

**PAINTERS
AND ALLIED TRADES
DISTRICT COUNCIL NO. 36**

**MASTER LABOR
AGREEMENT**

JULY 1, 2010 THRU JUNE 30, 2013

(Southern California PDCA/ULMRC)

**SOUTHERN CALIFORNIA PAINTERS AND DECORATORS
LABOR MANAGEMENT COOPERATION COMMITTEE**

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**PAINTERS AND ALLIED TRADES
DISTRICT COUNCIL NO. 36
MASTER LABOR AGREEMENT**

PREAMBLE

THIS AGREEMENT is between Painters and Allied Trades District Council No. 36 (including all of its affiliated Locals) alternatively referred to as the Union and the following signatory Finishing Contractors Association (FCA) affiliate organizations: Southern California PDCA/ULMRC hereinafter referred to as the Employer.

THIS AGREEMENT has been consummated for the purpose of stabilizing and improving the Painting Industry, and as, the Employer does presently, or intends in the near future, to resume the employment of employees for performance of work in this Agreement, and

The Union has requested that the Employer Recognize Painters and Allied Trades District Council 36 (“the Union”) as the sole and exclusive bargaining agent, within the meaning of Section 9(a) of the National Labor Relations Act (“the Act”), of all employees of the Employer performing painting and associated work covered by the attached collective bargaining agreement on all present and future job sites within the geographical jurisdiction of Union. The Union has demanded recognition, and the Employer has recognized the Union, as the majority representative of the employees performing work covered by this Agreement, which the parties agree is an appropriate unit for purposes of collective bargaining. This recognition is based on the Union’s having shown, or having offered to show, evidence of its majority support among employees performing work covered by this Agreement on the Employers’ jobsite. The Employer acknowledges that it is waiving its right to request a representation election conducted by the National Labor Relations Board.

The Union recognizes the above referenced FCA affiliate organizations as the sole and exclusive bargaining agents for their respective members, present and future.

WITNESSETH, that for and in consideration of harmonious relations between the parties signatory hereto and the public under the jurisdiction of District Council No. 36 and the maintenance of stability of the conditions of employment and other mutually beneficial relations, and for the purpose of preventing strikes and lockouts by facilitating just and peaceful adjustments of disputes and grievances that may arise from time to time, and for the purpose of protecting and safeguarding the health and safety of the parties concerned, the parties signatory hereto have agreed that the understanding hereinafter set forth shall be binding on all members of the parties thereto individually and collectively.

ARTICLE 1

EMPLOYERS

SECTION I. DEFINITION:

An employer is one whose principal contracting business is the executing of contracts requiring the art, science, knowledge, experience, skill and ability to intelligently examine surfaces, and specify and execute the preliminary and preparatory work necessary to bring such surfaces to a condition where under an agreed specification, acceptable work can be executed within any and/or all of the following subdivisions of the Painting Industry listed below. Work or services permitted by State License Law for Painting and Decorating and Drywall contractors and work or services of others covered by this agreement, utilizing in their work the following:

A. Paints, Pigments, Oils, Turpentine, Japan driers, Thinners, Varnishes, Lacquers, Shellacs, Stains, Fillers, Waxes, Cement, Joint Cement, Water and other vehicles; mediums that may be mixed, used and applied to the surfaces of materials and of building edifices, structures, monuments and appurtenances thereto, of every type and description in their natural state or condition, or constructed or fabricated of any material or materials whatsoever.

B. Work or services pertaining to the application of texture and simulated acoustic materials of all types upon all surfaces and the application of radiant heat fill, removal/encapsulation of asbestos and lead.

C. Work or services pertaining to the painting of all surfaces and incidental flushing and taping of drywall.

D. Work or services pertaining to the application of wallpaper, wall fabrics and all types of coverings or coatings whether decorative or protective, and all preparatory work necessary before said application.

E. Work or services pertaining to the application of tar products (enamels, epoxies, etc.), plastic, vinyl, acrylics, epoxies, polyurethanes, polyesters, polymers, elastomeric coatings, silicones, mastics, sheet linings, plastic liner plate, seamless floors, field fabricated carpets (not to be considered as lay carpets), flocking materials, synthetic fibers, protective coatings of all descriptions, waterproofing, intumescent and ablative fireproofing and sprayed on foams, etc., or any and all products of this nature.

F. Work and services pertaining to the application of composite column casing consists of either System 1, as provided for in Caltrans Special Provisions for construction on State Highways, an epoxy resin-glass fiber, electrical grade, E-glass casing with painted or non-painted exterior surface, or System 2, as provided for in Caltrans Special Provisions for construction on State Highways an epoxy resin-perpreg carbon fiber composite casing with painted or non-painted exterior surface. Also work and services pertaining to the application of adhesives and binder as they relate to the application of composite casing covered in Caltrans Special Provisions for construction on State Highways.

Work and services pertaining to the application of Plastic Flame Coat provided in Caltrans Special Provisions for Construction on State Highways. Plastic Flame Coat consists of thermoplastic powder, pigments and other additives, which are pre-blended according to manufacturer's specifications for application through propane gas flame.

Work and services pertaining to the application of the Plastic Flame Coat as they relate to the surface preparation and application of Plastic Flame Coat covered in Caltrans Special Provisions for Construction on State Highways.

G. Work or services pertaining to the application of bond breaker materials and the application of fiberglass.

H. Work or services pertaining to the finishing and surface preparation on all hardwood or softwood floors.

I. Work or services pertaining to the priming and finish coats on fabricated metal or steel products in the fabricating shop.

J. Work or services pertaining to surface preparation of all types, including sandblasting, all types of abrasive cleaning, water blasting, wet blasting, descaling, steam cleaning, building washing, and all the methods used in the removal of previously painted surfaces; including also caulking, tuck pointing, spackling and wood dough work.

K. Work or services pertaining to painting of lines, arrows, bumpers, curbs, etc. on parking lots, air fields, highways, game courts (both indoor and outdoor) and other such surfaces; installation and maintenance thereof, including lines of metal, plastic or composition materials used instead of paint.

L. All power operated equipment required by painters to complete their work shall be operated by the painters and not by other crafts, i.e. air compressors, hydraulic man lifts, platform equipment, fork trucks, fork lifts, and any other equipment necessary to perform the work operation of a contractor signatory to this Agreement.

M. All products and method of application and work or service pertaining to all cleaning of any and all surfaces in preparation of painting which have or may be awarded to the Painters International through jurisdictional procedure.

N. Work or services pertaining to Hazardous Material Handling. NOTE: It is not the intent of the parties signatory to this Agreement to assume jurisdiction over any work now officially granted to Autonomous Unions of the International Union of Painters & Allied Trades, but to protect the work of signatory employers and of the International Union of Painters & Allied Trades.

SECTION 2. LICENSE, BONDING AND LEGAL REQUIREMENT:

Every Employer signatory shall have a duly issued and effective California State Contractors License where required by law to perform the work covered by this Agreement, shall carry Responsibility Bonds, Worker's Compensation Insurance as required by the State of California and shall comply with all other Federal, State and Municipal Laws pertaining to the work covered by this Agreement, and to all health and safety regulations and rules of the State and Municipal Departments, Commissions and Health Officers, including the rules and regulations of the CAL/OSHA.

SECTION 3. CLASSIFICATIONS:

The following classifications of employers are recognized herein and defined as follows:

A. Painting and Decorating Contractors whose principal business is set forth in the rules and regulations of the California Contractors State License Board.

B. General Building Contractors as defined by the rules and regulations of the California Contractors State License Board.

C. Other Employers: Employers who are permitted by State License Law to perform work covered by this Agreement.

D. Specialty Contractors who have a State Specialty Contractors License to perform work covered by this Agreement. To do any painting work, said Specialty Contractor must have in addition a currently effective Painting and Decorating Contractors License, identified as C-33.

E. Maintenance Employer: Defined as any individual, firm, co-partnership, corporation, or other association, who own, lease, rent, or operate any building or portion thereof, containing apartments, rooms, offices, stores, factories, industrial plants or amusement centers used or intended or designed to be used, let out, or hired out or to be occupied by guests or tenants for compensation and/or occupied by the maintenance employer. This maintenance classification does not apply to any single unit dwelling or service station.

F. Maintenance Employers may also be defined as painting contractors performing work for Maintenance Employers defined in E above. All such Maintenance Employers as defined in E and F herein shall confine their painting, decorating, and paperhanging activities strictly to existing painted surfaces or existing surfaces upon which a completion notice has been on file for at least six months. Exceptional conditions, which may arise under this definition, shall be referred to the LMCC for immediate adjudication.

SECTION 4. AUTHORITY OF SIGNATORY TO EXECUTE:

A. FCA affiliate organizations or NON-MEMBER SIGNATORY: The employer, by membership in the signatory FCA affiliate organizations is bound by the terms of this Collective Bargaining Agreement. A Non-member signatory shall be bound by executing a counterpart of the Agreement in accordance with the provisions thereof.

B. FCA affiliate organizations: Chapters/UMLRC's affiliated with the Painting and Decorating Contractors of America, Inc., and the Painting and Decorating Contractors of California, Inc., shall be representatives of their members and those otherwise qualified, wishing to participate, for the purpose of establishing the wages, hours and terms of this Agreement.

C. To protect and preserve, for the employees covered by this agreement, all work they have performed and all work covered by this agreement, and to prevent any device or subterfuge to avoid the protection and preservation of such work, it is agreed as follows: If the Employer performs on-site construction work covered by this agreement, under its own name or the name of another, as a corporation, company, partnership, or other business entity, including a joint venture, wherein the Employer, through its officers, directors, partners, owners, or stockholders, exercises directly or indirectly through family members otherwise, management and control, the terms and conditions of this agreement shall be applicable to all such work.

All charges of violations of this section of the Agreement shall be considered as a dispute and shall be processed in accordance with the provision of this agreement on the handling of grievance and the final and binding resolutions of disputes.

If, after an Employer has violated this Article, the Union and/or Trustees of one or more Joint Trust Funds to which this agreement requires contributions institute legal action to enforce an award by an Arbitrator or the L.M.C.C. Judicial Board remedying such violation, or defend an action that seeks to vacate such award the Employers shall pay any accountants' and/or attorneys' fees incurred by the Union and/ or the Joint Trust Funds, plus costs of the litigation, that have resulted from such legal actions. This section does not affect other remedies whether provided by the law or this Article, that may be available to the Union and/or the Joint Trust Funds.

D. Partnership Mergers: If this Agreement is signed by a member of a partnership, it shall apply to them and each of them individually. In the event of a dissolution or termination of said partnership or in the event of a merger, consolidation or other legal change whatsoever, with respect to employer, any obligations hereunder shall be binding upon any assignee, successor, legal representatives or lessee of such employer.

E. All outstanding obligations, including but not limited to wages, special charges, dues, health and welfare, vacation, pension, death benefit plan, apprenticeship fund and LMCC Fund contributions shall be satisfied prior to the issuance of a new Shop Card to any signatories who had previously been signed to the Southern California Painters Decorators and Allied Trades Master Labor Agreement (hereinafter referred to as "Master Labor Agreement"), or the Los Angeles Area Painters Decorators and Allied Trades Joint Committee Agreement, or the Orange Belt Painters and Decorators Joint Agreement, or the Ventura, Santa Barbara, San Luis Obispo Master Painting Contractors Association, and District Council of Painters # 52 Agreement whether as an individual, partnership, corporation or otherwise.

F. When the Labor Management Cooperation Committee (herein "LMCC") receives an application for Shop Card from an individual who has been in default under the Collective Bargaining Agreement heretofore or who has been associated with a corporation, partnership or other business entity which has been in default under the Collective Bargaining Agreement in this industry, the LMCC shall determine the extent to which the new application may lead to a circumvention of this Agreement or may involve unusual difficulties in the enforcement of this Agreement and upon such a finding the LMCC shall, within its discretion, refuse the issuance of a Shop Card or require personal indemnification or the posting of an adequate bond. If the circumstances of prior default are first called to the attention of the LMCC after the issuance of a Shop Card, the LMCC shall review the matter and take appropriate action as though it were considering a pending application.

G. Each contractor signatory to this Agreement agrees that whenever financial arrangements are made for their payroll to be paid by a paint manufacturer or dealer, property owner, general contractor or other third person, he/she shall require said paint manufacturer or dealer, property owner, general contractor or third person to assume liability for or to guarantee payment of all other financial obligations of an employer under this Agreement. Said signatory contractor shall incorporate into any payroll agreement he/she has with such paint manufacturer or dealer, property owner, general contractor or other third person, the following provision:

" The undersigned (JOHN DOE) acknowledges that the job described herein is subject to all the terms and conditions of the Painters and Allied Trades District Council No. 36 Agreement, and agrees that he/she shall pay (or guarantees the payment of) all sums of money required to be paid to or on behalf of all employees employed by painting contractor on said job, including but not limited to wages, overtime, out-of-town expenses, health and welfare, vacation, pension, death benefit, apprenticeship and LMCC Fund contributions, social security taxes, withholding taxes and damages that may be assessed in accordance with said Agreement."

SECTION 5. TRANSFER OF ASSOCIATION MEMBERSHIP:

It is agreed that before an employer may change his/her status from a FCA affiliate organization member to a non-member signatory, or vice versa, he/she shall provide the LMCC with written evidence of the fact that he/she has met all of the financial obligations incurred by him/her by virtue of his/her former status.

SECTION 6. SIGNING OF THE AGREEMENT:

A. Counterparts: This Agreement may be executed in multiple counterparts and when one counterpart is signed by the Association and/or Chapter, all such counterparts shall constitute when taken together, one and the same instrument as if all signatures were contained in the original.

B. Additional Parties: After this Agreement takes effect, any new employer may become a party hereto if a counterpart of the Agreement is executed by him/her and he/she is found to be a qualified employer by the LMCC. This Agreement shall take effect as to such new contracting party at such time as said party signs such counterpart.

C. The Association, signatory to this Agreement, will include in its Bylaws a paragraph binding all members of said Association to the terms and conditions of this Agreement. These Bylaws and all amendments thereto shall be filed with the LMCC.

SECTION 7. WORK BY EMPLOYER:

A. It is agreed that all employers, parties hereto, shall not be privileged to work on any job covered by this Agreement until they have obtained an identification card issued by the LMCC or their FCA affiliate organizations. It is recognized that Identification Cards shall not be issued to any co-partnership or corporation that does not have at least one employee in their employ and that for the purposes of this paragraph, no member of the firm, co-partnership or other business identity shall be considered an employee. Provided the provisions of this paragraph are complied with, one such identification card shall be issued to any single employer whether or not that employer operates as an individual, firm, co-partnership, corporation or other association. The name of the person obtaining the identification card shall appear on a State License and shall be listed with the LMCC. No subterfuge shall be used to obtain an identification card. The employer agrees that he/she will not have dual shops (union and non-union).

B. DEFINITION: An Employer shall mean an individual, firm, co-partnership or corporation who takes work directly from an owner, owner's agent, architect or builder and employs one or more employees and meets any of the requirements of Section I of this Article. An employer shall not be allowed to work intermittently for another employer as an employee while engaged in or recognized as being in the contracting business.

SECTION 8. EMPLOYMENT OF JOURNEYMAN:

The Employer agrees that during the period of this Agreement he/she will employ one or more employees covered by this Agreement on each and every job contracted from another contractor, subject to the provisions of this Agreement. An Employer working with the tools shall observe the same hours as provided herein for Journeymen; but nothing herein shall be construed to deny the Employer the right to take tools to and from the job before and after the regular working hours. If an Employer violates this Section, the gross amount of the sub-contract shall be considered gross wages and divided by the basic hourly rate to determine the amount of fringe benefits and other contributions, plus liquidated damages, due to the Trust Funds.

SECTION 9. EMPLOYER'S IDENTIFICATION CARD:

This card shall be issued annually to the employers, parties hereto, in good standing who shall sign the Agreement and shall specify the person who is entitled to work with employees covered by this Agreement without joining any Union. Under no circumstances shall more than one person in an employer status, whether individual, firm, corporation, partnership or other association, be allowed to work with the tools of the trade. Employers who retain union cards for personal reasons shall not be entitled to work with the tools of the trade unless they qualify as the single member of the firm who obtains an identification card. Holders of Identification Cards are required to carry same while on the job and shall present same when so requested by the Business Representative.

SECTION 10. SUBLET WORK:

A. If prior to entering into a contract, the contractor has definite knowledge that he/she is taking over a contract for a job that has been partially completed by another contractor, he/she shall notify the LMCC or the Painters and Allied Trades District Council No. 36, in writing, by telephone, by FAX, or by telegram in the area before starting work. Upon receipt of such notice the LMCC or the District Council shall immediately inspect the job and shall advise all journeymen and trust funds, with unpaid claims, of their legal and other enforcement rights.

B. Two or more Employers: The Employers party to this Agreement hereby agree that no two or more employers having separate Shop Cards will be allowed to work for each other. Painting Contractors will be permitted to sub-let contracts and in such cases shall mail to the LMCC, prior to the start of such sublet contract work, the list of subcontractors' names and addresses. The employer agrees that he/she will not sublet or contract to his/her employees.

C. Any Employer found guilty of sub-contracting work covered by this Agreement to an unsigned contractor and/or employee shall be assessed liquidated damages in the sum of not less than one thousand dollars (\$1,000.00), none of which may be suspended, and the amount of trust fund contributions lost by virtue of the illegal sub-contract, by the LMCC. The assessed damages shall be paid to the Joint Apprenticeship Committee.

