

**NORTHERN CALIFORNIA
PAINTERS MASTER AGREEMENT**

BETWEEN

DISTRICT COUNCIL 16

AND

**NORTHERN CALIFORNIA PAINTING AND
FINISHING CONTRACTORS**

July 1, 2006 - June 30, 2009

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ARTICLE 1 DURATION

Section 1. This Agreement is made and entered into this first day of July, 2006, between the Northern California Painting and Finishing Contractors or their Successor, thereof, and/or Individual Employers who are signatory or may become signatory to this Agreement, and are actively engaged in the Painting and Decorating Industry, hereinafter referred to as the “employer” and District Council 16. This Agreement shall continue until June 30, 2009. Thereafter, this Agreement shall continue from year to year, commencing as of 12:01 a.m., July 1st, unless notice is given by one of the bargaining parties of its desire to effect changes in Hours, Wages or Working conditions.

During the month of January of the year of expiration of this Agreement, any party signatory hereto may give written notice, by certified mail to District Council 16, and the Employers, that said party wishes to withdraw from this Agreement. Should such notice be given, such party shall no longer be bound to this Agreement as of July 1st. The Agreement shall continue as to all parties giving no such notice. Further, said notice of withdrawal eliminates said party from participation in any negotiations regarding this Agreement. The first official joint meeting of the negotiators shall be held the first Thursday after February 1st. The notice herein provided for is the sole means by which a party may withdraw from or cancel this Agreement.

Section 2. AGREEMENT MODIFICATIONS - The parties to this Agreement recognize the necessity of assuring the competitive position of the parties within the industry during the term of this Agreement. Consistent with that recognition, the parties will continually monitor the effectiveness of the Agreement relative to specific geographic or market areas and will endeavor, by mutual agreement, to initiate such modifications to the Agreement during its term as may be necessary to assure work opportunities for the employees and maintain or improve the competitive position of the individual employers. The Union will notify the Northern California Painting & Finishing Contractors regarding any and all negotiations of an Addendum to this Agreement and provide the Northern California Painting & Finishing Contractors with the final Addendum language.

ARTICLE 2 LABOR MANAGEMENT COOPERATION COMMITTEE

The parties agree to mutually support the formation of a Labor Management Cooperation Committee to improve labor relations, safety, worker qualifications, and to prevent disputes. In addition, the parties agree to provide a mechanism for the joint approval of official wage charts and this Agreement. The Union will provide the current list of signatory contractors to the Northern California Painting and Finishing Contractors upon request and whenever there is an addition.

ARTICLE 3 RECOGNITION

Section 1. The Employer, Northern California Painting and Finishing Contractors, their successor and/or individual contractors signatory to this Agreement, recognizes, acknowledges, and agrees that District Council 16 is, within the meaning of Section 9(a) of the National Labor Relations Act, the exclusive representative for the purpose of collective bargaining, of all employer’s employees wherever such employees may be employed, in the classifications of work as listed in Article 4 “Scope of Work”.

ARTICLE 4
SCOPE OF WORK COVERED BY THIS AGREEMENT

The terms and conditions of this Agreement shall apply to all “covered work”. Covered work shall be and mean the following materials and application methods: paints, pigments, oils, turpentine, Japan Dryers, thinners, varnishes, lacquers, shellac, stains, fillers, waxes, cement, joint cement, water and other vehicles; mediums that may be mixed and applied to the surfaces of materials and buildings, edifices, structures, monuments and the appurtenances thereto, of every type and description in their natural state of condition, or constructed or fabricated of any material or materials whatsoever and provided; work or services pertaining to: The application of texture, acoustic, plaster and stucco materials of all types and thickness on all surfaces.

Work or services pertaining to the painting, of all drywall and thin wall type surfaces, flushing or concrete surfaces, caulking and sealants between sheet rock walls and/or ceilings and floors of other materials.

Work or services pertaining to the application of wallpapers, wall fabrics and all types of coverings or coatings whether decorative or protective and all preparations necessary before said application.

Work or services pertaining to the application of protective coatings or products of similar nature whether they are plastic, vinyl, acrylics, epoxies, esters, urethanes, etc., or any new products of this nature including the application to floor surfaces.

Work or services pertaining to the applications of bond breaker, water repellent, damproofing and/or waterproofing materials of all types.

Work or services pertaining to the finishing and surface preparation on all hardwood or softwood floors and furniture at job sites.

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

Work or services pertaining to the application of all fire retardant, fire proofing and/or insulation materials used on structural items or as architectural finishes.

Work or services pertaining to the cleaning, polishing and refinishing of metal and masonry surfaces.

Work or services pertaining to “steeplejack work.”

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

Work or services pertaining to the application of hypolan, neoprene, and all similar products. Work or services pertaining to lead removal and encapsulation.

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

All products and methods of application which have or may be awarded to the Painters International through jurisdictional procedures.

The operation of all tools and equipment used by painting contractors and journeyman painters, including paperhangers, sandblasters and all other facets as outlined in the utilizers as listed above, the above includes the control of all compressors, boom trucks, aerial lifts, fork lifts and other specialty equipment, it is the clear intent that all equipment and tools of the trade are under the custody and control of the contractor and/or the employer.

**ARTICLE 5
TERRITORIAL JURISDICTION OF AGREEMENT &
OUT OF AREA WORK**

Section 1. The territorial jurisdiction covered by this Agreement shall comprise the counties of:

Alameda, Contra Costa, Lake, Marin, Mendocino, Monterey, Napa, San Benito, San Francisco, San Mateo, Santa Clara, Santa Cruz, Solano and Sonoma.

Section 2. The Employer party hereto shall, when engaged in work outside the geographic jurisdiction of the Union party to this Agreement, comply with all of the lawful clauses of the Collective Bargaining Agreement in effect in said other geographic jurisdiction and executed by the Employers of the industry and the affiliated Local Unions in that jurisdiction, including but not limited to, the wages, hours, working conditions, fringe benefits and procedure for settlement of grievances set forth therein; provided however, that as to employees employed by such Employer from within the geographic jurisdiction of the Union party to this Agreement and who are brought into an outside jurisdiction, such employee shall be entitled to receive the wages and conditions effective in either the home or outside jurisdiction, whichever are more favorable to such employees, and fringe benefit contributions on behalf of such employees shall be made solely to their home funds in accordance with their governing documents. This provision is enforceable by the Local Union or District Council in whose jurisdiction the work is being performed, both through the procedure for settlement of grievances set forth in its applicable Collective Bargaining Agreement and through the courts, and is also enforceable by the Union party to this Agreement both through the procedure for settlement of grievances set forth in this Agreement and through the courts.

Section 3. OUT-OF-AREA WORK - When engaged in work outside the geographical jurisdiction of this Agreement, the said contractors agree, subject to their rights to reject any applicant for cause, that not less than 50% of the workers employed on such work will be residents of the area where the work is performed, or who are customarily employed a greater percentage of their time in such area, and further provided that these men are qualified to meet the job requirements.

Employers from outside the jurisdictional area of this Agreement shall employ not less than 50% of the workers from the Local Union having the work and area jurisdiction of the job site. All jobs must maintain at least 50% - 50% ratio.

OUT-OF-AREA EMPLOYEES - When an employer outside the jurisdictional area of this Agreement brings steady employees from outside the area, the employees shall not go to work until they have a referral slip from the Local Union where the work is being performed.

Section 4. The signatory Employer shall not attempt to engage in any work covered by this Agreement in any area outside the geographical jurisdiction of the Agreement through the use or device of another business or corporation which such Employer controls or through the use or device of a joint venture with another Employer or contractor in any outside area without first consulting with the IUPAT for the purpose of establishing to the IUPAT's satisfaction that the use of such device is not for the purpose of taking advantage of lower wages or conditions that are in effect in the home area of such Employer, and if the IUPAT is not so satisfied, the Union party has the option of canceling the Agreement.

ARTICLE 6 UNION SECURITY

All present employees who are members of the Union on the effective date of this Agreement or on the date of execution of this Agreement, whichever is the latter, shall remain members of the Union in good standing as a condition of employment. All present employees who are not members of the Union and all employees who are hired hereafter, who perform covered work as defined under Article 4 "Scope of Work", shall become and remain members in good standing of the Union as a condition of employment on and after the eighth (8th) day following the beginning of their employment, or on and after the eighth (8th) day following the effective date of this Agreement or the date of execution of this Agreement, whichever is the latter.

ARTICLE 7 HIRING PRACTICES

There shall be no discrimination in hiring and/or promotion and/or any other aspects of employment because of race, creed, color, sex, national origin or age.

Section 1. REFERRAL - The Employer shall call the Local Union where the job is located when any additional manpower is needed, and the Union agrees to refer employees to the Employer within forty-eight (48) hours, if available. Upon receipt of such notice, the Union shall use its best efforts to furnish the required number of qualified and competent workers.

