

## TRUST AGREEMENT FOR THE COSE HEALTH AND WELLNESS TRUST

This Declaration and Agreement of Trust, establishing the COSE Health and Wellness Trust ("Trust Agreement") pursuant to and in accordance with Section 1746.01, et seq. of the Ohio Revised Code ("RC"), is entered into by and between the Greater Cleveland Partnership as settlor, and the individuals who have signed this Trust Agreement as the initial Trustees of the Trust established pursuant to this Trust Agreement effective as of the last date set forth in the signature section of this Trust Agreement.

### WITNESSETH

WHEREAS, the Greater Cleveland Partnership desires to establish a multiple employer welfare arrangement (the "COSE Health and Wellness Trust") under the applicable laws of the State of Ohio and ERISA, to the extent applicable, to make available health and wellness benefits to those members of the organization and employer members of its Council of Smaller Enterprises ("COSE") who agree to the terms and conditions of participation therein and make contributions to this Trust to provide for the payment of such benefits; and

WHEREAS, the individuals who have signed this Trust Agreement as the initial Trustees of this Trust desire to hold, invest and disburse the contributions made by Participating Employers to provide for the payment of the health and wellness benefits called for under the Program to, and on behalf of, the Subscribers employed by the Participating Employers who agree to make contributions to this Trust;

NOW, THEREFORE, the Greater Cleveland Partnership and the individuals who have signed this Trust Agreement as the initial Trustees of this Trust agree as follows:

### § 1

#### DEFINITIONS

"Administrator" means the Person or Persons described in § 7.

"Code" means the Internal Revenue Code of 1986, as amended.

"COSE" means the Council of Smaller Enterprises, which is the Greater Cleveland Partnership's council of member small businesses with less than 150 employees.

"Dependent" means the dependent of a Subscriber or, if the term "dependent" is more precisely defined in the applicable part of the Program, a dependent of a Subscriber as more precisely defined in the applicable part of the Program.

"Employee" means a common law employee of a Participating Employer; where a Participating Employer is an individual who is self-employed, the individual who is a self-employed Participating Employer.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended.

“Greater Cleveland Partnership” means the Greater Cleveland Partnership, a Code Section 501(c)(6) chamber of commerce membership organization focused on member services, economic development and business advocacy for the business community of Northeast Ohio.

“MEWA” means a multiple employer welfare arrangement as defined in Section 3(40)(A) of ERISA (without regard to paragraphs (i), (ii) and (iii) thereof) and Section 1739.01(F) of the Ohio Revised Code, provided that the MEWA shall not constitute or be treated by the Trustees as an “employee welfare benefit plan” in its own right, under Title I of ERISA. For purposes of RC Section 1739.01, *et seq.*, this Trust, and the program of benefits being funded thereby, shall constitute the MEWA.

“Participating Employer” means a member in good standing of the Greater Cleveland Partnership or COSE and who has entered into a Participation Agreement that satisfies the requirements of Section 5.1 hereof. For purposes of RC Section 1746.05(A)(4) and (A)(5), each Participating Employer shall be deemed to hold a non-transferable, fully assessable beneficial share in the Trust *corpus* for each Subscriber covered by the Program being funded through the Trust, while such Subscriber is so covered.

“Participation Agreement” means a written agreement which satisfies the requirements of Section 5.1 hereof and otherwise sets forth the terms and conditions under which a Participating Employer can offer the opportunity to the Employees of the Participating Employer to be covered by the Program.

“Person” shall be construed to mean and include an individual, a trust, partnership, association, company or corporation as described in § 7701(a)(1) of the Code.

“Program” means the documents approved by Greater Cleveland Partnership, which set for the terms and conditions for the provision of health and wellness benefits for Subscribers and their Dependents which are paid for through the Trust.

“Subscriber” means an Employee who has accepted a Participating Employer’s offer to be covered by the Program and agreed to the terms and conditions of such coverage. Where the Subscriber and the Participating Employer are one and the same, execution of the Participation Agreement shall be treated as acceptance by the Employee of coverage and an acknowledgement by the Participating Employer that it has at least one “employee” for purposes of RC Section 1739.15(A).