D. Painting and Drywall Contracts: The Employer parties to this Agreement in the construction industry relating to contracting or subcontracting of work to be done at the site of the construction, alteration, painting or repairing of a building, do hereby agree that on any job site on which they may employ employees covered by this Agreement, they will not subcontract to any painting or specialty contractor who is not signatory to this agreement and does not have a valid shop card, and will not subcontract to any drywall subcontractor who is not signatory to the Southern California Drywall Finishing Joint Agreement and does not have a valid shop card. Any Employer signatory to this agreement who is engaged in drywall finishing shall be bound by all the terms and conditions of the Southern California Drywall Finishing Joint Agreement, provided, however, that such terms and conditions shall only be binding during the term of this agreement (i.e. the Paint Agreement). In the event that it is not possible to locate a Union Specialty Contractor, written notice (outlining the specific job location and the Specialty work to be performed) will be given to District Council No. 36, and in the event that forty eight (48) hours after receipt of such notice, the District Council No. 36 is unable to locate more than one Union Specialty Contractor, the employer may in addition to that signatory employer, solicit bids from any Specialty Contractor.

E. In the event that enforcement of Article 1, Section 10, Paragraph D is restrained by a United States District Court upon a petition of a Regional Director of the National Labor Relations Board, or otherwise, such provisions shall be suspended pending its final adjudication. The absence of definitive legal criteria may make negotiations or modification of this section necessary or advisable, and for these reasons it is agreed that, in the event this provision is determined unlawful by the National Labor Relations Board or the United States District Court enjoins its enforcement, then this Section in its entirety shall be re-opened for negotiating amendments by the Union giving fifteen (15) days notice to the Secretary of the LMCC, notwithstanding any other provisions of this Agreement.

F. Paperhanging: In view of the abuses which have occurred in sub-contracting of work to paperhangers who are not contractors signatory to this Agreement it is agreed that both employers and working paperhangers subject to this Agreement, who enter into relationships in violation of this Agreement, shall be disciplined hereunder and that the appropriate disciplinary tribunal is empowered to assess as damages the amount which otherwise would have been earned by contractors or employees who are in compliance with this Agreement.

G. Other Craft Work:

1. It is further agreed that any job site work not covered by this Agreement contracted for by a signatory hereto, shall be performed by said signatory in accordance with the terms and conditions of the AFL-CIO Building Trades Craft collective bargaining agreement in effect for said work in the locality in which it is being performed provided said craft has in its collective bargaining agreement a clause similar to this clause with the same meaning and intent. (Those crafts include IUPAT, Glaziers, Architectural, Metal and Glass Workers, and IUPAT, Resilient Floor and Decorative Covering Workers)

2. In the event that enforcement of Article 1, Section 10, Paragraph G is restrained by the U. S. District Court upon a petition of a Regional Director of the National Labor Relations Board, or otherwise, such provision shall be suspended pending its final adjudication.

SECTION 11.

1. In the event the International Union and or District Council No. 36 enters into any agreement with an Employer for the same geographical area for painting work covered by this agreement, they shall be required to send a copy of such agreement to the LMCC office, where it shall be made available for review by signatory contractors.

2. To gain and preserve work opportunity for its members, the District Council No. 36 may grant variances from specific provisions of this Agreement on a particular job. If such project specific relief is granted to any contractor, it shall be granted equally to any other contractor who has made similar application on that particular job.

3. The above paragraph shall not apply to the various institutional or corporate maintenance agreements between the Union and an Employer, which shall be exempt from its application.

ARTICLE 2

EMPLOYMENT OF WORKMEN

(Union Recognition)

SECTION 1. INTENT:

A. It is the intention of the parties that all workers covered hereby shall be or become forthwith upon employment and remain continuously, members in good standing of the Union signatory hereto on whose behalf this Agreement is executed, as a condition of employment, and that this provision shall become operative without further notice or amendments whenever amendments to the judicial interpretations of the Labor Management Relations Act of 1947 remove the inhibitions against the application of this paragraph now existing under the present working and judicial interpretations of that act.

Membership in the Union is defined to mean the tendering of any application, or initiation fees, uniform assessments, periodic and supplemental hourly dues as required by the International Union of Painters and Allied Trades Constitution (IUPAT), Local Union and District Council No. 36 Bylaws.

B. It is agreed that all workers covered hereby shall be and become, not more than seven (7) days after employment and remain continuously members in good standing of the Union signatory hereto and on whose behalf this Agreement is executed as a condition of employment and that all workers who are members at the time of their employment hereunder shall continuously remain members in good standing as a condition of employment.

It shall be the obligation of the employer to see that the terms of this paragraph are carried out by the employees. Any employer found guilty of violating this paragraph shall be assessed liquidated damages in the sum of not less than seven hundred dollars (\$700.00), which may be suspended at the request of the Union, and the amount of trust fund contributions lost by virtue of this violation, by the LMCC. The assessed damages shall be paid to any one of the following as determined by the Union:

- (1) Joint Apprenticeship Training Trust
- (2) The Industry Advancement Fund
- (3) Any jointly administered body recognized to perform the functions of Apprenticeship and Journeyman prevailing wage compliance on public works.

C. The Painters and Allied Trades District Council No. 36 shall be the sole representative of employees for Signatory Employers, who perform work described in this Agreement. Such representation shall extend to all issues that relate directly or indirectly to the establishment or maintenance of wages, hours, or working conditions.

D. In the employment of workers for all worked covered by this Agreement the following provisions shall govern:

SECTION 2. HIRING PROCEDURES:

A. The Union shall establish and maintain an open and non-discriminatory employment list for employment of workers of this particular trade, including journeymen or indentured apprentices previously employed by the employers in the multi-employer unit included in this Agreement and non-member workers who make application for a place on the list.

B. Whenever desiring to employ workers, the Employer shall call upon the Union or its agent for such workers as he/she may from time to time need and the Union or its agent shall immediately furnish the employer the required number of qualified and competent workers needed by the Employer, provided, however, the Employer shall have entire freedom of selectivity in hiring and may discharge any employees for cause (EXCLUDING STEWARDS) which he/she may deem sufficient, provided there shall be no discrimination on the part of the Employer against any employee for any Union activity. No employee may be discharged for refusing to transport materials, tools or equipment in their personal vehicle. Nothing contained herein shall prohibit the employer from stipulating the special skills required for said job. The Union recognizes the right of the employer to make work assignments, to manage his or her operations, schedule his or her work and direct his or her work force, including the hiring, promoting, suspending, discharging for cause, and laying off of employees, subject only to the limitations in the Agreement and all applicable laws.

C. The Union or its agent will furnish the Employers each such required competent workers entered on said list by use of written referral, on a standard form with specific references to wages only as "per the Agreement". Said written referral shall be given to the employee when he/she is dispatched to an employer, excluding out of area employees, as described in Article 3, Section 4, Paragraph E, and said employee shall not be permitted to commence work until said written referral has been delivered to the employer or his/her agent. The employer shall be furnished such workers from the Union's open listing in the following manner:

The specifically named workers who have been recently laid off or terminated by the Employer or by any other Employer within the Multi-Employer unit herein and whom the applicant Employer desires to re-employ provided they are available for employment. Workers who have been employed by Employers within the Multi-Employer unit during the previous ten (10) years. Workers whose names are entered on the list above referred to and who are available for employment.

D. The employer or his/her foreman shall be responsible to see that the work referral of any newly hired or rehired employee, or member renewing his/her work referral (each six (6) months) is in order, or will notify the District Council No. 36 Office or the Local Union in the area by telephone within twenty-four (24) hours of employment of any newly hired or rehired person. Failure to follow the procedure above will result in:

First Violation – Written warning
Liquidated Damages:
Second Violation – Fifty (\$50.00) Dollars
Third Violation – One hundred (\$100.00) Dollars
Two hundred (\$200.00) Dollars for each additional violation

The assessed damages shall be paid to any one of the following as determined by the Union:

- (1) Joint Apprenticeship Training Trust
- (2) The Industry Advancement Fund
- (3) Any jointly administered body recognized to perform the functions of Apprenticeship and Journeyman prevailing wage compliance on public works.

E. Employees shall be required to obtain new job referral semi-annually during the months of January and July from either District Council No. 36 or from any Local Union within the jurisdiction of District Council No. 36.

F. Reasonable advance notice will be given by the Employers to the Union or its agent upon ordering such workers, and in the event that forty-eight (48) hours after such notice the Union or its agent shall not furnish such workers, the Employers may procure workers from any other source or sources. If workers are so employed, the Employer will report

to the Union or its agents each such worker by name and social security account number at the time of hire. Workers employed under the provisions of this paragraph who fail to make application for and obtain a Certificate of Competence shall not be eligible for future employment until obtaining such a Certification of Competence.

G. If workers are employed, the Employers shall within twenty-four (24) hours report to the Union or its agent such workers by name and Social Security Account Number.

H-1. When workers are entered on the list referred to in the last paragraph of Sub-section "C" or when workers are employed under Sub-section "D" without reference to the hiring hall list, the workers shall be required to pass an examination establishing their competence to perform the work required of them.

H-2. All members, excluding apprentices, who clear into a Local Union in District Council No. 36, shall be required to take the certification test prior to being dispatched. Should the member be classified as an apprentice he or she shall be dispatched at the appropriate rate of pay until such time as he or she obtains said certification.

(a) Testing procedures covering written and/or manipulative tests shall be adopted and maintained with such revisions as may be deemed advisable by the Joint Apprenticeship Committee and the Committee shall establish the procedures and rules under which Certificates of Competence will be issued to successful test applicants. The Committee rules shall require that test results be judged jointly through representation of the Employers, the Union and an impartial third party, and that test judging be suspended during any period when such joint representation may be unavailable.

(b) Workers may at their option make application for a Certificate in the phase or phases of the craft of their choice and may obtain such Certificate upon successful completion of the tests applicable thereto.

(c) The Joint Apprenticeship Committee shall have the authority to assess a fee to be paid by the applicant as a condition precedent to taking a test provided that the fee or fees so established shall be reasonably set with due consideration being given to the cost of administering such test.

(d) In the event a worker who has applied for a Certificate of Competence and who complied with the procedures of the Joint Apprenticeship Committee is denied such Certificate, they may appeal to the Joint Apprenticeship Committee for a review of their application. The Joint Apprenticeship Committee shall have full power to review the questions presented by the appeal, and the decision of the Joint Apprenticeship Committee shall be final and binding as to the subject of the appeal. Any examination to establish competence as provided for under this Section shall be developed and graded by an impartial third person selected by the LMCC.

SECTION 3. UNION SECURITY:

A. All workers employed by the Employers for a period of seven (7) days continuously or accumulatively within the Multi-Employer unit covered by this Agreement shall as a condition of employment tender the full and uniform admission fee in effect in the Local Union and shall become members of the Union signatory hereto immediately, upon terms and qualifications not more burdensome than those applicable at such time to other applicants to the Union. All workers accepted into membership shall thereafter maintain their continuous good standing in the Union as a condition of employment by paying regular monthly Union fees uniformly paid by other members in the same classification in the Union in accordance with its rules. In the event that a worker fails to maintain his/her membership in accordance with the provisions of this section, the Union shall notify the Employer in writing and such notice shall constitute a request to the Employer to discharge said individual worker within forty-eight (48) hours (Saturdays, Sundays and Holidays excluded) for failure to maintain continuous good standing in the Union in accordance with its rules above referred to in this paragraph, and the Employer shall discharge such worker at the end of such period.

B. In the event that the Union does not accept into membership any worker tendering the admission fee and regular monthly Union fees the foregoing paragraph shall not be applicable provided, however, that the Union may at any time thereafter decide to take such worker into membership, in which case said worker shall be required to tender the full and uniform admission fees in effect in the Local Union not later than seven (7) days following notification by the Union and shall thereafter be required to maintain his/her membership in accordance with the provisions of the foregoing

paragraph. In the event that such worker fails to comply with this paragraph, the Union shall notify the Employer and the Employer shall discharge said worker within forty-eight (48) hours.

C. The Union agrees to indemnify, defend and hold employer harmless from any and all claims, liabilities, loss or damage suffered as a result of any lawful act in compliance with this section of the Agreement and upon receipt of written instruction from the District Council.

SECTION 4. DEFINITION

Whenever the term "member" or "journeyman" is used in this Agreement the provision is equally applicable to all employees. (For definition of journeyman see Article 5, Section 1.)

SECTION 5. TOP WORK PLACE PERFORMANCE

Should any person referred for employment be terminated for cause, his or her referral, privileges shall be suspended for two weeks. Should the same individual be terminated for cause a second time within a twenty-four (24) month period, his or her hiring hall referral privileges shall be suspended for two months. Should the same individual be terminated for cause a third time within a twenty-four (24) month period, his or her referral privileges shall be suspended indefinitely.

A termination shall not be considered as "for cause" for purpose of this provision if the person referred for employment has filed a grievance challenging the propriety of his or her termination, unless and until the grievance is resolved in a manner that affirms the termination for cause. For the purpose of this provision, a decision of the LMCC Judicial shall be final and binding.

The provisions in subsections (a) and (b) notwithstanding, a Termination Review Committee, composed of the members of the LMCC Judicial [or, alternatively, if there is no LMCC Judicial, "composed of two (2) members appointed by the Business Manager/Secretary Treasurer of the District Council and two (2) members appointed by the Employer Association"] may, upon written request of the applicant, vacate or reduce the period of suspension should the Committee determine, following inquiry or investigation, in its sole and complete discretion, that equity requires such action.

ARTICLE 3

JOB REGISTRATION REQUIREMENTS

SECTION 1. AREA COVERED BY THIS AGREEMENT:

This Agreement covers all the jurisdictional area of Painters District Council No. 36, including Los Angeles, Orange, San Diego, Riverside, San Bernardino, Imperial, Ventura, Santa Barbara, San Luis Obispo, Kern, Inyo, and Mono Counties.

The area included is bounded on the West by the Pacific Ocean, and contiguous territorial waters, the South by the Mexico border, the East by the Arizona and Nevada border, and on the North by the Northern borders of San Luis Obispo, Kern, Inyo, and Mono Counties.

SECTION 2. BID REGISTRATION:

So that the industry may be better policed by labor, the employer is encouraged to report to District Council No. 36 or FCA affiliate organizations in the area any jobs that he/she has bid and lost to any unknown party.

SECTION 3. JOB REGISTRATION:

The Employer agrees that each and every job be registered with District Council No. 36, prior to starting each job when the regular working hours outlined in Article 12, Section 1, are not to be followed. This registration will be in writing, using forms provided by the LMCC, listing the contractors name, exact job location, approximate starting date of the job, and notice of sub-contracting of portions of the registered job. The filing of the Job Registration form indicating daily starting time for the job will fulfill the requirements for notification required under Article 12, Section 1, of this Agreement, including sub-contractor registration requirements of Article 1, Section 10, Paragraph B.

SECTION 4. REGISTRATION PROCEDURES FOR OUT OF AREA EMPLOYERS AND EMPLOYEES:

A. An employer signed to the Painters Agreement from outside the area described in Section 1 (above) shall register his/her job or jobs on forms provided under the procedures set forth in this Agreement and deposit the sum of not more than four-hundred (\$400.00) dollars, which shall include the Bond Fee, effective July 1, 2006. The registration fee for each anniversary date of this Agreement shall be determined by the Negotiators of this Agreement. These fees shall be paid into the LMCC annually before the commencement of any work on said job or jobs, or stand subject to such damages or liquidated damages as may be deemed sufficient by the LMCC. Upon payment of the required registration fee, the employer will be automatically covered by the LMCC Bond Fund as outlined in Article 15, Section 7. Said out-of-area contractors will sign a counterpart of this Agreement, and a form will be provided to secure the following necessary and vital information: Firm Name and Address, Name of Owner, Chapter Name and Shop Card Number, State Contractors License Number, Employer's Social Security Account Number, Compensation Insurance Carrier and location of job or jobs, and a statement that said contractor agrees to abide by all conditions as set forth in this Agreement.

B. When the requirements as set forth in Section 4A are fully complied with, said out-of-the-area employer shall be issued a registration card by the LMCC. It is agreed that a token registration card may be issued by the LMCC to out-of-the-area employers under special circumstances.

C. It is mandatory that all additional jobs not registered on the original registration shall be registered with the Business Representative of the area in which the job exists and/or District Council No. 36, before the commencement of such additional job or jobs. Failure to comply shall subject such employer to such damages or liquidated damages as may be assessed by the LMCC. Said additional jobs may be registered by mail, telephone, or personal contact.

D. The employer shall notify the District Council representative of the names and District Council affiliation of the employees whom he/she will place on said job.

E. Journeymen from out-of-the-area must register and secure a work referral from District Council No. 36 or its area Local Union before being employed on any job.

SECTION 5. OUT OF AREA EMPLOYER:

A. It is agreed that out-of-the-area contractors will register to do work in the area covered by this Agreement and shall employ not less than fifty (50%) percent of the journeymen from District Council of Painters No. 36. Foremen and/or workers and employers classified as foremen will be counted in this ratio. Employees from out of the area may be utilized subject to the classifications listed in this Agreement. Further, in the event the District Council is unable to supply the necessary amount of competent journeymen, said employer shall be privileged to employ journeymen from his/her home area only. However, under no circumstances will any employee be allowed to work on any job within the jurisdiction of District Council No. 36, without first securing a work referral from District Council No. 36, or one of its Local Unions.

B. Area Contractor: Employers who have a place of business located in the geographical jurisdiction of the Painters District Council No. 36, shall be considered employers within the area covered by this Agreement. Said employers shall hire workers through the Union in accordance with Article 2 of this Agreement.

