, Union, Participant, and/or any other person or entity shall not have any right, title or interest in or to the Trust other than as specifically provided in this Trust Agreement. Neither the Trust nor any contributions to the Trust shall be in any manner liable for or subject to the debts, contract or liabilities of any Employer, the Union or any Participant.

Section 7 Liability of the Trust

Any money judgment against the Trust Fund shall be enforceable only against the Trust Fund entity and shall not be enforceable against any Trustee or other person, unless liability against the Trustee or other person, in his or her individual capacity, is established in accordance with Section 409(a) of the Employee Retirement Income Security Act of 1974.

Section 8 Due Date, Liquidated Damages and Related Issues

All parties hereto recognize and agree that prompt and accurate payment of contributions is essential to the operation and administration of the Trust. They further recognize that it will be extremely difficult, if not impossible, to fix the actual damages and expenses to the Trust which will result from the failure of an Employer to make timely contributions. If an Employer does not make timely payments, the Trust loses the investment returns it should have received and incurs additional administrative and legal expenses.

The Employer contributions to the Trust must be received by the Trust by the Due Date. The Due Date shall be the twentieth (20th) of the following month in which the hours were performed. An Employer shall be considered delinquent and owe liquidated damages and interest if the contributions are not received by the 20th day of the month.

Pursuant to the Collective Bargaining Agreement, a delinquent Employer shall pay the Trust twenty percent (20%) of the principal or twenty dollars (\$20.00), whichever is the greater, as and for interest and not as a penalty. Employers shall also be required to pay liquidated damages of ten percent (10%) upon the total amount from the date due, and costs of collection, including without limitation attorneys' fees, accountant fees, collection fees, attachment bonds and court costs. Liquidated damages and other amounts owed may be waived pursuant to rules and regulations adopted by the Board of Trustees or the Board's delegate. The Board of Trustees has the greatest of discretion to waive such damages and amounts if deemed appropriate.

It is recognized that the extent of collection expenses and legal services necessarily incurred in the collection of Employer contributions, including the cost of appellate proceedings, may in some instances have no relation to the fact that the amount of the delinquency is relatively small.

The remedies provided herein are independent of and in addition to other remedies available under this Trust Agreement, the Rules and Procedures, the Collective Bargaining Agreement or applicable law. By way of example, the Board of Trustees is authorized, on its own or through legal counsel or other representative, to file mechanics liens and/or stop notices and/or to file a claim on a contractor's state contractor's state license bond or any other bond.

For employers that are repeatedly late and/or have other problems with respect to timely paying principal and/or liquidated damages, interest, attorney fees, costs and/or amounts owed as a result of a payroll audit may be required to pay its contributions so that they are received at an earlier date (such as the 10th day of the following month, rather than the 20th). The Board of Trustees may set any date/deadline as to when contributions have to be received. The Board of Trustees may also require weekly contributions or a different time period for employers that have been delinquent during any previous period.

The Board of Trustees is authorized to allocate funds received from an Employer that the Employer designates as a contribution for hours worked in a particular month (also described as "principal") in any manner that the Board determines. By way of example, the Board of Trustees may allocate any monthly contribution paid by an Employer to other amounts owed by that Employer, including without limitation, liquidated damages, interest, audit fees, attorney's fees, and any other costs. The Board of Trustees may implement this provision for one employer but not all employers. The Board of Trustees may delegate the responsibility to implement this decision to the Fund Manager, legal counsel or any other person or entity.

The failure of an Employer to make the contributions required to be made shall cause the person who signed the Collective Bargaining Agreement and/or other key principal(s) (five percent owners or more, including their spouses) of such Employer to be personally liable for such contributions if any such person continues to work in the Pipe Trades Industry for an employer (including self-employment) or entity that is not signatory to a Collective Bargaining Agreement with U.A. Local 467 or another U.A. Local Union.

Section 9 Recordkeeping and Audits

Each Employer shall maintain such time records, checks, check stubs, quarterly or other pertinent government returns, or such other records relating to employment for which contributions are payable hereunder, sufficient (1) to determine whether it has satisfied all obligations to the Trust and (2) to permit the Trust to comply with all applicable laws. These records shall be maintained for a period of not less than seven years following the end of the calendar year in which the employment occurs. If an Employer fails to keep records adequate to determine its obligations, there shall be a rebuttable presumption, at the option of the Trust, that all sums paid by such Employer to Participants, persons covered by the Collective Bargaining Agreement, former members of the Union, or individuals who subsequently become members of the Union were wages for which contributions were required to be made to this Trust.

The Board, or its authorized representatives, may require any Employer to submit to the Board, its auditor or any other representative, any information relevant to the administration of the Trust, and each Employer specifically waives any privilege it may have with respect to such information. Upon notice in writing, an Employer must permit an authorized auditor or other Trust representative to enter upon the premises of such Employer at a mutually agreeable time (within 30 days of such request, unless otherwise agreed) during regular business hours to examine and copy such records as may be necessary to determine whether the Employer is making full and prompt payment of all required amounts. Such examination may be undertaken pursuant to a routine payroll audit program or on an individual basis. The records to be made available shall include but not be limited to:

- Payroll registers or other documents which show wages paid and hours worked by month (preferably) or by week, and or by job.
- Time records and/or cards,
- Payroll journals,
- Check registers,
- Cancelled payroll checks,
- California quarterly payroll tax returns (DE-6's),
- Monthly transmittals to the Trust showing the names reported for benefits,
- Monthly hours summaries or other document(s) used to facilitate accurate reporting,
- Detailed documentation of the job classifications of employees not reported to the Trust,
- Cash disbursement journals,
- 1099 Forms,
- Monthly transmittals to other Trust Funds,
- Payroll deduction forms,
- Dispatch slips,
- Copies of the Employer's federal, state and local payroll tax reports, and all other documents reflecting the hours and wages of employees (whether such documents are privileged).

- Similar records as those listed above for any related company/entity for which any owner is also an officer and/or owner (including family members) that performs any work in the Pipe Trades industry

If an audit or review of the Employer's records reveals that full and prompt payment of all sums due has not been made, then such Employer shall reimburse the Trust, upon demand of the Board or its delegate, for the costs of said audit in addition to any other obligations it may have hereunder. The Board has the discretion to waive all or part of such costs if the discrepancy is minor and not willful, or for other good cause shown. This discretion may be assigned pursuant to a joint services agreement. The Employer's obligations with respect to recordkeeping and audits for the period it is an Employer hereunder shall continue for a period of seven years beyond any date as of which it ceases to be a contributing Employer.

The Board of Trustees has the discretion to assess an Employer for the cost of the audit if the audit reveals significant amounts owed (as determined by the Board) and/or if there is lack of full cooperation or a cancellation of an audit appointment on short notice.

