

**DISTRICT COUNCIL 53—Master Agreement  
By and Between  
District Council 53 Affiliated Local Unions  
And  
Parkersburg Marietta Contractors  
Associations  
To This Agreement**



**December 1, 2019 THROUGH NOVEMBER 30, 2022**

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## **ARTICLE I**

### **ARTICLES OF AGREEMENT**

This Agreement is effective this 1<sup>st</sup> day of December 2019, by and between Painters' District Council No. 53, International Union of Painters and Allied Trades, AFL-CIO, (hereinafter referred to as the "Union") and the present members and owners of \_\_\_\_\_ (hereinafter referred to as Contractor or the "Association"), its successors and assigns, each employer which has assigned to the Association the authority to represent it for collective bargaining purposes, and such other employers who become signatory to this Agreement.

Whereas, the parties express purpose and intent is to promote and improve the relationship between the Employer/s, the Union and the employees subject to this Agreement, to facilitate peaceful and orderly adjustments of grievances and disputes, to enter into contractual relations with respect to wages, hours of work and other conditions of employment to be faithfully observed by all parties. The parties recognize their respective responsibility for and mutual interest in continuity of employment, gained through efficient service to the customer and sincere fulfillment of their obligations to the public in promoting the best interest of the painting, decorating, wall covering and drywall industries.

## **ARTICLE II**

### **THE PARTIES**

Section 1. The Union is acting on behalf of all of its present and future affiliated Local Unions and as the sole and exclusive bargaining agent of all employees in the Bargaining Unit and with all employers performing any work listed in Section 6. of the IUPAT Constitution within the Geographical Jurisdiction of DC 53.(Ref. Article V )

Section 2. The Contractor or Association, and its successors and assigns, represents that it has the legal authority under its governing documents to act as the sole and exclusive bargaining agent for all of its present and future members, and their successors and assigns, as well as for those employers which have assigned to the Association the authority to represent the employer for collective bargaining purposes, and their successors and assigns (hereinafter collectively referred to as "Employer"). The Union recognizes the Contractor or Association as the sole and exclusive bargaining agent for all such Employers. Every Employer shall remain bound to the Agreement as amended thereafter in future negotiations with the Association unless timely written notice is given to the Union and the Funds of its withdrawal from membership in the Association

Section 3. An independent or non-member of the Association which has not previously assigned to the Association the authority to bargain on its behalf may become bound by this Agreement and all references to the Association or Employer shall be considered as referring to and including that independent or non-member.

### **ARTICLE III** **RECOGNITION**

Section 1 The Contractor / Association and its members/employers recognize and agree that District Council 53 is within the meaning of Section 9(a) of the National Labor Relations Act, the exclusive representative for the purpose of collective bargaining, of all work generally recognized in Section 6. of the IUPAT General Constitution. This work will include but be limited to the jurisdiction of the painting, decorating, wall covering, glazing, and drywall finishing industries and shall be assigned to employees working under this Agreement. The Bargaining Unit work to be performed by journeymen or apprentice, painters, decorators, applicators, paperhangers, glaziers, drywall tapers, and apprentice applicants shall include, but not be limited to, the application of all painting and decorating finishes, drywall finishes, wall coverings, caulking, synthetic coatings, fire proofing, metalizing, glazing and the operation of all equipment used in the performance of such work, including sandblasting equipment; lead abatement, the erection, moving and dismantling of all scaffolding, as has always been customary; the operation of compressors, lifts or any other equipment related to Bargaining Unit work; and all preparatory work incidental to the above work. The term "painting and decorating finishes", as used herein, includes painting, decorating, paperhanging, the application and removal of any and all types of wall covering; the finishing of wood, metal or other surfaces; the application of insulating and acoustical materials; the application of wet film waterproofing coatings; and all other coatings for decorative and protective purposes; the taping, surfacing and finishing of drywall surfaces; and any work that is necessary to remove any paint or lead paint due to the application of material by any method, any sandblasting by-products due to any sandblasting method, or any removal of paint, lead paint or sandblasting residue.

Section 2. The Contractor or Association agrees to recognize and deal with the Union's elected or appointed representatives, at a reasonable time, at every location at which the Employer performs any work. The Employer agrees to permit the Union's representatives to visit its shops (upon reasonable notice) and job sites during working hours for the purpose of inspecting lists of employees, payroll records, insurance certificates, and time cards in order to determine if the Employer is complying with this Agreement and with federal law.

Section 3. The Business Manager / Secretary-Treasurer of the Union, or his designee, may appoint shop or job stewards from the contractor's current work force. Stewards shall be selected at the sole discretion of the Business Manager / Secretary-Treasurer or his designee. If a steward is appointed from outside the Employer's workforce, the Employer shall place the steward on the job. The steward must be a qualified mechanic in work performed by the Employer and shall be a working steward. If there is a work slowdown, the steward shall be the last employee employed. If an Employer's workload does not require employees, the Business Manager / Secretary-Treasurer shall remove the steward until the Employer hires any employee to perform Bargaining Unit work. In no event shall any steward be considered an agent of the Union. If an Employer is not satisfied with the work performance of any steward, the Employer may request a replacement by notifying the Union's Business Manager / Secretary-Treasurer in writing.

### **Top Workplace Performance**

Section 4. Provided it does not conflict with any federal, state, or provincial law, e. This clause shall be enforced in accordance with the Top Workplace Performance Plan as outlined by the International Union as amended from time to time.

- (a) 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 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.
- (b) 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 District Council Joint Trade Board and/or an arbitrator shall be final and binding.
- (c) The provisions in subsections (a) and (b) notwithstanding, a Termination Review Committee, composed of the members of the District Council Joint Trade Board [or, alternatively, if there is no Joint Board, “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.

### **UNION SECURITY**

Section 1. (a) All employees in the Bargaining Unit must during the term hereof, as a condition of employment, maintain their membership in the Union. Current employees shall be required as a condition of continued employment to become members of the Union on the eighth (8) day following the effective date of this Agreement. Employees hired after the effective date of this Agreement and covered by this Agreement shall be required, as a condition of continued employment, to become members of the Union on the eighth (8) day following the beginning of their employment. ) This section is void in the State of Virginia. All provisions of this Agreement shall only apply to the extent a provision is permitted by state and federal law. In the event that the law is changed to permit a provision during the term of this Agreement that provision shall immediately apply.

Section 2. The Employer agrees to check off as per the District Council By-Laws from each employee's gross wages and will remit such sums to the Union in accordance with Article IX, provided the employees in question have signed a valid authorization card authorizing such deduction.

The Employer further agrees that at the time it employs any Bargaining Unit employee the Employer and or Union Representative will submit to each such employee, for his/her signature, a dues deduction authorization card in triplicate, one copy of which shall be returned to the Union. The form will be supplied to the Employer by the Union.

The Employer further agrees that each month it will submit a list of all employees covered by the Agreement who have failed to sign a dues deduction authorization card, together with the numbers of hours each such employee was paid.

Section 3. The Union agrees to indemnify and hold the Employer harmless against any and all claims, demands, suits or other forms of liability, exclusive of attorneys' fees and costs, which may arise out of or by reason of any actions taken or not taken by the Employer for purpose of complying with a specific direction of, or notice from, the Union regarding any provision of this Article.