SECTION 6. OUT OF AREA WORK:

The Employer party hereto shall, when engaged in work outside the geographic jurisdiction of the Union party to the agreement, comply with all the lawful clauses of the Collective Bargaining Agreement in effect in said other geographic jurisdiction and executed by the employers of the industry and the affiliated Local Unions in the jurisdiction, including but not limited to, the wages, hours, working conditions, fringe benefits and procedure for settlement of grievances set forth therein; provided however, that as to employees employed by such employer from within the geographic jurisdiction of the Union party to this agreement and who are brought into an outside jurisdiction, such employee shall be entitled to receive the wages and conditions effective in either the home or outside jurisdiction whichever are more favorable to such employees, and fringe benefit contributions on behalf of such employees shall be made solely to their home funds in accordance with their governing documents. This provision is enforceable by the Local Union or District Council in whose jurisdiction the work is being performed, both through the procedure for settlement of grievances set forth in its applicable Collective Bargaining Agreement and through the courts and is also enforceable by the Union party to this agreement, both through the procedure for settlement of grievances set forth in this agreement and through the courts.

An Employer engaging in work outside the geographic jurisdiction of the Union party to this agreement shall comply with this Article by signing the Memorandum of Understanding for Out of Town Contractors specifying the area where work is to be performed. A copy of this Memorandum of Understanding is available at the LMCC office.

The Contractor or the Employer party to this Agreement, when engaged in work outside the geographical jurisdiction of the party to this Agreement, shall employ not less than fifty percent (50%) of the workers employed on such work from the residents of the area where the work is performed or from among persons who are employed the greater percentage of their time in such area.

ARTICLE 4

MAINTENANCE AGREEMENT

SECTION 1.

A. Members of District Council No. 36 shall be allowed to work for City, County, State and Federal agencies without such employers being signatories to this Agreement. They shall also be allowed to work for automotive, sign and pictorial, marine, production shop, carpet and linoleum and maintenance employers signed to appropriate agreements with District Council No. 36.

B. It is agreed and understood that employer signatories hereto shall have the privilege of signing a maintenance contract negotiated with District Council No. 36, with any establishment under comparable terms and conditions as those now in existence with similar establishments. It is further agreed and understood that signatory employers to this Agreement shall be privileged to sign comparable agreements negotiated with District Council No. 36, with those establishments now under maintenance contract at the expiration of the existing contract, and that all employees involved in such contracts shall be employed and any additional employees must be members of District Council No. 36.

SECTION 2. MAINTENANCE AGREEMENT RULES AND REGULATIONS:

A. The signatories to this Agreement agree to cooperate in organizing maintenance work as the object of this Article is to maintain steady year-round employment. District Council No. 36, agrees to encourage firms and establishments to sign maintenance agreements with contractors signatory to the Collective Bargaining Agreement. Said maintenance agreements when negotiated and signed by District Council No. 36 shall be presented to the LMCC for record and reading.

B. Maintenance agreements negotiated and signed by and between District Council No. 36, and a maintenance employer as described in Article 1, Section 3-E and 3-F shall be consistent with the spirit, intent and purpose of this Agreement and shall be presented to the LMCC for registration. The LMCC shall thereupon certify to the Painting Industry Trust Funds that such maintenance agreement has been filed with the LMCC for record. The LMCC shall issue

its Maintenance Shop Card to maintenance employers whose maintenance contracts are filed with the LMCC and which include or are accompanied by a signed stipulation made a part of the contract by reference thereto, which shall read as follows:

"The employer agrees to file all reports, to make all payments and to abide by all rules and regulations made for the uniform administration and enforcement of those certain group plans as contained in the Painters and Allied Trades District Council No. 36 Master Labor Agreement and the Painting Industry Trust Fund Agreements and Declarations of Trust, except where the employees are covered under comparable plans."

Upon filing this Maintenance Agreement with the LMCC the Employer shall be issued a Maintenance Shop Card which shall be displayed upon request as evidence of compliance with the terms of this Maintenance Agreement and which Card may be revoked upon a breach of this Maintenance Agreement.

SECTION 3. MAINTENANCE SHOP CARDS:

A. Maintenance Shop Cards shall be issued by the LMCC for maintenance work and shall be honored only at the location listed on the card. There will be no cost for such a Shop Card and said Maintenance Shop Card shall not be denied to any multiple property owner or institution, industrial concern, commercial concern or to a hotel or motel concern which may be signatory to a Maintenance Agreement. It is agreed and understood that no maintenance employee may perform any work on any construction or major alternations or new additions to said building, whether performed by the building employer or let out for contract, cost-plus, time and material, or on other basis.

B. If a maintenance contract is canceled or violated before its normal anniversary date, the conditions surrounding such cancellation or violation shall be reviewed by the LMCC for the purpose of determining if the original contract was a subterfuge to by-pass the existing outside rate. If said contract is found to be a subterfuge, it shall be deemed to be a violation of this Agreement and the Employer will be subject to charges and penalties by the LMCC including removal of all Maintenance Shop Cards of said Employer.

C. All Maintenance Shop Cards issued shall be registered by the LMCC.

SECTION 4. MAINTENANCE EMPLOYEES:

A. Employees working under this Section will be known as "Maintenance Employees" and upon employment their names shall be registered with the LMCC and read into the Minutes of the next regular LMCC meeting and submitted to the Painting Industry Trust Funds. These employees cannot be removed from the job locations listed on the Maintenance Shop Card at any time to perform other work at any other address without prior approval of District Council No. 36. It is agreed that the object of this Section is to maintain steady, year-round employment.

B. When an employer exclusive of those contractors signatory to this Agreement wishes to employ additional employees over and above those named in the Maintenance Agreement and having been read into the Minutes of the LMCC, the District Council No. 36 shall make every effort to see that said employees shall be employed through a contractor signatory to the Painters and Allied Trades District Council No. 36 Master Labor Agreement.

SECTION 5. TRUST FUND PARTICIPATION:

It is finally mutually understood and agreed by the parties hereto that all employers referred to in this Article shall have a valid Shop Card as a requirement for participation in the Painting Industry Trust Funds.

SECTION 6.

All maintenance agreements shall be reduced to writing and signed and a copy thereof shall be deposited with the LMCC Office. Copies of maintenance agreements with employers who are members of an employer's association signatory to this agreement will also be forwarded to the employers association involved.

ARTICLE 5

UNIONS AND JOURNEYMEN

SECTION 1. PICKET LINES:

Employees covered by this Agreement shall have the right to respect any legal primary picket line validly established by any bona fide labor organization, and the Union party to this Agreement has the right to withdraw Employees covered by this Agreement wherever the Employer party to the Agreement is involved in a legitimate primary labor dispute with any bona fide labor organization.

SECTION 2. DISTRICT COUNCIL:

District Council of Painters No. 36, shall be the sole representative for their members for the purpose of establishing wages, hours, and terms of this Agreement.

SECTION 3. NO WORK FOR DEFAULTING EMPLOYERS:

No member of this Council shall work for any employer who has not fulfilled his/her financial obligations to any employee covered by this Agreement.

SECTION 4. WORK FOR QUALIFIED EMPLOYERS:

A. Members of District Council No. 36 agree to work for employers only if they have a current Shop Card and comply with the regulations governing employers under this Agreement, except as specifically excepted by this Agreement, in the case of City, County, State and Federal employees and employees of automotive, sign and pictorial, marine productions, carpet and linoleum shops, District Council No. 36 or one of its affiliated bodies and committees and trusts established by this Agreement. It shall be deemed a specific violation of this Agreement for any member of District Council No. 36 to work for any unsigned contractor and a charge of violation shall be filed by the member's Business Representative or District Council No. 36 against any member of District Council No. 36 who works for an unsigned contractor. A representative of the Trust Funds, the LMCC or District Council No. 36 may make an investigation of each member of District Council No. 36 who has not had trust fund contributions made on his or her behalf or who continually has only minimum hours reported to qualify for trust fund coverages to determine if the member is working in violation of the Agreement. Hearing on a charge of violation of this paragraph shall be by the District Council No. 36 Trial Board and a copy of the charge and its disposition shall be available upon request, to the LMCC and the FCA affiliate organizations.

B. Any employee commencing work without first securing a work referral shall be penalized in accordance with the IUPAT Constitution and District Council No. 36 Bylaws utilizing the following schedule:

\$50.00 for the first violation; \$75.00 for the second violation;

\$100.00 for the third violation and a minimum of \$200.00 for each additional violation.

SECTION 5. DOUBLE IDENTITY:

A. No journeyman will be allowed to contract until he/she first secures a written release from his/her District Council showing no indebtedness to the Council and/or Local Union and complies with all requirements governing contractors signing this Agreement.

B. No contractor signatory to this Agreement shall be allowed to work for another contractor as a journeyman or foreman. No contractor shall be dispatched as a journeyman or foreman until he/she has surrendered his/her Shop Card to the LMCC or its Manager.

C. The Union and the Employers agree that there shall be no double identity and that before changing from contractor to journeyman, the contractor shall obtain a written release from his/her Chapter, and/or LMCC and each of the Trust Funds provided for herein prior to appearing before the LMCC and showing to the satisfaction of the LMCC that the change is in good faith.

D. The individual's identity can be changed one time in a twelve (12) month period. EXAMPLE: From journeyman to contractor to journeyman; from contractor to journeyman to contractor.

E. It shall be deemed a specific violation of this Agreement for any party to this Agreement, who does not have a valid Shop Card, to contract for any work covered by this Agreement. Any party to this Agreement who contracts for any work covered by this Agreement without having a valid Shop Card may be charged with a violation of this Agreement. Copies of such charge filed against a member of District Council No. 36, and disposition of same, shall be available, upon request, to the LMCC and the FCA affiliate organizations.

SECTION 6. BUSINESS REPRESENTATIVES:

District Council No. 36 agrees to place an efficient Business Representative or Representatives in the field in the areas within its geographical jurisdiction.

SECTION 7. WORK CARDS:

Employees must exhibit the official working card or temporary work referral and Identification Card issued by and recognized by Painters District Council No. 36.

SECTION 8. EMPLOYEES:

All employees working under jurisdiction of this Agreement shall be subject to and comply with all the regulations of said Agreement. Failure on the part of employees to comply with, or report any violation on their job, shall be deemed a violation of this Agreement.

ARTICLE 6

LABOR MANAGEMENT COOPERATION COMMITTEE

During the term of this Agreement there shall be a Labor Management Cooperation Committee, established and operated pursuant to Section 302 (c) (9) of the Taft-Hartley Act called the Southern California Painters and Decorators Labor Management Cooperation Committee.

SECTION 1. TRUST AGREEMENTS:

The Trust Agreement and Declaration of Trust for the Southern California Painters and Decorators Labor Management Cooperation Committee, dated July 1, 1994, shall be and hereby is incorporated herein to the same extent as if herein set forth in full and each and all provisions of said Agreement and Declaration of Trust shall be and hereby is binding on each and all parties hereto as if they had signed the same.

SECTION 2. MEMBERSHIP:

The Labor Management Cooperation Committee shall consist of 8 voting members, with 4 designated by District Council No. 36, 4 designated by the two FCA affiliate organizations as follows: two designated by LAP & FCA, and two by the FCASC.

SECTION 3. REMOVAL:

A member or alternate member of the Labor Management Cooperation Committee is subject to removal by a majority vote of the members of the respective organization of which he/she is a representative at a special meeting called for that

purpose. Failure of a Trustee to attend meetings regularly may be deemed cause for removal. Trustees and alternates shall be seated upon the presentation of proper credentials from their respective organizations; similarly, a Trustee or alternate appointed to fill vacancies shall present credentials from their respective organizations.

SECTION 4. QUORUM:

Four (4) members of the Labor Management Committee shall constitute a quorum to transact business, provided there are two (2) from management and two (2) from labor.

SECTION 5. VOTING:

All decisions and acts of the Trustees taken at a meeting shall be determined by one (1) vote for the Employer Trustees and one (1) vote for the Union Trustees. The vote of the Employer Trustees shall be determined by a majority of the Employer Trustees present at the meeting, and the vote of the Union Trustees shall be determined by a majority of the Union Trustees present at the meeting.

SECTION 6. DUTIES AND POWERS:

A. The Labor Management Cooperation Committee shall approve standard forms to be used for statistical records; and shall be empowered to arbitrate disputes hereunder. The Labor Management Cooperation Committee shall adjust disputes and grievances that may arise as provided in Article 16, entitled: Disputes and Grievances. The Labor Management Cooperation Committee shall be empowered to hear and try non-member signatories for violations of this Agreement as provided for in Article 17, entitled: Violations. Only the Negotiators of the Agreement are empowered to issue interpretations as to the intent, purpose and meaning of this agreement.

B. During the term of this Agreement every contractor covered by this Agreement shall keep accurate records of hours worked and monies paid by him/her as provided for in this Agreement as well as copies of all reports required by this Agreement. The Labor Management Cooperation Committee shall have authority to audit the said records and reports; and if any violation of this Agreement is found, the cost of said audit shall be paid by the violating contractor.

C. The Labor Management Cooperation Committee shall also maintain an office to handle the necessary bookwork, statistical forms and records so that the Labor Management Cooperation Committee will be well informed of its activities. It shall also provide the means for supplying such information to the respective signatory organizations.

D. The Manager of the Labor Management Cooperation Committee shall regularly inform directly affected parties of the names, addresses, phone numbers, and Shop Card number of all employers signatory to this Agreement.

E. The Labor Management Cooperation Committee shall direct and oversee the issuance of Shop Cards and the Bond Fund as provided in Article 7, designated: The Official Shop Card.

F. The Labor Management Cooperation Committee shall direct and oversee the administration of this Agreement as provided in Article 8, designated: Administration.

G. The Labor Management Cooperation Committee shall direct and oversee the Industry Advancement Fund, which shall be part of the Labor Management Cooperation Committee Trust, but which monies shall be separately segregated and used solely for the industry advancement purposes set forth in this Agreement in Article 18, Section 1 (e), and in the Appendix to the Labor Management Cooperation Committee Trust Agreement.

SECTION 7. MEETINGS:

Employer members of the following committees shall be reimbursed for meeting attendance as follows:

Labor Management Cooperation Committee Meeting: Twenty-five dollars (\$25.00) per hour, not to exceed seventy-five (\$75.00). Judicial Committee Meeting: Twenty-five dollars (25.00) per hour, not to exceed fifty dollars (\$50.00). There shall be no reimbursement for sub-committee meetings.

ARTICLE 7

THE OFFICIAL SHOP CARD

SECTION 1. VALID SHOP CARD:

A. All employers, parties hereto, shall at all times exhibit the official Shop Card of the LMCC.

B. On and after the date of signing this Agreement, every employer although a party hereto, must be registered annually through an authorized representative of the LMCC, the following information shall be requested when registering: Firm name, Address, Name of Owner or Owners, State Contractor's License Number, Employer's Social Security Number (both Federal and State), Responsibility Bonds (Article 15, Section 7), Compensation Insurance Carrier, Disability Insurance Carrier, together with official certificate furnished by the carrier made out from said carrier to the LMCC. Said registration shall call for issuance of a numbered Shop Card. Said Shop Card shall be paid annually, subject to the power of the LMCC to suspend or revoke and withdraw said Shop Card for violations. The Shop Card is issued by the LMCC to indicate that the person or firm to whom it is issued is a party to this Agreement. The Shop Card shall be furnished to signatory employers, signing, including members of the Associations which are signatory hereto.

C. The Shop Card fee shall be a maximum of Four Hundred (\$400.00) dollars and shall be determined annually by the negotiators of this Agreement. The negotiators to this Agreement shall also determine annually that portion of the Shop Card Fee that shall be set aside as a Bond Fee and deposited to the LMCC Bond Fund. That portion not set aside as a Bond Fee shall be deposited to the LMCC as the Shop Card Fee.

D. The Employers agree that during the remainder of the term of this Agreement the Negotiators to this Agreement will meet annually to review the LMCC Bond Fund and the LMCC to determine the financial solvency of both Funds and based on their review will establish the Shop Card and Bond Fees for the next Shop Card year. In the event any Negotiator is unable to serve, the body originally selecting that Negotiator will select that Negotiators replacement.

SECTION 2. DELINQUENCY CHARGE:

Any person or firm who is delinquent after July 31, of any year during the life of this Agreement, shall be required to pay an additional One Hundred (\$100.00) dollars, which shall not be refundable. Such additional deposit shall not be required from new individuals, firms, co-partnership, corporations or other associations who enter the painting industry within the jurisdiction of District Council No. 36.

SECTION 3. EXCEPTIONAL CONDITIONS:

It is recognized that under certain conditions the Union may be required to furnish men to an employer other than those signatory to the Southern California Painters Decorators and Allied Trades Master Labor Agreement in order to properly protect their jurisdictional or organizational rights. Such employer, not eligible for a Shop Card as a Chapter member or non-member signatory, a maintenance employer or for a Registration Card and who does not have a C-33, C-9 California Contractors License and/or a C-61 California Specialty Contractors License covering any phase of the Painting and Decorating Industry, who agrees to use members of District Council No. 36 and to observe all the conditions and terms of said Agreement, shall be required to enter into an agreement with District Council No. 36, a signed copy of which shall be deposited with the LMCC.

Such agreement shall read as follows:

"This Agreement entered into this _____ day of _____, 20____, between (employer's name and address of job site), hereinafter referred to as the employer, and the International Union of Painters and Allied Trades, District Council No. 36, hereinafter referred to as the Union; Witnessed,

It is mutually agreed as follows:

A. The employer agrees to abide by all the terms and conditions of the current Painters and Allied Trades District Council No. 36 Master Labor Agreement.

B. This Agreement terminates upon completion of the work at the address herein above stated, and the LMCC Card issued the Employer shall concurrently expire."

Each such Agreement shall be identified as an "exceptional condition". There shall be no Shop Card fee for Shop Cards issued to the Employer party thereto, but such Shop Card shall be valid only for work at the single location noted on the Shop Card and shall expire upon completion of said work.

