

**SOUTHERN CALIFORNIA**

**DRYWALL FINISHERS**

**JOINT AGREEMENT**

**AUGUST 1, 2022 – JULY 31, 2026**

**SOUTHERN CALIFORNIA DRYWALL FINISHERS  
LABOR/MANAGEMENT  
COOPERATION COMMITTEE**

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SOUTHERN CALIFORNIA DRYWALL FINISHERS  
JOINT AGREEMENT  
2022-2026  
PREAMBLE

This Agreement is between the Painters and Allied Trades, District Council No. 36 (including all of its affiliated locals), and the Western Wall and Ceiling Contractors' Association (California Finishers Conference).

The Employer and District Council 36 expressly acknowledge that on the Employer's current job site work covered by this Agreement, District Council 36 has the support of a majority of the employees performing work covered by this Agreement. District Council 36 has demanded, and the Employer has recognized District Council 36 as the majority representative of the employees performing work covered by this Agreement. It is also acknowledged that District council 36 has provided, or has offered to provide, evidence of its status as the majority representative of the Employer's employees. By this acknowledgment, the parties intend to and are establishing a collective bargaining relationship under Section 9(a) of the national labor Relations Act of 1947, as amended. The bargaining unit established by this Agreement is accepted by the parties as an appropriate unit for collective bargaining purposes.

WITNESSETH; that for and in consideration of harmonious relations between the parties signatory hereto and the public under the jurisdiction of Painters and Allied Trades District Council No. 36 and the maintenance of the 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**

**DEFINITION OF PARTIES**

1. The term "UNION" refers to the PAINTERS AND ALLIED TRADES DISTRICT COUNCIL NO. 36.
2. The term "EMPLOYERS" refers to any person who possesses all required State Licenses to perform the work described in this Agreement, and who has agreed in writing to comply with the terms of this Agreement and includes any person acting as an Agent of the Employer, directly or indirectly.
3. The term "PERSON" includes one or more individuals, partnerships, associations, corporations, joint ventures, legal representatives, trustees, trustees in bankruptcy, or receivers.
4. 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.
5. The Western Wall and Ceiling Contractors Association (California Finishers Conference) within the area of this Agreement shall be the recognized Employer bargaining agent.



## **ARTICLE 2**

### **SCOPE OF WORK**

1. The Scope of Work covered by this Agreement shall include (but not be limited to) all work operations after the initial unloading of the drywall material on the job site, including distribution to the point of application.
2. Work or services pertaining to the preparation, spotting, pointing, detailing, taping, flushing, sanding, finishing, and installation of interior and/or exterior gypsum, drywall, thin wall, concrete, steel, wood, and plaster surfaces.
3. Work or services pertaining to the application of all finish or flushing materials regardless of method of application or type of surface on which materials are applied, including but not limited to texture and simulated acoustic materials of all types and the application of radiant heat fill, steel fireproofing materials, and trowel coat.
4. Work or services pertaining to the installation of protective coverings and masking prior to the application of finish materials.
5. The operation and care of all taping tools and texturing equipment used in the finishing and texturing of drywall and other surfaces including brushes, rollers, spray texturing equipment, miscellaneous hand mechanical and power tools, and the operation and maintenance of compressors required in the finishing and texturing of such surfaces.
6. No limitation shall be placed on the work covered by this Agreement by reason of the surface, type of material, or purpose for which the materials used are designed or intended.
7. Nothing herein is intended to conflict with or violate any State or Federal Law.
8. It is not the intent of the parties signatory to this Agreement to assume jurisdiction over any work not officially granted to the Unions of the International Union of Painters and Allied Trades (IUPAT), but to protect the work of Signatory Employers and of the International Union of Painters and Allied Trades (IUPAT).
9. The clean-up of all materials and debris occasioned by any job operation at the site of construction, alteration, or repair undertaken by the Employer signatory hereto, whether such operations occur on the interior or exterior of a building structure.

## **ARTICLE 3**

### **SCOPE OF AGREEMENT**

1. This Agreement applies to painting and allied trades work, more specifically identified as drywall finishing, as set forth in Article 2 to be done at the site of construction, alteration, painting, or repair of a

building, maintenance, or other work conducted at all job sites, present and future, for the duration of this Agreement, as defined in Article 28 herein. This Agreement and its terms are to be interpreted and applied in accordance with the National Labor Relation Act, as amended. Consequently, all provisions contained herein which are lawfully applicable only as to job site construction work, as hereinbefore described, will be renegotiated and modified when this Agreement is made applicable to other than job site construction work.

2. The term "Painting and Allied Trades Work" refers to persons performing certain job functions. It also refers to craft classifications. It does not refer to Union membership or affiliation.

3. The persons, firms, corporations, joint ventures, or other business entities bound by the terms of this Agreement are referred to in this Agreement as "Employer" or "Employers". The Employers and the Union by entering into this Agreement intend to and agree to establish a single multi -Employer collective bargaining unit. Any Employer who becomes a party to this Agreement shall thereby become a member of the multi-employer collective bargaining unit established by this Agreement.

Employers covered by this Agreement shall be free to designate their own representatives for the purpose of collective bargaining; however, such designations shall not affect the Employer's membership in the collective bargaining unit established by this Agreement.

#### **ARTICLE 4**

##### **LICENSE AND LEGAL REQUIREMENTS OF EMPLOYER**

1. Every Employer signatory shall be in compliance with the California State License Law where required by law to perform the work covered by this Agreement and shall carry Worker's Compensation Insurance and shall comply with all 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, Federal and Municipal Departments, Commissions and Health Offices, including the rules and regulations of the Industrial Safety Commission and/or CAL/OSHA.

2. Classifications: Drywall contractors whose business is set forth in the rules and regulations of the California State Contractors License Board.

3. Other Employers: Employers who are permitted by California State License Law and/or Federal Law to perform the work covered by this Agreement.

4. Specialty Contractors who have a State Specialty Contractor's License to perform the work covered by this Agreement. To do any drywall work, said specialty contractor must have, in addition, a currently effective Drywall Contractor License identified as C-9.

5. Maintenance Employer: Defined as any individual firm, co-partnership, corporation, or other association, that own, lease, rent or operate any building or portion thereof containing apartments, rooms, offices, stores, factories, industrial plants, or amusement centers used, 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.

6. Maintenance Employers may also be defined as drywall contractors performing work for Maintenance Employers as defined in paragraph 5 above.

All such Maintenance Employers as defined in Sections 5 and 6 herein shall confine their drywall finishing activities strictly to existing 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 Painters and Allied Trades District Council No. 36 or its authorized representative for immediate adjudication.

7. Production Employers: Defined as any individual, partnership, or corporation who own, lease, rent or operate any manufacturing or assembly plant which manufactures or assembles any product for sale or lease and who is signed to a production Agreement with Painters and Allied Trades District Council No. 36.

## **ARTICLE 5**

### **AUTHORITY OF SIGNATORY TO EXECUTE**

1. The Employer, by membership in a Signatory Association, is bound by the terms of this Collective Bargaining Agreement. A nonmember of a Signatory Association shall be bound by executing a counterpart of the Agreement in accordance with the provisions hereof.

2. It is hereby agreed that the Western Wall and Ceiling Contractors Association (California Finishers Conference) within the area of this Agreement and Painters and Allied Trades District Council No.36 and its affiliated Unions shall be recognized bargaining agents for their members in any category, and for any nonmember who designates any chapter or Association as a bargaining agent.

3. The Employer signatory warrants, asserts and agrees that this document or Agreement is executed by him with full authority to represent and bind any firm, partnership, corporation, or association of which he is a partner, officer, representative, or member. Any Signatory Employer utilizing the services of a Responsible Managing Employee (RME) or Responsible Managing Officer (RMO) shall have the signature of such person on the Agreement counterpart.

4-A. To protect and preserve, for 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 onsite 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, exercises 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.

4-B. All charges of violations of Section 4-A 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 LMCC Judicial Committee 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 the 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.

4-C. 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 award by an Arbitrator or the Joint Trade Board remedying such violation or defend an action that seeks to vacate such award, the Employer 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 action. This section does not affect other remedies, whether provided by law or this Article that may be available to the Union and/or the Joint Trust Funds.

4-D. In order to protect and preserve, for the employees covered by this Agreement, all work heretofore performed by them, and in order to prevent any device or subterfuge to avoid the protection and preservation of such work, it is hereby agreed as follows: This Agreement shall be binding upon the Employer and its successors, heirs, and assigns and upon any firm, partnership, corporation, joint venture, or other business entity which has performed, does perform, or in the future may perform any work of the type covered by this Agreement, and in which such entity the Employer or any of its owners, partners, officers or shareholders had or has a substantial ownership interest, or exercises either directly or indirectly (such as through family members) any significant degree of management control. In the event of any change of the form or character of the signatory Employer's company, or sale, lease, or any other transaction affecting the responsible management of such business concern, the Signatory Employer shall be required to notify the Union in writing not less than ten (10) days prior to the time that such change is to take effect. In the event the Signatory Employer fails to furnish such requisite notice, such will be considered a violation of this Agreement and subject to the remedial provisions thereof.

5. All outstanding obligations due to the LMCC Office, Local Unions, Painters and Allied Trades District Council No. 36 or their related Trust Funds including, but not limited to, wages, liquidated damages, dues, or fringe benefits by a Signatory Employer, or a business concern in which he had an interest shall be satisfied prior to issuance of a shop card to such Signatory Employer. This section shall not be affected in any manner by reason of any type of insolvency proceeding including bankruptcy, in which the Signatory Employer was involved. In addition, the outstanding obligations as specified above of a Responsible Managing Employee (RME), or Responsible Managing Officer (RMO) must be satisfied prior to issuance of or a continued entitlement to a Shop Card by any Signatory utilizing the services of such person.

6. Signing of Agreement: This Agreement shall be binding upon each, and every business concern affiliated with the Association with the same force and effect as if this Agreement were entered into by each affiliate individually. All business concerns affiliated with the Association executing this Agreement shall be and continue to remain liable under this Agreement during the term hereof, irrespective of whether said affiliate shall resign from such Association prior to the expiration date of this Agreement, and such liability shall remain in force and effect during the term of this Agreement and shall be represented by the Association in all matters pertaining to collective bargaining and contract administration for the term of this Agreement. Such former affiliates shall be bound by any renewals or extensions of this Agreement unless the requisite notices as specified hereinafter are given.

7. After this Agreement takes effect, any Employer becomes a party hereto if a counterpart of the Agreement is executed by him and is approved by the LMCC Office and the Painters and Allied Trades District Council No. 36 or by joining a Signatory Association (subject to the limitations of Section 5 hereto). This Agreement shall take effect as to such contracting party at such time as said party signs said counterpart or are accepted into membership in said Association. It is agreed that after this Agreement takes effect all Employers, and all members of any Signatory Association, shall execute an individual counterpart. The validity of this Agreement shall not be affected as to any Employer member of a Signatory Association in the event that such Employer fails to execute an individual counterpart. All executions of this Agreement as specified herein above shall be subject to the issuance of a shop card by the LMCC Office.

8. Work by Employer: It is agreed that all Employers, party hereto, shall not be privileged to work on any job covered by Article 2 of this Agreement under contract, time and material, cost plus or any other basis until he has obtained an Identification Card issued by the LMCC Office. (The name of the person obtaining the Identification Card shall appear on the State License or by verification of the State Licensing Board.) The Employer shall have at all times, at least one (1) journeyman in his employment, when working with the tools of the trade.

The above paragraph shall be understood to mean that only those Employers who obtain an Identification Card from the LMCC Office shall be entitled to work with employees of the Union on the said Employer job only. Only one such Identification Card shall be issued to any Employer, whether or not that Employer operates as an individual firm, co-partnership, joint venture, corporation, or other association.

9. Sublet Work:

A. The parties acknowledge that a close relationship exists between the Employer and its subcontractors on its job sites; and that employment of craftsmen at a particular job site is sporadic, necessitating a ready supply of craftsmen such as are available through the resources of the Union; that precise knowledge concerning present and prospective labor costs is essential to the Employer for the purpose of bidding; and that it is necessary and desirable to reduce the friction that results when union and non-union workers are required to work together at the same job site.

The parties recognize the strong interest of the Union in insuring continuity of hiring hall employment opportunities for its members, and continuity of funding as and for the employee benefit trust funds, to the benefit of its members and their dependents. The parties recognize in this regard that such objectives can best be achieved by requiring that all work described in this Agreement be performed by business concerns signatory to this Agreement.

B. Two or More Employers: The Employer Signatory to this Agreement hereby agrees that no two or more Employers having separate shop cards will be allowed to work for each other as employees.

The Employer shall not contract or subcontract any job site work heretofore described except to a person, firm, partnership, corporation, or other entity that is licensed in accordance with State Law and signatory to this Agreement. The Employer agrees that he will not sublet or contract to his employees. It shall be deemed a violation of this Agreement for any employee to act as a labor contractor.

C. The Employer agrees that in the event he subcontracts any work covered by this Agreement, the subcontract shall be in writing and a copy submitted to the Painters and Allied Trades District Council No.

36 and to the LMCC Office prior to commencement of the job by the subcontractor. The LMCC Office shall notify the Employer in writing within seventy-two (72) hours of the status of the subcontractor. The subcontracting agreement shall contain a provision that the subcontractor shall be responsible for the observance of all terms and conditions of this Agreement including the payment of wages and other monetary obligations. In the event that any subcontractor fails to pay the wages or other monetary obligations provided under this Agreement, the Employer shall become liable for the payments of such sums, and such sums except liquidated damages immediately become due and payable by the Employer.