## ARTICLE V

### THIS AGREEMENT COVERS THE FOLLOWING JURISDICTION

District Council 53 / Local 1144 & 93 Geographical Jurisdiction shall consist of the following Counties;

**West Virginia Counties-** Jackson, Roane, Wood, Tyler, Pleasants, Ritchie, Wirt, Calhoun

**Ohio Counties** – Guernsey, Noble, Monroe, Morgan, Washington, Athens, Hocking, Vinton, Meigs

Section 1. The Employer's principal place of business and employment shall be considered within the jurisdiction of the Union. When an Employer needs additional employees, the Employer agrees not to hire employees until and unless the Union via the Business Manager or Representative has been given 48 hours to provide suitable qualified applicants. The employer does not need to allow the Union an opportunity to provide applicants if he/she is recalling previous employees who have been employed by the employer in the past twelve (12) months and are members of District Council 53. The employer may request specific members of District Council 53 who will be referred if available. However, in any event, the Employer must notify the Union of the names and their social security numbers that the employer hired for any jobsite in District Council 53 jurisdiction. The Employer on occasion undertakes Bargaining Unit work in other counties and areas, on which occasions the Employer employs additional employees who are members of locals outside the Union's jurisdiction. In recognition of these facts, it is agreed to that;

(a) This Agreement shall embrace, and the Union shall be the exclusive bargaining representative for and on behalf of, all the employees employed by such Employers, wherever and whenever employed in areas as described in Article V during the term of this Agreement.

(b) The Employer, when engaged in work outside the Union's geographical jurisdiction, shall employ not less than 50% of the workers employed on such work from among 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 if available; any others shall be employed only from the Employer's home area.

(c). "The employer party hereto shall, when engaged in work outside the geographic jurisdiction of the Union party to the agreement, comply with all of 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 that 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 where no affiliated Union has a current effective agreement covering such out of work, the employer shall perform such work in accordance with this agreement; and provided further 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. In situations covered by the last proviso fringe benefit contributions on behalf of such employees shall be made solely to their home funds in accordance with their governing documents, and the difference between the wages and benefit contributions required by the away funds and the home funds, if any, shall be paid to the employees as additional wages. This provision is enforceable by the District Council or Local Union 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."

Section 2 An Employer shall not attempt to engage in any work covered by this Agreement in any area outside the geographical jurisdiction of the Union through the use or device of a joint venture with another employer or contractor in the outside area, unless such use or device is not for the purpose of taking advantage of lower wages or conditions that are in effect in the home area of the other employer.

Section 3. There shall be no priority given for employment opportunities to any person because of membership in the Union nor shall there be any discrimination on the basis of race, color, sex, age, handicap, or national origin.

Section 4. Any employer entering the Jurisdiction of this Union and that is signatory to another Local or District Council shall notify IUPAT District Council 53 at 1591 Washington Street, E. Charleston, WV 25311 The notice shall include every job on which the Employer has undertaken or contracted to perform in any work in this jurisdiction. The job notice shall show the customer, location, description of the job, approximate starting date, name of and the number of employees that will be required. The job notice shall be sent no later than fifteen (15) days in advance of any starting date.

#### Section 5. Management Recognition and Rights

(a) It is mutually agreed that all provisions and conditions as set forth in this Agreement shall also apply to any contractor or other Employer who may individually or separately become signatory to this Agreement or who hire "Employees" to perform work covered by this Agreement.

In Signing this Agreement, it is affirmatively recommended and requested that the contractor signed hereto will abide by, align with, recognize and may become part of the bona fide contractors association in the area of the contractor's place of business is located.(b)The operation of the job and direction of the work force, including the right to hire, suspend and discharge for proper cause and the right to relieve employees from duty, because of lack of work, or other legitimate reasons is vested in the company; provided that this duty is not and will not be used for the purpose of discrimination against any member as provided in this Agreement.

### ARTICLE VI HOURS OF WORK – HOLIDAYS

Section 1. (a) The normal workweek shall be Monday through Friday.

(b) The normal workday shall be eight (8) hours, excluding one-half (½) hour for lunch, with an additional (15) minute break between each or any additional 8 hours of work. There shall also as be an additional ½ hour lunch break allowed for any work performed lasting over 12 hours on any one day's work. With 8:00 a.m. and 4:30 p.m. being the normal workday. It may be adjusted so that starting time will begin earlier than 8:00 a.m., provided that eight (8) hours constitutes a normal workday. If an adjusted workday or week is required, the Employer must notify the Union prior to implementing the adjusted workday or week schedule. The Employer may designate a four (4) day ten hour per day work schedule at straight time rate, however on a 4 day 10 hour schedule Friday and Saturday will not be considered as make up days, and will be paid as time and ½. Unless these days are makeup days for reasons beyond the employers control such as inclement weather or if work was available during the week and the employee's missed work. Unless approved by the Union.

(c) Coffee Break and or Rest Period for all bargaining unit employees shall be permitted a ten (10) minute organized break at a designated area each midmorning and ten (10) minutes unorganized in the afternoon as historically observed in the area.



Section 2. The Legal Holidays are: New Year's Day, Memorial Day, Independence Day, Labor Day (All members shall restrain from working this day), Thanksgiving Day as well as the day after Thanksgiving Day, and Christmas Day. (If worked shall be paid at the rate of double time) Sunday will be paid at double-time.

Section 3. An Employer may schedule an employee for a make-up day on a Saturday, at regular pay, only if that employee missed a full day of work (Monday-Friday) as a result of weather or the employee's unexcused absence from work but not because of a Holiday. The scheduling of a make-up day shall not be for the Employer's scheduling convenience. This provision shall not affect the employee's right to Holiday pay or premium pay for "off-hours" work or for hours worked in excess of eight (8) hours in a day or forty (40) hours in a week, for any Employee who is not afforded an opportunity to work 40 hours in a normal work week through no fault of their own, shall be paid at the rates of time and one half.

Section 4. There shall be a sufficient allowance of time for wash-up time in each one-half ( $\frac{1}{2}$ ) day's work. There shall be a thirty minute unpaid lunch break at the half- way point of the day.

Section 5. Any employee required to report, to a job site or shop (including supply houses) who is subsequently directed to a different site, different supply house, or to the shop shall be paid from the time the employee first reported to a job site, supply house or to the shop

Section 6. When an employee works a fractional part of a day, he shall be paid for no less than one-half ( $\frac{1}{2}$ ) of a day's work, except in cases when an employee quits voluntarily, when he is discharged for any dischargeable offense, or when weather conditions prevent a continuation of his employment or arrangements are made between the Business Manager / Secretary Treasure or his Representative and the Employer / Contractor.

Section 7. An employee who reports for work at the regular starting time shall be paid their regular wages for two (2) hours when no work is provided for him. However, this provision shall not apply if work is not available because of weather or conditions beyond the employer's control.

## **ARTICLE VII** **TOOLS, CONDITIONS AND EQUIPMENT**

The Employer shall furnish all tools and equipment including; brushes, rollers, rigging, wall covering hangers tables and protective clothing and all required safety clothing and equipment.

Section 1. The intent of this paragraph shall apply to the protection of the Employee.

(a) In accordance with the requirements of the Occupational Safety and Health Act of 1970, as amended, it shall be the Employer's responsibility to ensure the safety of its employees and compliance by employees with any safety rules, standards and regulations

contained in Local, federal or state law must be complied with. No Employee shall be discharged for refusing to work in unsafe conditions, if he/she is willing to do other work till the existing hazardous condition can be corrected. Nothing in this agreement shall make the Union Liable to any employee or to any other person in the event that a work-related disease, sickness, death, injury or accident occurs.

Section 2. Personal tools:

- (a) Painter/Drywall Finishers employees shall furnish the following tools: duster, Five in One tool, drywall hand tools, pans and blades.
- (b) Paperhangers shall furnish ruler, smoother, seam roller, and level.

Section 3. (a) The Employer shall provide all employees who perform drywall finishing with machine tools with the registration number of each tool. The Employer shall list, in writing, each register number and tool description. The list shall be given to each employee to review at the time such machine tool(s) are issued. The machine tool(s) shall be in good working order. Each employee shall examine the tool list and, if accurate, each employee shall acknowledge receipt of the tool(s) by signing on the tool list. No employee shall refuse to acknowledge an accurate and complete list. Each employee shall be responsible for all stolen, lost or mislaid machine tools for which the employee has signed.