Each such exceptional condition Shop Card issued shall specifically be presented to the next regular meeting of the LMCC for information and the Manager of the LMCC shall report the basis on which the limited shop card was issued.

ARTICLE 8

ADMINISTRATION

SECTION 1. AGENCIES:

A. It is understood that in the administration of this Agreement services have been required and shall be required of three types of agencies: (1) the bi-partisan agency, namely the Labor Management Cooperation Committee; (2) the employer agencies, the FCA affiliate organizations; and (3) the employee agencies, namely the District Council No. 36 and its affiliated Local Unions.

B. For reasons of traditional policy as well as law, the employee agencies have maintained a policy of financial independence, and there is no intention of the parties to devote any of the administrative fund contributions provided for herein to the operation of any of the employee agencies or any of their representatives.

C. It is necessary and possible, however, to purchase all supplies and services required by the bi-partisan agencies without making payments to any labor representative and it is the intention of the parties to have the LMCC Trustees do so.

D. It is likewise necessary and possible to purchase all of the supplies and services required by the employer agencies, to facilitate their work in the administration of this Agreement, and it is the intention of the parties to have the LMCC Trustees do that also.

SECTION 2. ADMINISTRATION FUND CONTRIBUTIONS:

Contributions for the administration of this Agreement shall be made to the Labor Management Cooperation Committee, which shall be responsible for allocating the monies to the FCA affiliate organizations and to the Labor Management Cooperation Committee, as provided for in this Agreement.

Effective July 1, 2010, every member signatory to this Agreement shall pay to the Labor Management Cooperation Committee for the purpose set forth below the sum of sixty seven cents (0.67) for every hour worked, effective July 1, 2011 the LMCC will increase by thirteen cents (0.13) cents per hour to eighty (0.80) cents per hour and effective July 1, 2012 LMCC will increase by two cents (0.02) to a total of eighty two (0.82) cents per hour or paid for, by every journeyman and every apprentice employed under this Agreement. The Employers agree that the Negotiators of this Agreement are empowered to determine the contributions required to maintain the solvency of the Labor Management Cooperation Committee Trust Fund, and that the Negotiators will annually make this determination. The contributions to the Labor Management Cooperation Committee Fund will be increased as determined by the Negotiators from the agreed upon economic package. In the event that any of the original Negotiators is unable to serve, the body originally selecting that Negotiator will appoint his/her successor.

SECTION 3. ADMINISTRATION FUND ALLOCATIONS:

Twenty-five (.25) cents of the sixty seven (.67) cents contributed to the Labor Management Cooperation Committee shall be paid to the FCA affiliate organizations / PDCA Chapters or UMLRC's to which the contractor is affiliated with, the contributions made by unaffiliated contractors will be sent to the Industry Advancement Fund. Ten (10) cents of the sixty seven (.67) cents contributed to the Labor Management Cooperation Committee shall be used by the Committee for administration of the agreement, and for the other purposes of the Committee as set forth in the Agreement. Twenty (.20) cents of the sixty seven (.67) contributed to the LMCC shall be paid to the Painters and Allied Trades Compliance Administrative Trust (PAT-CAT), Five (.05) cents contributed to the Labor Management Cooperation Committee shall be paid to the Industry Advancement Fund. Seven (.07) cents contributed to the LMCC shall be paid to the Painters and Allied Trades Labor Management Cooperation Initiative.

A portion of the Shop Card fee, as determined by the LMCC Trustees, may be remitted to the signatory FCA affiliate organizations/PDCA Chapters or UMLRC's.

No portion of said contributions shall be paid to any representative of a labor organization as prohibited by the Labor Management Relations Act. The Labor Management Cooperation Committee Trustees shall determine, within their sole discretion, how the ten (10) cents contribution shall be expended to defray the cost of administering this Agreement, to maintain maximum employment and good workmanship in the industry, to foster cooperative relationships between architects, engineers, builders and contracting agencies on the one hand and the painting and decoration contractors on the other, and to perpetuate harmonious relations that have existed between management and labor in the painting industry. The Trustees of the Labor Management Cooperation Committee are authorized to enter into an agreement with the Administrative Office of the Health & Welfare Fund, or any other disinterested agency, for the receipt of said contributions and their disbursement in accordance with the instructions of the Labor Management Cooperation Committee Trustees.

SECTION 4. AUDITS:

The receipts and expenditures of the LMCC shall be audited by a certified public accountant no less than once a year, and copies of said audit shall be delivered promptly to the parties to this Agreement.

SECTION 5. DAMAGES ASSESSED:

All damages assessed by the LMCC hereunder shall be paid to the LMCC.

ARTICLE 9

APPRENTICESHIP AND TRAINING

SECTION 1. APPRENTICESHIP ADMINISTRATION:

The parties to this Agreement recognize the need for Apprenticeship Training and to that end herewith authorize the appointment of the Southern California Painters and Decorators Joint Apprenticeship and Training Committee (hereinafter called the Apprenticeship Committee), composed of equal representation of Labor and Management and shall be governed by the Apprenticeship Standards of the Southern California Painters and Decorators Joint Apprenticeship and Training Committee, as approved by the Division of Apprenticeship Standards as amended from time to time and under the authority of the Shelley-Maloney Act of the State of California..

SECTION 2. DIRECTOR OF APPRENTICESHIP AND TRAINING:

The Apprenticeship Committee shall act in conjunction with the Drywall Finishers Apprenticeship Committee in recommending a Director of Apprenticeship and Training to the Apprenticeship Trust Fund trustees for formal approval. The Director shall employ other staff, whose duties shall be to coordinate the Apprentice's on-the-job training and related

classroom instruction; coordinate training programs with the Division of Apprenticeship Standards; keep all necessary records for the Committee and on each apprentice.

SECTION 3. APPRENTICESHIP COMMITTEE:

A. The Apprenticeship Committee is the administrative body of the Apprenticeship training activities in the painting industry in the area covered by this Agreement. In addition to the above, the Apprenticeship Committee may accept as part of its responsibilities a journeyman up-grading, certification, and testing program in any and all phases of the industry.

B. The specific and primary purpose of the Apprenticeship Committee shall be to advise and direct the Director, to encourage Apprenticeship training in the Painting and Decorating Industry to the maximum potential; to provide area wide direction and services to the Apprenticeship training program through the Apprenticeship Committee, to administer standards of Apprenticeship uniformly throughout the area, and to provide centralized record keeping of the Apprenticeship Training activities. It is understood that the Apprenticeship Committee shall conduct all activities relevant to processing applications, indentures, placements, apprentice ratings and such other functions as are consistent with the Shelly-Malone Act.

1. Members of the Apprenticeship committee shall be as specified in the Apprenticeship Standards.

2. In addition, there may be one advisor from the School District or other agency conducting class room training and one apprenticeship consultant representing the State Division of Apprenticeship Standards, Department of Industrial Relations and/or the Bureau of Apprenticeship and Training, U. S. Department of Labor; and such other advisors as the Apprenticeship Committee shall determine.

SECTION 4. FINANCING OF APPRENTICESHIP PROGRAM:

A. The parties signatory hereto agree to finance this program as set forth in Article 18, in addition to those monies made available from other sources.

SECTION 5. EMPLOYMENT AND SEVERANCE:

A. The parties to this Agreement herewith impose a mandatory duty on all employers to conform with the approved Apprenticeship Committee standards in the ratio of apprentices to journeymen, provided the Apprenticeship Committee approves the shop as an appropriate training shop for apprentices.

B. All shops may employ one (1) apprentice for every one (1) journeyman, subject to approval of the Apprenticeship Committee.

C. The employment of an apprentice must be consummated with a written statement to the Apprenticeship Committee, on the Employer's letterhead, or on a form provided by the Committee, requesting the apprentice by name and the proposed date they are to begin work. Upon receipt of this written statement and provided the applicant meets the requirements of the Committee and obtains District Council of Painters No. 36 permit, then the Apprenticeship Committee will issue to the apprentice an Identification Card assigning him/her to this specific employer.

D. When an employer desires to dismiss an apprentice, said employer shall inform the Apprenticeship Committee prior to removal of the apprentice from the job or shop. No apprentice shall be privileged to leave the employ of one employer and seek employment with another until he/she has been furnished a release stating the reason or cause of said release. The employment of an apprentice shall not be considered as having been terminated until this release has been furnished; and in such an event, the apprentices shall file this release with the Apprenticeship Committee before they shall be considered as re-assignable.

SECTION 6. APPRENTICE REQUIREMENTS:

Screening and evaluation of apprentice applicants shall be used prior to accepting any applicant into the program, provided the screening and evaluation process shall not conflict with or violate any Federal, State or Local laws governing acceptance of apprentice applicants. All apprentices shall enter into a written agreement with the Apprenticeship Committee and said agreements shall be registered with the State of California. All new applications for apprenticeship shall serve a probationary period of not more than one hundred and eighty (180) days. Failure on the part of the apprentice to satisfactorily complete this period will result in the automatic cancellation of his/her application.

SECTION 7. RELATED INSTRUCTION CLASSES:

A. The Apprenticeship Committee shall determine the establishment and scheduling of related and supplemental instruction classes.

B. The parties to this Agreement agree that all apprentices shall attend those related classes, assigned by the Apprenticeship Committee.

C. The Apprenticeship Committee shall have the authority to exercise disciplinary action of lay-off or removal from the job for failure to meet these minimum requirements in accordance with the terms of the Joint Apprenticeship Standards.

SECTION 8. WORKING RULES:

A. No apprentice shall be permitted to act as a foreman or in-charge man.

B. No apprentice with less than one and one-half (1.5) years in the trade shall be permitted to:

1. Work on any job unless accompanied by a qualified journeyman.
2. Work with a spray gun until they have received the safety training pertaining to spray equipment and materials.
3. Work on a swing stage unless they are accompanied by a qualified journeyman and have received safety training.

C. All apprentices shall have the right to elect, subject to approval of the Apprenticeship Committee, to engage in any of the specialized phases of the painting industry as established by the Apprenticeship Committee. Apprentices who are approved for this specialized instruction shall be assigned to employers who are engaged in the special field selected.

D. This specialized on-the-job training shall not conflict with the existing apprentice program governing school attendance, class instruction or other programs of the Apprenticeship Committee.

E. No apprentice will be permitted to drop their apprentice card and take out a journeyman's card.

F. No apprentice shall be sent to work, except under specific conditions approved by the Director of Apprenticeship and Training and District Council No. 36, prior to the start of work which would interfere with attendance at school.

SECTION 9. PAINTER APPRENTICES' PAY:

For all apprentice painter wage and benefit rates see Schedule A

Each paint apprenticeship period shall consist of 900 hours of work 7200 total)

SECTION 10. VIOLATION OF STANDARDS:

A. Employers found to be in violation of the Apprenticeship program by the Apprenticeship Committee, may be denied by action of the Apprenticeship Committee, the privilege of using apprentices for a period of time as may be determined by the Apprenticeship Committee.

ARTICLE 10

STEWARDS

SECTION 1. APPOINTMENT:

If an employer is in violation of this Agreement, the Business Manager of District Council No. 36 may appoint one (1) working steward per shift to act in connection with the application of this Agreement with the signatory Employer.

The Business Manager of District Council No. 36 shall have the right to appoint a working steward on all jobsites of employers from outside the area as described in Article 3, Section 1.

SECTION 2. QUALIFICATIONS:

The steward shall be:

- A. A competent, qualified employee.
- B. A member of District Council No. 36 for one year or more.
- C. Familiar with the regulations of this working Agreement, the Bylaws of District Council No. 36 and the principles of Organized Labor.
- D. An employee whose record shows no proven violations of the working Agreement in District Council No. 36 for the past twelve (12) months.
- E. Where there are no employees that meet the above qualifications, District Council No. 36 or its Business Representative may appoint any employee working on the job who is in good standing with the union.

SECTION 3. DUTIES:

- A. It shall be the duty of the job Steward to check all referral slips, all working cards and working permits and to report to the Business Representative any and all violations of this Agreement. It shall also be the Steward's duty to see that every worker on the job has his/her current quarterly working card and/or work permit.
- B. It shall be the duty of the Steward to see that all workers have a job referral slip issued by District Council No. 36.
- C. The Steward on all jobs shall be notified prior to the discharge or layoff of journeymen.

SECTION 4. RIGHTS AND PRIVILEGES:

- A. When a dispute arises, or the occasion warrants, the Steward shall be allowed reasonable time during the working day to investigate and, if necessary, call the Business Representative.
- B. The Steward shall be allowed reasonable time during a working day to see to it that a fellow employee who is injured or becomes ill on the job receives the proper attention, and that said injured or sick member's personal property is properly secured.
- C. On jobs where six (6) or more employees are employed in two (2) or more areas, the Steward shall be allowed 15 minutes in the morning and 15 minutes in the afternoon to check the job.

SECTION 5. WORK ASSIGNMENTS:

- A. The Steward shall be paid by the employer and shall be the first person placed on the job after the foreman and shall work on said job until said job is completed. This shall not include final touch-up and or areas damaged by other trades or corrections required by the owner or his/her representative for acceptance.
- B. It is agreed that the employer shall have the right to assign the Steward working on one job to work on another job when the occasion arises, subject to the approval of the assigned Business Representative.

C. Prior to promoting the Steward to foreman, the Business Representative shall receive immediate notification. No apprentice shall act as a Steward. No foreman shall act as a Steward.

D. In order that a Steward be able to properly perform his/her duties, a Steward shall not be given a work assignment that will physically remove him/her from where a majority of workers are working providing his/her work performance does not diminish.

SECTION 6. SUSPENSION OF STEWARD:

In the event a Steward is not performing his/her duties as Steward as set forth herein, or in the Union Bylaws that do not conflict with this Agreement, the employer shall immediately notify the District Council requesting the presence of a Business Representative from the Union on the job. In the event that no Business Representative of the Union arrives on the job within one working day after such notice has been given by the Contractor, and the Steward has continued in his/her failure to perform his/her duties as a worker, or exceeding his/her duties as a job Steward, then the employer is thereupon empowered to suspend him/her as Steward but he/she must be retained as a worker on the job pending decision of the District Council, which shall be forthcoming during the following work day. The authority of the employer to suspend a Steward may only be exercised if notice is given during the regular working day, or any day from Monday to Friday, inclusive.

SECTION 7. PROCEDURES FOR THE REMOVAL OF STEWARD:

A. An employer shall first notify the Council Business Representative of his/her desire to remove or lay off a Steward and the Business Representative shall investigate the dispute or reasons given within forty-eight (48) hours from notification, excluding Saturdays, Sundays and Holidays. The Business Representative, after investigation, shall remove or refuse to remove the Steward within the same forty-eight (48) hours, excluding Saturdays, Sundays and Holidays.

B. If the employer is dissatisfied with the Representative's decision under Paragraph "A" above, he/she shall request the LMCC in writing, or by telegram, for a hearing to cause the removal of a Steward. The LMCC may approve the removal of the Steward or approve his/her retention on said job. The LMCC must render a decision within forty-eight (48) hours after receiving such request for hearing in writing, or by telegram (Saturday, Sunday and Holidays excluded), either from the employer or from the District Council.

SECTION 8. ABUSE OF SYSTEM:

Abuse of the Steward system by the employer or employees shall be subject to appeal to the LMCC. Charges that are submitted against employers for wages claimed due because of improper discharge of Stewards shall be adjudicated by the LMCC Judicial Committee.

ARTICLE 11

DISCHARGE OF EMPLOYEES

SECTION 1. FAIR EMPLOYMENT PRACTICE:

The employer may discharge any employee for cause which may be deemed sufficient provided there shall be no discrimination for any reasons including race, color, creed or gender on the part of the employer against any employees. In the event of discharge or lay off, the employee shall be notified no later than twenty (20) minutes before the end of the work shift. The employee must be paid in full at the time of lay off or discharge.

The employer and the union shall work together cooperatively to make reasonable accommodation to an employee's physical or mental disability or medical condition.

SECTION 2. UNION ACTIVITY:

Any employee who may be discharged due to his/her union activities in reporting any violations of the Agreement or who is discharged for refusing to be a party to a violation of this Agreement shall within two (2) working days, appeal to the LMCC for hearing and redress. The LMCC shall hold such a hearing promptly and in no event later than three (3)

working days following receipt of the appeal. If after such a hearing is held and the LMCC finds the employee was carrying out the intent and purpose of this Agreement, the employer shall be obligated to reinstate the discharged employee and pay him/her for any lost time. Such lost time shall be computed at the basic hourly rate times eight (8) hours in any twenty-four (24) hour period.

ARTICLE 12

HOURS OF WORK

SECTION 1. WORK DAY AND WORK WEEK:

A. Eight (8) consecutive hours shall constitute a normal work day on Monday, Tuesday, Wednesday, Thursday and Friday between the hours of 6:00 A.M. and 6:00 P.M.

A-1 **BASIC HOURS OF WORK:** The employer may adjust the starting time by completing and submitting to the District Council No. 36, the Registration Form required under Article 3, Section 3, of this Agreement. However, no more than eight (8) hours will be permitted at the straight time rate in any twenty-four (24) hour period, and no starting time will commence before 6:00 A.M., nor after 10:00 A.M. on any day. The Union recognizes that climate beyond the control of the employer often controls the work on the job. When such conditions exist, the employer shall notify the Union of the job location and the unfavorable condition on forms provided stating the day or days on which the lost time is to be made up. The District Council No. 36 shall have the authority to adjust the work week when other extraordinary conditions exist. No man shall be disciplined or discharged for refusing to work on Saturday and/or Sunday.