In the event that work described in this Agreement is subcontracted to any party not signatory to this Agreement, all monies paid to the subcontractor shall be considered gross wages and divided by the basic hourly wage rate, excluding fringe benefits to determine the hours of bargaining unit work lost. Such hours are to be assessed at an amount equivalent to all contractual contributions required of the Employer, including fringe benefits and dues check-off. This formula is to be utilized whether or not the subcontractor employs workmen or performs such bargaining unit work alone. While the gross monies paid to such subcontractors are the appropriate sums to be converted to contributions due and owing, in the event that the Signatory Contractor can authenticate material, overhead, and profit margin on the part of the subcontractor, such authentication may be considered by the Trust Funds and/or LMCC Judicial Committee and a reduction made in the event that such is determined to be appropriate. It is recognized by the parties that each case depends upon its own facts and that any reduction thus made by either the Board of Trustees or the LMCC Judicial Committee shall not constitute a precedent in any future case. The conversion formula as described above will be affected by the use of the basic contractual rate applicable to journeymen, apprentice, or clean-up, irrespective to the actual rate being paid by the Employer. The conversion formula described above and elsewhere in this Agreement is recognized as the most practical and accurate means of determining the loss of hours of bargaining unit work to the employees and the contractually required monetary payments. Such conversion formula is neither intended nor designated as a penalty against any party to this Agreement.

D. The signatory contractor in no event will permit the assignment of bargaining unit work on any job site to persons, not in his employ or business concerns in an amount in excess of 80 percent of the total bargaining unit work required in the construction contract. For the purpose of this paragraph, the total monetary value of the production contract shall be deemed the equivalent of the total amount of bargaining unit work provided for therein. This paragraph will be applicable with respect to any such assignment, whether in the form of a subcontract or any other type of business transaction. It is the intent of this paragraph to assure that at least twenty (20%) percent of the total amount of bargaining unit work required to perform a construction contract on any job site will be assigned to employees of the Signatory Employer. It is the further intent of the parties that the application of this Article is in accord with Federal and State Law. The Employer warrants that this paragraph will be strictly complied with and that any damages caused, or costs incurred as a result of a violation thereof will be recoverable through the arbitration provisions of this contract or before any court of competent jurisdiction. In the event that a violation of this paragraph renders the subcontracting provisions of this Agreement invalid, as applied to any job site, the Union shall be entitled to secure such damages as would be available by application of the formula set forth in Article 5, Section 9 (C) of the Agreement.

E-1. Other Craft Work: 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 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.

E-2. The contractor signatory to this Agreement agrees that he will subcontract any and all "drywall hanging work" to be performed at the site of the construction, alteration, painting, or repair of a building, structure, or other work only to a person, firm, or corporation party to an appropriate, current labor agreement with the appropriate labor organization affiliated with the International Brotherhood of Carpenters and Joiners, AFL-CIO, provided that they have in their collective bargaining agreement, a clause similar to this clause with the same meaning and intent, relating to drywall finishing.

F. In the event that enforcement of Article 5, Section 9, Paragraph E-1 or E-2 is restrained by the 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.

10. In the event it becomes necessary for either party to this Agreement 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.

11. Each Contractor signatory to this Agreement agrees that whenever financial arrangements are made for his payroll to be paid by a manufacturer or dealer, property owner, general contractor, or another third person, he shall immediately notify the Painters and Allied Trades District Council No. 36 and the LMCC Office. He shall require said manufacturer or dealer, property owner, general contractor, or another 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 has with such manufacturers or dealers, property owners, general contractors, or other third persons, the following provisions:

"The undersigned (John Doe) acknowledges that the job described herein is subject to all the terms and conditions of the Drywall Finishers Joint Agreement and agrees that he shall pay (or guarantees the payment of) all sums of money required to be paid to or on behalf of all workmen employed by the drywall contractor on a said job, including, but not limited to wages, overtime, out-of-town expenses, fringe benefits, social security taxes, withheld taxes and damages that may be assessed in accordance with this Agreement."

12. Unlawful Assignment of Rights: The Employer recognizes and agrees that the terms and conditions of this Agreement are personal to the Employer and may not be assigned in any form without the express and prior consent of the Union. It shall be a violation of this Agreement for the Employer either directly or indirectly to permit any person or business entity to enjoy any of the benefits of this Agreement by utilizing the name or business entity of the Employers signatory hereto. Should such violation occur, the Union shall be authorized forthwith to terminate this Agreement.

13. Out-of-Area Contractors: Contractors from out of the geographical area of this Agreement shall not be entitled to secure Union Labor unless they execute a counterpart to this Agreement. By execution, they shall also become obligated to the current Drywall Contract and any extensions thereof in their home area. It is understood that the Painters and Allied Trades District Council No. 36 is authorized by the home District Council or Local Union to execute such contract on its behalf. In the event that the Contractor fails to

execute such Agreement, he will be deemed an unfair, non-union Employer, and any action, including economic action, can properly be undertaken by this Union in the protection and interest of its membership.

## ARTICLE 6

### JOB REGISTRATIONS

1. This Agreement covers all the jurisdictional area of the Painters and Allied Trades 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 Mexican border, the East by the Arizona and Nevada borders, and on the North by the Northern borders of San Luis Obispo, Kern, Inyo and Mono Counties.

2. Registration: Signed Employers from outside the area covered by Southern California Painters and Allied Trades District Council No. 36, who undertake any work covered by this Agreement in the said area shall, before commencing said work, register any or all jobs with the LMCC Office and shall execute the current Agreement in this area, and in the area where they are home based in accordance with Article 6, Section 3.

3. Job Registration: An Employer whose principal place of business, if from outside the area as specified in Paragraph (above) and who is signed to a Shop Card Agreement in his home area, shall properly register on forms provided under the procedures set forth in this Agreement and shall deposit the sum as determined by the LMCC Office in accordance with Article 23, Responsibility Bond, each contract year, before the commencement of any work on said job or jobs, or stand subject to such liquidated damages as determined by the LMCC Judicial Committee. Said out-of-the-area Contractors will sign a counterpart to this Agreement to secure the following necessary and vital information: firm name (Employer) and address, members of the firm, affiliation (membership), shop card number, State Contractors License number, and classification, compensation insurance carrier, location of job or jobs, and a statement that said Contractor agrees to abide by all conditions as set forth in this Agreement.

When the requirements, as set forth in Sections 2 and 3 (above) are fully complied with, said out-of-area Employer shall be issued a Shop Card by the LMCC Office.

4. So that the Industry shall be better policed by Labor, the Employer may report any job he has bid and lost to an unknown party to the LMCC Office and Painters and Allied Trades District Council No. 36.

5. It is mandatory that all additional jobs shall be registered with the LMCC Office which will notify the Painters and Allied Trades District Council No. 36, before the commencement of such additional job or jobs. Failure to comply shall subject said Employer to such damages or liquidated damages as may be assessed by the LMCC Judicial Committee. Said additional jobs must be registered by mail.

6. Journeymen from out of the area must register with the Painters and Allied Trades District Council No. 36 or its area local union before being employed.



7-A. The employer party hereto shall, when engaged in work outside the geographical jurisdiction of the Union party to the agreement, comply with all the lawful clauses of the Collective Bargaining Agreement in effect in said other geographical jurisdiction and executed by the Employers of the Industry and the affiliated Local Unions in that jurisdiction, including but not limited to, 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 geographical 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 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 grievance set forth in this agreement and through the courts.

7-B. An employer engaging in work outside the geographical 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.

8. Out-of-Area Employers; 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 the Painters and Allied Trades District Council No. 36. Foremen and/or workmen and Employers classified as foremen will be counted in this ratio. Further, in the event, the Painters and Allied Trades District Council No. 36 is unable to supply the necessary number of competent journeymen, said Employer shall be privileged to employ journeymen from his vicinity, town, or any other locality. However, under no circumstances will any employee be allowed to work on any job within the jurisdiction of Painters and Allied Trades District Council No. 36, without first securing a work referral from Painters and Allied Trades District Council No. 36 or one of its Local Unions.

9. The Contractor or the Employer party to this Agreement, when engaged in work outside the the geographical jurisdiction of the Union 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: any others shall be employed only from the Contractors home area.

10. Area Contractors: Employers who have a place of business located in the geographical jurisdiction of the Painters and Allied Trades District Council No. 36, shall be considered Employers within the area covered by this Agreement and hire only Painters and Allied Trades District Council No. 36 members. Said Employers shall hire workmen through the Union in accordance with Article 7 of this Agreement.

11. All Contractors-Job Registrations: The Employer agrees that each and every job be registered with the LMCC Office five (5) days prior to starting said job. This registration will be in writing, using the form provided by the LMCC Office giving the exact location of all jobs, and such other information as may be

required by the LMCC Office. The LMCC Office shall immediately notify the Business Representative in whose area the job is located. Said notification shall be in writing.

## **ARTICLE 7**

### **EMPLOYMENT OF WORKMEN (UNION SECURITY)**

1. **Membership:** All workmen covered hereby shall become and remain members in good standing of the Union as a condition of continued employment on the eighth (8th) day after employment or the eighth (8th) day after the signing of this Agreement, whichever is later, except as provided for in the first sentence of Section 4. It shall be the obligation of the Employer to see that the terms of this provision (obtain a work referral) as outlined in Article 16, Section 3, are carried out by the employees. Upon failure to comply, the Employer shall become liable to the Union by reason of liquidated damages for an amount equal to the initiation fees and dues lost to the Union, by reason of failure to enforce the provisions hereof, provided, however, that if an employee is obtained pursuant to subdivision two (2) hereof, it shall be the prior duty of the Union to notify the Employer in writing of any delinquency hereunder.

Damages of initiation fees and dues, when assessed, shall be paid to the Painters and Allied Trades District Council No. 36.

2. **Employment:** In the employment of workmen for all work covered by this Agreement, the following provisions shall govern.

A. The District Council shall establish and maintain open non-discriminatory employment lists for the employment of workers in the work and area jurisdiction of the District Council. The Union may charge workman a reasonable fee for the use of its employment lists.

B. Whenever desiring to employ workmen, the Employer shall call any authorized District Council No. 36 hiring hall for such help as needed from time to time. The Union or its Agent shall furnish the Employer the required number of workmen insofar as such are available, provided, however, that the Employer shall not be required to hire or retain any employee whom he ascertains not to be competent, except job stewards. It is provided, however, that Employers shall not discriminate against any employee by reason of Union activities or for any other reason contrary to law.

The Employer shall have entire freedom of selectivity in hiring provided the hiring procedures are followed.

C. The Union or its Agent will furnish each such required competent workman entered on said list, to the Employers, by use of a written referral, and will furnish such workmen from the Union's open listing in the manner following:

(1) The specifically named workmen who have recently been laid off or terminated by the Employer or by any Employer within the Multi-Employer Unit herein and whom the applicant Employer desires to re-employ provided they are available for employment.

(2) Workmen who have been employed by Employers within the Multi-Employer Unit during the previous ten (10) years.

(3) Workmen whose names are entered on the above list referred to and who are available for employment.

D. Reasonable advance notice will be given by the Employers to the Union or its Agent upon ordering such workmen, and in the event that forty-eight (48) hours after such notice the Union or its Agent shall not furnish such workmen, the Employers may procure workmen from any other source or sources.

E. If workmen are employed in accordance with Section D above, the Employer shall refer such employee to the Local Union for purposes of registration, etc., before such employee commences work.

F. The parties hereto agree that this Article of the Agreement shall be plainly posted in places where notices to employees and applicants for employment are customarily posted.

G. The Employer retains the right to reject any job applicant referred by the Union.

H. Certification of Competence.

(1) Procedures are hereby established for the purpose of certifying the competence of workmen in the various phases of the craft of work covered by this Agreement, which procedures shall be administered by and subject to the jurisdiction of the Joint Apprenticeship Committee.

(2) 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 and the Union and that test judging be suspended during any period when such joint representation may be unavailable.

(3) All applicants for employment within the jurisdiction of this Agreement except persons who were working either under or properly registered for employment as of the effective date of the Agreement shall be required to obtain a Certificate of Competence before such applicant shall be deemed eligible for referral in the classification requested by the Employer. A job applicant who has failed to obtain a Certificate of Competence in the classification requested but who demonstrates a lesser level of ability shall be referred as an apprentice to the Employer who initially made such request.

(4) The Joint Apprenticeship Committee shall have the authority to assess a fee to be paid as a condition precedent to taking the 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.

(5) In the event a workman who has applied for a Certificate of Competence and who has complied with the procedures of the Joint Apprenticeship Committee is denied such Certificate, he may appeal to the Joint Apprenticeship Committee for a review of his 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 examinations to establish

competence as provided for under this Section shall be developed and graded by a committee having an equal number of members appointed by the Employer parties and by the Union party to this Agreement, or by an impartial third person selected jointly by said parties.

(6) The Apprenticeship Committee shall develop a program, consisting of a course of instruction, testing, and certification to accommodate those persons who voluntarily wish to upgrade their level of skill.

(7) All Employers signatories to this Agreement shall be required to request personnel through the appropriate hiring hall in accordance with the following procedure:

(A.) The Employer shall request a referral of a prospective employee through the appropriate District Council or affiliated Local Union.

(B.) The prospective employee shall be tested in accordance with the procedure developed herein above.

(C.) Lists of job applicants will be separately maintained at the hiring halls reflecting the proficiency level of the applicant. The Union shall in this regard develop such lists consistent with the fulfillment of the purposes of this paragraph. Such lists shall be updated periodically.