- (b) If, upon the Employer's request, an employee does not return any machine tool(s) for which employee has acknowledged receipt thereof, the Employer may deduct the reasonable cost of such machine tool(s) from the employee's next regular paycheck.
- (c) Upon termination of employment, each employee shall return all machine tools. If an employee fails within five (5) days of termination to return any such tool(s) for which employee has acknowledged receipt thereof, the Employer may deduct the reasonable cost of such machine tool(s) from the employee's final paycheck.
- (d) No Employer may deduct any money from an employee's paycheck for tools not returned if the employee has filed a police report indicating such tool(s) were stolen.
- (e) The Employer shall not file or assert a claim against or engage in any litigation against the Union on a subrogation theory, contribution theory, or otherwise, in connection with any work-related disease, sickness, death, injury, or accident.

Section 4. Employees are prohibited from carrying any material, scaffold or tools from the job sites unless permitted by the Employer.

Section 5. The Employer agrees that it shall comply with all applicable federal and state laws concerning worker's compensation, including all applicable standards, rules, and regulations issued pursuant thereto.

Section 6.(a) If an employee covered by this Agreement sustains an accidental injury in the course of his employment, requiring immediate medical care off the premises, during work hours, such employee shall be permitted to obtain medical care at once. The employee shall be paid his regular wages for that day, not to exceed eight hours, for the time necessarily spent in going to and from a physician's office, medical center, or hospital, as well as the time required to obtain the appropriate medical care. Except in unusual circumstances, this provision shall be effective only on the date of the injury, unless subsequent visits, during working hours, are required by the Employer's physician for an independent medical examination.

- (b) If an injured employee needs to be taken to a medical care facility following an injury, he shall be taken to the nearest appropriate medical facility from the job site at the Employer's expense.
- (c) The job steward and lead man shall, immediately be notified of all injuries. If the steward or lead man determines that someone should accompany the injured employee to the hospital, medical center, physician's office or, later, to the employee's home, the Employer shall select such person, who shall be compensated at his regular rate for such services. If the Employer fails to select such person promptly, the steward or lead man shall select such person.
- (d) If an employee is injured in the course of his employment, he shall not be dismissed from such employment because of his injury, nor shall he be dismissed during the period of medical care required by the injury, unless there is no work available with his Employer, or unless his dismissal is due to a condition beyond the control of the Employer. This paragraph shall not obligate the Employer to an employee while the employee is disabled.
- (e) The Union shall be notified by the Employer, within seventy-two (72) hours following any reportable injury falling within the scope of this Article

Section 7. All drywall finishers and painter Journeymen or Apprentice on commercial or residential type work will present a neat and clean appearance whenever possible.

## **ARTICLE VIII** **WAGE RATES**

The terms and Conditions of this agreement may be modified by the duly elected Business Manager of District Council 53 for the purpose of organizing, holding a job union, maintaining or entering a particular market segment, and for entering into Maintenance Agreements. This may be done during the bid process, as long as more favorable terms are offered to all signatory bidding contractors, not after the work has been awarded.

Section 1. (a) Effective December 1, 2019, the regular minimum wage for Journeymen Painters, Paperhangers, and Tapers / Drywall finishers. Working in the Union's jurisdiction shall be as indicated on each zones designated addendum that is part of this agreement. (The addendum's are at the end of the agreement) This increase shall be allocated by the Union between wages and fringe benefits.

(b) During the life of this Agreement, all Apprentices and Apprentice Applicants shall receive their proper percentage of Journeymen wages based on the applicable zone wage rate, with the exception that all parties agree that no apprentice shall receive a wage rate of less than \$9.00 per hour.

Section 2. (a) The regular rate of wages for all Foremen shall be the Journeyman rate plus one dollar and 50 cents (\$1.50) per hour. Certified Foreman that is utilizing the national certification will get \$2.00 extra above the set wages where certification are deemed necessary by the Employer to accomplish the required work.

(b) A working Foreman shall be appointed after five (5) or more Journeymen or Apprentice employees have been employed on one particular job site.

Section 3. All work performed outside the normal work day or the adjusted work day, in accordance with Article VI, Section 1 (b), shall be considered as overtime and shall be paid at one and one-half (1½) times the employee's regular rate.

Section 4. Shifts

For any shift starting prior to 6:00 a.m. or after 12:00p.m., the Employer shall pay a .75 cents per hour shift differential to each employee for each hour worked. Unless approved prior to the starting of the job by the Business Manager/ Secretary Treasure.

Section 5. (a) The Employer shall establish and maintain a weekly payday, which shall typically be on Friday, not later than the ending time of the normal workday. Payment of wages is to be made on the job site or, if prior arrangements have been made and agreed to by the Union, the employees and the Employer, such payments may be made at the Employer's principal place of business, by electronic transfer or mailed to the employee.

- (b) Each employee shall be furnished with a detachable check stub showing the Employer's business name, the employee's name or social security number, total straight time hours, overtime hours, the ending date of the pay period, the total amount due, and all itemized deductions. The Employer shall (as shown on the pay stub) conform with federal law pertaining to the payment of Social Security. It shall be a violation of this Agreement for an Employer to issue any check other than a payroll check for compensation earned under this Agreement.

- (c) When time cards are required by the Employer for payroll purposes, the time cards must be turned into the Superintendent, General Foreman or Foreman on the job site by the end of the working day for which the pay period ends. If there is no Superintendent, General Foreman or Foreman on the job site, the Employer must make arrangements for the time cards to be picked up on the job site or allow the time to be called into the shop no later than 10:00 a.m. the day following the end of the pay period. If no time card is turned in the Employer is not obligated to pay the employee until the following payroll period. The employee will stand no loss of time for complying with this provision.
- (d) An Employer, who requests or insists on having daily time sheets mailed in, shall furnish employees with sufficient stamped envelopes or funds to cover the expense incurred. The time on all time sheets and records shall be expressed in terms of the actual number of hours worked. Hours for which time and a half, are to be paid shall be shown separately from the number of hours actually worked. Each employee shall make out and sign the time sheets or, if someone else makes out the time sheets for him, the employee shall sign his time sheets.

Section 6. If an employee, the Union, or an employee benefit fund provided for under this Agreement is paid by a check which is returned for insufficient funds or because the account is closed, the Union shall withhold all employees from jobs until all wages, dues, and fringe benefit contributions due are paid in cash or by certified check unless suitable payment terms have been established. Every such employee withheld shall be paid for all time withheld up to eight (8) hours per day until all wages, dues, and fringe benefit contributions due are paid in cash or by certified check. If a check for wages, dues, or fringe benefit contributions is returned for insufficient funds or because the account was closed, then, at the sole discretion of the Union, the Employer shall be obligated to pay weekly, in cash or by certified check, all wages, dues, and fringe benefit contributions due. The Employer shall be obligated to pay all attorneys' fees and costs incurred in collecting such sums that are due.

Section 7. A discharged employee shall be paid his full wages through and including the hour of discharge. Payment must be made to the employee within twenty-four (24) hours after discharge, except when the discharge occurs on a Friday, Saturday, or Sunday, in which case the employee shall be paid by 3:00 p.m. on the following Monday. If the employee is not paid in accordance with this Section, the Employer shall pay the employee the regular hourly wage rate for each hour up to eight hours a day, following termination of employment until payment is actually made.

Section 8. The employer shall pay Per Diem of \$28.00 and provide the lodging when it is not practical for the employee to return to his usual place of residence each evening. When there is no adequate free parking close to the job site the employer will cover the cost of parking (Parking Pass, or Meter Parking) provided the employee submits a dated receipt.

#### Section 9. Wage Rate Definitions

- A. Base Industrial –shall be paid on all work done within the confines of a manufacturing plant, mining facility, on all skeleton steel structures, storage tanks of any kind and plant work.
- B. Bridge Rate – shall be paid for all work performed on bridges of any kind, locks and dams. Bridges within the confines of a plant shall be paid as per section (A )
- C. Base Commercial Rate – shall apply to all painting, coatings, drywall finishing, and wall covering performed on commercial structures, water and sewage treatment facilities, and all new and existing steel prefabricated buildings, and office facilities within the confines of a plant not used for manufacturing purposes (this does not include sites where any special agreements are in place.)  
It shall also apply to any and all water storage tanks.