A-2 **WORK PERFORMED UNDER REPAINT WAGE RATE:** On repaint wage work any eight (8) hours in a twenty four (24) hour period Monday thru Sunday shall be the work day and any forty (40) hours in a week shall be the work week, provided that the forty (40) hours is worked in five (5) consecutive days (Legal Holidays will not be counted in the five (5) consecutive days). Only one shift per twenty four (24) hours is allowed on any given project or job at the straight time rate, provided that the registration form requirements as outlined in Article 3, Section 3 are complied with. The above paragraph does not apply to work in the Aerospace Industry, Breweries, Commercial Recreational Facilities, Hospitals, Hotels, which operate commercial establishments as part of hotel service, and Sports Facilities; where public works or prevailing wage requirements, maintenance agreements, project labor agreements or where any other union type agreements are in effect. The District Council No. 36 shall have the authority to waive these exclusions without such waiver being considered as setting a precedent.

B. Upon certification by the District Council that a serious unemployment emergency exists, the matter shall be referred to the LMCC. If the LMCC finds that such an emergency does in fact exist, it shall declare a four (4) day week of eight (8) hours a day in effect for a period not to exceed thirteen 13 weeks. During such emergency, the LMCC shall determine which day will be excluded as a workday.

C. By Mutual Agreement by Employer and Employees, the Employee may work ten (10) hours a day for the (4) consecutive days at straight time. When the four (4) tens (10's) are worked. Overtime shall be paid after ten (10) hours in any one day and or (40) hours in any one week The no work day shall be established uniformly with the other construction crafts. Provisions are also made herein to allow for a change in the work week to conform with the possibility of a four (4) day week being negotiated by the Basic Trades in the Master Labor Agreement for work contracted through a general contractor. The work week established under this provision will be paid for at the straight time rate. Each employee shall have the option of electing to work either an eight (8) or ten (10) hour day. It is agreed that no employee will be disciplined, discharged or laid off for refusing to work more than eight (8) hours per day.

D. Each employee shall be granted one ten (10) minute rest period at the mid-point prior to the lunch break and another ten (10) minute rest period at the mid-point between the lunch break and quitting time. Employees shall not leave the job site during ten (10) minute breaks.

SECTION 2. OVERTIME:

All time, other than mentioned above, shall be considered overtime.

SECTION 3. HOLIDAY AND OVERTIME PAY:

A. Overtime shall be paid at the rate of one and one-half (1.5) times the regular rate of pay on Saturdays, Sundays and the following Holidays:

New Year's Day
Memorial Day
Independence Day
Labor Day - NO WORK
Veteran's Day
Thanksgiving Day
Christmas Day

When one of the Holidays listed above falls on a Sunday, same shall be observed on the following Monday.

B. Double the regular rate of pay shall be paid for the following work hours:

1. On all hours over 12 in any one day.
2. The overtime rates below only applies to projects that are under a Project Labor Agreement, union only type agreements or facilities or any facility who is allowed to do direct hire of employees under the terms and conditions of this agreement.
 - a) All hours worked over 8 on the 6th consecutive work day.
 - b) All hours worked on the 7th consecutive work day.
 - c) All hours worked during the Holidays listed in Section A.

C. Any employer who is found guilty of any underpayment of wages shall be required to issue separate checks on all overtime for a twelve (12) month period. All said checks are to be sent to the District Council No. 36 office by the following Thursday for distribution.

SECTION 4. SHOW UP TIME:

Employees who report for work at the time they are instructed by the employer or employer's agent and who are not placed to work shall be paid two (2) hours pay except when men are not put to work because of acts of God, inability or failure to comply with Federal or State Law, or accidents beyond the control of the employer. If the employee who reports for work is unprepared or ill equipped to begin work he/she will not be entitled to any show up pay.

SECTION 5. CLEAN-UP:

A. The preparation of materials and equipment and the cleaning up and removal of same is to be performed within the scheduled shift. No journeyman or apprentice shall leave the shop or job prior to the end of shift, with an allowance for five minutes prior to lunch time and five minutes prior to quitting time for personal clean-up.

B. Sandblasters and spray painters shall be allowed 15 minutes for personal clean-up but must remain on the job until the regular quitting time unless excused by the foreman.

SECTION 6. LABOR DAY, DISTRICT COUNCIL ELECTION DAY AND AGREEMENT RATIFICATION DAY:

No work shall be performed during any hour of the twenty-four (24) hours of Labor Day, except in cases of extreme emergency, or between the hours of eight (8:00) A.M. and two (2:00) P.M. on the last Saturday in June when such Saturday is District Council No. 36 Election Day or on any day on which agreement ratification is held.

SECTION 7. ELECTION CODE NO. 5699. LEAVE OF ABSENCE FROM EMPLOYMENT TO VOTE WITHOUT LOSS OF PAY FOR ABSENCE:

If a registered voter does not have sufficient time outside of their working hours within which to vote on any general, direct primary or presidential election, they may, without loss of pay, take off so much working time as will, when added to their voting time outside of their working hours, enable them to vote. If an employee has four consecutive hours in which to vote, either between the opening of the polls and the beginning of their regular work shift, or between the end of their regular working shift and the closing of the polls, the employee shall be deemed to have sufficient time outside of their working hours within which to vote. If the employee has less than said four consecutive hours, they may take off so much time as will enable them to vote, but not more than two hours of which shall be without loss of pay provided, that the employee shall be allowed time off for voting only at the beginning or end of their regular working shifts, whichever allows them the most free time for voting and the least time off from their regular working shift, unless otherwise mutually agreed. If the employee on the third working day prior to the day of the election, knows or has reason to believe, that they will need time off to enable them to vote on election day, they shall give their employer at least two working days notice that they desire time off in accordance with the provisions of this section. (Repealed and added by Stats 1953, Ch 1851, PP1, 2.)

SECTION 8. OVERTIME WORK PERMITS:

Overtime work permits shall be required prior to the start of work as follows:

1. For work on recognized holidays as enumerated above in Article 12, Section 3(A). Application for permit for recognized holidays occurring on Monday must be made not later than Friday, 2:00 P.M.;
2. By all out-of-area contractors performing work outside the definition of Article 12, Section 1, Paragraphs (A-1) and (A-2);
3. By a contractor deemed to be a violator as defined in Article 17, Section 6; and
4. During a labor dispute or work stoppage.

SECTION 9. DEFINITION OF EMERGENCY:

Emergency work is defined as any and all work that will interfere with activities on or in the premises such as offices, stores, markets, taverns, etc., or work in which it is proved to the satisfaction of the District Council or its authorized representatives that there is a time factor involved and/or the delay is due to conditions beyond the control of the contractor.

RTICLE 13

WORKING CONDITIONS

SECTION 1. WORKING CONDITIONS:

A. The employer and the Union recognize the necessity of eliminating restrictions and promoting efficiency. No rules, practices or customs shall be permitted that limit an employee's production or by which an employee may not perform a fair day's work during the working day; provided it does not establish piece work or speed-up system, and that no employee shall be required to work under any conditions that are injurious to their health or safety. There shall be no restriction against the use of any tools or labor saving devices, provided, however, it is expressly understood that no member of District Council No. 36, shall be required to use any applicator or devices for the application of materials as herein provided for until properly negotiated and approved by all parties signatory to this Agreement.

B. It is agreed that all employees shall perform a fair day's work but neither party shall establish work quotas in

terms of footage or other units of production. Employees shall be prohibited from soliciting or performing work on a piecework basis. Paperhangers may be paid on a per roll basis provided the per roll rate is no less than the regular hourly rate as set forth in the wage schedule.

SECTION 2. JOURNEYMAN'S TOOLS:

A. All workers shall report to work with presentable white uniforms (long sleeve white shirt and trousers or overalls specified for area of work, safety footwear) and usual tools of the trade. Usual tools of the trade for painters shall consist of putty knives, broad knives, a duster, a hammer, adjustable wrenches and an assortment of screwdrivers, razor blade holder, pliers, personal hand masker, 2' to 4' roller pole, sanding pole or head that can be attached to a roller pole, surface preparation scrapers up to 3" and wire brush. Employees shall not be required to supply paint brushes.

B. Paperhangers will supply straight edge and the usual paperhanger's hand tools, with the employer supplying all the other tools and equipment.

C. Employees who are furnished tools by the Employers will be held responsible for the proper use and care of such tools and will be required to account for all tools upon termination of service with the Employer. Employees may be required to sign for brushes and tools.

SECTION 3. SANITARY FACILITIES:

A. The contractor shall make available reasonable sanitary and wash up facilities, including suitable and sanitary drinking water (this shall not necessarily mean bottled water) for his/her employees.

B. Sufficient amounts of clean rags and suitable hand cleaner shall be provided by the employer at noon and at quitting time for washing purposes.

ARTICLE 14

WAGES, CONTRIBUTIONS AND OTHER EXPENSES

SECTION 1. DEFINITIONS:

JOURNEYMAN:

Once a journeyman has completed all requirements to be advanced, the journeyman cannot be reduced to a lower classification. Anyone who has previously reached the status of Journeyman in the International Union of Painters and Allied Trades shall be a Journeyman irrespective of continuous membership in the Union, if qualified and in possession of all current certifications.

SECTION 2. (A) WAGE RATES - COMMERCIAL, LEAD ABATEMENT & RESIDENTIAL

(1) BASIC WAGE RATE:

	LA, Orange, San Bernardino, Riverside & <u>Imperial Counties</u>	Ventura, Santa Barbara & San Luis <u>Obispo</u>	Kern, Inyo Mono and <u>Antelope Valley</u>	<u>San Diego</u>
JOURNEYMAN:	\$29.32	\$27.39	\$25.20	\$29.32

(2) REPAINT WAGE RATES:

	LA, Orange, San Bernardino, Riverside & <u>Imperial Counties</u>	Ventura, Santa Barbara & San Luis <u>Obispo</u>	Kern, Inyo Mono and <u>Antelope Valley</u>
JOURNEYMAN:	\$26.05	\$23.10	\$23.10

For future increases during term of agreement, see Schedule A

Previous painted structures with the exception of work involving the Aerospace Industry, Breweries, Commercial Recreational Facilities, Hospitals, Hotels which operate commercial establishments as part of hotel service, Sports Facilities; where Maintenance Agreements, Project Labor Agreements or where any other Union only type Agreements are in effect. The District Council No. 36 shall have the authority to waive these exclusions without such waiver being considered as setting a precedent.

LEAD ABATEMENT WORKER:

All persons performing lead abatement shall possess the appropriate certification and shall be paid in accordance with their classification, as set forth above.

District Council No. 36 has the option to designate any portion of the negotiated wage increases to existing fringe benefit or other contributions and if exercising this option will give notice to the LMCC and the FCA affiliate organizations namely the Chapters/UMLRC's of the Painting and Decorating Contractors Association forty-five (45) days prior to implementation.

All work performed under the category "Industrial Paint" must follow the terms and conditions of the Industrial Paint section of this Agreement.

(B) WAGES RATES INDUSTRIAL (ALL COUNTIES)

Industrial work is any work that is not residential or commercial. It includes surface preparation and application of protective paints, coating and or linings to processing facilities, structures (steel and concrete) and equipment.

Some facilities and structures include, but not limited to:

Bridges, Chemical Plants, Power Generating, Refineries, Tanks, Water and Wastewater Treatment

JOURNEYMAN:

BASIC WAGE: \$29.32 *Apprenticeship Wages will be a percentage of the basic wage.

REPAINT WAGE: \$26.05 **

** Previous painted structures with the exception of work involving the Aerospace Industry, Breweries, Commercial Recreational Facilities, Hospitals, Hotels which operate commercial establishments as part of hotel service, Sports Facilities; where Maintenance Agreements, Project Labor Agreements or where any other Union only type Agreements are in effect. The District Council No. 36 shall have the authority to waive these exclusions without such waiver being considered as setting a precedent.

SANTA BARBARA COUNTY – HIGH IRON AND STEEL:

(Applicable to Journeymen & Apprentices)

High Iron & Steel \$2.00 per hour premium

Craft General Foreman \$2.00 per hour premium above Master Labor Agreement Foreman Rate

Definition:

High Iron & Steel: defined as work where a person is exposed to a fall 30ft. or greater, such as; Mobile aerial towers (man lift or scissor lift), towers, radio towers, smoke stacks, flag poles, (any flag poles that can be finished from the ground with a ladder excluded), elevated water towers, steeples and domes in their entirety and any other extremely high and hazardous work, cooning steel, bos'n chair, single or double line suspended scaffold (spider & swing stage), painting in other high hazardous work shall be classified as high iron & steel. Article 14, Section 3 of the Master Labor Agreement does not apply to this Santa Barbara County.

Starting Location

#1

The place of starting a day's work for all groups shall be at a location designated by the employer. The employer reserves the right to reassign employees to a different reporting location as job requirements dictate, and agrees to give a twenty-four (24) hour notice whenever possible. Employees shall receive the applicable pay rate from the time they report to the designated start point until the time they cease working in accordance with California law.

#2

Where members of District Council 36 are required to utilize employer provided transportation to access work areas there shall be a premium of one dollar and fifty cents (\$1.50) per hour premium.

Hazardous Waste Operations and Emergency Response (HAZWOP)

Members who are trained in accordance with Occupational Safety and Health Administration Regulation 29 CFR 1910.120 (e) suggested core criteria or equivalent training curriculum guidelines, who maintain current certifications. When the employer assigns employees to supervise the handling, sampling, manifesting, monitoring, treating or disposal of hazardous waste, they shall receive a premium of two dollars (\$2.00) per hour over the applicable wage rate.

KERN, SAN LUIS OBISPO AND VENTURA COUNTIES:

(Applicable to Journeymen and Apprentices)

High Iron & Steel*****\$2.00 per hour premium

Definition:

High Iron & Steel: defined as work where a person is exposed to a fall 30ft. or grater, such as; Mobile aerial towers (man lift or scissor lift), towers, radio towers, smoke stacks, flag poles, (any flag poles that can be finished from the ground with a ladder excluded), elevated water towers, steeples and domes in their entirety and any other extremely high and hazardous work, cooning steel, bos'n chair, single or double line suspended scaffold (spider & swing stage), painting in other high hazardous work shall be classified as high iron & steel.

SECTION 3. PREVAILING WAGE:

On contracts where prevailing wage rates prescribed by a governmental body or agency are different than that set forth in the Labor Agreement, such prevailing wage shall supersede the wage rate called for herein for the specific contract established by the governmental body or agency. Such wage rate shall apply for the specific contract established by a governmental body or agency. Such wage rate shall apply for no longer than one (1) year or at the anniversary date, whichever comes first, of the project contract (anniversary applies only if wage escalations are available). Journeyman and Apprentice classifications shall be filed with the U. S. Department of Labor and the State of California Director of Industrial Relations each time wage data is filed with the Department of Labor.

SECTION 4. WORKING DUES:

Working Dues shall be a percentage, as determined by the District Council No. 36 Bylaws, of gross pay for all hours compensated for. In computing this amount all fractions will be rounded to the nearest cent which will be deducted from the employee's wages and remitted to the District Council Painters and Allied Trades No. 36, provided the Employees have signed a valid authorization card authorizing such deductions. In the event of any change in the amount of working dues, the Employer shall be given a thirty (30) day notice prior to altering that amount.

SECTION 5. POLITICAL ACTION TOGETHER:

Beginning August 1, 2006, a Political Action Together voluntary contribution of five (5) cents will be forwarded on behalf of the members to the Building Trades Federal Credit Union and the Union will assume all responsibilities for the PAC deduction.

Employers party to this Agreement hereby agree to honor authorizations for check-off of political contributions from all employees who are Union members in the following form:

AUTHORIZATION FORM FOR CHECK-OFF POLITICAL CONTRIBUTIONS

I hereby authorize my Employer to deduct from my pay the sum of five (5) cents for each hour worked and to forward that amount to the PAT Political Committee, c/o International Union of Painters and Allied Trades, 1750 New York Avenue, N.W., Washington, D.C. 20006.

This authorization is signed freely and voluntarily and not out of any fear of reprisal and on the understanding that PAT Political Committee is engaged in a joint fund raising effort with the AFL-CIO, will use the money contributed to that effort to make political contributions and expenditures in connection with Federal, State and Local elections, and that this voluntary authorization may be revoked at any time by notifying my Employer, PAT Political Committee and District Council No. _____ and/or Local Union No. _____ in writing of a desire to do so.

NAME _____ SIGNATURE _____

SOCIAL SECURITY NUMBER _____

SECTION 6. FOREMAN PAY, PARKING FEE:

- A. On jobs with three (3) or more employees, an employer is required to designate a qualified foreman. The foreman rate shall be \$1.00 per hour over the scale.
- B. At the sole discretion of the employer, they may designate a general foreman. The general foreman shall receive two (\$2) dollars per hour more than the highest paid employee he directly and continuously supervises.
- C. When an employee works in an area where free parking is not available within two (2) blocks, (or approximately 200 yards) the employer shall either provide parking or reimburse the employee upon submission of proper parking receipts by the following weekly pay period for parking costs not to exceed \$15.00 per day. The employer may designate the parking area.

SECTION 7. SPECIAL WAGE CONDITIONS:

A. PAINTING INDUSTRY EXPANSION PLAN:

- 1. Shift work is work performed outside the Regular Working Day as defined in Article 12, Section 1 of the Working Agreement; namely: after 4:30 p.m., on Monday through Friday and during all hours on Saturday and Sunday.
- 2. Shift work may be performed for straight time pay plus one hour's shift premium, i.e., for eight (8) hours work there shall be nine (9) hours pay. Any lesser hours worked shall be prorated accordingly.
- 3. Shift work shall be limited to eight (8) hours per shift and forty (40) hours per week. In case of emergency work performed beyond that time it shall be paid at the rate of time and one-half in accordance with this Working Agreement.
- 4. This hour's premium shall be paid in lieu of overtime but provisions for overtime pay and legal holidays as set forth in this Working Agreement between the parties shall continue in effect.
- 5. This shift premium work shall not be applicable to painters who have worked during the day.

