

TRUST AGREEMENT AND ASSIGNMENT FOR THE BENEFIT OF CREDITORS OF JOHN F. AMICO & CO., A CORPORATION

THIS TRUST AND AGREEMENT AND ASSIGNMENT FOR THE BENEFIT OF CREDITORS, is made and entered into this 9th day of October, 1991, by and between JOHN F. AMICO & CO., A CORPORATION, an Illinois corporation, located at 7327 W. 90th Street, Bridgeview, Illinois 60455 (hereinafter referred to as "JFACO")

DEPT-01 RECORDING \$20.50
15555 TRAN 0703 10/17/91 15:03:00
#1445 # E *-91-543634
COOK COUNTY RECORDER


WITNESSETH:

WHEREAS, JFACO is indebted to various persons, corporations and other entities and is unable to pay its debts in full, and has decided to discontinue its business, and is desirous of transferring its property to an Assignee for the benefit of its creditors so that the property so transferred may be expeditiously liquidated and the proceeds thereof be fairly distributed to its creditors without any preference or priority, except such priority as is established and permitted by applicable law.

DEPT-01 RECORDING \$20.50
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NOW, THEREFORE, in consideration of JFACO's existing indebtedness to its creditors, the express undertakings of the Trustee-Assignee and the mutual covenants contained herein, it is hereby AGREED:

- 1. Creation and Object of Trust. The name of this Trust shall be the "JFACO Creditor's Trust" and its object shall be the orderly liquidation of the assets and property of JFACO, and the distribution of the proceeds therefrom to creditors of JFACO in accordance with applicable law. JFACO hereby nominates and appoints Stanley Obuchowski of Professional Adjustment Services as Trustee-Assignee to carry out the purpose of this Trust in accordance with its terms and conditions. The Trustee-Assignee shall have the powers and duties hereinafter set forth, and shall receive reasonable compensation for his services and reimbursement of his expenses, including, but not limited to reimbursement of his attorneys' fees and costs. The

20 Mail 

Bruce Walk, Esq.
Tishler & Wald, Ltd.
55 W. Monroe Suite 700
Chicago, IL 60603

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Trustee-Assignee may serve without bond. In the event of death, inability or refusal to act, or the resignation of Stanley Obuchowski as Trustee-Assignee, then, in any such event, Stanley T. Obuchowski also of Professional Adjustment Services, is hereby appointed as Successor Trustee-Assignee with all the duties, rights, and powers herein imposed upon and granted to Stanley Obuchowski as original Trustee-Assignee.

2. Transfer of Assets. JFACO does hereby grant, convey, assign, transfer and set over to the Trustee-Assignee, and his Successor Trustee-Assignee, all property and assets of JFACO, whatsoever and wheresoever situated, which are now, or ever have been, used in connection with the operation of JFACO's business. The property and assets transferred shall include, without limitation, if any such assets exists, all real and personal property, tangible and intangible, including, without limitation, all cash on hand, bonds, bank accounts, all accounts receivable, all furniture, fixtures, equipment, leasehold improvements, inventory, general intangibles, patents, insurance policies, insurance premiums and/or policy refunds, tax refunds, trade names, trademarks, franchises, service marks, and causes of action. Title to the property and assets of JFACO shall immediately vest in the Trustee-Assignee for the use and purpose hereinafter set forth.

3. Powers and Duties of Trustee-Assignee. The Trustee-Assignee shall have, *inter alia*, the following powers, rights and duties:

- (a) To collect any and all accounts receivable owing to JFACO;
- (b) To sell, or otherwise dispose of, if such exists, all real property to JFACO in such manner as the Trustee-Assignee deems best. The Trustee-Assignee shall have

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the power to execute any and all documents necessary to effectuate a sale of said real property and to convey title to same;

(c) To sell, or otherwise dispose of, if such exists, all tangible and intangible personal property of JFACO, including, but not limited to, all of its machinery, equipment, inventory, service marks, trade names, trademarks, patents, franchises, causes of action and general intangibles, at private or public sale upon such notice and upon such terms as the Trustee-Assignee deems best. The Trustee-Assignee shall have the power to employ an auctioneer to conduct such a sale and to advertise such sale in such manner as the Trustee-Assignee deems best. The Trustee-Assignee shall have the power to execute bills of sale and any other documents necessary to convey title to JFACO's personal property. The Trustee-Assignee shall have the power to enter into an agreement with any party to participate in a liquidation sale with the Trustee-Assignee hereunder for the benefit of creditors sharing in the profits from such sale;