3. In the event that a workman fails to tender the admission fee or that a member of the Union fails to maintain his membership in accordance with the provisions of this Article, the Union shall notify the Employer in writing, and such notice shall constitute a request to the Employer to discharge the individual workman within forty-eight (48) hours (Saturdays, Sundays, and holidays excluded).

4. In the event that the Union does not accept into membership any workmen 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 workman into membership, in which case, said workman shall be required to tender the full and uniform admission fees in effect in the Local Union, not later than eight (8) days following notification by the Union, and shall thereafter be required to maintain his membership in accordance with the provision of the foregoing paragraph. In the event that such workman fails to comply with this Paragraph, the Union shall notify the Employer and the Employer shall discharge said workman within forty-eight (48) hours.

5. Whenever the term "Member" or "Journeyman" is used in this Agreement, the provision is equally applicable to all employees.

6. It is further agreed that where in this Agreement provisions are made for employees to participate in certain fringe benefit programs, "Employees" shall also be deemed to include employees of Painters and Allied Trades District Council No. 36 and their affiliated Local Unions, the employees of the LMCC Office, employees of the Apprenticeship Trust, employees of the Trust Fund Offices, employees of the Industry Advancement Fund and employees of the Western Wall & Ceiling Contractors' Association (California Finishers' Conference). Such fringe benefits shall be paid by those respective offices.

7. A Contractor may offer modified or alternative work to employees that have been injured on the job and can no longer perform their usual and customary work, Such work opportunities will comply with the

terms of the California Labor Code. The Union will review and approve the modified or alternative work prior to it being offered to the injured employee.

## **ARTICLE 8**

### **DISPUTES AND GRIEVANCES**

#### **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.

The decision of the LMCC may be enforced as an Award of Arbitration under the provision of the 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.

#### **2. CHANNELING OF DISPUTES AND GRIEVANCES:**

All disputes and grievances arising under this Agreement shall be submitted to the LMCC for processing.

#### **3. DECISIONS – APPEALS:**

The LMCC Judicial Committee consisting of two (2) members of the LMCC (one from Management and one (1) from Labor) shall act as an arbitration tribunal. The decision of the LMCC Judicial Committee shall be final and binding unless there is a deadlock. In the event of a deadlock (tie vote), the dispute may by mutual agreement of the LMCC Judicial Committee members be referred to the LMCC full committee for final and binding resolution. In the event that the LMCC Judicial Committee deadlocks and does not agree to refer said dispute or grievance to the LMCC full committee, or the LMCC full committee deadlocks on any issue, grievance, or dispute submitted, such grievance shall be submitted to an impartial arbitrator from a list of arbitrators provided by the Federal Mediation and Conciliation Service. The decision of the arbitrator shall be final and binding on all parties to this Agreement and shall be directly enforceable by the LMCC.

#### **4. NOTICE TO EMPLOYERS:**

A. Notices of the hearing shall be served to Employers personally or by 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 to the Employer personally or by 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 or upon his application for membership

in the Western Wall & Ceiling Contractors Association (California Finishers Conference), or application for Shop Card, unless he 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 this Article.

#### 5. TRIAL PROCEDURE FOR VIOLATIONS:

A. In the event of an alleged violation of this Agreement, the complainant, either Painters and Allied Trades District Council No. 36 or the Western Wall & Ceiling Contractors' Association (California Finishers' Conference), on behalf of its member or a non-WWCCA member signatory Employer shall file charges in four (4) copies with the LMCC, which shall forward three (3) copies of the charges to the appropriate body for action.

B. In cases where Employers prefer charges against members of Painters and Allied Trades District Council No. 36, the charges shall be forwarded to the Painters and Allied Trades District Council No. 36. One Employer may not charge another Employer.

C. All charges must be filed within ten (10) days of discovery of the violation and adjudicated within ninety (90) calendar days after filing, except when an employee is requesting wages and/or waiting time, the time limits outlined in Article 18, Section 8 A and B shall apply. Charges pertaining to the underpayment of wages and fringe benefits discovered by auditing Employers records shall have no time limit.

D. All penalties are payable immediately upon notification.

E. Any Employer signatory to this Agreement who is found in violation of Operating Dual Shops; Union and Non-Union shall not be allowed to serve on any joint labor-management committee covered by this Agreement, so long as he remains in violation.

F. LIQUIDATED DAMAGES. The LMCC Judicial Committee and/or designated arbitrator are empowered within its discretion to impose liquidated damages in any case where it is determined that it would be extremely difficult, if not impractical, to fix the actual expenses and damage to the workmen, Trust Funds, and the industry for any failure to comply with the provisions of this Agreement.

Any liquidated damages assessed by the LMCC Judicial Committee and/or designated arbitrator shall become due and payable to and disbursed by the LMCC Office.

The assessed liquidated damages shall be disbursed by the LMCC office to the Joint Apprenticeship Trust, the Industry Advancement Fund, or any jointly administered body recognized to perform the functions of apprenticeship and journeyman prevailing wage compliance on public works as determined by the LMCC Judicial Committee.

## 6. NOTIFICATION OF FINDINGS:

A. A copy of the findings by the above LMCC Judicial Committee as outlined in Paragraphs B, and C, above, shall be sent to the LMCC, Painters and Allied Trades District Council No. 36, and the interested Western Wall & Ceiling Contractors Association (California Finishers Conference).

## 7. DISCIPLINE OF WESTERN WALL & CEILING CONTRACTORS ASSOCIATION (CALIFORNIA FINISHERS CONFERENCE) 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 Painters and Allied Trades District Council No.36, and the Western Wall & Ceiling Contractors Association (California Finishers Conference). 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 the 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 to surrender for the period of suspension any card or cards that may have been issued to him under or in connection with this Agreement.

## 8. ENFORCEMENT THROUGH NO WORK:

A. No party to this Agreement, or member of the Western Wall & Ceiling Contractors Association (California Finishers Conference) or the Painters and Allied Trades District Council No. 36 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 15, 16, 17, 18, and 21 of this Agreement.

## 9. WORK STOPPAGE:

There shall be no stoppage of work on the part of the Union 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 Painters and Allied Trades 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.

## 10. FLAGRANT VIOLATIONS:

Where a signatory has been found in violation of two significant violations within a twelve (12) month period (including, but not limited to failure to pay proper pay and fringe benefit contributions, improper hiring procedure, and violations of the overtime clause) covered by this Agreement, and has been subject to damages, other than delinquency charges therefore, such signatory shall be deemed to be a flagrant violator. In such instances, the Employer shall be required to register all jobs with the LMCC prior to starting for a period of one (1) year, and the Painters and Allied Trades District Council No. 36 shall place a steward on each job being performed by the Employer for a period of one (1) year. Said steward shall be

the first man on the job (foreman excluded), and in such instances, the LMCC shall impose additional damages against the violator.

#### 11. AUDIT OF PAYROLL RECORDS:

When an Employer has been guilty of violating Articles 17, 18, or 21 of this Agreement, the LMCC may order an audit of all his payroll records, and if violations are found the cost of the audit shall be paid by said Employer.

#### 12. CHECK BY UNION REPRESENTATIVES:

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

#### 13. ARBITRATION OF EMPLOYMENT-RELATED CLAIMS (PYETT LANGUAGE)

Any dispute, complaint, or grievance alleging a violation of the Agreement shall be processed through Article XVII, Joint Conference Board and Procedure for Settling Grievances and Disputes. The Local Union and Union shall retain sole and exclusive ability to bring such a grievance to arbitration pursuant to such Article. In addition, any dispute, complaint, or grievance concerning a violation of, or arising under, Industrial Welfare Commission Wage Order 16 ("Wage Order 16") which is subject to Article XVII, Joint Conference Board, and Procedure for Settling Grievances and Disputes by operation of Wage Order 16 and exemptions contained therein for employees covered by collective bargaining agreements shall remain subject only to Article XVII and not this Appendix A. Disputes, complaints or grievances within the scope of this paragraph shall be referred to as "Contractual Disputes."

In addition to Contractual Disputes that may be brought by the Union or Local Union as described above, all employee disputes concerning violations of, or arising under Wage Order 16 (except as noted in the immediately preceding paragraph), the California Labor Code Sections identified in California Labor Code section 2699.5 as amended, the California Private Attorneys General Act (Labor Code section 2698, et seq.), and federal, state and local law concerning wage-hour requirements, wage payment and meal or rest periods, including claims arising under the Fair Labor Standards Act (hereinafter "Statutory Dispute" or "Statutory Disputes") shall be subject to and must be processed by the employee pursuant to the procedures set forth in this Appendix A as the sole and exclusive remedy. To ensure disputes are subject to this grievance procedure in accordance with the intended scope of coverage set forth herein, Statutory Disputes also include any contract, tort, or common law claim concerning the matters addressed in the foregoing laws (other than a claim of violation of the Agreement which are deemed Contractual Disputes). This Appendix A shall not apply to claims under the statutes administered by the National Labor Relations Board, the Employee Equal Opportunity Commission, the Department of Fair Employment and Housing, and the California Division of Workers' Compensation.

#### B. PROCEDURE FOR ARBITRATION OF DISPUTES:

No Statutory Dispute subject to this Appendix A shall be recognized unless called to the attention of and, in the event, it is not resolved, confirmed in writing by the individual employee to the individual Contractor and the Local



Union within the later of (i) the time set forth in Article XVII, Joint Conference Board and Procedure for Settling Grievances and Disputes, or (ii) the time provided for under applicable statute.

Grievances and arbitrations of all Statutory Disputes shall be brought by the individual employee in an individual capacity only and not as a grievant or class member in any purported class or representative grievance or arbitration proceeding. The Arbitrator shall have the authority to consolidate individual grievances for hearing but shall not have the authority to fashion a proceeding as a class or collective action or to award relief to a group or class of employees in one grievance or arbitration proceeding.

If the individual employee dispute is a Statutory Dispute subject to this Appendix A, the grievance shall not be heard by the Joint Adjustment Board but shall proceed directly to an independent Arbitrator. In such cases, the procedures for the selection of an Arbitrator contained in Article XVII shall not apply; instead, the individual employee and the Contractor shall proceed to arbitration pursuant and subject to the American Arbitration Association National Rules for Employment Disputes. The Contractor shall pay all fees and costs related to the services of the American Arbitration Association and the services of the Arbitrator; however, the Arbitrator may reallocate such fees and costs in the arbitration award, giving due consideration to the individual employee's ability to pay. Each party shall pay for its own costs, expenses, and attorneys' fees if any. However, if any party prevails on a statutory claim which affords the prevailing party costs or attorneys' fees, or if there is a written agreement providing for an award of costs or attorneys' fees, the Arbitrator may award costs and reasonable attorneys' fees to the prevailing party. Any issue regarding the payment of fees of costs and any disputes about the manner of proceeding shall be decided by the Arbitrator selected. The Local Union or Union shall not be a party to such and shall bear no costs or fees of the arbitration.

The Arbitrator shall have full authority to fashion such remedies and award relief consistent with limitations under federal and state law, and precedent established thereunder, whether by way of damages or the award of attorneys' fees and other costs, orders to cease and desist, or any and all other reasonable remedies designed to correct any violation which the Arbitrator may have found to have existed, including such remedies as provided under applicable state or federal law or regulation. The decision of the Arbitrator is final and binding upon the parties and is enforceable in a court of competent jurisdiction.

The Arbitrator shall not have any authority to award relief that would require amendment of the Agreement or other agreement(s) between the Union and a Contractor or the Association, or which conflicts with any provision of any collective bargaining agreement or such other agreement(s). Any arbitration outcome shall have no precedential value with respect to the interpretation of the Agreement or other agreement(s) between the Union and a Contractor or the Association.

## **ARTICLE 9**

### **IDENTIFICATION CARDS**

1. The following cards are issued under the terms of this Agreement and are more definitely hereinafter described as to the intent and purpose thereof. They are the property of the LMCC Office and are not transferable and are to be returned on demand to the LMCC Office or to the authorized representative thereof. (Employees working card excluded.)

A. The official Shop Card of Painters and Allied Trades District Council No. 36 Joint Agreement.

B. Identification Card (Employer Card) of the LMCC Office: This card shall be issued to the Employer who does work on the job. A person to whom such card is issued shall be entitled to work on the job without joining any Union. Only one such Identification Card shall be issued to any Employer whether or not that Employer operates as an individual, firm, co-partnership, joint venture, corporation or other association. This Identification Card of the LMCC Office shall be issued to any Employer who has a Shop Card. Said Identification Card of the LMCC Office shall expire concurrently with said Shop Card. One member only of the firm shall be issued an Identification Card. (See Article 5, Section 8)

C. Union Working Card and Painters and Allied Trades District Council No. 36 Identification Card: The Union Working Card is supplied by the Local Unions and issued to members in good standing in the International Union of Painters and Allied Trades (IUPAT). In addition, the Painters and Allied Trades District Council No. 36 may institute a program of issuing its members a personalized identification card. Neither card shall replace the required work referral.

2. Cards Exhibited: All Employers and employees, parties hereto, shall at all times, exhibit as may be appropriate, one or more of the cards listed above.

3. The Official Shop Card: All Employers upon signing this Agreement will receive a serially numbered Shop Card which will remain in effect during the terms of this Agreement unless revoked for cause, or upon suspension of said Signatory Employer. Employers signing this Agreement shall submit the following information and such other information as may be required, which will be displayed on the Counterpart. The Shop Card fee shall be paid each year and shall be paid on or before September 1, of each contract year. The amount is to be determined by the interpreting body.