SECTION 8. PAPERHANGING:

Journeymen paperhangers may be employed on a per-roll basis provided, however, that the employer shall deduct withholding, social security and other payroll taxes, carry compensation insurance and make Health and Welfare, Vacation, Pension, Apprenticeship Fund, Industry Advancement and Administrative Fund contributions. Failure to follow the above procedure shall be a violation of this Agreement. In no event shall pay on a per-roll basis be less than if figured on the hourly classification. Journeymen paperhangers shall not contract nor sub-contract. Twenty-Five (.25) cents will be added to the applicable wage rate.

SECTION 9. OUT OF TOWN EXPENSES:

A. When members of the District Council are required because of job location, to live away from their place of residence, they shall receive not less than the regular rate of pay, plus a maximum of \$70.00 per day in order to cover expenses from the date of leaving until the day of their return, inclusive to their home area. To avoid the difficulty of calculating the extraordinary expense incurred when a member of District Council No. 36 is required to travel more than a sixty (60) mile radius from his/her residence, employer shop or members local, whichever is closest to the job, they shall be reimbursed at the prevailing IRS rate for each mile driven over sixty (60) (excluding use of employer provided transportation)

B. If a journeyman quits a job paying subsistence monies without just cause during a pay period, he/she shall not be entitled to any travel expenses for return to his/her home area.

C. If a journeyman in a subsistence area does not show up for work on Monday, or the day following a legal holiday after having worked the previous Friday, or the work day prior to a holiday, he/she shall not be entitled to the subsistence allowance for Saturday or Sunday or for the day or days covered by the holiday. The only exception to this clause is if a journeyman be judged by a competent authority as sick or unfit for work.

EXCEPTION: On projects where suitable room and board is provided by either the awarding authority or the employer, the employee may have the option of accepting the room and board facilities, or the subsistence allowances, but not both.

SECTION 10. VACATION BENEFITS PAYABLE TO THIRD PARTY:

It is agreed that members of District Council No. 36 may have the option to authorize the Building Trades Federal Credit Union to pay to the IUPAT a designated sum out of Vacation Funds due to the member.

SECTION 11. BUILDING TRADES FEDERAL CREDIT UNION:

Effective August 1, 2006, the Employer shall pay to the employee, by paying to an account maintained in his/her name at the Building Trades Federal Credit Union, (BTFCU) an amount of one dollar five cents (\$1.05) for each hour compensated for. The amount is to be paid to the Building Trades Federal Credit Union by remitting said amount along with other contributions to the existing (lock box) account. The accounts held in each employee's name by the Building Trades Federal Credit Union shall be subject to such rules and regulations as the Building Trades Federal Credit Union had adopted or may adopt pursuant to its charter. The employer's responsibility under this section shall be to pay the amount described above. This vacation pay shall be exempt from the timeliness provision of the grievance and arbitration clause.

Claims for non-payment of vacation contributions shall be filed with the LMCC pursuant to Articles 16 and 17 as soon as possible but in no event not later than 6 months from the last pay out date unless extenuating circumstances prevent filing them.

In the event of non-payment of vacation contributions to any Employee, a late penalty of 10% plus prevailing account interest rate shall be due and payable to claimant.

ARTICLE 15

MANNER OF PAYMENT OF WAGES

SECTION 1. PAYMENT OF WAGES:

A. All wages shall be due and payable either in lawful currency, enclosed in an envelope, or by negotiable check payable on demand at par, together with a receipt showing the employee's name, hours worked straight time and hours worked overtime, deductions made and amount due and shall also show the employer's name and address. The said checks and said envelopes shall conform with all the provisions pertaining to the payment of employees as required by Federal and State Laws.

B. The employer shall maintain time records for each employee, showing hours worked daily and the hourly rate paid for the respective hours worked. Such records shall be maintained for four (4) years.

C. Employees shall turn in signed time cards weekly by the close of the pay period, if so required by the employer. If requested by the employee, the employer shall supply a copy of the signed time card to the employee.

SECTION 2. ACCOUNTING HOLDBACK:

Wages earned shall be due and payable Friday on the job by quitting time and shall include all wages earned up to and including Wednesday, except where a holiday falls on a Friday the pay week may end on Tuesday. Exceptional cases, where employers employ exceptionally large crews of men, or other circumstances which would create a hardship in making up or delivery of payroll, such cases may be referred to the District Council. The District Council will notify the LMCC of approvals granted for change in the pay period. If a request by an employer for a change in pay period is denied by the District Council, the employer may appeal the denial to the LMCC.

SECTION 3. DISCHARGE PAY:

Employees terminated or discharged must be paid in full on the job at the time of dismissal. Where special conditions prevail, additional time to make payment may be granted with prior approval of the District Council No. 36. The District Council No. 36, shall not grant additional time when an employee is terminated or discharged during the normal work week as outlined in Article 12, Section 1A.

SECTION 4. QUIT PAY:

Employees who quit during a pay period must be paid in full within 72 hours (Saturday, Sunday and Holidays excluded).

SECTION 5. WAITING TIME:

A. The parties hereto expressly acknowledge that it is impractical or extremely difficult to fix the nature and extent of the loss to an employee who does not receive his/her pay when it is due. The parties have therefore agreed upon the following liquidated damages, which shall be presumed to be the amount of damages sustained by such a breach of the Agreement. Upon failure of the employer to pay within the stipulated time all waiting time shall be paid for at the rate of straight time at his/her prevailing rate, not to exceed eight (8) hours in twenty-four (24) hour period on a seven (7) day basis. The LMCC may within its discretion, in any individual case, award waiting time for the number of days between the date wages are due and the date said wages are either paid or placed in escrow with the LMCC.

B. Any employee, who has not been paid, shall report, within seventy-two (72) hours excluding Saturday, Sunday and holidays after wages are due and payable, to the representative of the District Council who shall immediately notify the LMCC. Any journeyman who does not report not receiving wages within the time limits prescribed in this paragraph shall have no claim for waiting time under this Agreement.

Where the Employer requests an employee to wait beyond the seventy two (72) hour period and continues to withhold payment, the amount of the waiting time shall be governed by state law.

C. Delay occasioned by accidents beyond the control of the employer shall not be construed as a violation of Article 15.

D. When the LMCC is notified that a journeyman has not received wages due and such notification is received within the time limits prescribed in Paragraph "B" above, the paid representative of the LMCC shall immediately contact the employer, by telephone or fax, and notify him/her that a claim for wages due has been made and instruct said employer to make immediate payment. Failure to contact the employer shall not relieve him/her of any obligation under this section. Said employer shall be advised that waiting time may continue to accrue until payment is made.

E. In the event an employer disputes the claim for wages as to its validity or the amount claimed the paid representative of the LMCC shall instruct the employer to post the disputed amount with the LMCC pending a decision on the matter by the appropriate committee or committees. The employer shall be advised that waiting time may continue to accrue until the disputed wages are deposited with the LMCC. Waiting time shall cease to accrue as of the date wages are paid to the journeyman or deposited with the LMCC.

SECTION 6. WHEN PAYCHECKS ARE NOT RECEIVED OR ARE NOT NEGOTIABLE:

A. No member of the IUPAT shall continue in the employment of any employer or employers whose pay checks have not been honored or of any employer who fails to pay on the stipulated payday. They shall not return to work until it is proven that all outstanding paychecks have been honored and satisfactory arrangements for the future payments by cash or certified check have been made.

B. An employer who fails to pay or issues payroll checks which have not been honored shall, in addition to the above, be cited before his/her proper Trial Committee and be assessed such additional damages as may be just under the circumstances.

SECTION 7. RESPONSIBILITY BOND:

Effective July 1, 2010, each contractor upon payment of his/her annual Shop Card/Bond Fee shall be automatically bonded for \$25,000.00 by the LMCC Bond Fund which shall be funded from part of the Annual Shop Card Fees.

Should the employer's bond be utilized to pay wages or trust fund contributions, the employer shall be liable to the bond fund for the amount paid to said, or to the trust funds on its behalf, with interest to accrue at 10% per diem on amount paid.

At the option of the LMCC, a signatory contractor, may because of past delinquencies, be required to post an additional bond, acceptable to the LMCC, over and above the bond provided by the LMCC Bond Fund. If an additional bond is required, it is hereby agreed that the primary bond shall always pay its full face value before the LMCC Bond Fund shall make any payments as a result of any deficiencies on the part of a signatory contractor listed above.

In the event an employer's Shop Card is suspended for failure to pay wages, fringe benefits or assessments for a violation of this Agreement, or upon determination by the LMCC, the employer shall be required to post an additional responsibility bond, or cash bond (type of bond to be determined by the LMCC) in an amount to be determined by the LMCC. In all cases, the new bond shall be at least in the amount of \$25,000.00.

Each employee, other person, or entity, except the Trust Funds, having a claim against any contractor under the provisions of this Agreement shall notify the LMCC, in writing, of the facts and circumstances of such unpaid obligations. The LMCC, or its representative, shall, after verification of indebtedness, process a certification of default to the surety company for payment under the terms of the surety bond and remit the funds received from the surety company to the person or entity entitled thereto. In the event the employer has deposited cash or other security under these provisions, the LMCC, or its representative, shall after verification of the indebtedness, withdraw from said cash deposit or convert said security to cash and forward to the obligee, thereof, sufficient funds to discharge such obligations. Within twenty four (24) hours after notice to any employer of such payment by the LMCC out of that employers cash or other security deposit, the employer shall replenish his/her cash or security deposit to the original sum required or to such further sum as the LMCC shall determine as necessary to guarantee further deficiencies of such employer.

Should the LMCC determine that the liability of any employer under this Agreement is greater than the sum established in this Agreement, they may immediately demand and cause the employer to increase their cash deposit or surety bond to an amount sufficient to cover any such liability.

SECTION 8. KICKBACKS:

The refunding of wages earned (commonly referred to as "Kickback") by a member of the Union, or the acceptance of said refund or "kickback" by an employer as defined herein, shall constitute a distinct violation of the Agreement and shall necessitate such action as is hereinafter stipulated under the Article covering violations. This action shall be in addition to any right accruing under the appropriate Sections of the Labor Codes, which makes "kickbacks" punishable by fine or imprisonment.

ARTICLE 16

DISPUTES AND GRIEVANCES

SECTION 1. DESIGNATION OF HEARING COMMITTEES AS BOARDS OF ARBITRATION:

The parties hereto expressly establish the LMCC, a Board of Arbitration to determine controversies between the parties hereto as to alleged violations of this Agreement, and to determine the remedies including damages and amount of liquidated damages to be assessed against such violators, and to devise any other appropriate remedy which may effectuate the purposes of this Agreement. After the exhaustion of appeal proceedings as provided herein, the decision of such trial bodies shall be final and binding upon all parties hereto, and such decision of the LMCC may be enforced as an Award of Arbitration under the provision of California Code of Civil Procedure. In any order to enforce such an award, it is agreed that the court shall add the payment of reasonable attorneys' fees, costs of court and interest from the date of the award.

SECTION 2. CHANNELING OF DISPUTES AND GRIEVANCES:

All disputes and grievances arising under this Agreement shall be submitted to the LMCC for processing and must be heard and ruled upon by the Judicial Committee within ninety (90) calendar days after filing or either party may go directly to arbitration.

The Union may file a grievance directly with the Employer and if the grievance is not resolved, then the Union or the Employer may refer the grievance to the LMCC for processing and must be heard and ruled upon by the Judicial Committee within ninety (90) calendar days of the occurrence of the alleged violation of this agreement, excluding violations found through an audit.

SECTION 3. DECISIONS:

The LMCC Judicial Committee consisting of four (4) members of the LMCC, two (2) from management and two (2) from Labor, shall act as an arbitration tribunal. A quorum shall be two (2) members of the LMCC Judicial Committee, one (1) from management and one (1) from labor. From the LMCC Paint Committee, labor shall appoint two (2) alternates and management shall appoint two (2) alternates.

SECTION 4. APPEALS:

Any party to the proceeding before the LMCC may appeal from any decision of the LMCC Judicial Committee, within the time period specified in the written notice of said decision. In the event an appeal is taken by a party against whom the LMCC Judicial Committee has assessed an amount of damages, said party shall deposit said amount with the LMCC, in the form of cash or cashier's check, to be held in escrow pending final decision.

In the event that the LMCC Judicial Committee deadlocks on the issue or the decision of the Judicial Committee is appealed by any party, such issue, grievance or dispute shall be submitted to an impartial arbitrator from a pre-approved list of arbitrators selected by the trustees of the LMCC. The decision of the arbitrator shall be final and binding on all parties to this Agreement and shall be directly enforceable by the LMCC. EXCEPTION: If both Labor and Management agree at the judicial hearing, a deadlocked issue may be sent to the LMCC Paint Committee for a decision. If the LMCC Paint Committee deadlocks on the issue, then either party may submit the issue to an impartial arbitrator.

SECTION 5. NOTICE TO EMPLOYERS:

A. Notices of hearing shall be served on employers personally or by registered or certified mail at the employer's last known address not less than seven (7) days before the hearing, unless waived by the employer. Notices of the findings shall be served on the employer personally or by registered or certified mail at the employer's last known address not more than ten (10) days after a decision has been rendered.

B. The employer's address, for the purpose of service, shall be deemed to be the address appearing on the copy of the Collective Bargaining Agreement, signed by him/her or upon his/her application for membership in the FCA affiliate organizations, or application for Shop Card, unless he/she has subsequently given written notice to the LMCC of another address.

C. In the event it is necessary to proceed in Court, service of the petition, papers or documents required by the

Court shall be deemed served in accord with the law if the Trustees or their representatives have conformed to the requisites of Article 16, Section 5.

ARTICLE 17 VIOLATIONS

SECTION 1. TRIAL PROCEDURE FOR VIOLATIONS:

A. In the event of an alleged violation of this Agreement, the complainant shall file charges with the LMCC, which shall forward copies of the charges to the appropriate body for action.

B. **DISTRICT COUNCIL NO. 36 MEMBERS:** In cases where employers prefer charges against members of District Council No. 36, the charges shall be forwarded to District Council No. 36.

C. All charges must be filed within ten (10) working days of discovery of the violation. When an employee is filing a grievance pertaining to misclassification or underpayment of wages, the award of those wages shall be limited to thirty (30) calendar days, four (4) one (1) week pay periods of back wages. Charges pertaining to the underpayment of wages and/or fringe benefits discovered by auditing of employers records shall have no time limit.

D. The collection of delinquent contributions due to the Joint Trust Funds shall be in accordance with the Collection Procedures and Rules and Regulations established by the Trustees as necessary for the proper administration of the Trust(s) and the prompt enforcement of the obligation of participating employers to make timely contributions to the Joint Trust Funds.

E. Any employer signatory to this Agreement who is found guilty of violation of Article 1, Section 7, Paragraph A, of this Agreement (Operating Dual Shops; Union and Non-Union) shall not be allowed to serve on any joint labor management committee covered by this Agreement.

SECTION 2. NOTIFICATION OF FINDINGS:

A. A copy of the findings by the above Judicial Committee as outlined in Paragraphs B, and C, above, shall be sent to the LMCC, District Council No. 36, and the interested FCA affiliate organization.

SECTION 3. DISCIPLINE OF FCA AFFILIATE ORGANIZATION AND UNION MEMBERS:

The parties hereto expressly acknowledge that the LMCC is a Board of Arbitration to determine the alleged violations, and may assess and provide for payment of liquidated damages by reason of violations, and such discipline shall be reported to the District Council No. 36, and the FCA affiliate organization. After exhaustion of appeal proceedings provided by the LMCC, or the Union, the decision of such trial bodies shall be final and binding upon all parties hereto, and such decisions may be enforced as an award of arbitration under the provisions of California Code of Civil Procedure. As part of such discipline, each may suspend any rights that such violator may have under the Agreement and may require him/her to surrender for the period of suspension any card or cards that may have been issued to him/her under or in connection with this Agreement.

SECTION 4. ENFORCEMENT THROUGH NO WORK:

A. No party to this Agreement, or member of the FCA affiliated organization, or the District Council shall work for or with, nor employ any person who is acting in violation of this Agreement, or who willfully neglects or refuses to stand trial, or who, after due trial, refuses to comply with any final decision of the proper trial body, provided such decision pertains to a violation of this Agreement.

B. It is mutually agreed that the Union shall have the right to remove its members from any job to enforce Articles 12, 13, 14, 15, 16, 17 and 18 of this Agreement.

SECTION 5. WORK STOPPAGE:

There shall be no stoppage of work on the part of the Unions nor shall there be any lockout by the employers during the submission of any such dispute or grievance to the LMCC, or pending its decision. This is not to be construed to mean

the District Council No. 36 cannot stop its members from continuing a violation of this Agreement. This section shall not apply to any employer whose Shop Card has not been issued or whose Shop Card has been suspended or revoked.

SECTION 6. VIOLATIONS:

When a signatory has been found in violation of this Agreement (such as failure to pay proper wages and or fringe benefit contributions, improper hiring procedures and violations of the overtime clause) such signatory shall be required to register all jobs with the LMCC prior to starting for a period of eighteen (18) months. The Business Manager may place a steward on each job being performed by the employer for a period of eighteen (18) months.

Any signatory employer who is found to be delinquent in Trust Fund contributions in excess of thirty (30) days shall register each and every job with the LMCC and the District Council No. 36 shall place a Steward on each job being performed by the employer until all delinquencies are brought current.

SECTION 7. AUDIT OF PAYROLL RECORDS:

When an employer has been found guilty of violating Articles 14, 15 or 18 of this Agreement, the LMCC may order an audit of all his/her payroll records and if violations are found the cost of the audit shall be paid by said employer.

