

RESOLUTION NO. 2023 – 28

A RESOLUTION AUTHORIZING THE FIRE CHIEF AND FINANCE MANAGER TO ENTER INTO AGREEMENTS WITH THE OHIO ASSOCIATION OF PROFESSIONAL FIRE FIGHTERS TO PROVIDE A 457(B) RETIREMENT PLAN FOR EMPLOYEES.

WHEREAS, the City of Miamisburg, Ohio and Miami Township, Montgomery County, Ohio created the Miami Valley Fire District (the "District") consistent with Ohio Revised Code Section 505.371 via Joint Resolution, City Resolution No. 2786 and Township Resolution No. 121-2011; and

WHEREAS, the Fire Chief recommends that the Miami Valley Fire District Board of Trustees authorize the Fire Chief and Finance Manager to enter into written agreements with the Ohio Association of Professional Fire Fighters (OAPFF) to provide an alternative 457(b) Retirement Plan for employees.

NOW, THEREFORE, BE IT RESOLVED BY THE MIAMI VALLEY FIRE DISTRICT BOARD OF TRUSTEES THAT:

Section 1.

The Miami Valley Fire District Board of Trustees authorizes the Fire Chief and Finance Manager to enter into a series of written agreement (summarily "the Agreement") with the OAPFF for the purpose of creating an alternative 457(b) Retirement Plan option for employees. The Agreement further authorizes OAPFF to serve as Plan Administrator, Empower Trust Company, LLC to serve as Trustee, and Prudential Retirement Insurance and Annuity Company to serve as Recordkeeper of the Plan.

Section 2.

The Agreement does not require any financial obligation from The Miami Valley Fire District.

Section 3.

This Board hereby finds and determines that all formal actions relative to the adoption of this resolution were taken in an open meeting of this Board, and that all deliberations of this Board and of its committees, if any, which resulted in formal action, were taken in meetings open to the public, in full compliance with applicable legal requirements, including Ohio Revised Code Section 121.22.

Section 4.

This resolution shall be in full force and effect from and immediately after its adoption and shall supersede any prior resolution or act of this Board, which may be inconsistent or duplicative with the provisions of this resolution.

Adopted this 12th Day of October 2023.



John Stalder, President

Yes/No



Terry Posey, Trustee

Yes/No



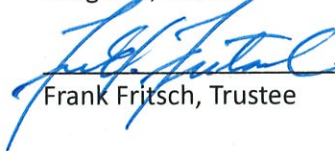
Ann-Lisa Allen, Trustee

Yes/No



Greg Bell, Trustee

Yes/No



Frank Fritsch, Trustee

Yes/No

**OHIO ASSOCIATION OF PROFESSIONAL FIRE FIGHTERS
457(b) DEFERRED COMPENSATION PLAN
ADOPTION AGREEMENT**

The undersigned Employer, a political subdivision of the State of Ohio, hereby executes this Adoption Agreement providing for a Section 457(b) Deferred Compensation Plan ("Plan") for its eligible employees.

The undersigned Employer, on behalf of the Plan, hereby adopts in its entirety the Ohio Association of Professional Fire Fighters Amended and Restated 457(b) Deferred Compensation Plan, the current terms of which are set forth in the attached Plan Document.

By separate agreement and consistent with the terms of the Plan, the undersigned Employer has also entered into an Administrative Agreement with the Ohio Association of Professional Fire Fighters ("OAPFF") for the operation of the Plan. The Administrative Agreement appoints the OAPFF as Plan Administrator, and the attached Plan Document provides that the OAPFF represents the undersigned Employer in all matters concerning the administration of the Plan.

Pursuant to the Administrative Agreement and consistent with the terms of the Plan, the undersigned Employer has appointed **Prudential Bank & Trust Company, FSB** as Trustee of the Trust created under the Plan. The OAPFF has selected and employs **Prudential Retirement Insurance and Annuity Company** as the Plan Recordkeeper. The OAPFF or the undersigned Employer may remove the Trustee at any time by giving proper notice in accordance with the applicable Trust Agreement. The OAPFF may, at its discretion, retain or replace the Plan Recordkeeper, as the OAPFF deems appropriate for the efficient operation of the Plan.

This Adoption Agreement is entered into this _____ day of _____, 20____.