A. Firm name as per State Contractors License.

B. Address of same and owner or owners.

C. State Contractor's License Number and Classification.

D. Federal Employer's Identification Number.

E. State Employer's Account Number.

F. Compensation Carrier and Policy Number (Certificate required)

4. Member Signatories: Each member of the Western Wall and Ceiling Contractors Association (California Finishers Conference) encompassed by this Agreement shall sign a Counterpart of this Agreement with information thereon and meet such other requirements as per Paragraph 3 above.

5. Non-Member Signatories: In order for a Non-Member Signatory to obtain a Shop Card, he shall be required to sign a Counterpart of this Agreement with information thereon and meet such other requirements as per Paragraph 3 above. Said Shop Card shall remain in effect during the term of this Agreement unless revoked for cause.

6. Reasons for Identification: Such identification cards are issued for the following reasons:

The parties mutually recognize the importance of adherence to the terms and provisions of this Agreement. The swift and effective enforcement of this Agreement is critical to its basic purpose. The identification cards issued hereunder are designed to make clear to all members of the industry, Employer and Employee alike, that the parties holding such cards have accepted the responsibility to abide by all contractual obligations and shall be bound by any decisions of the Judicial Committee and/or the Arbitrator.

7. Any Employer who holds an interest in some other business concern signatory to this Agreement, which concern is determined after an audit or through other means, to be indebted contractually, shall not be entitled to acquire or retain a Shop Card until the question of such indebtedness has been disposed of by payment or by adjudication in the Employer's favor. This Section shall not be affected by reason of membership on the part of the Employer in any Employer's Association.

8. Work for Qualified Employers: Members of Painters and Allied Trades District Council No. 36 agree to work only for Employers who have a current Shop Card and comply with the regulations governing Employers under the Agreement recognized by Painters and Allied Trades District Council No. 36 except as specifically exempted by this Agreement, in the case of Federal, State, County or Municipal work or as outlined under handicapped workers.

9. Double Identity:

A. No Union member or previous Union member will be allowed to become a Signatory to this Agreement as a contractor, until he first secures a written release from the Painters and Allied Trades District Council No. 36, 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 will be allowed to work for another contractor as a journeyman.

C. The Union and 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 the LMCC Office establishing that all obligations of this or any prior Agreement have been complied with and that the change is in good faith.

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

E. It shall be a violation of this Agreement and subject to liquidated damages if the above procedures are not followed by all parties.

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

## ARTICLE 10

### ADMINISTRATION

#### 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 bipartisan agency, namely the Labor-Management Cooperation Committee; (2.) the Employer agency, the Western Wall & Ceiling Contractors Association (California Finishers Conference); and (3.) the employee agencies, namely the Painters and Allied Trades 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 bipartisan 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.

#### 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 Western Wall & Ceiling Contractors Association (California Finishers Conference) and to the Labor-Management Cooperation Committee, as provided for in this Agreement.

Every member signatory to this Agreement shall pay to the Labor-Management Cooperation Committee for the purpose set forth below the sum of ninety-seven (\$0.97) cents for every hour worked, 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 are unable to serve, the body originally selecting that negotiator will appoint his successor.

### 3. ADMINISTRATION FUND ALLOCATIONS:

Effective September 1, 2022, thirty (\$0.30) cents of the one dollar and two cents (\$1.02) contributed to the Labor-Management Cooperation Committee shall be paid to the Western Wall & Ceiling Contractors Association (California Finishers Conference). Twelve (\$0.12) cents of the one dollar and two cents (\$1.02) 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 (\$0.20) cents of the one dollar and two cents (\$1.02) contributed to the Labor-Management Cooperation Committee shall be paid to the Industry Advancement Fund. Twenty (\$0.20) cents of the one dollar and two cents (\$1.02) contributed to the Labor-Management Cooperation Committee shall be paid to Painters and Allied Trades Compliance Administrative Trust (PAT-CAT). Five (\$0.05) cents of the one dollar and two cents (\$1.02) contributed to the LMCC shall be paid to the Painters and Allied Trades Labor Management Cooperation Initiative/LMP. Fifteen (\$0.15) cents of the one dollar and two cents (\$1.02) contributed to the Labor-Management Cooperation Committee shall be paid to the STAR Program.

Refer to the Wage Allocation and Benefits breakdown on page 59 for this 4-year agreement.

A portion of the Shop Card fee, as determined by the LMCC Trustees, may be remitted to the signatory Western Wall & Ceiling Contractors Association (California Finishers Conference).

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 twelve (\$0.12) 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 drywall finishing contractors on the other, and to perpetuate harmonious relations that have existed between management and labor in the drywall finishing 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.

### 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 the said audit shall be delivered promptly to the parties to this Agreement.

### 5. DAMAGES ASSESSED:

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

## ARTICLE 11

### SAFETY LAWS /DRUG TESTING

#### 1. 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.

#### 2. 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 workplace 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 (1) year. The 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 Employers 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.

## **ARTICLE 12**

### **LEGISLATION**

All parties to this Agreement shall cooperate on all legislative matters designated to advance the interests of the Drywall Industry, and the work opportunities of the employee.

## **ARTICLE 13**

### **STEWARDS**

1. A. A Steward shall be a competent, qualified, working employee and a member of the Painters and Allied Trades District Council No. 36, an employee appointed by the Union, who shall, in addition to his work as a journeyman, be permitted to perform during working hours such of his Union duties as cannot be performed at other times. The Union agrees that such duties shall be performed as expeditiously as possible, and the contractor agrees that such Stewards shall be allowed a reasonable amount of time for the performance of such duties. The Union shall notify the individual Employer of the appointment of such Stewards. Unless notified to the contrary, the first journeyman on the job shall act as the job Steward unless the Union appoints a successor. In no case shall a foreman or an apprentice be a Steward.

B. The first employee on all jobs shall be a member for six (6) months in the Painters and Allied Trades District Council No. 36 (other than the foreman), and he shall act as Steward until a Business Representative of the District Council appoints a permanent Steward.

C. It shall be permissible for an out-of-area foreman to work not more than five (5) days at the beginning of the job, providing he complies with Article 16, Section 3. Any additional time worked, then Section B shall apply.

2. A. No appointed Steward shall be discharged or laid off except for just cause. In the event of layoff or discharge of a Steward, the appropriate Local Union or the Painters and Allied Trades District Council No. 36 shall be given notice in writing at least two (2) working days prior to the effective date of such discharge or layoff. Such notice shall contain the reason for layoff or discharge. Upon receipt of such notice, and in case of dispute between Employer and Steward, the Business Representative of the District Council is empowered to settle such dispute, remove the Steward, or leave the Steward on the job, and refer the dispute to the Investigating Committee for adjudication. The Business Representative shall investigate the dispute or reason given within twenty-four (24) hours from notification.

B. Any appointed Steward who may be discharged due to his activities in reporting violations of this Agreement, or the Bylaws of the Painters and Allied Trades District Council No. 36 or is removed before procedures, as set forth in the above paragraph, are followed, shall immediately report such facts to the office of the District Council. The paid representative of the Painters and Allied Trades District Council No. 36 shall make an immediate effort to settle the dispute. If he fails to adjudicate the dispute it shall be placed immediately before the Investigating Committee for hearing and settlement. If the Investigating Committee finds that the Steward was carrying out the intent and purpose of this Agreement and performing his duties, he shall be reinstated and reimbursed for all time lost. However, not more than eight (8) hours of straight



time shall be paid for any twenty-four (24) hour period. The decision of the Investigating Committee may be appealed to the LMCC Judicial Committee at the next regular scheduled meeting.

The Investigating Committee, for purposes of this Article, shall be composed of one (1) representative from the Employer group, and one (1) representative from the Painters and Allied Trades District Council No. 36.

Their authority and responsibility shall be outlined in this Agreement. A Non-Member Signatory may be asked to serve on this committee.

3. The Business Manager/Secretary-Treasurer or his designee of Painters and Allied Trades District Council No.36 shall have the right to appoint one (1) working steward per shift to act as a Representative of the District Council in connection with the application of this Agreement with the signatory Employer.

The Job Steward's duties shall consist of seeing that all terms and conditions of this Agreement are being complied with and that all employees are members in good standing of the International Union wherever permissible under State and Federal laws, in accordance with the provisions of Article 7 Union Security, and the handling of grievances that may arise with the job foreman. The Job Stewards shall not, by reason of position, be exempt from work. The Job Steward shall perform work in the same manner as any other employee and shall cooperate with the supervisor to expedite the progress of the work. The Job Steward's

decisions are subject to review and revisions by District Council 36. The Steward does not have the authority to bind the District Council.

4. The appointed Steward shall be the last employee to be laid off for lack of work but may be transferred to another job providing the Union is given prior notice of transfer.

## **ARTICLE 14**

### **NONDISCRIMINATION CLAUSE**

1. Fair Employment Practice: The Employer may discharge any employee except job or shop stewards for any just cause which may be deemed sufficient provided there shall be no discrimination for reasons (including race, sex, color, and creed) on the part of the Employer against any employee. All employees shall be retained on the job except for the following reasons: willful neglect of duty, incompetence, or conditions beyond the control of the Employer.

2. It is mutually agreed that the parties shall fully comply with all provisions of law, to the end that no person shall on the grounds of sex, race, color, or national origin, be excluded from participating in or be denied benefits of this Agreement. It is further agreed that no person or applicant for employment shall be discriminated against by reason of age, except to the extent provided in the pension plan, and any rules and regulations applicable to the Apprentice Program.

3. Union Activity: Any employee who may be discharged due to his Union activities in reporting violations of this Agreement shall report such facts to the office of the Painters and Allied Trades District Council No. 36 within the next working day. The paid representative of the District Council shall make an

immediate effort to settle the dispute. If he fails to adjudicate the dispute it shall be placed immediately before the Investigating Committee, as established in Article 13, Section 2-B. If after any such investigation, the Investigating Committee 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 for any lost time due to his activities. However, not more than eight (8) hours of straight time shall be paid for any twenty-four (24) hour period, not including Saturdays, Sundays, and holidays. The decision of the Investigating Committee may be appealed to the Judicial Committee at the next regular scheduled meeting.

## **ARTICLE 15**

### **HOURS OF WORK**

1. No employee shall report to any Shop earlier than thirty (30) minutes, nor to any job earlier than twenty (20) minutes before starting time. Five (5) days or forty (40) hours shall constitute a week's work from 8:00 A.M. to 12:00 noon and from 12:30 P.M. to 4:30 P.M. on Monday, Tuesday, Wednesday, Thursday, and Friday.

The Employer may adjust the starting time by indicating such in writing to Painters and Allied Trades District Council No. 36 on the job registration form (Article 6, Section 11) required by 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.

A. Overtime: All time other than mentioned above shall be considered overtime or other than set forth under special shifts in Section 5 of this Article.

(1) The foreman or in-charge man may be allowed to report to the job or shop one (1) hour prior to the normal starting time and remains one (1) hour after the normal quitting time for the purpose of preparing material and equipment only. This time will be paid at the overtime rate.

B. Holiday Pay: Overtime shall be paid at the rate of one and one-half (1.5) times the regular rate, except after eight (8) hours on Saturdays, Sundays, and the following holidays, which shall be paid at the rate of double time excluding makeup days. New Year's Day, Memorial Day, Fourth of July, Labor Day, Veteran's Day, Thanksgiving Day, Friday after Thanksgiving, the Day before Christmas, and Christmas Day.

When one of the holidays listed above falls on Sunday, the same shall be observed on the following Monday. When one of the holidays listed above falls on Saturday, same shall be observed on the previous Friday.

C. Show Up Time: Employees who report for work at the time that they are instructed by the Employer or Employer's Agents and who are not placed to work shall be paid two (2) hours pay, except where men are not put to work because of acts of God or circumstances beyond the control of the Employer.

It is agreed that if an employee is found to be unskilled within the first four (4) hours of work for the Employer (first day), he will not be entitled to show up pay. The employee shall, however, be paid for

actual time worked. In case of a dispute or claim for show-up pay, the matter will be referred to the Judicial Committee for determination.

D. Clean-Up: The preparation of materials and equipment and the cleaning up and removal of same is to be performed within the workday or shift. Every employee will be allowed five (5) minutes prior to lunch time and five (5) minutes prior to quitting time for personal clean-up.

E. Meals and Rest Periods: Each employee shall be granted two ten (10) minute rest periods, one in the midmorning and one in the mid-afternoon. Adjusting or modifying Paragraph E Article 15 rest periods may be addressed in the Memorandum of Understanding located at the back of this agreement pg. 59-61.

2. Labor Day and Painters and Allied Trades District Council No. 36 Election Day: No work shall be performed during any hour of the twenty-four (24) hours of Labor Day or between the hours of 8:00 A.M. and 5:00 P.M. on the Painters and Allied Trades District Council No. 36 Election Day.

3. 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 his working hours within which to vote at any General Direct Primary or Presidential Election, he may without loss of pay take off so much working time as will, when added to his voting time outside his working hours, enable him to vote.

If any employee has four consecutive hours in which to vote either between the opening of the polls and the beginning of his regular working shift or between the end of his regular working shift and the closing of the polls, he shall be deemed to have sufficient time outside of his working hours within which to vote. If he has less than four consecutive hours, he may take off so much time as will enable him to vote, but not more than two hours of which shall be without loss of pay; provided, that he shall be allowed time off for voting only at the beginning or end of his regular working shift, whichever allows him the most free time for voting and the least time off from his regular shift unless otherwise mutually agreed.