SECTION 8. CHECK BY UNION REPRESENTATIVES:

The employer agrees to provide access to duly accredited representatives of the Union to visit his/her shop or job at any time during working hours for the purpose of inspecting lists of employees and/or personally visit said employees in order to determine whether the shop is being conducted in accordance with this Agreement.

ARTICLE 18

HEALTH AND WELFARE, PENSION FUND, PAINTERS AND ALLIED TRADES COMPLIANCE ADMINISTRATIVE TRUST, APPRENTICESHIP AND OTHER PLANS

SECTION 1. ESTABLISHMENT OF PLANS AND TRUST AGREEMENTS:

A-1. A Health and Welfare Plan as encompassed in the Agreement and Declaration of Trust, consisting of hospitalization, surgical, medical and miscellaneous coverage for all employees and their dependents, providing for the Southern California Painting & Drywall Industries Health & Welfare Trust Fund dated the 9th day of September, 1952 as amended, hereinafter referred to as the Health & Welfare Fund by reference thereof shall be herein set forth in full in each and all provisions of said Agreement and Declaration of Trust, shall be and hereby is binding on each and all of the parties hereto.

A-2. The Trustee Committee may in their discretion provide Health and Welfare benefits for employers in the Painting and Drywall Industries.

C. An Apprenticeship Plan as encompassed in the Agreement and Declaration of Trust establishing the Southern California Painting & Drywall Industries Apprenticeship Trust Fund dated the 21st day of January 1975, as amended, hereinafter referred to as the Apprenticeship Plan by reference thereto shall be and hereby is incorporated herein to the same extent as herein set forth in full in each and all provisions of said Agreement and Declaration of Trust, shall be and hereby is binding on each and all of the parties hereto.

D. The Painters and Allied Trades Compliance Administrative Trust (PAT-CAT) as encompassed in the Agreement and Declaration of Trust dated January 1, 2008, as amended, herein referred to as PAT-CAT, shall be and hereby incorporated herein this as reference in full and each and all provisions of said Agreement and Declaration of Trust shall be binding on each all of the parties hereto.

- (a) To study and explore ways of eliminating potential problems which reduce the competitiveness and inhibit the economic development of the plant, area or industry, including, more specifically, but not limited to, enforcing compliance with prevailing wage laws and apprenticeship standards on public works jobs as a means to preserve work and standards for workers.

D. The Southern California Painting and Decorating Labor Management Cooperation Committee, as encompassed in the Agreement and Declaration of Trust dated July 1, 1994 as amended, hereinafter referred to as the LMCC, shall be and hereby is incorporated herein by this reference in full and each and all provisions of said Agreement and Declaration of Trust shall be and hereby is binding on each and all of the parties hereto. As part of the LMCC, there shall be a specific fund segregated and used for industry advancement, known as the Industry Advancement Fund (I.A.F.) for the enforcement of prevailing wages of journeyman and apprentices, safety and state law.

In each negotiation for a renewal of this Collective Bargaining Agreement, and at such other times during this Agreement or such renewed Agreements as the collective bargaining parties to that Agreement may determine, an Appendix to the LMCC Trust Agreement shall be adopted, setting forth specific program purposes for the I.A.F. The bargaining parties may, from time to time, modify, amend, add, or delete specific program purposes. Beginning July 1, 2010, the following purposes are approved:

- (a) Fostering improvements in occupational safety and health and other working conditions in the Southern California Painting and Decorating Industry by the establishment of employee training programs in (1) first aid; (2) hazard communication; (3) asbestos awareness; (4) respirator use (including medical examinations and the supplying of personal respirators to participating employees); and (5) compliance with applicable federal and state laws and regulations concerning occupational safety and health.

- (b) Promoting the painting and decorating industry in an effort to gain more employment for Employees and more jobs for signatory Employers.

- (c) Promoting Compliance/Market Recovery.

E. The Painters and Allied Trades Labor Management Cooperation Initiative:

- 1(a). Commencing with the 1st day of July 2010, and for the duration of the Agreement, and any renewals or extension thereof, the Employer agrees to make payments to the Painters and Allied Trades Labor Management Cooperation Initiative for each employee covered by this Agreement, as follows:

- 1(b). For each hour or portion thereof, for which an employee receives pay, the Employer shall make effective July 1, 2010, a contribution of \$.07 to the Fund, effective July 1, 2011, a contribution of \$ 0.10 to the Fund and effective July 1, 2012, a contribution of \$0.12 to the Fund.

- 1(c). For the purpose of this Article, each hour paid for, including hours attributable to show up time, and other hours for which pay is received by the employee in accordance with the Agreement, shall be counted as hours for which contributions are payable.

- 1(d). Contributions shall be paid on behalf of any employee starting with the employee's first day of employment in a job classification covered by this Agreement. However, no contributions shall be made on behalf of pre apprentices for a period of six (6) months following their initial employment with any employer.

- 1(e). The Employer and Union signatory to this Agreement agree to be bound by and to the Agreement and Declaration of Trust, as amended from time to time, establishing the Fund.

- 2. The Employer hereby irrevocably designates as its representatives on the Board of Trustees such Trustees as are now serving, or who will in the future serve, as Employer Trustees, together with their successors.

- 3. All contributions shall be made at such time and in such manner as the Trustees require; and the Trustees may at any time conduct an audit in accordance with the Agreement and Declaration of Trust.

4. If an Employer fails to make contributions to the Fund within twenty (20) days after the date required by the Trustees, the Union shall have the right to take whatever steps are necessary to secure compliance with this Agreement, any other provision hereof to the contrary notwithstanding, and the Employer shall be liable for all costs of collection of the payments due together with attorney fees and such penalties as may be assessed by the Trustees. The Employer's liability for payment under this article shall not be subject to or covered by any grievance or arbitration procedure or any "no-strike" clause which may be provided or set forth elsewhere in this Agreement.

F. Failure on the part of any employer signatory to this Agreement to make payments of wages or fringe benefits shall be deemed a breach of this Agreement and the Union may take such action as it may deem necessary to effect payment.

SECTION 2. TRUSTEES:

A. The Trustees of the Health and Welfare, and Apprenticeship Trusts, shall consist of an equal number of employer trustees and employee trustees. Upon amendment of the trust agreement, two (2) employer trustee(s) shall be designated by the FCASC, two (2) employer trustee(s) shall be designated by the LAP & FCA and one (1) employer trustee(s) shall be designated by the Drywall Contractors of the Western Wall and Ceiling Contractors Association as per their collective bargaining agreement and an equal number of employee trustees shall be designated by the Painters and Allied Trades District Council No. 36.

The Trustees of the Southern California Painters and Decorators Labor Management Cooperation Committee shall consist of eight (8) Trustees. Four (4) Employee Trustees shall be designated by the Painters and Allied Trades District Council No. 36 and four (4) Employer Trustees shall be designated by the signatory FCA affiliate organizations as follows: two (2) Employer Trustees shall be designated by FCASC and two (2) Employer Trustees shall be designated by the LAP & FCA.

B. The same Trustees may be designated for each Trust Agreement, but each of the several trusts shall be administered separately under its own rules and regulations.

C. The Trustee Committees shall meet from time to time under their own rules and regulations for the purpose of taking appropriate action or adopting appropriate amendments to the respective Declarations of Trust.

D. All decisions and acts of the Trustees taken at a meeting shall be determined by one vote for the Employer Trustees and one vote for the Union Trustees. The vote of the Employer Trustees shall be determined by a majority of the Employer Trustees present at the meeting, and the vote of the Union Trustees shall be determined by a majority of the Union Trustees present at the meeting. Existing Agreements and Declarations of Trust for said Trusts shall be deemed amended accordingly.

E. Any employer signatory to this Agreement who is found guilty of violating Article 1, Section 7, Paragraph A, of this Agreement (Operating Dual Shops, Union and Non-Union) shall not be allowed to serve as a Trustee on any joint Labor Management Trust Fund covered by this Agreement.

SECTION 3. CONTRIBUTIONS:

A. HEALTH & WELFARE FUND: The employer's payment into the Health and Welfare Fund shall be the rates established in Schedule A of this Agreement and shall be changed from time to time as outlined in Schedule A of this Agreement.

B. APPRENTICESHIP FUND: The employer's shall pay contributions into the Apprenticeship Fund as established in Schedule A of this Agreement. The hourly contributions may be changed from time to time as outlined in Schedule A of this Agreement.

C. PAT-CAT CONTRIBUTION: The employer's shall pay contributions into the PAT-CAT Fund as established in Schedule A of this Agreement. The hourly contributions may be changed from time to time as outlined in Schedule A of this Agreement.

D. LMCC & INDUSTRY ADVANCEMENT FUND: The employer's shall pay the contribution established in Schedule A of this Agreement to the Industry Advancement Fund of the Labor Management Cooperation Committee. The contribution rate may be changed from time to time as outlined in Schedule A of this Agreement.

E. SALARIED EMPLOYEES: With respect to salaried employees covered by the Trust Agreements for said Trust Funds (other than the journeymen expressly provided for herein) for whom contributions are made to the above Trust Funds, contributions shall be paid for all hours worked, but for no less than forty (40) hours per week.

SECTION 4. REPORTS AND PAYMENTS:

A. Employers shall be required to furnish to the respective Funds written reports, weekly, monthly, or at such other periods as may be designated by the respective Funds. Forms will be furnished employers for this purpose by the Funds and these report forms shall be completed by the employer listing all hours worked or paid for during the period involved irrespective of where such employee worked. The report shall list the name, hours worked or paid for, Social Security Number and Local Union Affiliation or other identification number as may be required by the Trust Funds. If no employees were employed in the period involved the report shall so state.

B. To the fullest extent possible, reports and payments to the various Trust Funds and Administration Funds shall be unified.

C. Reports and payments shall be made to the Trustees of the funds and shall be due and payable immediately on the completion of the established Trust Fund period.

An employer shall be deemed delinquent if such reports and payments are not received within the specified time after the due date, and shall pay to the respective Trust Funds the sum of 10% of such contributions which are due for the added administrative costs of handling delinquent accounts. If any employer during any calendar year has become delinquent in mailing his/her reports and payments for more than a total of five (5) times, the delinquency charge for such delinquency shall be 20% of the contributions which are due to pay the additional administrative costs of handling such delinquent accounts.

Upon authorization of the Trustees of the several Trust Funds the LMCC may waive or adjust the assessed liquidated damages listed above when, in its opinion, the circumstances which caused the delinquency justify such adjustment or waiver.

SECTION 5. AUDIT OF EMPLOYER'S BOOKS:

A. In addition to Article 17, Section 7, the Board of Trustees of each of the Trust Funds or their agents are hereby authorized to examine and audit any signatory employer's books and records of account which are pertinent to the payment of contributions to the respective Trust Funds including but not limited to all payroll records, payroll ledgers, ledgers, disbursement journals, time cards, day sheets, payroll check books and Federal and State Employment Reports. Audits shall be conducted at the employer's place of business unless otherwise agreed by the parties. Employers agree that the records will be made available to the Board of Trustees or their agents within three (3) working days from the date such audit is requested. If such audit discloses that there has been under-reporting by the employer, he/she shall be chargeable with the cost of the audit in addition to any delinquency charges that may be due. In the absence of adequate hourly time records the gross monies received by the employee shall be divided by the basic hourly rate to determine the hours worked by the employee and to compute the amount of contributions due the respective Trust Funds by the employer. The Trustees or their agents will have the right to audit for a period not to exceed four (4) years.

B. No person shall be compensated for work covered by this Agreement under the guise of travel pay, subsistence, bonuses, or as a subcontractor where not specifically provided for by this Agreement. All such payments made to such workers shall be considered gross wages and divided by the basic hourly rate to determine the amount of contributions due and payable to the respective Trust Funds by the employer.

An employer may, in good faith, pay a journeyman a bonus in addition to the hourly wage rate specified herein and the bonus shall not be considered gross wages and divided by the basic hourly rate to determine the amount of contributions due Trust Funds herein. If such a bonus is paid, the employer shall notify the LMCC of the recipient, his or her social security number, the amount of the bonus and the basis and formula used to determine the amount and nature of the bonus within thirty (30) days of the payment of the bonus.

C. Whenever in the judgment of the Board of Trustees or the LMCC an employer has failed to furnish records required of him/her, or has failed to make payments, including delinquency charges and audit fees, required of him/her, the LMCC may require him/her to bring his/her employment taxes and other pertinent records to a place it shall designate for the purpose of auditing and examination by the LMCC or Board of Trustees or their respective agents.

D. In the event that for any reason an employer is unable to produce any records reflecting monies paid for any purpose whatsoever during all or part of the audit period, it is agreed that the parties to this Agreement authorize the appointment of a subcommittee of the Painting Industry Trustees or their agents to conduct a full inquiry for the purpose of determining the amount of contractual contributions due and owing from the employer. The scope of such investigation shall include, but not be limited to, the following: Investigation of all construction projects upon which work was performed during the audit period, interviews with any person or persons with knowledge relevant to such inquiry and the securing of such other information as deemed to be relevant by such committee. It is further agreed that in such event, the determination by such subcommittee as to the number of employee hours involved throughout all or part of the audit period shall be deemed conclusive and binding upon all parties.

E. In the event evidence is produced that an employee did in fact work on a job for a signatory employer and his/her benefits were not reported to the Trust Funds, evidence to the contrary, the assumption shall be that the employee worked at least forty (40) hours in each week that he/she was on a job.

SECTION 6. AVAILABILITY OF RECORDS:

All records in the custody of the respective Trust Funds shall be available to authorized representatives of District Council No. 36 and the FCA affiliate organizations signatory to this Agreement.

SECTION 7. BOND REQUIREMENTS FOR DEFAULTING EMPLOYERS:

A. Bonds as provided for in Article 15, Section 7, shall be deemed to cover contributions, delinquency charges, and any fees or liquidated damages, which may be due the respective Trust Funds. The Board of Trustees of each of the Trust Funds or their agents, are authorized to determine that monies to a Trust Fund are due and have not been paid by a signatory employer and to certify such determination to the surety company for payment under the terms of the surety bond.

B. Whenever a Shop Card is suspended or revoked by reason of a delinquency, the Board of Trustees of the respective Trust Funds may request and the LMCC may thereupon require that, before the Shop Card is reinstated, the defaulting employer place a cash bond, or other acceptable surety with the LMCC in an amount predetermined by the Board of Trustees of the respective Trust Funds.

SECTION 8. PROCESSING OF VIOLATORS:

Violations hereunder if they involve monies due and owing, either because of payments, delinquency charges, fees or liquidated damages which may be due, shall be cognizable and processed under Article 16, hereunder: If such violations do not involve monies or liquidated damages, they shall be cognizable and processed under Article 16 and 17, whichever is applicable.

SECTION 9. ACTION BY DISTRICT COUNCIL OF PAINTERS NO. 36, FOR VIOLATIONS:

District Council No. 36, or its representatives, upon being informed of violations of this Article of the Agreement, shall be empowered to remove at once the employees covered by this Agreement from any and all jobs being done by the member (or non-member signatory) contractor in question. Employees removed shall be permitted to return to the job or jobs when the violations of this Article are corrected. Men removed from any job for such violations in addition to any and all other jobs herein enumerated, shall be paid by the contractor the amount of one day's wages at the rate of straight time as compensation for loss of time and inconvenience, due to said violations.

SECTION 10. LIABILITY OF EMPLOYERS FOR BENEFITS UPON FAILURE TO MAKE PAYMENTS:

A. Any employer who fails to make the payments for the benefits provided herein and in said Agreements and Declarations of Trust, shall be personally responsible to the employee herein covered for the benefits which would have accrued by such coverage.

B. The failure of an employer to make the requisite contributions required herein, with respect to any job site, shall be a breach of this Agreement and shall cause the claim of any employee damaged by such failure, covered by this Agreement, to be assigned to a person designated by District Council No. 36 and the FCA affiliate organizations for recovery under the California Mechanic's Lien Law. Upon the determination by an appellate court or a statutory revision restoring mechanic lien rights to the Trusts described herein, this section shall become null and void. The parties agree to take any further steps necessary to implement this section.

SECTION 11. COURT ACTION TO RECOVER PAYMENTS DUE:

The Board of Trustees of the respective Trust Funds shall be entitled to and may file legal action for the collection of any and all contributions and charges due and owing by any and all employers hereunder and in the event such action is maintained and filed, in addition to recovering of contributions due and owing, charges and legal rate of interest, the employers hereunder agree to pay all costs of such suit or suits and reasonable attorney's fees.

SECTION 12. COURT ACTION TO RECOVER ACCRUED BENEFITS:

The Board of Trustees shall be entitled to and may file legal action on behalf of any employee who has been deprived of accrued benefits by reason of the failure of any employer to make payments to the Funds as required under the Agreements and Declarations of Trust or by this Agreement. In addition to the damages for the loss of said accrued benefits, the employers herein agree to pay, together with legal rate of interest, all costs of suit and reasonable attorney fees.

SECTION 13. REMEDIES ACCUMULATIVE AND NON-EXCLUSIVE:

Each of the remedies for the enforcement of this Article of the Agreement shall be cumulative and is concurrent and non-exclusive.

SECTION 14. EMPLOYEE REPORTS:

A. The Administrator of the Trust Funds shall make available to the District Council No. 36, the LMCC and the FCA affiliate organizations, a monthly roster of all persons for whom contributions have been made in the past and who go for a period of sixty (60) days without contributions being made in their behalf and/or who continually have only minimum hours reported to qualify for trust fund coverage.