Any Employer who refuses audit entry shall pay all the legal fees and costs necessary in obtaining the audit of such Employer. If an individual Employer fails or refuses to submit to an audit or confirm an audit appointment, the Trust may file an action to compel audit entry without regard to the grievance and arbitration procedures in the collective bargaining agreement(s) to which the Employer is bound.

The purpose of the audit is to determine how much money is owed to the Trust Fund, if any; the Employer understands that the purpose of the audit would be defeated if he or it were able to limit the audit in any way, including limiting the audit to the Employees he or it defines as Covered Employees. Therefore, the Employer shall not limit the scope of the audit in any fashion but must make available all the books and records maintained by him or it to the Trust Fund office.

Should an Employer refuse or after a reasonable time fail to comply with the request for an audit, the Board of Trustees, in the Board's sole discretion, may initiate any appropriate legal proceedings to obtain a court order compelling such defaulting Employer to submit to an audit. In such event any and all court costs and fees, including reasonable attorney's fees, incurred by the Trust shall be paid by the Employer.

Section 10 Collection Actions

The Trust may institute legal proceedings to collect delinquent Employer contributions, liquidated damages, interest, attorney's fees and/or other costs of collections. Such proceedings may be instituted in the name of the Trust, the Board of Trustees, an individual Trustee and/or the claim may be assigned to a third person for collection. The U.S. District Court for the Northern District of California is a proper forum (in addition to other forums proper in accordance with ERISA) in which to institute legal proceedings to collect all sums owing by an Employer. It is understood that the Trust Fund is not required to follow any arbitration provision of any Collective Bargaining Agreement related to delinquent contributions and/or other related losses.

The Employer shall reimburse the Trust, or its assignee, for reasonable attorney's fees, audit fees, court costs, interest, collection agency fees, private investigator fees and all other reasonable expenses of whatever nature incurred in connection with such suit or claim, including any and all appellate proceedings therein. It is recognized that the extent of legal services necessarily incurred in the collection of required

Employer contributions may in certain cases have no relation to the fact that the amount of the delinquency is relatively small. The Board of Trustees has great discretion to settle a lawsuit taking into consideration a variety of factors, including without limitation, the time and cost of litigation.

If the Collective Bargaining Agreement contains provisions relating to collections that specify additional remedies or obligate the delinquent Employer to greater amounts of liquidated damages, interest, attorney's fees or other items than those set forth herein, the Board of Trustees, at its option, may pursue the additional remedies or impose the greater charges.

Section 11 Return of Contributions

Upon a request of an Employer, Employer contributions made to the Trust as a result of mistake of fact or law may (but are not required to) be returned to the Employer within six months after it is determined that the contribution(s) was a mistake. Any such return of contributions is at the total and absolute discretion of the Board of Trustees. It is acknowledged that it is often not practical or possible to refund contributions for periods of more than one year and that if a person has already retired and taken a distribution and/or commenced receiving his or her health and welfare benefits, a return of contributions may not be done. Similarly, if the Plan's investments/assets have decreased in value, it will be problematic to make a partial or full refund from the 401(k) Plan. This includes refunds of related employee benefit plans and/or entities.

If a contribution is made on behalf of a person for whom contributions are not permitted or are not required under the Collective Bargaining Agreement, the Trust's sole obligation with respect thereto shall be to return the erroneous contribution to the extent legally permissible; provided, however, that the Trust shall have the option of retaining any contributions based upon which eligibility has been provided and/or costs incurred by the Trust. Return of such contributions to the Employer is at the total and absolute discretion of the Board of Trustees. No interest is paid on any contributions returned to an Employer.

Section 12 Bonding

The Board of Trustees has the power and authority to establish a Bonding Requirement for some or all contributing Employers independent of any such requirement in a collective bargaining agreement. The Board of Trustees may establish higher bonding amount requirements for contractors that have been delinquent in the past.

Section 13 Cooperation with Board

When requested by the Board of Trustees, an Employer will distribute to Participants currently in its employ such information as the Board of Trustees deems necessary to carry out its obligations. Such distribution shall be made in such manner as the Board of Trustees may specify. Any Employer that willfully fails to comply with any such reasonable request of the Board shall be liable for any costs that are incurred as a result of such failure as well as any penalties or damages, including court costs and attorneys' fees.

Section 14 Trust Liability

Except as expressly provided, neither the Employer nor the Trust Fund shall in any manner be liable for, or subject to, the debts, contracts or liabilities of the Union, any Employee, an Employer or any Trustee (except in his or her capacity as Trustee).

Section 15 Assignment

No Employee shall have the right to sell, transfer, anticipate, assign, hypothecate, or otherwise dispose of his or her right to training benefits or any right or interest under the Trust, and the Board of Trustees shall not recognize or be required to recognize any such sale, transfer, anticipation, assignment, hypothecation or other disposition; and such right or interest shall not be subject in any manner to voluntary transfer, or to transfer by operation of law or otherwise, and shall be exempt from the claims of creditors or other claimants and from all orders, decrees, garnishments, executions or other legal or equitable process or proceeding to the fullest extent permissible by law.

ARTICLE IV THE TRUSTEES

Section 1 Number of Trustees

The Trust shall be jointly administered by a Board of Trustees consisting of eight Trustees, four of whom shall be known as "Employer Trustees" and four of whom shall be known as "Union Trustees".

The Employer Trustees shall be selected by the Associations as follows: The Northern California Mechanical Contractors Association has two appointments, the Greater Bay Area Association of Plumbing, Heating, Cooling and Mechanical Contractors has one appointment and the Industrial Contractors, UMIC, Inc., has one appointment. The Union Trustees shall be selected by UA Local 467. Such appointments shall be submitted in writing and/or shall be confirmed in the minutes of a Board of Trustees meeting.

Alternate Trustees are permitted to be appointed and take the place of a Trustee when a Trustee is absent from a meeting. Such alternate trustee acts in the absence of any regularly appointed Trustee representing the individual parties to this Agreement. Any alternate Trustee shall have the powers and duties of the regularly appointed, but absent, Trustee, including but not limited to, the power to vote at Board of Trustees meetings. Alternate Trustees may attend Trust meetings even if the regular Trustee is in attendance but will not have a vote.

Section 2 Acceptance and Qualification of Appointed Trustees.

Any appointed Trustee and any successor may qualify by executing and delivering to the Trust Fund Office an instrument in writing accepting such appointment and agreeing to be bound by the terms of the Trust Agreement, as it may be amended, and/or to have such agreement to be bound by the terms of the Trust Agreement be reflected in the minutes of a Trust meeting.