(d) To employ attorneys, accountants, and such additional personnel to whatever extent may be necessary to handle the administrative details of this Trust;

(e) To require all creditors of JFACO to whom a balance is now owing to submit verified statements of their accounts;

(f) To settle any and all claims against or in favor of JFACO, with full power to compromise, or in the discretion of the Trustee-Assignee, to sue or be sued, and to prosecute or defend any claim or claims of any nature whatsoever existing against or in favor of JFACO;

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(g) To receive and open all mail addressed to or received by JFACO and to endorse all documents for JFACO or in JFACO's name and stead;

(h) To pay to creditors of JFACO out of the monies which shall come into his hands as Trustee, according to the following priorities:

(1) First, all costs for the preservation of the Trust assets, including the maintenance and insurance thereon, the expenses of operation, and such other administrative expenses as shall be reasonably incurred.

(2) Second, all costs and expenses incidental to the administration of the Trust, including the remuneration of the Trustee-Assignee and the payment of reasonable compensation for the services of attorneys for the Trustee-Assignee. These costs and expenses shall include those incidental to the preparation and execution of this Trust Agreement. The Trustee-Assignee shall also have the right to pay an accountant reasonable compensation for services performed in connection with the administration of this Trust and the attorneys for JFACO for such services as shall be rendered in aid of the administration of this Trust and its property.

(3) Third, all federal taxes of any nature whatsoever owing as of the date of this Trust Agreement, including, but not limited to, federal withholding tax, federal unemployment tax and other federal income, excise, property and employment taxes.

(4) Fourth, all state and county taxes of any nature whatsoever owing as of the date of this Trust Agreement, including, but not limited to, state and county employment, property and income taxes.

(5) Fifth, with the exception of those classes set forth above, all distributions to other creditors shall be, within each class, pro rata in accordance with the terms of each creditor's indebtedness, until all such debts are paid in full. The Trustee-Assignee shall make interim distributions whenever the Trustee-Assignee accumulates sufficient funds to enable him to make a reasonable distribution. No distribution shall be in an amount less than \$1,000.00, except the final distribution.

(6) The surplus, if any, of the Trust's funds, when all debts of the Trust shall have been paid in full, shall be paid and transferred to JFACO by the Trustee-Assignee.

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(i) To do and perform any and all other acts necessary and proper for the orderly liquidation or other disposition, including, but not limited to, abandonment of the assets and property of JFACO and the distribution of the proceeds derived therefrom to the creditors of JFACO.

4. Rights of Creditors. All rights and remedies of the creditors against any surety or sureties for JFACO are hereby expressly reserved and nothing herein contained shall prevent the creditors or any of them from suing any third parties or persons who may be liable to any of the creditors for all or any part of their claims against JFACO, or from enforcing or otherwise obtaining the full benefit of any mortgage, charge, pledge, lien or other security which they now hold on any property, creditors or effects of JFACO.

5. Administration of Trust. This Trust shall be administered out of court. The Trustee-Assignee shall, however, have the right to ask any court of competent jurisdiction for a declaratory judgment or such other relief as the Trustee-Assignee may deem necessary, if, in his opinion, said action is desirable in connection with any dispute or claim arising hereunder.

6. Liability of Trustee-Assignee. It is understood and agreed that the Trustee-Assignee is to assume no personal liability or responsibility for any of his acts as Trustee-Assignee herein, but this obligation shall be limited to the performance of the terms and conditions of the Trust Agreement, in good faith and in the exercise of his best judgment.

7. Warranties of JFACO. JFACO hereby warrants as follows:

(a) The list of creditors delivered concurrently herewith to the Trustee-Assignee is complete and correct as reflected by the books and records of JFACO, or

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through its officers and directors, as to names of said creditors, their addresses and the amounts due them.