- (a) **REQUESTS** - Notwithstanding the above, a Painter who is in good standing with the Union may seek his own job and the Employer may have referred to it any applicant (who is registered on the Unions out-of-work list) by submitting a written request by name to the Union.
- (b) **REQUIREMENTS** - The Employer shall require each new employee to present a written referral from the Union or shall call the Union office to request a written referral prior to putting the new employee to work.
- (c) **RECLASSIFICATION** - When the Union, employee and Employer agree to reclassify an employee the Employer shall require the employee to present a written referral from the Union or shall call the Union office to request a written referral prior to putting the employee to work at the new classification.
- (d) **VIOLATION** - In the event the employer fails to comply with the hiring practices the Union may utilize the grievance procedures set forth in this Agreement, and may resort to such economic and

legal remedies as it sees fit with respect to such Employer. Any economic action taken will not be considered a violation of this Agreement.

- (e) **FREE FLOW OF MANPOWER** - There shall be a free flow of manpower within the jurisdiction of District Council 16. New hires shall come from the local having jurisdiction over the area of where the work is being performed.

Section 2. SHOP PERSON - One (1) shop person per minimum of eight (8) person shop. Shop person shall be utilized to maintain equipment, trucks, etc.; clean-up shop, yard, pick up supplies from the supplier and deliver to the shop. Shall perform no painting work or perform work covered by the "Scope of Work" in this Agreement.

Section 3. SEVEN DAY CLAUSE - Any workers employed by employers for a period of thirty (30) working days continuously or accumulatively within the unit covered by this Agreement, and any workers working for any one employer on or after the thirtieth (30th) day following the date of his/her employment or the effective date of this Agreement, whichever is later, shall as a condition of employment become members of the Union by tendering the full and uniform fees in effect, and all workers accepted into membership shall thereafter maintain their continuous good standing in the Union as a condition of employment by paying regular dues. In the event that a worker fails to tender the required fees or dues in accordance with this Section, the Union shall notify the Employer in writing, and the Employer shall discharge the worker within forty-eight (48) hours (Saturday, Sunday and holidays excepted). Notwithstanding anything to the contrary in this Article it is agreed that the thirty (30) day period referred to in this section shall be reduced to seven (7) days for all employees of an employer engaged primarily in the Building and Construction industry, so that such employees will be required as a condition of employment to become members of the Union after the seventh (7th) day following the beginning of such employment or the effective date of this agreement whichever is later, and all such employees accepted into membership shall thereafter maintain their continuous good standing in the Union as a condition of employment.

ARTICLE 8 PAINTERS JOINT APPRENTICESHIP TRAINING COMMITTEE

Section 1. In the territorial jurisdiction of this Agreement there shall be one (1) Painters Joint Apprenticeship and Training Committee of twelve (12) members of whom six (6) shall be appointed by Management and six (6) shall be appointed by the Union. The Committee shall oversee the apprentice and journeyman training under the control of the Trustees of the District Council 16 Northern California Apprentice & Journeyman Training Trust Fund.

Section 2. The Painters Joint Apprentice and Training Committee (JATC) shall conduct for the benefit of journeyman and apprentices certification courses for CPR, First Aid, Respirator Use and Fit, Hazard Communication/Awareness, Lead Abatement, Fall Protection and Confined Space Entry and any and all other training deemed necessary by the JATC.

Section 3. Five cents (\$.05) per hour to be remitted to the IUPAT Joint Apprenticeship and Training Fund (IUPAT-JATF).

Section 4. The JATC shall maintain a four (4) year apprenticeship training program.

ARTICLE 9 APPRENTICESHIP

Section 1. First year apprentices shall be steadily employed unless circumstances prevail which are beyond the control of the employer, subject to the approval of the Painters Joint Apprenticeship and Training Committee.

Section 2. An employer of five (5) or more Journeypersons is to employ at least one (1) Apprentice unless his or her right to train Apprentices has been revoked by the local Apprenticeship Committee. This shall not limit the obligation of the Employer to train Apprentices in the proper ratio to the total number of Journeypersons in the shop, as outlined in the local Collective Bargaining Agreement or in the local Apprenticeship and Training Standards nor shall it be construed to replace Journeypersons in a shop when substantial local unemployment exists in the area of the Local Union or District Council.

Section 3. No employer shall be permitted to employ more than one (1) apprentice to each three (3) journeymen painters, decorators or paperhangers on commercial and industrial work.

Section 4. The apprenticeship training shall be in accordance with Standards approved by the State Division of Apprenticeship Standards.

Section 5. No apprentice with less than two (2) years experience on the job shall be permitted to work on a job unless a journeyman is working on said job.

Section 6. All apprentices, after serving one and one-half (1 1/2) years of their apprenticeship, shall have the right to elect, subject to the approval of the Painters Joint Apprenticeship and Training Committee, to engage for two six month periods in any specialized phases of the Painting Industry. Apprentices who are approved for the specialized instruction shall be indentured for the two six month periods as outlined above to employers who are engaged in the special field selected.

- (a) This specialized on the job training shall not conflict with the existing apprentice program governing school attendance, class instruction, or other programs of the Painters Joint Apprenticeship and Training Committee.
- (b) No apprentice shall be allowed to drop his apprentice card and take out or apply to a Signatory Local Union for a Journeyman's Card, unless permission has been granted by the Painters Joint Apprenticeship and Training Committee.

Section 7. No apprentice shall be sent to out-of-town work that will interfere or prohibit him from attending school classes or appearing before the Apprenticeship Committee after due notice has been given.

Section 8. Apprentices shall be indentured only to shops operating under a State of California Painting Contractor's License (now classified C-33) and which engage in general painting and decorating; except when indentured for the specialized phase instruction provided for elsewhere in this Article, or when indentured to apprenticeship committees. This section is not intended, however, to exclude municipal or political institutions and sub-divisions.

Section 9. An automatic penalty of Five Hundred Dollars (\$500.00) will be imposed on any contractor who does not allow an apprentice to attend school and works said apprentice during the week assigned

to him/her. If there is a second offense by the same contractor, they will not be allowed a new apprentice for a period of twelve (12) months. Money generated by such penalties will revert to the Apprenticeship Training Fund.

**ARTICLE 10
WAGES & PAYMENT OF THE SAME**

Section 1. JOURNEYMAN WAGES

(a) Journeyman Wages Effective July 1, 2006 - Alameda, Contra Costa, Lake, Marin, Mendocino, Monterey, Napa, San Benito, San Mateo, Santa Clara, Santa Cruz, Solano and Sonoma Counties:

(PAINTER WAGE SCHEDULE A)

PER HOUR

Taxable Net Wage	\$30.91
Basic Wage	\$27.96
Health & Welfare	\$6.69
Pension	\$3.70
Annuity	\$3.52
Apprenticeship Training	\$0.20
IUPAT JATF	\$0.05
LMCI	\$0.05
Work Preservation Fund	\$0.08
Administrative Fund	\$0.25
Dues Check-off	(\$0.65)
PAT-PC	(\$0.05)
Wage Equality Dues	(\$0.25)
Beneficial	(\$1.00)
Holiday	(\$1.00)
Total Package	\$45.45

(b) Journeyman Wages - Effective July 1, 2006 - San Francisco County:

(PAINTER WAGE SCHEDULE A)

PER HOUR

Taxable Net Wage	\$34.53
Basic Wage	\$31.58
Health & Welfare	\$6.69
Pension	\$3.70
Annuity	\$3.52
Apprenticeship Training	\$0.20
IUPAT JATF	\$0.05
LMCI	\$0.05
Work Preservation Fund	\$0.08
Administrative Fund	\$0.25
Dues Check-off	(\$0.65)
PAT-PC	(\$0.05)
Wage Equality Dues	(\$0.25)
Beneficial	(\$1.00)
Holiday	(\$1.00)
Total Package	\$49.07

(c) Effective July 1, 2007, add \$2.05 per hour to the effective July 1, 2006 Total Package. Effective July 1, 2008, add \$2.05 per hour to the effective July 1, 2007 Total Package.

(d) Regular employees of each Employer shall be paid in accordance with the appropriate Wage Schedule, which shall be determined based upon the county in which the Employer's place of business is located (home county). Regular employees who are brought into counties which are within the jurisdiction of the union party to this Agreement but are covered under a different Wage Schedule (outside county), shall be entitled to receive the wages and conditions effective in either the home or outside county, whichever is more favorable to such regular employees. Members referred directly from the Union to a specific project shall be referred at the county rate based upon the projects location. "Regular Employee" is defined as any employee who has maintained employment with the same Employer beyond the initial project referral.