If the employee on the third working day prior to the day of election knows or has reason to believe that he will need time off to enable him to vote on Election Day, he shall give his Employer at least two working day notice that he desires time off in accordance with the provisions of this Section. (Repealed and added by stats. 1953, ch 1851, PP1, 2.)

4. Emergency and/or Overtime Permit: No work shall be performed at any time other than the regular hours except in case of an emergency and then only on a permit issued on standard form. Application for any and all work at any time other than during the regular working hours stipulated herein shall be applied for at any time prior to starting said work.

Application for a permit for Saturday and Sunday work and recognized holidays occurring on Monday must be made not later than Friday at 12:00 noon, if possible, or at the discretion of the Business Representative having jurisdiction. Permits are to be signed by the proper person designated by the Painters and Allied Trades District Council No. 36 and posted in a conspicuous place on the job. No, later than 12:00 noon Friday of the payroll due date, the properly filled out overtime permit shall be returned to the Local Union issuing the overtime permit for the purpose of inspection to assure proper payment. Note: Emergency Work is defined as any and all work that will interfere with the activities on or in the premises such as offices, stores, markets, taverns, model homes, etc., or if it is proved to the satisfaction of the Painters and

Allied Trades District Council No. 36 or its authorized representatives that there is a time factor involved and the delay is due to conditions beyond the control of the drywall contractor.

5. Special shifts as set forth below shall be limited to commercial/industrial projects and only if such shifts are also in effect with the craft performing the installation of gypsum drywall.

(A.) The contractor may regulate the starting time of the two-shift operation to permit the utilization of daylight hours by starting the first shift prior to 7:00 A.M., and each shift shall work seven and one-half (7.5) consecutive hours exclusive of meal periods, for which time employees on each shift shall receive eight (8) hours' pay at the straight-time rate, Mondays through Fridays.

(B.) Any time worked from Saturday 8:00 A.M. to Monday 7:00 A.M. or on holidays or in excess of the regular shift hours shall be paid for at the applicable overtime rate, except as provided above.

(C.) The contractor and the Union may mutually agree, in writing, upon different starting and quitting times for any of the shift arrangements provided under Section 5, Special Shifts.

#### 6. MAKEUP DAYS:

Makeup Days, whole days only, shall be permitted on Saturdays at the straight time rate, with prior approval of the Painters and Allied Trades District Council No. 36. Makeup days will be allowed for inclement weather or other conditions beyond the control of the Contractor. Telephone notification to the Painters and Allied Trades District Council No. 36 must be followed by a facsimile or written explanation, providing details of the conditions beyond the control of the Contractor that resulted in the lost day(s). No employee shall be disciplined, discharged, or discriminated against for refusing to work on a Make-up Saturday.

## ARTICLE 16

### WORKING CONDITIONS

1. No employee shall be required to work under any conditions that are injurious to his health & safety. The interpreting body shall have the authority to approve or disapprove any new materials.

2. Piecework:

A. The parties recognize that the piecework method of payment of wages frequently makes it impossible to calculate the hours worked by the employee; that the effect is to render it difficult, if not impossible, to enforce this contract so as to insure that employees working there under are receiving the proper negotiated rate and/or that the contractually required contributions are being made as to all hours required to be paid for. Such methods frequently result in the payment of wages to employees below the negotiated levels and the withholding from the Trust Funds and their participants of substantial amounts of contributions, all to the jeopardy of the fiscal integrity of the Trust Funds and the employee benefit programs they support.

B. When it is impossible to determine the number of hours worked because of the piecework method of payment, it is agreed that such employee shall be deemed to have worked a minimum of eight (8) hours per day and/or forty (40) hours per week straight time hours during such week.

C. Any evidence that the employee's earnings by the piecework method exceed those payable in accordance with the negotiated hourly rate is deemed irrelevant and inadmissible in any proceeding before a competent tribunal whether Board of Arbitration or Court.

D. Where an employee is paid an amount equivalent to or greater than the appropriate weekly wage of the area work week, a full work week of contributions shall be paid the Trust Funds, plus any actual hours of overtime worked.

E. Where employees are paid an amount less than the equivalent of the appropriate wage rate times the straight time hours of the area work week, the gross compensation paid such employees shall be divided by the appropriate hourly wage rate, and the quotient from that calculation shall be multiplied by the fringe benefit amounts required by the Agreement and shall be deemed the amounts owed to the Trust Funds. If it is determined that employees actually worked more hours than reported, additional wages may be due as well as fringe benefits.

3. Work referrals:

A. No employee shall commence work for any employer until they first secure a work referral from the Painters and Allied Trades District Council No. 36 or its designated Local Union affiliate. The employer agrees not to place any employee to work until the said employee presents or the employer receives by fax a work referral from the Painters and Allied Trades District Council No. 36 or its designated Local Union affiliate.

B. Employees shall be required to obtain a new job referral semiannually during the months of January and July from the appropriate Local Union and/or Painters and Allied Trades District Council No. 36.

4. Employee's Vehicle: It shall be a violation of this Agreement for an employee to use his vehicle or truck to transport materials, tools, and equipment, for his Employer, in excess of one hundred (100) pounds.

5. Journeyman's Tools: Employees shall report to work with only the usual hand tools of the trade, consisting of finishing knives ranging from 1" to 12", mud stomper, mud pan, hammer, pliers, screwdriver, and presentable white protective clothing. A spray man may supply himself with a six-inch crescent wrench. All other tools, equipment, and material needed to complete any job of drywall finishing will be supplied by the Employer. On jobs requiring hard hats, said hats will be furnished by the Employer for the protection of his employees. Hard hats are to be returned. Any subterfuge of furnishing other equipment will not be permissible.

6. Tools and Equipment: Employees shall be responsible for tools and equipment furnished to them by the Contractor and shall promptly return such upon request or upon the termination of employment. In the event the employee fails to return tools and equipment as a result of the employee's dishonesty, willful misconduct, or gross negligence, the Contractor may deduct the value of such from the employee's

paycheck. Disputes regarding this provision shall be resolved exclusively through the grievance and arbitration provision under Article 8 of this Agreement.

7. When the texture is applied by spray method, no color or sealer vehicles shall be added to texture materials.

8. Exceptional Conditions: Exceptional conditions are defined as conditions not specifically provided for under the terms of the Agreement. Where exceptional conditions exist, the Painters and Allied Trades District Council No. 36 shall make a prompt survey and decision within three (3) working days.

9. Sanitary Facilities:

A. The contractor shall make available reasonably sanitary and wash-up facilities, including drinking water. Facilities for personal clean-up and for changing clothes are to be made available on the job site.

B. An approved respiratory device shall be furnished by the Employer to all employees engaged in drywall finishing, texturing, etc. Respiratory device filters shall be furnished as needed or required.

10. Parking Allowance: Parking expense shall be reimbursed when free parking does not exist within three (3) blocks of the job site, providing the employee presents a parking receipt to the Contractor. The Contractor may designate the parking area.

## **ARTICLE 17**

### **WAGE SCHEDULES AND CONTRIBUTION SCHEDULES**

#### **SEE SCHEDULES A-E**

1. The District Council No. 36 has the option to designate any portion of the negotiated wage increase to existing fringe benefits or other contributions and if exercising this option will give notice to the LMCC and the FCA affiliated organization namely the Western Wall and Ceiling Contractors Association forty-five (45) days prior to implementation.

The Employer shall pay to the employee, by paying to an account maintained in his/her name at the Union Yes Federal Credit Union an amount prescribed in Schedule A for each hour compensated for. The amount is to be paid to the Union Yes Federal Credit Union by remitting the said amount along with other contributions to the existing (lock box) account. The accounts held in each employees name by the Union Yes Federal Credit Union shall be subject to such rules and regulations as the Union Yes Federal Credit Union had adopted or may adopt pursuant to its charter. The Employers responsibility under this section shall be to pay the amount described above. This vacation pay shall be exempted for the timeliness provision of the grievance and arbitration clause.

Claims for non-payment of vacation contributions shall be filed with the LMCC pursuant to Article 8 as soon as possible but in no event not later than six (6) months from the last payout date unless extenuating circumstances prevent filing them.

In the event of nonpayment of vacation contributions to any Employee, a late penalty of ten (10%) plus prevailing account interest rate shall be due and payable to the claimant.

FOREMEN: A person designated by the employer shall receive three dollars-(\$3.00) per hour over the Journeyman rate.

Employees working on a suspended scaffold shall receive twenty-five (\$0.25) cents per hour over scale.

Taper Apprentices should be paid in accordance with Schedule A.

During the term of this Agreement, the wages and fringes that are due on certain dates shall be paid on that date. In the event the Employer is restricted by government action from making such payment, such monies shall be placed in an escrow account established by the signatory parties, in a bank, through the Trust Funds, if possible. The payments are to be paid into the escrow account each pay period. The monies shall be disbursed to the employees when legally possible to do so. In the event it is not legally possible to disburse the monies to the employees or their beneficiary in case of death, the monies shall not be returned to the Employer until two (2) years from the date (in this Agreement) the money was due to the employee.

In the event any provision of this Agreement relating to wages and/or working conditions are changed or nullified by Federal or State government action, the Union shall have the right to renegotiate all of such provisions of this Agreement.

The negotiations shall start on the day following the day such wage and/or working conditions were to go into effect or the day such government notice is received by the Union. Despite any other provision, the Union shall have the right to strike if the parties cannot reach an agreement on any of the issues raised in such negotiations.

## 2. PREVAILING WAGE:

On contracts where a prevailing wage rate prescribed by a governmental body or agency is less 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 a governmental body or agency. Such wage rate shall apply for the duration of the contract. Where there is more than one classification of the employee, all classifications shall be filed with the U.S. Department of Labor each time wage data is filed with the Department of Labor.

## 3. WORKING DUES:

Working dues shall be a Percentage of gross pay determined by the District Council No. 36 by-laws. They shall be based on the hourly rate of pay, including vacation. In computing this amount, all fractions will be rounded to the nearest cent, which will be deducted from the employee wages and remitted to the District Council of Painters 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 thirty (30) days' notice.

4. POLITICAL ACTION TOGETHER:

A Political Action Together voluntary contribution of five (\$0.05) cents will be forwarded on behalf of the members to the Union Yes 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 (\$0.05) cents for each hour worked and to forward that amount to the PAT Political Committee, c/o International Union of Painters and Allied Trades (IUPAT), 1750 New York Avenue, N.W., Washington, D.C. 2006.

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 fundraising 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 \_\_\_\_\_

**ARTICLE 18**

**MANNER OF COMPENSATING EMPLOYEES**

1. All Employers signatory to this Agreement shall maintain timecards reflecting all hours worked by each employee and shall remain in compliance with State and Federal laws.

2. All wages shall be due and payable by a negotiable check payable on demand at par. On all out-of-town checks, the Employer shall provide reasonable facilities, including identification, for cashing without charge or discount to the employee. Each employee shall be furnished with a detachable check stub showing the contractor's name and address, the employee's name or social security number, total straight time hours, total overtime hours, the date of the pay period ending, the total amount due, and all deductions.

Said check stub shall conform with the provisions 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. Approval of any other manner or method of payment of compensation shall be obtained in writing, from the Painters and Allied Trades District Council No. 36. Contractors may pay employees utilizing direct deposit as provided under California Law.

3. Accounting Hold back: 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 in cases where Employers employ exceptionally large crews of men to the extent of creating hardship in the making of the payrolls. Such cases



may be referred to the Painters and Allied Trades District Council No. 36 which are empowered to permit the work week to end on Tuesday.

4. Discharge Pay: Employees temporarily laid off or discharged must be paid in full at the time of dismissal.

5. Quit Pay: Employees who quit during the pay period shall be paid within seventy-two (72) hours either by picking up a check on the job, by registered or certified mail or through a representative of the Painters and Allied Trades District Council No. 36 or the Financial Secretary of the Local Union having jurisdiction.

6. Waiting Time: On failure of the Employer to pay wages, and contractually required expenses within the stipulated time, all waiting time shall be paid for at the rate of straight time. Members of the Union must report to the representative of the Painters and Allied Trades District Council No. 36 within seventy-two (72) hours after wages and contractually required expenses are due.

Reasonable delay beyond the control of the Employer shall not be construed as a violation of this article. The burden of establishing such a reasonable delay shall be upon the Employer. Absence of such proof, the failure of the Employer to pay compensation when due shall be conclusively presumed willful. Monies awarded as "waiting time" shall be deemed "wages" within the meaning of the California Labor Code and applicable Federal law.

7. Show Up Time:

A. Any member of the Union having been engaged to work by an Employer and who upon reporting is not given employment shall receive two (2) hours of pay. Inclement weather conditions excepted.

B. Where an employee works more than one half (.5) day, he shall be paid for a full day, and where an employee works a fractional part of the day, he shall be paid no less than one half (.5) day's pay except in cases where an employee is discharged for being under the influence of alcohol, drugs or violation of a safety law or where he quits voluntarily, or where weather conditions prevent a continuation of his employment, or when the job is completed.

8. Waiting Time and Wage Claims:

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 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 prevailing rate, not to exceed eight (8) hours in a 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. A journeyman who has not been paid must immediately report to the paid representative of the LMCC or the representative of the Painters and Allied Trades District Council No. 36 who shall immediately notify the LMCC and not later than forty-eight (48) hours, excluding Saturdays, Sundays and

Holidays, after said wages are due and payable. Any journeyman who does not report receiving wages within the time limits prescribed in this Section shall have no claim for waiting time under this Agreement and may file a claim under this Agreement for a maximum of fifteen (15) calendar days (two one-week pay periods) of back wages.