Section 3 Successor Trustees

Successor Union Trustees shall be selected by U.A. LOCAL 467. Successor Employer Trustees shall be selected by the Associations referenced in Section 1 above. Such selections shall be made by the party which appointed the vacating Trustee within a reasonable period after a vacancy exists (usually not to exceed 90 days).

No vacancy or vacancies in the offices of the Trustees shall impair the power of the remaining Trustees acting in the manner herein provided to administer the affairs of the Trust.

Section 4 Term of Office of Trustees

Each Trustee shall begin serving at the time specified in the document appointing him or her. If the time is not specified, the individual will begin when he or she signs a written acceptance of his or her appointment or such appointment is acknowledged at a Trust meeting, whichever occurs first. Each Trustee shall serve until his or her death, incapacity, resignation or removal.

Section 5 Removal of Trustee

A Trustee may be removed for any reason by a letter, e-mail or other written notice from the appropriate representative of the appointing entity certifying that such Trustee has been duly removed.

Section 6 Resignation of Trustees

A Trustee may resign upon giving a minimum of thirty days' written notice to the Trust, the remaining Trustees and to the group he or she represents in which notice there shall be stated a date when such resignation shall take effect. Such resignation shall take effect on the date specified in the notice or on another alternate date, unless a successor Trustee shall have been selected at an earlier date, in which event such resignation shall take effect immediately upon the effective date of the selection of said successor Trustee. The entity appointing the resigning Trustee may establish the effective date of a Trustee resignation (and such date may be earlier or later than the date specified by the Trustee).

No individual who has been convicted of any of the crimes listed in Section 411(a) of the Employee Retirement Income Security Act of 1974 shall serve as a Trustee during the period of disqualification specified in the statute.

Section 7 Rights of Successor Trustees

Any successor Employer Trustee or any successor Union Trustee shall, immediately upon his or her appointment as a successor Trustee and his or her acceptance of being a Trustee, become vested with all the rights, powers and duties of a Trustee hereunder with like effect as if originally named as a Trustee, and all the Trustees then in office.

Section 8 Duty of Retiring or Removed Trustee

A Trustee who resigns or is removed shall within fifteen days turn over to the Trust at the principal office of the Trust any records, books, documents and other property in his or her possession or under his or her

control which belong to the Trust, or which were received by him or her in his or her capacity as Trustee, if so requested by the Board of Trustees or the Board's delegate.. Any such retiring or terminated Trustee agrees to keep in confidence any private and/or confidential information learned while serving as a Trustee.

Section 9 Power of Board in Event of Vacancy

If one or more Employer Trustees and one or more Union Trustees are serving on the Board of Trustees, no vacancies in a Trustee position shall impair the power of the remaining Trustees to administer the affairs of the Trust.

If there are no Employer Trustees serving on the Board, or no Union Trustees serving on the Board, and if either the Associations or the Union fails or refuses to select a successor Trustee who accepts his or her selection, then the remaining Trustees shall have the power to apply to a court of competent jurisdiction to select one or more successors to the Board. Any Trustee selected by a Court shall represent the party or group which is unrepresented on the Board, and such successor Trustee shall have all the rights, powers and duties of a Trustee duly selected by the party on whose behalf he or she is selected. Any Trustee so selected shall serve until a successor Trustee shall have accepted his or her selection, or until relieved by the court.

If there are no Employer Trustees or no Union Trustees on the Board, the remaining Trustees shall have the power to take such emergency action as may be necessary for the preservation of Trust assets or for the protection of the interests of the Trust.

ARTICLE V OFFICERS, MEETING, VOTING, RESOLUTION OF DEADLOCKS AND DISPUTES

Section 1 Chair and Co-Chair of Board

The Trustees shall select a Chair and a Co-Chair (also known as a Chairman and Co-Chairman). When the Chair is selected from among the Employer Trustees, the Co-Chair shall be selected from the Union Trustees, and vice versa. The Chair position may alternate between the Employer and Union Trustees, unless otherwise agreed to by the Board of Trustees. The Board of Trustees may select such other officers with such powers as the Board deems advisable. The term for each office shall be one year, but if there is no replacement, the person shall remain in the position. It is acceptable if one Trustee remains the Chair of the Board or Co-Chair for consecutive years.

If the Chair is absent from a Trust meeting, the Co-Chair shall chair such meeting. If both the Chair and the Co-Chair are absent, the remaining Trustees shall select a person to chair such meeting.

Section 2 Time and Place of Meetings/Annual Meetings

The Board of Trustees shall determine the time and place of its regular meetings but shall meet at least annually.

Notice of each regular meeting shall be given to all Trustees at least five days prior to the date of such meeting, unless waived by the Trustees. Any such notice is sufficient if sent by hand-delivery, fax, E-mail,

first class mail or other reasonable method addressed to the Trustee at his or her last designated address. The Trustees may waive such notice. The Trustees are authorized to meet by phone conference call.

Section 3 Special Meetings

The Chair or Co-Chair may call a special meeting of the Board by giving written notice at least five business days (non-weekends and federal holidays) before the date set for such meeting, specifying the time and place of such meeting. The Board of Trustees shall have the power to take any action at a special meeting which it might take at a regular meeting, except that the notice of special meeting must specify the matters to be considered at such meeting; in which event, only those matters specified in the notice may be considered or acted upon.

For emergency matters, the Chair and Co-Chair are authorized to take action without a formal meeting.

Any meeting at which all Trustees are present, or concerning which all Trustees waive notice in writing, shall not be invalid for want of notice.

Section 4 Ratification by Trustees/Action Without a Meeting

A Trustee may ratify any action taken by other Trustees at any meeting and such ratification shall have the same effect as the Trustee's vote would have had if it had been cast in person at the meeting. The Trustees may act without a meeting, provided that the Trustees consent to such action. Approval of the action in Trust meeting minutes is sufficient to show the requisite consent. An e-mail vote on a matter will be handled as if done during the meeting and as a result, a unanimous vote is not necessary. Unit voting as provided in Section 6 below will apply.

Section 5 Quorum and Action of Board

To constitute a quorum at any regular or special meeting of the Board, there must be present at least two Employer Trustees and two Union Trustees. A quorum being present, all matters coming before the Board for consideration shall be decided by a majority vote of the Trustees present and eligible to vote, unless there is a call by any Trustee for a division of the house, in which case the Union Trustees in the aggregate may cast one vote and the Employee Trustees, in the aggregate may cast one vote as provided in Section 6 below. If no quorum is present, the Board of Trustees may meet and transact business; however, the actions taken at such meeting have to be approved at a subsequent meeting of the Board of Trustees or otherwise ratified by the Board as provided in this Agreement.