#### Section 10. Prevailing Wage Rates

It is understood between the signatory parties of this Agreement that if work is bid on and awarded to an Employer in Ohio at a current or published prevailing rate, that then the Employer shall be allowed to perform such work at the published prevailing rate as bid at the time, however the contractor agrees to pay all fringe increases. It is also understood the Employers shall work with the union to insure all information such as hours worked and wages paid shall be provided if necessary for posting new prevailing rates yearly.

### **ARTICLE IX** **BENEFIT FUNDS**

#### Central Collection System

“The employer, shall, with respect to any and all contributions or other amount that may be due and owing to the IUPAT and its related or affiliated funds or organizations, including, but not limited to, the IUPAT Industry Pension Plan, the IUPAT Industry Annuity plan, the IUPAT Finishing Trades Institute (IUPAT-FTI), the Painters and Allied Trades Labor Management Cooperation Initiative, the IUPAT Political Action Together (and any and all other affiliated International organizations as they may be created or established in the future), upon receipt of a written directive to do so by the affiliated Funds and organizations, make all required payments, either directly or through an intermediate body, to the “Central Collections” Unit of the International Union and its affiliated Funds and organizations. Such contributions shall be submitted on appropriate forms, in such format and with such information as may be agreed to by Central Collections”

Section 1. Each Employer bound by this Agreement, and its affiliates, agree to

make contributions to the IUPAT Painters' District Council No. 53 Health and Welfare Fund ("Health and Welfare Fund"), the IUPAT District 53 Joint Apprenticeship and Training Committee, The International Union of Painters and Allied Trades, Finishing Trades Institute("FTI"), and the International Union of Painters and Allied Trades Union and Industry Pension Fund ("International Pension Fund"), and LMCI (collectively the "Funds") in accordance with the terms of this Agreement and with the Agreements and Declarations of Trust ("Trust Agreements") under which each Fund is operated.

Section 2. (a) Effective December 1, 2019 the fringe benefit contribution due for each hour or portion thereof worked by an individual covered by this Agreement shall be in accordance with Appendixes A through C.

(b) Effective December 1, 2019 and each year thereafter, the Union may in its sole discretion allocate a portion of the negotiated increase to the above Funds. The Employers shall be notified of the allocation prior to December 1, of each year.

Section 3. (a) At all times, contributions and monthly remittance reports required by this Article IX shall be paid and remitted to the Painters' District Council #53 Funds' Office. The appropriate contributions shall then be directed by the Funds' Office on behalf of each employee to the employee benefit fund for the Employee's Home Zone. Notwithstanding the above, all contributions, if any, due to the International Pension Fund shall be remitted directly to the International Pension Fund.

(b) All contributions to the Funds shall be submitted with the Funds' remittance report forms with full, complete and accurate representations of the hours worked and the sums due for each employee.

( c ) The contributions and remittance reports to the Funds shall be due as of the 15th day of the month after the month in which the work was performed, or on such other date as this Agreement may require. As of the due date, the contributions shall be considered the assets of each Fund.

Section 4. Each Employer adopts and agrees to be bound by each Fund's Trust Agreement, and as the Trust Agreement(s) may be amended hereafter, as fully as if the Employer was an original party thereto. The Employer hereby designates the Association Trustees named in the respective Trust Agreement, together with their successors, as its representatives on the Board of Trustees of each Fund. The Employer agrees to be bound by all actions taken by each Board of Trustees pursuant to the powers granted them by federal law or the respective Trust Agreements. The Employer recognizes that each Board of Trustees has the sole power to construe the provisions of the respective Trust Agreements, the respective employee benefit plans, and each Fund's rules and regulations, if any, and that all constructions, interpretations, and determinations made by the respective Trustees for their respective Funds shall be final and binding on all parties.

Section 5. The Employer may contribute to the Funds in accordance with this Article on behalf of any employee who performs management, supervisory, or estimation services, and any Bargaining Unit work, in which case the employer shall pay in an amount not less than 140 times the then current hourly contribution rates for each month during which any such Bargaining Unit work was performed, in accordance with the Trust Document of the said Funds.

Section 6. If an Employer is delinquent in its contributions to any of the Funds for a period of seventy-two (72) hours, the Union shall be entitled to remove all Bargaining Unit employees from the shop or job in addition to seeking any other legal remedy it may have.

Section 7. Contributions not received by the due date shall be considered delinquent and shall be assessed the liquidated damages, interest, reasonable attorneys' fees and costs established by the Funds' Trustees. The Employer acknowledges that the liquidated damages are provided for by federal law and shall be used to defer administrative costs arising from the delinquency.

Section 8. (a) Each Employer shall furnish the Trustees with information such as the names of all subcontractors, affiliates, employees (by classification and social security number), wages earned and hours worked by employees, the Employer's federal/state employer identification number, the Employer's business address (which shall not be a P.O. Box), the principal corporate officer's or business owner's driver's license number, proof of the Employer's corporate status, proof of insurance or surety bonds as required by this Agreement, and such other information as may be required by the Trustees. Such information available at the time this Agreement is executed shall be provided within seven (7) days of execution; all other information shall be provided within seven (7) days of the Trustees' written request.

(b) In addition, the Union and/or the Funds' Trustees shall have the authority to audit the Employer's books and records, including the books and records of affiliated employers, in accordance with the terms of the Funds' Trust Agreements. The Employer shall be responsible, in accordance with the terms of the Funds' Trust Agreements, for the costs of audit and for all attorneys' fees incurred if discrepancies are discovered.

Section 9. (a) If an Employer employs a person or entity in violation of Article XVI, the number of hours for which such Employer owes contributions to the Funds shall be computed by dividing the total dollar amount paid to such employees by the actual hourly wage rate paid, as determined by the Trustees.

(b) If an Employer violates this Agreement by contributing on the basis of piecework rather than contributing on the basis of hours worked, the compensation actually received by the employee will be divided by fifty percent (50%) of the applicable hourly wage rate in order to estimate the number of hours worked for which contributions are due.



Section 10. In the event the Trustees of the Health and Welfare Fund, concurring with the recommendation of their consultant, determine additional contributions are needed for the Health and Welfare Fund, the Union shall give notice to contributing Employers that a certain portion of the wage rate negotiated in the Agreement shall be paid to the Health and Welfare Fund, and said portion contributed to the Fund shall lower the wage rate accordingly.

## **ARTICLE X**

### **APPRENTICESHIP AND TRAINING PROGRAM**

Section 1. (a) An Employer will be allowed to have one (1) Apprentice if at least one (1) Journeyman is employed. After the Employer employs four (4) Journeymen, the Employer will be allowed one (1) additional Apprentice; with eight (8) Journeymen, the Employer will be allowed an additional Apprentice; with each additional three (3) Journeymen, an additional Apprentice will be allowed.

(b) Notwithstanding above, the ratio of Apprentice to Journeymen shall not exceed a three to one ratio or a fraction thereof.

Section 2. (a) Any Apprentice applicant who works or is hired by an employer in the geographical jurisdiction of the Union shall be immediately enrolled in the IUPAT District Council 53 Joint Apprenticeship and Training Program ("Training Program") that is incorporated and made part of this Agreement. The Apprentice shall be required to attend the Training Program's next scheduled apprentice training class.

(b) If an Employer has a contractual obligation to another apprentice program and fails to abide by the terms of this Section, the Employer shall nevertheless be obligated to the Funds set forth in Article IX for all of the contributions required by this Agreement for each hour or fraction thereof that an Apprentice is paid by the Employer or attends the other apprentice program.