B. Every journeyman employed hereunder shall be required to fill out and mail any reporting card to the Administrator of the Trust Funds each week, upon request, or at such other times as the Administrator may require. Upon the failure of a journeyman to comply with these provisions the District Council shall take such disciplinary action against the journeyman as may be necessary to insure compliance; and the Trustees of the Trust Funds may hold in abeyance the benefits of the journeyman failing to make said reports as may be required to obtain compliance herewith.

SECTION 15. IUPAT INDUSTRY PENSION FUND:

The only agreement between the Employer(s) and the Union parties to this Agreement regarding pensions or retirement for employees covered by this Agreement is as follows:

1. (a) Commencing with the 1st day of July 2010, and for the duration of the Agreement, and any renewals or extension thereof, the Employer agrees to make payments to the International Painters and Allied Trades Industry Pension Fund (IUPAT Industry Pension Fund) for each employee covered by this Agreement, as follows:

(b) For each hour or portion thereof for which an employee receives pay, the Employer shall make a contribution in accordance with Article 14 of Master Labor Agreement to the above named Pension Fund.

(c) For the purpose of this Article, each hour paid for, including hours attributable to show up time, and other hours for which pay is received by the employee in accordance with the Agreement, shall be counted as hours for which contributions are payable.

(d) Contributions shall be paid on behalf of any employee starting with the employee's first day of employment in a job classification covered by this Agreement. This includes, but is not limited to, Journeyman and Apprentices.

(e) The payments to the Pension Fund required above shall be made to the IUPAT Industry Pension Fund, which was established under an Agreement and Declaration of Trust, dated April 1, 1967. The Employer hereby agrees to be bound by and to the said Agreement and Declaration of Trust, as amended from time to time, as though he had actually signed the same.

2. The Employer hereby irrevocably designates as its representatives on the Board of Trustees such Trustees as are now serving, or who will in the future serve, as Employer Trustees, together with their successors. The Employer further agrees to be bound by all actions taken by the Trustees pursuant to the said Agreement and Declaration of Trust, as amended from time to time.

3. All contributions shall be made at such time and in such manner as the Trustees require; and the Trustees may at any time conduct an audit in accordance with Article VI, Section 6 of the said Agreement and Declaration of Trust.

4. If an Employer fails to make contributions to the Pension Fund within twenty days after the date required by the Trustees, the Union shall have the right to take whatever steps are necessary to secure compliance with this Agreement, any other provision thereof to the contrary notwithstanding, and the Employer shall be liable for all costs of collection of the payments due together with attorney fees and such penalties as may be assessed by the Trustees. The Employer's liability for payment under this Article shall not be subject to or covered by any grievance or arbitration procedure or any "no-strike" clause which may be provided or set forth elsewhere in this Agreement.

5. The Pension Plan and Annuity Plan adopted by the Trustees shall at all times conform with the requirements of the Internal Revenue Code so as to enable the Employer at all times to treat contributions to the IUPAT Industry Pension Fund as a deduction for income tax purposes.

ARTICLE 19

AMENDMENTS

SECTION 1. ANY PROVISION EXCEPT WAGES AND HOURS:

A. To meet changing conditions in the Construction Industry, it shall be within the jurisdiction of the negotiators of the Painters and Allied Trades District Council No. 36 Master Labor Agreement, upon approval of a majority of the members present at a specially called meeting to suggest and consider amendments to this on any provisions, except hours and wages which they may recommend to the membership of the FCA affiliate organizations and District Council No. 36 hereto. The negotiations on said recommendations shall be restricted to the topics specified therein.

B. If ratified, respectively, by a majority vote of the members of the FCA affiliate organizations and the District Council present at any regular or specially called meeting, as may be provided in the Bylaws or Constitution of the respective organizations, said amendments shall become a part of this Agreement.

C. Non-member signatories shall be permitted to vote on amendments to the same affect as if they were members of an FCA affiliate organization. Ballots shall be forwarded by the Secretary of the LMCC to the non-member signatories by mail at the same time as notice to the various signatories hereto. Any amendment or addition to this Agreement made pursuant to the terms hereof shall be binding on all parties signatory hereto.

SECTION 2. OTHER PROVISIONS:

The provisions of this Agreement cannot be re-opened or amended during the life of this Agreement except as provided in this section.

SECTION 3. ANNUAL REVIEW:

The parties to this Agreement recognize the mutual advantages enjoyed by the provisions of said Agreement. Each recognizes that proliferation of contract work performed by contractors not a party to this Agreement reduces the work potential of both signatory contractors and employees of the bargaining unit.

Because of this mutual concern for the protection of bargaining unit work described in this Agreement, the parties agree that the Negotiators of this Agreement shall meet from time to time during the duration of this Agreement to review the access signatory employers have to contracting of work covered by the scope of this Agreement. Should it be mutually concluded that a serious threat to work covered by this Agreement being done by signatory employers exists, and that maintenance and growth of the bargaining unit work is threatened then it is agreed that the Negotiators of this Agreement shall have authority to reopen this Agreement within ninety (90) days of such determination, upon the request of either party, to renegotiate any portion of this Agreement which the Negotiators jointly agree must be altered in order to maintain and increase the availability of contract work to signatory employers and employees alike.

ARTICLE 20 PERIOD OF AGREEMENT

SECTION 1.

This Agreement shall continue in full force and effect commencing as of 12:01 a.m., July 1, 2010, until June 30, 2013 and from year to year thereafter unless either of the notices specified below are given.

SECTION 2.

A. Notice of Modification: On or before March 15, 2013, the signatory FCA affiliate organizations, District Council of Painters No. 36, or any signatory hereto, may give notice of desire to open the Agreement for modification. If such notice is given, the terms and provisions of such contract will remain in effect until the effective date of any new Agreement. It is provided, however, that at any time following June 30, 2013 it shall not be a violation of this Agreement for the Union to engage in strike or other lawful economic concerted activities in support of its contractual demands.

B. On or before March 15, 2013, the signatory FCA affiliate organizations, the District Council of Painters No. 36, or any signatory hereto, may give notice of desire to terminate this Agreement. If such notice is given, this Agreement shall terminate as of June 30, 2013, at twelve (12:00) Midnight.

C. Notice by the Union to a signatory employer shall be made by either registered or certified mail, at the last known address furnished to the LMCC Administrative Office. In the event that the signatory employer has not provided a current address, a mailing as specified above will be conclusive evidence that such notice was received by the employer.

SECTION 3. NOTICE OF TERMINATION:

On or before March 15, 2013, but no sooner than January 1, 2013, or on or before March 15, of any subsequent calendar year, the FCA affiliate organizations, or District Council No. 36, signatory hereto may give notice that said signatory wishes to terminate this Agreement. Should such notice be given, said Agreement shall terminate as of the subsequent June 30, at 12:00 Midnight.

SECTION 4. INDIVIDUAL EMPLOYER WITHDRAWAL:

Any employer signing this Agreement who may desire to withdraw there from may do so by giving written notice of their intention to do so to the District Council of Painters No. 36, and to their respective FCA affiliate organizations if the withdrawing employer is a member of such FCA affiliate organization on or after January 1, 2013, or of any calendar year thereafter, and no later than the commencement of negotiations or March 15 which ever comes first, such notice to become effective the following July 1. Unless such notice be given, the employer shall continue to be a party thereto and be bound by all the terms thereof, including any amendments or extensions thereof. If such a person or firm be a member

of the FCA affiliate organization, the giving of such notice shall be deemed a resignation from said FCA affiliate organization effective June 30, 2013, or any calendar year thereafter.

ARTICLE 21 SEPARABILITY AND DEFENSE

SECTION 1. AGREEMENT SEPARABLE:

If any provision of this Agreement is declared invalid or the applicability thereof to any person, circumstances or things is held invalid, the validity of the remainder of this Agreement and/or applicability thereof to any person, circumstances or thing shall not be affected thereby.

SECTION 2. DEFENSE OF AGREEMENT:

District Council No. 36, agrees with the parties signatory to this Agreement to defend this Agreement or any provisions thereof.

ARTICLE 22 SAFETY LAWS / DRUG TESTING

The contractor shall abide by all the health and safety provisions, rules and regulations of those Municipal, State and Federal agencies having issuing authority in the pertinent field of work being performed by the signatory to this Agreement. Employees may not be disciplined, laid off or fired for refusing to be a party to an unsafe working condition or for reporting a violation of a safety rule, regulation, accident or incident.

Employees shall also abide by all safety rules and regulations, which have been brought to their attention and shall wear all masks and other safety clothing or equipment supplied to them by their employer. It shall be the duty of the employer or his representative to furnish for use safety belts, hoods, masks, gloves, etc., when and where required. Employees failure to use the equipment provided shall be subject to charges by the District Council No. 36

A. SAFETY LAWS AND REGULATIONS:

The Signatory and employees shall abide by all the Health and Safety Provisions, Rules and Regulations of those Municipal, State and Federal Agencies having issuing authority in the pertinent field of work being performed by the Signatory to this Agreement.

B. DRUG ABUSE PREVENTION AND DETECTION:

The parties recognize the problems which drug abuse has created in the construction industry and the need to develop drug abuse prevention programs. Accordingly, the parties agree that in order to enhance the safety of the work place and to maintain a drug free work environment, individual Employers may require applicants or employees to undergo drug screening. The parties agree that if a screening program is implemented by an individual Employer, the following items have been agreed upon by Labor and Management.

1. It is understood that the use, possession, transfer, or sale of illegal drugs, narcotics, or other unlawful substances, is absolutely prohibited while employees are on the Employer's job premises or while working on any site in connection with work performed under the applicable agreement.
2. All applicants or newly hired employees may undergo a drug screen.
3. Applicants not passing the drug screen will not be placed on the Employer's payroll or receive any compensation. Employees not passing the drug screen will be removed from the Employer's payroll. The Employer agrees to pay the cost for administering the drug screen.
4. The Employer may require that an employee be tested for drugs where the Employer has reasonable cause to believe that the employee is impaired from performing his/her job. Observation must be made by at least two (2) persons, one of whom may be a Union employee. This provision shall be applied in a non-discriminatory manner. Supervisors will administer the program in a fair and confidential manner. For employees who refuse to take the test where the prerequisites set forth in this paragraph have been met,

there will be a rebuttable presumption that the test result would have been positive for an unlawful substance.

5. An Employer may require that an employee who contributed to an injury/accident be tested for drugs where the Employer has reasonable cause to believe that the injury/accident resulted from drug usage.
6. It is understood that the unsafe use of prescribed medication, or where the use of prescribed medication impairs the employee's ability to perform work, is a basis for removal.
7. A sufficient amount of a sample shall be taken to allow for an initial test and a confirmation test. The initial test will be by Enzyme Multiplied Immunoassay Technique (EMIT). In the event a question or positive result arises from the initial test, a confirmation test must be utilized before action can be taken against the employee or applicant. The confirmation test will be by Gas Chromatography - Mass Spectrometry (GC/MS). The cutoff levels for both, the initial test and the confirmation test, will be those established by the Collective Bargaining Agreement. Confirmed positive samples will be retained by the testing laboratory in a secured long term frozen storage for a minimum of one year. Handling and transportation of each sample must be documented through a strict chain of custody procedures.
8. Any dispute which arises under this drug policy shall be submitted to the grievance and arbitration procedure set forth in the applicable Agreement.
9. The establishment or operation of this policy shall not curtail any right of an employee found in any law, rule or regulation. Should any part of this policy be found unlawful by a court of competent jurisdiction or a public agency having jurisdiction over the parties, the remaining portions of the policy shall be unaffected and the parties shall enter negotiations to replace the affected provision.
10. The Employer shall indemnify and hold the Union harmless against any and all claims, demands, suits or liabilities that may arise solely out of the Employer's application of the Substance Abuse Program.
11. Where a General Contractor or Building Owner has established and requires a substance abuse program that is more restrictive, that program shall prevail. Employees shall be informed that the program they will be working under differs from the standard policy. Employees shall have the right to request that they be assigned to another project with no inferences being made.

Drugs:	Screening Test:		Confirmation Test:	
Amphetamines	500	ng/ml	500	ng/ml
Marijuana/Metabol	2000	ng/ml	2000	ng/ml
Cocaine/Metabol	300	ng/ml	200	ng/ml
Opiates	300	ng/ml	300	ng/ml
PCP	25	ng/ml	25	ng/ml
Alcohol	.08 *		.08 *	
Barbiturates	500	ng/ml	500	ng/ml

* The alcohol shall be lowered to such level as may be applicable in the State of California except as may be required under DOT Rules and Regulations.

The parties further agree that there will be no requirement for random drug testing by any signatory employer.

ARTICLE 23

WORKERS' COMPENSATION – ALTERNATIVE DISPUTE RESOLUTION

The parties have established and are operating, pursuant to Section 3201.5 of the California Labor Law, a Workers' Compensation Alternative Dispute Resolution Agreement (ADR) and program. This system of medical care delivery and

alternative dispute prevention and resolution was established in order to provide employees and employers with the following benefits:

1. Provide employees who claim compensation for personal injuries and occupational diseases under the California Workers' Compensation Law with improved access to high-quality medical care.
2. Reduce the excessive costs historically associated with these benefits.
3. Reduce the number and severity of disputes.
4. Provide an efficient and effective method of dealing with disputes resulting from such injuries.

The Workers' Compensation Alternative Dispute Resolution (ADR) Agreement dated September 17, 1997, may be used by any employer working in the State of California who is (1) signatory to a collective bargaining agreement with District Council No. 36, and who (2) signs a Memorandum of Understanding agreeing to be bound by the terms and conditions of said ADR Agreement.

ARTICLE 24 ADDENDUM AGREEMENTS

In the event it becomes necessary to enter into an Addendum Agreement in a geographical area due to loss of work for the Employer and Employee, those terms negotiated shall be available to all signatories to this Agreement who sign an application to become a party to that Addendum. The Addendum Agreement negotiated and the terms of such an Addendum Agreement will apply only to work in the geographical area involved in the Addendum Agreement.

ARTICLE 25 MEANINGS

As used in this Agreement, the masculine or feminine gender, and the singular or plural number, shall each be deemed to include the other whenever the context so indicates.

SIGNATURE PAGE

*Painters and Allied Trades District Council No. 36
Master Labor Agreement
2010—2013*

THAT SAID AGREEMENT as herein amended, shall be effective as of and become operative on the 1st day of July 2010, and shall remain in force and effect until the 30th day of June 2013, and thereafter, unless notice of termination or amendment is given in accordance with Article 20 of said Agreement.

ON BEHALF OF THE PAINTERS AND ALLIED TRADES DISTRICT COUNCIL NO. 36

Signed: _____ Date _____
GRANT MITCHELL
Business Manager/Negotiator

ON BEHALF OF THE FINISHING CONTRACTORS ASSOCIATION SOUTHERN CALIFORNIA

Signed: _____ Date _____
Mike Birney
SCPDCA/ULMRC / Negotiator

DISTRICT COUNCIL NO. 36 AREA OFFICES AND ADDRESSES

Southern California Painters and Decorators Labor Management Cooperation Committee
2333 North Lake Avenue, Unit J Altadena, CA 91001
(626) 844-1040 FAX (626) 844-1044

Southern California Painting and Drywall Industries Trust Funds – A.T.P.A.
4399 Santa Anita Avenue, Suite 150 El Monte, CA 91731
(800) 752-2394
(626) 279-3020 FAX (626) 279-3055

Los Angeles Painting & Finishing Contractors Association, Incorporated
1106 Colorado Boulevard Los Angeles, CA 90041
(323) 258-8136 FAX (323) 258-2279

Finishing Contractors Association of Southern California
10061 Riverside Dr. Ste. 1028 Toluca Lake, CA 91602
(866) 430-2542 FAX (866) 404-2447

Ventura, Santa Barbara, San Luis Obispo Master Painting Contractors Association
316-A North First Street Lompoc, CA 93436
(805) 736-4282 FAX (805) 736-4473

Master Paint Contractors of San Diego, Inc.
P. O. Box 583 Alpine, CA 91903
(619) 445-5631 FAX (619) 445-5631

Southern California Painters and Drywall Industry Apprenticeship Trust
2077 Yates Avenue Los Angeles, CA 90040
(800) 727-3428
(323) 727-2811 FAX (323) 727-1180

Painters and Allied Trades Compliance Administrative Trust (PAT-CAT)
2333 North Lake Avenue, Unit I Altadena, CA 91001
(800) 717-7573
(626) 792-3019 FAX (626) 792-4435

Western Wall & Ceiling Contractors Association
1910 North Lime Street Orange, CA 92865
(800) 903-9255
(714) 221-5520 FAX (714) 221-5535

PAINTERS DISTRICT COUNCIL NO. 36
2333 North Lake Avenue, Unit H Altadena, CA 91001
(800) 841-4366
(626) 584-9925 FAX (626) 584-1949

<u>LOCAL UNION NO.</u>	<u>ADDRESS</u>	<u>TELEPHONE NUMBER</u> <u>FAX NUMBER</u>
52	26 Bernard Street, Suite 100 Bakersfield, CA 93305	(661) 325-1825 (661) 325-1891
1036	8658 Clela Street Downey, CA 90241	(562) 861-9616 (562) 861-6549
1399	8250 Ronson Road San Diego, CA 92111	(858) 278-1615 (858) 278-1714
775	1074 East La Cadena Drive #4 Riverside, CA 92501	(951) 786-0612 (951) 786-0613
1595	2333 North Lake Avenue, Unit E Altadena, CA 91001	(626) 304-9640 (626) 797-1564
1991	2333 North Lake Avenue, Unit G Altadena, CA 91001	(626) 304-7900 (626) 797-0152
1136	Drywall Finishers Regional Local Union 16021 Arrow Highway Unit D Irwindale, CA 91707	(626) 472-7400 (626) 472-7444