Name of Employer: _____

Address: _____

City: _____

State: _____

Zip: _____

Employer Contact: _____

Contact Phone
Number: _____

Employer's Tax ID: _____

**OHIO ASSOCIATION OF PROFESSIONAL FIRE FIGHTERS
457(b) DEFERRED COMPENSATION PLAN
ADMINISTRATIVE AGREEMENT**

This Administrative Agreement ("Agreement") is executed this _____ day of _____, 20____ by and between the Ohio Association of Professional Fire Fighters ("OAPFF") and _____ ("Employer").

WHEREAS, Employer has established a Section 457(b) Deferred Compensation Plan and may lawfully engage service providers to administer the Plan;

WHEREAS, Employer desires to appoint the OAPFF as Plan Administrator;

WHEREAS, the OAPFF is hereby authorized to accept the appointment of the **Prudential Bank & Trust Company, FSB** as the Plan Trustee under such terms and conditions as are mutually agreed upon;

WHEREAS, the OAPFF as Plan Administrator is authorized to select and employ a Plan Recordkeeper as well as other necessary service providers for the efficient operation of the Plan under terms and conditions acceptable to the OAPFF.

NOW THEREFORE, the Parties agree as follows:

1. Employer hereby appoints the OAPFF as its Plan Administrator. As such, the OAPFF is authorized to provide plan administrative services and shall provide the services and functions set forth in this Agreement.
2. Employer hereby appoints **Prudential Bank & Trust Company, FSB** as Trustee of the Trust created under the Plan. Employer acknowledges that the OAPFF as Plan Administrator and the Plan Participants will direct the investment of all Plan assets and that Plan investments and all other duties of the Trustee under the Plan are non-discretionary and/or directed by others. Further, the terms and conditions of the Trust shall be negotiated on behalf of Employer by the OAPFF, as Plan Administrator. The OAPFF as Plan Administrator will perform the duties specified below in administering the Plan so that Prudential Bank & Trust Company, FSB serves strictly as a passive trustee.

Employer acknowledges that although the Trustee would normally be responsible for the voting of any shares of stock held in the Plan Trust, including mutual fund shares, the Trustee has delegated the responsibility to vote to the OAPFF or an affiliate. Share proxies may be voted as "Present" for any meeting of shareholders so that the records will show that the shares have been voted. The OAPFF or Employer may remove the Trustee at any time by giving proper notice in accordance with the applicable Trust Agreement.

3. The OAPFF is authorized to select and employ a Plan Recordkeeper under terms and conditions acceptable to the OAPFF. The OAPFF has selected and employs **Prudential Retirement Insurance and Annuity Company** as the Plan Recordkeeper to perform those

recordkeeping duties as set forth in its negotiated Service Agreement as well as such other services as are later agreed upon. The OAPFF may, at its discretion, retain or replace the Plan Recordkeeper, as the OAPFF deems appropriate for the efficient operation of the Plan.

4. The OAPFF's administrative services and functions shall include the following:

The OAPFF will provide a copy of the current Plan Document and an Adoption Agreement to Employer, for review and approval. These documents, along with this Agreement, shall govern the Plan. The Plan Document shall provide that the OAPFF represents Employer in all matters concerning the administration of the Plan. The OAPFF's administration of the Plan includes the authority to amend the Plan Document. By adopting the Plan Document, Employer is authorizing the OAPFF to amend and/or restate the Plan Document, as the OAPFF deems appropriate for the efficient operation of the Plan.

The OAPFF will establish and maintain a record for each Participant reflecting the date, amount and type of each transaction in the Participant's account. Employer will determine which of its Employees are eligible to participate in the Plan, and the OAPFF shall be entitled to rely on Employer eligibility determinations.

The OAPFF shall further provide for or engage the services of qualified providers to handle the broad range of administrative duties required for the proper and efficient administration of the Plan including but not limited to: Participant Inquiries, Contributions and Loan Payments, Plan Investments, Plan Enrollment, Ongoing Employee Communications, Investment of Existing Account Assets, Investment of Future Contributions, Other Plan Data, Participant Loans, Distributions, Participant Statements, Contribution Limit Testing, Management Reports, Basic Service Enhancements, Plan Documents, Participant and Plan Data, Fee Billing and Payments.