“Trust” means this COSE Health and Wellness Trust, as such Trust is amended from time to time pursuant to the terms of this Trust.

“Trustee” means an individual who is serving as such under this Trust Agreement.

## § 2

### THE TRUST

2.1 Purpose. The primary purpose of this Trust is to hold and invest the contributions made to this Trust for the exclusive benefit of the Subscribers covered by the Program and their Dependents and to pay from the assets of this Trust the reasonable and proper expenses of the Program and this Trust.

2.2 Initial and On-Going Contributions. After an initial contribution has been made to settle and establish this Trust under Ohio law, on-going contributions to the Trust shall be determined by the Trustees based on the recommendations of the Administrator after taking into account the applicable requirements of Ohio law (including, without limitation, the requirements set forth in RC Section 1739.13) and shall be made monthly by the Participating Employers based on the benefits elections made by their Subscribers under the Program. Contributions made for any month shall be made on or before the 1<sup>st</sup> day of the billing month.

2.3 Distributions. Distributions shall be made from this Trust to pay claims for benefits under the Program as directed by the Administrator and the reasonable and proper expenses of the Program and this Trust, including (but not limited to), the payment of legal, accounting and actuarial fees, the Administrator's reimbursement or compensation and the insurance premiums for stop loss coverage, director and office liability coverage, errors and omissions coverage and the fidelity bond required under ERISA, to the extent applicable.

2.4 Situs and Applicable Law. The situs for the Trust shall be in the State of Ohio, and the Trust shall be subject to the laws of the State of Ohio (including, without limitation the provisions of RC Section 1746.01, *et seq.*), except to the extent such laws are preempted by relevant federal law (including, without limitation, ERISA). Unless otherwise directed by the Trustees, the books and records of the Trust shall be maintained at the offices of the Greater Cleveland Partnership and COSE, 1240 Huron Road E., Suite 300, Cleveland, Ohio, 44115, which shall be treated as the Trust's principal office.

### § 3

#### THE TRUSTEES

3.1 Duties and Responsibilities. The Trustees shall have the duty and the responsibility for the overall operation and administration of this Trust and the COSE Health and Wellness Trust, and sole responsibility for ensuring that the MEWA complies with all relevant provisions of RC Sections 1739.01, *et seq.* and 1746.01 *et seq.* In carrying out and discharging the foregoing duties and responsibilities, the Trustees shall have the power to take any and all action as the Trustees deem necessary or appropriate to properly fulfill such duties and responsibilities; provided, however,

(a) the Administrator as set forth in § 7 shall have the duties and the responsibilities set forth in § 7 and shall have the power to take any and all action as the

Administrator deems necessary or appropriate to properly fulfill such duties and responsibilities; and

(b) the Trustees shall have no duties or responsibilities with respect to the actual provision of health or wellness benefits to Subscribers and their Dependents under the Program.

3.2 Number. The initial Trustees shall be the three (3) individuals who sign this Trust Agreement. The number of the successor Trustees to the initial Trustees shall be determined by a majority vote of the then serving Trustees but that number shall be no more than eleven (11) and no less than three (3) individuals.

3.3 Qualification. An individual shall be eligible to serve as a Trustee if he or she is a representative of a Participating Employer or is a nominee of the Greater Cleveland Partnership if the Greater Cleveland Partnership in its discretion determines that the individual has particular skills, training, education or experience that would be of benefit to this Trust.

3.4 Experts. If the Trustees determine that consulting with any Person on any matter within the jurisdiction of the Trustees is necessary or appropriate, the Trustees shall have the discretion to engage such Person and to pay from this Trust the reasonable compensation for such Person and to rely on such Person's advice to the extent the Trustees deem prudent under ERISA, to the extent applicable, to do so.

### 3.5 Nomination, Election and Term.

(a) Initial Trustees. The term for the initial Trustees shall be staggered. The term for the initial Trustee identified on the signature page of this Trust Agreement as "A" shall be one year, the initial Trustee identified on the signature page of this Trust Agreement as "B" shall be two years, and the term for the initial Trustee identified on the signature page as "C" shall be three years.