Section 2. APPRENTICE WAGES - Apprentices shall be paid a progressive increasing scale of wages based on a percentage of Journeymen's Basic Wage Rate as follows, except that beginning Apprentice wage rate will not include Beneficial, Holiday, or Pension contribution for the first six (6) months of apprentice training. Wages start at 50% with increases every six (6) months, for a four (4) year period.

1 st six (6) months: 50%	5 th six (6) months: 70%
2 nd six (6) months: 55%	6 th six (6) months: 75%
3 rd six (6) months: 60%	7 th six (6) months: 80%
4 th six (6) months: 65%	8 th six (6) months: 90%

Section 3. PRE-APPRENTICE WAGES - Effective July 1, 2006:

<u>PER HOUR</u>	
Taxable Net Wage	\$10.35
Basic Wage	\$9.65
Health & Welfare	\$6.69
Apprenticeship Training	\$0.20
IUPAT JATF	\$0.05
LMCI	\$0.05
Administrative Fund	\$0.25
Dues Check-off	(\$0.65)
PAT-PC	(\$0.05)
Total Package	\$17.59

- (a) **PRE-APPRENTICE RATIO** - One (1) Pre-Apprentice to twelve (12) Journeymen on all work. Contractor may request for special conditions for additional pre-apprentices provided the local Business Representative agrees. A Pre-Apprentice may not apply coatings, wallcoverings or do abrasive blasting. A Pre-Apprentice may do preparatory work, bench prime and roof metal. Pre-Apprentices may not work on prevailing wage jobs.
- (b) **PRE-APPRENTICE TERM** - Employees shall not be classified as a Pre-Apprentice for more than twelve (12) months, unless this time limit is extended by mutual consent of the employee, employer and the Union.

Section 4. NEW APPLICANT - The New Applicant is to start at no less than 70% of Journeyman Basic Wage Rate. The new Applicant shall receive a 10% wage increase every year until such time as he/she reaches Journeyman wages (no more than three (3) years). All New Applicants shall use the date of entry in the Union as the basis for their annual increase. In no case shall an employer utilize a New Applicant to replace an existing employee or to otherwise circumvent the employer's contractual obligations. The New Applicant must attend eighty (80) hours, forty (40) hours per year of Safety Training in order to qualify for annual increase. It is further agreed that the employer shall remit to the Bay Area Painters & Tapers Trust Funds the fringe benefit package for all hours worked by New Applicants. A New Applicant wage rate is not to be used on prevailing wage jobs.

1st year: 70% 2nd year: 80% 3rd year: 90%

Section 5. FOREMAN WAGES - When four (4) or more employees covered under this Agreement are on a job of five (5) days' duration or more, one (1) Journeyman Painter in good standing with the Union shall be the designated Foreman, for the duration of the job. The definition of "Duration of the Job" is the primary contract and does not include change orders or call backs, providing that none of the exceptions require four (4) or more employees for five (5) days or more on each separate operation. The duties and responsibilities of the Foreman shall include handling the Company paperwork on the job, assigning and supervising work, maintaining performance requirements, conducting liaison with the general contractors or owner's representative, maintaining communications with his company and maintain safe working conditions and practices throughout the course of the job. Further, it shall be the duty of the Foreman to return the Company's unused material and equipment to the Company. Foreman shall receive Journeyman hourly Taxable Net Wage Rate plus:

- (a) Two dollars (\$2.00) per hour when in charge of three (3) or more employees covered under this Agreement who are on a job of five (5) days' duration or more.
- (b) Four dollars (\$4.00) per hour when in charge of five (5) or more employees covered under this Agreement who are on a job of five (5) days' duration or more.
- (c) Six dollars (\$6.00) per hour when in charge of ten (10) or more employees covered under this Agreement who are on a job of five (5) days' duration or more.
- (d) Foremen wages and premium to be based on the highest wage classification on the job they are supervising.

Section 6. SUPERINTENDENTS WAGES - Superintendents shall receive Journeyperson hourly Taxable Net Wage Rate plus six dollars (\$6.00) per hour. A flat rate of one-hundred twenty-five (125) hours per month for Superintendents Health & Welfare, upon prior written notice to the Bay Area Painters & Tapers Trust Fund.

Section 7. HIGH TIME - Employees shall be entitled to high time premium whenever the work performed requires personal fall restraints to be worn by the employee. The amount of the premium shall be determined by the following height schedule:

- (a) When working over fifty (50) feet above ground or water level the employee shall be paid an additional two dollars (\$2.00) per hour for all such work;
- (b) When working from one hundred (100) to one hundred eighty (180) feet above ground or water level the employee shall be paid an additional four dollars (\$4.00) per hour for all such work;
- (c) When working over one hundred eighty (180) feet above ground or water level the employee shall be paid an additional six dollars (\$6.00) per hour for all such work.

Section 8. SPRAY WORK - Employees spraying, sandblasting, water blasting or steam cleaning on Industrial Work shall receive fifty cents (\$0.50) in addition to the Taxable Net Wage Rate plus any other high time or premium pay.

Section 9. INDUSTRIAL PAINTING – Employees performing painting work on industrial projects shall be paid an additional twenty five cents (\$0.25) per hour above the Taxable Net Wage Rate in addition to any other high time or premium pay.

Section 10. WALLCOVERING – Employees applying wallcovering shall receive one dollar (\$1.00) in addition to the Taxable Net Wage Rate plus any other high time or premium pay.

Section 11. EXOTIC MATERIALS – Employees applying any materials or coatings where the application must be certified by the manufacturer, shall be paid an additional seventy five cents (\$0 .75) per hour above the Taxable Net Wage Rate in addition to any other high time or premium pay.

Section 12. PAYMENT OF WAGES - All wages are due and payable either in lawful currency or negotiable check, together with a receipt or check stub showing employee's and employer's name, rate

of pay, pay period and hours worked, all deductions made and the amount due. Said payments shall conform with all the provisions pertaining to the employees as required by Federal and State Laws. Violation of this clause shall be deemed sufficient reason for removal of employees by the Union Representative.

- (a) Wage claims and claims for payment of fringe benefit contributions need not be submitted to the District Council or to arbitration, but may be submitted by the Union directly to the Labor Commissioner of the State of California.
- (b) In the event of controversy regarding the proper payment of wages or merits of the period of waiting time, the employer shall place the disputed amount of wages and/or waiting time involved in escrow, pending resolution. Claims for such disputed compensation must be filed within fourteen (14) days from the date the disputed claim occurred and is to pertain to any form of compensation covered by this Agreement. Claims are limited to the last thirty (30) calendar days worked. The thirty (30) day limit does not apply to fringe benefit contributions.
- (c) Wages earned shall be due and payable on the last day of each work week on the job at quitting time and shall include all wages earned up to and including Tuesday night; except that by application to the District Council, the Employer may obtain special permission to include on his payroll only such wages as were earned up to and including Monday night. This exception, which must first be approved by the District Council, is intended to be allowed only in those instances where the preparation of large and/or scattered job payrolls cannot reasonably be accomplished in time to meet the Tuesday night provision. When a holiday falls on a Friday or is a Designated Day Off, all wages earned up to and including Monday night shall be due and payable on Thursday on the job at quitting time.
- (d) Employees laid off or discharged must be paid in full at the time of dismissal.

Section 13. SUBSISTENCE – If one employee is required to live away from his or her place of residence, said employee shall be paid seventy-five dollars (\$75.00) per day, for room and board, or actual reasonable room and board cost, whichever is greater. In addition, they shall receive the negotiated rate of pay and fringe benefits for their hours worked.

- (a) Round trip airfare, mileage, or transportation shall be provided by the Employer on all jobs in which subsistence is required.
- (b) Employees shall receive Travel Time, from the point of dispatch to the jobsite and return, on all jobs in which subsistence is required.

Section 14. TRAVEL TIME – Employees who jobsite report more than forty (40) miles from the point of dispatch (Union dispatch Office, employee’s home or individual employer’s shop) as determined by the individual employer, shall receive their Taxable Net Wage Rate for all time spent traveling beyond forty (40) miles from the point of dispatch to the jobsite and return. Employees reporting in their private vehicles to a jobsite more than forty (40) miles from the point of dispatch, shall also receive mileage at the current IRS rate per mile for all miles traveled outside of the forty (40) miles. (Mileage and drive time is to be based on Microsoft MapPoint 2004 or latest available version.) Mileage will be paid on a per vehicle basis. This system is based on employees reporting to their jobsite at their regular start time and working on the job until their regular quitting time. Travel from jobsite to jobsite in a private vehicle shall be considered as hours worked and mileage will be reimbursed at the

current IRS rate per mile. All travel commencing after being required to report to the Employers shop to and from the jobsite will be considered as hours worked and use of the employee's vehicle will be reimbursed at the current IRS rate per mile.