The OAPFF may, at its discretion, create and establish one or more boards, committees, and/or other bodies to supervise the operation of the Plan and conduct its business and activities. Pursuant to applicable laws and the terms of the Plan Document, the OAPFF may delegate any or all of its powers and duties as Plan Administrator to another person, persons, or entity. The persons and/or entities to whom the OAPFF may delegate its powers and duties include any board, committee, and/or other body that the OAPFF may create and establish, as the OAPFF deems appropriate for the efficient operation of the Plan.

5. Employer or the OAPFF may terminate this Agreement at any time, upon one hundred twenty (120) days' prior written notice to the other party. If terminated, the OAPFF agrees to deliver to Employer or its designee, all records reasonably necessary for the continuing recordkeeping of the Plan.
6. The OAPFF shall indemnify and hold Employer harmless for any claim resulting from the final determination by the Internal Revenue Service or a court of competent jurisdiction that the form of the governmental Code Section 457 deferred compensation plan document fails to conform to the applicable requirements of Section 457 of the Internal Revenue Code. The OAPFF shall indemnify and hold Employer harmless for any claim resulting

from any negligent failure of the OAPFF to follow the terms of the Plan Document or the Service Agreement with the Plan Recordkeeper in administering the Plan.

The indemnity of the OAPFF shall extend to Employer, its governing board, agents and employees in all activities related to the sponsorship or administration of the Plan. Indemnity shall cover all costs associated with covered claims, including attorneys' fees and tax preparation fees. Indemnity shall not extend to any claim to the extent it is based on incorrect or inaccurate information provided by Employer, its agents or employees, or the negligence of Employer, its agents or employees in performing its duties related to the Plan.

Employer shall promptly notify the OAPFF of any claim that is or may be covered by this Agreement and shall tender the defense of such claims to the OAPFF for resolution. Employer shall have the right to participate in such defense, at its own expense, and shall have the right to approve the settlement claim in actual litigation or arbitration, which approval shall not be unreasonably withheld.

7. Notices or other communications given pursuant to this Agreement shall be hand delivered, mailed by first class mail, postage prepaid or via an overnight mail service (such as Federal Express), addressed as follows, or as changed by notice:

A. To OAPFF: Ohio Association of Professional Fire Fighters
Attention: William Quinn, Secretary-Treasurer
140 East Town Street
Columbus, Ohio 43215

B. To Employer: _____

8. This Agreement generally constitutes the entire agreement between the Parties, merging all prior presentations, discussions and negotiations. It may be modified by additional letter or other written side agreements executed by all Parties contemporaneously with this Agreement, which may modify its provisions or meanings. It may be further supplemented, but not modified, by OAPFF from time to time with written procedures that provide a description of the ordinary processes for the Parties to fulfill their obligations hereunder, which shall not exclude extraordinary processing in appropriate situations that produces comparable results. Finally, this Agreement may be amended at any time, but only by written agreement signed by all Parties.
9. No Party may assign this Agreement nor any rights or duties hereunder without the written consent of the other Party.
10. Except to the extent governed by federal law, this Agreement shall be governed by and constructed according to the laws of the State of Ohio.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their authorized representatives.

Effective Date: _____

EMPLOYER: _____

By: _____

Title: _____

OHIO ASSOCIATION OF PROFESSIONAL
FIRE FIGHTERS

By: _____

Title: _____



August 30, 2023

Elyse Martin
Miami Valley Fire District
2710 Lyons Rd.
Miamisburg, OH 45342

Re: Group Annuity Contract for Ohio Association of Professional Fire Fighters Amended and Restated 457(b)
Deferred Compensation Plan

Dear Ms. Martin:

As the entity that will be the Trustee for the above-captioned plan, Empower Trust Company, LLC needs your written authorization to apply for and enter into a group annuity contract with its affiliate to facilitate the investment of Plan assets.

By counter-signing and returning this letter, you affirm the validity of the following statement:

Miami Valley Fire District hereby authorizes Empower Trust Company, LLC, as the entity that will be the Trustee for the Ohio Association of Professional Fire Fighters Amended and Restated 457(b) Deferred Compensation Plan, to take all actions necessary to apply for and enter into a Group Annuity Contract with its affiliate.

Thank you for your prompt attention to this matter.

Sincerely,

Marybeth Dorio

Certification/Authorization by
Miami Valley Fire District

Name: _____

Signature: _____

Title: _____

Date: _____

Marybeth Dorio	8515 E Orchard Road	303-767-6504
Director Trust Services	Greenwood Village, CO 80111	Marybeth.Dorio@empower.com
Empower Trust Company, LLC		

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"EMPOWER" and all associated logos and product names are trademarks of Empower Annuity Insurance Company of America.