(b) Successor Trustees. Except as provided in § 3.7, the successors to the initial Trustees shall be nominated by the agreement of the initial Trustees and the Greater Cleveland Partnership and shall be elected at the annual meeting described in § 6 by a majority vote of the then Participating Employers who vote on the date set by the Trustees. An initial Trustee shall be eligible to be a successor Trustee. The term for each successor Trustee shall typically be three years, provided that the terms may differ so as to allow staggered terms and to allow mid-term replacements.

3.6 Compensation. No compensation shall be paid from this Trust to a Trustee for services rendered as a Trustee. However, a Trustee's reasonable and proper expenses for serving as such shall be reimbursed from the assets of this Trust subject to its approved reimbursement policies or the specific approval of a majority of the other Trustees.

### 3.7 Resignation or Removal.

(a) Resignation. A Trustee may resign at any time after the delivery of thirty (30) days' written notice to the other Trustees. Any such resignation shall be effective without judicial action at the end of such notice period or at such later date as specified in such notice.

(b) Removal. A Trustee shall be removed as a Trustee (1) if he or she under applicable law is formally charged with a felony or a crime of moral turpitude, which removal shall be automatic or (2) if he or she is determined by a majority vote of the other Trustees to no longer carry his or her fair share of work load as a Trustee. The effective date of any such removal shall be determined by a majority vote of the other Trustees.

(c) Replacement. If a Trustee resigns or is removed, the remaining Trustees by a majority vote shall elect his or her successor and the successor shall serve as a Trustee for the remaining term of the Trustee who resigned or is removed.

(d) Accounting. If a Trustee resigns or is removed, the remaining Trustees may (notwithstanding any other provision of this Trust) by majority vote require an accounting before such resignation or removal is effective.

3.8 Officers. The Trustees by majority vote shall elect one Trustee as the Chairman for the Trustees. The Trustees may elect additional officers for the trust as necessary to effectively fulfill its responsibilities. The Trustees will elect these officers by majority vote, each to serve as such at the pleasure of or for term or terms as set by a majority vote of the Trustees. The Trustees may establish criteria for each office based on its responsibilities and the skills and expertise the Trustees deem necessary to fulfill those responsibilities.

3.9 Trustee Meetings and Trustee Action. The Trustees shall meet not less than quarterly in or about Cleveland, Ohio as called upon to do so by the Chairman of the Trustees after reasonable, written notice to the Trustees, whether in a face-to-face meeting or via an teleconference or other electronic means, to discuss the finances of this Trust and such other matters as presented to the Trustees by the President or any other Trustee. Action taken by the Trustees with or without a meeting shall be undertaken by a majority vote of the Trustees whether by proxy or otherwise.

## § 4

### INVESTMENTS

4.1 General. Subject to any restrictions imposed by applicable law, the Trustees will hold, invest and reinvest the assets of this Trust, keeping them invested as a single fund without distinction between principal and income, in any securities, bonds, notes, debentures, deposits, commercial paper, obligations of the United States government

and its agencies, “stop-loss” and other insurance policies, or other investments, whether domestic or foreign, of any kind, class or character as the Trustees deem suitable for this Trust. Such investment and reinvestment will comply with any restrictions applicable to investments by a MEWA and a welfare benefit plan under ERISA and applicable Ohio law. The Trustees will have sole responsibility to account for earnings derived from their investment and reinvestment of the assets of this Trust. The Trustees may hold a reasonable portion of the assets of this Trust in cash pending investment or payment of Program benefits and Program and Trust expenses. The Trustees will keep other cash earning at a reasonable interest rate in accounts in any banking or similar financial institution which is regulated by the United States or a state in the United States or in demand notes and interests in demand notes, Treasury Bills, short-term negotiable commercial paper, money market instruments, or other cash equivalents as the Trustees deem suitable for the Trust, with a rating of at least A-1 (S&P) and P-1 (Moody’s) where applicable.

(a) The *Cash Management Fund* represents the core cash position of the MEWA. The Fund will remain sufficiently liquid to enable the MEWA to meet its financial obligations as they come due. Management will establish a balance to meet short-term obligations. When the balance of the short-term fund exceeds the targeted balance, management is authorized to transfer excess funds to the *Investment Fund* where broader opportunities for investment are available. Management is further authorized to transfer funds into the Cash Management Fund to restore its balance to required levels.