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 Section "B" above, the paid representative of the LMCC shall immediately contact the Employer, by telephone, special messenger, or fax and notify him that a claim for wages due has been made and instructs said Employer to make immediate payment. Failure to contact the Employer shall not relieve him 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.

F. No member of the International Union of Painters and Allied Trades (IUPAT) shall continue in the employment of an Employer or Employers whose checks have not been honored or of any Employer who failed to pay on the stipulated day. Such members shall not return to work until it is proven that all outstanding paychecks have been honored and satisfactory arrangements for future payments made.

9. Kickbacks: In the event that an employee refunds all or part of his compensation to the Employer or other employee, regardless of the circumstances, such action shall be conclusively presumed to constitute a "kickback". Such practice constitutes a violation of this Agreement, and as a remedy, the waiting time provisions herein above shall be applicable from the date of such occurrence and shall extend to the date that the monies withheld or refunded are made payable to the employee. This Section shall be cumulative to and not affected in any manner by the provisions of Sections 221 and 225 of the California Labor Code.

10. Improper Payment: No employee shall receive, and no contractor shall pay more than the hourly wage rate, unless otherwise specified in this Agreement, regardless of whether the payment is issued by the contractor or any other person, firm, or corporation. Any manner or method (such as multiple checks, cash, equipment rental, bonuses, travel pay, subsistence, material purchase, subcontracting, or any subterfuge) with an intent to evade the proper payment of wages and fringe benefits shall be a violation of this Agreement. All payments as described above shall be considered gross wages and divided by the appropriate basic contract wage scale to determine the amount of contributions due and owing by the Employer under the contract. Nothing herein shall prohibit the contractor from paying a superior workman at a rate in excess of the appropriate contractual wage level, but seven (7) days prior notification to Painters and Allied Trades District Council No. 36 must be made.

11. The Employer shall be required to make the contractual contributions as to salaried employees covered under the employee benefit plans for all hours worked, but not less than forty (40) hours per week.

The Employer, however, in order to avail himself of this Section, shall be required to maintain hourly records, relative to work performed by such salaried employees. Any variance in the gross pay of such employee in relation to hours worked from week to week shall be presumptive evidence of a violation of this Agreement and the assessment for contractual contributions shall be computed as specified in Article 21.

## **ARTICLE 19**

### **OUT-OF-TOWN EXPENSES**

1. When members of Painters and Allied Trades District Council No. 36 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 one hundred and twenty-five dollars (\$125.00) per day, to cover expenses from date of leaving until the day of return, inclusive, to their home area. When subsistence is paid, an employee shall also be reimbursed once in any weekly pay period at the straight-time hourly rate for the time required to make one round trip to his place of residence and back to the job location. Upon completion of their job and/or layoff a member is being paid for time spent in transit returning to their home area, they shall not be eligible to also collect subsistence for the day of return.

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

3. 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 workday prior to a holiday he shall not be entitled to the subsistence allowance for Saturday and 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 to work.

Exception: On Federal, State, or industrial projects where room and board is provided by either the awarding authority or Employer, the employee may have the option of accepting the room and board facilities or the subsistence allowance, but not both.

4. It is agreed that the interpreting body will review "out-of-town expenses" each year.

## **ARTICLE 20**

### **AUDITING PRINCIPLES AND PROCEDURES**

1. The Painters and Allied Trades District Council No. 36, the Trustees of the Trust Funds and their agents, are hereby authorized to examine and audit any books and records of account of the Employer and the books and records of account of any business concern in which the Signatory Employer has any financial interest, regardless of the nature and character of work performed by such business entity. Such examination and audit may extend to all matters which are directly or indirectly pertinent to the Signatory Employer's obligation to fulfill any condition of this Agreement. The Employer, upon request, shall make available, any records pertinent to this purpose, including but not limited to, payroll records, timecards, day sheets, checkbooks, material invoices, equipment rental records, subcontract agreements for any work

sublet, contracts awarded and performed by the Employer and Federal and State, and Workers' Compensation reports. Additionally, the Employer shall make available upon request documentation from his Federal Income Tax Return which shows gross income and expenditures for labor and materials. Audits shall be conducted periodically at the Employer's place of business unless otherwise agreed by the parties.

The Signatory Employer agrees that the records shall be made available upon request to either the Painters and Allied Trades District Council No. 36 and the Trustees of the Trust Funds, or their agents, within three (3) working days from the date that such audit is requested. If such audit discloses that there has been underreporting by the Employer, he shall be chargeable with the cost of the audit in addition to any delinquency charges that may be due. Where an audit of the contractor's records indicates that there has been collusion between the employee and the Employer to defraud the Trust Funds, such employee will be charged before the Judicial Committee. The employee shall be assessed in an amount equal to that due as vacation pay.

2. Maintenance of Records: It shall at all times be the responsibility of the Employer to maintain complete and accurate records of expenditures by the Employer for any purpose whatsoever, including, but not limited to, wages, fringe benefit contributions, travel, and subsistence reimbursement, equipment rental, material purchases, and subcontracted work. In the absence of complete and accurate records relating to any employee compensation or reimbursement, the gross monies received by the employees shall be divided by the basic hourly rate, not including fringe benefit contributions, to determine the hours worked by the employee and to compute the amount of contributions required under the contract. Similarly, in the absence of complete and accurate records relative to all payments made to individuals not listed as employees, including but not limited to payment for subcontracted work and material purchases, such gross expenditures shall be presumed to be in payment of bargaining unit work and shall be divided by the basic hourly rate, not including fringe benefit contributions, to determine the hours lost by workmen covered by the Agreement and to compute the amount of contributions contractually required by the Employer. In the event evidence is produced that an employee did in fact, work on a job for a Signatory Employer and his benefits were not reported to the Trust Fund barring evidence to the contrary, the assumption shall be that the employee worked forty (40) hours in each week that he was found on a job.

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 SCPDI 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 the parties. This shall in no way mean that the rights of the Signatory Employer to appeal to the Judicial Committee and/or arbitrator be denied. Such investigative committee shall consist of equal representatives of Labor and Drywall Management, each, and be appointed by the chairman of the Trust Fund Board of Trustees.

The foregoing determinations shall be competent evidence to be utilized in proceedings before the Judicial Committee and/or Designated Arbitrator. Such determinations, however, shall not in any manner

affect the Employer's right to a judicial determination by the LMCC Judicial Committee and/or the designated arbitrator

## ARTICLE 21

### HEALTH AND WELFARE, LMCC, APPRENTICESHIP PLANS AND WORKING DUES

#### 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 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 at their discretion provide Health and Welfare benefits for Employers in the Painting and Drywall Industries.

A-3. Health Workplace Family Act of 2014: To the extent permitted by law, the Union expressly waives the sick leave pay requirements enacted by the Healthy Workplace Family Act of 2014.

B. An Apprenticeship Plan as encompassed in the Agreement and Declaration of Trust establishing the 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.

C. The Southern California Drywall Finishers Labor-Management Cooperation Committee, encompassing the provisions hereinafter made is hereby agreed upon. The written Trust Agreement providing for the Labor-Management Cooperation Committee shall be and hereby is incorporated herein to the same extent as herein set forth and each and all provisions of said Agreement and Declaration of Trust, shall be and hereby is binding on each and all 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"). 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 IAF. The bargaining parties may, from time to time, modify, amend, add, or delete specific program purposes.

#### D. The Painters and Allied Trades Labor Management Cooperation Initiative:

1(a). Commencing with the 1st day of August 2022 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 a contribution of five (\$0.05) cents 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.

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.

E. 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.

F. Working dues shall be a percentage of gross pay determined by the District Council No. 36 by-laws. Refer to Schedule A for specific instructions.

## 5. TRUSTEES:

A. The Trustees of the Health & Welfare and Apprenticeship Fund, shall consist of an equal number of Employer Trustees and employee Trustees except for the LMCC, upon amendment of the trust agreement four (4) employee Trustees shall be designated by the Painters and Allied Trades District Council No. 36, three (3) employer trustees shall be designated by the Paint FCA affiliated organizations and one (1) employer trustee(s) shall be designated by the Drywall Contractor of the Western Wall and Ceiling Contractors Association (California Finishers Conference).

For the LMCC there shall be six (6) Trustees, three (3) selected by Painters and Allied Trades District Council No. 36, and three (3) by the Western Wall & Ceiling Contractors Association (California Finishers Conference) as set forth above.

When it is mutually agreed by the Trustees of the Painters and Allied Trades District Council No. 36, the PDCA Chapters UMLRC'S and the Western Wall & Ceiling Contractors Association (California Finishers Conference), another District Council or Local Union may be allowed to merge with any of the trusts, said District Council or Local Union shall be represented on the Trust in which they participate by one Employer Trustee selected by the PDCA Chapter in the area and one employee Trustee to be selected by said District Council or Local Union.

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 in violation of 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.

## 6. CONTRIBUTIONS:

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

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

C. FUNDING OF COMPLIANCE: The sum of twenty (\$0.20) cents per hour shall be paid to Painters and Allied Trades Compliance Administrative Trust (PATCAT). The interpreters shall be empowered to process such contributions through the Compliance and Training Program should they agree that it would be more beneficial to the Industry to do so. In the event the above-designated amount of monies are not used for Drywall Compliance, they shall revert, by mutual agreement of the parties, to the Drywall Apprenticeship Program.

D. LABOR MANAGEMENT COOPERATION COMMITTEE:

The Employers shall pay the contribution established in the Wage Schedule 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 the Wage Schedule 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.

7. 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 to 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 numbers 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 ten (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 reports and payments for more than a total of five (5) times, the delinquency charge for such delinquency shall be twenty (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 to justify such adjustment or waiver.

8. AUDIT OF EMPLOYERS' BOOKS:

A. 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 checkbooks 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 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 to 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, or has failed to make payments, including delinquency charges and audit fees, required of him, the LMCC may require him to bring his 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 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 was on a job.

## 9. AVAILABILITY OF RECORDS:

All records in the custody of the respective Trust Funds shall be available to authorized representatives of Painters and Allied Trades District Council No. 36, and the Western Wall & Ceiling Contractors Association (California Finishers Conference) signatory to this Agreement.

10. BOND REQUIREMENTS FOR DEFAULTING EMPLOYERS:

A. Bonds as provided for in Article 23, Section 1, shall be deemed to cover only wages, contributions, and interest due or which may be due to the respective Trust Funds. The bond amounts shall not cover waiting time due to Employees nor liquidated damages due to the Trust Funds.

B. Whenever a Shop Card is suspended or revoked by reason of delinquency, the Board of Trustees of the 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 Trust Funds.

11. PROCESSING OF VIOLATORS: Violations hereunder shall be processed under Article 8.

12. ACTION BY PAINTERS AND ALLIED TRADES DISTRICT COUNCIL NO. 36 FOR VIOLATIONS:

Painters and Allied Trades 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 nonmember 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.

13. 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 Painters and Allied Trades District Council No. 36 and the Western Wall & Ceiling Contractors Association (California Finishers Conference) 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.

14. 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.

15. 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 the legal rate of interest, all costs of suit and reasonable attorney fees.

16. REMEDIES ACCUMULATIVE AND NONEXCLUSIVE:

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

17. EMPLOYEE REPORTS:

A. The Administrator of the Trust Funds shall make available to the Painters and Allied Trades District Council No. 36, the LMCC, and the Western Wall & Ceiling Contractors Association (California Finishers Conference), 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 Painters and Allied Trades District Council No. 36 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.

18. 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 1<sup>st</sup> day of August 2022, and for the duration of the Agreement, and any renewals or extension thereof, the Employer agrees to make payments to the International Union of 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 the Wage Schedule 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, journeymen 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. On January 14, 2022, the Pension Fund elected to enter "Red Zone" status, requiring the adoption of a Rehabilitation Plan. The Rehabilitation Plan provides bargaining parties the opportunity to elect between two (2) proposed "alternate schedules" of contributions and benefits or to accept the Rehabilitation Plan's default Schedule. The parties to this Agreement hereby elect "Alternate Schedule 2" and adopt the following required increase to hourly Pension Fund Contribution:

**(a) Los Angeles, Orange, Riverside, San Bernardino, Imperial, Ventura, Santa Barbara, San Luis Obispo, Kern, Mono, And Inyo Counties:**

Effective September 1, 2022, there shall be an increase of eight point four percent (8.4%) above the existing hourly contribution rate, sixty cents (\$0.60), which brings the pension contribution total to seven dollars and seventy-three cents (\$7.73) per hour.

Effective September 1, 2023, there shall be an increase of seven percent (7%) above the existing hourly contribution rate, fifty cents (\$0.50), which brings the pension contribution total to eight dollars and twenty-three cents (\$8.23) per hour.

Effective September 1, 2024, there shall be an increase of five point six percent (5.6%) above the existing hourly contribution rate, forty cents (\$.40), which brings the pension contribution total to eight dollars and sixty-three cents (\$8.63) per hour.

**(b) San Diego County**

Effective September 1, 2022, there shall be an increase of ten point eight percent (10.8%) above the existing hourly contribution rate, sixty cents (\$0.60), which brings the pension contribution total to six dollars and eleven cents (\$6.11) per hour.

Effective September 1, 2023, there shall be an increase of nine percent (9%) above the existing hourly contribution rate, fifty cents (\$0.50), which brings the pension contribution total to six dollars and sixty-one cents (\$6.61) per hour.

Effective September 1, 2024, there shall be an increase of seven point three percent (7.3%) above the existing hourly contribution rate, forty cents (\$.40), which brings the pension contribution total to seven dollars and one cent (\$7.01) per hour.

3. 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.

4. 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.

