MEMORANDUM OF AGREEMENT

This agreement is entered into by and between the International Union of Painters and Allied Trades (“IUPAT”) and FCA International, Inc. (“FCA”). The Effective Date of this Agreement shall be the date on which the last signor has executed this Agreement (“Effective Date”).

1. In order to resolve the three deadlocked motions currently the subject of an arbitration before Arbitrator Ira Jaffe, the parties agree as follows:

   a) IUPAT will rescind its termination of the Painters and Allied Trades Labor Management Cooperation Initiative (“LMCI”) Trust Agreement retroactively, and the parties agree that LMCI shall have the same rights and obligations as it would have had if that termination had never occurred.

   b) The 2008 resolution of LMCI concerning distributions to the Finishing Contractors Industry Fund (“FCIF”) shall be amended to provide that FCIF will receive distributions under the resolution’s formula on contributions received pursuant to collective bargaining agreements that, as of the Effective Date of this Agreement, require contributions to LMCI, provided that such distributions will terminate on the expiration date set forth in each such collective bargaining agreement as of the Effective Date of this Agreement.
c) IUPAT agrees that, after the Effective Date of this Agreement, neither it nor any of its affiliates will agree to amend any then-existing collective bargaining agreement to reduce or eliminate contributions to LMCI.

d) FCA will remove all current management trustees of LMCI and appoint the individuals now serving as management trustees on the Finishing Industries Labor Management Partnership (“LMP”) as the management trustees of LMCI.

e) The LMCI Trust Agreement will be amended to provide that up to eleven management trustees will be appointed and removed by a majority vote of the incumbent management trustees and FCA shall have the right to appoint and remove one management trustee and an alternate, who may act in the absence of the FCA appointed trustee.

f) The parties agree that, to the extent necessary, they will support any other amendment to the LMCI Trust Agreement necessary to effectuate this Agreement.

g) The parties will advise the Arbitrator that they have reached an agreement to resolve their dispute and jointly ask the Arbitrator to stay the Arbitration proceeding pending implementation of the actions agreed upon in paragraphs 1 and 2 of this Agreement, at which time it shall be dismissed. With the exception of the Arbitrator’s fees, which shall be paid for by LMCI, each party shall bear its own costs.
2. In order to resolve the disputes that are the subject of the civil action styled
*FCA, et al. v. Candelori, et al.*, Case No. 1:18-cv-2476, pending in the United States District Court for the District of Columbia (“the Civil Action”), the parties agree as follows:

   a) Article III of International Painters and Allied Trades Industry Pension Fund (“IPF”) Trust Agreement, concerning United States Trustees, will be amended to provide that (i) there will be eight management trustees, (ii) FCA will have the right to appoint and remove six management trustees, (iii) two other employer associations, agreed upon by the General President of the IUPAT and the Chairman of FCA, each will have the right to appoint and remove one management trustee, (iv) any amendment that would result in the FCA having the right to appoint fewer than seventy-five percent (75%) of the management trustees must, in addition to fulfilling the requirements for any other amendment, receive the affirmative vote of a majority of the FCA-appointed trustees, (v) the management trustees will select one Co-Chair and the labor trustees will select the other Co-Chair and the Co-Chairs will appoint all committee members, (vi) all trustees must be officers or employees of a signatory employer or of the IUPAT or one of its District Councils, provided that an incumbent trustee who met this condition at the time of appointment may remain as a trustee for no longer than one year after he or she leaves such office or employment.
b) The Amendment to the IPF Trust Agreement that was voted upon at the October 9, 2018 meeting of the Board of Trustees, and is the subject of the Civil Action, is null, void and shall have no effect.

c) The parties agree that it would be appropriate for counsel to IUPAT and counsel to FCA to attend meetings of the IPF Board of Trustees at the expense of their respective clients.

d) The parties agree to amend the Finishing Trades Institute (“FTI”) Trust Agreement to provide that (i) there will be eight management trustees, (ii) FCA will have the right to appoint and remove six management trustees, (iii) two other employer associations, agreed upon by the General President of the IUPAT and the Chairman of FCA, each will have the right to appoint and remove one management trustee, (iv) any amendment that would result in the FCA having the right to appoint fewer than seventy-five percent (75%) of the management trustees must, in addition to fulfilling the requirements for any other amendment, receive the affirmative vote of a majority of the FCA-appointed trustees, (v) the management trustees will select one Co-Chair and the labor trustees will select the other Co-Chair and the Co-Chairs will appoint all committee members, and (vi) all trustees must be officers or employees of a signatory employer or of the IUPAT or one of its District Councils, provided that an incumbent trustee who met this condition at
the time of appointment may remain as a trustees for no longer than one year after he or she leaves such office or employment.