(b) The asset allocation strategy for the *Investment Fund* will depend on the MEWA’s investment time horizon and the ability to tolerate risk. Given the MEWA’s desire to generate income while preserving capital, the core investments of the Trust will consist primarily of investment grade fixed-income securities. The overall duration of the fixed income portfolio should match the liabilities of the MEWA.

4.2 Trustee Investment Powers. The Trustees in addition to any powers available under applicable Ohio law are authorized and empowered:

(a) to retain property constituting all or any part of this Trust held by it or to sell, exchange, convey, transfer, or otherwise dispose of any property constituting all or any part of this Trust held by it by private contract or at public auction, and no Person dealing with the Trustee will be bound to see to the application of the purchase money or to inquire into the validity, expediency, or propriety of any such sale or other disposition;

(b) to make commitments, either alone or in company with others, to purchase at any future date any property, investments, or securities as authorized under § 4.1;

(c) to vote, to give general or special proxies or powers of attorney with or without power of substitution, to exercise any conversion privileges, substitution rights, or other options, to consent to or otherwise participate in corporate reorganizations or other changes affecting corporate securities, to delegate discretionary powers and to pay any assessments or charges in connection with the foregoing; and generally to exercise any of the powers of an owner with respect to stocks, bonds, securities, or other property held in this Trust;

(d) to make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the Trustee's powers under this § 4.2;

(e) to register any investment held in this Trust in the name of the Trustees or in the name of a nominee and to hold any investment in bearer form, but the books and records of the Trustees will at all times show that all investments are part of this Trust;

(f) to compromise or otherwise adjust all claims in favor of or against this Trust (other than benefits payable under the Program);

(g) to borrow for the benefit of this Trust, for such period of time and upon such terms and conditions as may be deemed proper, any sum or sums of money, and to secure such loans by mortgage or pledge of any property belonging to this Trust, without personal liability therefore;

(h) to execute such deeds, leases, contracts, bills of sale, notes, proxies and other instruments in writing as will be deemed requisite or desirable in the proper administration of this Trust;

(i) to do all acts, take all actions, and exercise all rights and privileges that the Trustees deem necessary to administer this Trust and to carry out the purposes of this Trust; and

(j) to employ such agents, attorneys, accountants, custodians and financial counsel, and other Persons who are necessary or desirable for the administration of this Trust and to carry out the purposes of this Trust, and to pay their reasonable expenses and compensation.

**4.3 Prohibited Transactions.** The Trustees will not exercise any power or authority under this Trust in a manner that will constitute a prohibited transaction as described in § 406 of ERISA, other than one covered by a statutory, regulatory or discretionary exemption, or that will contravene any of the applicable requirements under Ohio law (including without limitation RC Section 1739.20 or the other MEWA laws of Ohio).

**4.4 Professional Investment Manager.** The Trustees may engage a professional investment manager to manage, acquire and dispose of any assets of this Trust, or to direct the Trustees in the management, acquisition and disposition of any such assets; provided, any such professional investment manager

(a) is a registered as an investment adviser under the Investment Advisers Act of 1940;

(b) is a bank, as defined in the Investment Advisers Act of 1940; or

(c) is an insurance company qualified under the laws of more than one state to manage, acquire and dispose of assets of this Trust; and

(d) acknowledges in writing its fiduciary status under ERISA with respect to this Trust.

4.5 Taxes. All taxes of any and all kinds that may be levied or assessed under any applicable State or Federal laws upon this Trust (excluding taxes, if any, upon benefits paid to or on behalf of Subscribers or their Dependents) will be paid from this Trust.

## § 5

### COMMENCEMENT AND TERMINATION OF PARTICIPATING EMPLOYERS

5.1 Commencement of Participation. Any Person actively engaged in the conduct of a trade or business (whether or not incorporated or organized as a limited liability company or partnership), who (a) is a member in good standing of the Greater Cleveland Partnership or COSE, (b) enters into a Participation Agreement which satisfies the requirements of the MEWA laws of Ohio (including specifically and without limiting the generality of the foregoing, RC Sections 1739.15(A) and 1739.20(A)(4)) and otherwise substantially conforms to the terms and conditions set forth in the specimen Participation Agreement attached hereto as Exhibit A, and (c) timely makes the contributions and pays any assessments required thereby, shall become and remain a Participating Employer.