- (a) The following Travel Time Calculation Sheet shall be used in conjunction with Microsoft MapPoint in order to determine Travel Time Reimbursement. Microsoft MapPoint setting for Driving Speeds shall be; Interstate Highways – 65 mph, Limited Access Highways – 60 mph, Other Highways – 50 mph, Arterial Roads – 35 mph, Streets – 20 mph.

Travel Time Calculation Sheet (Formulas)

Employee Name	From:	Starting Address		
	To:	Destination Address		
		Minutes	Miles	Minutes Per Mile
Actual Commute (One Way)		(Enter minutes as per MapPoint)	(Enter miles as per MapPoint)	Calculation = (Minutes ÷ Miles)
Adjusted Commute (One Way)		Calculation = (Adjusted Commute Miles x Minutes Per Mile)	Calculation = (Actual Commute Miles – 40)	
Round Trip		Calculation = (Adjusted Commute Minutes x 2)	Calculation = (Adjusted Commute Miles x 2)	
Daily Travel Time/Mileage Reimbursement:		Calculation = Taxable Net Wage Rate/60 X Adjusted Commute Minutes)	Calculation = (Round Trip Miles x Current IRS Mileage Reimbursement Rate)	
Total Daily Reimbursement		Calculation = Daily Travel Time Reimbursement + Daily Mileage Reimbursement		

Travel Time Calculation Sheet (Example)

John Doe	From:	123 Any Street, San Francisco, CA		
	To:	456 Main Street, Fremont, CA		
		Minutes	Miles	Minutes Per Mile
Actual Commute (One Way)		70.00	50.00	1.42
Adjusted Commute (One Way)		14.00	10.00	
Round Trip		28.00	20.00	
Daily Travel Time/Mileage Reimbursement:		\$14.75	\$8.90	
Total Daily Reimbursement		\$23.65		

Section 15. TRAVEL EXPENSE – Whenever employees report to the jobsite, the employee shall be paid or reimbursed for all parking and bridge tolls. Parking and bridge toll reimbursement shall be subject to the following criteria: in the event that free parking is not available within a quarter mile of the jobsite, the employer will provide such facilities or shall have the right to designate the areas to be used for reimbursable parking. When free parking is not available the employer shall reimburse the driver of the vehicle for the cost of such parking up to twenty dollars (\$20.00) per day upon being presented with a receipt or voucher certifying the cost thereof. The employer will reimburse the driver for his or her bridge tolls upon a showing of receipts for such on a weekly basis.

Section 16. SHOW UP PAY – Unless given notice individually within five (5) hours after their regular shift, that their services are not required the following regular work day, all employees reporting for work, shop or job site at their regular starting time shall be paid four (4) hours pay, except when weather, natural conditions, or emergency situation beyond the control of the Employer prohibits the Employer from proceeding with work that day. As a condition to being entitled to receive pay under this Section, the employee must have his current telephone number and address on file with the Employer. The prior notice to the employee provided for in this Section may be given in person, writing, by telephone or voice mail.

Employees shall not report to any shop earlier than thirty (30) minutes or to any job earlier than twenty (20) minutes before starting time. These provisions shall apply only to work within forty (40) miles from the point of dispatch. Reporting to work on jobs beyond forty (40) miles from the point of dispatch shall be in accordance with the provisions of “Travel Time” heretofore defined.

Section 17. INCENTIVE PAY – Employer may issue Incentive Paycheck to employee four (4) times each year.

Section 18. SAFETY INCENTIVE – Safety Incentive Paycheck issued in accordance with a Contractor or Owner’s Written Safety Program, shall not be counted as incentive pay, and payment of such shall be allowed as provided in Contractor or Owner’s Written Safety Program.

ARTICLE 11 WORKING CONDITIONS

Section 1. REGULAR WORK WEEK - Eight (8) hours shall constitute a regular work day. The regular work day shall begin at seven (7:00) a.m. and continue through twelve (12:00) p.m., which shall include a ten (10) minute rest period. Lunch shall be observed from twelve (12:00) p.m. to twelve-thirty (12:30) p.m. The regular work day shall continue from twelve-thirty (12:30) p.m. through three-thirty (3:30) p.m., which shall also include a ten (10) minute rest period. The regular work week shall be forty (40) hours made up of five (5) consecutive regular work days Monday through Friday. Start times other than specified above may be changed by mutual agreement between the Employer and District Council 16. By mutual agreement between the Union and the Employer four (4) ten (10) hour days, consecutive, (Monday through Friday), may be worked to equal a regular forty (40) hour work week. An Employee shall be allowed a five (5) minute personal clean-up prior to lunch period.

Section 2. OVERTIME - All work performed before or after the regular work day, before or after the regular work week including Saturdays, and Designated Days Off, shall be paid at the overtime rate of

one and one-half (1 ½) times the Taxable Net Wage Rate. Sundays and all holidays listed in Article 10, Section 3, shall be paid at the double time rate.

- (a) If inclement weather forces a job to be shut down during the regular work week, Monday through Friday, then the Contractor can work his crew, on a voluntary basis, on Saturday at Straight Time. A Saturday straight time day will only apply if inclement weather forces a job to shut down during the regular current work week (Monday through Friday). The Contractor can work only that crew which is already on the job site at the time that inclement weather forced the shutdown or the equivalent number of replacements for such crew members who are unable to work.
- (b) No work shall be performed at any time other than during the regular work day except by notification of Local Union in the area where work is to be performed. Application for any and all work at any time other than during the regular work day stipulated herein shall be applied for any time prior to starting said work. Notification for Saturday and Sunday work, recognized holidays and all Designated Days Off, must be made no later than 4:30 p.m. of the last regular workday of the week. Except in emergency situations, notification may be given in person, writing, by telephone, facsimile or voice mail.

Section 3. HOLIDAYS - The recognized holidays shall be: New Years Day, Washington's Birthday (President's Day), Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Eve, Christmas Day and Martin Luther King Day. When a holiday falls on a Saturday, the preceding Friday shall be observed as a holiday. When a holiday falls on a Sunday the Monday following shall be observed as a holiday. (No work shall be performed during any hour of the twenty-four (24) hours of Labor Day.)

- (a) **DESIGNATED DAYS OFF** - In addition to the foregoing recognized holidays, there shall be eight (8) designated days off per contract year: July 3, 2006, August 4, 2006, September 1, 2006, November 24, 2006, February 16, 2007, April 6, 2007, May 25, 2007, June 15, 2007, July 5, 2007, August 31, 2007, November 23, 2007, December 31, 2007, February 15, 2008, March 21, 2008, May 23, 2008, June 13, 2008, July 7, 2008, August 29, 2008, November 28, 2008, December 26, 2008, January 2, 2009, February 13, 2009, April 10, 2009, and May 22, 2009.

Section 4. SHIFT WORK - Shift Work is work performed outside the regular work day, Monday through Friday, and work that cannot be performed during the regular working hours due to customer restrictions or requirements. Where multiple shifts are worked, if the individual employer elects to work the day shift between the hours of 6:00 a.m. – 5:30 p.m., that shift shall work eight (8) hours and be paid straight time. The second (2nd) and third (3rd) shifts shall be paid at fifteen percent (15%) above scale. No multiple shifts shall be established or started for less than five (5) consecutive workdays except by special permit from the Local Union. Overtime rates shall be paid for all hours worked on shift if less than five (5) consecutive days and no permit has been issued for the five (5) day exception. This shift premium work shall not be applicable to painters who have worked during that day and, therefore, shall be paid at the applicable overtime rate. For such shift work, employers must obtain a permit from the Local Union in the area where the work is being performed.

Section 5. FLEXTIME - Flexible start time Monday through Friday and other conditions subject to permit from the Local Union in the area where the work is being performed. Straight time applicable only for jobs working one (1) shift. Permit must be applied for at least twenty-four (24) hours in advance.

Section 6. On all new construction and in shops where employees report to work, the employer shall furnish adequate toilet facilities and drinking water, unless provided by others.

Section 7. No employee shall be required to wash out brushes in any material other than that approved by the State Health and Accident Commission.

Section 8. Employees may be required by the employers to sign for brushes or special tools and shall be held accountable for same.

(a) Employees will be held accountable for intentional damage to equipment or property.

Section 9. Employers shall be required to furnish sterilized rags for use on every job for the use of the worker as may be required.

(a) Employers shall furnish to all employees all protective apparels necessary to safeguard painters from all health hazards, such as, gloves, rubber pants, boots, hoods, respirators and creams as prescribed for in the Safety Health Orders by the State of California.

(b) Employers shall furnish protective gloves to be used when washing brushes or equipment where solvents or chemicals are used that may be injurious to the skin.