5. If an 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 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.

6. The Pension 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.

#### 19. 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 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), may 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 contribution shall be submitted on appropriate forms, in such format, and with such information as may be agreed to by Central Collection.

#### 20. 401(k) Retirement Plan:

Effective 10/01/2012 - Employer agrees to make contributions to the 401 (k) Retirement Plan for the Southern Nevada Glazier and Fabricators pension Trust Fund in the amount as negotiated in the future. The collection of the above-said 401(k) shall be governed by the terms and conditions of the trust agreement.

## ARTICLE 22

### APPRENTICES

1. Apprenticeship Administration:

The parties to this Agreement recognize the need for apprentice training and to that end herewith authorize the appointment of the apprenticeship committees composed of equal representation of Labor and Management in conformance with and under the authority of the Shelly-Malone Act of the State of California.

2. The trustees of the Apprenticeship Trust Fund shall be equally represented from Labor and Management and shall have the responsibility for receipt and disbursement of all funds, hiring and discharging of all personnel, and other related functions.

3. There shall be established the Joint Apprentice Training Committee (JATC), which shall be governed by the State and Federal approved standards. Comprised of not less than three (3) labor delegates and one (1) alternate delegate and three (3) management delegates and one (1) alternate delegate. The selection of and size of the committees shall be determined pursuant to the rules prevailing in each Painters and Allied Trades District Council No. 36 area. The committees may be comprised of the same people who from time-to-time serve as Trustees of the apprentice trust fund.

A. The JAC has the authority to establish, appoint, and abolish area joint subcommittees to assist them in the training of apprentices in any specified area.

B. All subcommittees shall conduct the apprenticeship programs in their areas as outlined in the standards established by the JATC and shall be responsible to the JATC.

4. Employment and Severance:

A. The parties to this Agreement herewith impose a mandatory duty on all Employers to abide by the apprenticeship standards adopted by the Joint Apprenticeship Committee and approved under the provisions of the Shelly-Malone Act of the State of California.

B. For the term of this Agreement the ratio for apprentices to journeymen, based on all members working in the shop, shall be maintained at one (1) apprentice for every one (1) journeyman employed per shop when qualified apprentices are available through the Southern California Drywall Finishers Apprenticeship Program.

C. The employment of an apprentice must be consummated with a written statement to the Apprenticeship Office, on the form provided by the JAC, requesting the apprentice by name and the proposed date he is to begin work. Upon receipt of this written statement and provided the applicant meets the requirements of the JAC and obtains a Painters and Allied Trades District Council No. 36 permit, then the Apprenticeship Office will issue to the apprentice an identification card assigning him to this specific Employer.

D. When an Employer desires to dismiss an apprentice, said Employer shall inform the Apprenticeship Office 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 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 event, the apprentice shall file this release with the Apprenticeship Office before he shall be considered as re-assignable.

E. Employers in violation of the apprenticeship program shall be denied the privilege of using apprentices for the period of time designated by the governing JATC.

5. Related Instruction Classes:

A. The JAC shall in cooperation with the Local Board of Education determine the establishment and scheduling of related and supplemental instruction classes and shall make recommendations regarding the selection or removal of instructors for such classes.

B. The parties to the Agreement agree that all apprentices shall attend those related classes, as assigned by the JAC.

C. The Joint Apprentice Committee shall be authorized to take such action as deemed necessary against an apprentice for failure to comply with minimum requirements prescribed by Apprenticeship Standards.

D. Apprentices identified as "isolated apprentices" shall be required to satisfactorily complete such correspondence courses as may be approved by the JAC.

6. Working Rules:

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

B. The apprentice shall receive the approved safety training relative to the health rules and regulations pertaining to the operation of equipment and the application of drywall materials and become familiar with the regulations set forth in this agreement.

C. Positively no apprentice shall be sent to out-of-town work that will interfere with or prohibit him from attending school classes without the permission of the JAC.

7. National Fund:

A. A contribution of five (\$0.05) cents per hour shall be for the purpose of being a party to the Finishing Trades Institute (FTI), and such funds shall be allocated to the Local Apprenticeship Fund. The Local Fund shall then forward the contribution of five (\$0.05) cents per hour to the FTI, based on reports received from the Trust Fund offices listing hours and contributions received.

B. It is hereby recognized that the Finishing Trades Institute is a separate identity which has established its own governing rules. It is therefore, also agreed that should the interpreters of this Agreement become opposed to said rules, and/or performance, that said contributions may be changed, modified,

eliminated or a new organization may be formed that would, in the sole judgment of the interpreters, better serve the spirit of this section. Should it be agreed that the contribution be eliminated the Painters and Allied Trades District Council No. 36 shall have the option to allocate said contributions.

## ARTICLE 23

### RESPONSIBILITY BOND REQUIRED BY THIS AGREEMENT

1. Each Contractor signatory to said Agreement shall post with the LMCC Office an acceptable surety bond, cash, or other security acceptable to the LMCC Office as follows:

\$5,000.00 in Painters and Allied Trades District Council No. 36 jurisdictional area may be increased by vote of the Labor Management Cooperation Committee.

The above Bonds are to guarantee any deficiency of such Employer in the payment of wages, Health & Welfare, and other fringe benefits that are duly imposed under the provisions of this Agreement. Should the surety bond be acceptable, the bond will be posted on forms provided by the LMCC Office. Bonds, as provided for in Article 23, shall be deemed to cover only wages, contributions, and interest due or which may be due to the respective Trust Funds. Bond amounts shall not cover waiting time due to employees, nor liquidated damages due to the Trust Funds.

2. Upon notification to Signatory Contractors, the security requirements of Section 1, above may be supplied by the LMCC Office through the purchase of a master bond, implementation of a self-bonding procedure, or other available means, as respects losses caused by deficiencies of Employers in the payment of monetary obligations imposed under the provisions of this Agreement.

This coverage may be extended in succeeding contract years.

3. Each Contractor becoming signatory to this Agreement shall pay to the LMCC Office the annual sum of Three Hundred Dollars (\$300.00), or an amount deemed sufficient by the LMCC, for the purpose of securing the coverage specified in Section 2, above. Said sum is to be included in the Shop Card Fee and shall be due and payable by August 1, of each contract year that the coverage is in force, and be delinquent August 15, of each contract year. A Twenty- five (\$25.00) dollar delinquency fee will be paid to the LMCC Office to cover added costs.

4. Each employee, Trust Fund, or other person or entity having a claim against any Contractor under the provisions of this Agreement shall notify the LMCC Office in writing, of the facts and circumstances of such unpaid obligations. The LMCC Office, through its representative, shall, after verification of the indebtedness, process a certification of default for payment under the terms of the surety bond and remit the funds received from the surety to the person, fund, or entity entitled thereto.

A. In the event the Contractor has deposited cash or other security under this provision, the LMCC Office through its representative, upon verification of an indebtedness under the terms of this Agreement, shall withdraw from a said cash deposit, or convert said security to cash, and forward to the person, or entity



entitled thereto, funds sufficient to discharge such obligation to the extent possible under the amount deposited by the Contractor.

B. Within twenty-four (24) hours after notice to any Employer of such payment by the LMCC Office out of that Employer's cash or other security deposit, the Employer shall replenish his cash or security deposit to the original sum, or to such further sums as the LMCC Office, Painters and Allied Trades District Council No. 36 and/or Trust Fund Trustees shall determine as necessary to guarantee further deficiencies of such Employer.

5. Should the LMCC Office, Painters and Allied Trades District Council No. 36 and/or Trust Fund Trustees determine that the liability of any Employer under this Agreement is greater than the sum of Five Thousand Dollars (\$5,000.00), they may immediately demand and cause the Employer to increase his cash deposit or surety bond to an amount sufficient to cover such liability. Should a surety bond be posted the bond will be posted on forms provided by the LMCC Office.

6. In the event that any Contractor has a surety bond canceled during the term of this Agreement, or whose past performance is such that he could become a risk to the bonding arrangement referred to in Section 2, of the provision, the LMCC Office reserves the right to require other bonding in cash or through some other means acceptable to the LMCC Office.

7. Should the cost of the coverage set forth in Section 2 be increased through the period of this Agreement due to experience and/or rate increases assessed by the Surety company, the above rate (Section 3) will be increased accordingly effective each anniversary date.

## **ARTICLE 24**

### **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 Drywall Finishers Labor-Management Cooperation Committee.

#### **1. MEMBERSHIP:**

The Labor-Management Cooperation Committee shall consist of six (6) voting members, with three (3) designated by Painters and Allied Trades District Council No. 36, and three (3) designated by Western Wall & Ceiling Contractors Association (California Finishers Conference).

#### **2. 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 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 organization.

### 3. QUORUM:

Four (4) members of the Labor-Management Committee shall constitute a quorum to transact business, provided there are two (2) Western Wall & Ceiling Contractors Association (California Finishers Conference) members and two (2) Painters and Allied Trades District Council No. 36 members.

### 4. 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.

### 5. 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 any dispute hereunder and to issue interpretations of this Agreement as may be necessary to give force and effect to the intent, purpose, and meaning of this Agreement. The Labor-Management Cooperation Committee shall adjust disputes and grievances that may arise as provided in Article 8, entitled: Disputes and Grievances. The Labor-Management Cooperation Committee shall be empowered to hear and try nonmember signatories for violations of this Agreement as provided for in Article 8.

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 as provided for in this Agreement as well as copies of all reports required by this Agreement. The Labor-Management Cooperation Committee shall have the 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 Administrator of the Labor-Management Cooperation Committee shall regularly inform directly affected parties of the names, addresses, phone numbers, and Shop Card numbers 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 9, designated: Identification Cards.

F. The Labor-Management Cooperation Committee shall direct and oversee the administration of this Agreement as provided in Article 10, 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 21, Section 1 (c), and in the Appendix to the Labor-Management Cooperation Committee Trust Agreement.

H. The parties authorize the LMCC to promote journeyman training and upgrade programs by establishing monetary incentive programs from excess bond funds.

I. Contract Amendments: It shall be within the jurisdiction of the interpreting body upon agreement by the members of the interpreting body present at a special called meeting (the Employer and the Union shall have equal votes) to suggest and consider and adopt amendments to the Agreement.

In the event a related trade reduces or foregoes an increase in wages because of changed economic conditions, the interpreting body shall upon request of either party meet and consider similar percentage reductions in wages under this Agreement. In the event the interpreting body fails to agree on such reductions, any dispute shall be submitted to expedited arbitration before Doug Collins or Mark Burstein, or if they are unavailable another mutually selected arbitrator. Such arbitration shall be completed and decided on an expedited basis within 30 days of submission to the designated arbitrator.

## **ARTICLE 25**

### **LEGAL AND ECONOMIC REMEDIES**

1. Contract Defense: In the event of any legal proceedings, whether judicial, administrative, or before any other tribunal, seeking to challenge the validity of this Agreement or any portion thereof, it is agreed that in the event such challenge is unsuccessful, reasonable cost of defense shall be payable to any entity such as the Union, Trust Funds, Administrative Funds, or the Employer Agencies, that were joined as parties in said proceeding. The amount of defense costs may be determined through the arbitration provisions of this Agreement.

2. Any decision by the LMCC Judicial Committee awarding monetary, injunctive relief, or other relief shall constitute an Arbitration Award and may be confirmed in any court of competent jurisdiction, State or Federal.

3. In addition to any other legal or economic remedies available to the Union, the Trustees of the Trust Funds and/or Painters and Allied Trades District Council No. 36 may file legal action in a court of competent jurisdiction for the collection of any and all contractually required contributions and liquidated damages due and owing by Employers. In the event that such contract violation is established, the Employer shall be required to pay the legal costs of suit including audit fees. The amount of such audit fees, and/or legal fees, together with costs, shall be assessed by the court.

4. Each of the remedies enumerated in this Agreement is cumulative and nonexclusive and may be utilized in an arbitration proceeding.

5. 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 a bona fide labor organization.

6. It shall not be a violation of this Agreement for the Union to refuse to permit any member to work for an Employer who is indebted to the Union, Trust Fund, or any employee of such Employer by reason of such Employer's breach of this Agreement, such as refusal to cooperate with respect to auditing procedures, refusal to abide by the terms of any arbitration award, or failure to comply with job registration requirements. The Union's right to remove workmen from the job because of unpaid wages and fringe benefits or other continuing violations of this Agreement may be undertaken without prior resort to the grievance and arbitration procedures contained in this Agreement. This Section shall not be applicable to violations by an Employer of subcontracting clauses of this Agreement or refusal to abide by court judgments or Arbitration Awards to the extent such are based on such clauses.

7. Wherever a Signatory Employer has taken over a contract for a job that has been commenced by another contractor, he shall be required to notify the Painters and Allied Trades District Council No. 36 in writing. When any job or project that has been commenced by one contractor and work thereon stopped by the Union because of the failure of the contractor to meet his current or past contract obligations, or the contractor has failed to abide by an arbitration award or satisfy a court judgment, to the extent such stoppage is not based upon the subcontracting clauses contained in Article 5, Sections 9 (B) and (C), it shall not be a violation of this Agreement for the Union to refuse to permit persons covered by this Agreement to work said job or project until such wages and fringe benefits have been paid. It shall not be a violation for the Union likewise to remove workmen who are working on said job. The Union's right to remove workmen from the job because of unpaid wages and fringe benefits may be taken without prior resort to the grievance and arbitration procedures contained in this Agreement. Workmen may be furnished to the contractor commencing work at the job site upon the execution of a written agreement that obligates the general contractor or Signatory Employer to pay all of the indebtedness, known or unknown, arising prior to or during the course of that project, or upon written notification from the Union giving the Employer clearance to start work on said job site.