TRUST AGREEMENT
(GOVERNMENTAL)

Establishing

the

OHIO ASSOCIATION OF PROFESSIONAL FIRE FIGHTERS
AMENDED AND RESTATED 457(B) DEFERRED COMPENSATION PLAN TRUST

by and between

MIAMI VALLEY FIRE DISTRICT

and

OHIO ASSOCIATION OF PROFESSIONAL FIRE FIGHTERS

and

EMPOWER TRUST COMPANY, LLC

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Exhibit C	Self-Directed Brokerage Participant Agreement

THIS TRUST AGREEMENT is made by and between Miami Valley Fire District in (hereinafter called the "Employer"), Ohio Association of Professional Fire Fighters ("OAPFF") and Empower Trust Company, LLC, a trust company chartered under the laws of the State of Colorado having a place of business in Greenwood Village, Colorado (hereinafter called the "Trustee").

WITNESSETH:

WHEREAS, the Employer has established or adopted for its eligible employees the Ohio Association of Professional Fire Fighters Amended and Restated 457(b) Deferred Compensation Plan (hereinafter called the "Plan") and has engaged the services of and delegated the OAPFF as its Plan administrator (hereinafter called the "Plan Administrator") and Plan fiduciary; and

WHEREAS, the Employer desires the Trustee to hold Plan funds and the Trustee is willing to hold such funds pursuant to the terms of this Trust Agreement;

NOW, THEREFORE, in consideration of the premises and mutual covenants herein contained, the parties hereto do hereby mutually declare and agree as follows:

Section 1: Establishment of Trust.

- (a) In order to carry out the purposes of the Plan, the Employer hereby creates and establishes a trust to be known as the Ohio Association of Professional Fire Fighters Amended and Restated 457(b) Deferred Compensation Plan Trust (hereinafter called the "Trust" or "Trust Fund"). The Trustee accepts this Trust and agrees to act as Trustee hereunder, but only on the terms and conditions set forth in this Trust Agreement. Subject to the terms and conditions of this Trust Agreement, all right, title and interest in and to the estate of the Trust Fund shall be vested exclusively in the Trustee. This Trust shall be effective on November 1, 2023 or, if later, the date executed on behalf of the Trustee.
- (b) The Trust Fund shall include only those assets which the Trustee accepts and which are identified on Exhibit A. Only assets actually received by the Trustee will become part of the Trust Fund. The Employer and Plan Administrator acknowledge and agree to be responsible for effectuating the transfer of any Plan assets held by a prior trustee or custodian to the Trustee. All assets so received, together with the income therefrom and any other increment thereon, shall be held by the Trustee pursuant to the terms of this Trust Agreement without distinction between principal and income and without liability for the payment of interest thereon.

Section 2: General Duties of the Employer and Plan Administrator; Indemnification.

- (a) The Plan Administrator shall control and manage the operation of the Plan. The Plan Administrator shall be responsible for determining benefit rights under the Plan, instructing the Trustee in the disbursement of benefits, investment management, soliciting stock voting instructions from participants, directing the Trustee in voting proxies and performing those plan administration functions specified in the Plan.
- (b) Plan Administrator shall act as custodian with respect to promissory notes, mortgages and related documents given in connection with Plan loans, if any, and the Plan Administrator or another delegate of the Employer or Plan Administrator shall hold in safekeeping all such promissory notes, mortgages and related documents.
- (c) The Trustee shall be fully protected and shall incur no liability in acting in reliance upon the instructions or directions of the Employer, Plan Administrator or any other delegate of the Employer. In addition, the Trustee shall be entitled to rely on directions given by a Plan participant, where the Plan provisions permit such direction. Any reference herein to directions

or instructions from the Employer or Plan Administrator shall include directions or instructions from any delegate of the Employer or Plan Administrator, or from a Plan participant, where the Plan provisions permit such direction.