Section 6 Voting at a Trust Meeting

Each Trustee shall have an individual vote on any action taken at a Trust meeting (or otherwise), unless a majority of one unit (Management or Union Trustees) request that there be a Unit vote. If such a request is made, the Employer Trustees shall have one vote as a unit and the Union Trustees shall have one vote as a unit. Thus, this Trust provides for Unit Voting. The Union Trustees shall have one vote and the Employer Trustees have one vote. The vote of each group shall be by a majority of the Trustees present from that particular group.

If a Trustee(s) selected by the Union is absent, the remaining Trustees selected by the Union may vote on behalf of such absent Trustee(s). If a Trustee(s) selected by the Employer Trustees is absent, the remaining Trustees selected by that group may vote on behalf of such absent Trustee(s).

Section 7 Deadlock of Trustees

If the Employer Trustees and the Union Trustees deadlock on the administration of the Fund or on any matter arising under this Agreement, and one group of Trustees request in writing that the disputed issue be arbitrated, the Employer Trustees and the Union Trustees shall agree upon an impartial umpire to decide such dispute, or upon a mutually satisfactory method for selecting the arbitrator. The request for arbitration should be in writing and should be made within ninety days of the date that the deadlocked vote took place (the Trustees may mutually agree in writing to postpone the 90-day period). If one group of Trustees votes one way and the other group of Trustees deadlock within its own group, there is still a "deadlock" of all the Trustees.

If an impartial arbitrator who is willing to act is not selected within thirty days of a written request for arbitration, either the Union Trustees or the Employer Trustees (or any two Trustees) may petition the United States District Court for the District where the Trust has its principal office to appoint such an umpire. The parties agree that the Northern District of California of the United State District Court is an appropriate venue. The arbitrator shall have no power to alter, amend, add to, or take away from any of the terms of this Trust Agreement or any Collective Bargaining Agreement. The decision of the impartial umpire shall be final and binding upon the parties and the Participants of the Trust.

The impartial referee shall be bound by all the terms and conditions of this Trust Agreement and shall have no authority to alter or amend the terms of any of the above. The decision of the impartial referee shall be in writing and shall be timely made.

Any costs and attorneys' fees incurred by the Board of Trustees in connection with the dispute shall be paid out of the Trust Fund, including any reasonable compensation to such impartial referee (arbitrator) unless otherwise agreed to by the parties, the arbitrator or ordered by a Court.

Differences arising as to the interpretation or application of the provisions of this Trust Agreement or any Rules and Procedures relating shall not be subject to the grievance or arbitration procedures established in any Collective Bargaining Agreement. All such differences shall be resolved by the impartial umpire.

Section 8 Rules or Procedures

The Board of Trustees is empowered to adopt such Rules or Procedures for the conduct of its meetings and determine the time and place of meetings provided such rules and determinations are not in conflict with this Trust Agreement. The Board of Trustees has the discretion to adopt rules and procedures for the administration of the Trust, as the Board deems appropriate.

ARTICLE VI POWERS AND DUTIES OF TRUSTEES

Section 1 General Rules/Named Fiduciaries

The Board of Trustees shall be the "named fiduciary" required by ERISA. Other persons shall be fiduciaries only to the extent required by ERISA or as if provided in this Trust Agreement. Any person or group of persons may serve in more than one fiduciary capacity with respect to the Trust.

Section 2 Powers Granted to Trustees

The Board of Trustees shall have the exclusive authority to control and manage the operation and administration of the Trust and is the Plan Administrator of any Plan established hereunder.

The powers granted to the Board of Trustees herein are in addition to, and not in limitation of, all powers granted to the Trustees by common law, statute, and other provisions of the Trust Agreement; are exercisable from time to time and are not powers to be considered exhausted by their exercise on one or more occasions; and are exercisable in the sole discretion of the Trustees.

Unless specifically limited by law, the Trustees shall have the power to administer the Trust and to do all acts they consider to be in the best interest of the Trust or of any Participant or Beneficiary, and to exercise any or all the following powers:

A. **Establish Plans.** This includes continuing in operation the U.A. Local 467 Health and Welfare Plan, which includes medical, surgical, hospital, dental, vision, prescription drug, disability, extended reserve, and similar types of benefits. The Board may establish such other Plans that are consistent with the Collective Bargaining Agreement.

B. **Collections/Delinquency.** To collect the Employer contributions and other amounts due to the Health and Welfare Fund, including without limitation, enforcing the payment of contributions to the Trust by employers under a Collective Bargaining Agreement by legal action or by any other means they consider appropriate.

C. **Interpret Trust Agreement.** Interpret the Trust Agreement and any Plan established hereunder and may specifically limit and define the individuals entitled to interpret the provisions of the Trust Agreement and any Plan adopted thereunder.

D. **Reserves.** To establish and to accumulate such reserve funds as they deem appropriate in accordance with ERISA and other federal law and any lawful regulations issued thereunder.

E. **Administration.** To provide for the administration of the Trust and any Plan by delegating administrative functions to an administrator who may be a third-party administrator with its own office and staff, or alternatively, the Trustees may engage the services of an administrator and delegate any necessary functions (be self-administered). The duties of the administrator shall be specified in a written agreement with the Trust, which may be a letter-agreement.

G. Pay Expenses. To pay Trust expenses. The Board of Trustees has the broadest of discretion in determining whether a Plan expense is reasonable and appropriate for the Plan, including expenses for the items and services listed in this Trust Agreement, as well as for expenses related to Trust meetings and educational conferences.

H. Deposits in Financial Institutions. To deposit funds in a bank, savings and loan or other financial institution.

I. Employ Persons/Consultants. To employ such executive, benefit consultant, actuary, recordkeeper, administrative, clerical, secretarial, accountant, CPA, legal and/or such other persons and/or entities to assist the Trustees in administering the Plan, to provide collection and payment services, to render investment or administrative advice, or to perform such other fiduciary or other functions as the Trustees consider advisable. All such engagements involving delegation of fiduciary duties shall be pursuant to a written contract between any such person and the Trustees, which contract shall constitute acceptance by the consultant to be bound by, and to be subject to, the fiduciary obligations of the Trust Agreement, and which contract shall clearly set forth the responsibilities delegated to, and accepted by, the consultant or other person.

Any agreement with such persons or entities may be for any reasonable period. At the Board's discretion, a letter-agreement between the consultant/agent or the party may be satisfactory. If the Board is satisfied with the services of a provider to the Plan and determined that the fee is reasonable, the Board is under no obligation to put the services of such person out to bid.

