STANDARD FORM OF

UNION AGREEMENT

AND

ADDENDA THERETO

BETWEEN

SHEET METAL WORKERS' INTERNATIONAL ASSOCIATION

LOCAL UNION NO. 104

AND

BAY AREA ASSOCIATION OF SMACNA CHAPTERS

EFFECTIVE JULY 1, 2006 THROUGH JUNE 30, 2010

SHEET METAL WORKERS' INTERNATIONAL ASSOCIATION
LOCAL UNION NO. 104

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TABLE OF CONTENTS

BUILDING TRADES STANDARD FORM OF UNION AGREEMENT

ARTICLE			PAGE
I		SCOPE OF WORK	1
II		SUBCONTRACTING	1
III		CLASSIFICATIONS OF WORKERS AND LETTERS OF ASSIGNMENT	1
IV		PROVIDING QUALIFIED WORKFORCE	1
V		UNION SECURITY	1
VI		HOURS, HOLIDAYS, OVERTIME, AND SHIFT WORK	2
VII		TRAVEL, MILEAGE, AND SUBSISTENCE	2
VIII	Section 1	WAGES	2
	Section 2-5	WAGE EQUALIZATION	2
	Section 6	TWO-PERSON RULE	3
	Section 7	DEFINITION OF WAGE SCALE	3
	Section 8	TRUST FUND RECIPROCITY	3
	Section 9	PAY PERIOD	3
	Section 10	SHOW-UP PAY	3
	Section 11	JOURNEYPERSON REQUIREMENT	3
	Section 12	IFUS CONTRIBUTIONS	3
	Section 13	LOCAL IPF CONTRIBUTIONS	4
	Section 14	RECOGNITION OF IFUS AND IPF CONTRIBUTIONS	4
	Section 15	ITI, NEMIC, AND SMOHIT CONTRIBUTIONS	5
	Section 16	DELINQUENT FUND CONTRIBUTIONS	5
	Section 17	BONDING	5
IX		TOOLS AND TRANSPORTATION	5
X		GRIEVANCE PROCEDURE	6
XI		JOINT APPRENTICESHIP	8
XII		PRE-APPRENTICE	8
XIII		CLASSIFIED WORKERS	8
XIV		LABOR-MANAGEMENT COMMITTEES	8
XV		NON-DISCRIMINATION	8
XVI		SIGNING OF AGREEMENT	8

ADDENDUM NUMBER ONE

ITEM		PAGE
1.	WAGE AND FRINGE SCHEDULE	11
2.	FOREPERSON AND GENERAL FOREPERSON	12
3.	VACATION-HOLIDAY-SAVINGS PLAN	13
4.	HOURLY FRINGE CONTRIBUTIONS	13
5.	PAYMENTS TO FUNDS AND BONDING	15
6.	NOTARIZED CERTIFIED PAYROLL	17
7.	WORKWEEK - HOURS AND OVERTIME	17
8.	HOLIDAYS	19
9.	SHIFT WORK	19
10.	DETAILING	20
11.	TRAVEL, MILEAGE, AND SUBSISTENCE	20
12.	PARKING	22
13.	INJURY PAY	22
14.	VEHICLE IDENTIFICATION	22
15.	GENERAL SAFETY ORDERS	22
16.	CHECK STUBS	22
17.	WELDING CERTIFICATION	22
18.	PERSONAL TOOLS	23
19.	STEWARDS	24
20.	ACCESS CLAUSE	24

21. UNION LABEL/WAGE EQUALIZATION....24
22. SMACNA STANDARDS OF WORK....25
23. HIRING HALL AND REFERRAL....25
24. JOINT APPRENTICESHIP TRAINING COMMITTEE....29
25. PRE-APPRENTICE....30
26. MATERIAL EXPEDITER....31
27. MOONLIGHTING....31
28. DEFINITION OF EMPLOYEE....31
29. DEFINITION OF EMPLOYER....32
30. MANAGEMENT RIGHTS CLAUSE....32
31. LUMPING OF LABOR — PIECEWORK....32
32. TASK FORCE....32
33. RECOGNITION CLAUSE....33
34. STRIKES — LOCKOUTS....33
35. EQUALITY OF OPERATIONS....33
36. INTERPRETATION OF AGREEMENT AND GENERAL SAVINGS CLAUSE....33
37. INTEGRITY CLAUSE....33
38. SMWIA/SMACNA DRUG POLICY....34
39. PHYSICAL EXAMS....35
40. WORK PRESERVATION....35
41. DRIVER INSURABILITY....35
42. EQUAL OPPORTUNITY....35
43. PRESERVATION OF EMPLOYMENT OPPORTUNITY....36
44. SUCCESSORSHIP....37
45. POLITICAL CONTRIBUTIONS....37
46. SERVICE WORK....37
47. RESOLUTION 78....38
48. SIGNING OF AGREEMENT....38
49. ALTERNATIVE DISPUTE RESOLUTION (A.D.R.)....38

EXHIBIT A
COMPANY-WIDE APPRENTICE AND PRE-APPRENTICE RATIO....39

LIGHT COMMERCIAL ADDENDUM NUMBER TWO

ITEM **PAGE**
1. AREA AND TERM OF ADDENDUM....41
2. DEFINITIONS....41
3. CLASSIFICATIONS....41
4. AIR CONDITIONING SPECIALIST RATIO....42
5. WAGES....42
6. SUPPLEMENTAL PENSION CLASSIFICATIONS....43
7. WORKWEEK AND OVERTIME....44
8. SERVICE WORK:....44
9. PENALTIES....45
10. SAN FRANCISCO FLEX RESTRICTION....45

WESTERN STATES COUNCIL OF CALIFORNIA, ARIZONA, NEVADA, AND HAWAII

Local Unions' Addresses and Phone Numbers....46

BUILDING TRADES
STANDARD FORM OF UNION AGREEMENT
SHEET METAL, ROOFING, VENTILATING AND
AIR CONDITIONING CONTRACTING DIVISIONS
OF THE CONSTRUCTION INDUSTRY

This Agreement (SFUA Form A-01-05), hereinafter, "SFUA," and applicable Addenda amending the July 1994 Agreement and subsequent modifications negotiated between the Sheet Metal Workers' International Association Local 104, hereinafter referred to as the "Union," and the Bay Area Association of SMACNA Chapters, and the applicable local chapters for Greater Oakland, Redwood Empire, San Francisco, San Mateo, and Santa Clara, for and on behalf of its members and individual signatory contractors, hereinafter referred to as "Employer," covers all work for Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Monterey, Napa, San Benito, San Francisco, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, and Trinity Counties of California. The parties agree that the terms and conditions contained in this Agreement and applicable Addenda shall apply as the minimum conditions for all work performed hereunder, for and within this contract jurisdiction. All signatory contractors must comply with the terms and conditions applicable to all work performed in given geographical areas as will be noted by area and contained in braces { } below.

ARTICLE I – SCOPE OF WORK

SECTION 1. This Agreement covers the rates of pay and conditions of employment of all employees of the Employer engaged in but not limited to the: (a) manufacture, fabrication, assembling, handling, erection, installation, dismantling, conditioning, adjustment, alteration, repairing, and servicing of all ferrous or nonferrous metal work and all other materials used in lieu thereof and of all HVAC systems, air-veyor systems, exhaust systems, and air-handling systems regardless of material used, including the setting of all equipment and all reinforcements in connection therewith; (b) all lagging over insulation and all duct lining; (c) testing and balancing of all air-handling equipment and ductwork; (d) the preparation of all shop and field sketches, whether manually drawn or computer assisted, used in fabrication and erection, including those taken from original architectural and engineering drawings or sketches; (e) metal roofing; (f) all other work included in the jurisdictional claims of Sheet Metal Workers' International Association.

ARTICLE II – SUBCONTRACTING

SECTION 1. No Employer shall subcontract or assign any of the work described herein, which is to be performed at a jobsite, to any contractor, subcontractor or other person or party who fails to agree in writing to comply with the conditions of employment contained herein, including, without limitations, those relating to Union security, rates of pay and working conditions, hiring, and other matters covered hereby for the duration of the project.

SECTION 2. Subject to other applicable provisions of this Agreement, the Employer agrees that when subcontracting for prefabrication of materials covered herein, such prefabrication shall be subcontracted to fabricators who pay their employees engaged in such fabrication not less than the prevailing wage for comparable sheet metal fabrication, as established under provisions of this Agreement. (SEE ADDENDUM ONE, ITEM 40 – WORK PRESERVATION.)

ARTICLE III – CLASSIFICATIONS OF WORKERS AND LETTERS OF ASSIGNMENT

SECTION 1. The Employer agrees that none but Journeyperson, Apprentice, Pre-apprentice, and Classified Sheet Metal Workers shall be employed on any work described in Article I and further, for the purpose of proving jurisdiction, agrees to provide the Union with written evidence of assignment on the Employer's letterhead for certain specified items of work to be performed at a jobsite prior to commencement of work at the site. A list of such specific items, which may be revised from time to time, as agreed to by and between SMACNA and SMWIA, shall be provided to the Employer.

ARTICLE IV – PROVIDING QUALIFIED WORKFORCE

SECTION 1. The Union agrees to furnish upon request by the Employer duly qualified Journeyperson, Apprentice, Pre-apprentice, and Classified Sheet Metal Workers in sufficient numbers as may be necessary to properly execute work contracted for by the Employer in the manner and under the conditions specified in this Agreement.

ARTICLE V – UNION SECURITY

SECTION 1. The Employer agrees to require membership in the Union, as a condition of continued employment

of all employees performing any of the work specified in Article I of this Agreement, within eight (8) days following the beginning of such employment or the effective date of this Agreement, whichever is the later, provided the Employer has reasonable grounds for believing that membership is available to such employees on the same terms and conditions generally applicable to other members and that membership is not denied or terminated for reasons other than the failure of the employee to tender the periodic dues and initiation fee uniformly required as a condition of acquiring or retaining membership.

SECTION 2. If during the term of this Agreement, the Labor-Management Relations Act of 1947 shall be amended by Congress in such manner as to reduce the time within which an employee may be required to acquire union membership, such reduced time limit shall become immediately effective instead of and without regard to the time limit specified in Section 1 of this Article.

SECTION 3. The provisions of this Article shall be deemed to be of no force and effect in any state to the extent to which the making or enforcement of such provision is contrary to law. In any state where the making and enforcement of such provision is lawful only after compliance with certain conditions precedent, this Article shall be deemed to take effect as to involved employees immediately upon compliance with such conditions.

SECTION 4. The Employer agrees to deduct Union dues, assessment or service fees (excluding fines and initiation fees) from each week's pay of those employees who have authorized such deductions in writing, irrespective of whether they are Union members. (See Addendum One, Item 4.)

ARTICLE VI – HOURS, HOLIDAYS, OVERTIME, AND SHIFT WORK -
(SEE ADDENDA ONE AND TWO.)

ARTICLE VII – TRAVEL, MILEAGE, AND SUBSISTENCE - (SEE ADDENDUM ONE, ITEM 11.)

ARTICLE VIII

SECTION 1. **WAGES** - The minimum rate of wages for employees covered by this Agreement when employed in a shop or on a job within the jurisdiction of the Union to perform any work specified in Article I of this Agreement shall be (see Addenda One and Two) per hour, except as specified hereinafter in Section 2 of this Article.

WAGE EQUALIZATION

SECTION 2. On all work specified in Article I of this Agreement, fabricated and/or assembled by Journeypersons, Apprentices, Pre-apprentices, and/or Classified Sheet Metal Workers within the jurisdiction of this Union or elsewhere, for erection and/or installation within the jurisdiction of any other collective bargaining areas or local union affiliated with Sheet Metal Workers' International Association, whose established wage scale is higher than the wage scale specified in this Agreement, the higher wage scale of the jobsite union shall be paid to the employees employed on such work in the home shop or sent to the jobsite.

SECTION 3. The provisions of Section 2 of this Article, Section 2 of Article II, and Section 1 of Article III shall not be applicable to the manufacture for sale to the trade or purchase of the following items:

1. Ventilators
2. Louvers
3. Automatic and fire dampers
4. Radiator and air conditioning unit enclosures
5. Fabricated pipe and fittings for residential installations as defined in the locality
6. Mixing (attenuation) boxes
7. Plastic skylights
8. Air diffusers, grilles, registers
9. Sound attenuators
10. Chutes
11. Double-wall panel plenums
12. Angle rings

SECTION 4. The provisions of Section 2 of this Article shall not be applicable to air pollution control systems fabricated for the purpose of removing air pollutants, excluding air conditioning, heating, and ventilating systems. In addition, the provisions of Section 2 of this Article will not be applicable to the manufacture of spiral pipe and fittings, except when such a provision is contained in the Local Union Agreement or Addendum to the SFUA. (See Addendum One, Items 21 & 40.)

SECTION 5. Except as provided in Sections 2 and 6 of this Article, the Employer agrees that Journeyperson, Pre-apprentice and Classified Sheet Metal Workers hired outside the territorial jurisdiction of this Agreement shall receive the wage scale and working conditions of the local agreement covering the territory in which such work is performed or supervised.

SECTION 6. **TWO-PERSON RULE** - When the Employer has any work specified in Article I of this Agreement to be performed outside of the area covered by this Agreement and within the area covered by another Agreement with another local union affiliated with the Sheet Metal Workers' International Association, and qualified sheet metal workers are available in such area, the Employer may send no more than two (2) sheet metal workers per job into such area to perform any work which the Employer deems necessary, both of whom shall be from the Employer's home jurisdiction. All additional sheet metal workers shall come from the area in which the work is to be performed. Journeyperson sheet metal workers covered by this Agreement who are sent outside of the area covered by this Agreement shall be paid at least the established minimum wage scale specified in Section 1 of this Article, but in no case less than the established wage scale of the local Agreement covering the territory in which such work is performed or supervised, plus all necessary transportation, travel time, board, and expenses while employed in that area, and the Employer shall be otherwise governed by the established working conditions of the local Agreement. If employees are sent into an area where there is no local Agreement of the Sheet Metal Workers' International Association covering the area, then the minimum conditions of the home local union shall apply.

SECTION 7. **DEFINITION OF WAGE SCALE** - In applying the provisions of Sections 2, 5, and 6 of this Article VIII, the term "wage scale" shall include the value of all applicable hourly contractual benefits in addition to the hourly wage rate provided in said Sections.

SECTION 8. **TRUST FUND RECIPROCITY** - Welfare benefit contributions shall not be duplicated.

When sheet metal workers are employed temporarily outside the jurisdiction of their home local union, the parties signatory to this Agreement agree to arrange through the Health and Welfare Trust Fund to transmit health and welfare contributions made on behalf of the employee to the Health and Welfare Trust Fund in the employee's home local union.

The parties to this Agreement agree to establish a system for continuing health and welfare coverage for employees working temporarily outside the jurisdiction of the local collective bargaining agreement when health and welfare contributions are transmitted on their behalf by trust funds from other areas.

When sheet metal workers are temporarily employed outside the jurisdiction of their home local union, the parties signatory to this Agreement shall arrange to transmit any 401(k) contributions required to be made to a 401(k) plan where the work is performed to a 401(k) plan established for the employee's home local union, and/or to the National Supplemental Savings Fund. This obligation is conditioned upon a suitable reciprocity arrangement being agreed to by the trustees of such plans.

SECTION 9. **PAY PERIOD** - (SEE ADDENDUM ONE, ITEM 1,SECTION B.)

SECTION 10. **SHOW-UP PAY** - Journeyperson, Apprentice, Pre-apprentice, and Classified Sheet Metal Workers who report for work by direction of the Employer, and are not placed to work, shall be entitled to two (2) hours' pay at the established rate. This provision, however, shall not apply under conditions over which the Employer has no control.

SECTION 11. **JOURNEYPERSON REQUIREMENT** - Each Employer covered by this Agreement shall employ at least one (1) Journeyperson sheet metal worker who is not a member of the firm, on all work specified in Article I of this Agreement. However, it will be permissible for an owner/member to be the Journeyperson sheet metal worker.

SECTION 12(a). **IFUS CONTRIBUTIONS** - Contributions provided for in Section 12(b) of this Article will be used to promote programs of industry education, training, negotiation, and administration of collective bargaining agreements, research, and promotion; such programs serving to expand the market for the services of the sheet metal industry, improve the technical and business skills of Employers, stabilize and improve Employer Union relations, and promote, support, and improve the employment opportunities for employees. No part of any such payments, however, shall be used for any other purpose, except as expressly specified above.

(b) The Employer shall pay the Sheet Metal and Air Conditioning Contractors' National Industry Fund of the United States (IFUS) seven cents ($0.07) per hour for each hour worked on and after the effective date of this Agreement by each employee of the Employer covered by this Agreement. Payment shall be made on or before the twentieth (20th) day of the succeeding month and shall be remitted to IFUS (4201 Lafayette Center Drive, Chantilly, Virginia, 20151.1209) or for the purpose of transmittal, through Local Union No. 104 Trust Fund Administrator.

(c) The IFUS shall submit to the Sheet Metal Workers' International Association not less often than semi-annually, written reports describing accurately and in reasonable detail, the nature of activities in which it is engaged or which it supports directly or indirectly with any of its funds. One (1) time per year, the IFUS shall include in such written report a financial statement attested to by a certified public accountant containing its balance sheet and detailed statement of annual receipts and disbursements. Further specific detailed information in regard to IFUS activities or its receipts and/or expenditures shall be furnished to the Sheet Metal Workers' International Association upon written request.

(d) Grievances concerning use of IFUS funds for purposes prohibited under Section 12(a) or for violations of other subsections of this Section, may be processed by the Sheet Metal Workers' International Association directly to the National Joint Adjustment Board, hereinafter "NJAB," under the provisions of Article X of this Agreement. In the event such proceeding results in a deadlock, either party may, upon ten (10) days' notice to the other party, submit the issue to final and binding arbitration. The arbitrator shall be selected by the Co-chairs of the NJAB. The arbitrator shall be authorized to impose any remedial order he/she deems appropriate for violation of this Section, including termination of the Employer's obligation to contribute to the IFUS. The authority of the arbitrator is expressly limited to a determination of a deadlocked issue under this Section (Article VIII, Section 12) and no other.

SECTION 13(a). **LOCAL IPF CONTRIBUTIONS** - Contributions provided for in Section 13(b) of this Article will be used to promote programs of industry education, training, negotiation, and administration of collective bargaining agreements, research, and promotion; such programs serving to expand the market for the services of the sheet metal industry, improve the technical and business skills of Employers, stabilize and improve Employer-Union relations and promote, support, and improve the employment opportunities for employees. No part of any such payments, however, shall be used for any other purpose, except as expressly specified above.

(b) The Employer shall pay to the Bay Area Industry Promotion Fund, hereinafter referred to as the Local Industry Fund, sixty-five cents ($0.65) per hour for each hour worked on or after the effective date of this Agreement by each employee of the Employer covered by this Agreement. Payment shall be made monthly on or before the twentieth (20th) day of the succeeding month.

(c) The Local Industry Fund shall furnish to the Business Manager of the Union, not less often than semi-annually, written reports describing in reasonable detail the nature of activities in which it is engaged or which it supports directly or indirectly with any of its funds. One (1) time per year the Local Industry Fund shall include in such written report, a statement attested to by a certified public accountant and containing its balance sheet and detailed statement of receipts and disbursements. Further specific detailed information in regard to Local Industry Fund activities or its receipts and/or disbursements shall be furnished to the Business Manager of the Union upon his/her written request.

