

**NATIONAL EXECUTIVE COMMITTEE
OF
THE AMERICAN LEGION
Indianapolis, Indiana
November 18 – 20, 1944**

**Resolution No. 45: National Retirement Plan
Origin: Subcommittee on Retirement Program
Submitted By: Subcommittee on Retirement Program**

WHEREAS, Proper National Convention and National Executive Committee approval has been given to the initiating and maintaining of a retirement program for employees of the national organization and, optionally, for the employees of departments or other subordinate groups of The American Legion; and

WHEREAS, The Subcommittee on Retirement Program has prepared a detailed program for presentation to this meeting of the National Executive Committee, and authority was lodged in the National Executive Committee by the Twenty-sixth Annual National Convention at Chicago, to approve a proper and adequate plan; now, therefore, be it

RESOLVED, By the National Executive Committee of The American Legion in regular meeting assembled in Indianapolis, Indiana, on November 18-20, 1944, That the recommended national retirement plan is approved; and, be it further

RESOLVED, That the proposed Trust Indenture and Regulations submitted, as per copies attached to this resolution, outlining the plan and the method of administration, be considered as a part of this resolution and, by the adoption of said resolution, approval is also given to said proposed Trust Indenture and Regulations except as otherwise provided herein; and, be it finally

RESOLVED, That, for the purpose of putting said plan into immediate operation, the National Retirement Committee, if and when created, and the National Finance Committee jointly are hereby authorized and empowered to select the Trustee, make the proper arrangements for its remuneration, and to make such arrangements with the Trustee as may be deemed necessary for the full administration of said plan under such Trust Indenture, with full authority to make such changes in said Trust Agreement as may be necessary to carry out the full intent of said Plan, all subject to final approval of the National Commander.

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Trust Indenture

THIS INDENTURE, made the day of, 1944, between THE AMERICAN LEGION, a corporation organized under and by virtue of an Act of Congress (hereinafter called the LEGION, and TRUST COMPANY, a corporation organized under the laws of the State of, (hereinafter called the TRUSTEE).

WITNESSETH:

Whereas, The LEGION has adopted a plan for the payment of retirement allowances to its employees and to the employes of such of its departments as may from time to time, subject to the approval of the National Executive Committee of the Legion, wish to participate in such plan (hereinafter referred to as employes of the LEGION), under which a trust is to be established into which contributions by the LEGION are to be made for the purpose of distributing to such employees the earnings and principal of the fund accumulated by the Trust, in accordance with such PLAN, and

Whereas, Said PLAN entitled "EMPLOYEES RETIREMENT PLAN OF THE AMERICAN LEGION," a copy of which is annexed hereto, and which, together with all amendments hereof and all substitutions there- for, is hereinafter designated as the PLAN, provides for the appointment of a Trustee;

NOW, THEREFORE, THIS INDENTURE WITNESSETH:

1. The LEGION establishes with the Trustee a trust consisting of such payments as shall, from time to time, be made to the Trustee by or on behalf of the LEGION, and such accruals thereto as may occur from time to time, which payments and accruals are hereinafter referred to as the Fund, and which shall be held by the Trustee in trust, as hereinafter provided.
2. The Trustee shall hold the Fund and apply the income and principal thereof, in accordance with the directions of the Retirement Committee as referred to in the PLAN for the purposes of paying in accordance with the PLAN retirement benefits to participating employes and their beneficiaries and the administrative expenses of the PLAN as hereinafter provided.
3. All moneys in said fund available for investment shall be invested by said Trustee under the direction and supervision of the Committee on Investment Policy of the Legion.
4. It shall also be the responsibility of said Trustee to pay moneys from said fund upon the written instruction or requisition of the Retirement Committee for the use of the Plan. The Trustee shall be fully protected in paying out moneys from the Fund from time to time upon such written instructions or requisition and shall be charged with no responsibility whatsoever respecting the application of said moneys by the Retirement Committee.
5. The Trustee from time to time shall invest and reinvest the available principal and income of the Fund and keep the same invested under the direction and supervision of the Committee on Investments Policy of the Legion, subject to the following:
 - (a) The Trustee is authorized to invest and reinvest the Fund in such stocks (common or preferred), bonds or other securities or property in which any of the funds of life insurance companies organized under the laws of the State of New York may from time to time be legally invested, whether or not the same be authorized by law for the investment of trust funds.
 - (b) If at any time or from time to time the Trustee shall deem it desirable to invest in stocks, bonds or other securities or property which are not authorized under subdivision (a) hereof, the Trustee, but only with the approval of the National Executive Committee of the Legion, is authorized to invest in such stocks (common or preferred), bonds or other securities or property as it in its discretion may deem desirable, whether or not the same be authorized under subdivision (a) hereof or for the investment of trust funds under the laws of the State of New York.
 - (c) No investment or reinvestment made under subparagraph (a) or (b) hereof, shall be made in stocks, bonds or securities of any corporation or issuer (with the exception of bonds or other securities of the United States Government or securities guaranteed as to payment of principal and interest by the United States Government) if at the time such investment or reinvestment is made, the total market value of the investment in the securities of such corporation or issuer shall then be or thereby become in excess of the smaller of \$300,000 or 5% of the then market value of the aggregate Fund.
 - (d) The Trustee may reserve from investment and keep unproductive of income such amount of the Fund as it may from time to time deem advisable. Without limiting the generality of the foregoing, the Trustee, on the written request of the Retirement Committee or of the National Executive Committee of the LEGION to retain cash to meet contemplated requisitions of the Retirement Committee or as a working balance, shall retain in cash so much of the Fund as shall be specified in such written request. Whenever there shall not be cash in the Fund sufficient in amount to meet any requisition of the Retirement Committee, the Trustee shall sell securities sufficient to meet such requisition or in lieu thereof may, but shall be under no obligation to, borrow moneys sufficient to meet such requisition.
 - (e) Except as herein otherwise provided, the duty of investing and reinvesting the Fund shall rest solely upon the Trustee.
6. The Trustee is authorized and empowered, subject to the direction and supervision of the Committee on Investments Policy:
 - (a) to sell, exchange, convey, transfer or dispose of, and also to grant options with respect to, any property, whether real or personal, at any time held by it and any sale may be made by private contract or by public auction