J. Delegate Investment Management. The Board has the power to delegate to an investment firm or association, an investment consultant, bank or other financial institution, or to an insurance company, as fiduciary, the duty of managing the funds and assets of the Trust, including the duties of collection and payment, investments and reinvestments, in such manner and to the extent considered desirable by the Trustees and permitted under the terms of the Trust Agreement and consistent with applicable law. It is anticipated that the Plan will continue to have an Investment Consultant who provides guidance to the Trustees on Plan investment and the Plan's Investment Policy Statement. The Board of Trustees may utilize the services of an Investment Consultant to have the primary responsibility for recommending specific investments and/or investment managers and to monitor the Plan's investments. The Board has the discretion to delegate full investment management responsibility to an investment consultant.

K. Loan Agreements. To enter into loan, subordination and/or guarantee agreements, which, in the discretion of the Trustees, are desirable to protect or enhance any Trust investment.

L. Errors and Omissions/Other Insurance. To purchase on behalf of the Trust, errors and omissions policies to protect the funds of the Trust, and any other type of insurance deemed reasonable and necessary for the Trust and any Plan of benefits (such as cyber liability insurance). To the extent permitted by law, individual fiduciaries may purchase Rider Coverage on the individual behalf of each to protect against individual recourse and may be reimbursed for such premiums by the entity appointing them as Trustee.

M. Maintain an Office. To establish and maintain an office for the Trust which shall be staffed in such manner as the Trustees deem appropriate. The Trust Administrative Office, personnel and costs

may be shared with other Trusts and/or plans to reduce the expenses of the Trust, achieve greater efficiency and/or provide better service to the Participants.

N. Reciprocity Agreements. To enter into reciprocity agreements with the Trustees of other qualified trusts upon terms mutually agreeable, actuarially sound and lawful, including the U.A. International Reciprocity Agreement.

O. Policies and Procedures. To adopt procedures or rules for Trust administration and any adopted Plan which are consistent with the terms and intent of this Agreement and the relevant Plan.

P. Check Writing and Documents. To authorize such persons or entities as they deem appropriate to execute checks, issue checks bearing facsimile signatures, or to sign documents.

Q. Payment to Persons. Upon the death or legally determined incompetency of any person entitled to benefits hereunder, the Trustees may pay benefits due to such decedent or incompetent to the husband, wife, parent, child, or other person, as in their discretion seems just, equitable, and proper.

R. Enter into Contracts. To enter into any and all contracts and agreements for carrying out this Trust Agreement and for the administration of the Trust Fund and to do all acts as they, in their discretion, may deem necessary or advisable. Any two Trustees, one an Employer Trustee and one a Union Trustee, may execute any contracts or other legal documents on behalf of the Trust if so authorized by the Board. Instructions or communications shall be similarly executed or may be executed in such other manner as the Board may authorize. The Chair and/or the Co-Chair may execute a particular agreement that has been approved by the Board of Trustees.

S. Lawsuits. To sue or to be sued on behalf of the Trust.

T. Settle Claims. To accept, compromise, arbitrate or otherwise settle any obligation, liability or claim involving this Trust, including any claim asserted for taxes under present or future law. The Trustees may also enforce or contest any such obligation, liability or claim by appropriate legal proceedings, but they shall not be obliged to do so unless, in their judgment, it is in the best interests of the Trust to do so.

U. Own or Sell Property. To purchase, exchange, lease, mortgage or otherwise hypothecate, or otherwise acquire, or cause to be purchased, exchanged, leased, mortgaged or otherwise hypothecated, or otherwise acquired, any property, real, personal or mixed, on such terms as it may deem proper, and to execute and deliver or cause to be executed and delivered, any and all instruments in connection therewith. The Trustees also have the power to sell, exchange, lease, convey or otherwise dispose of or to cause to be sold, exchanged, leased, conveyed or otherwise disposed of, Trust property of any kind upon such terms as it may deem proper and to execute and deliver or cause to be executed and delivered, any and all transfer instruments.

V. Require Audits. To require any person with obligations or rights hereunder to furnish or permit an audit of any reasonable information, data, and documents which are pertinent in verifying the accuracy of contributions and action upon claims for benefits, or which are otherwise pertinent in administering this Trust.

Section 3 Duties of Fiduciaries

In addition to any fiduciary obligations which may be provided for elsewhere in this Trust Agreement or by law, all fiduciaries shall have the responsibility to perform as follows:

- A. Manage Trust for Participants. To manage the Trust in accordance with the Trust Agreement and in the interests of the Participants and beneficiaries.
- B. Act Prudently. To discharge their duties with the care, prudence and diligence that a prudent person, familiar with such matters and acting in a like capacity and under similar circumstances would use in the conduct of a similar business.
- C. Diversify Investments. To diversify the investments of the Trust to minimize the risk of large losses, unless under the circumstances, it is prudent not to do so.
- D. Maintain Adequate Records. To ensure that records are maintained which will provide in sufficient detail the basic information and data necessary to verify, explain, clarify, or check for accuracy any reports required by local, state or federal agencies, for periods of not less than six (6) years after the filing date of such reports, or six (6) years after the date on which such reports would have been filed but for an exemption under applicable law.
- E. File Government Reports. To file all reports required by law with the appropriate government agencies.
- F. Complete Annual Audit. To engage an independent, qualified public accountant, who shall conduct such an examination of any financial statements of the Trust and of other books and records of the Trust as the accountant may consider necessary. Such examination by the public accountant shall be conducted in accordance with generally accepted auditing standards and shall involve such tests of the books and records of the Trust as are considered necessary by the accountant.

Section 4 Prohibited Transactions

Except as exempted by ERISA Section 408 or other applicable law or unless waived by the Secretary of Labor or Treasury, the Trustees shall not cause the Trust to engage in any transaction which constitutes a direct or indirect:

- A. Sale, exchange or lease of any property between the Trust and a party in interest;
- B. Lending of money or other extension of credit between a Trust and a party in interest;
- C. Furnishing of goods, services or facilities between the Trust and a party in interest;
- D. Transfer to, or use by or for the benefit of, a party in interest of any assets of the Trust (other than authorized dues deductions from amounts due Participants pursuant to written authorizations by Participants);

E. Acquisition, on behalf of the Trust, of any employer security or employer real property in excess of ten percent (10%) of the Trust assets.

The Health and Welfare Trustees and the Trust are authorized to enter into an Agreement with U.A. Local 467 to provide administrative services for the Trust.

The intention of this provision is to be consistent with ERISA and not to impose any greater restrictions.

Section 5 Breach of Fiduciary Duty

Any fiduciary who, while acting as or serving as a fiduciary, breaches any of the responsibilities, obligations or duties imposed upon him by the Trust Agreement or by law shall be personally liable to make good to the Trust any losses resulting from such breach, and to restore to the Trust any profits which may have been made through the use of the Trust assets. In addition, such fiduciary shall be subject to other equitable or remedial relief as the court may deem appropriate, including his or her removal as a fiduciary, and reimbursement to the Trust of attorneys' fees and costs incurred by the Trust as a result of a breach of fiduciary responsibility by a Trustee.