- (d) The Plan Administrator shall indemnify and hold harmless the Trustee from and against any and all claims, losses, damages, expenses (including reasonable counsel fees) and liability to which the Trustee may be subject by reason of any act done or omitted to be done, except where the same is finally adjudicated to be due to the negligence or willful misconduct of the Trustee.
- (e) In addition to and in no way in limitation of the indemnification of paragraph (d), the Plan Administrator hereby agrees to indemnify and hold harmless the Trustee from and against any claims, losses, damages, expenses (including reasonable counsel fees) and liability to which the Trustee may be subject by reason of any act or omission of any other prior, subsequent or existing trustee of the Plan.
- (f) The Plan Administrator (or another named fiduciary for contributions, if appointed by the Employer or Plan Administrator) shall have sole and exclusive responsibility for: (i) determining the amount of contributions required to be made under the Plan, (ii) monitoring and ensuring that contributions are made to the Plan in a timely manner and (iii) if required to ensure that contributions are made to the Plan, directing the Trustee with respect to the Plan's legal claims for delinquent contributions.

Section 3: Appointment and Duties of Investment Manager.

- (a) The Plan Administrator may, in writing, appoint an Investment Manager to assume the responsibility for the investment of any portion of the assets of the funds held in the Trust for such time as the Plan Administrator may determine and, unless such power is reserved to the Plan Administrator, for directing the Trustee to vote or refrain from voting any securities held in the Trust over which the Investment Manager has investment responsibility, or to exercise or refrain from exercising any rights to subscribe for additional securities appurtenant to such securities. Appointment of an Investment Manager, or communication of such to the Plan Administrator, shall constitute an allocation to the Investment Manager of fiduciary responsibility for the part of the Trust funds subject to the Investment Manager's management and control.
- (b) The Plan Administrator ascertains and certifies to the Trustee that any Investment Manager appointed hereunder is (i) registered as an investment adviser under the Investment Advisers Act of 1940; (ii) a bank, as defined in that Act; or (iii) an insurance company qualified to perform investment management services under the laws of more than one state, and that the instrument or instruments appointing an investment manager and evidencing the Investment Manager's acceptance of such appointment contains an acknowledgement by the Investment Manager that it is a fiduciary with respect to the Plan.
- (c) The Investment Manager(s) shall have sole responsibility for the investment and, unless reserved to the Plan Administrator, the voting and subscription action of the portion of the Trust funds under its respective management, and the Trustee shall take such action only upon the instructions of the Investment Manager. The Trustee shall not be liable for, or obligated to inquire into, the acts or omissions of any Investment Manager appointed hereunder.
- (d) The Investment Manager shall from time to time certify to the Trustee the name of the person or persons authorized to act on its behalf, and shall furnish to the Trustee a specimen signature of any such person. When any person ceases to have the authority to act on behalf of the Investment Manager, the Investment Manager shall promptly notify the Trustee. Until such notice is received by the Trustee, such person shall continue to be an authorized representative of the Investment Manager.

- (e) All directions to the Trustee by the Investment Manager shall be in writing and shall be signed by the Investment Manager or its authorized representative. Provided the Plan Administrator has previously approved, written directions from the Investment Manager may be provided through any mutually agreed upon electronic or facsimile communication device, and the Trustee may fully rely upon the validity and authenticity thereof.
- (f) If an Investment Manager resigns or is removed by the Plan Administrator the Plan Administrator shall promptly notify the Trustee and that portion of the Trust funds shall again be invested pursuant to the instructions of the Plan Administrator until another Investment Manager has been appointed with respect to that portion of the Trust funds.

Section 4: General Duties of Trustee.

- (a) The Trustee shall receive, hold, manage, invest and reinvest the Trust Fund pursuant to the provisions of this Section and Section 5 in accordance with the directions of the Plan Administrator. The Trustee shall take no action except pursuant to directions received by it from the Plan Administrator, and shall have no duty to determine any facts or the propriety of any action taken or omitted by it in good faith pursuant to instructions from such persons.
- (b) The Trustee shall be responsible, pursuant to the Plan Administrator's direction, only for such assets as are actually received by it as Trustee hereunder. The Trustee shall have no duty or authority to ascertain whether any contributions should be made to it pursuant to the Plan, nor shall it have any responsibility concerning the amount of any contribution or the application of the Plan's contribution formula. The Trustee shall be obligated to take actions to enforce the Plan's claims for delinquent contributions solely upon the direction of either (i) the Employer (ii) Plan Administrator or (iii) another Plan fiduciary for contributions who has been designated in accordance with the Plan.
- (c) The duties and obligations of the Trustee hereunder shall be limited to those expressly imposed upon it by this Trust Agreement notwithstanding any reference herein to the Plan, and no further duties or obligations of the Trustee, such as a duty to value Plan investments, determine the prudence of any Plan investment, or diversify Plan investments, shall be implied. The Trustee shall not be liable in discharging its duties hereunder if it acts in good faith and in accordance with the terms of this Trust Agreement and in accordance with applicable Federal or state laws, rules and regulations.