(c) An Employer shall provide the Training Fund, within seven (7) days of hiring, the names and social security number of every Apprentice and Apprentice applicant employed by the Employer.

Section 3. Except in the final year of his apprenticeship, no Apprentice shall be permitted to take charge of any job or to work on any job unless there is at least one Journeyman employed on the same job.

Section 4. From the Employer contributions set forth in Article IX, the Trustees of the Training Committee shall hold in trust the current sum of \$.90 cents until 12/01/20 in which it shall be subject to change with each contract year as included in this agreement and as determined by the Union and not to exceed the negotiated total package

Section 5. The regular wage rate for Apprentices shall be the following respective

percentages of Journeymen's wages: Not to be less than \$9.00 per hour

1st 0-1000 hrs	60% of Journeymen's wage rate
2nd 1000-2000	70% of Journeymen's wage rate
3rd 2001-3000	75% of Journeyman's wage rate
4th 3001-4000	80% of Journeyman's wage rate
5th 4001-5000	85% of Journeymen's wage rate
6th 5001-6000	90% of Journeymen's wage rate
Thereafter	100% of Journeymen's wage rate

(a) Journeyman working at the above apprentice percentages

Any journeyman wishing to learn a different aspect of the trade may do so by going to work for a signatory Employer at (70%) of the applicable Journeyman Scale. Only (1) such seventy percent Journeyman may be employed per job site, provided there are at least five (5) Journeypersons who are receiving full wages working on that job site and at least one (1) apprentice on the job. An Employer may employ a seventy percent (70%) Journeyman only by mutual consent of the Employer, Employee, and the Union Representative. The Employee must request the seventy percent (70%) scale in writing to the Union. The Employer shall insure any such jobsites shall not be a prevailing wage rate job.

(b) District Council 53 shall provide advanced or upgraded journeyperson training for all journeypersons working under this agreement.

## **ARTICLE XI**

### **INSURANCE AND SURETY BONDS**

Section 1. Each Employer agrees to be bound by the provisions of the appropriate Workers' Compensation Act and the appropriate Workers' Occupational Disease Act and shall submit to the Union certificates of insurance under the Acts or proof of self-insurance before commencing any work covered by this Agreement.

Section 2. Before commencing any work covered by this Agreement, the Employer shall provide a performance or surety bond, in the amount and under the terms set forth below, to insure the prompt and full payment of all contributions, dues/assessments, and wages due in accordance with Articles IV, VIII, and IX, except for those employers which are in good standing with the Union having worked within the jurisdiction of the agreement within a 24 month period.

Section 3. The \$10,000.00 bond shall be in a form acceptable to the Union and the Association and shall:

- (a) be written by an insurance carrier authorized, licensed, or permitted to do business in the State of \_\_\_\_\_
- (b) be secured by a cash deposit of the full amount of such bond in an account maintained jointly by the Trustees of the Funds; or

- (c) be secured by other assets or personal sureties acceptable to the Trustees which equal or exceed in value the full amount of the bond; or
- (d) Be secured by any combination of (a), (b), and/or (c) above.

Section 4. The Employer must maintain the bond (or other security arrangement acceptable to the Union) for the term of this Agreement and for a period of six months following the Agreement's termination. Any bond (or other security arrangement) must provide that it shall be payable on written demand by the Union.

Section 5. (a) If an Employer fails for any reason to satisfy the bonding requirement of this Article, the Employer or the Employer's corporate officials who are authorized to execute agreements or sign checks, or to designate the persons authorized to do so, shall be personally liable for the wages, dues/assessments, and fringe benefit contributions due under this Agreement or the Funds' Trust Agreements. This Section shall not relieve or excuse in any way any Employer of the obligation to provide the bond required by Section 2 nor shall this Section limit the personal liability of any Employer or corporate official based on state or federal law. An Employer shall be required to submit for an audit any document required by this Agreement and shall provide such records, as the Union considers necessary to enforce the provisions of this Agreement.

(b) Notwithstanding any other provision in this Article, if the performance or surety bond is obtained and maintained in accordance with this Article and provided the Employer has completely and accurately reported and paid on a timely basis for all covered employees and hours worked under this Agreement, the Employer or the Employer's appropriate corporate officials shall not be personally liable for a delinquency as set forth in Section 5 (a).

(c) shall also apply to the extent that an Employer can establish that a subcontractor(s) has complied with the bonding and reporting obligations pursuant to Section 5 (b).

Section 6. An Employer covered by the, Unemployment Compensation Act shall provide the Union with the Employer's identification number. An Employer not covered by the Act agrees to elect to be bound by the bond and shall be personally liable for the payment of all earned benefits.

## **ARTICLE XII** **JOINT TRADE BOARD**

Section 1. The Union and the Association agree to establish and maintain a Joint Trade Board consisting of 2 members with 2 members and an alternate appointed by each party. All disputes and grievances shall be referred to the Joint Trade Board, unless as otherwise expressly provided for under this Agreement.

Section 2. The Joint Trade Board shall have the right to establish reasonable rules and regulations for its operation and such rules and regulations shall be binding upon all the parties.

Section 3. (2) Members of the Joint Trade Board shall constitute a quorum, provided that at least (1) member is representing each party to this Agreement. In the absence of any party's representatives or if there is a vacancy, that party shall be entitled to cast pro rata through the members present the votes of an absent member or vacant position so that at all times the votes of each party shall be equal. Any decision of (the Joint Trade Board) shall be final and binding upon every party and any signatory to this Agreement.

Section 4. (a) The officers of the Joint Trade Board shall be a Chairman, a Vice Chairman (who shall not be a representative of the same party whose member is chairman), and a Secretary.

(b) The Joint Trade Board shall meet once every quarter and at such other times during the year as the Chairman determines.

Section 5. If the Joint Trade Board finds that an Employer violated this Agreement, the Joint Trade Board is authorized to fashion, in its sole discretion, all appropriate remedies, including but not limited to, awarding actual damages to the aggrieved individual or entity, plus fines not to exceed one thousand dollars (\$1,000.00) per violation, and assessing liquidated damages, interest, costs, reasonable attorneys' fees, administrative expenses, and auditing fees incurred by the Joint Trade Board. Such remedies and assessments shall also be imposed on the Employer if the Joint Trade Board, any party to this Agreement, or any entity enforcing its rights under this Agreement obtains judicial enforcement of the Joint Trade Board Award.

Section 6. If the Joint Trade Board deadlocks, all matters in dispute shall be referred to arbitration, by either party. The complaining party may submit the matter to binding arbitration before the American Arbitration Association ("AAA") (Labor Dispute Rules) in West Virginia. The decision of the arbitrator shall be final and binding. Each party shall bear its own costs but shall share the costs equally of the arbitrator and of the AAA.

Section 7. If the Joint Trade Board finds that a member in good standing of Painters' District Council No. 53 violated this Agreement, Painters' District Council No. 53 shall have the duty to prefer charges against such member.

Section 8. If an Employer violates the provisions of Article VIII or Article XVI, the Employer shall be required to provide a thirty thousand dollar (\$30,000) bond for the life of the Agreement, in addition to any other bond, which may be required. The Joint Trade Board shall meet within five (5) days of giving notice to an Employer charged with violating the above Articles.

Section 9. Each and every Employer and member of the Union pledges upon his honor not to break the rules and regulations embodied herein, which have been promulgated for the improvement and betterment of the entire organized painting, decorating, glazing, paper

hanging and drywall industry in the jurisdiction of Painters' District Council No. 53, and, furthermore, each shall recognize it to be their duty to report immediately to the Trade Board, in writing, any facts, and facts only, pertaining to any violation of the Agreement.