Section 6 Allocation of Fiduciary Responsibilities

Fiduciary responsibilities may be allocated or delegated as follows so long as the allocation or delegation meets the fiduciary standards set forth above and is evidenced by an appropriate resolution of the Board:

A. Any responsibility to manage or control Plan assets may be allocated only among the Trustees and any Fund Custodian, except insofar as such responsibility is delegated to an Investment Manager as provided hereafter.

B. Other responsibilities may be allocated or delegated to any person, but any Participant or beneficiary whose claim for benefits is denied shall have the right to have the denial ultimately reviewed by the Board itself except insofar as it may be permissible under ERISA for any other firm or person to make a final decision on review.

Section 7 Breach of Co-Fiduciary

A. The fiduciaries shall jointly manage and control the assets of the Trust, unless the Trust Agreement or the Trustees specifically allocate responsibilities, obligations or duties among the fiduciaries, and each fiduciary shall use reasonable care to prevent a co-fiduciary from committing a breach of a fiduciary responsibility. A fiduciary shall be liable for a breach of fiduciary responsibility of another co-fiduciary in the event:

1. He or she knowingly participates in, or undertakes to conceal, an act or omission of the co-fiduciary, knowing such act or omission is a breach;

2. If, by the failure to discharge his or her duties prudently and in accordance with the obligations in this Trust Agreement, he or she has enabled the co-fiduciary to commit the breach; or

3. If he or she has knowledge of a breach by a co-fiduciary and makes no reasonable effort under the circumstances to remedy such.

The Board of Trustees, to the extent permitted by ERISA, may rely upon the advice of the Trust's legal counsel with respect to these matters.

B. If the responsibilities of the Trustees are allocated specifically to each of the Trustees or to other fiduciaries, an individual fiduciary shall not be liable for an act or omission of another fiduciary in carrying out such responsibility, except to the extent that the appointing fiduciary failed to use prudence or failed to consider the interests of the Participants or beneficiaries (1) in the appointment of the fiduciary; (2) in the allocation of the responsibility; (3) with respect to the establishment or implementation of the procedures under which the responsibilities were allocated; or (4) in continuing to prevent such allocation or designation.

C. Fiduciaries are not to be liable with respect to a breach of a fiduciary duty if such breach was committed before they became fiduciaries or after they ceased to be fiduciaries.

The intention of this section is to be consistent with ERISA and not to expand any potential liability.

Section 8 Fiduciary Insurance

Nothing in this Article shall preclude:

A. The Trust from purchasing insurance for its fiduciaries or for itself to cover liabilities or losses occurring by reason of the act or omission of a fiduciary, if such insurance permits recourse by the insured against the fiduciary in the case of the breach of a fiduciary obligation by such fiduciary; or

B. A fiduciary from purchasing insurance to cover liability under this part from or for his or her own account; or

C. An Employer or employee organization from purchasing insurance to cover potential liability of one or more persons who serve in a fiduciary capacity with regard to employee benefits.

Section 9 Persons Prohibited from Being Fiduciaries

No person who has been convicted of or who has been imprisoned as a result of his or her conviction of one of those crimes set forth in ERISA Section 411 shall be permitted to serve as a Trustee or in any other fiduciary capacity during the time period specified in ERISA Section 411.

Section 10 Compensation and Expenses

To the extent approved by the Board, fiduciaries may receive reasonable compensation for services rendered by them. No fiduciary who already receives full-time pay from an Employer or an association of Employers whose employees are Participants in the Plan, or from an employee organization whose employees are Participants in the Plan shall, however, receive compensation for his or her services except insofar as permitted by ERISA and pertinent Department of Labor Regulations

Trustees and other fiduciaries may be reimbursed for expenses actually and properly incurred in accordance with the performance of their duties hereunder or given an appropriate advance against such reimbursement subject to immediate repayment if the advance should exceed the amount to which they are entitled hereunder. Expenses for which reimbursement may be authorized shall include, without limitation, those incurred in attendance at meetings and other functions of the Board or its committees, or in attendance at educational institutes, seminars, conferences or workshops relating to matters of common interest to trust. Such expenses may be shared with other trust funds if applicable. Meals and related costs incurred during periodic Trust meetings and other Trust functions are appropriate. The Board of Trustees shall adopt a Trustee Expense Reimbursement Policy.

Section 11 Payment of Benefits

Subject to applicable law, the Trustees shall not make any payments or distributions to any person entitled to any benefits except to the beneficiary personally; provided, however, that, if a beneficiary is a minor or is considered by the Trustees to be incompetent, then any payment due may be paid to such person and in such manner as the Trustees, in their sole discretion, consider to be in the best interest of the beneficiary for whom the payment is made. The Trustees shall not be under any duty to see to the application of funds so paid, provided due care was exercised in the selection of the person to whom funds were paid, and the receipt of the person to whom funds were paid shall be full acquittance to the Trustees. The Trustees shall not be liable to any person for a determination made in good faith that a beneficiary is incompetent.

Section 12 Indemnification

To the extent permitted by law, the Trustees shall incur no liability, either collectively or individually, in acting upon any papers, documents, data or information believed by them to be genuine and accurate and to have been made, executed delivered or assembled by the proper parties. The Trustees may delegate any of their ministerial powers or duties to any of their agents or employees. To the extent permitted by law, no Trustee shall incur any liability for simple negligence, oversight or carelessness in connection with the performance of his or her duties as such Trustee. To the extent permitted by law, the Trust shall exonerate, reimburse and save harmless the Trustees, individually and collectively, against any and all liabilities and reasonable expenses arising out of their serving as a Trustee, except (as to the individual Trustee or Trustees involved) for expenses and liabilities arising out of willful misconduct.

ARTICLE VII INVESTMENTS

Section 1 Investments

The Board of Trustees shall establish and carry out funding and investment policies and methods consistent with the objectives of the Trust and the requirements of ERISA.

Investments shall be prudent and to the extent possible shall be diversified to minimize the risk of large losses unless it is clearly prudent not to do so. They shall not conflict with ERISA's prohibited transaction limitations. No fiduciary shall cause the Trust to engage in transactions which violate these requirements and any instructions from others upon which any corporate Co-Trustee must rely shall be consistent with these requirements.

Section 2 Investment Decisions

The Board of Trustees may itself invest and otherwise manage Plan assets, or it may delegate all or some of these powers, including the power to acquire and dispose of plan assets to an Investment Manager (or Investment Consultant) that qualifies as such under ERISA and acknowledges in writing that it is a fiduciary with respect to the Plan and Trust. The appointment, selection and retention of any Investment Manager/Consultant shall be solely the responsibility of the Board of Trustees and shall be revocable by it at any time. The Board of Trustees may hire an investment consultant that will have primary responsibility for recommending specific investments and/or investment managers. Alternatively, the Board of Trustees have the discretion to delegate total discretion to an Investment Consultant for investments. The Trustees may also utilize the services of investment advisors, brokers, consultants, attorneys, administrators, bankers or other persons in making investment decisions, particularly for short-term investments or small investments.