The Trustee shall have no responsibilities, duties and obligations with respect to any assets not held under this Trust and not identified in Exhibit A, even if those assets are held as assets of the Plan under a separate trust agreement. Any duties and obligations arising from such assets shall be solely those of the trustees named in such separate trust agreement, or, in the event no such separate trust exists, the plan sponsor.

Section 5: Power and Duties of Trustee with Respect to Trust Fund.

The Trustee shall have the following powers and duties regarding the Trust Fund:

- (a) To hold title to the assets of the Trust Fund, which may include entering into depository arrangements for the safekeeping of records relevant to the ownership of such assets with any bank or banks as the Trustee may choose. Without limiting the generality of the foregoing, the Plan Administrator specifically directs the Trustee to appoint, and the Trustee hereby appoints the Plan Administrator or another delegate of the Employer or Plan Administrator to act as custodian with respect to promissory notes, mortgages and related documents given in connection with Plan loans, if any.
- (b) To invest the assets of the Trust Fund in such investment vehicles as directed by the Plan Administrator, including Plan loans made to participants, and annuity or insurance contracts

issued by affiliates of the Trustee, in accordance with directions received from the Plan Administrator, and to agree to amendments to such annuity or insurance contracts, as directed by the Plan Administrator. The Trustee shall have no duty or responsibility to determine the appropriateness of any plan investment, or to cause such investments to be changed. Notwithstanding any other provision of this Agreement, all notices, proposed contract amendments, rate or fee changes or other communications regarding all group annuity contracts that are assets of the Plan, including any group annuity contract issued by an affiliate of the Trustee, will be sent directly by the issuer of the contract to the Plan Administrator, or forwarded by the Trustee to the Plan Administrator, and the Trustee shall act on behalf of the Plan with respect to any such notice, proposed amendment, change or other communication only in accordance with the written direction of the Plan Administrator. Any rights of a contractholder under any such group annuity contract to discontinue, amend or otherwise modify the contract shall be exercised only upon the specific written direction of the Employer to the issuer of the contract or by the Trustee at the Plan Administrator's specific written direction.

- (c) To make transfers among investment vehicles or disbursements from the Trust Fund as directed by the Plan Administrator. The Trustee shall be entitled to rely on such direction, and shall have no responsibility to ascertain whether the Plan permits such a transfer or disbursement.
- (d) To delegate to third parties, including affiliates of the Trustee, any or all of its duties hereunder, including recordkeeping, reporting, and proxy voting. Also, the Trustee may utilize the services of outside custodians to hold on the Trustee's behalf any Plan assets invested in securities.
- (e) To vote securities proxies as directed by the Plan Administrator, or by another named fiduciary or investment manager designated by the Plan Administrator. The Trustee shall not be responsible, however, for providing securities proxy tabulation services.
- (f) The Trustee shall discharge its duties with respect to a plan solely in the interest of the participants and beneficiaries and with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

Section 6: Payment of Taxes.

The Trustee shall pay out of the Trust Fund income taxes and other taxes of any and all kinds levied or assessed under existing or future laws against the Trust Fund, or against any person with an interest in the Trust Fund.

Section 7: Disbursement of Trust Funds.

- (a) Upon receipt of written direction of the Plan Administrator, the Trustee shall make payments from the Trust Fund to such persons or direct its affiliate that is providing recordkeeping services to make such payments from an annuity contract listed on Exhibit A in such manner and in such amounts as the Plan Administrator shall direct in writing, and amounts paid pursuant to such direction shall no longer constitute a part of the Trust Fund. Notwithstanding the foregoing, the Plan Administrator expressly reserves the right to provide direction directly to the affiliate of the Trustee providing recordkeeping services regarding payments of Plan benefits or other disbursements.
- (b) At no time prior to the satisfaction of all liabilities with respect to participants and beneficiaries under this Trust shall any part of the corpus or income of the Trust Fund be used for, or diverted to, purposes other than for the exclusive benefit of plan participants or beneficiaries. Except as provided in the Plan, the assets of the Trust Fund shall never inure to the benefit of the Plan Administrator and shall be held for the exclusive purpose of providing benefits to participants in the Plan and their beneficiaries, and defraying reasonable expenses of administering the Plan.