### ARTICLE XIII MISCELLANEOUS

Section 1. The Employer shall give notice to the Union in writing not later than ten (10) days after the occurrence of any of the following events relating to the Employer, occurring after the date hereof:

- (a) Formation of partnerships;
- (b) Termination of business;
- (c) Change of name commonly used in business operation;
- (d) Change of form of business organization;
- (e) Incorporation of business;
- (f) Dissolution of corporation;
- (g) Name and business organization of successor;
- (h) Admission to or withdrawal from any association operating as a multi-employer bargaining agent.
- (I) The formation of a L.L.C.

A copy of this notification shall be sent to the Association Secretary.

Section 2. The Employer shall maintain an office and telephone where it can be contacted during the usual working hours.

Section 3. The Association and the Union shall share equally in the cost of printing copies of this Agreement, which shall bear the union label.

Section 4. Should any part of, or any provision of this Agreement be rendered or declared invalid by reason of any existing or subsequent enacted legislation, or by any decree of a court of competent jurisdiction, such invalidation of such part or portion of this Agreement shall not invalidate the remaining portions thereof.

Section 5. Every employee hired shall be required to provide the Employer and the Union with a driver's license number, social security number or another form of proper identification. It shall be the Employer's and Unions responsibility to ensure that all employees are in possession of the Union issued work card while employed by the Employer.

Section 6. The Union shall provide ongoing Journeyman education classes for safety and skills training.

**ARTICLE XIV**  
**THE PAINTERS AND ALLIED TRADE**  
**LABOR-MANAGEMENT COOPERATIVE INITIATIVE FUND, LMF, TOPS, CAP**

Section 1. (a) Commencing with the 1<sup>st</sup> of December, 2019 and for the duration of this Agreement (November 30, 2022 ) and any renewals or extension thereof, the Employer agrees to make payments to The Painters and Allied Trades Labor-Management Cooperative Initiative ("LMCI") for each employee covered by this Agreement, as follows:

- (b) For each hour worked or portion thereof, for which an employee receives pay, the Employer shall make a contribution of \$.10 to the LMCI.
- (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 classifications covered by this Agreement. This includes, but is not limited to, apprentices and apprentice applicants.

Section 2. (a) The Employer and Union agree to be bound by and to the Agreement and Declaration of Trust, as amended from time to time, establishing the LMCI.

- (b) 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.

Section 3. All contributions shall be made at such time and in such manner as this Agreement provides in Article IX. The LMCI Trustees may at any time conduct an audit in accordance with the Agreement and Declaration of Trust. If an Employer fails to make contributions to the LMCI 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 attorneys' 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.

Section 4. Commencing with the 1<sup>st</sup> of December, 2019 and for the duration of this Agreement, November 30, 2022 and any renewals or extension thereof, the Employer shall remit for each hour worked or portion thereof, for which the employee receives pay, the Employer shall make a contribution of \$.02 to the District Council 53 LMF.

### **TOPS: Substance Abuse Program**

There has been established a Trust known as the Parkersburg-Marietta Contractors and Trades Educational and Development Fund (TOPS); a copy of which is available for inspection by interested parties. Whereas, the Union and the Contractors have heretofore entered into collective bargaining agreements requiring payments by Employers for the purpose of financing the creation and maintenance of a trust for the operation of a program for Education and Development, and Substance Abuse Testing, and it is the desire of the Union and the Contractors to create a trust for the administration of the desired testing program.

Each Contractor shall contribute and pay into said Fund an amount as determined by the Trustees for each hour worked within or outside the geographical area by Building Trades Craftsmen on whose behalf the Union acts as a collective bargaining representative during the month for which a payment is made. This contribution should be sent to Peoples Bank, 3411 Emerson Avenue, Parkersburg, WV 26101 (as per reporting form). Liability for Contractors for same to the Fund shall be computed starting with the payroll effective June 1, 1993, and shall be made by the Contractors to the Fund on or before the date determined by the Trustees, after notice by the Trustees to the Contractors of such periodic payment dates. The amount to be contributed at the time of this document is ten cents (\$.10) per hour worked, and shall be subject to change as the result of any changes in the cost of administration of the program

### **CONSTRUCTION ADVANCEMENT PROGRAM**

a. There has been established a Trust known as the "Construction Advancement Program of the Parkersburg-Marietta Contractors Association, Inc." referred to herein as the "FUND". The Fund shall be administered solely and exclusively by the Trustees appointed pursuant to the provisions of the Trust Instrument, and the activities of the Fund shall be financed as set forth in Section \_ of this Article.

b. The Employer signatory to this Agreement and/or performing work in accordance with the terms hereof shall pay the individual Employee the sum of twelve cents (\$.12) per hour for each hour worked and the Union shall deduct from each member the sum of ten cents (\$.10) per hour worked and said funds shall be paid the Parkersburg-Marietta Contractors Association Construction Advancement Program. In the event the dues check-off system shall be suspended or discontinued, the original method of the collection system of the Construction Advancement Program shall be reinstated.

c. The Construction Advancement Program of the Parkersburg-Marietta Contractors Association, Inc. is created out of a recognition by employers of construction labor of the responsibility of collectively sharing the defraying the cost of conduction, administering, and servicing every phase of Labor-Management relations.

Specifically, the monies collected by the Fund shall be used as follows:

- 1) Employer expenses incurred in the promotion of stability of relations between labor and management.
- 2) Employer expenses incurred in maintaining facilities for adjustment of grievances.
- 3) Employer expenses incurred in maintaining facilities for the conducting of safety education and accident prevention programs.
- 4) Employer expenses incurred in promoting other employer activities such as legitimate markets, standardization of contracts and research.
- 5) Employer expenses incurred in maintaining facilities for assuring that the users of construction service and the general public obtains the highest standards of such construction service.

d. The Fund shall not be used for lobbying in support of anti-labor legislation or to subsidize contractors during a period of any work stoppage or strike.

e. It is specifically understood that the Union will not be required nor called upon to enforce the collection of the foregoing Fund. It is further understood and agreed that the employer will serve and hold the Union harmless from any litigation connected or any way affected with the foregoing Fund.

### **THE PAINTERS AND ALLIED TRADE FINISHING TRADES INSTITUTE**

Section 1. (a) Commencing with the 1<sup>st</sup> of December, 2019 and for the duration of this Agreement and any renewals or extension thereof, the Employer agrees to make payments to The Painters and Allied Trades Finishing Trades Institute (FTI) for each employee covered by this Agreement, as follows:

- (b) For each hour worked or portion thereof, for which an employee receives pay, the Employer shall make a contribution of \$.10 to the FTI.
- (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 classifications covered by this Agreement. This includes, but is not limited to, apprentices and apprentice applicants.

Section 2. (a) The Employer and Union agree to be bound by and to the Agreement and



Declaration of Trust, as amended from time to time, establishing the FTI.

- (b) 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.

Section 3. All contributions shall be made at such time and in such manner as this Agreement provides in Article IX. The FTI Trustees may at any time conduct an audit in accordance with the Agreement and Declaration of Trust. If an Employer fails to make contributions to the FTI 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 attorneys' 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.

## ARTICLE XV SUBCONTRACTING

Section 1. If an Employer contracts or subcontracts any work covered by this Agreement to be done at the job site of the construction, alteration, painting or repair of a building or structure or other work to any person or proprietor who is not signatory to this Agreement, the Employer shall:

(a) Require such subcontractor to be bound by all the provisions of this Agreement. Such signatory Employer shall maintain daily records of the subcontractor and the subcontractor's employees' job site hours and shall be liable for payment of wages, dues check-off, as well as payments to the Funds identified in Articles IX and XV of this Agreement for each of such hours worked. The Union may require an Employer to deposit into an escrow the subcontractor's estimated contributions to the Funds.

- (b) Obtain from any subcontractor a list of all of the subcontractor's employees, with address and social security number, a list of the subcontractor's employees performing the subcontracted work, the address and legal description of the property, a brief description of the type of property and a counting of the surfaces subcontracted out, and the subcontractor's price. This information must be submitted on the Union's form before the job starts. If any Employer violates this Article, the Employer shall be subject to Legal Action.
- (c) The Employer which subcontracts must file with the Unions Funds' Office a copy of the subcontractor's contribution report forms as an attachment to the Employer's own remittance reports. A subcontractor is not excused from the obligation to file its own remittance reports.