(c) Individual employers shall supply equipment approved by the State of California Division of Industrial Safety to all employees. It shall be mandatory for all employees to use safety equipment as required.

(d) The Safety Orders of the Division of Industrial Safety are incorporated herein, and made part hereof as if set forth in full.

(e) It shall be considered grounds for instant dismissal for any employee to willfully refuse to obey safety regulations. The employee, so discharged, shall receive wages only for actual time worked.

Section 10. TOOLS – Tools used in any phase of painting, papering and all other facets of the trade shall be at the sole discretion of the employer. Journeymen painters shall report to work with the usual tools of the trade, consisting of duster, putty knife, broad knife, hammer, screwdriver, pliers, white work clothes, and special tools and equipment issued by the employer. Contractor to verify Journeyman has a valid driver's license and may participate in the B.I.T. program. Employees shall not be allowed to attach any artificial equipment such as stilts, arms or legs to their bodies in any manner whatsoever.

Section 11. Employees shall not work on a piecework basis, nor be permitted to contract or sub-contract.

Section 12. An employee shall not be allowed to use his/her car or truck to transport materials in excess of fifty (50) pounds or equipment of any type for employer at any time.

Section 13. No employee shall furnish to an employer for rent or otherwise, any car or truck, rigging or tools, except as provided under this Agreement.

Section 14. Paperhangers may supply straight edge, paperhanger trestles and the usual paperhanger's tools.

Section 15. Safety Training - Employees will be required to attend up to twenty-four (24) hours per year of Owner, General Contractor, State, or Federal required Safety Training. This training is exclusive of any specialized or job specific training.

Section 16. It is recognized that the foregoing Working Rules cannot reasonably be so worded as to cover any and all contingencies that may arise because of other than ordinary circumstances. It is, therefore, agreed that a contingency not specifically provided for in this Agreement shall be classified under the category of an “exceptional condition,” and an employer may make a request to the Local Union or District Council 16 for a permit issued under the exceptional condition clause so long as the issuance shall not endanger the health and safety of the persons who perform the work.

- (a) A request for an “exceptional condition” permit will be made to the Business Representative in the area or to District Council 16.

ARTICLE 12 STEWARDS

Section 1. The Business Representative of the District Council shall be empowered to appoint all Shop Stewards and Job Stewards. Said Representative is also empowered to remove steward for just cause. The Union shall notify the Employer in writing of the appointment and removal of its stewards. Stewards shall be appointed from the present work crew of the contractor.

Section 2. DUTIES - To check all working cards of foremen, workers and apprentices and to check all applications, working permits, and to report the same by the use of Steward’s report to the Business Representative of the District Council in the area where work is performed. The steward, as a working Journeyman, shall be allowed a reasonable amount of time to perform his/her steward duties that can not be performed outside of working hours.

Section 3. The Steward shall report to the Business Representative of the District Council and the employer or his representative, all violations of the working agreement.

Section 4. All matters of consequence pertaining to jurisdiction, alleged grievances due to unfair treatment by the employer, are to be reported to the District Council or the Business Representative in the area, for action as may be deemed necessary.

Section 5. The Steward shall be the last worker laid off, provided he/she is qualified and able to do the job available to him/her, except foremen, touch-up and specialty men.

ARTICLE 13 DRUG TESTING

When a customer or owner requires drug testing as a condition of employment on a job site or project it is agreed that the Bargaining Unit employee will comply with drug testing policies for that job site or project.

ARTICLE 14 VIOLATIONS

Section 1. Any employer who fails to pay his contributions for insurance coverage herein provided for shall be held personally responsible and liable to any employee covered by this Agreement for the benefits which would have been provided by such insurance coverage.

Section 2. Employees shall not enter or remain in the employ of any employer who willfully neglects or refuses to stand trial or after due trial refuses to abide by a decision rendered pursuant to the provisions of this Agreement.

Section 3. No party to this Agreement, whether employer or employee, shall work for or with, or employ on any job a person as employer or employee, who is acting in violation of this Agreement or who has failed or refused to comply with any decision of the appropriate organization rendered pursuant to the provisions of this Agreement.

Section 4. Business Representatives of the District Council shall be informed immediately of any violation. Business Representatives shall not be allowed to remove Journeyperson Painters and Apprentices from any and all jobs unless the contract violation involves failure to pay proper wages, failure to pay Fringe Benefits, failure to meet all financial obligations provided for by this Agreement, safety reasons, working overtime without a permit and a non-union person on the job. Employees removed from any job for such violations shall be paid by the contractor the amount at the rate of straight time to compensate them for the inconvenience and loss of time due to said violations. Said waiting time shall not exceed five (5) days. It shall be a violation of the Agreement for failure to report violations of the Agreement.

Section 5. Union to police own forces with penalties for working open shop.

ARTICLE 15 GRIEVANCE & ARBITRATION

Section 1. For all purposes of this Agreement, a grievance is any dispute or controversy between the Company, the Union and any employee covered by this Agreement, involving the meaning, interpretation or application of the provisions of this Agreement.

Section 2. Such grievances shall be handled in the following manner:

- (a)** The aggrieved employee or Union Representative shall present the grievance in writing to the designated representative of the company and shall meet with that representative within ten (10) working days to discuss the grievance.
- (b)** If no settlement or resolution is reached within ten (10) working days after the meeting referenced above, it may be submitted, at the request of either party to arbitration by written notice to the other party within fifteen (15) working days from the date of the above-referenced meeting.

Section 3. Arbitrator - If the parties cannot reach agreement on an impartial arbitrator, either the Union or the Company may request the California State Conciliation Service to submit a list of five (5) arbitrators to the parties. The list shall contain only established arbitrators in the state of California.

Each party shall alternately scratch two (2) names from the list, the first scratch being selected by lot, and the person remaining shall be the arbitrator.

Section 4. Hearing - The impartial arbitrator shall hold a hearing as soon as practicable, and shall issue an award which shall be final and binding upon the Union, the Company and any employee involved in the grievance or dispute.

Section 5. Amend Agreement - The arbitrator shall have no authority to amend, add to or subtract from this Agreement, except where specifically authorized to do so by this Agreement. The Arbitrator shall have the authority to fashion a remedy.

Section 6. Expense for Arbitration - The party losing the arbitration shall pay the arbitrator's charges. Cost of the hearing room shall be shared by both of the parties. The cost of the transcript if requested by both parties shall be shared equally. If there is any question who lost the arbitration, the arbitrator shall decide who shall pay the expenses of the arbitrator whether in whole or in part.

Section 7. Fourteen Day Limit - Matters not presented to the Employer or the Union in writing within a period of fourteen (14) working days after the action, lack of action or condition constituting the basis of the complaint occurs, shall be deemed waived and shall not be subject to the grievance procedure or arbitration procedure as set forth above.

Section 8. Union Economic or Legal Action - In the event of a failure by the Employer to pay the wages or fringe benefits required by this Agreement, and the Employer raises no question concerning the interpretation or operation of this Agreement or concerning his obligations to pay remedies as it sees fit with respect to the Employer, and any economic action taken will not be considered a violation of this Agreement. However, the Union may, if it so desires, utilize the provisions of this Article with respect to the Employer. Before resorting to any economic remedy as above permitted, the Union must give the Employer involved two (2) business days written notice of its intention to take such economic action. No economic action may be taken by the union if prior to the taking of such action the Employer has raised a question concerning the interpretation, application or operation of this Agreement or concerning his obligation to pay wages or fringe benefits in dispute, and had deposited the full amount in dispute with the appropriate Trust Fund to be held by the Trust until the matter is resolved under the procedures set forth herein. The provisions for notice in this paragraph shall not apply to any action taken by the Union pursuant to Article 14.

ARTICLE 16

DUES CHECK-OFF, EMPLOYERS ADMINISTRATIVE FUND and PAT-PC

Section 1. DUES CHECK-OFF - During the term of this Agreement, all Signatory Employers agree to deduct from the wages of all employees covered by the Agreement for Dues Check-Off the amounts specified in Schedule A. Said Dues Check-Off shall be remitted to the Bay Area Painters & Tapers Trust Funds office on forms provided by the Trust Funds, or other appropriate depository designated by the Union, not later than the fifteenth (15th) day of each and every calendar month for such deductions made during the preceding calendar month, provided that the employees in question signed a valid authorization card authorizing such deductions.

Section 2. Each employer agrees that, at the time of employment of any employee covered by this Agreement, such employer shall secure from said employee a work referral slip and said slip shall

indicate that an authorization form has been signed by said employee, and is on file at the local union office. The employer will be provided with a copy of the authorization form upon request.

Section 3. The Union shall indemnify the Employer against any and all liability that may arise out of actions taken or not taken by the Union pursuant to the provisions of this Section.