(d) Grievances concerning use of Local Industry Fund monies to which an Employer shall contribute for purposes prohibited under Section 13(a) or for violations of other subsections of this Section shall be handled under the provisions of Article X of this Agreement. The NJAB shall be authorized to impose any remedial order for violation of this Section, including termination of the Employer's obligation to contribute to the Local Industry Fund.

SECTION 14. **RECOGNITION OF IFUS AND IPF CONTRIBUTIONS** - The Union and Employer recognize that the contributions provided in Sections 12(b) and 13(b) of this Article support activities that benefit the entire sheet metal industry. It is essential that the Employer support these activities, even though it may be performing sheet metal work under the provisions of a separate project agreement or maintenance agreement. Therefore, hours worked for purposes of determining the contributions required under Sections 12(b) and 13(b) of this Article shall include all hours worked by each employee of the Employer under any project agreement or maintenance agreement, unless specifically excluded by the terms of a written addendum that is negotiated by the Contractors' Association and the Local Union that are parties to this Agreement.

SECTION 15. **ITI, NEMIC, AND SMOHIT CONTRIBUTIONS** - Effective as of the date of this Agreement, the Employers will contribute to the International Training Institute for the Sheet Metal and Air Conditioning Industry (ITI) twelve cents ($0.12) per hour for each hour worked by each employee of the Employer covered by this Agreement. Payment shall be made on or before the twentieth (20th) day of the succeeding month and shall be remitted as designated by the Trustees of the ITI or for purposes of collection and transmittal, through Local Union No. 104 Trust Fund Administrator.

Effective as of the date of this Agreement the Employers will contribute to the National Energy Management Institute Committee (NEMIC), a jointly administered trust fund, three cents ($0.03) per hour for each hour worked by each employee of the Employer covered by this Agreement. Payment shall be made on or before the twentieth (20th) day of the succeeding month and shall be remitted as designated by the Trustees of the NEMIC or for the purposes of collection and transmittal, through the Local Union No. 104 Trust Fund Administrator.

Effective as of the date of this Agreement the Employers will contribute to the Sheet Metal Occupational Health Institute Trust (Institute) two cents ($0.02) per hour for each hour worked by each employee of the Employer covered by this Agreement until the Institute Trustees determine that the Trust is financially self-sufficient. Payment shall be made on or before the twentieth (20th) day of the succeeding month and shall be remitted as designated by the Trustees of the Institute or for purposes of collection and transmittal, through the Local Union No. 104 Trust Fund Administrator.

The parties agree to be bound by the separate Agreements and Declarations of Trusts establishing the International Training Institute for the Sheet Metal and Air Conditioning Industry, the National Energy Management Institute Committee, the Sheet Metal Occupational Health Institute Trust, and the Industry Fund of the United States and the separate Agreements and Declarations of Trusts of all other local or national programs to which it has been agreed that contributions will be made. In addition, the parties agree to be bound by any amendments upon proper notification to said trust agreements as may be made from time to time and hereby designate as their representatives on the Board of Trustees such trustees as are named together with any successors who may be appointed pursuant to said agreements.

The parties authorize the Trustees of all National Funds to cooperatively establish uniform collection procedures to provide for efficient and effective operation of the various national trusts.

SECTION 16. **DELINQUENT FUND CONTRIBUTIONS** - (SEE ADDENDUM ONE, ITEM 5.)

SECTION 17(a). **BONDING** - The Employer shall comply with any bonding provisions governing local funds that may be negotiated by the local parties and set forth as a written addendum to this Agreement. The Employer shall likewise comply with bonding requirements established by the Trustees of the National Funds. (See Addendum One, Item 5, Section D.)

(b) When an Employer is performing any work specified in Article I of this Agreement outside of the area covered by this Agreement, and within the area covered by another Agreement with a local union affiliated with the Sheet Metal Workers' International Association, the Employer shall comply with uniformly applied bonding requirements of that local area that are reasonable and necessary to ensure the timely payment of any contribution that may be required to Local and National Funds, but in no event shall such bonds be in excess of three (3) months estimated contributions to Local and National Funds.

(c) An Employer that has been delinquent in making contributions to any national or local fund shall, upon written notification of the trustees or Local Union, make the specified payment to such fund at weekly intervals. Such obligation shall continue until the Employer has not been delinquent in making contributions for a period of twelve (12) consecutive months.

ARTICLE IX – TOOLS AND TRANSPORTATION

SECTION 1. Journeyperson, Apprentice, Pre-apprentice, and Classified Sheet Metal Workers covered by this Agreement shall provide for themselves all necessary hand tools. The Union and the Employer shall establish a standardized tool list. (See Addendum One, Item 18.)

SECTION 2. Journeyperson, Apprentice, Pre-apprentice, and Classified Sheet Metal Workers covered by this Agreement shall not be permitted or required as a condition of employment to furnish the use of automobile or other conveyance to transport men, tools, equipment or materials from shop to job, from job to job or from job to shop; facilities for such transportation to be provided by the Employer. This provision shall not restrict the use of an automobile or other conveyance to transport its owner and personal tools from home to shop or job at starting time or from shop or job to home at quitting time.

However, all employees shall be permitted to carry one company-supplied battery drill/screw gun and accessories thereto, from job to job, provided that the battery drill/screw gun is permanently marked as property of the company.

ARTICLE X – GRIEVANCE PROCEDURE

The Union and the Employer, whether party to this Agreement independently or as a member of a multiemployer bargaining unit, agree to utilize and be bound by this Article.

SECTION 1. Grievances of the Employer or the Union, arising out of interpretation or enforcement of this Agreement, shall be settled between the Employer directly involved and the duly authorized representative of the Union, if possible. Both parties may participate in conferences through representatives of their choice. The local Employers' association or the Local Union, on its own initiative, may submit grievances for determination by the Board as provided in this Section. The grievance procedure set forth in this Article applies only to Labor-Management disputes.

To be valid, grievances must be raised within thirty (30) calendar days following the occurrence giving rise to the grievance or, if the occurrence was not ascertainable, within thirty (30) calendar days of the first knowledge of the facts giving rise to the grievance.

SECTION 2. Grievances not settled as provided in Section 1 of this Article may be appealed by either party to the Local Joint Adjustment Board, hereinafter "LJAB," where the work was performed or in the jurisdiction of the Employer's home local and such Board shall meet promptly on a date mutually agreeable to the members of the Board, but in no case more than fourteen (14) calendar days following the request for its services, unless the time is extended by mutual agreement of the parties or LJAB. The Board shall consist of representatives of the Union and of the local Employers' association and both sides shall cast an equal number of votes at each meeting. Except in the case of a deadlock, a decision of the LJAB shall be final and binding.

Notice of appeal to the LJAB shall be given within thirty (30) days after termination of the procedures prescribed in Section 1 of this Article, unless the time is extended by a mutual agreement of the parties.

SECTION 3. Grievances not disposed of under the procedure prescribed in Section 2 of this Article because of a deadlock or failure of such Board to act, may be appealed jointly or by either party, to a Panel consisting of one (1) representative appointed by the Labor Co-chair of the NJAB and one (1) representative appointed by the Management Co-chair of the NJAB. Appeals shall be mailed to the NJAB. *Notice of appeal to the Panel shall be given within thirty (30) days after termination of the procedures prescribed in Section 2 of this Article. Such Panel shall meet promptly but in no event more than fourteen (14) calendar days following receipt of such appeal, unless such time is extended by mutual agreement of the Panel members. Except in case of deadlock, the decision of the Panel shall be final and binding.

In establishing the grievance procedure of the SFUA, it was the intent of Sheet Metal Workers' International Association and the Sheet Metal and Air Conditioning Contractors' National Association, Inc., to establish a method for resolving grievances permitting appeals for out-of-area Employers from the grievance arbitration procedures established for the territory in which work is performed. An Employer who was not a party to the Labor Agreement of the area in which the work in dispute is performed may appeal the decision of the LJAB from that area, including a unanimous decision, as well as a decision of any alternative arbitration tribunal established for that area, and request a Panel hearing as set forth in Section 3 of this Article, providing such appeal is approved by the Co-chairs of the NJAB. Such a right of appeal shall exist despite any contrary provision in the agreement covering the area in which the work is performed.

For the purposes of this Section, an Employer who is party to the Labor Agreement of the area in which the work in dispute is performed, but has no permanent shop within the area served by the LJAB that rendered the

unanimous decision may also be entitled to appeal a deadlocked or unanimous LJAB decision and request a Panel hearing.

SECTION 4. Grievances not settled as provided in Section 3 of this Article may be appealed jointly or by either party, to the NJAB. Submissions shall be made and decisions rendered under such procedures as may be prescribed by such Board. Appeals to the NJAB shall be submitted within thirty (30) days after termination of the procedures described in Section 3 of this Article. The Procedural Rules of the NJAB are incorporated in this Agreement as though set out in their entirety. (*Copies of the procedures may be obtained from the NJAB.)

SECTION 5. An LJAB, Panel, and the NJAB are empowered to render such decisions and grant such relief to either party as they deem necessary and proper, including awards of damages or other compensation.

SECTION 6. In the event of non-compliance within thirty (30) calendar days following the mailing of a decision of an LJAB, Panel or the NJAB, a local party may enforce the award by any means, including proceedings in a court of competent jurisdiction in accord with applicable state and federal law. If the party seeking to enforce the award prevails in litigation, such party shall be entitled to its costs and attorney's fees in addition to such other relief as is directed by the courts. Any party that unsuccessfully challenges the validity of an award in a legal proceeding shall also be liable for the costs and attorney's fees of the opposing parties in the legal proceedings.

***All correspondence to the National Joint Adjustment Board shall be sent to the following address:**
National Joint Adjustment Board, P.O. Box 220956, Chantilly, VA 20153.0956
or 4201 Lafayette Center Drive, Chantilly, VA 20151.1209

SECTION 7. Failure to exercise the right of appeal at any step thereof, within the time limit provided therefore, shall void any right of appeal applicable to the facts and remedies of the grievances involved. There shall be no cessation of work by strike or lockout during the pendency of the procedures provided for in this Article. Except in case of deadlock, the decision of the NJAB shall be final and binding.

SECTION 8. In addition to the settlement of grievances arising out of interpretation or enforcement of this Agreement as set forth in the preceding sections of this Article, any controversy or dispute arising out of the failure of the parties to negotiate a renewal of this Agreement shall be settled as hereinafter provided:

(a) Should the negotiations for a renewal of this Agreement or negotiations regarding a wage/fringe reopener become deadlocked in the opinion of the Union representative(s) or of the Employer(s') representative(s) or both, notice to that effect shall be given to the NJAB.

If the Co-chairs of the NJAB believe the dispute might be adjusted without going to final hearing before the NJAB, each will then designate a Panel representative who shall proceed to the locale where the dispute exists, as soon as convenient, and attempt to conciliate the differences between the parties and bring about a mutually acceptable agreement. If such Panel representatives or either of them, conclude that they cannot resolve the dispute, the parties thereto and the Co-chairs of the NJAB shall be promptly so notified without recommendation from the Panel representatives. Should the Co-chairs of the NJAB fail or decline to appoint a Panel member or should notice of failure of the Panel representatives to resolve the dispute be given, the parties shall promptly be notified so that either party may submit the dispute to the NJAB.

In addition to the mediation procedure set forth above or as an alternate thereto, the Co-chairs of the NJAB may each designate a member to serve as a subcommittee and hear the dispute in the local area. Such subcommittees shall function as arbitrators and are authorized to resolve all or part of the issues. They are not, however, authorized to deadlock; and the matter shall be heard by the NJAB in the event a subcommittee is unable to direct an entire resolution of the dispute.

The dispute shall be submitted to the NJAB pursuant to the rules as established and modified from time to time by the NJAB. The unanimous decision of said Board shall be final and binding upon the parties, reduced to writing, signed, and mailed to the parties as soon as possible after the decision has been reached. There shall be no cessation of work by strike or lockout, unless and until said Board fails to reach a unanimous decision and the parties have received written notification of its failure.

(b) Any application to the NJAB shall be upon forms prepared for that purpose, subject to any changes which may be decided by the Board from time to time. The representatives of the parties who appear at the hearing will be given the opportunity to present oral argument and to answer any questions raised by members of the Board. Any briefs filed by either party, including copies of pertinent exhibits, shall also be exchanged between the parties and filed with the NJAB at least twenty-four (24) hours in advance of the hearing.

(c) The NJAB shall have the right to establish time limits which must be met with respect to each and every step or procedure contained in this Section. In addition, the Co-chairs of the NJAB shall have the right to designate time limits which will be applicable to any particular case and any step therein which may be communicated to the parties by mail, facsimile or telephone notification.

(d) Unless a different date is agreed upon mutually between the parties or is directed by the unanimous decision of the NJAB, all effective dates in the new Agreement shall be retroactive to the date immediately following the expiration date of the expiring Agreement.

SECTION 9. Employers not contributing to the Industry Fund of the United States (IFUS) will be assessed a fee to be determined periodically by the Administrator of the NJAB. Proceeds will be used to reimburse IFUS for costs of arbitration under the provisions of Article X.

SECTION 10. In addition to the settlement of disputes provided for in Sections 1 through 8 of this Article, either party may invoke the services of the NJAB to resolve disputes over the initial establishment of terms for specialty addenda, if the provisions of Article X have been adopted in their entirety and without modification.

Such a dispute may be submitted upon the request of either party any time that Local negotiations for such an agreement have been unsuccessful. Such a dispute shall be submitted to the NJAB pursuant to the rules as established and modified from time to time by said Board. The unanimous decision of said Board shall be final and binding upon the parties. There shall be no strike or lockout over such a dispute.

SECTION 11. In administering and conducting dispute resolution activities under the arbitration procedures of the SFUA, the NJAB, the Sheet Metal Workers' International Association, the Sheet Metal and Air Conditioning Contractors' National Association, Inc., and their representatives are functioning as arbitrators and not as the representative of any entity that is party to such dispute. Therefore, they shall enjoy all of the rights, privileges, and immunities afforded to arbitrators under applicable law.

ARTICLE XI – JOINT APPRENTICESHIP – (SEE ADDENDUM ONE, ITEM 24.)

ARTICLE XII – PRE-APPRENTICE – (SEE ADDENDUM ONE, ITEM 25.)

ARTICLE XIII – CLASSIFIED WORKERS – (SEE ADDENDA ONE AND TWO.)

ARTICLE XIV – LABOR-MANAGEMENT COMMITTEES

SECTION 1. SMACNA and the SMWIA are committed to promoting productive and cooperative Labor-Management relations. In furtherance of this goal, the local Employers' association and Local Union agree to establish a Labor-Management Committee which shall meet on a regular basis, but not less often than quarterly, to discuss industry issues of mutual concern. Such committees will strive to improve communications, understand and respond to industry direction and trends and resolve common issues collaboratively.

ARTICLE XV – NON-DISCRIMINATION

SECTION 1. In applying the terms of this Agreement, and in fulfilling their obligations thereunder, neither the Employer nor the Union will discriminate in any manner prohibited by law.

ARTICLE XVI – SIGNING OF AGREEMENT

SECTION 1. This Agreement and Addenda Numbers One and Two attached hereto shall become effective on the first (1st) day of July, 2006, and remain in full force and effect until the thirtieth (30th) day of June, 2010, and shall continue in force from year to year thereafter, unless written notice of reopening is given not less than ninety (90) days prior to the expiration date. In the event such notice of reopening is served, this Agreement shall continue in force and effect until conferences relating thereto have been terminated by either party by

written notice, provided however, that if this Agreement contains Article X, Section 8, it shall continue in full force and effect until modified by order of the NJAB or until the procedures under Article X, Section 8 have been otherwise completed.

SECTION 2. If, pursuant to federal or state law, any provision of this Agreement shall be found by a court of competent jurisdiction to be void or unenforceable, all of the other provisions of this Agreement shall remain in full force and effect. The parties agree to meet and negotiate a substitute provision. If negotiations are unsuccessful, the issue may be submitted for resolution by either party pursuant to Article X, Section 8 of this Agreement.

SECTION 3. Notwithstanding any other provision of this Article or any other Article of this Agreement, whenever an amendment to the SFUA shall be adopted by the sponsoring national associations, any party to this Agreement, upon the service of notice to all other parties hereto, shall have this Agreement reopened thirty (30) days thereafter, for the sole and only purpose of attempting to negotiate such amendment or amendments into this Agreement for the duration of the term hereof. There shall be no strike or lockout over this issue.

SECTION 4. The Sheet Metal Workers' International Association Local Union 104 and all applicable area SMACNA Chapters and Bay Area Association of SMACNA Chapters are hereby designated as the respective Labor and Management collective bargaining agents for all persons and firms bound by this Agreement or those contracting or performing work covered by this Agreement and Addenda, for renegotiations, amendments, renewal, deletion, modification, extension, or any other changes as may be agreed upon by them. Each Employer signatory to or performing work as described in Article I within the territorial jurisdiction of said Agreement, hereby agrees to be bound by any such renegotiations, modifications, amendments, changes, extensions, or renewals on the same effective date as agreed upon between said Association and Local 104. Should any changes be made during the life of this Agreement, as above provided, they shall be available, within a reasonable time, to all parties upon request. Notices of changes will be sent to all parties who request same and also furnish addresses. Each Employer hereby waives any right it may have to repudiate this Agreement during the term of this Agreement or during the term of any extension, modification, or amendment to this Agreement.

SECTION 5. By execution of this Agreement the Employer authorizes Bay Area Association of SMACNA Chapters to act as its collective bargaining representative for all matters relating to this Agreement. The parties agree that the Employer will hereafter be a member of the multiemployer bargaining unit represented by said Association unless this authorization is withdrawn by written notice to the Association and the Union at least one hundred-fifty (150) days prior to the then current expiration date of this Agreement.

In witness whereof, the parties hereto affix their signatures and seal this _____ day of _____ (Month), _____ (Year).

The SFUA is a recommended contract form that is revised from time to time by the Sheet Metal Workers' International Association and the Sheet Metal and Air Conditioning Contractors' National Association, Inc. In establishing such a recommended contract form, neither the Sheet Metal Workers' International Association nor the Sheet Metal and Air Conditioning Contractors' National Association, Inc., has acted as the bargaining representative of any entity that may adopt all or part of the language of the SFUA. Furthermore, neither the Sheet Metal Workers' International Association nor the Sheet Metal and Air Conditioning Contractors' National Association, Inc., shall be deemed to be a party to any such collective bargaining agreement including such language.

BAY AREA ASSOCIATION OF SMACNA CHAPTERS

BY _____
SIGNATURE OF OFFICER OR REPRESENTATIVE

_____
PRINT

_____
TITLE

_____
DATE

_____
CONTRACTOR

_____
CONTRACTOR LICENSE NUMBER

SHEET METAL WORKERS' INTERNATIONAL ASSOCIATION LOCAL UNION NO. 104

_____
SIGNATURE

_____
PRINT

BUSINESS MANAGER/PRESIDENT
TITLE

_____
DATE

ADDENDUM NUMBER ONE
TO THE
STANDARD FORM OF UNION AGREEMENT

All firms signatory hereto are bound to the Standard Form of Union Agreement, A-1-05, hereinafter "SFUA." This Addendum modifies and/or amends those terms or conditions of the SFUA when firms signatory hereto perform work described by this Addendum. Any contract items not specifically addressed/defined in this Addendum shall remain governed by the terms of the SFUA. The amendments to the applicable SFUA and Addendum Number One, excluding wage/fringe increases effective July 1, 2006, shall become effective for work with purchase orders dated after June 30, 2006.