Section 2. Any Employer that sublets or subcontracts any work covered by this Agreement shall be directly responsible and obligated for the wages, dues/assessments, benefits, and employee benefit fund contributions owed to employees or to the Funds for work performed for the subcontractor. The terms of this Article shall apply to all Bargaining Unit work performed directly or indirectly by the Employer or any affiliate or member of a controlled group as defined in the Internal Revenue Code.

### **“Preservation of Work Clause”**

Section. 1 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 and 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 of the type 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, exercise directly or indirectly (through family members or otherwise), management, control, or majority ownership, the terms and conditions of this agreement shall be applicable to all such work.

Section. 2 All charges of violations of Section 1 of this Article shall be considered as a dispute and shall be processed in accordance with the provisions of this agreement on the handling of grievances and the final and binding resolution of disputes. As a remedy for violations of this Article, the Joint Trade Board or Arbitrator shall be able, at the request of the Union, to require an Employer to pay 1) to affected employees covered by this agreement, including registered applicants for employment, the equivalent of wages those employees have lost because of violations, and 2) into the affected Joint Trust Funds to which this agreement requires contributions any delinquent contributions that resulted from the violations. The joint Trade Board or Arbitrator shall be able also to provide any other appropriate remedies, whether provided by law or this agreement. The Union shall enforce a decision of the Joint Trade Board or Arbitrator under this Article only through arbitral, judicial or governmental, for example, the National Labor Relations Board channels.

Section 3. If, after an Employer has violated this Article, the Union and/or the Trustees of one or more Joint Trust Funds to which this agreement requires contributions institute legal action to enforce an Arbitrator or Joint Trade Board remedying such violation, or defend an action that seeks to vacate such award, the Employer shall pay any accountants and attorneys fees incurred by the Union and or the Joint Trust Funds, plus cost of the litigation, that have resulted from such legal action. This section does not affect other remedies weather provided by law or this Article may be available to the union and or the Joint Trust Funds.

“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 whenever the employer party to the agreement is involved in a legitimate primary labor dispute with any bona fide labor organization.”

## ARTICLE XVI PENSION FUND AND ANNUITY FUND

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

SECTION 1. (a) Commencing with the 1<sup>st</sup> day December 2019, and for the duration of this Agreement, and any renewals or extensions therefore, the Employer agrees to make payments to the I.U.P.A.T. Pension Fund for each employee covered by this Agreement as follows: (REFER TO ARTICLE VIII) for amount of contribution.

(b) For each hour or portion thereof, for which an employee worked, the Employer shall make a total contribution of to the Pension Fund as referred to in Article VIII; Wages and Fringe Benefits, Section 2 titled Fringes Shall be in accordance with the Zone Addendums. The Employer will also contribute in behalf of each Apprentice a corresponding percentage of the hourly rate for Journeypersons as specified in Article VIII of this Agreement.

(c) For the purpose this Article, each hour worked including hours attributable to show up time, and other hours for which pay is received by the Employees 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, apprentices, helpers, trainees, and probationary employees.

(e) The payment to the Pension Fund required above shall be made to the I.U.P.A.T. Union and Industry Fund, which was established under an Agreement Declaration of Trust, as amended from time to time. The Employer agrees to be bound by said Agreement and Declaration of Trust, as though he had actually signed the same.

SECTION 2. The Employer hereby irrevocably designates as its representative 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.

SECTION 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 V. Section 6 of the said Agreement and Declaration of Trust.

SECTION 4. If any Employer fails to make contributions to the Pension 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 cost of collection of 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 or any "no strike" clause which may be provided or set forth elsewhere in this Agreement.

SECTION 5. The Pension Plan and Annuity Plan adopted by the Trustees shall at all times conform with the requirements to Internal Revenue Code as to enable the Employer at all times to treat contributions to the I.U.P.A.T. Union and Industry Pension Fund as a deduction for income tax purposes.

SECTION 6. (Refer to the Wage Addendum attachments for the various zones of this Agreement for hourly contributions rates for pension and annuity).

## **ARTICLE XVII MOST FAVORED NATIONS CLAUSE**

Should the Union enter into any collective bargaining agreement of Understanding applicable to work covered by this Agreement, with any other Employer or Employer group whereby the wages, fringe benefits or working conditions of such agreement or understanding are more favorable to the Employers, then such terms and conditions of employment shall automatically supersede and replace the terms and conditions contained in this Agreement.

## **ARTICLE XVIII GRIEVANCE PROCEDURE**

Should a dispute or grievance arise on the job involving an alleged violation of this Agreement, such a dispute or grievance shall be resolved by the following process:

STEP 1. If the aggrieved person is an employee, then such employee shall report his/her dispute or grievance in writing to the Business Manager Secretary Treasure or Representative within, five (5) days of the occurrence of the issue which caused the dispute or grievance. The Business Manager Secretary Treasure or Representative and the Employer representative will attempt to resolve the grievance. If the grievance cannot be resolved within five (5) days of being reported to the Business Manager or Representative, the grievance shall proceed to Step 2. If the dispute is filed by the Union or an Employer, the dispute shall be discussed by the Union and the Employer within five (5) days notification by either party. If the parties cannot resolve the dispute, then the dispute shall proceed to Step 2.

STEP 2. Within 48 hours of the expiration of the time allotted in Step 1 to resolve the

dispute shall be referred to the Joint Trade Board to set up a time and place to convene. The rules and procedures of the Joint Trade Board are as follows:

1. The parties shall establish and maintain a Joint Trade Board composed of four members, two appointed by the Union and two appointed by the Employer. Four members, two appointed by each party, shall constitute a quorum. Decisions shall be made by a majority vote, provided that the Union appointees and Employer appointees shall have equal voting strength with respect to such vote. Members of the Joint Trade Board shall choose a chairman and a secretary, to serve such terms as may be agreed upon by the Board, provide that one such officer shall be Union appointee and one Employer appointee.

2. The Joint Trade Board is empowered to hear and decide all grievances and disputes which arise between the parties as to the interpretation or application of this Agreement; to award or assess remedies, damages and penalties for provisions of this Agreement; to issue interpretative ruling or other rules and regulations as it deems necessary to give force and effect to the purpose and intent of this Agreement; to investigate all grievances and disputes submitted to it, including the conduct of audits of the Employer records; to recommend amendments to or changes in this Agreement, but only upon request of both parties; to appoint such persons or committees as may be necessary to aid the board in the performance of its duties; and to demand of Employers who repeatedly violate this Agreement the posting of a cash or surety bond to assure future compliance.

3. All grievances and disputes shall be submitted to the Secretary in written form, with copy furnished to the opposing party.

4. The Joint Trade Board shall meet when necessary. The Joint Trade Board may be called by the Chairman or Secretary to meet within 48 hours when a prompt hearing and decision is required in any given dispute.

5. No Union representative shall sit as a Board member in any case involving himself or herself or his or her Employer, directly or indirectly; and no Employer representative shall sit as a Board Member in any case involving him or herself or any of his/her employees, directly or indirectly.

6. Decisions, awards, or orders of the Board shall be final and binding.

7. The Board shall maintain full and complete records and minutes of its proceedings, records and minutes may be inspected at reasonable times by the parties to this Agreement.

8. The Joint Trade Board, as such, shall not accept or receive any payments or contributions from Employers. Each party to this Agreement shall reimburse its representatives on the Board for actual expenses. Expenses and fees of arbitration shall be shared equally by the parties.