Section 4. NORTHERN CALIFORNIA PAINTING AND FINISHING CONTRACTORS ADMINISTRATIVE FUND - Commencing July 1, 2006, and continuing until the expiration date of this Agreement, every contractor signatory to this Agreement shall pay Administrative Fund contributions based upon all covered employee hours worked or required to be paid for in the amount of twenty-five cents (\$.25) per hour. Said Administrative Fund contributions shall be remitted to the Bay Area Painters & Tapers Trust Funds office on forms provided by the Trust Funds, or other appropriate depository designated by the Northern California Painting and Finishing Contractors, not later than the fifteenth (15th) day of each and every calendar month for all hours worked during the preceding calendar month. Said Administrative Fund contributions are then forwarded to the Northern California Painting and Finishing Contractors designated account. The contribution rate to the NCPFC will be monitored and adjusted if necessary by the Employer group.

Section 5. VOLUNTARY PAYROLL DEDUCTION OF POLITICAL CONTRIBUTIONS - Each Member hereby authorizes and directs the employers to deduct from their pay the sum of five cents (\$.05) for each hour worked, as a contribution to the Political Action Together -Political Committee (PAT-PC) of the International Union of Painters and Allied Trades. Each Employer agrees to make payments to the Political Action Together -Political Committee (PAT-PC) of the International Union of Painters and Allied Trades for each employee covered by this Agreement, as follows:

- (a) For each hour or portion thereof, for which an employee receives pay, the Employer shall make a contribution of five cents (\$.05) to PAT-PC.
- (b) For the purpose of this Article, each hour paid for, including hours attributable to show up time, and other hours for which pay is received by the employee in accordance with this Agreement, shall be counted as hours for which contributions are payable.
- (c) Contributions shall be paid on behalf of any employee starting with the employee's first day of employment in a job classification covered by this Agreement. This includes, but is not limited to, apprentices, trainees, and probationary employees.

ARTICLE 17
WORK PRESERVATION FUND

There has been created a separate and independent entity, the Work Preservation Fund organized pursuant to the laws of the State of California, as a non-profit California Corporation. The purposes for which this corporation is formed are to expand the work and job opportunities available to signatory employers and employees, and to advance and preserve the industry by promoting high standards and fair competition. These purposes are consistent with those established under the authority of the Labor Management Cooperation Act of 1978, USC Section 175(a) and 29 USC Section 186(c)(9). The affairs of the Work Preservation Fund are governed by a Board of Directors comprised of equal members representing labor and management.

The Employer shall be obligated to pay the Work Preservation Fund eight cents (\$0.08) on each employee covered under this Agreement for each hour worked. Pursuant to and under the terms of this Agreement, the Trust Funds Administrator shall collect such contributions for the Work Preservation Fund and shall thereafter each month forward said monies to the Work Preservation Fund.

Appropriate records shall be kept and maintained by both the Trust Funds Administrator and the Work Preservation Fund as to the collection, transmittal and amounts of funds collected on forms to be provided exclusively by the Trust Funds Administrator. The parties agree that the contributions shall be transmitted to the Trust Funds Administrator.

The contribution rate shall be set forth in Schedule A and shall be paid on all hours worked.

ARTICLE 18
LABOR MANAGEMENT COOPERATION INITIATIVE

We hereby establish a contribution to the Labor Management Cooperation Initiative (LMCI) effective the date of this working agreement and any renewals or extensions thereof.

For each hour or portion thereof, for each employee covered under this Collective Agreement, the employer shall pay five cents (\$.05) payable to the Bay Area Painters & Tapers Trust Fund. Such contributions shall be forwarded to the LMCI Trust Fund.

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

Contributions shall be paid on behalf of any employee starting with the first (1st) day of employment in a job classification covered by this Agreement.

ARTICLE 19
ADMINISTRATION OF FRINGE BENEFITS

Section 1. TRUST FUNDS - Current Trust Funds - This Agreement requires contributions to be made on behalf of all employees of the employer performing work covered under the terms of

this Agreement in accordance with Schedule A to the following jointly-administered Trust Funds:

- **Bay Area Painters and Tapers Health Fund until such time that it is merged into the District Council 16 Health & Welfare Trust Fund**
- **Bay Area Painters and Tapers Pension Trust Fund**
- **Bay Area Painters and Tapers Pension Trust Fund – The Annuity Plan**
- **District Council 16 Northern California Apprentice & Journeyman Training Trust Fund**
- **IUPAT Joint Apprenticeship & Training Fund**
- **Painters & Allied Trades Labor Management Cooperation Initiative**

- (a) Each Employer may designate no more than one (1) owner, partner or a person holding proprietary interest in the business as an Owner Member of the Union. Owners Members may perform work covered by this Agreement and the Employer shall not be required to make Trust Fund contributions on behalf of Owner Members.

Section 2. TRUST AGREEMENTS - The Trust Agreements of each of the Trust Funds as in effect on the date of this Agreement are incorporated herein by reference and made a part of this Agreement. Amendments to those Trust Agreements which are duly adopted after the date of this Agreement shall automatically be incorporated herein and made a part of this Agreement. Should any of the Trust Funds merge into or with another jointly-administered Trust Fund or Funds, then the Trust Agreement resulting as a consequence of that merger shall automatically be incorporated herein and made a part of this Agreement.

- (a) The bargaining parties to this agreement, District Council 16 and Northern California Painting and Finishing Contractors hereby agree as follows:
- (1) To restate the trust documents of all Trust Funds created by this agreement and further agree to accomplish this restatement during the six (6) month period immediately following the execution of this agreement.
 - (2) To work cooperatively with the Board of Trustees toward a merger of the Health and Welfare Trust Fund when it is demonstrated to be prudent to do so.
 - (3) To reduce the number of trustees of the Bay Area Painters and Tapers Pension Trust Fund, Bay Area Painters and Tapers Pension Trust Fund – The Annuity Plan to four (4) trustees from the Northern California Painting & Finishing Contractors, two (2) trustees from the Northern California Drywall Contractors Association and six (6) trustees from District Council 16 creating a total of twelve (12) members of the Board of Trustees.
 - (4) To reduce the number of trustees of the Bay Area Painters & Tapers Health Fund to four (4) trustees from the Northern California Painting & Finishing Contractors, two (2) trustees from the Northern California Drywall Contractors Association and six (6)

trustees from District Council 16 creating a total of twelve (12) members of the Board of Trustees.

Section 3. TRUSTEES - Each Employer does hereby designate the Board of Trustees of the Trust Funds referred to above, including any trust funds created as a result of a merger, as trustees for all proper and lawful purposes as provided in the various trust agreements and as required by law. District Council 16 of the International Union of Painters and Allied Trades shall appoint all Union Trustees in accordance with its bylaws. The Northern California Painting & Finishing Contractors shall appoint their Trustees in accordance with its bylaws.

Section 4. PAYMENTS TO TRUST FUNDS

- (a) Payroll Deductions: The Individual Employer agrees to make the payroll deductions and remittance thereof, of the Dues Check-Off, Wage Equality Dues, Organizing Dues, Unity Action Dues and of the IUPAT PAT-PC deductions of this Agreement. The consequences of any delinquent remittance of these deductions shall be the same as those provided by the Trust Agreements of the Bay Area Painters & Tapers Pension Trust Fund, as amended, as set forth above.
- (b) Due Date: All payroll deductions and contributions based on hours worked in a particular month shall be payable under this Agreement on or before the fifteenth (15th) day of the following month (the "due date") and will be deemed delinquent if not received by the end of the month, at which time liquidated damages shall be incurred and interest assessed as of the due date.
- (c) Liquidated Damages: Because of the difficulty of determining the actual expense of collection or of damage resulting when a monthly payment is delinquent, liquidated damages, as well as interest, shall be assessed against both delinquent contributions and payroll deduction remittances, referred to in this Article, together with reasonable attorneys fees and any other expenses incurred in connection with the delinquency. The amount of assessments shall be as the Trustees of the Trust Funds may determine. The amount of the assessments on delinquent payroll deduction remittances shall be the same as is established by the Trustees of the Bay Area Painters & Tapers Pension Trust Fund.
- (d) Economic Action: If the required contribution and liquidated damages owed by the delinquent Employer to any or all of the Funds, or the payroll deductions referred to in this Article, are not received by the twentieth (20th) day of the month in which they are due and payable, then in addition to the foregoing it shall not be a violation of this Collective Bargaining Agreement for the Union to withdraw employees from the job or shop of such delinquent Employer. Any employee withdrawn from the job or shop of the delinquent Employer, pursuant to this Section shall be paid by such Employer the sum of one (1) days' wages and fringes for each day of work lost by the employee being so withdrawn up to a maximum of five (5) days to compensate him for the inconvenience and loss of time due to said delinquency. Such payment shall be in addition to all wages due the employees for time actually worked prior to his withdrawal from the job or shop of the delinquent Employer. In addition the Union shall have such further remedies as set forth in this Agreement.