Section 3 General Investment Powers

The Trust assets, or any part thereof, may be invested in securities issued by the United States Government and state governments; in common or preferred stock; in corporate bonds; in other securities listed on any exchange or traded in any over-the-counter market, including shares of mutual investment companies; in pooled investment portfolios; mutual funds; hedge funds; private equity; venture capital; alternative investments; real estate investment trusts, in improved real estate; in water bond contracts; in notes; in short-term investment mutual funds or similar investment vehicles; in guaranteed investment contracts; in mortgages; in certificates of deposit of any bank, including any Fund Custodian; in commercial paper; in bankers' acceptances (excluding those of any Fund Custodian) or in any other properties in which this Trust may lawfully invest. (This list is for illustrative purposes only.) If any assets are ever held in which this Trust may not properly invest, they shall be disposed of as promptly as is prudent under the circumstances. Investments in 401(k) Plans may be in Target Date Funds and/or similar investments.

Section 4 Specific Investment Powers

Whoever holds title to Trust assets shall have all rights and powers with respect to investing the Trust property that an owner would have, subject only to any written directions previously received from another fiduciary authorized hereunder to give such directions. These investment powers shall include, without limitation, the following powers in addition to those set forth elsewhere and otherwise given by law.

a) To hold in cash in a non-interest-bearing account such portion of the Trust assets as may be reasonably required for the day-to-day administration of the Trust and disbursement of benefits, by depositing the same in any financial institution such as a bank or savings and loan (including any bank acting as Fund Custodian hereunder) subject to the rules and regulations governing such deposits. Additional cash shall be placed in interest-bearing accounts and/or obligations (which may be with the Fund Custodian) until such times as it is otherwise invested;

b) To participate in any plan of lease, merger, consolidation, exchange, foreclosure or reorganization affecting securities held hereunder at any time;

c) To deposit stocks under voting agreements;

- d) To subscribe for stock or bond privileges;
- e) To vote with respect to all securities or other assets in person or by proxy, except that where an Investment Manager has been appointed and is acting, proxies and other shareholder material with respect to assets under its supervision will be forwarded to it if it so requests;
- f) To register securities in the name of a nominee, or to hold the same unregistered and in such form that they will pass by deliver;
- g) To lease, repair, alter, or improve real estate or other assets;
- h) To sell any securities, real estate, or other assets at public or private sale for such prices and upon such terms as it may deem proper, without liability on the part of the purchasers to see to the application of the purchase money;
- i) To borrow money and to secure the repayment thereof by mortgage on real estate, pledge of securities, or otherwise, without liability on the part of the lenders as to the application of the assets loaned;
- j) To invest Trust assets collectively with funds of other trusts in one or more of the investment funds for employee benefit trusts established by a Fund Custodian or any other common or commingled fund now or hereafter maintained by any Fund Custodian as the same may be amended from time to time; and if any portion of the Trust is so invested, the declaration creating such funds shall be deemed to be incorporated into this Trust Agreement the same as if fully set forth here;
- k) To lend stock certificates and other securities constituting part of the Trust assets to securities brokers and others; provided, that the terms and conditions of each such loan shall be established in accordance with, and shall comply with the applicable Plan, this Trust Agreement and all applicable rules, regulations and laws governing the Board, the applicable Plan and this Trust.

It is intended that the Board of Trustees have the broadest of discretion with respect to the Plan's investments, including without limitation, the types of investments and risk level of investments. The Trustees may invest in types of assets not specifically referenced in this Article.

ARTICLE VIII GENERAL PROVISIONS

Section 1 Instruments Executed by the Trustees

No party dealing with the Trustees shall be obligated to see to the application of any monies or properties of the Trust or to see that the Trust Agreement has been followed or to inquire as to the necessity or expediency of any acts of the Trustees. Every instrument executed by the Trustees shall be conclusive in favor of every person who relies upon it that:

- A. At the time of the delivery of the instrument, the Trust Agreement is in full force and effect;

B. The instrument was executed in accordance with the terms and conditions of the Trust Agreement; and

C. The Trustees were duly authorized and empowered to execute the instrument.

Section 2 Applicable Agreements

The rights and duties of all parties (so far as they relate to this Trust and Trust Fund), including each Employer, the Union, each Employee and their beneficiaries and Trustees shall be governed by this Trust Agreement, the acts of the Trustees and the applicable Collective Bargaining Agreement.

Section 3 Agreement Binding on Successors and Assigns

This Agreement shall be binding upon and inure to the benefit of each Employer who is now or hereafter may become a party to or be bound hereby and his or her successors, purchasers and assigns.

Section 4 Individual Employers

An individual Employer may become a party to the Trust Agreement by executing an Agreement to be bound by the terms of such Agreement. This may be implemented by executing a Collective Bargaining Agreement which contains a provision by which the Employer agrees to be bound by this Trust Agreement.

Section 5 Employer Contributions

Nothing in the Trust Agreement shall be construed, directly or indirectly, to increase the amount of Employer contributions to the Trust beyond that in the Collective Bargaining Agreement.

Section 6 Collective Bargaining Agreement

The Trust Agreement incorporates by this reference the provisions of the Collective Bargaining Agreement and in the event of conflict between the provisions of such Collective Bargaining Agreement and this Trust Agreement, the provisions of the Trust Agreement shall be controlling. The Trustees will in administering the Trust Agreement implement Collective Bargaining Agreement provisions relating to the Trust and not in conflict with the Trust Agreement so long as such implementation does not violate the law or prudent behavior.

Section 7 Association Employer Bound by Trust

Any Employer who authorizes the Association to enter Collective Bargaining Agreements requiring contributions to this Trust shall be bound by this Agreement.

Section 8 Notice to Association as Notice to Employer

Any notice required by this Trust Agreement or by any Plan, rules or regulations adopted by the Board of Trustees, to be given to Employers need not be given to those Employers who are represented by an Association and it shall be sufficient if such notice is given the Association, and one such notice to the Signatory Association shall be sufficient notice to all Employers represented by said Association.

Section 9 Governing Law

The Trust Agreement shall be governed by and construed according to ERISA and to the extent that federal law is not applicable, according to the laws of the State of California.