(b) JFACO, through its officers and directors, shall perform any and all acts reasonably necessary and proper to assist the Trustee-Assignee in the orderly liquidation of JFACO's assets and the collection of monies owing to JFACO, and in the distribution of said monies and the proceeds of asset sales to JFACO's creditors; provided, however, the officers and directors of JFACO shall only provide such assistance to the Trustee-Assignee to the extent, and on the condition that, they are reasonably compensated for such services.

8. Acceptance by Trustee-Assignee. The Trustee-Assignee does hereby accept the Trust herein created and agrees to faithfully perform the same according to the best of the Trustee-Assignee's skill, knowledge and ability. It is understood that the Trustee-Assignee shall receive reasonable compensation for his services rendered in connection with this Trust.

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and year first above written.

JOHN F. AMICO & CO.,
A CORPORATION.

By: _____

Its President

Attest: _____

Its Secretary

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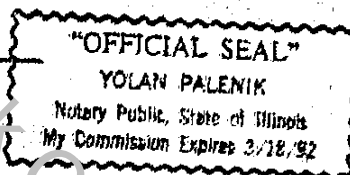
ACCEPTANCE

I, Stanley Obuchowski, the Trustee-Assignee hereinabove named, do hereby accept the trust hereinabove set forth, not individually, but as Trustee-Assignee, subject to the conditions set forth above.

At Chicago, Illinois, this 10th day of October, 1991.

Subscribed and Sworn to
before me this 10th day
of October, 1991.


NOTARY PUBLIC



This instrument prepared by:

Daniel A. Zazove
TOWBIN & ZAZOVE, LTD.
Two First National Plaza
Twenty South Clark Street
Suite 2210
Chicago, Illinois 60603
(312) 621-1900

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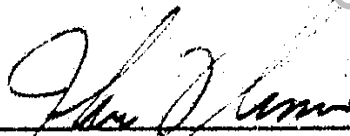
ACTION BY BOARD OF DIRECTORS

The undersigned, being the sole director (hereinafter referred to as the "Board") and the sole holder of the issued and outstanding equity securities of John F. Amico & Co., a Corporation, an Illinois corporation (hereinafter referred to as the "Company"), without a meeting upon other and further notice, the same being hereby waived, that the following actions be taken by the Company:

1. **IT IS RESOLVED:** That the Company is authorized to retain, as special counsel, Daniel A. Zazove of the law firm of Towbin & Zazove, Ltd., whose address is Two First National Plaza, 20 South Clark Street, Suite 2210, Chicago, Illinois 60603.
2. **IT IS FURTHER RESOLVED:** That the Company shall enter into a Trust Agreement and Assignment for the Benefit of Its Creditors and shall cause to be made an Assignment of its assets to this Trust with the object being an orderly liquidation of the Company's business and assets.
3. **IT IS FURTHER RESOLVED:** That the officers of the Company are hereby authorized and directed to execute and deliver all necessary papers and documents pertaining to the creation of the Trust and Assignment for the Benefit of Creditors to Stanley Obaczowski as Trustee-Assignee, and said Trustee-Assignee shall be authorized to do any and all acts necessary in order to fully carry out the intent and purpose of such Trust Agreement and Assignment for the Benefit of Creditors.
4. **IT IS FURTHER RESOLVED:** That the officers of the company are hereby authorized and directed to execute and deliver any and all other papers and documents, and to take any and all other acts which may be necessary in order to fully carry out the intent and purpose of the Trust Agreement and Assignment for the benefit of Creditors.

DATED: _____

10/9/91



Sole Director and Proxyholder of
John F. Amico & Co., Inc.

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RIDER 1
TO
TRUST AGREEMENT AND ASSIGNMENT
FOR THE BENEFIT OF CREDITORS
OF
JOHN F. AMICO & CO., A CORPORATION

Lot 1 through 22, inclusive in Block 8 in the Resubdivision of Lessey and Boroff's Subdivision of the 18 acres West of Railroad in the South 1/2 of the North West 1/4 of Section 15, Township 36 North, Range 13, East of the Third Principal Meridian, according to the plat thereof recorded October 26, 1960 as document 18000761 and corrected by plat recorded February 6, 1961 as document 18079053, in Cook County, Illinois.

Property address: 15301 S. Cicero, Oak Forest, Illinois.

PIN: 28-15-109-023-0000 through 28-15-109-044-0000, inclusive.

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