ITEM 1. WAGE AND FRINGE SCHEDULE

SECTION A. The following wage/fringe increases shall be allocated as determined by the Local Union No. 104 members working under the terms and provisions of this Agreement. Such allocations shall be made to wages or to existing fringes or to any new funds as may be mutually agreed to by the parties.

HOURLY WAGE INCREASE

	7.1.06	1.1.07	7.1.07	7.1.08	7.1.09
Building Trades Journeyperson:	$3.00	$2.00	$4.00	$5.00	Wage Reopener
Material Expediter:	$1.75	-0-	$1.75	$1.75	Wage Reopener

The Apprentice gross taxable wage shall be the following percentage of the Class II Building Trades Journeyperson gross taxable wage, provided that no Apprentice shall have his/her percentage reduced:

Bracket	7.1.06	7.1.07	Bracket	7.1.06	7.1.07
1st	35%	40%	6th	60%	60%
2nd	40%	40%	7th	65%	65%
3rd	45%	45%	8th	70%	70%
4th	50%	50%	9th	75%	75%
5th	55%	55%	10th	80%	80%

The contributions for Apprentices to the Funds are made on the following percentages of the Building Trades Journeyperson contribution.

Northern California Pension – 20.7% National Pension – 58.0%
Local Supplemental Pension – 33.3%

Health Care (Schedule I), Local Training, Scholarship Fund, NEMIC, SMOHIT, and Industry Promotion Fund shall be one hundred percent (100%). Pre-apprentice gross taxable rate of pay shall be thirty percent (30%) of the Class II Building Trades Journeyperson gross taxable hourly wage rate. Payments to Health Care (Schedule II), Vacation-Holiday, Dues Check-off, Training, and Industry Funds will be in accordance with the Agreements between the parties and the applicable Trusts at the rates shown on the Wage and Fringe Schedule.

SECTION B. **PAY PERIOD** - Wages at the established rates specified herein shall be paid weekly, in the shop or on the job, at or before quitting time, no later than Friday or as mutually agreed. The employee may elect electronic deposit or mail to the last known address. The weekly paycheck will be electronically deposited within three (3) days or received by mail/or delivered within four (4) days of the end of the payroll period. If the employee receives their pay by noon the day after the due date, the employee shall receive two (2) hours gross taxable pay and thereafter, eight (8) hours gross taxable pay per day, until the employee is paid in full. However, employees, when discharged, shall be paid in full.

SECTION C. Bargaining unit employees hereunder shall include owner/members. Owner/members are proprietors, partners or corporate owners or officers or anyone participating in the management of the Employer, but who also perform work pursuant to this Agreement and who have applied for and been granted owner/member status by the Union. Owner/members shall pay all fringe contributions and dues on all actual hours worked with the tools, pursuant

to this Agreement, the actual hours worked under the Collective Bargaining Agreement or the minimum contribution hours set from time to time by the Trustees of the Funds stated in this Agreement, whichever is greater. Notice of changes in any minimum contributions required shall be mailed post-paid to the owner/member at least thirty (30) days in advance of the effective date of any such change. Any such notice shall be incorporated in this Agreement as if fully set out herein.

SECTION D. Wage/Fringe Schedules shall be attached hereto.

SECTION E. Employer contributions covering the Industry Promotion Funds are included in the above-attached wage and fringe rates.

SECTION F. **SUPPLEMENTAL PENSION** - Classifications of employees under this Agreement are based upon industry seniority under the Collective Bargaining Agreement and the attainment of advanced levels and experience and status within the trade. Applicable terms and conditions of this Agreement shall be applied in accordance with attained classification. Applications for classification designations shall be submitted to the Financial Secretary of the Union, and upon approval that the applicant has attained the requisite experience outlined below, the employee, by designation of classification, authorizes the Employer to deduct Supplemental Pension amounts from his/her wages up to the amount as identified in the attached Wage and Fringe Schedule listing each applicable classification.

Class I employees shall consist of all Apprentices and Material Expediters.

Class II employees shall consist of all employees who have completed their initial training or employees who have taken and passed a test administered by the Local JATC that would be equal to completing the training for their classification or if an employee were advanced to such classification, per the Agreement, by the Employer; and Material Expediters with more than five (5) years at the trade. Traveling Journeypersons shall be presumed to qualify for Class II status only, unless sufficient proof of the requisite experience for a higher classification is presented at the time of initial dispatch.

Class III employees shall consist of employees who have performed at least two (2) years at the trade beyond the Class II provision(s).

Class IV employees shall consist of employees who have performed at least five (5) years at the trade beyond the Class II provision(s).

Class V employees shall consist of employees who, within the twelve (12) months immediately preceding application for Class V status, have been regularly employed as a Foreperson or General Foreperson under an SMWIA Local 104 Collective Bargaining Agreement for at least six (6) months or who have performed at least ten (10) years' work at the trade beyond the Class II provision(s).

Each employee shall submit by mail to the Financial Secretary of the Local Union any classification change request postmarked no later than November 23 of each year. Upon approval by the Union, such classification shall be effective the following January 1. The Union shall notify the Employers of the approved classification of each employee on or before December 10. Any Employer not so advised shall, effective January 1 of the following year, contribute for such employees at their current classification and such classification shall continue through December 31. Classification change notifications shall be in writing on an approved form and in accordance with the rules and regulations adopted by the Union and approved by the Bay Area Association of SMACNA Chapters. Upon notification by the Union to the Employer of an approved classification change, the Employer shall pay wages and fringe contributions at the approved classification level unless and until notified by the Union of a classification change. In no event, however, shall a classification change be implemented except by proper notification from the Union, and no more than one (1) classification change may be effected during any calendar year, and shall be effective as of January 1, provided the Employer receives notice of such change on or before the immediately preceding December 10.

ITEM 2. FOREPERSON AND GENERAL FOREPERSON

SECTION A. Forepersons shall receive a minimum of fifteen percent (15%) above the Class II Journeyperson gross taxable hourly rate of pay. General Forepersons shall receive a minimum of twenty percent (20%) above the Class II Journeyperson gross taxable hourly rate of pay.

SECTION B. Employees working under the provisions of this Agreement shall not accept direction or instruction from or recognize the authority of anyone other than the Employer, his/her designated representative or a Journeyperson sheet metal worker who is designated and paid as a Foreperson or General Foreperson.

SECTION C. On jobs of four (4) or less than eleven (11) persons, one (1) person shall be appointed Foreperson. On jobs of eleven (11) persons and over, one (1) person shall be appointed Foreperson for each ten (10) persons or fraction thereof.

SECTION D. Any Journeyperson responsible for the directing of other Journeypersons shall be paid as Foreperson regardless of the number of Journeypersons for jobs of three (3) days duration or over. If orders are to be given to the Journeypersons by anyone other than the owner of the shop or his/her authorized representative, they shall be transmitted to the Foreperson and he/she shall direct the Journeypersons in carrying out the order.

SECTION E. A Journeyperson sheet metal worker in charge of two (2) or more Forepersons shall be a General Foreperson and shall receive no less than the wage schedule shown.

ITEM 3. VACATION-HOLIDAY-SAVINGS PLAN

ALL EMPLOYEES COVERED BY THIS AGREEMENT SHALL BE GRANTED A YEARLY TWO-WEEK PAID VACATION AND DESIGNATED PAID HOLIDAYS THROUGH AN ACCUMULATED SAVINGS ACCOUNT PLAN SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

SECTION A. In order that taxes will be paid each week, the gross taxable wages shall include the Vacation-Holiday-Savings in the amount shown in the aforementioned Wage/Fringe Schedules in Item 1 of this Addendum One. After normal tax deductions are made from the weekly gross wages, the Employer shall withhold the full amount (minimum rates shown in the aforementioned Agreements) of Vacation-Holiday-Savings in trust, up to and including the last pay period of the month, and shall then deposit said savings with a designated institution as provided in the Deposit Agreement. The weekly check stub shall indicate the amount of savings withheld. Upon receipt of these monies (timely and accurate negotiable check or cash) and the properly completed report form by the Trust, the Employer shall have no further responsibility for same. The designated institution shall maintain an individual account for each employee and said employee may withdraw his/her funds upon identification verification.

SECTION B. It is understood and agreed that these monies are allocated as part of wages received each week, and withholdings are made in the form of a Vacation-Holiday-Savings for the exclusive benefit of the employee. Payment of these savings to the employee, upon termination of employment, shall in no way interfere with his/her right to draw unemployment benefits from any state or seek employment immediately, as outlined in the Hiring Hall facilities.

SECTION C. Vacation time shall be taken at a time mutually agreeable to the Employer and the employee.

ITEM 4. HOURLY FRINGE CONTRIBUTIONS

The Bay Area Association shall appoint all Employer trustees to the Local 104 Fringe Benefit Funds that heretofore were appointed by the affiliated SMACNA Chapters.

SECTION A. **UNION DUES CHECK-OFF FUND** - In order that taxes will be paid each week, the gross taxable wages shall include the Union Dues Check-off monies in the amount shown in the Wage and Fringe Schedules. After normal tax deductions are made from the weekly gross taxable wages, each Employer agrees to withhold the full amount in trust, up to and including the last pay period of the month, and shall then deposit said check-off monies with a bank or other party, as provided in Item 4 herein, in such manner and on such report form as mutually agreed by the signatory parties to this Agreement. The weekly check stub shall indicate the amount withheld. Upon receipt of these monies (timely and accurate negotiable check or cash), and report by the bank, the Employer shall have no further responsibility for same. Each employee, in conformance with the Labor-Management Relations Act of 1947, as amended, shall give the Employer or have on file with Local 104, written authorization for such deduction. Said payment shall be made to the Administrator through such bank or other party at such place, in such manner and on such report form as mutually agreed by the signatory parties to this Agreement. Dues to be checked-off pursuant to this Section shall include all Union Dues Check-off obligations.

SECTION B. Each Employer shall contribute to the Administrator/Trustees the sums designated for each hour worked by each employee covered by this Agreement, including overtime, to the following Funds, per the Wage and Fringe Schedules, Summary Plan Descriptions, and Plan documents:

1. SMW 104 Union Dues Check-off
2. SMW 104 Vacation
3. SMW Local 104 Health Care Plan
4. SMW Northern California Pension Plan
5. SMW National Pension Plan
6. SMW Local 104 Supplemental Pension Fund
7. SMW Local 104 and Bay Area Industry Training Fund
8. International Training Institute
9. National Energy Management Institute Committee
10. Sheet Metal Occupational Health Institute Trust
11. SMACNA Industry Fund
12. Any other funds mutually agreed to by the parties

Said payment shall be made to the Administrator/Trustees through such bank or other party at such place, in such manner and on such report forms as mutually agreed by the parties to these Agreements. These Plans shall be administered as provided in the established Trust Agreements.

The parties agree that to comply with Internal Revenue Code Section 415 and applicable regulations issued thereunder, certain pension benefits that would otherwise be payable from the Sheet Metal Workers' Pension Plan of Northern California may be provided by the Excess Benefits Plan previously adopted by the Board of Trustees of the Sheet Metal Workers' Pension Plan of Northern California. The parties incorporate the terms of the Excess Benefits Plan as part of this Agreement.

SECTION C. **LOCAL 104 TRAINING FUND** - There shall be one central training fund for all areas with all training fund contributions directed into one fund.

1. The parties have established an Agreement and Declaration of Trust for the Sheet Metal Workers' Local 104 and Bay Area Industry Training Fund (the "Fund"). This Fund shall exist for the sole purpose of funding the Apprentice training program, and any programs established by the Trustees of the Fund for the training and upgrading of Journeypersons. The Fund shall be administered by a Joint Board of Trustees, in accordance with the provisions of the Taft-Hartley Act and all other applicable federal and state laws, composed of any equal number as the committee may deem necessary, representing the Union (Labor) and the Employer (Management). Sheet Metal Workers' Local No. 104 shall appoint the Labor representatives. The Bay Area Association of Sheet Metal Contractors shall appoint the Employer representatives. Written notice of such appointments (or replacements thereof) shall be given to the parties or their Association, and the Fund Administrator.

2. The Agreement and Declaration of Trust referred to herein shall become a part of this Addendum as if set forth in full herein. All parties to this Addendum agree to be bound by the Agreement and Declaration of Trust establishing the Fund and by all amendments thereto as may be made from time to time, and hereby designate as their representative on the Board of Trustees as are named, together with any successors who may be appointed pursuant to said Agreement.

3. Each Employer shall contribute to the Administrator/Trustees of the Sheet Metal Local 104 and Bay Area Industry Training Fund, the sum designated in the Wage and Fringe Schedule(s) for each hour worked, including overtime, by each employee covered by this Agreement, through such bank or other party, at such place, in such manner and on such report form as designated by the signatory parties of this Agreement.

4. The Trustees for the Local 104 and Bay Area Industry Training Fund shall expend these Training Fund contributions as outlined in the Trust Agreement, for the establishment and maintenance of training and educational programs, as may be agreed upon from time to time by said Trustees, for all classification of employees covered by this bargaining agreement and/or any other approved bargaining agreements.

5. The Administrator of the Sheet Metal Workers' Local 104 Trust Fund shall transmit to the Trustees of the National Training Fund and the National Energy Management Institute Committee, on a monthly basis, the designated amounts from each hour's contribution received under the provisions of this Agreement. These

Funds shall be administered as provided in the established Trust Agreement.

6. The Trustees of the Local 104 Bay Area Industry Training Fund shall transmit to the Local 104 Scholarship Investment Account the sum designated in the Wage and Fringe Schedules for each hour worked, including overtime, by each employee participating in the Local 104 Scholarship Program, on a monthly basis. This account shall be administered by the Local 104 Financial Secretary/Treasurer.

7. Any additional funding required by the Bay Area Training Trust Fund shall, upon the recommendation of the Chair and Co-chair, be equally shared between Local 104 and the Association.

ITEM 5. PAYMENTS TO FUNDS AND BONDING

SECTION A. The amount of the payment to each of the Funds mentioned in Items 3 and 4 above shall be computed on the basis of each hour worked by each employee, including overtime, on all work covered by this Agreement. Contributions to these Funds (1-Vacation-Holiday, 2-Dues Check-off, 3-Health Care, 4-Northern California Pension Fund, 5-Local Supplemental Pension Fund, 6-Training Fund, 7-National Pension Fund, 8-ITI, 9-NEMIC, 10-SMOHIT, and 11-Industry Funds) provided herein shall not be duplicated on covered employees sent into this contract area from another contract area. However, if there is a difference in the amount of the hourly contribution, such difference shall be paid to the employees directly involved.

SECTION B. All of said payments shall be made no later than the tenth (10th) day of each month covering the payroll periods ending in the previous month. Such payments shall be made through such bank or other party, at such place, in such manner and on such report form as designated by the signatory parties to this Agreement. All Funds should be reported on a single monthly report form and covered by a single check or draft payable to the designated bank or other party. For collection and transmittal purposes, these monthly reports, together with all contributions, shall be forwarded on a timely basis to the bank or other party. The bank or other party shall disburse the monies payable to the Trustees of each Fund and forward same, together with a copy of the monthly report form.

SECTION C. All parties hereto recognize and agree that prompt payment to each of the Funds mentioned in Item 4 is essential to the fair and efficient administration of benefits under each Fund and the maintenance of benefits under each Fund. They further recognize that it would be extremely difficult, if not impossible, to fix actual damages and expenses to each Fund which would result from the failure of an Employer to make timely contributions or reports. Therefore, when an Employer fails to make any of said monthly contributions or fails to submit the properly completed monthly reports postmarked by the twentieth (20th) day of the month in which the contribution is due, such Employer shall be assessed an amount equal to: (a) the liquidated damages provided in each of the applicable Trust Agreement(s); or (b) if no liquidated damages provision exists in the applicable Trust Agreement(s) or no Trust Agreement exists for the Fund, the greater of ten percent (10%) of the delinquent contribution or twenty five dollars ($25.00) per Fund as liquidated damages resulting from the delinquency. At any time when an Employer is delinquent in submitting the contribution or a properly completed report, the Union may remove the employees from any shop or job of the delinquent Employer and refuse to furnish employees to such shop or job. The Employer agrees to pay all employees so removed their regular wages (not to exceed ten [10] days straight time pay) until such time as all delinquent payments and proper reports are received. The Employer agrees that in the event it is delinquent, it will pay all reasonable costs incurred by Sheet Metal Workers' Local Union 104 and the Trust Funds in connection with collection of the delinquency, including, but not limited to, court costs and reasonable attorney fees.

Unless the time limit is extended for good cause, by mutual agreement between the Association and the Union, the liquidated damages for delinquent contributions shall be included with said contributions and the properly completed monthly report.

SECTION D. **BONDING/SECURITY** - All Employers signatory hereto or who desire to perform work within the jurisdiction of Local 104, as a condition precedent to the performance of such work and/or the dispatch of employees pursuant to this Agreement, shall post adequate security to ensure the prompt payment of the following obligations arising under this Agreement: (1-Vacation-Holiday, 2-Dues Check-off, 3-Health Care, 4-Northern California Pension Fund, 5-Local Supplemental Pension Fund, 6-Training Fund, 7-National Pension Fund, 8-ITI, 9-NEMIC, 10-SMOHIT, and 11-Industry Funds) covered by this Agreement. The security shall, in addition, cover all liquidated damages and cost of collection, including, but not limited to audit fees and attorney's fees.

The security required herein shall take the form of one (1) surety bond or cash deposit written to specifications agreed upon between Local 104 and SMACNA. Either a bond or cash shall be deposited with Local 104 Trust

Fund Administrator, as custodian (2610 Crow Canyon Road, Suite 200, San Ramon, California 94583.1547), that shall cover all bargaining unit employees of the Employer regardless of which Local 104 Agreement(s) governs the performance of work by such employees.

The Employer and the Union agree that in order to ensure payment of wages and fringe benefits for employees covered under the terms of this Agreement, an Indemnity Bond in the following amounts shall be taken out to cover potential Trust Fund delinquencies:

The minimum security to be posted shall be not less than five thousand dollars ($5,000.00) and increased to ten thousand dollars ($10,000.00) January 1, 2008, however, if the average number of unit employees employed by an Employer is more than five (5) but less than eleven (11), the minimum security shall be fifteen thousand dollars ($15,000.00) and increased to twenty-five thousand dollars ($25,000.00) January 1, 2008. If the average number of unit employees employed by the Employer is in excess of ten (10), then the security shall be twenty-five thousand dollars ($25,000.00) and increased to fifty thousand dollars ($50,000.00) January 1, 2008. The determination of the average number of employees, in the instance of a new Employer, shall be deemed the number of employees required for its first job(s) within the jurisdiction of Local 104. Thereafter, the determination of the average number of employees shall be recalculated from time to time by the custodian, but may not be calculated on a period of less than six (6) months.