8. In the event that manpower is refused or removed as to any Signatory Contractor by reason of violations enumerated above, all provisions of this Agreement continue without effect. In such event, the employees shall be entitled to compensation from the Contractor in an amount not to exceed two (2) days straight time wages or as determined by the LMCC Judicial Committee.

## ARTICLE 26

### SEVERABILITY CLAUSE

1. Should any part of or any provision herein contained be rendered or declared invalid by reason of any existing or subsequently enacted legislation, or by any decision of a Federal or State agency or a court of competent jurisdiction, such invalidation shall not invalidate the remaining portions of this Agreement; provided however, upon such invalidation the parties signatory hereto agree to immediately meet to renegotiate such parts or provisions affected. The remaining parts or provisions of this Agreement shall remain in full force and effect.
2. This Agreement is not intended to and shall not be construed to permit acts that violate any Federal or State Law.

## ARTICLE 27

### BARGAINING UNIT WORK

It is recognized that all provisions of this Agreement are designed to ensure that the parties hereto will not directly or indirectly perform or undertake or accomplish any work described in this Agreement except in complete compliance with all terms and provisions contained herein above. In such manner, the parties intend that the negotiated standards of this Agreement be protected against any actions which could by undermining or threaten the maintenance thereof.

The parties to this Agreement recognize the mutual advantages enjoyed by the provisions of said Agreement. Each recognizes the proliferation of contract work performed by non-union contractors 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 to:

(A.) Meet no later than three months after the effective date of this Agreement to establish a means of measuring the growth of work performed by other than Signatory Contractors and employees of this bargaining unit.

(B.) Meet semiannually to analyze whether such non-union activity presents a serious threat to the maintenance and growth of bargaining unit work.

(C.) Should it be concluded by the interpreting body that such a serious threat exists, this Agreement shall be reopened within ninety (90) days upon request of either party to renegotiate special wages, fringes, and working conditions so as to effectively combat the competitive advantage enjoyed by non-union contractors and their employees.

## ARTICLE 28

### PERIOD OF AGREEMENT

1. Four-year agreement, commencing August 1, 2022, after ratification, until July 31st, 2026, and from year to year thereafter unless either of the notices specified below is given:

2. Notice of Modification: On or after February 28, 2026, the Western Wall and Ceiling Contractors Association (California Finishers Conference) the Painters and Allied Trades District Council 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 July 31st, 2026, it shall not be a violation of this Agreement for the Union to engage in a strike or other lawful economic concerted activities in support of its contractual demands.

3. On or after February 28, 2026, but prior to the start of negotiations, the Western Wall and Ceiling Contractors Association (California Finishers Conference), the Painters and Allied Trades District Council 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 the subsequent July 31st, at twelve (12:00) midnight.

4. On or after February 28, 2026, but prior to April 30, 2026, or the commencement of negotiations which ever comes first, any signatory hereto, may give notice of desire to withdraw from this Agreement by giving notice of his intent to do so to the Painters and Allied Trades District Council No. 36. This notice to become effective the following July 31st at twelve (12:00) midnight.

5. Notice by the Union to a Signatory employer shall be made by certified mail at the last known address furnished to the LMCC 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.

**ARTICLE 29**

**SIGNATORIES**

This Agreement is made and entered into upon the execution of this Agreement by the respective parties signatory hereto. This Agreement extends to the 31st day of July 2026 inclusive and from year to year unless it is reopened for negotiations or terminated in accordance with the provisions contained herein above.

This Agreement is by and between the members of the Association signed below, any Employer who executes an Agreement Counterpart which obligates him to the terms and provisions of this Agreement, and the Painters and Allied Trades District Council No. 36 signed below and affiliated Local Unions.

**WESTERN WALL AND CEILING  
CONTRACTORS' ASSOCIATION  
(CALIFORNIA FINISHERS' CONFERENCE)**

/S/

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ALBERT CARRILLO

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

/S/

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LUIS F. ROBLES, BUSINESS MANAGER/SECRETARY-TREASURER

## **NEGOTIATORS**

### **2022-2026 SOUTHERN CALIFORNIA DRYWALL FINISHERS JOINT AGREEMENT**

#### **PAINTERS AND ALLIED TRADES DISTRICT COUNCIL #36**

1155 Corporate Center Drive  
Monterey Park, Ca 91754  
(626) 584-9925

Luis F. Robles  
Ana Hanson  
Ernesto Toscano  
Doug Robbins  
Oriol Beltran

#### **WESTERN WALL AND CEILING CONTRACTORS' ASSOCIATION, INC. CALIFORNIA FINISHERS CONFERENCE**

1910 North Lime Street  
Orange, CA 92865  
(714) 221-5520

Albert Carrillo  
Robert Klugh  
Leah Wimberly  
Jordan Poole  
Todd Heimerl



## **DISTRICT COUNCIL NO. 36 AREA OFFICES**

Painters and Allied Trades District Council No. 36  
1155 Corporate Center Drive  
Monterey Park, CA 91754  
(626) 584-9925  
Fax (626) 584-1949

Southern California Drywall Finishers  
Labor-Management Cooperation Committee  
1155 Corporate Center Drive  
Monterey Park, CA 91754  
(626) 844-1040  
Fax (626) 798-0959

Southern California Painting & Drywall Industries Trust Funds  
1055 Park View Drive, First Floor  
Covina, CA 91724  
(800) 752-2394  
(626) 279-3020  
Fax (626) 279-3094

Finishing Trades Institute of District Council 36 (FTI od DC 36)  
7020 East Slauson Ave.  
City of Commerce, CA 90040  
(800) 727-3428  
(323) 727-2811  
Fax (323) 727-1180

Drywall Finishers Regional Local Union 1136  
1155 Corporate Center Drive  
Monterey Park, CA 91754  
(626) 296-8003  
Fax (626) 296-8004

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

**1. Wage and Benefits Package for Los Angeles, Orange, Riverside, San Bernardino, Imperial, Ventura, Santa Barbara, San Luis Obispo, Kern, Mono, and Inyo Counties:**

**Effective September 1, 2022 – Total Hourly Increase \$3.25**

Wages: \$2.65  
Pension: \$0.60

**Effective September 1, 2023 – Total Hourly Increase \$3.25**

Pension: \$0.50  
\$2.75 to be allocated by Union

**Effective September 1, 2024 – Total Hourly Increase \$3.25**

Pension: \$0.40  
\$2.85 to be allocated by Union

**Effective September 1, 2025 – Total Hourly Increase \$3.50**

\$3.50 to be allocated by Union

**2. Wage and Benefits Package for San Diego County:**

**Effective September 1, 2022 – Total Hourly Increase \$3.00**

Wages: \$2.40  
Pension: \$0.60

**Effective September 1, 2023 – Total Hourly Increase \$3.25**

Pension: \$0.50  
\$2.75 to be allocated by Union

**Effective September 1, 2024 – Total Hourly Increase \$4.25**

Pension: \$0.40  
\$3.85 to be allocated by Union

**Effective September 1, 2025 – Total Hourly Increase \$4.50**

\$4.50 to be allocated by Union

MEMORANDUM OF UNDERSTANDING  
BETWEEN  
WESTERN WALL AND CEILING CONTRACTORS ASSOCIATION (WWCCA)  
AND  
PAINTERS AND ALLIED TRADES, DISTRICT COUNCIL NO.36  
ON BEHALF OF  
DRYWALL FINISHERS LOCAL UNION 1136

**MEALS AND REST PERIODS**

This Memorandum of Understanding (hereafter referred to as “MOU”) is entered on May 16, 2019 between Western Wall and Ceiling Contractors Association (hereafter referred to as “WWCCA”) and the Painters and Allied Trades, District Council No. 36 on behalf of Drywall Finishers Local Union 1136 (hereafter referred to as “Drywall Finishers”). The WWCCA and the Drywall Finishers are referred to hereafter, collectively, as the “Parties”. This MOU interprets, amends and modifies the provisions of the 2016 -2020 Southern California Drywall Finishers Joint Agreement between Finishers Conference of the WWCCA and the Drywall Finishers:

1. The parties acknowledge and agree that the Southern California Drywall Finishers Joint Agreement and this MOU constitute a valid collective bargaining agreement (hereafter referred to as “CBA”) expressly providing for the wages, hours of work, and working conditions of the employees of the WWCCA contractor and expressly provides for meal periods for those employees, final and binding arbitration of disputes concerning application of the CBA’s provisions (including those involving meal and rest periods, premium wage rates for all overtime hours and a regular hourly rate of pay of not less than thirty percent more than the state minimum wage an covers employees employed in a construction occupation). As such, under California Labor Code §512(e) and Wage Order 16, the meal period requirements for employees are determined by the parties. The parties have agreed to provide equivalent meal period protections to employees, by incorporating Wage Order 16 into Article 8 of the CBA. Any claim for violation of this provision are subject to the grievance and arbitration provisions of Article 8 of the CBA.
2. Similarly, by incorporating Wage Order 16 in Article 8 of the CBA and making violation of this provision subject to the grievance and arbitration provision of Article 8 of the CBA the parties have provided equivalent rest period protections within the meaning of Section II (e) of Wage Order 16.
3. The parties agree that the following schedules provide equivalent protection for meal and rest periods in accordance with the CBA, Wage Order 16, and applicable law. The parties acknowledge and agree that the unique conditions of the construction sites on which contractor members work may require this “scheduling rest periods to coincide with breaks in the flow of work that occur in the course of the workday” as provided for in Wage Order 16:

a. All employees are authorized and permitted to take two (2) paid ten (10) minute rest periods during a normal eight (8) hour shift, which insofar as practicable shall be in the middle of each four (4) hour work period. Accordingly, an employee is authorized and permitted to have a ten (10) minute rest period in the morning and a ten (10) minute rest period in the afternoon during a normal eight (8) hour shift.

b. As a voluntary choice and alternative to the two (2) ten (10) minute rest periods set forth above, each employee may elect to take a single paid rest period of twenty (20) minutes, which shall be provided within three (3) hours of the start time of the shift and forego the afternoon ten (10) minute rest period. In order to elect this alternative, the employee must sign the *Employee Voluntary Election Form for Rest Periods* (see Attachment 1) which may be revoked by giving notice to the employer in writing at any time.

c. An unpaid, duty-free meal period of thirty (30) minutes shall be provided within six (6) hours of the start time of the shift.

4. The parties may modify the foregoing schedule upon mutual written agreement to accommodate specific jobsite conditions such as man lift availability, differing start times, or other issues.

5. The WWCCA contractor shall have the option to provide alternative meal and rest period schedules in accordance with Wage Order 16 instead of the foregoing.

6. Any alleged violation of the meal and rest period provisions of the MOU, the CBA, or California law shall be subject exclusively to the grievance and arbitration provisions of Article 8 of the CBA. Any dispute arising out of this MOU, including its interpretation, formation, or validity shall be subject exclusively to the grievance and arbitration provisions of Article 8 of the CBA.

7. This MOU shall be in full force and effect during the CBA between the WWCCA and the Drywall Finishers and any renewal, extension, or modification of the CBA, unless it is expressly terminated by the parties by an instrument in writing signed by the parties.

**SAMPLE FORM**

EMPLOYEE VOLUNTARY ELECTION FORM:  
For Rest Periods

I hereby acknowledge that I have been advised by my employer, that I am authorized and permitted to take two (2) ten (10) minute rest periods during a normal eight (8) hour shift, which insofar as practicable shall be in the middle of each four (4) hour work period. Accordingly, I understand that I am authorized to take a ten (10) minute rest period in the morning and a ten (10) minute rest period in the afternoon during a normal eight (8) hour shift.

At my choice, I voluntarily elect and choose to take a single twenty (20) minute paid rest period within the first three (3) hours of my work shift and forego the afternoon ten (10) minute rest period, instead of taking the two (2) authorized ten (10) minute rest periods, as set forth above.

I hereby acknowledge that I have been advised by my employer that I may revoke this election at any time by providing written notice to my employer, of the revocation of this election.

I understand and agree that if I have any claim that my employer has not provided rest periods as required by law or the collective bargaining agreement, I must file a grievance with my union, the Painters and Allied Trades District Council No. 36, Drywall Finishers Local Union 1136, pursuant to the grievance/ arbitration procedure of the collective bargaining agreement.

This election is voluntarily made and is solely based on my understanding of the above-mentioned options, and shall remain in full effect until revoked in writing by me.

PRINT NAME: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

LAST FOUR DIGITS OF SSN: \_\_\_\_\_

DATE: \_\_\_\_\_

**PAINTERS AND ALLIED TRADES DISTRICT COUNCIL NO. 36  
SO CA DRYWALL FINISHERS JOINT MASTER LABOR AGREEMENT**

**AUGUST 1, 2022 – JULY 31, 2026**

**UNION:**

Signed this \_\_\_\_\_ Day of \_\_\_\_\_ 20 \_\_\_\_\_

Union Officer: \_\_\_\_\_

Title: \_\_\_\_\_

**EMPLOYER:** \_\_\_\_\_

**(Company name)**

By: \_\_\_\_\_

**(Printed name of signing party)**

By: \_\_\_\_\_

**(Signature)**

Title: \_\_\_\_\_

Address: \_\_\_\_\_

City & State \_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax Number: \_\_\_\_\_

Email \_\_\_\_\_

State Contractor's License Number \_\_\_\_\_

Workers' Compensation Insurance Carrier: \_\_\_\_\_

Federal ID Number: \_\_\_\_\_

State ID Number: \_\_\_\_\_