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- and no person dealing with the Trustee shall 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 retain, manage, operate, repair and improve and to mortgage or lease for any period any real estate held by the Trustee;
 - (c) to compromise, compound and settle any debt or obligation due to or from it as trustee hereunder and to reduce the rate of interest on, to extend or otherwise modify, or to foreclose upon default or otherwise enforce any such obligation;
 - (d) to vote in person or by proxy on any stocks, bonds or other securities held by it; to exercise any options appurtenant to any stocks, bonds or other securities for the conversion thereof into other stocks, bonds or securities, or to exercise any rights to subscribe for additional stocks, bonds or other securities and to make any and all necessary payments therefor; to join in, or to dissent from, and to oppose, the reorganization, recapitalization, consolidation, sale or merger of corporations or properties in which it may be interested as trustees, upon such terms and conditions as it may deem wise, and to accept any securities (whether or not the Trustee would be authorized hereunder then to invest in such securities) which may be issued upon any such reorganization, recapitalization, consolidation, sale or merger and thereafter to hold the same;
 - (e) to make, execute, acknowledge and deliver any and all deeds, leases, assignments and instruments; (f) to enforce any right, obligation or claim and in general to protect in any way the interests of the Fund, either before or after default, and where it shall consider such action for the best interests of the Fund to abstain from the enforcement of any right, obligation or claim and to abandon any property, whether real or personal, which at any time may be held by it;
 - (g) to borrow or raise moneys, for the purposes of the trust, from the LEGION or from others upon such terms and conditions as the Trustee may deem desirable or proper, and for any sum so borrowed to issue its promissory note as Trustee and to secure the repayment thereof by pledging all or any part of the Fund; and no person loaning money to the Trustee shall be bound to see to the application of the money loaned or to inquire into the validity, expediency or propriety of any such borrowing;
 - (h) to cause any investment from time to time held by it to be registered in, or transferred into, its name as Trustee or the name of its nominee or nominees or to retain them unregistered or in form permitting transferability by delivery, and the books and records of the Trustee shall at all times show that all such investments are part of the Fund;
 - (i) to do all acts which it may deem necessary or proper and to exercise any and all of the powers of the Trustee under this agreement upon such terms and conditions as to it may seem for the best interest of the Fund.

In addition to the power of the Trustee under general law to employ agents to discharge ministerial duties, the Trustee, at the expense of the Fund, may, from time to time, with the approval of the Retirement Committee, employ agents other than persons in its regular employ and delegate to them such ministerial and limited discretionary duties as it sees fit.

7. The expenses incurred by the Trustee in the performance of its duties hereunder including reasonable fees for legal services rendered to the Trustee and expenses incident thereto and all other proper charges and disbursements of the Trustee, including all real and personal property taxes, income taxes, transfer taxes, and other taxes of any and all kinds whatsoever that may be levied or assessed under existing or future laws of any jurisdiction upon or in respect of the trust hereby created or the Fund or any money, property or securities forming a part thereof shall be paid by the Trustee out of the Fund and the same shall constitute a charge upon the Fund unless and to the extent that the LEGION may from time to time elect to pay the same. The LEGION shall pay the Trustee such compensation as may be agreed upon in writing from time to time between the LEGION and the Trustee.