Any Employer performing work covered by this Agreement shall become and remain in compliance at all times with the surety bond requirement, as set forth by the Northern California Pension Trustees and amended from time to time. Any Employer whose bond is lapsed for more than fourteen (14) days, the Union may remove (upon two [2] business days' notice) the employees from any shop or job of the delinquent Employer and refuse to furnish employees to such shop or job.

At any time the Employer is notified in writing by the custodian, based upon calculations described herein, that the Employer is required to post security in excess of that which it had heretofore posted, such new or additional security shall be posted by the Employer with the custodian within thirty (30) calendar days of such notice in order for the Employer to remain in compliance with this Section. In the event of a delinquency which requires collection of any or all of security posted pursuant to this Section, the custodian may notify the Employer to post security equal to three (3) months' average payments required of the Employer, based upon its peak employment month during the preceding year. Upon notice, such security shall be posted within five (5) calendar days.

The calling of surety in the event of delinquency shall be in accordance with the rules set forth by the Northern California Pension Plan Trustees.

In the event of collection of sums which are not sufficient to cover all delinquent obligations hereunder, sums collected shall be distributed in the following order of priority:

1. SMW 104 Vacation
2. SMW 104 Dues Check-off obligations
3. SMW Local 104 Supplemental Pension
4. SMW Northern California Pension
5. SMW National Pension
6. SMW 104 Health Care
7. SMW Local 104 and Bay Area Industry Training Fund
8. International Training Institute
9. National Energy Management Institute Committee
10. Sheet Metal Occupational Health Institute Trust
11. SMACNA Industry Fund

SECTION E. **TWO-DAY NOTICE** - It is also understood that the Employer shall be entitled to a two (2)-working-day notice before withdrawal of employees (Section C of this Item 5) can take place. The Union will send said notice.

SECTION F. The Trust Agreements and Deposit Agreement (each as amended from time to time) which create or apply to (1) Vacation-Holiday, (2) Dues Check-off, (3) Supplemental Pension, (4) Northern California Pension Fund, (5) National Pension Fund, (6) Health Care, (7) Training, (8) ITI, (9) NEMIC, (10) SMOHIT, and (11) Industry Funds are each referred to, and made part of this Agreement, and each Employer bound by this Agreement agrees to be bound by all of the terms and provisions of the Plans and Trust Agreements which govern each of the abovementioned

Funds or Plans, including any amendments to such documents heretofore or hereafter adopted. Each Employer further agrees: (a) that the EMPLOYER Trustees appointed pursuant to the terms of the Agreements and Declarations of Trust, and their successors, are and shall be his/her representatives; (b) that the Employer approves and consents to the appointment of the Trustees heretofore appointed and hereafter selected as provided in said Agreements; (c) the Employer ratifies, confirms, approves, and consents to the acts of said Trustees or their successors heretofore and hereinafter taken in their creation and administration of said Trusts.

ITEM 6. NOTARIZED CERTIFIED PAYROLL

SECTION A. Any Employer signatory to or working under the provisions of this Agreement, shall, upon the mutual request of the Union and the Association, produce a notarized certified payroll of his/her employees, providing a breakdown covering gross wages, fringe benefits, travel compensation, subsistence, and any other negotiated fund or cost item, for all hours worked under the provisions of this Agreement or on the fabrication for and/or installation of any specified job or jobs within this contract area. The Chairman and the Executive Manager or his/her designee for the Bay Area Association of SMACNA Chapters, and the Business Manager and the Area Business Representative for Local 104, are hereby authorized and designated as the parties to act upon such request.

SECTION B. Any request for a certified payroll shall be verified by both parties within twenty-four (24) hours by an exchange of written communication relating details and action taken. The involved Employer shall be given written notice of approval of such a request by both parties.

SECTION C. Such certification shall be supplied at the expense of the individual Employer by a certified public accountant within five (5) working days after receipt of the written notice, unless an extension of this time is mutually agreed upon, in writing, by all parties.

SECTION D. The provisions of this Agreement pertaining to wages and fringes due employees fabricating materials for installation within the jurisdiction of Local 104 or pertaining to wages and fringes and travel and subsistence to employees performing field work in said jurisdiction, and those provisions relating to the subcontracting of said work or purchase of materials, shall be rigidly enforced.

And the requirement that Journeypersons fabricating work for installation within the area of SMWIA Local 104 is further clarified to provide that should the company assign any such work to other than Journeyperson sheet metal workers, and if said employees are not permitted under the terms of this Agreement, then each of those employees shall be required to receive the rate due Journeyperson sheet metal workers under this Agreement. And should employees other than Journeyperson sheet metal workers perform said work and said employees are permitted to perform such work under the terms of this Agreement then they shall be paid no less than the rates paid such employees under this Agreement and the workforce ratios and/or composition shall be no less than those provided in this Agreement. (Refer to Article VIII, Sections 1 and 2 of the SFUA.)

In the event a court action is required, all legal and other fees incurred by the LJAB, shall be borne by the company.

ITEM 7. WORKWEEK - HOURS AND OVERTIME

SECTION A. The workweek shall be scheduled in two (2)-week increments consisting of a forty (40)-hour week (eight [8] hours per day between 7:00 a.m. and 3:30 p.m., Monday through Friday) and a thirty-two (32)-hour week (eight [8] hours per day between 7:00 a.m. and 3:30 p.m., Monday through Thursday) and shall continue to alternate in such 40/32 manner. No employee shall work more than seventy-two (72) hours in any scheduled two-week increment for any one Employer except at the overtime rate or as otherwise provided herein. The Employer may use, but must pre-schedule, alternate crews.

Where an Employer, who is signatory to this Agreement, can provide the work, any member of the Union may voluntarily work forty (40) hours per week at the straight time rate (eight [8] hours per day between 7:00 a.m. and 3:30 p.m., Monday through Friday) should such a member desire. Where possible, said member shall notify his/her Employer two (2) working days in advance of his/her desire to work Friday, for a total of forty (40) hours that week. There shall be no discrimination or retaliation by an Employer against a Union member who elects to work a 40/32 swing Friday workweek. Such action shall be a violation of this Agreement. The purpose of the voluntary forty (40)-hour workweek proviso is to assure, whenever possible, the filling of job requests, while protecting the right of the individual employee to elect not to work said voluntary forty (40)-hour workweek. Any Employer found in violation of the above provision shall be subject to the revocation of the right to continue the voluntary forty (40)-hour workweek. The LJAB is hereby instructed to give credence and special weight to

apparent patterns and practices and/or circumstantial evidence involving alleged violations. In addition to the foregoing, the minimum penalty for each such violation shall be five hundred dollars ($500.00), payable to the Bay Area Training Trust Fund.

The voluntary forty (40)-hour workweek provision may be voted on each year by the members of Local 104 to discontinue its practice. In addition, where serious adverse employment conditions exist, the Union may discontinue the voluntary forty (40)-hour workweek.

When an Employer is performing work on a Davis-Bacon project and the general contractor deviates from the normal workday or workweek, the Employer may apply to the Local Union for a variance from the normal work schedule in order to coincide with that of the general contractor.

{SAN FRANCISCO - For commercial work in San Francisco, the regular workday shall consist of seven (7) hours' labor in the shop or on the job between 7:00 a.m. and 2:30 p.m., and the regular workweek shall consist of five (5) consecutive seven (7)-hour days labor in the shop or on the job, beginning with Monday and ending with Friday of each week. Shop employees may work the 40/32-hour workweek as described in Section A above when performing work within the shop premises, and all shop employees shall be listed and submitted to the Local Union prior to utilization of the Section A provision above. Additions or deletions from list are to be agreed upon with the Local Union or shop steward.}

SECTION B. All work (including loading and unloading of trucks) performed before or after regular working hours shall be overtime. Overtime shall be paid at time and one half (1½) for a total of two (2) hours each day immediately before or after the normal workday, Monday through Friday. Time and one half (1½) shall be paid for the first eight (8) hours on a swing Friday or a Saturday. However, if the Saturday to be worked follows a worked swing Friday, Saturday overtime shall then be paid at the double time (2) rate. All other overtime, including Sundays, holidays, and any Saturday in conjunction with a Friday or Monday holiday, shall be paid at the double time (2) rate. Overtime shall be paid (as applicable) at time and one half (1½) or double (2) the straight time Class II gross taxable hourly rate of pay. All overtime shall be based on a minimum of fifteen (15)-minute increments. Commercial overtime in San Francisco shall be based on a seven (7)-hour day and not an eight (8)-hour day.

SECTION C. A one half (1/2)-hour lunch period shall be taken approximately halfway through all shifts, and a second one half (1/2)-hour meal period when working more than ten (10) hours per day and an additional one half (1/2)-hour meal period for each four (4) hours worked thereafter. In addition, one (1) ten (10)-minute rest period shall be provided for each four (4) hours worked or major fraction thereof.

SECTION D. **MEALTIME PROVISION** - A one half (1/2)-hour period shall be allowed for dinner after 3:30 p.m. if the overtime is to exceed two (2) hours, and a one half (1/2)-hour period for eating every four (4) hours thereafter on employee's own time. An employee, not notified the previous day that overtime will be required, shall be reimbursed for reasonable meal expenses, as allowed above, upon submittal of a receipt or proof of the expenditure. The Employer shall have the option of providing a reasonable meal in the shop or at the jobsite in lieu of the above.

SECTION E. **FOUR-TENS PROVISION** - Where conditions warrant, the regular workday may consist of ten (10) hours' labor on the jobsite or shop and the regular workweek of four (4) consecutive ten (10)-hour days between Monday and Friday, when mutually agreed between the Union and the Employer. When working four-tens (4-10s), the first two (2) hours immediately before or after the shift and the first eight (8) hours on the fifth (5th) day, shall be paid at one and one half (1½) times the rate of pay. All other pay shall be at double (2) time.

SECTION F. Contributions for Health Care, Northern California Pension Fund, National Pension Fund, amounts up to Class II for Local Supplemental Pension Fund, SMOHIT, Training Fund, ITI, NEMIC, and Industry Funds shall be based on actual hours worked (or in the case of owner/members, Item 1, Section C shall be applicable). With respect to Local Supplemental Pension Fund contributions over and above amounts up to Class II, contributions shall include overtime premium hours, as well as actual hours worked. Dues Check-off obligations shall be paid for all actual hours worked and overtime premiums attributable thereto shall be added to the employee's base wage. Vacation-Holiday contributions shall be based upon actual hours worked and overtime premium hours.

SECTION G. When sheet metal workers are assigned to composite crews on jobsites and the crafts in the crew work a standard forty (40)-hour workweek, the sheet metal workers in such crews shall also work the forty (40)-hour workweek at the straight time hourly rate of pay.

SECTION H. When Local 104 sheet metal workers are assigned to jobsites in the jurisdiction of another local, they shall work the regular hours of that local union at the straight time hourly rate of pay.

SECTION I. An Employer may permit a departure from normal working hours between 6:00 a.m. and 8:00 a.m. (other than 7:00 a.m.) when requested by a majority of the Local 104 employees on a given jobsite or in a shop, provided the Employer submits this request, in writing, to the Union no less than forty-eight (48) hours prior to a change in schedule. The Employer may revert to the normal working hours by conducting a new vote and notifying the Union.

SECTION J. **OVERTIME RESTRICTIONS** - The Union may deny requests for overtime on new construction jobsites to Union members at such time as there is ten percent (10%) of the Union's members unemployed. The provisions of this Section may be enforced seventy-two (72) hours after verification of the above conditions with the Association's representative.

EXCEPTION: Overtime shall be approved upon a request by the owner or agent of the owner no less than four (4) hours before the end of a workday preceding the day the work is to be performed and providing employees are provided time for a meal at no expense to the Employer. Preference on overtime and holiday work shall be given to employees on the job on a rotation basis so as to equalize such work as nearly as possible.

SECTION K. A make-up day may be scheduled for work missed due to inclement weather, when mutually agreed between the Union and Employer. The make-up hours shall be paid at the regular hourly rate of pay.

SECTION L. {SAN FRANCISCO -This Agreement may be opened for modification of the workday, workweek, to conform to any uniform workday, workweek established by the UA/IBEW in San Francisco.}

ITEM 8. HOLIDAYS

SECTION A. The following days are recognized holidays:

New Year's Day, Martin Luther King, Jr. Day, Presidents' Day, Good Friday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, day after Thanksgiving, Christmas Day, and day after Christmas or days locally observed as such. Any holiday falling on Saturday shall be observed on the previous Friday. Any holiday falling on a Sunday shall be observed on the following Monday.

SECTION B. When Christmas falls on Friday, Saturday or Sunday, Friday and Monday shall be observed as the contract holidays.

ITEM 9. SHIFT WORK

SECTION A. Shift work shall mean work performed immediately following the regularly scheduled workday and for the stated number of hours as follows:

SECTION B. Not less than five (5) consecutive days shall constitute a shift schedule, and all shift schedules shall end only on a Friday.

SECTION C. The first shift shall be considered the day shift, which starts at 7:00 a.m. The second shift shall start immediately following the first shift. The third shift shall start immediately following the second shift.

SECTION D. First Shift: The first shift shall be eight (8) hours' work with eight (8) hours' pay, Monday through Friday the first week, and eight (8) hours' work with eight (8) hours' pay, Monday through Thursday the following week, in accordance with the workweek (Item 7 Section A). The workweek shall end on Thursday or Friday at 3:30 p.m.

Second Shift: The second shift shall be seven and one half (7½) hours' work with eight (8) hours' pay, plus ten percent (10%) of the Class II gross taxable hourly wage rate, and Friday shall comply with the contract workweek.

Third Shift: The third shift shall be seven (7) hours' work with eight (8) hours' pay, plus fifteen percent (15%) of the Class II gross taxable hourly wage rate and Friday shall comply with the contract workweek.

{SAN FRANCISCO shift pay shall be based on the seven (7)-hour workday. First shift shall be seven (7) hours' work with seven (7) hours' pay; second shift shall be seven (7) hours' work with seven and one half (7 ½) hours' pay plus ten percent (10%); and the third shift shall be seven (7) hours' work with eight (8) hours' pay plus fifteen percent (15%). All premium rates are based on the Class II gross taxable hourly wage rate.}

SECTION E. Forepersons shall receive the appropriate shift percentage differential in addition to their Foreperson percentage premium.

SECTION F. Employees shall have an eight (8)-hour rest period when changing shifts.

SECTION G. The Local Union office and the shop or job steward shall be notified when shift work is practiced.

SECTION H. All shift work over the regular hours worked shall be paid at the overtime rate of pay Monday through Friday.

SECTION I. Upon request of the Employer, the Union shall authorize a special shift for energy conservation and retrofit work to be performed outside the regular workday in occupied buildings, if specified by the customer who must continue to operate his/her business in the normal manner. Two (2)-day special shift: Shall consist of no less than two (2) consecutive days (Monday - Friday) with eight (8) hours' work for eight (8) hours' pay PLUS twelve percent (12%) above the gross taxable Class II hourly rate. Employees shall have an eight (8)-hour rest period when changing shifts (any work performed within the eight [8]-hour rest period shall be paid at the appropriate overtime rate). The special shift shall begin no earlier than 12:01 a.m. Monday and shall end no later than midnight Friday. The Employer shall notify the Union prior to starting shift work. {SAN FRANCISCO shall be based on seven (7)-hour days.}

ITEM 10. DETAILING

SECTION A. All shop and field details used in fabrication and erection, including those taken from original architectural and engineering drawings or sketches, are to be identified with the member's name and membership number affixed to a rubber stamp approved and furnished by the Union. Detailer stamp with signature shall be affixed to all drawings manually.

ITEM 11. TRAVEL, MILEAGE, AND SUBSISTENCE

SECTION A. The established zones are as follows:

Zone 1 – Includes all of San Francisco County. Dispatch and mileage point is 1939 Market Street, San Francisco.

Zone 2 – Includes all of San Mateo County. Dispatch point is 858 Hinckley Road, Burlingame, and mileage point is 703 B Street, San Mateo.

Zone 3 – Includes all of Alameda and Contra Costa Counties. Dispatch point is 1720 Marina Boulevard, San Leandro, and mileage point is Oakland City Hall, Oakland.

Zone 4 – Includes all of Napa and Solano Counties. Dispatch and mileage point is 401 Nebraska Street, Vallejo.

Zone 5 – Includes all of Lake, Marin, Mendocino, and Sonoma Counties. Dispatch point is 610 E. Washington Street, Suite C, Petaluma, and mileage point is 1700 Corby Avenue, Santa Rosa.

Zone 6 – Includes all of Del Norte, Humboldt, and Trinity Counties. Dispatch and mileage point is 9th and "E" Streets, Eureka.

Zone 7 – Includes all of Santa Clara County. Dispatch point is 2350 Lundy Place, San Jose, and mileage point is 1st and Santa Clara Streets, San Jose.

Zone 8 – Includes all of Monterey, San Benito, and Santa Cruz Counties. Dispatch point is 11060 Commercial Parkway, Castroville, and mileage point is Market and Main Streets, Salinas for Monterey County; 5th and San Benito Streets, Hollister for San Benito County; and the Santa Cruz County Courthouse for Santa Cruz County.

SECTION B. Each Employer signatory with Local 104 to the SFUA and the various Addenda thereto shall have a free zone around the address of said Employer's shop that shall extend into any zone as established in Section "A" above. The zone shall extend in a thirty (30)-air-mile radius from the Employer's shop.

SECTION C. A signatory Employer, when working in a zone as per Section "A" outside the zone in which the Employer's shop is located, may request sheet metal workers from the dispatch point established for that zone; and for sheet metal workers so hired, there shall be a free zone extending in a thirty (30)-air-mile radius from that zone's mileage point.

SECTION D. Employers not signatory to an Agreement with SMWIA Local 104 must employ from and utilize the dispatch point of the zone in which the job is located.

SECTION E. When transportation is furnished by the employee, the following shall apply:

1. Employees not furnished company transportation and traveling before the regular starting time and/or after the regular quitting time, shall be paid eighty-five cents ($0.85) for each air-mile traveled beyond the free zone.

2. Employees not furnished company transportation during working hours and required to report from shop to job, job to shop, or job to job, shall be paid forty-five cents ($0.45) per air-mile traveled and forty-five cents ($0.45) per mile for each passenger if the driver is requested by Employer to transport said passenger.

SECTION F. When transportation is furnished by the Employer, the following shall apply:

1. An employee provided a company truck on a continuous basis and traveling before the regular starting time and/or after the regular quitting time, shall be paid forty cents ($0.40) for each air-mile traveled beyond a forty (40)-air-mile free zone for the purpose of computing travel time.

2. The Employer will furnish, when possible, all transportation; but in no instance will an employee covered by this Agreement be required to travel in other than the factory-built passenger section of any vehicle. Exception to this requirement must be approved by the Union.

SECTION G. If an employee is required to report to the shop before starting for the jobsite and this is before the regular starting time, the thirty (30)-air-mile free zone shall not apply and the employee shall be compensated for all air-miles traveled, as stated in Sections E-1 and F-1.

SECTION H. If an employee is required to report back to the shop after the regular quitting time, the thirty (30)-air-mile free zone shall not apply and the employee shall be compensated for all air-miles traveled, as stated in Sections E-1 and F-1.