9. If the Joint Trade Board deadlocks or otherwise fails to decide any grievance or dispute, either party may, within 30 days following said deadlock or failure, refer the

grievance or dispute to arbitration by filing a written request with the Secretary of the Board, with copy served on the opposing party. On receipt of such notice, the Joint Trade Board shall choose an Arbitrator. If the Board cannot agree on an Arbitrator, it shall promptly request a list of Arbitrators from the Federal Mediation and Conciliation Service (FMCS). On receipt of such list, the chairman and secretary of the Board shall select an Arbitrator from such list in accordance with the rules and regulations of the FMCS. The Decisions of the Arbitrator shall be final and binding.

10. With respect to any individual Employer that fails to comply with the final and binding decision issued at any level of this grievance procedure, the Union may terminate this Agreement by 48 hours written notice to such Employers, or seek enforcement of the decision through judicial proceedings.

11. There shall be no strike or lockout on any job over any grievance or dispute while it is being processed through this grievance procedure and until the said procedure has been exhausted. However, and notwithstanding any contrary provision of this Agreement, the Union may remove employees from any job(s) of an individual Employer who fails or refuses to pay the wages and fringe benefits, or to meet the schedule of hours, provide for and required by this Agreement, or refuses to stand trial under these procedures, or fails to comply with the final and binding decision issued at any level of this grievance procedure. When the Union removes employees from the job pursuant to this Section, the individual Employer shall pay all employees so removed an amount equivalent to one (1) day's pay at the employee's regular straight time rate, for the inconvenience and time-loss occasioned by this conduct. Nothing stated in this Section shall preclude the Employer from resorting to the grievance procedure with respect to any action or sanction taken or imposed by the Union hereunder.

12. Notwithstanding Section 11, a final and binding decision, rendered as part of the grievance procedure, regarding the subcontracting clause of this Agreement shall be enforced solely through administrative or judicial proceedings.

13. The remedies and sanctions specified in Section 10 and 11 are in addition to other remedies and sanctions that may be permitted by other provisions of the Agreement or by operations of law.

#### **ARTICLE XXIV POLITICAL ACTION TOGETHER FUND**

Employers agree to deduct from employees' wages (refers to Article VIII for amount per hour) that is to be contributed to the Political Action Together Fund of the International Union of Painters and Allied Trades. It is agreed that such Employer(s) shall make the necessary deduction for this fund only after a copy of the Employee authorization form has been forwarded to and received by such Employer. Employer's parties to this Agreement hereby agree to honor authorizations for check-off political contributions from all employees who are Union members in the following form:

### **Political Contribution Check-Off Authorization**

This is to authorize any of the various Employers who are signatory to an Agreement with the International Union of Painters and Allied Trades, including any renewal thereof, and by whom I may be employed under and during the terms of such Agreement or any renewal thereof, to deduct from my wages on a (\$.05 per hour worked) and to forward that amount to the P.A.T. Political Committee.

This authorization is signed freely and voluntary and not out of any fear of reprisal and on the understanding that the P.A.T. Political Committee will use the money 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 the employer and the P.A.T. Political Committee, and are not deductible as charitable contributions for Federal income tax purposes.

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DATE

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SIGNATURE

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SOCIAL SECURITY NUMBER

All members upon joining the Union have signed P.A.T. Check-Off authorization on their applications with the Union.

The Employer agrees not to enter into any Agreement or contract with his or her employees, individually or collectively, which in any way conflicts with the terms and provisions of this Agreement. Any such Agreement shall be null and void.

### **ARTICLE XX SUCCESSOR CLAUSE**

This Agreement, and any supplements or amendments or thereto, hereinafter referred to collectively as "agreement", shall be binding upon the parties hereto, their successors, administrators, executors and assigns.

In the event the Employer's business is, in whole or in part, sold, leased, transferred, or taken over by sale, transfer, lease, assignment, receivership, or bankruptcy proceedings,

such business and operation shall continue to be subject to the terms and conditions of this Agreement for the life thereof.

It is understood by this provision that the parties hereto shall not use any leasing or other transfer device to a third party to evade this Agreement. The Employer shall give notice of the existence of this Agreement and the provision to any purchaser, transferee, lessee, assignee, etc., of the business and operation covered by this Agreement or any part thereof. Such notice shall be in writing with a copy to the Union, at the time the seller, transferor, or lesser executes a contract or transaction as herein described. The Union shall also be advised of the exact nature of the transaction, not including financial details.

In the event the Employer fails to require the purchase, transferee, or lessee to assume the obligation of this Agreement, the Employer (including partners thereof) shall be liable to the Union, and to the employees covered for all damages sustained as a result of such failure to require assumption of the terms of this Agreement, but shall not be liable after the purchaser, or lessee has agreed in writing to assume the obligations of this Agreement.

#### **ARTICLE XXI** **GENERAL SAVINGS CLAUSE**

If any Article or Section of this Agreement should be held invalid by operation of law or by any tribunal of competent jurisdiction, or if compliance with or enforcement of any Article or Section should be restrained by such tribunal pending a final determination as to its validity, the remainder of this Agreement or the application of such Article or Section to persons or circumstances other than those as to which it has been held invalid or as to which compliances with or enforcement of has been restrained, shall not be affected thereby.

In the event that any Article or Section is held invalid or enforcement of or compliance with any Article or Section has been restrained, as above set forth, the affected parties shall meet at the request of the Union, for the purpose of arriving at a mutually satisfactory replacement for such Article or Section during the period of invalidity or restraint. If the parties do not agree on a mutually satisfactory replacement within sixty (90) days after beginning of the period of invalidity or restraint, either party shall be permitted all legal or economic recourse in support of its demands notwithstanding any provision in this Agreement to the contrary.

#### **ARTICLE XX II** **DURATION CLAUSE**

1. This Agreement shall be in full force and effect from December 1, 2019 up to and including November 30, 2022 and shall continue from year to year thereafter unless written notice of desire to cancel or terminate the Agreement is served by either party upon the other, not less than 90 days and not more than ninety (90) days prior to 11/30/2022, of any subsequent contract year.

2. Where no such cancellations or terminations notice is served and the parties desire to continue said Agreement, but also desire to negotiate changes or revisions in this



Agreement, either party may serve upon the other a written notice not less than Ninety (90) days prior to 11/30/2022 of any subsequent contract year, advising that such party desires to revise or change terms or conditions of such Agreement.

The respective parties shall be permitted all legal or economic recourse to support their requests for revisions if the parties fail to agree thereon. Nothing herein shall preclude the parties from making revisions or changes in this Agreement, by mutual consent, at any time during its term.

#### Employer Information and Signatures

Company Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Phone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_  
 Drivers' License Number: \_\_\_\_\_

#### Federal Insurance Contribution Act

Federal Registration No. \_\_\_\_\_

Contract Bond No. \_\_\_\_\_  
 Ohio/Virginia/West Virginia / Maryland/Kentucky

Worker's Compensation Risk No. \_\_\_\_\_  
 Virginia/Ohio/West Virginia/ Maryland/Kentucky

Employment Security No. \_\_\_\_\_

Public Liability Insurance: \_\_\_\_\_

Name of Company \_\_\_\_\_ Policy No. \_\_\_\_\_

Bonding Company Name \_\_\_\_\_ Effective date \_\_\_\_\_

Bonding Company Policy No. \_\_\_\_\_

Signature Page

IN WITNESS WHEREOF, the parties hereto agree to be bound by this Agreement and have set their hands and seals, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, to be effective as of December 1, 2019 through Nov.30, 2022 except as to those provisions where it has been otherwise agreed between the parties.

It is also understood that upon the signing of this agreement any and all other agreements pertaining to said work, currently signed by this Employer with any affiliate of DC 53 shall be immediately Null and Void.

This Agreement shall remain in full force and effective from December 1, 2019 through November 30, 2022.

On behalf of \_\_\_\_\_  
Employer/Contractor Association

Name: \_\_\_\_\_

Title \_\_\_\_\_ Date \_\_\_\_\_

On behalf of UNION: \_\_\_\_\_

Title \_\_\_\_\_ Date \_\_\_\_\_