e) In light of this Agreement, the parties agree to stipulate to an extension until April 15, 2019 of the time for making of initial disclosures in the Civil Action. Upon implementation of all actions required under paragraphs 1 and 2 of this Agreement, a Stipulation of Dismissal with Prejudice of the Civil Action will be filed, with each party to bear its own costs.

3. The parties further agree to the following:

a) In light of the fact that FCIF will continue to receive distributions under the 2008 resolution, and FCA will continue to be funded in part with monies contributed to LMCI to promote labor-management cooperation, FCA agrees that until the March 31st in the year after the calendar year in which LMCI funding to FCIF, within a calendar year, falls below $100,000:

   (i) FCA will not seek or accept funding mandated in collective bargaining agreements. The parties agree that any local association is free to bargain for contributions to the local association and the amount of such contributions, provided that the collective bargaining agreement does not require the local association to pass a certain amount of such funding on to the FCA, and provided further that is understood the union party to the collective bargaining
agreement retains all rights it otherwise would have in responding to any such bargaining proposal.

(ii) Neither the Executive Director of FCA, nor any other employee or agent of FCA, will attend local collective bargaining negotiations, serve as a member of the employers’ negotiations committee, or provide the employers’ bargaining representatives with regular and ongoing assistance in development of negotiations strategy. It is understood that this paragraph does not prohibit counsel for FCA or FCA staff from answering specific questions posed to them by FCA members or affiliates, provided that this right is not abused, such as, for example, FCA representatives answering multiple questions in a manner that effectively substitutes for a “frequently asked questions” piece on management rights.

(iii) FCA will not use any funds provided to it from FCIF to provide education on labor relations, including educating employers or employer associations on their rights and responsibilities under the National Labor Relations Act. FCA is free to use funds from other sources to engage in these activities, provided that it must, upon request by IUPAT, to provide proof that all such activities were funded from sources other than LMCI. It is understood that this paragraph does not prohibit counsel for FCA or FCA staff from answering specific questions posed to them by FCA members or affiliates, provided that this right is not abused, such as, for example, FCA representatives answering multiple
questions in a manner that effectively substitutes for a “frequently asked questions” piece on management rights.

b) The restrictions on FCA activities set forth in paragraph (3)(a) are intended to remove sources of friction that have caused disputes and misunderstandings between the parties and their respective affiliates and members in the past. In recognition of the fact the permissible and the forbidden are difficult to precisely define, the IUPAT and the FCA agree to the following process to resolve disputes.

   (i) The parties will each name a representative to serve on a dispute resolution panel, preferably an individual who was part of the discussions that lead to this Agreement, or a replacement designated by such individual. Those two will name a third-party, preferably an individual with experience in, and understanding of, labor relations in our industry, to serve as the neutral member of the panel.

   (ii) If IUPAT believes FCA has engaged in impermissible activity, it will notify FCA of such claim. The party representatives to the dispute resolution panel will discuss the issue within 48 hours and attempt to reach a resolution. If agreement is reached, that agreement shall govern future conduct.
(iii) If no agreement is reached, the party representatives will meet promptly with the neutral (the meeting may be through electronic communication) and render a decision, which shall govern future conduct.

4. The parties recognize as settlors of the IPF, LMCI and FTI they lack the authority to amend the respective trust agreements as provided for in this Agreement, and that such authority rests exclusively with the trustees appointed by each of the parties. The parties will recommend to their respective trustees that they agree to amend the trust agreements as provided for in this Agreement and in addition, with respect to the IPF and the FCA appointed trustees, recommend filing of the Stipulation of Dismissal in the Civil Action.

5. The parties will use their best efforts, and encourage their respective trustees to do so as well, to complete all actions required under paragraphs 1 and 2 of this Agreement within 30 days of the Effective Date.

IUPAT
Kenneth Rigmaiden, General President

FCA
Clark Anderson, Chairman of the Board

March 13, 2019
Date

March 11, 2019
Date