8. The Trustee shall not be liable for the making, retention, or sale of any investment or reinvestment made by it as herein provided or for any loss to or diminishment of the Fund, or for anything done or omitted to be done by it, except due to its own negligence, willful misconduct, or lack of good faith. The Trustee may, from time to time, consult with counsel, who may be of counsel to the LEGION, and shall be fully protected in acting upon such advice of counsel as respects legal questions.

9. Trustee shall keep accurate and detailed accounts of all investments, receipts and disbursements and other transactions hereunder, and all accounts, books and records relating thereto and all securities and other assets in said Trust shall be open to inspection and audit by any person designated by the Retirement Committee or by the National Executive Committee of the Legion, at all reasonable times. Within forty-five (45) days following the close of each calendar year, or following the close of such other annual periods as may be agreed upon between the Trustee and the LEGION, and within thirty (30) days after the removal or resignation of the Trustee as provided for in paragraph (g) hereof, the Trustee shall file with the LEGION and the Retirement Committee a written report setting forth all investments, receipts and disbursements, and other transactions effected by it during such calendar year or other annual period or during the period from the close of such calendar year or other annual period to the date of such removal or resignation, including a description of all securities and investments purchased and sold with the cost or net proceeds of such purchases or sales (accrued interest paid or received being shown separately), and showing the securities and investments held at the end of such calendar year or other period. Upon the expiration of ninety (90) days from the date of filing such account, the Trustee shall be forever released and discharged from any liability or accountability to anyone as respects the propriety of its acts or transactions shown in such account, except with respect to (a) any such acts or transactions as to which the LEGION or the Retirement Committee shall within such ninety (90) days' period file with the Trustee a written statement claiming negligence and (b) willful misconduct or lack of good faith on the part of the Trustee. Neither the LEGION nor the Retirement Committee nor the Investment Policy Committee nor any employing company nor any participating employee nor any other person shall have the right to demand or be entitled to any further or different accounting by the Trustee. The foregoing provision, however, shall not preclude the Trustee from having its accounts judicially settled if it so desires.

10. The Trustee may be removed by the National Executive Committee of the LEGION at any time upon sixty (60) days' notice in writing to the Trustee and the Retirement Committee. The Trustee may resign at any time upon sixty (60) days' notice in

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writing to the LEGION and the Retirement Committee. Upon such removal or resignation of the Trustee, the National Executive Committee of the LEGION shall appoint and designate a new Trustee and the Trustee shall assign and transfer and pay over to such successor Trustee the funds and properties then constituting the Fund. Any successor Trustee shall qualify as such by delivering a written acceptance of the Trust, acknowledged by it, to the LEGION, to the Retirement Committee and to the retiring Trustee. All of the provisions set forth herein with respect to the Trustee shall relate to each successor Trustee appointed as in this agreement provided, with the same force and effect as if such successor Trustee had been originally named herein as the Trustee hereunder.

11. Any action by the National Executive Committee of the LEGION pursuant to any of the provisions of this agreement shall be evidenced by a resolution of such National Executive Committee certified to the Trustee over the signature of the Adjutant of the LEGION under its corporate seal, and the Trustee shall be fully protected in acting in accordance with such resolutions as certified to it. All requests, directions, requisitions for moneys and instructions of the Retirement Committee to the Trustee shall be in writing, signed by the Adjutant and by a member of the Retirement Committee other than the Adjutant and the Trustee shall act and shall be fully protected in acting in accordance with such requests, directions, requisitions and instructions. All requests, directions or instructions of the Committee on Investments Policy of the Legion to the Trustee shall be in writing and signed by the Adjutant and Treasurer of the Legion, and the Trustee shall be fully protected in acting in accordance with such requests, directions or instructions. The LEGION shall promptly furnish to the Trustee from time to time certificates of an officer of the LEGION evidencing the appointment or termination of office of Adjutant, Treasurer, and any member of the Retirement Committee, and member of the Committee on Investments Policy, and for all purposes hereunder the Trustee shall be conclusively entitled to rely upon the identity of the Adjutant, Treasurer, and members constituting the Retirement Committee, and Committee on Investments Policy as disclosed by such certificates received by it.

12. The trust created by this agreement may be terminated at any time by the National Executive Committee of the LEGION upon sixty (60) days' notice in writing, delivered to the Trustee, in which event all cash, securities and other property then constituting the Fund, less any amounts then owing to the Trustee or otherwise constituting charges against the Fund, shall be paid over or delivered by the Trustee to the National Treasurer of the LEGION and the Trustee shall thereupon be relieved of any further obligation and liability with respect thereto or with respect to the application thereof. Any such cash, securities or other property so paid over or delivered to the LEGION shall be held or applied by the Retirement Committee for the purposes and as set forth in the PLAN.