SECTION I. There will be a five (5)-air-mile free zone from the employee's home if the employee reports directly to the jobsite. Beyond five (5) miles, revert to Sections E and F.

SECTION J. Bridge Tolls: The Employer agrees to reimburse the employee for bridge tolls incurred upon presentation of receipt for such tolls.

SECTION K. When driving a loaded company truck before starting time and after regular quitting time, it shall be considered work and will be paid for at one and one half (1 ½) times the regular wage rate. Service trucks carrying service material shall be considered as not loaded. In all other instances only saleable equipment and materials shall constitute a load. In those instances where it is a convenience for a member of Local 104 driving a company pick-up truck from home to job or from job to home, the Business Representative of said Local 104 will use discretion in enforcement.

SECTION L. When an employee is assigned to a jobsite and is required to remain overnight, he/she shall receive a minimum of one (1) day's subsistence. Each employee working on a subsistence job shall receive eighty dollars ($80.00) for seven (7) days per week. The only alternative to payment of seven (7) days' subsistence is payment of subsistence for multiple days worked on the job, plus roundtrip travel expense or travel time, as provided herein. When a subsistence job is of one (1) day's duration only, and employees are provided transportation and/or travel expenses, they shall not also receive subsistence. If an employee is required by the Employer to perform work outside of the United States, travel pay and/or subsistence arrangements shall be negotiated.

SECTION M. When an employee is assigned to a subsistence job and fails to report to the jobsite at the regular starting time, he/she shall not receive subsistence for that day. When an employee is living in the vicinity of the jobsite and is unable to work due to legitimate illness, industrial injury, or inclement weather, he/she shall be paid subsistence for the days he/she is unable to work. This provision shall not apply for more than two (2) consecutive days due to illness or injury. Illness must be verified by the job Foreperson or Employer. A medical certificate may be required.

ITEM 12. PARKING

SECTION A. The Employer agrees to reimburse the employee for reasonable parking fees incurred, upon presentation of receipt, and the Union agrees that employees will accept and utilize, in lieu thereof, any reasonable parking facility provided by the Employer, at or within one quarter (1/4) mile of the shop or jobsite.

SECTION B. In lieu of paid parking, the employee has the option to use public transportation and the Employer will reimburse the employee for such cost, not to exceed the cost of parking.

SECTION C. On projects that require designated offsite parking, the employee will travel in on their time and travel out on the Employer's time. If parking is more than one quarter (1/4) mile from the job or shop, shuttle transportation will be provided by the Employer.

SECTION D. If any employee of the company represented by the United Association receives a more favorable condition of this Item 12 Parking, such condition will apply to all employees working at the jobsite or shop covered by this Agreement.

ITEM 13. INJURY PAY

SECTION A. If an employee is injured requiring medical treatment and is unable to resume work, he/she shall receive a full day's pay. His/her availability to return to work shall be based on the doctor's written report. If an injured employee leaves the job for initial treatment and returns to work immediately after treatment, he/she shall be paid for the time he/she is off the job.

SECTION B. Subsequent scheduled visits to the doctor for such injury, maximum of two (2), shall be compensated for up to two (2) hours for time lost on that day, unless it is mutually agreed additional time is necessary. This provision shall not apply for consecutive days' visits for treatment that is otherwise compensated through Workers' Compensation or equal compensatory statutes.

ITEM 14. VEHICLE IDENTIFICATION

SECTION A. The Employer agrees to identify all vehicles used primarily to transport material, tools, or equipment for work covered by this Agreement. The firm name and location must be affixed on both sides of each vehicle in a permanent manner, with legible letters. No employee may drive an unidentified company vehicle. Employees shall not affix company signs to personal vehicles. Removable signs will not comply with this Section, unless on a company's temporary/rental vehicle.

ITEM 15. GENERAL SAFETY ORDERS

The Employer will comply with applicable federal, state, and local regulations.

There shall be no double payment of fines or penalties.

ITEM 16. CHECK STUBS

Paycheck stubs, for the purpose of employee recordkeeping, shall contain the following information: Company name, employee name and/or Social Security number, pay period ending date, hours worked, wages paid, and all deductions made.

ITEM 17. WELDING CERTIFICATION

The Employer shall pay all costs pertinent to the certification of a welder when such certification is specifically required by the Employer. This requirement shall not be construed to require reimbursement to an employee already certified for the work in question.

ITEM 18. PERSONAL TOOLS

SECTION A. On jobsites where employees report directly from home, the Employer shall provide a gang box or similar facility, adequate for the securing of both the employee and company tools.

The following are basic hand tools the Journeyperson and Apprentice shall provide:

- 1 Bulldog Snips, Combo
- * 2 Pair Aviation Snips, M1 & M2
- 1 Pair Wide-nosed Pliers
- * 1 Pair Wide-tong Pliers/Seamers Offset
- * 2 Pair Vise-grip Pliers, 10"
- * 1 Scratch Awl
- 1 Pair #13 Wiss Snips or Equal
- 1 Center/Prick Punch
- 1 Crescent Wrench #10
- 2 Pair Vise-grip Welding Clamps
- * 2 Screwdrivers
- * 1 Tinner's or Claw Hammer
- 1 Hacksaw
- 1 Combo 12" Square
- * 1 30 foot or less Retractable Tape
- 1 8 oz. Plumb Bob
- 1 Whitney Punch
- 1 Pair Dividers

SECTION B. No Employer shall be permitted to rent or borrow tools, equipment, or vehicles from employees covered by this Agreement.

SECTION C. No employee shall furnish any of the following tools, which are not considered to be hand tools of the trade: power (i.e., electrical, pneumatic, gas, etc.) or motor-driven tools, extension cords, saw blades, carpenter's saw, hacksaw blades, drill bits, files, soldering irons, fire pots, two foot squares, three or four foot circumference rules, punches (other than the small hand set), all sizes of pop rivet guns, all socket sets, speed wrenches, staple guns, glue guns, or any glass duct tools, or instrumentation.

SECTION D. Employees shall be required to wear tool belts, overalls, or other adequate clothing to carry a sufficient number of hand tools as to perform their work in a proper manner.

SECTION E. Pre-apprentices shall not be required to purchase personal hand tools. However, it is recommended that, at a minimum, Pre-apprentices have the tools with an asterisk (*) listed in Section A.

TOOL REPLACEMENT POLICY

NOTE: Bay Area Association Industry Promotion Fund contributors may submit for replacement or reimbursement of stolen tools, pursuant to the Industry Promotion Fund Trustees' Policy.

SECTION F. The Employer shall be responsible for the replacement of their employee's, tools lost or damaged due to fire or forced entry, under the following terms and conditions:

1. The tools were under the Employer's lock and key at the shop, jobsite, or in a company vehicle.

2. The liability of the Employer shall be limited to the tools listed in Item 18. However, in the event an employee, working in the shop, has submitted a tool inventory list, the liability shall be limited to the maximum of seven hundred-fifty dollars ($750.00) value, LESS THE FIRST TEN DOLLARS ($10.00) OF THE COST OR REPLACEMENT, which shall be the responsibility of the employee.

3. Each employee may submit to the Employer or his/her representative a tool inventory list.

4. It shall be the responsibility of the Employer or his/her representative to verify the inventory list.

5. It shall be the responsibility of the employee to use all reasonable means to preserve and protect his/her tools. Failure to do so will relieve the Employer of all liability. Any employee willfully making false or inaccurate claims will be in violation of this Agreement. In the event of a disputed claim, the matter will be referred to the LJAB.

6. In case of theft of tools, a signed statement of tools stolen must be submitted to the following by the employee: POLICE DEPARTMENT, LOCAL UNION NO. 104, THE EMPLOYER, AND BAY AREA ASSOCIATION, verifying that the actual theft has been committed. This statement must contain the following

information and be reported immediately upon discovery of the loss: member's name, location and details of loss, date of loss, date reported to the police, and the signature of both Employer and employee.

SECTION G. All claims over ten dollars ($10.00) of the cost of replacement for each loss from fire or forced entry must be reported to the Employer, the Association, and to Local Union No. 104 immediately upon discovery of loss to have claims considered. Approved claims shall be settled by actual tool replacement by the Employer, not by cash.

SECTION H. **STORAGE** - Where tool storage is provided for the Employer's tools and/or equipment, adequate storage will also be provided for the employee's tools.

ITEM 19. STEWARDS

SECTION A. Stewards may be appointed by the Union at its sole discretion, and no Employer shall, in any way, discriminate against a Steward or lay him/her off or discharge him/her as a result of any action taken by him/her in the proper performance of his/her Union duties; nor shall any Steward employed for ten (10) days or more be discharged except for proven dishonesty, theft, fighting on the job, inefficiency, repeated absence or tardiness, intoxication on the job, or willful destruction of company property, so long as three (3) or more employees remain at the jobsite.

SECTION B. A Steward is a working Journeyperson employee who shall, in addition to his/her work as a Journeyperson, be permitted to perform during working hours such of his/her Union duties as cannot be performed at other times. The Union agrees that such duties shall be performed as expeditiously as possible. The Union shall notify the individual Employer of the appointment of such Steward.

SECTION C. No Steward shall be discharged prior to forty-eight (48) hours' notice to the Union except for just cause. If the Steward, who may consult with the Union, wishes to challenge the termination as being in violation with the terms and conditions of this Section, he/she may request a hearing before the LJAB. Such request must be made before the effective date of termination and shall require that the LJAB meet on the matter within three (3) working days of receipt of said request.

SECTION D. **STEWARD GRIEVANCE** - If a Steward is terminated and a decision rendered finding the Employer is in violation, said Employer shall be subject to reimbursement to the Steward in such amount as is determined by the LJAB.

ITEM 20. ACCESS CLAUSE

SECTION A. SMWIA Local 104 Business Representatives shall have free access to any shop or job at any time work is being performed for the transaction of business pertaining to the employees covered under the terms of this Agreement. The Business Representatives shall first announce their presence to the front office and shall in no way be hindered in the performance of their business. Time shall be kept to a minimum.

ITEM 21. UNION LABEL/WAGE EQUALIZATION

SECTION A. The Sheet Metal Workers' Local Union No. 104 label shall be applied to sheet metal work manufactured, assembled, or fabricated by employees covered under the terms of this Agreement, except all sheet metal work manufactured, assembled, or fabricated under this Agreement for installation outside of Local Union No. 104's jurisdiction shall bear the Sheet Metal Workers' International Association yellow label.

SECTION B. All sheet metal work manufactured, assembled, and fabricated outside the jurisdiction of Local Union No. 104 by members of the Sheet Metal Workers' International Association, for installation within the jurisdiction of Local Union No. 104, shall bear the Sheet Metal Workers' International Association Union label. The Union and the Association will jointly publicize and submit to the contractors, the names of firms and companies under agreement with local unions affiliated with the Sheet Metal Workers' International Association. The Employer agrees to give preference, when possible, to material and equipment bearing the label of the Sheet Metal Workers' International Association. This provision shall be applicable to the maximum extent permitted under applicable law.

SECTION C. With regard to any Employer that is bound or may become bound to the Addenda between Local Union No. 104 and the Bay Area Association solely as a result of Article VIII, Section 6 of the SFUA, all spiral

pipe and fittings manufactured by the Employer or purchased by the Employer from outside the jurisdiction of Local Union No. 104, shall be subject to the wage equalization provisions contained in Article VIII, Section 2 of the SFUA.

SECTION D. With regard to any Employer that is bound or becomes bound to the Collective Bargaining Agreement between Local Union No. 104 and the Bay Area Association not solely as a result of Article VIII, Section 6 of the SFUA, the purchase of spiral pipe (round and oval) from outside the geographic jurisdiction of Local Union No. 104, shall be subject to the wage equalization provisions of Article VIII, Section 2 of the SFUA.

ITEM 22. SMACNA STANDARDS OF WORK

SECTION A. All work shall be completed in a professional and craftpersonlike manner and as consistently as possible to accepted SMACNA standards, where specified.

SECTION B. No employee covered by this Agreement shall make installations of any type or manner that is not in accordance with any applicable city, county, or state ordinances or codes.

ITEM 23. HIRING HALL AND REFERRAL

SECTION A. Local 104 shall be the sole and exclusive source of referrals of applicants for employment with Employers signatory to the SFUA (A-01-05) and Addenda thereto. The Employer shall have the right to reject any applicant for employment. A rejected applicant, however, shall be entitled to two (2) hours' pay at the established rate. The two-hour show-up pay shall not be required in the event that the Employer has made a request for an individual(s) with specific experience and/or skills and the individual reporting admits and/or agrees that he/she does not meet the required criteria. In the event the Union is unable to fill a call within forty-eight (48) hours (not including Saturdays, Sundays, and holidays), the Employer shall be free to hire from any source.

SECTION B. Local 104 shall select and refer applicants for employment without discrimination by reason of race, color, religion, national origin, age, sex, membership or non-membership in the Union; or by reason of the Union's Bylaws, constitutional provisions or any other aspect of Union membership, except failure to tender periodic dues and initiation fees uniformly required for membership in the Union or collective bargaining service fees in accordance with Section 8(a) (3) of the National Labor Relations Act, as amended.

SECTION C. Dispatch offices shall be maintained in San Francisco, San Leandro, Burlingame, Petaluma, Vallejo, San Jose, Castroville, and Eureka. Referrals to signatory contractors shall be made from the dispatch office specified in the geographical zone signed by that contractor or at the option of the contractor, from the dispatch office for the geographical zone in which the particular contractor's job is located. All other Employers performing work falling within the jurisdiction of sheet metal work shall request referrals from the dispatch office for the geographical zone at which such work is located. Dispatch hours shall be Monday through Friday, 7:30 a.m. to 9:30 a.m. and 3:00 p.m. to 5:00 p.m. NOTE: Dispatch office geographical zones are listed in Item 11, Section A.

SECTION D. No applicant for employment shall be employed or reemployed unless he/she has secured a properly executed dispatch slip. However, telephone dispatches may be made provided the employee and Employer secure a properly executed dispatch within five (5) days of the commencement of employment. It shall be the responsibility of the employee to make sure that a properly executed dispatch is received by the Employer.

SECTION E. The Union shall maintain a register of applicants for employment established on the basis of the groups listed below. Each applicant for employment shall be registered in the highest priority group for which he/she is qualified.

GROUP A: All applicants for employment who have four (4) or more years' experience as a Sheet Metal Building Trades Journeyperson or two (2) or more years at classifications recognized by the Bay Area Joint Apprenticeship and Training Committee and who pass an examination administered by the Bay Area Joint Apprenticeship and Training Committee or have successfully completed a Sheet Metal Workers' Apprenticeship or other program recognized by the Referral Appeals Committee, and who have been employed within the jurisdiction of Local 104 for a signatory contractor(s) for at least one thousand two hundred (1,200) hours within a consecutive twenty-four (24)-month period within the thirty-six (36)-consecutive month period preceding registration, and who are residents of the construction labor market as defined herein. Disputes which may arise

over the placement of an applicant in Group A or Group B may be appealed by an adversely-affected applicant to the Referral Appeals Committee. "Hours worked," for the purpose of this group shall include periods of employment as a sheet metal worker with a public entity that has a bargaining arrangement with Local 104. After initial qualification for the Group A, maintenance of at least one thousand (1,000) hours' work within each thirty-six (36)-month period thereafter shall be the minimum requirement for maintenance of Group A status. Periods of unemployment due to disability, illness, or military service shall toll the thirty-six (36)-month requirements contained herein. All applicants must be available for work to be eligible to maintain their name on the "A" list.

When work opportunity exists and no applicants are available, initial qualification requirements for Group A referral status may be waived for persons: (a) who are identified by the Union to be newly organized; and (b) who pass a test developed by and administered by the Sheet Metal Workers' Local 104 and Bay Area Joint Apprenticeship Committee to demonstrate the requisite competency for dispatch as Journeypersons or other classifications recognized by the Bay Area Joint Apprenticeship and Training Committee.

GROUP B: All applicants for employment who have four (4) or more years of experience as a Sheet Metal Building Trades Journeyperson or two (2) years at classifications recognized by the Bay Area Joint Apprenticeship and Training Committee and/or who have completed an apprenticeship program recognized by the Referral Appeals Committee. Group B applicants may apply for Group A registration upon attaining residency as defined herein and completion of one thousand two hundred (1,200) hours work within a twenty-four (24)-month period as a Group B referral.

All requirements for hours for advancement to a higher priority group shall be verified by a check of hours reported to the Health Plan and/or Supplemental Pension Plan. Hours and work experience requirements for initial registration in priority Groups A and B shall be verified by objective evidence of actual work experience and hours, and/or verification of graduation from approved apprenticeship programs. The burden of providing adequate proof of qualifications for any list shall be upon the applicant.

Residency for the purposes of establishing qualification for Group A referral shall mean that the applicant has established a permanent home within the Normal Construction Labor Market. "Permanent home" means that the applicant has proven his/her commitment to work and live within the construction labor market evidenced by three (3) or more of the following:

1. Home ownership
2. Residential lease for a fixed term (not month to month)
3. Voter registration at residence
4. Vehicle registration at residence
5. Valid driver license listing residence
6. Registration of children in local schools

The Normal Construction Labor Market comprises the geographic jurisdiction of Local 104. "Permanent home" shall be conclusively presumed in the event that an employee has had contributed on his/her behalf to the Local 104 Supplemental Pension Plan at least three hundred (300) hours in each of four (4) consecutive years prior to application for Group A status, and the one thousand two hundred (1,200)-hour requirement contained herein has been met.

SECTION F. An applicant for employment may be registered on the out of work list at only one dispatch office at any time. Each applicant for employment shall be issued a job qualification card by the Union. At the time of application the dispatcher may require objective evidence of actual qualifications for the type of work listed by the applicant. Job qualification cards shall be deposited with the dispatch office at the time of registration.

An applicant wishing to change the office at which he/she is registered shall request his/her job qualification card and his/her name shall be stricken from the out of work list maintained at that office. An applicant may request his/her job qualification card be mailed to the dispatch office in which he/she registers.

SECTION G. Dispatch from each priority group shall be by date of registration on a first-in-first-out basis. Group A applicants shall be referred before Group B applicants. In the event a list of priority group registrants at any office is exhausted, the dispatcher shall ascertain whether any registrants of the same priority group are available at the other dispatch offices and shall dispatch such registrants before dispatching applicants off the next lower priority group list.

SECTION H. Notwithstanding that dispatch shall normally be in chronological order of registration, a call for applicants possessing special skills or qualifications may be filled by dispatch of such applicant regardless of their place on the registration list. In addition, any currently registered Group A registrant or Group B registrant who has complied with roll call in Section K of this Item for a minimum of ninety (90) days and has not worked in the industry during that time period, may solicit Employer(s) whose principal place of business is within the jurisdiction of Local 104 and who are signatory to this Agreement for the purpose of requesting such Employer(s) to call him/her by name. Such a call by name shall be honored by the dispatch office without regard to the applicant's place on the out of work list. Employers from outside the jurisdiction may not be solicited. Such Employers may, at the Employer's option, call one (1) Foreperson per jobsite by name.