Section 8: Expenses and Compensation of Trustee.

The Trustee shall be compensated in accordance with the expense schedule within the Empower Annuity Insurance Company administrative services agreement for the Plan. The Trustee shall be entitled to reimbursement from the Plan for any and all costs and expenses incurred in taking actions to collect delinquent contributions, if any, and to engage and pay from the Trust Fund legal counsel, collection agents, or such other agents or advisors as the Trustee may determine appropriate in taking actions to collect delinquent contributions. In addition, the Trustee shall be paid its reasonable expenses, including reasonable expenses of counsel and other agents employed by the Trustee, incurred in conjunction with the administration of the Trust Fund, provided the Trustee has notified the Plan Administrator in advance. Any additional fees or reasonable expenses described in the immediately preceding sentence incurred in conjunction with the administration of the Trust Fund by the Trustee must be reasonable, incurred under extraordinary circumstances, and not in the normal course of business.

Section 9: Expenses of the Plan and Trust Fund.

If permitted by the Plan, the reasonable expenses relating to the Plan and Trust Fund shall be paid by the Trust. Such expenses shall include, without limitation, actuarial, investment management, accounting, legal and Trust expenses.

Section 10: Accounts of the Trustee.

The Trustee has accepted this Trust on the condition that the Employer or Plan Administrator has entered or is entering into a service agreement with an affiliate of the Trustee whereby such affiliate of the Trustee will provide recordkeeping services for all Plan assets held pursuant to this Trust Agreement. The Trustee shall be required to forward to the Plan Administrator, or require an affiliate of the Trustee to forward to the Plan Administrator, the recordkeeping reports and related financial information provided by an affiliate of the Trustee, but the Trustee shall not otherwise be required to provide Trust accounts.

Section 11: Resignation, Removal and Substitution of Trustee.

- (a) The Trustee may resign at any time by giving at least 120 days' written notice to the Employer or Plan Administrator (unless the Employer or Plan Administrator deems notice of a shorter duration to be adequate). The Employer or Plan Administrator may remove the Trustee at any time by giving at least 120 days' written notice to the Trustee (unless the Trustee deems notice of a shorter duration to be adequate).
- (b) The Trustee's service pursuant to this Agreement is conditioned upon the existence of one or more contracts between the Employer, Plan Administrator or the Plan (or the Trustee on behalf of the Employer, Plan Administrator or the Plan) and a subsidiary or affiliate of Empower Retirement, LLC providing a funding medium for the Plan or providing for full Plan recordkeeping services. In the event the contract providing a funding medium or providing for recordkeeping services is discontinued or terminated, this Agreement shall be terminated as well with no further notice from either party to the other as of the date of discontinuance or termination of the contract providing a funding medium or providing for recordkeeping services.
- (c) Any successor trustee hereunder may be either a corporation authorized and empowered to exercise trust powers or may be one or more individuals.
- (d) Upon the appointment of a successor trustee, the resigning or removed Trustee shall execute, acknowledge and deliver all documents and written instruments necessary to transfer and deliver the Trust Fund and all rights and privileges therein to the successor trustee. Upon the appointment of a successor trustee, the resigning and removed Trustee shall be discharged from further accountability for the Trust Fund, and shall be under no further duty, obligation or responsibility for the disposition by such successor trustee of the Trust Fund or any part thereof.

Section 12: Amendment and Termination of Trust.

- (a) The Plan Administrator and the Trustee may mutually agree at any time to amend this Trust Agreement and the Trust created hereby to any extent deemed advisable. No amendment to this Trust Agreement shall be effective unless mutually agreed to in writing by the Employer and the Trustee.
- (b) The Employer may at any time revoke this Trust Agreement and terminate the Trust hereby created. Such revocation and termination shall become effective upon receipt by the Trustee or its delegate of a written instrument of such revocation and termination executed by the Employer. Upon such termination, disposition of the assets of the Trust Fund shall be governed by the terms of the Plan. The Employer agrees in writing with the Trustee to indemnify the Trust Fund for any taxes or other penalties which may be assessed against it as a result of such termination or agrees to provide a bond to secure payment of any such taxes or penalties.