Section 10 Validity of Remaining Provisions/Separability

If any provision of the Trust Agreement, any Plan established hereunder, the rules and regulations made pursuant thereto, or any other step in the administration of the Trust is held illegal or invalid for any reason, then such illegality or invalidity is not to have an impact on the remaining provisions of the Trust Agreement, or rules or regulations adopted. They shall be construed and remain in force as if the illegal or invalid portions had never been inserted or established, if the remaining portions will enable the objectives and purposes of the Trust to be accomplished. Should any provision of the Trust Agreement be declared illegal or invalid, the appropriate parties shall adopt a new provision to take the place of that declared illegal or invalid.

Section 11 Costs and Expenses of Suits

The cost and expense of any suit or proceeding brought against the Trust Fund or against the Trustees or any of them (including reasonable attorneys' fees), in any matter arising out of or under this Trust Agreement, shall be paid from the Trust Fund. Such suit or proceeding includes a counterclaim, cross-complaint or administrative or arbitration proceeding. Such expenses or fees shall not, however, be payable for any proceeding brought against a fiduciary or fiduciaries on behalf of the Trust Fund to recover from a fiduciary or fiduciaries for damage or loss sustained by the Trust Fund on account of the alleged breach of fiduciary duty of defendant fiduciary or fiduciaries.

Section 12 Non-Reversion of Trust Funds

Under this Trust Agreement neither all nor any part of the Trust Fund shall revert to or be recovered by any Employer or be used for or diverted to the purposes other than the exclusive benefits of employees, or for the payment of the expenses of the Trust and Plan as herein authorized.

Section 13 Waiver of Notice

Any notice required under this Agreement or any Plan may be waived by the person entitled thereto if such waiver is in accordance with any applicable federal or state law or regulation.

Section 14 Number and Gender of Words

Whenever appropriate, words used herein in the singular may include the plural, the plural may be read as the singular, and the masculine may include the feminine and vice versa.

Section 15 Payments during Incapacity

Notwithstanding any other provisions hereof, if in the judgment of the Board any mental, physical or other incapacity prevents a person entitled to benefits from properly handling his own affairs, then until any benefits to which he is entitled have been claimed by a legally appointed representative, these benefits may, in the discretion of the Board, either be held for his benefit or paid to any one or more persons or institutions responsible for providing for his care and maintenance. The person entitled to the benefits shall promptly be sent notice of any such action.

ARTICLE IX CLAIMS AND APPEALS

Section 1 Claims Procedure

No person shall have any legal or equitable right or claim against the Association, the Union or the Trustees unless the right or claim is specifically provided in the Plan or this Trust Agreement, as amended, or is conferred by affirmative action of the appropriate fiduciaries by authority specifically delegated to them. No interested party may bring any action in any court on any matter arising out of the Plan or this Trust Agreement, the determination of which is otherwise provided for in this Trust Agreement, until the procedure provided in the Plan or this Trust Agreement shall have been exhausted and a decision made with respect to it.

If any dispute or question arises concerning the beneficiaries to whom any benefits should be paid, whether any other payments should be made, or to whom any other assets of the Trust should be delivered, the Trustees, or any of them, may withhold such action until the dispute or question is determined under the appropriate provisions of the Plan and this Trust Agreement. The Trustees may, in the event of competing claims, deposit any sum claimed by two or more parties in escrow and notify the disputants of the willingness of the Trust to deliver this sum so deposited to whoever should establish a right to the sum through appropriate Court action and, in such an event, Trustees shall have no obligation to participate in any litigation between the disputants.

Section 2 Claims and Appeal Procedure

The Trustees shall determine the right of any person to a benefit under the Trust any Plan. The Board shall establish a claims and appeal procedure for any plan consistent with ERISA and lawful regulations.

ARTICLE X AMENDMENTS, MERGER, TRANSFER ASSETS AND/TERMINATION

Section 1 Amendments

The provisions of this Trust Agreement may be amended or modified at any time by mutual agreement of the Associations and the Union, subject to any applicable Collective Bargaining Agreement and applicable law. In no event shall any such amendment or modification permit a reversion of any funds to any employer, the Associations, or the Union, and all the funds shall be used for the benefit of the employees and beneficiaries.

Section 2 Termination

A. The Associations and U.A. Local 467 acting jointly, have the right to terminate this Trust at any time, subject to any applicable Collective Bargaining Agreement and applicable law.

B. In the event of termination, the assets then remaining in the Fund, after providing for any administrative expenses, shall be used for the continuance of one or more benefits of the type provided by the Trust as determined by the Board of Trustees in accordance with applicable law.

Section 3 Limitations on the Power to Amend or Terminate

The powers set forth above to alter, amend or terminate the provisions of this Trust and the Plan are subject and subordinate to the provisions of the applicable and then current Collective Bargaining Agreements relative to this Trust and the Plan; neither Employers nor Union, collectively or individually, nor any Trustee nor Trustees, may effect a termination or alteration or amendment of this Trust or the Plan, except upon the terms and conditions specified in this Trust Agreement or in the applicable and then current Collective Bargaining Agreements relating to this Trust and Plan.

Section 4 Merger/Transfer of Assets to or from Another Benefit Trust

Notwithstanding anything above to the contrary, the Board of Trustees may merge or otherwise transfer the Trust assets or any portion thereof to the Trustees of any other trust or trusts which provide any similar benefit or may receive assets from any other such Trust which is wholly or partially terminated.

Section 5 Termination of Individual Employers

The Board may terminate the participation of any Employer for failure to fulfill its requirement hereunder or failure to continue meeting the requirements for participation as an Employer hereunder as set forth above.

The Board may establish regulations to protect the Trust in the event any Employer's participation terminates, whether voluntarily or involuntarily. Without limitation, these regulations may provide for the curtailment, in whole or in part, of benefits attributable to or dependent upon employment with the terminating Employer. Neither the terminating Employer, its employees nor its representatives shall have any right to the return of any monies contributed to the Trust by the terminating Employer, all which monies shall continue to be held hereunder. Any terminated Employer shall remain liable to the Trust for any obligations incurred by it prior to the effective date of its termination and shall maintain adequate records available to the Trust so that those obligations may be verified.

IN WITNESS WHEREOF, the parties sign this agreement effective January 1, 2019.

U.A. LOCAL 467

**NORTHERN CALIFORNIA
MECHANICAL CONTRACTORS
ASSOCIATION**

Mark Burri, Business Manager

Alex Hall, Executive Vice President

GREATER BAY AREA ASSOCIATION
OF PLUMBING, HEATING, COOLING &
MECHANICAL CONTRACTORS

INDUSTRIAL CONTRACTORS, UMIC, INC.

Michael J. Vlaming, Executive Director

TRUSTEE APPROVAL

We, the Trustees, agree to be bound by the above Trust Agreement.

UNION TRUSTEES

EMPLOYER TRUSTEES

Dated: December 11, 2019