SECTION I. **TRAVEL PROVISION** - No employee shall be allowed or required to relocate his/her job qualification card from one geographical dispatch office of Local 104 to another for purposes of circumventing the travel, mileage, and subsistence language as defined under Item 11 of Addendum One of SFUA (A-01-05). To implement the above, no Employer shall be allowed to request by name, any employee who has, within thirty (30) calendar days, been employed within another dispatch area of Local 104 by the requesting Employer. While Employers from outside the jurisdiction may not be solicited, such Employers may, at the Employer's option, call one (1) Foreperson per jobsite by name, provided the thirty (30) calendar-day provision is adhered to. The thirty (30) calendar-day provision shall not apply when the employee is officially re-dispatched by the Hiring Hall due to the employee's chronological order of registration nor shall it apply when the call by name is required to secure an individual possessing special skills or qualifications. If it is necessary, at the discretion of a Business Representative, to refer applicants from another Local 104 dispatch office to fill a "call for applicants" in a specific area, the thirty (30) calendar-day provision shall not be applicable.

SECTION J. An applicant who is hired and who receives, through no fault of his/her own, less than eleven (11) days' work, shall, upon re-registration, be restored to his/her appropriate place within his/her priority group; provided however, that during any period deemed by the Union, in its sole discretion, to be a period of persistent unemployment, the area dispatch office may post a rule that no applicant may be dispatched to more than one (1) short call within thirty (30) calendar days in order to assure that available work opportunities are fairly distributed among applicants registered for employment. Such rule shall not apply in the event re-dispatch is required by a call for recognized special skills or qualifications or pursuant to a name-call by a contractor signatory to this Agreement; nor shall such rule apply in the event other applicants are not available during dispatch hours, nor in the event that there have been sufficient short calls within the thirty (30)-day period to substantially meet purposes of the institution of the rule.

1. If you are unavailable for work or do not take a job referral that reaches you, you will be given a job turndown. Only one (1) job turndown per day will be assessed.

2. If you accumulate three (3) turndowns, you will be removed from the Available for Work list and you must re-sign the book.

3. Exceptions to the Available for Work list include: proof of picket duty, jury duty, military duty, disability, or salting.

SECTION K. Registration or re-registration shall be done in person by the person seeking to register as available for dispatch. In order for an applicant to maintain his/her place on the referral list "B," he/she must appear for "roll call" day and sign in at least two (2) roll call days during any month. Failure to make roll call at least twice during a month will result in removal from the list. Roll call day shall be Tuesday of each week, excluding holidays.

SECTION L. Adequate records shall be maintained at the dispatch office to assure that the procedures set forth herein are being administered in accordance with this Agreement. Applicants for employment shall have reasonable access to such records upon request of the dispatcher, to assure compliance herewith. A copy of these procedures will be posted at each dispatch office.

In addition to the posting of these procedures, posting of the Immigration and Naturalization Service Requirements for Employment Eligibility Verification shall be posted at the dispatch office.

SECTION M. There is hereby established a Joint Referral Appeals Committee which shall be composed of an equal number of representatives selected by the signatory SMACNA Chapters and by the Union. In the event of a deadlock over any matter coming before the Committee, Management and Labor shall mutually agree to the appointment of an independent third party who shall act as the tie-breaker.

The Referral Appeals Committee shall hear and consider any complaint of any employee or applicant for employment arising out of the administration by the Union of the hiring and referral procedures contained in this Agreement. The Referral Appeals Committee shall have the power to make a final and binding decision on any such complaint, which shall be complied with by the Union. The Appeals Committee, in connection with its duties to hear and decide complaints, shall have the authority to interpret the procedures contained herein, but is not authorized to add to, subtract from, or modify any of the provisions of this Agreement. The Referral Appeals Committee shall have the authority to toll the thirty-six (36)-month requirement for Group A status for lengthy periods of industry unemployment. Any individual employee or applicant for employment claiming a grievance by any act or conduct in effecting referrals and who contends the referral procedure is not operating in accordance with the terms of this Agreement, shall have the right to file a written complaint with the Referral Appeals Committee within forty-eight (48) hours (Saturdays, Sundays, and holidays excluded) after the occurrence giving rise to the grievance. Failure to file within the time contained herein shall constitute a waiver of such grievance.

SECTION N. Apprentices shall be hired and transferred in accordance with the Apprentice provisions of the Agreement between the parties.

SECTION O. When conditions exist requiring a reduction in force, the Employer shall lay off all Group B referrals before Group A. In order to comply with this provision requiring inverse order of layoff, Group A employees of Employers whose principal place of business is within the jurisdiction of Local No. 104 may be moved from jobsite to jobsite to assure the retention of higher priority group employees during periods of layoff. Group B employees may not be moved from jobsite to jobsite in order to avoid layoff. Group A and B employees of an Employer whose principal place of business is without the geographical jurisdiction of Local 104 may not move employees from the jobsite in which they were dispatched. Properly registered Group A applicants shall have the right, when out of work, to replace any currently-working Group B registrant by giving forty-eight (48) hours' notice in writing to the dispatcher of his/her intention to exercise his/her "bumping privilege." The dispatcher shall notify the Employer. As between Group A applicants who have given such notice, preference shall be given the registrant highest on the priority list. The Employer shall have the right, in his/her sole discretion, to choose the Group B employee to be displaced when the "bumping" privilege provided herein is exercised. The "bumping" privilege may not be exercised to replace an employee who has been dispatched to fill a special skill call unless the Group A registrant possesses such special skill. Employees who are terminated shall be issued a notice of termination by the Employer which shall state the reason(s) for such termination. The termination notice shall be on the form provided to the Employer by the Union. If said notice is unavailable at the time of discharge, a handwritten substitute may be made and signed by a representative of the company clearly stating the reason(s) for termination. In the event an Employer indicates that a terminated employee is "not eligible for rehire," such designation shall be honored by the dispatch office for no more than six (6) months, unless the employee grieves such designation to the Referral Appeals Committee. In such case, the period of ineligibility for rehire, if any, shall be determined by the Referral Appeals Committee established herein. In the event the discharge itself is grieved as a violation of Item 23 herein, such grievance shall be processed in accordance with Article X of the SFUA.

SECTION P. In the event an employee contests the reason for termination, notice of grievance must be filed with the Business Representative within seven (7) days of termination.

SECTION Q. Alameda/Contra Costa Counties Industrial Journeypersons who have completed the Apprenticeship program shall be allowed access to the Building Trades Hiring Hall in all areas.

SECTION R. The Employer agrees that the Union will not be liable for any acts or omissions, tortious or otherwise, of any applicant referred for employment.

SECTION S. Working out of classification shall be as follows: In unusual economic times there are instances where work is not available in a classified area of the industry, but there is high worker demand in a higher classification. Therefore, members of Sheet Metal Workers' Local 104 will be allowed to work out of their classification under the following conditions: They have not voluntarily become unavailable for work in their own classification; they have made themselves available for work in their own classification; there is no work available at the time in their classification and there is work available in a higher classification and no workers available for dispatch in the higher classification. Members may be dispatched for work in a higher classification with the understanding that if and when work becomes available in their own classification, they must immediately make themselves available for such work. Workers who do not make themselves available for work within their classification will not be eligible to work out of classification and will be subject to fines

if he/she works out of classification in violation of this Section. Such fines may be based on the hours taken away from the industry in which the member is classified to work and based on any other factors the Trial Board deems appropriate.

ITEM 24. JOINT APPRENTICESHIP TRAINING COMMITTEE

The language set forth below shall be subject to action and authority of the Sheet Metal Workers' Local 104 and Bay Area Industry Training Fund, pursuant to the authority granted to them in the Merger Agreement and the Sheet Metal Workers' Local 104 and Bay Area Industry Training Trust Agreement, providing the direction to effectuate the merger and consolidation of the Apprenticeship committees. In the event of a conflict of this Item 24 between any rules and regulations established by the Trust Fund and the language contained herein, the language of the Trust Agreement and any rules and regulations established therein shall prevail.

SECTION A. Application for apprenticeship shall be made available by the Joint Apprenticeship Training Committees (hereinafter referred to as the JATC) through the Hiring Hall for all prospective applicants without regard to race, creed, color, sex, religion, or lack of union affiliation. The JATC shall test, evaluate, interview, and place eligible applicants in the Applicant Apprentice Pool, as provided in the selection procedures adopted by the JATC. Applicant Apprentice employment, wages, fringes, and other employment conditions shall be established by SMWIA 104 and Bay Area SMACNA. The Hiring Hall facility shall lend its full cooperation to the JATC.

SECTION B. All duly qualified Apprentices shall be under the supervision and control of the JATC, composed of an equal number as the Committee may deem necessary, representing the Union (Labor) and the Employer (Management). Local 104 shall appoint the Labor representatives. The Bay Area Association shall appoint the Management representatives. Each party shall give written notice to the other and the Division of Apprenticeship Standards, designating their members and any replacement thereof. No new member shall be recognized unless such notice has been received. Any three (3) said members shall constitute a legal quorum, provided each member of the Committee has been notified by any form of United States mail, facsimile, or electronic mail, not less than three (3) days in advance of all meetings. The Chair, or the Secretary, or the Division of Apprenticeship Standards representative or any two (2) Committee members may call a special meeting of the Committee. Said JATC shall formulate and make operative such rules and regulations as they may deem necessary, which do not conflict with the specific terms of this Agreement, to govern the applications, eligibility, registration, selection, education, transfer, wages, hours, working conditions of duly qualified Apprentices, and the operation of an adequate Apprentice system, to meet the needs and requirements of the trade and to secure proper technical and practical education and experience in the trade by all Apprentices. Said rules and regulations, when formulated and adopted by the parties hereto, shall be recognized as part of this Agreement.

SECTION C. The JATC is hereby authorized to indenture a maximum overall industry ratio of one (1) Apprentice to each three (3) Journeypersons. The JATC shall do everything in their power to maintain the maximum number of indentured Apprentices. The JATC shall determine the placement of such Apprentices by selecting those shops most qualified to perform the training. Employers wishing to train Apprentices may file application with the JATC. All placement of Apprentices shall be through the Hiring Hall system. All Apprentices are indentured to the JATC, and the Employer does not have the unilateral authority to transfer or terminate the employment of an Apprentice without prior approval of the JATC, except that the first year or one thousand (1,000) hours of employment and seventy-two (72) hours of related instruction of an indentured Apprentice shall be considered a critical review period. The JATC shall endeavor to keep all Apprentices working while using the below ratio as a guide in placing those Apprentices who are unemployed. The first Apprentice may be dispatched following the employment of the first Journeyperson and thereafter, the Apprentice to Journeyperson ratio shall not exceed one (1) to three (3) company-wide (see Exhibit A); however, an Employer will not be entitled to a new Apprentice if the Employer has an Apprentice on layoff for lack of work, unless otherwise determined by the signatory parties hereto. When hiring a new Apprentice, preference shall be given to the area in which the project is located.

SECTION D. All applicants for apprenticeship shall be at least seventeen (17) years of age; and each Building Trades Apprentice shall serve an apprenticeship of five (5) years; unless advanced through organizing or by the JATC, and such apprentices shall not be in charge of work on any job and shall work under the supervision of a Journeyperson until apprenticeship terms have been completed and they have qualified as a Journeyperson. Supervision of Apprentices may be liberalized pending ability of the individual Apprentice's knowledge of the sheet metal trade and safety procedures. All applicants shall be required, as a pre-employment qualification before receiving a dispatch, to show proof of having a valid California Driver License, and shall, during the tenure of his/her training, maintain an acceptable driving record.

A graduated gross taxable wage scale for Apprentices shall be established and maintained on a percentage basis of the established gross taxable wage rate for Class II Journeyperson sheet metal workers. (See Item 1, Section A.)

SECTION E. Following notification by the JATC, each Employer shall advance his/her Apprentices from one period of apprenticeship to the next on January 1st and July 1st of each year. Future Apprentice schedules will be published based on the Class II Journeyperson gross taxable rate plus fringes, as mutually agreed.

SECTION F. It is the understanding of the parties to this Agreement that the funds contributed by signatory Employers to the International Training Institute and any Local Joint Apprenticeship and Training Fund (Local JATC) will not be used to train Apprentices or Journeypersons who will be employed by Employers in the sheet metal industry not signatory to a collective bargaining agreement providing for contributions to the International Training Institute and a Local JATC. Therefore, the Trustees of the International Training Institute and Local JATC shall adopt and implement a Scholarship Loan Agreement Program which will require Apprentices and Journeypersons employed by signatory Employers to repay the cost of training, either by service following training within the union sector of the industry or by actual repayment of the cost of training, if the individual goes to work for a non-signatory Employer in the sheet metal industry. The cost of training shall include the reasonable value of all International Training Institute and Local JATC materials, facilities, and personnel utilized in training. If a Local JATC does not implement the Scholarship Loan Agreement, the Local JATC shall be prohibited from utilizing International Training Institute materials and programs.

SECTION G. Pursuant to the Apprentice Organizing Program established within the jurisdiction of SMWIA, Local Union No. 104 shall be utilized to effectively pursue organization efforts by all means available, including but not limited to, Apprentices as Organizers. It shall not be a violation of this Addendum for Apprentices indentured to the Local 104 and Bay Area Industry Training Fund to be granted leave of absence for a period not to exceed one semester for the purpose of participating in the Apprentice Organizing Program sponsored by the Union.

SECTION H. The parties agree that career-long skill upgrade training is necessary for an effective workforce and agree to undertake those measures available to them to encourage continuing training for sheet metal Journeypersons. The parties will review the needs for specialized and skill-upgrade training and cooperate to establish necessary programs which will then be supervised by the Joint Apprenticeship Training Committee.

SECTION I. Effective January 1, 2007, there shall be no rotation of Apprentices in any area if by September 1, 2006, the parties have developed a program establishing minimum standards to insure that Apprentices will be assigned to receive training in all facets of the industry. There will be a two (2)-year trial period to evaluate the program. If at the conclusion of the trial period either party to the Collective Bargaining Agreement deems the program not to be effective, rotation shall revert to the procedures that existed prior to July 1, 2006.

SECTION J. The parties have agreed to nighttime training in all areas.

ITEM 25. PRE-APPRENTICE

In the event of a conflict of this Item 25 between any rules and regulations per the language contained herein established by Sheet Metal Workers' Local 104 and Bay Area Industry Training Fund, the language of the Trust Agreement shall prevail.

SECTION A. It is hereby agreed that the Employer may apply to the Joint Apprenticeship and Training Committee (JATC) and the JATC shall grant Pre-apprentices, per the established ratios attached as Exhibit A. Apprentice ratio is based on the number of Journeypersons and the Pre-apprentice ratio is based on the number of Apprentices. Any Apprentice of the Employer on layoff at the effective date of this Agreement must be rehired before said Employer is entitled to any Pre-apprentice.

In the event the Employer is entitled to employ a Pre-apprentice and the Union fails to comply with the Employer's written request to furnish a Pre-apprentice within forty-eight (48) hours, the Employer may hire such employees from any source and refer them to the JATC for enrollment.

Pre-apprentices shall make application and become eligible applicants for apprenticeship within one (1) year of date of first dispatch to an Employer. Any Pre-apprentice failing to make application, not meeting minimum requirements or actively pursuing indenture through the Local JATC shall be terminated from the Pre-apprentice program after twelve (12) months.

SECTION B. The Employer may hire Pre-apprentices to comply with ratios contained herein until such time as the Local Union can supply Journeypersons or Apprentices. A minimum of five (5) days of employment for the Pre-apprentice is hereby agreed to. Upon availability of ratios contained herein, a twenty-four (24)-hour notice shall be given to the Employer prior to dispatch.

The Employer can name-call Pre-apprentices from the out of work list as long as they alternate their selection from the out of work list chronologically on a one-on-one basis. The first selection can be by the Employer.

SECTION C. The parties agree to meet and establish necessary procedures of restructuring the use of the Pre-apprentice program with regards to advancement towards apprenticeship.

ITEM 26. MATERIAL EXPEDITER

SECTION A. Employers signatory to this Agreement and employing five (5) or more employees covered under the terms and conditions of this Agreement may employ a Material Expediter who shall perform such duties for the Employer as truck driving, loading, sweeping, and material handling. Said employees shall not install and/or fabricate any items covered under the terms and conditions of this Agreement.

SECTION B. It is hereby understood and agreed that said employee, when delivering materials to the jobsite, shall make only one (1) ground-floor stockpile drop per structure and shall in no instance make additional distributions from that point. The inclusion of more than one (1) such employee by any one firm must be specifically approved by the Union. A second violation of any of the conditions of this Section of this Agreement shall result in the cancellation of this Section for the Employer who so violates it.

SECTION C. The workweek for said employees shall be forty (40) hours (eight [8] hours per day, Monday through Friday). The overtime rate shall be the same as Item 7, Section B.

SECTION D. The wage and fringe payments for such employees shall be attached.

ITEM 27. MOONLIGHTING

This Section shall not be applicable to employees performing work under an approved agreement with the Union.

SECTION A. The Union agrees that employees covered under the terms of this Agreement shall perform the work defined and stated under the terms of this Agreement, solely for and under the direction of Employers signatory hereto, and the Union agrees to strictly enforce the terms, conditions, and intent of this Section by whatever means not prohibited by law. The Employer agrees to notify the Union of any violations of this Section and of any of its employee members of Local 104 purchasing excessive amounts of material and/or equipment from the Employer. Any violation of this clause by the employee shall be acted upon by the Union and if found guilty by the Trial Committee, monetary penalties may be assessed.

ITEM 28. DEFINITION OF EMPLOYEE

SECTION A. Any person employed by a signatory Employer to perform any of the work covered under the SFUA and Addenda thereto is hereinafter called "employee" or "worker" or "workers."

SECTION B. All sheet metal work, as defined in Article 1, shall be performed only by employees employed under terms of this Agreement and applicable Addenda. No employee shall become a contractor or subcontractor for the performance of any work covered by this Agreement. Owner/members who abandon such status and who register for referral must suspend any contractors license.

SECTION C. Employees or applicants for employment holding a state contractors license of any kind shall inactivate their license before being eligible for the use of or continued employment under the Hiring Hall facilities.

SECTION D. For the purpose of enforcing the above provisions, it shall be the mutual responsibility of Labor and Management to notify the other party of any employee with a current contractors license.

ITEM 29. DEFINITION OF EMPLOYER

SECTION A. Certain qualifications, knowledge, experience, and financial responsibility are required of anyone desiring to be an Employer in the sheet metal industry. Therefore, an Employer is an entity that contracts for or sells sheet metal, heating or air conditioning systems, as a person, firm, corporation, or other form of business entity having these qualifications, who maintains an established permanent place of business (other than a job shack or residence), who is equipped with the tools required for the fabrication and installation of the work in which the business is engaged must be regularly and steadily engaged in such business and have suitable resources to meet payroll and other financial requirements. In addition, such Employer must be in possession of any required state contractors license, shall have a valid license in any city where legally required to do work in accordance with applicable codes and permits and shall employ at least one journeyperson regularly. He/she shall carry Workers' Compensation Insurance through a reputable state-approved insurance company or the State Fund, comply with the Federal Social Security Act, and the California Unemployment Insurance Act. For purposes of this Agreement, no branch shop or operation shall be recognized unless previously approved by the Union and then only following the execution of the Collective Bargaining Agreement covering said branch shop or operation.

SECTION B. An Employer who has executed this Agreement or has otherwise agreed to be bound by this Agreement, shall be bound by all of the terms of this Agreement and the SFUA, even though such Employer has not authorized SMACNA as his/her collective bargaining agent.