- (e) **Rights and Remedies:** The rights and remedies against a delinquent Individual Employer as set forth above are not exclusive but are cumulative and nothing in this Article shall in any way limit any one's right to enforce the collection of contributions or payroll deductions by any legal means. The Board of Trustees of each Trust Fund may compel and enforce the payment of the contributions in any manner in which they may deem proper; and the Board of Trustees may make such additional rules and regulations to facilitate and enforce the collection and payment thereof as they may deem appropriate. The Board of Trustees may, in the event of repeated delinquencies by the same Employer, make special rules applicable to such Employer's contributions, including rules requiring bond or other security and rules with respect to the due and/or delinquent date of said Employer's contributions. Failure of an Employer to pay the contributions required hereunder within fifteen (15) days after the date due shall be a violation of the collective bargaining agreement between the said Employer and the Union, as well as a violation of the Employer's obligations hereunder. Nonpayment by an Employer of any contributions when due shall not relieve any other Employer from his obligations to make payments.
- (f) **Place of Payments:** All contributions and payroll deductions referred to in this Article shall be paid at the place or places designated by the Trusts, NCPFC and the Union, and on such forms as they may require.
- (g) **Minimum Contribution Rates:** The Employer and the Union party to this Agreement recognize and acknowledge the Trustees' rights to set minimum contribution rates for participation in their respective Funds. Should the total wage package not be sufficient to provide minimum rates required, the parties recognize that the Trusts specified in the Agreement cannot continue to provide such benefits and other arrangements will have to be made to provide them.
- (h) The Administrator, Administrators or C.P.A. designated by the Union of each said Funds referred to in Section 1 above shall be allowed to inspect the payroll records of any Employer or the Union, with reasonable written notice to ascertain if the provisions of this Agreement are being complied with.

Section 5. RECORDS TO BE KEPT BY EMPLOYERS - In addition to any records required by the Trust Funds, Employers agree to maintain the following records:

- (a) **Time Cards** - Employers shall keep weekly time cards on which shall clearly appear the employee's full name and the last four (4) digits of their social security number, the job name, the hours worked each day and total hours worked each week, showing total straight time hours and total overtime hours. The employee shall sign the time card. The time card shall also show the type of work performed if other than work covered by this Agreement.
- (b) **Checks and Check Stubs** - Each pay check and each stub or copy shall clearly indicate the date of payment, pay period covered, company name, and shall include:
 - (1) Total straight time hours worked and the rate of pay;
 - (2) Total overtime worked and overtime rate;
 - (3) Total gross wages paid;

- (4) Deductions itemized; and
 - (5) Net pay for period.
- (c) **Failure to Keep Records** - If an Employer fails to keep records as required above, said Employer is required to pay fringe benefit contributions as if any sums paid to individuals by such Employer were wages for work covered by this Agreement.

Section 6. AUDITS OF RECORDS - The Board of Trustees, or their authorized representatives, may require any Association, any Employer, the Union, any labor organization or any beneficiary to submit to it any information relevant to the administration of the Trust. Upon notice in writing from the Trust Funds, an Employer must permit an accountant, or agent of an accountant, of the Board of Trustees to enter upon the premises of such Employer or the Union during business hours to examine and copy the following records:

- (a) Canceled checks and check stubs showing all monies paid to each employee of the Employer.
- (b) Canceled checks, check stubs and business records of the Employer showing all sums paid to persons other than employees for work performed such as subcontractors, independent contractors, relatives, partners and joint ventures of the Employer.
- (c) The individual earnings records of each employee of the Employer showing the name and address of employee, social security number, wage rate, hours worked, gross pay, amounts withheld and net amount paid for each employee.
- (d) Copies of all fringe benefit returns of Employer's prepared for filing with the Trust Funds for each month.
- (e) Those canceled checks showing sums actually paid by Employer to the Trust Funds for each month.
- (f) Copies of the Employer's Quarterly Federal Tax Return (Form 941) for each quarter, as well as the State Quarterly Wage and Withholding Report (Form DE 6).
- (g) Individual employee's time records for each employee of Employer.
- (h) Records of each job involving application of paint or drywall taping by the Employer, to the extent that such records exist, including:
 - (1) Name and address of owner of property where painting was done;
 - (2) Street address where painting work was performed;
 - (3) Total gross payment received;
 - (4) Total payroll cost of each job;
 - (5) Name and address of each person who performed painting work or drywall taping on each job; and

- (6) Total material cost of each job.
- (i) Copies of Federal Forms W-2 prepared by the Employer for each employee and Federal Form W-3.
- (j) Disbursement Journal of the Employer.
- (k) Payroll Journal of the Employer.

Employee records are to be maintained by the Employer for a period of at least four (4) years or in accordance with State and Federal requirements.

In the event that such an examination of such Employer's records reveals that such Employer is not making full and prompt payments of all sums required to be paid by him/her to the Trust Funds, then such Employer shall pay to the Trust Funds such costs, including accountant fees, as may have been reasonably incurred in making such determination. Upon the written request of the Board of Trustees, or their duly authorized representative, such Employer may be requested to bring his/her records for auditing to the Trust Fund Office.

Whenever an employee appears on work as defined in this Agreement and he/she appears as an employee or subcontractor for other work on the Employer's records, fringe benefits shall be paid. The hours due shall be computed at the rate of painters wages per hour when lump sums have been paid, or on the labor portion of an itemized invoice. The Employer shall not pay employees bonuses, expenses or sums of monies other than as provided by this Agreement without written approval of the Union, except normal semi-annual or annual bonuses.

Section 7. BONDING - Each Employer shall, within ten (10) days of the mailing of notice by the Administrator of the Trust Funds, give a bond in a sum equal to the greater of five thousand dollars (\$5,000.00) or one-third (1/3) of the wages and contributions made or due under the terms of this Agreement, or the Agreement immediately preceding this Agreement, by such Employer in the twelve (12) month period just prior to the mailing of said notice. Such amounts are to be determined by the said Administrator. Such bond is not in any way to be construed in lieu of payments required pursuant to this Agreement. All such bonds shall be deposited with the Trust Funds and shall be in a form acceptable by the Board of Trustees. Each Employer must comply with the bonding provisions of this Agreement if the Employer has less than twelve (12) consecutive months of prompt and proper payment of wages to his/her employees as shall be determined by the Trustees. The Trustees may, within their sole discretion, require such Employers to file report forms and make contribution payments at more frequent intervals than is required of other Employers. When an Employer, after having deposited said bond, attains a record of twelve (12) consecutive months of prompt, timely and proper payment of wages and Trust Fund Contributions, he/she may have said bond returned upon proper application to the said Administrator and the approval of the Trustees. If the Bond must be used to make any payment of wages or contributions to said Trust Funds, the money shall first be applied to the payment of wages of employees working under this Agreement and the balance shall be prorated among the amounts due by the Employer to the various Trust Funds. In the event an Employer fails to deposit a satisfactory bond within the time provided and the notice herein provided for has been given, all employees shall be withdrawn from the job or shop of the Employer, all employees withdrawn pursuant to this Section shall be paid by such Employer the sum of one (1) days' wages and fringes for each day of work lost by the employee being so withdrawn up to a maximum of five (5) days to compensate for the inconvenience and loss of time due to the Employers failure to post bond. Such payment shall be in addition to all

wages due the employees for time actually worked prior to being withdrawn from the job or shop of the Employer. In addition the Union shall have such further remedies as set forth in this Agreement.

Section 8. TRANSFER OF MONEY FROM WAGES TO BENEFIT FUNDS

- (a) During the term of this Agreement the Union and/or Trustees may request in writing an increase or decrease in the contributions required by the Employer to a particular benefit fund or funds and a corresponding reduction or increase in the minimum hourly wage rates set forth in Schedule A. Such request shall be made in writing at least thirty (30) days prior to the proposed effective date of the change. The Employer will honor such request as of the effective date requested by the Union. As of such date the hourly minimum wage rates set forth in Schedule A of this Agreement shall be reduced or increased in an amount equal to the increase or decrease required of the Employer to the particular benefit fund or funds. The Employer shall be notified thirty (30) days prior to the effective date of any reallocation of wages or fringes.
- (b) Any increase or decrease in the required contributions by the Employer to the particular benefit fund or funds and the corresponding reduction or increase in the minimum hourly wage rates shall be set forth in a Memorandum of Understanding by the Employer and the Union (Schedule A).