5.2 Withdrawal By Participating Employer. Subject to the approval of the Trustees and satisfying all of the obligations imposed upon it by the Participation Agreement it signed, a Participating Employer may withdraw as a Participating Employer so long as such Participating Employer provides not less than thirty (30) days' advance written notice to the Trustees; the Trustees will thereupon determine the effective date of such withdrawal. A Participating Employer that ceases to be a member in good standing of GCP and/or COSE shall be deemed to have withdrawn as a Participating Employer under this § 5.2 and tendered a thirty (30) day prior written notice of withdrawal, but shall otherwise be required to satisfy all of the obligations imposed upon it by the Participation Agreement it signed and be subject to the provisions of this Section 5.

5.3 Termination by the Trustees. The Trustees may terminate a Participating



Employer's status as such for any reason set forth in the MEWA laws of Ohio or for violation of Participation Agreement provisions after providing no less than the minimum advance notice required under such circumstances.

5.4 Continuing Liability. A Participating Employer who withdraws under § 5.2 or whose status as such is terminated under § 5.3 hereof shall remain liable for all obligations of the Program and this Trust incurred during the period such Participating Employer was a Participating Employer to the maximum extent permissible under the MEWA laws of Ohio. The Trustees, in their discretion, may take such actions and require such security as they consider necessary or appropriate to ensure the enforceability of this Section 5.4.

## § 6

### PARTICIPATING EMPLOYER MEETINGS

There shall be an annual meeting of the Participating Employers with the Trustees which shall be held on not less than ten (10) and not more than sixty (60) days' advance written notice of the time, place and purpose or purposes of the meeting, all as set by the Chairman of the Trustees. The meeting shall be held in or about Cleveland, Ohio. The meeting shall be convened to provide an annual reporting of the status of the MEWA, to elect trustees as appropriate, and to discuss any other such matters as are placed on the agenda by the Chairman of the Trust.

## § 7

### ADMINISTRATOR

7.1 General. The Trustees on behalf of this Trust shall engage a Person or Persons to be the Administrator, and such Person or Persons shall serve as such as agreed upon between the Trustees and such Person or each such Person. If any such Person will perform services for the Trust as a "third-party administrator" within the meaning of the Ohio MEWA statute, such Person shall satisfy the requirements of § 1739.17 and §1739.18 of the Ohio MEWA statute and the engagement shall be set forth in an agreement which satisfies the requirements of § 1739.16 of the Ohio MEWA statute.

7.2 Duties and Responsibilities. The Administrator shall have the duty and the responsibility for those activities in support of the Trust and the Program not otherwise delegated or contracted for by the Trust including operation and administration of the Program (other than the payment of benefits under the Program) and proposing plan amendments for consideration for adoption by Greater Cleveland Partnership and shall have the power in its discretion to take any and all action as deemed necessary or appropriate to properly fulfill such duties and responsibilities. Such duties and responsibilities shall include at the discretion of the Trustees

(1) providing the documents which at any point in time will constitute the Program and comply with applicable law and any related documents required under ERISA, to the extent applicable, or the Code or applicable Ohio law,

(2) filing or furnishing any reports or certificates required under ERISA, to the extent applicable, or the Code or applicable Ohio law (including, without limitation, the requirement to timely make the filing(s) specified in RC Section 1746.04),

(3) providing the forms for Participating Employers to agree to participate in the Program and to make the related contributions to this Trust,

(4) providing the forms for an individual to become a Subscriber and the evidence of coverage under the Program for individuals who become Subscribers and their Dependents,

(5) approving or denying claims for benefits under the Program, processing the appeal of any claims which are denied and directing the Trustees respecting the payment of claims which have been approved,

(6) recommending to the Trustees the amount of contributions necessary to pay claims incurred under the Program and to fund an appropriate reserve for claim payments,

(7) providing the requisite actuarial, marketing and reports and certificates and services which are necessary or appropriate to the effective and efficient operation of the Program and to comply with ERISA, to the extent applicable, and the applicable laws of Ohio laws respecting a MEWA, and

(8) providing such other Program related services as the Trustees deem necessary or appropriate under the circumstances.