Each Employer agrees to furnish the Union with the name of his/her workers' compensation and disability insurance carrier and his/her contractors license number(s). Local Union 104 shall be notified immediately if any Employer changes insurance carriers or if insurance is dropped or cancelled.

SECTION C. Owner/members, when working with tools in the shop or on the jobsite, shall comply with the working hours of the Journeyperson.

ITEM 30. MANAGEMENT RIGHTS CLAUSE

SECTION A. Management reserves the right to manage its business and the workforce subject to terms of the Agreement herein.

ITEM 31. LUMPING OF LABOR — PIECEWORK

This Section shall not be applicable to employees performing work under an approved agreement with the Union.

SECTION A. No Employer shall directly, indirectly or by any subterfuge, sublet to persons, who are normally employees, any jurisdiction of work coming under this Agreement. Employees shall not be compensated on any other basis than that set forth in this contract, except nothing contained herein shall preclude awarding bonuses for outstanding achievement which is in addition to all regular wages being fully paid.

SECTION B. No Journeyperson will be permitted to subcontract or lump the installation of any sheet metal or heating work or any other work under the jurisdiction of the Local Union or work in any shop where subcontracting is practiced by employees. No Journeyperson, Apprentice, or applicant shall be allowed to work for him/herself after hours or on Saturdays, Sundays, or holidays. Violation of this Section shall be submitted to the Local Union. Journeypersons are not restricted from working on their own property after notification to the Union.

ITEM 32. TASK FORCE

During the term of this Agreement, either party may bring forward any justifiable contract concern(s) in the industry. If resolve cannot be reached by Task Force, then either party may request the service of the NJAB to seek resolution, per Article X, Section 8. It is hereby understood and agreed to by all parties that Article X, Section 8 is applicable to this Agreement.

ITEM 33. RECOGNITION CLAUSE

If at any time during the term of this Agreement the Union presents the Employer with proof that a majority of the Employer's employees performing work covered by this Agreement have authorized the Union to act as their exclusive representative for purposes of collective bargaining, the Employer shall immediately and unconditionally, in writing, recognize the Union, pursuant to Section 9(a) of the National Labor Relations Act, as the exclusive representative of its employees who perform such work. Proof of majority status shall consist of signed authorization cards demonstrating that not less than fifty percent (50%) plus one (1) of those employees have authorized the Union to act as their exclusive collective bargaining representative. After recognizing the Union as set forth above, the Employer waives its right to challenge the Union's status as the Section 9(a) exclusive representative before the National Labor Relations Board or before any court or arbitrator.

ITEM 34. STRIKES — LOCKOUTS

SECTION A. There shall be no stoppage of work, either by strike or lockout, except as provided in Item 5 – PAYMENT TO FUNDS AND BONDING. However, no part of this Agreement is to be interpreted as requiring members of the Union to work behind a lawful and legally recognized and authorized Building Trades Council picket line. All such disputes shall be processed as provided in Article X of the SFUA.

SECTION B. It shall not be a violation of this Agreement, and it shall not be cause for discharge or discipline, if an employee refuses to enter upon any property involved in a lawful primary labor dispute or refuses to go through or work behind any lawful primary picket lines at the Employer's own place of business or jobs.

ITEM 35. EQUALITY OF OPERATIONS

SECTION A. Local 104 agrees that if during the term of this Agreement any Employer performing work for or within the jurisdiction of Local 104 is granted more favorable conditions, then the same more favorable conditions will be available to all signatory Employers performing the same type of work within the jurisdiction of this Agreement. Upon the Association's request, Local 104 agrees to furnish the Association a copy of each local agreement they are a party to for work performed within their jurisdiction within thirty (30) days following execution of each agreement. This clause shall not be applicable to: (a) work for which relief under (Item 47) Resolution 78 or similar programs has been granted to all eligible bidding contractors who have applied for relief prior to bid; (b) under project agreements; (c) in newly organized shops with respect to work existing at time such shops were organized. Equality of Operations Clause shall only be applicable to different conditions in each geographical dispatch area and work performed in or for that area.

ITEM 36. INTERPRETATION OF AGREEMENT AND GENERAL SAVINGS CLAUSE

SECTION A. It is the intent of the parties that all provisions of this Agreement shall apply only to the full extent consistent with then existing applicable law.

SECTION B. If any Article or Item of this Agreement or any portion thereof, becomes invalid, illegal, or unenforceable in any way, only that Article, Item or portion thereof shall be severed from this Agreement and all of the other provisions of this Agreement shall remain in full force and effect. The parties agree to meet and negotiate a substitute provision. If negotiations are unsuccessful, the issue may be submitted for resolution by either party pursuant to Article X, Section 8 of this Agreement.

ITEM 37. INTEGRITY CLAUSE

To protect and preserve for the employees covered by this Agreement, all work they have traditionally performed that is covered by this Agreement (covered work), and to prevent any device or subterfuge to avoid the protection and preservation of such covered work, it is agreed as follows: All covered work performed by the Employer shall be performed by employees covered by this Agreement and pursuant to the terms of this Agreement, regardless of whether the work is done by the Employer either (1) under its own name or (2) under the name of another business entity (whether organized as a corporation, company, partnership, joint venture, or otherwise) wherein the Employer exercises actual or active control over the assignment of work.

ITEM 38. SMWIA/SMACNA DRUG POLICY

SMWIA/SMACNA JOINT ALCOHOL AND SUBSTANCE ABUSE COMMITTEE SUBSTANCE TESTING POLICY

PREFACE: Alcohol/substance abuse is recognized as a treatable illness. The desired result is rehabilitation. The preferred procedure is through referral to a locally operated industry Employee Assistance Program (EAP). The EAP should provide employee and supervisor educational programming, individual and family counseling, as well as treatment referral services. Workplace problems arising out of an employee's relationship with substance abuse may warrant a variety of management responses, including referral for treatment, testing, disciplinary action, or even termination of employment. This statement addresses the testing issue only.

No substance-testing program should be implemented unless there is an EAP implemented to provide treatment for bargaining unit employees.

GENERAL PROVISIONS: The SMWIA/SMACNA Joint Alcohol Substance Abuse Committee regards blood/urine testing as problematic and does not advocate reliance on such procedures to identify individuals with an alcohol/chemical dependency. However, certain circumstances support substance testing as a warranted vehicle for determining possible impairment and/or propensity for substance abuse. These include:

1. Pre-employment screening.
2. Probable cause.
3. Work opportunity mandated testing.

Whenever testing is utilized, it shall be accomplished through dignified and humane procedures, insuring complete confidentiality of specimen custody and test results. The individual being tested and the EAP shall have access to the test results. The sheet metal Employer (or JATC) and Union shall be notified of the positive or negative results only.

For all testing, tests shall be conducted by qualified and accredited laboratories which comply with the scientific and technical guidelines for federal drug testing programs and the Standards for Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies issued by the Alcohol, Drug Abuse, and Mental Health Administration of the United States Department of Health and Human Services or standards established by the applicable state having jurisdiction–whichever are the more stringent–maintain high quality control procedures, and follow manufacturer's protocols. All initial positive tests shall be subject to confirmation assay, such as a Gas Chromatography with Mass Spectrometry. The levels of detected substances for determining positive results shall be those established as legitimate by the Alcohol, Drug Abuse, and Mental Health Administration of the United States Department of Health and Human Services or those established by the state having jurisdiction–whichever are the more stringent.

PRE-EMPLOYMENT SCREENING: The screening of new prospective employees (job applicants, not members of the Union) may be implemented to ascertain whether an applicant is capable of safely performing the duties of and meeting the prerequisites for the employment proffered.

Therefore, pre-employment drug/alcohol testing of applicants, not currently members of the Union, for sheet metal positions covered by the terms of a collective bargaining agreement, may screen out those with a substance abuse problem.

PROBABLE CAUSE: Substance testing may be implemented when there is "probable cause." Probable cause shall be defined as those circumstances, based on objective evidence about the employee's conduct in the workplace that would cause a reasonable person to believe that the employee is demonstrating signs of impairment due to alcohol or drugs. Examples of objective evidence include, when an employee shows signs of impairment such as difficulty in maintaining balance, slurred speech, erratic, or atypical behavior, otherwise appears unable to perform his/her job in a safe manner.

WORK OPPORTUNITY MANDATED TESTING: In all situations where an Employer is required to agree to a testing program in order to qualify as a bidder on the project, testing may be required, but only if performed in accordance with these standards and applied uniformly to all personnel having access to the workplace. There shall be no discrimination against any employee who refuses a job assignment to a project that has drug testing.

PROVISO: Testing in any of the above situations shall be conducted and governed in accordance with the general provisions of this policy statement.

ITEM 39. PHYSICAL EXAMS

SECTION A. No applicant for employment dispatched from any Hiring Hall maintained by Local Union No. 104 shall be required as a condition of employment, to submit to a physical examination.

ITEM 40. WORK PRESERVATION

To protect and preserve, for all workers who may be covered by this Agreement, all work that has been performed and all work covered by this Agreement, and to prevent any device or subterfuge to avoid the protection and preservation of work, it is agreed that all the work requiring fabrication shall be performed within the geographical jurisdiction of Local 104, either in the shop or on the jobsite, by workers who may be employed under this Agreement.

This "preservation of work clause" shall be enforceable only as to Employers that have signed the SFUA which includes the Addendum between Local 104 and the Bay Area Association. This clause shall not be enforceable as to any Employer that may become bound to the Addendum between Sheet Metal Workers' Local Union No. 104 and the Bay Area Association solely as a result of Article VIII, Section 6 of the SFUA.

It is agreed that this "preservation of work clause" and the equalization clause of Section 2 of Article VIII, Section 2 of Article II, and Section 1 of Article III shall not be applicable to the manufacture for sale to the trade or purchase of the following items:

1. Ventilators
2. Louvers
3. Automatic and fire dampers
4. Radiator and air conditioning unit enclosures
5. Fabricated pipe and fittings for residential installations
6. Mixing (attenuation) boxes
7. Plastic skylights
8. Air diffusers
9. Grilles
10. Registers
11. Sound attenuators
12. Chutes
13. Double-wall panel plenums
14. Angle rings

It is further agreed this "preservation of work clause" shall not be applicable to residential work, as defined in the locality, service work, industrial work, kitchen equipment work, siding and decking work, flex or spiral pipe (round and oval), pipe lock, and double-wall ductwork.

ITEM 41. DRIVER INSURABILITY

While this provision is not applicable to employees not required to operate a motor vehicle by the Employer, it is agreed that employees required to drive on behalf of an Employer may be rejected or terminated if not in possession of a valid driver license or when not insurable or insurable only at excessive non-standard rates imposed by assigned risk status.

ITEM 42. EQUAL OPPORTUNITY

SECTION A. The parties to this Agreement agree not to discriminate against any employee or applicant for employment based on race, religion, ethnicity, gender, sex, sexual orientation, age, or national origin.

ITEM 43. PRESERVATION OF EMPLOYMENT OPPORTUNITY

{SAN FRANCISCO ~ PREAMBLE AND RULES GOVERNING USE OF CONDUIT AND FLEXIBLE DUCT FOR SUPPLY AND/OR RETURN SYSTEMS AND FABRICATED ITEMS: Historically, the sheet metal worker, a skilled Journeyperson with five (5) years' apprenticeship training, has always been unique in that he/she has fabricated what he/she has erected. While other crafts in the building trades erected material fabricated by others, the sheet metal worker historically fabricated many items he/she erected. Lately, the introduction of production-made products for the conveying and distribution of air conditioning systems has posed a serious threat to the nature and extent of job opportunities of the sheet metal worker. Convinced that the introduction of these items, which are intended to reduce labor costs with resultant loss of job opportunities and give no benefits of automation to the sheet metal workers, and reduce his/her trade to an erection trade only, and obviate the need for and the use of his/her skills as a fabricating craftsperson, the sheet metal worker and his/her Union have insisted that reasonable rules be adopted for the conservation and spreading of work opportunities and his/her term of employment. To meet these demands for the preservation and extension of work opportunities and job conditions, and in consideration of the Union dropping many demands similarly designated to conserve work opportunities, and to protect working conditions, the Employer has consented to the following Rules Governing Use of Conduit and Flexible Duct for Supply and/or Return Systems, which the Union deems necessary.

RULES GOVERNING USE OF CONDUIT AND FLEXIBLE DUCT FOR SUPPLY AND/OR RETURN SYSTEMS

A. GENERAL

1. The use of conduit and flexible duct is divided into categories:

   (A) Airtight (high pressure)
   (B) Conventional

2. The classification of a system for this purpose will not be determined by static pressure or velocity, but rather by the following requirements:

   (A) A high pressure system will have airtight ductwork of special construction. It will be made airtight by mechanical means such as welding, gasketing and/or a high pressure sealant.

   (B) In addition, for a system to be considered high pressure, it must have pressure reduction devices such as one of the following:

   a. Pressure reducing valve lined duct.
   b. Pressure reducing valve with sound trap.
   c. Attenuation box with pressure reducing valve.
   d. Double duct, or mixing box with valves.
   e. Peripheral high velocity systems.

3. Any supply system that does not have both airtight construction and a pressure reduction device will be considered a conventional system.

4. The requirements in number 2 above, refer to both supply and return systems, except in addition to the aforementioned, a high velocity return system must have metal flues or metal risers to be considered high pressure and be of airtight construction to qualify.

B. CONVENTIONAL SYSTEMS (above ground)

1. The use of flexible duct is not permitted on a conventional system, except where a special type of outlet requiring an "in-between" connection is necessary. This connection may be made by using one (1) seventy-two (72)-inch maximum length of flexible duct.

C. HIGH PRESSURE SYSTEMS (airtight)

1. Peripheral systems (single or double duct)
   a. The use of conduit shall not be restricted.

b. Flexible duct may be used where a special type of outlet requiring an "in-between" connection is necessary; this connection may be made by using one 72 inch maximum length flexible.

For the purpose of this Agreement, conduit is defined as a metal conveyor for the distribution of air in high velocity air conditioning and/or heating and ventilation systems. Round fitting(s) of 22 gauge and heavier are included in this definition.

These provisions are applicable only to commercial installations in the City and County of San Francisco.}

ITEM 44. SUCCESSORSHIP

If during the term of this Collective Bargaining Agreement, an Employer sells, leases, transfers his/her business, he/she shall notify the new entity of the existence of the Collective Bargaining Agreement and copy the Union within thirty (30) days prior to the date of transfer.

ITEM 45. POLITICAL CONTRIBUTIONS

The Employer agrees to honor any political contribution deduction authorized by its employees who are Union members. Upon request, the Union will provide the Employer with Political Contribution Deduction Authorization forms.

ITEM 46. SERVICE WORK

SECTION A. **DEFINITION OF SERVICE** - Service is hereby defined as the maintenance, repair, adjustments, alteration, and cleaning necessary to make operative any heating, air conditioning, food service equipment, refrigeration, and/or other types of equipment. Included herein, is the replacement of equipment and/or parts deemed necessary and proper to provide an operable system. Service Journeypersons or Apprentices may perform check, test, start, warranty, and other incidental work to provide an operable system on new construction projects.

SECTION B. **SERVICE WORKWEEK – OVERTIME RATE** – The workweek may be scheduled Monday through Friday, or Tuesday through Saturday. The normal workday shall be eight (8) hours between 7:00 a.m. and 3:30 p.m. Start time between 6:00 a.m. and 8:00 a.m. (other than 7:00 a.m.) may be implemented by notification to the Union prior to implementation. Servicepersons allowed "flextime" up to ten (10) consecutive hours per day, between the hours of 6:00 a.m. through 6:00 p.m., not to exceed forty (40) hours per week. (A one half [½]-hour lunch period shall be taken approximately halfway through all shifts, and a second one half [½]-hour meal period when working more than ten [10] hours per day, and an additional one half [½]-hour meal period for each four [4] hours worked thereafter. In addition, one [1] ten [10]-minute rest period shall be provided for each four [4] hours worked or major fraction thereof.)

MONDAY THROUGH FRIDAY – The first four (4) hours worked outside of the employee's normal work hours, shall be paid at the rate of time and one half (1 ½). The first eight (8) hours worked on Saturday during the employee's normal work hours shall be paid at the rate of time and one half (1 ½). All other overtime, including any work on Sundays and holidays, shall be paid at the double (2) time rate of pay.

TUESDAY THROUGH SATURDAY – The first four (4) hours worked outside of the employee's normal work hours shall be paid at the rate of time and one half (1 ½). All other overtime, including any work on Sundays, Mondays, and holidays, shall be paid at the double (2) time rate of pay.

The Employer shall give prior notification to the proper dispatch office of implementation of alternating workweeks for Service employees and of which employees have been scheduled for the alternating workweeks. Prior notification to the proper dispatch office is required prior to a change in workweek scheduling. Any diversion or change in scheduling to avoid overtime payments shall be considered a violation of this provision.

SECTION C. These terms and conditions shall apply to employees performing the work covered by this Agreement on a continuous basis, Building Trades Service Journeypersons and Building Trades Service Apprentices.

SECTION D. An individual with verified prior experience and/or formal training in the field may take such test(s) as required and administered by the JATC, and if the individual successfully passes said test(s), may request a waiver from class participation. The JATC shall determine placement based on an equitable scoring system.

SECTION E. **PERSONAL TOOLS** - The employee shall provide for themselves the following set of tools: assorted screwdrivers, pliers (dikes, needle nose, channel locks, lineman pliers), sheet metal hammer, ball peen hammer, assorted nut drivers, assorted crescent wrenches (4" through 12"), one tool belt, one tool box, ½", 3/8", and ¼" socket sets, flashlight, 12' tape measure, hacksaw frame, and small set of Allen wrenches. These tools shall have total monetary cost not to exceed four hundred-fifty dollars ($450.00). The Employer shall provide all special tools and instrumentation.

SECTION F. **ON-CALL PROVISION** - When a Service employee is required to be "on call," he/she shall receive compensation in the amount of two (2) hours straight time gross taxable wages for each day or portion thereof, that he/she is required to be "on call." If said Service employee is called upon to perform work while "on call," this provision will not be applicable and the employee shall be compensated at a minimum of two (2) hours' pay at the appropriate overtime rate for that day.

ITEM 47. RESOLUTION 78

The Business Manager of SMWIA Local Union No. 104 has the exclusive authority, per the SMWIA Constitution and Ritual and this Agreement, to expand conditions of this Agreement or take whatever steps necessary, including additional flexible conditions on a particular job, to ensure that such work will be captured for our members and the industry.

Contractors requesting Resolution 78 shall contact their local dispatch office for a Resolution 78 application that is to be completed and mailed or faxed to the SMW Local 104 Business Manager for consideration prior to bid.

ITEM 48. SIGNING OF AGREEMENT

SECTION A. The following SMACNA Chapters have assigned all bargaining rights and obligations to the Bay Area Association of SMACNA Chapters: SMACNA Greater Oakland Chapter, Redwood Empire Chapter, San Francisco Chapter, San Mateo Chapter, and Santa Clara Chapter. It is understood and agreed that irrespective of membership in the Association, and/or its affiliated chapters each individual Employer shall sign an individual contract.

The Bay Area Association shall provide copies of the individual Employer Assignment of Bargaining Rights to the Union, together with such signed statement(s) as may from time to time be required and necessary to assure prompt enforcement of the terms and conditions of the Agreement.