Section 9. ERRONEOUS PAYMENTS - An Employer shall be entitled to credit against future employer contributions or refund of money paid to the Trust Funds by reason of clerical or administrative error or mistake as to the amount owing to the Trust Funds on the following conditions:

- (a) Written application is made within four (4) years from the date of erroneous payment;
- (b) The Trust Funds have made no disbursements on behalf of employees based upon the erroneous contributions; and
- (c) The Board of Trustees of the Trust Funds have determined that the erroneous contributions were made due to a mistake of fact or law and can properly be returned pursuant to ERISA section 403(c).
- (d) Any erroneous payments found on an audit shall be reported immediately to the Employer.

Section 10. FRINGE BENEFIT COVERAGE FOR OTHER EMPLOYEES - Each of the Trust Funds may adopt rules allowing employees not covered by this Agreement to participate in those Trust Funds to the extent permitted by law. The rules for the participation of those employees shall be set forth in a written participation agreement between the Trust Fund and the employer, which may incorporate the rules of this Article 19 by reference.

**ARTICLE 20
SEPARABILITY AND SAVINGS CLAUSE**

In any Section, paragraph or Article of this Agreement should be held invalid by operation of law or by any tribunal of competent jurisdiction, or if compliance or enforcement of any section, paragraph or Article should be restrained by such tribunal pending a final determination as to it's validity, the remainder of this Agreement or the application of such section, paragraph or Article to persons or

circumstances other than those as to which it has been held invalid or as to which compliance with or enforcement of has been restrained, shall not be affected thereby.

In the event that any section, paragraph or Article is held invalid or enforcement of or compliance with any section, paragraph or Article has been restrained, as set forth above, the parties affected thereby shall enter into collective bargaining negotiations within five (5) working days, upon the request of either party, for the purpose of arriving at a mutually satisfactory replacement for such section, paragraph or Article, during the period of invalidity or restraint. If the parties do not agree within a period of sixty (60) days on a mutually satisfactory replacement, either party shall be permitted all legal or economic resources in support of its demands notwithstanding any provision in this Agreement to the contrary.

It is understood and agreed that at such time as existing Federal Laws containing restrictions on the form of union recognition and union security provisions may be amended so as to make legal conditions and requirements other than those contained in this Agreement, then and in that event, either party to this agreement may upon thirty (30) days notice, in writing given to the other party, re-open Articles 3 and 6 of this agreement for the purpose of negotiating changes in these articles.

ARTICLE 21 ACCRETION CLAUSE

This Agreement shall apply to all present and subsequently acquired operations of the Employer and to all accretions to the bargaining unit, including, but not limited to, newly established or acquired operations.

ARTICLE 22 DRYWALL TAPING

Section 1. Refer to “Northern California Drywall Finishers Master Agreement” All Contractors signatory to this Agreement and/or interim Agreement doing drywall work shall pay the negotiated drywall/taper scale. At no time shall a drywall contractor use this Agreement in place of the Northern California Drywall Finishers Master Agreement.

ARTICLE 23 PRESERVATION OF WORK CLAUSE

Section 1. To protect and preserve, for the employees covered by this Agreement, all work they have performed and all work covered by this Agreement, and to prevent any device or subterfuge to avoid the protection and preservation of such work, it is agreed as follows: If the Employer performs on-site construction work of the type covered by this Agreement, under its own name or the name of another, as a corporation, company, partnership or other business entity, including a joint venture, wherein the Employer, through its officers, directors, partners, owners or stockholders, exercises directly or indirectly (through family members or otherwise) management, control or majority ownership, the terms and conditions of this Agreement shall be applicable to all such work.

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

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

ARTICLE 24 EMPLOYERS

Section 1. The employer shall have a duly issued and effective State Contractors License, shall carry Workers' Compensation Insurance, and shall comply with all Federal, State and Municipal Laws pertaining to the Painting Industry and all health and safety regulations and rules.

(a) Specialty Contractors, other than Painters and Decorators, who possess a State Specialty License, now classified as C-61 or C-9, in any of the following categories: Steam cleaning, Wallboard Taping, Paint Burning, Parking Lot Striping or Sandblasting, and whose operations in the painting industry are confined strictly within the limits allowed under their Specialty license.

Section 2. It is understood that District Council 16 will continue their organizing efforts including production and maintenance, and Agreements will be signed with employers in said fields, establishing terms and conditions for production and maintenance painting. Employers signatory hereto doing production and maintenance painting will be requested to execute agreements relating to said work, and any work done will be covered by the terms of each executed agreement, and, if none, by this Agreement. Any agreement so signed shall be copied to the Northern California Painting and Finishing Contractors.

Section 3. The Employer shall permit duly accredited representatives of the District Council to visit the shop or job any time where work is being performed in order to determine whether the shop is being conducted in accordance with this Agreement.

Section 4. The Employer warrants, asserts and agrees that this document is executed by him/her with full authority to represent and bind any firm, partnership, corporation or association of which he/she is a partner, officer, representative or member. Should the Union enter into a contract with any Employer; the NCPFC will be provided with a copy upon request.

Section 5. If this Agreement is signed by a member of a partnership, it shall apply to them and each of them individually. In the event of a dissolution or termination of said partnership or in the event of a merger, consolidation or other legal change whatsoever, with respect to employer, any obligations hereunder shall be binding upon any assign, successor, legal representatives or lessee of such employer.

Section 6. After this Agreement takes effect any employer may become a party hereto if a counterpart of the Agreement is executed by him/her. This Agreement shall take effect as to such new contracting party at such time as said party signs such counterpart.

Section 7. This Agreement may be executed in multiple counterparts and when one counterpart is signed by the Association or Chapter, all such counterparts shall constitute when taken together, one and the same instrument as if all signatories were contained in the original.

Section 8. No two (2) or more contractors shall work for each other on any contract, except that a contractor may sublet a contract to a signatory contractor.

Section 9. It shall be a violation of this Agreement for the employer or the employer's agent to establish production quotas or piece work systems.

The employers shall have the right to manage their business in all respects without limitation except as expressly provided in the Agreement.

Section 10. The employer agrees that he/she will not contract work covered under the scope of this Agreement to anyone not signatory to a collective bargaining agreement with the International Union of Painters & Allied Trades. If the Union can not supply a licensed, qualified subcontractor within forty-eight (48) hours, then the contractor can hire from any source.

Section 11. All Employers doing drywall work must register each drywall job with District Council 16 on forms provided.

Section 12. Employers signatory to this Agreement shall, before commencing to perform work on any competitively bid job over five thousand dollars (\$5,000) of covered work, register the job with District Council 16 on forms provided.

Section 13. There may be established "Project Labor Agreements" to cover the scope of work outlined in this agreement and in connection with Building Trades Agreements. The NCPFC will be provided with a copy upon request.

ARTICLE 25 WORK STOPPAGES

Section 1. PERMITTED WORK STOPPAGE - There shall be no stoppages of work either by strike or lockout by the parties hereto, except as provided for elsewhere in this Agreement.

Section 2. PICKETING - It shall not be a violation of this Agreement for employees to refuse to pass through or work behind a legitimate picket line recognized by the Building and Construction Trades Council in the area where the work is being performed.

No employee shall work for any signatory Employer that has failed, neglected or refused to pay his employees the wages, fringes or other compensation provided for in this Agreement. A District Council or Local Union may take such economic action by strike, picket line or boycott, as it may see fit, against any Employer so failing, neglecting or refusing to pay his/her employee the wages, fringes or other compensation provided for in this Agreement.

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

Section 3. NON-UNION JOB SITES - Furthermore, recognizing the “Special problems” in the construction industry based upon the close relationship between contractors and subcontractors at the job site of the construction, alteration, painting, or repair of a building, or other such work and the friction that is created when union and non-union employees are required to work side-by-side, it shall not be a violation of this Agreement and it shall not be a cause for disciplinary action or discharge in the event an employee refuses to enter upon any such construction site where non-union employees are employed and which would require the employee to work “shoulder-to-shoulder” or along side the non-union employee or employees, or refuses to remain on such job site when non-union employees are engaged in such construction on the job site. This clause shall apply only to job sites where the Union’s members are working, whether it is on a construction site of the Employer or at any other job site.

ARTICLE 26 AUTHORITY TO EXECUTE

Section 1. The undersigned Employer warrants, asserts, and agrees that this document is executed by him/her with full authority to represent and bind their firm.

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

Section 2. INTENT AND PURPOSE – It is the clear understanding, intent and purpose of the signatories to this Agreement that is not over burdensome with unnecessary language. If any legal language needs to be added to any portion of this Agreement, it is agreed that this legal language will become part of this Agreement providing the legal language does not alter or change the intent and negotiated portion so effected.

WE HEREBY AGREE TO THE TERMS AND CONDITIONS STATED HEREIN:

District Council 16:

Northern California Painting and Finishing Contractors

Gene Massey, Business Manager/Secretary Treasurer

John Kusper, Executive Director

Date: _____

Date: _____