Section 13: Miscellaneous Provisions.

- (a) This Trust Agreement and the Trust hereby created shall be governed, construed, administered and regulated in all respects under the law of the United States and the State of Ohio.
- (b) The titles of the Sections in this Trust Agreement are for convenience of reference only and in case of any conflict, the text of this instrument, rather than such titles, shall control.
- (c) In case any provisions of this Trust Agreement shall be held illegal or invalid for any reason, their illegality or invalidity shall not affect the remaining parts of this Trust Agreement, and this Trust Agreement shall be construed and enforced as if the illegal and invalid provisions had never been a part of the Trust Agreement.
- (d) This Trust Agreement may be executed in any number of counterparts, each of which shall be deemed an original. The counterparts shall constitute one and the same instrument and may be sufficiently evidenced by any one counterpart.
- (e) This Trust Agreement shall be binding upon the respective successors and assigns of the Employer, Plan Administrator, and the Trustee.
- (f) Neither the gender nor the number (singular or plural) of any word shall be construed to exclude another gender or number when a different gender or number would be appropriate.
- (g) In the event of any conflict between provisions of the Plan and those of this Trust Agreement, this Trust Agreement shall prevail. Provisions in other documents, including but not limited to plan documents, group annuity contracts, and/or service agreements, that might otherwise reflect the powers, duties, and responsibilities of the Trustee, shall in no way supersede or replace any of the provisions contained in this Trust Agreement. This Trust Agreement shall constitute the entire agreement between the Employer, Plan Administrator and the Trustee.
- (h) Communications to the Trustee shall be sent to the Trustee's principal offices or such address as the Trustee may specify in writing. No communication shall be binding upon the Trustee until it is received by the Trustee or its delegate. Communications to the Employer or Plan Sponsor shall be sent to the Employer's principal offices or such address as the Employer or Plan Sponsor may specify in writing.

IN WITNESS WHEREOF, this Trust Agreement has been executed on the dates indicated below. The persons executing this Trust Agreement represent that they are duly authorized to do so.

MIAMI VALLEY FIRE DISTRICT

By _____

Title _____

Date _____

**OHIO ASSOCIATION OF
PROFESSIONAL FIRE FIGHTERS**

By _____

Title _____

Date _____

EMPOWER TRUST COMPANY, LLC

By _____

Title _____

Date _____

EXHIBIT A

SCHEDULE OF TRUST ASSETS

1. Group Annuity Contract GA-75919, issued by an affiliate of the Trustee.
2. Plan assets invested in investment options offered through an affiliate of the Trustee as designated in the Investment Selection Directive, and any subsequent amendment thereto, or other written communication executed by an authorized representative of the Employer.
3. Promissory notes given in connection with loans to Plan participants and beneficiaries.
4. Self-Directed Brokerage Accounts. The Plan Administrator hereby directs the Trustee to allow Plan participants to establish self-directed brokerage accounts ("Brokerage Accounts") with Prudential Investment Management Services LLC ("PIMS") as the investment alternatives under the Plan and assets of the Trust in accordance with the instructions of Plan participants. Such Brokerage Accounts will be established pursuant to an application and participant agreement between each participant and PIMS; specimen copies of such application and participant agreement are attached hereto as Exhibit B and Exhibit C, respectively. The Employer acknowledges that, throughout the term of such Brokerage Accounts, the Plan will allow for participant-directed investments and will allow for the pass-through of voting rights to participants. The Trustee shall be fully indemnified by the Plan Administrator and incur no liability in acting in reliance upon the instructions or directions of the Plan participant in accordance with this Trust Agreement. The Plan Administrator shall direct the Trustee to invest amounts allocated to a Brokerage Account. The Plan Administrator directs the Trustee to invest amounts allocated to a Brokerage Account in a money market mutual fund (the "Money Market Fund") after amounts have been transferred to the Brokerage Account but prior to (or otherwise in absence of) receipt and implementation by PIMS of the Plan participant's investment instructions. A prospectus for such Money Market Fund has been provided to the Employer or Plan Administrator. The Trustee, in accordance with the Plan Administrator's or Employer's direction pursuant to this Trust Agreement, may terminate any Brokerage Account.