SECTION B. In applying the provisions of Section A above, and before dispatching employees covered by this Agreement to an Employer who does not have a recognized local permanent shop within the jurisdiction of this Agreement, the Union shall require such Employer to sign a stipulation to the effect that he will conform with all contractual requirements in this jurisdiction and also will make the appropriate fringe benefit contributions.

SECTION C. The Union agrees to furnish the Association on a continuous basis, a current copy of each signed Agreement as set forth in Sections A and B above.

SECTION D. The Union and the Association agree to negotiate additional contracts covering industrial and residential.

ITEM 49. ALTERNATIVE DISPUTE RESOLUTION (A.D.R.)

The parties agree to meet and develop an Alternative Dispute Resolution Plan. (See Exhibit B.)

LIGHT COMMERCIAL
ADDENDUM NUMBER TWO
TO THE
STANDARD FORM OF UNION AGREEMENT

All firms signatory hereto are bound to the Standard Form of Union Agreement (A-01-05), hereinafter "SFUA," and Addendum One. This Addendum modifies and/or amends those terms or conditions of the SFUA and Addendum One when firms signatory hereto perform work described by this Addendum. Any contract items not specifically addressed/defined in this Addendum shall remain governed by the terms of the SFUA and Addendum One.

ITEM 1. AREA AND TERM OF ADDENDUM

SECTION A. This Addendum applies to all light commercial work performed by employees covered by Local 104's SFUA and Addendum One.

SECTION B. Item 5 of this Addendum is effective July 1, 2006, for all light commercial work regardless of the date of bid or purchase order.

All other Items of this Addendum are applicable only to light commercial work done pursuant to bids or purchase orders dated after June 29, 2006, the date of ratification of this Addendum.

SECTION C. Light commercial work done pursuant to bids or purchase orders dated on or before June 29, 2006, shall be governed by the terms (other than wages/fringes) of the Light Commercial Addendum that was appended to the 1994 - 2006 SFUA.

SECTION D. This Addendum shall remain in full force and effect until June 30, 2010.

ITEM 2. DEFINITIONS

SECTION A. Light Commercial includes any HVAC systems or architectural sheet metal work with a contract price of two hundred thousand dollars ($200,000.00) or less, with no height restriction, unlimited dollar amount on pre-engineered, pre-manufactured metal roofing, and siding.

SECTION B. In calculating the two hundred thousand dollar ($200,000.00) limit on HVAC systems, the contract price shall include all costs for equipment, diffusers, controls (except propriety control systems by others), detailing, etc., as well as all duct fabrication and installation.

SECTION C. Job Notification: Employers are required to notify Employees prior to performing any work covered by this Agreement.

ITEM 3. CLASSIFICATIONS

SECTION A. Effective July 1, 2006, the following classifications shall be eligible to perform work under this Addendum as addressed: Building Trades/Light Commercial Journeyperson, Building Trades Apprentice, Pre-apprentice, Service Mechanic, Service Technician/Apprentice, New Residential Journeyperson, and Air Conditioning Specialist/Apprentice/ Applicant.

SECTION B. New Residential Journeypersons, Air Conditioning Specialists, and Air Conditioning Specialist Apprentices/Applicants in the employ of the contractor shall be eligible to perform work in the field only.

SECTION C.

I. The parties hereby agree to establish a voluntary 216-hour training program that will be made available to any full-step Air Conditioning Specialist who has three (3) or more years' experience. Upon successful completion of the program, including the exit exam, they shall obtain New Residential Journeyperson status.

II. A contractor may sponsor a full-step Air Conditioning Specialist (currently in their employ for a minimum of twelve [12] months with four [4] years' or more experience), to become a New Residential Journeyperson. Such request must be in writing on company letterhead and addressed to the Local Union.

III. During periods of time when the industry is experiencing labor shortages in the residential market and Local Union No. 104 is advertising the New Residential Journeyperson test for recruiting, a full-step Air Conditioning Specialist (with four [4] years' or more experience) shall be eligible to challenge the New Residential Journeyperson test.

IV. A New Residential Journeyperson may be dispatched at the Building Trades Journeyperson Residential rate with a written request to the Union by the Employer.

ITEM 4. AIR CONDITIONING SPECIALIST RATIO

SECTION A. For each Building Trades Apprentice, Employers shall be entitled to only one (1) of the following: New Residential Journeyperson, Air Conditioning Specialist, or Air Conditioning Specialist Apprentice/ Applicant.

SECTION B. To provide the best possible continued stable employment, the Employer shall employ unemployed Sheet Metal Air Conditioning Specialists/Apprentices before new applicants will be dispatched.

SECTION C. Recognizing that Air Conditioning Specialist Apprentices require direction and assistance in the performance of the installation of materials and equipment necessary for the completion of a heating and/or air conditioning system, as well as various architectural sheet metal and sheet metal roofing; the Employer shall have such employees work in conjunction with either a New Residential Journeyperson or Building Trades/ Light Commercial Journeyperson.

ITEM 5. WAGES

SECTION A. The following wage/fringe increases shall be allocated as determined by the Local Union No. 104 members working under the terms and provisions of this Agreement. Such allocations shall be made to wages or to existing fringes or to any new funds as may be mutually agreed to by the parties.

SECTION B. The current minimum Wage/Fringe Schedules for all classes of employees covered by this Addendum shall be attached and considered appendices of this Addendum.

WAGE INCREASE PER HOUR

	7.1.06	1.1.07	7.1.07	7.1.08	7.1.09
Light Commercial Journeyperson	$3.00	$2.00	$4.00	$5.00	Wage reopener
Service Technician	$1.80	$1.20	$2.40	$3.00	Wage reopener
AC Specialist	$1.75	$1.75	$2.00	$2.00	Wage reopener
New Residential Journeyperson		$1.25	$2.00	$2.00	Wage reopener

Service Mechanic shall receive no less than fifteen percent (15%) above the Service Technician's total package.

New Residential Journeyperson shall have a total package of thirty-nine dollars and seventy-five cents ($39.75) effective July 1, 2006.

Building Trades Apprentice, Pre-apprentice, and Material Expediter – See Addendum One, Item One.

SECTION C. The Service Technician Apprentice gross taxable wage shall be based on the Service Technician gross taxable wage percentages as follows:

1st six (6) months – Sixty percent (60%)
2nd six (6) months – Seventy-five percent (75%)
3rd six (6) months – Eighty-five percent (85%)
4th six (6) months – Ninety-five percent (95%)

The contributions for Service Technician Apprentice to the Funds are made on the following percentages of the Service Technician contribution:

Northern California Pension: Forty-eight percent (48%)
Local Supplemental Pension: Twenty percent (20%)
National Pension: Seventy-nine percent (79%)
Health Care (Schedule II), Local Training, Scholarship Fund, NEMIC, SMOHIT, and Industry Promotion Fund shall be one hundred percent (100%).

SECTION D. The Air Conditioning Specialist Apprentice gross taxable wage shall be based on the Air Conditioning Specialist gross taxable wage percentages as follows:

1st six (6) months – Sixty percent (60%)
2nd six (6) months – Seventy percent (70%)
3rd six (6) months – Eighty percent (80%)
4th six (6) months – Eighty-five percent (85%)

The contributions for Air Conditioning Specialist Apprentice to the Funds are made on the following percentages of the Air Conditioning Specialist contribution:

Northern California Pension: Thirty-four percent (34%)
Local Supplemental Pension: Forty-four percent (44%)
National Pension: Seventy-four percent (74%)
Health Care (Schedule II), Local Training, Scholarship Fund, NEMIC, SMOHIT, and Industry Promotion Fund shall be one hundred percent (100%).

SECTION E. Any contractual wage increase allocated by Air Conditioning Specialist to the base wage shall be in addition to their current base wage for their current Employer at that time. No member shall suffer a wage reduction due to the signing of this Agreement.

SECTION F. Any current Air Conditioning Specialist placed into the Building Trades Apprenticeship program shall have their gross taxable wages frozen until such time as those wages are contractually surpassed for their current Employer.

SECTION G. Air Conditioning Specialist Applicants shall receive no less than the base wage of the first six (6) months Air Conditioning Apprentice. If still in the employ after sixty (60) days, the applicant shall receive Schedule II Health Care benefits from date of hire; and all other benefits shall begin thereafter, and such applicant will enroll and participate in the training program.

ITEM 6. SUPPLEMENTAL PENSION CLASSIFICATIONS

There shall be four (4) Supplemental Pension classifications of employees covered under the Light Commercial Addendum for Air Conditioning Specialist, New Residential Journeyperson, Service Mechanic, and Service Technician. Classification is based upon industry seniority under Collective Bargaining Agreements with the Union and the attainment of advanced levels of experience and status within the trade. Applicable terms and conditions of this Addendum shall be applied in accordance with attained classification. Applications for classification designations shall be submitted to the Financial Secretary of the Union and upon approval that the applicant has attained the requisite experience as outlined below, the employee, by designation of classification, authorizes the Employer to deduct Supplemental Pension amounts from his/her wages up to the amount as identified in the attached schedule listing each applicable classification.

Class I employees shall consist of all Air Conditioning Specialist Apprentices, and Service Technician Apprentices.

Class II employees shall consist of Air Conditioning Specialists, New Residential Journeypersons, Service Mechanics, and Service Technicians who have successfully completed their course of training as outlined in the Agreement between the parties hereto.

Class III employees shall consist of employees who have successfully completed Air Conditioning Specialists, or Service Technician training and who have completed at least one (1) year at the trade at the regular specialist level or above, under Local 104 Collective Bargaining Agreements.

Class IV employees shall consist of Air Conditioning Specialists or Service Technicians who have completed at least five (5) years at the trade after completion of initial training under Local 104 Collective Bargaining Agreements.

Each employee shall submit, by mail, to the Financial Secretary of the Local Union any classification change request postmarked no later than November 23 of each year. Upon approval by the Union, such classification shall be effective the following January 1. The Union shall notify the Employers of the approved classification of each employee on or before December 10. Any Employer not so advised shall, effective January 1 of the following year, contribute for such employees at their current classification and such classification shall continue through December 31. Classification change notifications shall be in writing on an approved form and in accordance with the rules and regulations adopted by the Union and approved by the Bay Area Association of SMACNA Chapters. Upon notification by the Union to the Employer of an approved classification change, the Employer shall pay wages and fringe contributions at the approved classification level unless and until notified by the Union of a classification change. In no event, however, shall a classification change be implemented except by proper notification from the Union, and no more than one (1) classification change may be effected during any calendar year, and shall be effective as of January 1, provided the Employer receives notice of such change on or before the immediately preceding December 10.

ITEM 7. WORKWEEK AND OVERTIME

The regular workweek shall consist of forty (40) hours, Monday through Friday, eight (8) hours per day, between the scheduled hours of 6:00 a.m. and 4:30 p.m. The first two (2) hours of overtime each day, Monday through Friday, immediately preceding or following the normal workday, shall be paid at time and one half (1½). In addition, the first eight (8) hours of the normal workday on Saturday, shall be paid at time and one half (1½). All other overtime, including Sundays and holidays, and Saturdays, in conjunction with a Monday or Friday holiday, shall be paid at double (2) time (mealtime, make-up day, lunch period, rest period, and four [4]-tens [10s], per Addendum One, Item 7).

ITEM 8. SERVICE WORK – Item 46 of Addendum One shall be modified as follows:

SECTION A. **DEFINITION OF SERVICE** - Service is hereby defined as the maintenance, repair, adjustments, alteration, and cleaning necessary to make operative any heating, and/or air conditioning constant volume package unit or split system with remote condenser. Included herein is the replacement of equipment and/or parts deemed necessary and proper to provide an operable system. Service Journeyperson/Apprentice, Service Mechanic, Service Technician/Apprentice may perform, check, test, start, warranty, and other incidental work to provide an operable system on projects, as described in Item 2, Sections A and B of this Agreement.

SECTION B. **WORK RESTRICTIONS** - Service Mechanics and Service Technicians/Apprentices shall not be permitted to work in the shop except for the loading or stocking of materials related to service.

SECTION C. **SUPERVISION RESTRICTION** - A Sheet Metal Service Technician Apprentice, where capable, shall not be required to work under the supervision of a Journeyperson.

SECTION D.

I. The parties hereby agree to establish a voluntary two hundred sixteen (216)-hour training program that will be made available to any Service Technician. Upon successful completion of the program, including the exit exam, they shall obtain Service Mechanic status and shall receive no less than fifteen percent (15%) above the Service Technician total package.

II. A contractor may sponsor a Service Technician (currently in their employ, for a minimum of six [6] months) with four (4) years' or more experience to become a Service Mechanic. Such request must be in writing on company letterhead and addressed to the Local Union.

III. During periods of time when the industry is experiencing labor shortages in the service market and Local Union No. 104 is advertising the Service Mechanic test for recruiting, a Service Technician with four (4) years' or more experience shall be eligible to challenge the Service Mechanic test.

IV. Any employee who obtains Service Mechanic status as stated above shall only perform work covered under this Addendum.

V. A Service Mechanic may be dispatched at the Building Trades Journeyperson Residential rate with a written request to the Union by the Employer.

ITEM 9. PENALTIES

A. The first violation of this Addendum, particularly with regard to work assignment, as determined by the grievance procedure established under Article X of the SFUA shall result in a penalty of revocation of this Addendum for a minimum of thirty (30) days and/or a ten thousand dollar ($10,000.00) fine. The fine shall be payable to existing funds at the local Union's discretion. The above penalties shall be a minimum penalty for first time violations. A second violation may result in permanent revocation of the Light Commercial Addendum. Members in violation of this Addendum shall be subject to Article Seventeen (17) of the Sheet Metal Workers' International Association Constitution and Ritual.

ITEM 10. SAN FRANCISCO FLEX RESTRICTION

Unrestricted use of flex on light commercial projects in San Francisco. Commercial projects in San Francisco shall continue to adhere to flex restrictions addressed in San Francisco's Addendum One. The use of flex may be implemented as noted unless otherwise directed by project plans and specifications.

WESTERN STATES COUNCIL OF CALIFORNIA, ARIZONA, NEVADA, AND HAWAII

LOCAL UNIONS' ADDRESSES AND PHONE NUMBERS

LOCAL UNION NO. 26, RENO, NEVADA
P.O. Box 26, Sparks, NV 89432
1819 Hymer Avenue, Sparks, NV 89431. . . . . .775.352.9226
JURISDICTION: Churchill, Douglas, Elko, Eureka, Humboldt, Lander, Lyon, Mineral, Nye (the Northern portion of the "First Standard Parallel Line North of the 38 Latitude"), Ormsby, Pershing, Storey, and Washoe Counties

LOCAL UNION NO. 88, LAS VEGAS, NEVADA
2560 Marco Street, Las Vegas, NV 89115 . . . . . 702.452.4799
JURISDICTION: Clark, Esmeralda, Lincoln, Nye (the Southern portion at the "First Standard Parallel Line North of the 38 Latitude"), and White Pine Counties

LOCAL UNION NO. 104, SAN FRANCISCO, CALIFORNIA
1939 Market Street
San Francisco, CA 94103.1085 . . . . . 415.621.2930
JURISDICTION: San Francisco County

LOCAL UNION NO. 104, BURLINGAME, CALIFORNIA
959 Hinckley Road
Burlingame, CA 94010.1503 . . . . . 650.697.0664
JURISDICTION: San Mateo County

LOCAL UNION NO. 104, SAN LEANDRO, CALIFORNIA
1720 Marina Boulevard
San Leandro, CA 94577.4203 . . . . . 510.895.8660
JURISDICTION: Alameda and Contra Costa Counties

LOCAL UNION NO. 104, SAN JOSE, CALIFORNIA
2350 Lundy Place
San Jose, CA 95131.1820 . . . . . 408.263.9705
JURISDICTION: Santa Clara County

LOCAL UNION NO. 104, CASTROVILLE, CALIFORNIA
11060 Commercial Parkway
Castroville, CA 95012.0940 . . . . . 831.633.3585
JURISDICTION: Monterey, Santa Cruz, and San Benito Counties

LOCAL UNION NO. 104, PETALUMA, CALIFORNIA
610 E. Washington Street, Suite C
Petaluma, CA 94952.5916 . . . . . 707.763.6676
JURISDICTION: Marin, Sonoma, Napa, Solano, Lake, and Mendocino Counties

LOCAL UNION NO. 104, EUREKA, CALIFORNIA
9th & E Streets
Eureka, CA 95501.0430 . . . . . 707.443.8158
JURISDICTION: Humboldt, Trinity, and Del Norte Counties

LOCAL UNION NO. 105, LOS ANGELES, CALIFORNIA
2120 Auto Centre Drive
Glendora, CA 91740. . . . . .909.305.2800
JURISDICTION: Kern, Inyo, Mono, Orange, Riverside, Los Angeles, and San Bernardino Counties

LOCAL UNION NO. 105, BAKERSFIELD, CALIFORNIA
601 Eureka Street
Bakersfield, CA 93305 . . . . . 661.323.4461
JURISDICTION: Bakersfield

LOCAL UNION NO. 162, SACRAMENTO, CALIFORNIA
2840 El Centro Road, Suite 110
Sacramento, CA 95833 . . . . . 916.922.1133
JURISDICTION: Amador, Butte, Colusa, El Dorado, Glenn, Kern, Lassen, Modoc, Nevada, Placer, Plumas, Sacramento, San Joaquin, Shasta, Sierra, Siskiyou, Sutter, Tehama, Yolo, and Yuba Counties

LOCAL UNION NO. 162, STOCKTON, CALIFORNIA
2707 East Fremont Street, #2
Stockton, CA 95202 . . . . . 209.939.9375
JURISDICTION: San Joaquin, Calaveras, and Alpine Counties

LOCAL UNION NO. 162, FRESNO, CALIFORNIA
4584 East Floradora Avenue
Fresno, CA 93703.4419 . . . . . .559.255.0454
JURISDICTION: Fresno, Madera, Kings, and Tulare Counties

LOCAL UNION NO. 162, MODESTO, CALIFORNIA
841 Lone Palm Avenue, Suite A
Modesto, CA 95351 . . . . . .209.523.1323
JURISDICTION: Stanislaus, Merced, Tuolumne, and Mariposa Counties

LOCAL UNION NO. 206, SAN DIEGO, CALIFORNIA
4594 Mission Gorge Place
San Diego, CA 92120 . . . . . .619.265.0501
JURISDICTION: San Diego and Imperial Counties

LOCAL UNION NO. 273, SANTA BARBARA, CALIFORNIA
5949 Hollister Avenue, Suite B
Goleta, CA 93117 . . . . . 805.681.7166
JURISDICTION: Santa Barbara (Santa Barbara, San Luis Obispo, and Ventura Counties), Channel Islands, namely San Miguel, Santa Rosa, Santa Cruz, and San Nicholas

LOCAL UNION NO. 293, HONOLULU, HAWAII
1405 North King Street, 4th Floor
Honolulu, HI 96817 . . . . . .808.841.5078
JURISDICTION: The Hawaiian Islands

LOCAL UNION NO. 359, PHOENIX, ARIZONA
2604 East Adams Street
Phoenix, AZ 85034 . . . . . 602.273.1388
JURISDICTION: Arizona State

Notes