The LEGION reserves the right, at any time and from time to time, by action of its National Executive Committee to modify or amend, in whole or in part, any or all of the provisions of this agreement provided that notice of any such modification or amendment shall be promptly given in writing to the Trustee and no such modification or amendment which affects the rights, duties or responsibilities of the Trustee may be made without its consent.

It shall be impossible by operation of the trust, by natural termination thereof, by power of revocation or amendment, by the happening of any contingency, by collateral arrangement or by any other means, for any, part of the corpus or income of the Fund to be used for, or diverted to, purposes other than the exclusive benefit of participants, retired participants or their beneficiaries at any time prior to the satisfaction of all liabilities with respect to such participants, retired participants, or their beneficiaries except as provided in paragraph 7 hereof. The term "liabilities" as used herein includes both fixed and contingent obligations to participants, retired participants or their beneficiaries; and it shall be impossible for the LEGION (or any non-participating employes) to recover any amounts other than such amounts as remain in the trust because of erroneous actuarial computations after the satisfaction of all fixed and contingent obligations to participants, retired participants or their beneficiaries under the PLAN, but the Trustee shall be under no obligation to see to the enforcement of this paragraph. Provided, however, that no provision or provisions in this paragraph contained shall in any way restrict the application of any of the provisions contained in paragraph No. 17 hereof.

13. The LEGION will cause a copy of any amendment or a copy of the PLAN as amended, revised or changed in any way from time to time to be delivered to the Trustee for its information.

14. The National Executive Committee of the LEGION may provide for the payment of the pensions, benefits and expenses of the PLAN by contract with an insurance company or companies, as it may determine and as permitted by the PLAN. If the National Executive Committee shall make such provision and shall notify the Trustee, the Trustee shall make such payments to such insurance company or companies as the Retirement Committee shall from time to time direct.

15. Any corporation into which the Trustee may merge or with which it may be consolidated, or any corporation resulting from any merger or consolidation to which the Trustee may be a party, or any corporation to which all or substantially all the trust business of the Trustee may be transferred, shall be the successor of the Trustee hereunder, without the execution or filing of any instrument or the performance of any further act.

16. No implied covenant shall be read into this agreement against the Trustee, but duties and obligations of the Trustee shall be determined solely by the express provisions hereof.

17. Anything herein contained to the contrary notwithstanding, the LEGION shall be entitled at its option to withdraw at any time all contributions made by it in the form and in the amount in which the same may then exist with accretions thereto, if any, in the event said plan and/or Trust Indenture do not receive the approval of the Internal Revenue Department and/or Treasury Department of the United States, under Section 165 of the Internal Revenue Code, and such Trust shall thereupon terminate.

18. The LEGION reserves the right to amend this Trust Agreement in any particular except as otherwise provided in Paragraph 12 hereof.

19. This agreement shall be construed and enforced according to the laws of the State of Indiana, and all provisions hereof shall be administered according to the laws of said state, subject to the following:

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(a) It shall be unnecessary for the Trustee, in connection with the administration of this trust or the exercise of any authority hereby conferred to apply for or to procure the order of or to report to any court.

(b) The LEGION expressly relieves said Trustee from any and all duties which would otherwise be placed upon it by Chapter 166 of the Acts of the Indiana General Assembly for the year 1937, entitled: "An Act concerning Inventories and Intermediate and Final Accountings by trustees to make uniform the law with reference thereto" and all acts amendatory thereof and supplemental thereto, and all other acts in any jurisdiction containing similar provisions.

(c) To the extent permitted by law, the Trustee herein named is hereby relieved from any and all rules and regulations of any bureau or department, state or federal, now in existence or which may hereafter be created, with reference to filing inventories, qualifying or subjecting itself as trustee to the jurisdiction of any such governmental agency.

20. The Trustee, by joining in the execution of this instrument, signifies its acceptance of the Trust.

IN WITNESS WHEREOF, THE AMERICAN LEGION has, pursuant to the approval of its National Executive Committee, caused this Indenture to be signed and acknowledged by its Commander, and its corporate seal to be affixed hereto, and the same to be attested by its Adjutant, and the as Trustee hereunder has caused this Indenture to be signed and acknowledged by its and its corporate seal to be affixed hereto, and the same to be attested by its....., all as of the day of ,1944.

THE AMERICAN LEGION

By
Commander

ATTEST:

By
Adjutant

..... Trust Company

By
ATTEST:
By