The terms and conditions of an Administrator's engagement and any reimbursement or compensation shall be determined by the Trustees and shall be set forth in a written agreement between the Trustees and the Administrator. The costs of professional services funded by the Trust for the duties of the Plan Administrator shall not exceed the amount allocated for those services funded by the Monthly Funding Rates.

## § 8

### AMENDMENT AND TERMINATION

8.1 Amendment. The Greater Cleveland Partnership may, at any time and from time to time amend this Trust in whole or in part; provided that no such amendment shall result in any part of the Trust's assets being used for or diverted to purposes other than for the exclusive benefit of individuals who are Subscribers and their Dependents at the time of such amendment, and provided that the Trustees are given prompt notice of such amendment.

8.2 Termination. Greater Cleveland Partnership contemplates that this Trust will continue in effect indefinitely. However, this Trust may nonetheless be terminated by written action of the Greater Cleveland Partnership. The termination of this Trust shall not affect the rights of the Subscribers and their Dependents at the time of such termination. If, however, the Trust is dissolved and the remaining assets are not transferred to any other arrangement whereby benefits are provided Subscribers, the remaining assets shall be distributed in the following order until exhausted: (a) to reserves for unreported claims under the Program, (b) then to creditors of the Trust except to the extent any creditors' rights require priority, (c) then on a pro rata basis to Participating Employers in accordance with each Participating Employer's contributions for the preceding 12-month period.

## § 9

### MISCELLANEOUS

9.1 Notices. Any notices required by the provisions of this Trust or by applicable law may be given by regular mail, by overnight delivery service, by facsimile, by e-mail or other electronic delivery, or by same-day messenger service addressed to the Person entitled to such notice, at his or her address as the same appears on the books or records of the Program or this Trust or at such other address as may be designated by such Person in a written instrument filed with the Secretary of the Trustees, and any such notice shall be deemed to be given at the time such notice is transmitted electronically or placed in the hands of such delivery or messenger service.

9.2 Indemnification. This Trust may indemnify and hold the Trustees and any former Trustees and the Administrator and any former Administrator harmless against expenses (including attorneys' fees, judgments, fines and amounts paid in settlement) incurred in connection with any pending or threatened action, suit or proceeding, whether civil or criminal, administrative, regulatory or investigative, with respect to which such Person is a party, or is threatened to be made a party, as a result of having served as such Trustee or Administrator to the full extent permitted by ERISA, to the extent applicable, and applicable Ohio law.

9.3 Separability of Provisions. If any provisions of this Trust shall prove to be or shall be held by any court, tribunal or board or authority of competent jurisdiction to be invalid, such invalid provision may be disregarded by the Trustees and in that event shall be deemed to be null and void and no part of this Trust, but invalidation of any provision shall not otherwise impair or affect this Trust or any of its provisions or terms.

9.4 Counterparts. This document may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together constitute one instrument, which may be sufficiently evidenced by any counterpart.

IN WITNESS WHEREOF, the Greater Cleveland Partnership and the initial Trustees have caused this Trust to be executed effective as of the last date set forth below.

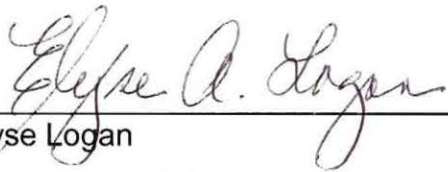
**GREATER CLEVELAND PARTNERSHIP**


By  \_\_\_\_\_


Title President

Date 2/18/2016

**TRUSTEES**

  
\_\_\_\_\_  
Elyse Logan (A)  
Date 2.18.2016

  
\_\_\_\_\_  
Martha J. Lanning (B)  
Date 2/18/2016

  
\_\_\_\_\_  
Timothy Reynolds (C)  
Date 2/18/2016