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## LABOR AGREEMENT

THIS AGREEMENT, entered into this 5th day of May, 2003, by and between the ROCHESTER-AUSTIN-ALBERT LEA SUBDIVISION of the Southern Minnesota Division of SMARCA, INC., on behalf of its members (hereinafter referred to individually as the "Employer"), as well as any other Contractor signatory hereto (similarly referred to as "Employer"), and Local Union No. 10 of the Sheet Metal Workers' International Association of Maplewood, the Southern Division Unit (hereinafter referred to as the "Union"), for the jurisdiction consisting of Wabasha, Goodhue, Olmsted, Dodge, Steele, Mower and Freeborn Counties in Minnesota.

It is understood that the above-named Association is hereby representing and acting on behalf of its signatory member Employer, as well as other Employers who have assigned their Bargaining Agent Authorization rights to the Association, all of whom are fully bound the same as if each had executed the same individually.

### ARTICLE I WORK JURISDICTION

**Section 1. SCOPE.** 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 and non-ferrous metal work and all other materials used in lieu thereof and of all air-veyor 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 duct work; (d) the preparation of all shop and field sketches used in fabrication and erection, including those taken from original architectural and engineering drawings or sketches, and (e) all other work included in the jurisdictional claims of Sheet Metal Workers' International Association.

**Section 2. WORK PRESERVATION.** The Employer agrees that none but journeyman, apprentice and trainee sheet metal workers shall be employed on any work described in Article I. And, further, for the purpose of proving jurisdiction, the Employer 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 job site 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 the parties, shall be provided to the Employer.

## **ARTICLE II SUBCONTRACTING**

**Section 1.** No Employer shall subcontract or assign any of the work described herein except as otherwise provided, which is to be performed at a job site, 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 wages for comparable sheet metal fabrication, as established under provisions of this Agreement.

## **ARTICLE III FABRICATION**

**Section 1.** On all work specified in Article I of this Agreement, fabricated and/or assembled by journeyman, apprentice and/or trainee sheet metal workers within the jurisdiction of any other local union affiliated with Sheet Metal Workers' International Association, or within an area covered by a different labor agreement within the jurisdiction of Local Union No. 10, whose established wage scale is higher than the wage scale specified in this Agreement, the higher wage scale of the job site union shall be paid to the journeymen employed on such work in the home shop or sent to the job site.

**Section 2.** Provisions of Section 1 of this Article, Section 2 of Article II and Section 2 of Article I shall not be applicable to the manufacture for sale to the trade or purchase of the following items:

- |   |                                      |
|---|--------------------------------------|
| 1. Ventilators  | 6. Mixing (Attenuation) Boxes        |
| 2. Louvers  | 7. Plastic Skylights                 |
| 3. Automatic & Fire Dampers   | 8. Air Diffusers, Grilles, Registers |
| 4. Radiator & Air Conditioning Unit Enclosures  | 9. Sound Attenuators                 |
| 5. Fabricated Pipe & Fittings for Residential Installations and Light Commercial Work Defined in the Locality | 10. Chutes                           |
|   | 11. Double Wall Panel Plenums        |
|   | 12. Angle Rings                      |

**Section 3.** The provisions of Section 1 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 1 of this Article will not be applicable to the manufacture of spiral pipe and fittings for high pressure systems.

#### **ARTICLE IV JOB REFERRAL**

**Section 1.** The Union shall be the exclusive bargaining representative for all employees performing work described in Article I.

**Section 2.** The Union agrees to furnish at all times to the Employers, on request by the Employers, duly qualified sheet metal workers, registered apprentices and trainees in sufficient number as may be deemed necessary by the Employer to properly execute work contracted for by the Employer. It is understood that the Employer retains the right to refuse employment to any applicant.

(a) Employers shall submit all requests for workmen in writing or by telephone to the local Union business manager or business representative. Said request for workmen shall remain in effect for a period of five (5) working days only and thereafter shall be considered as having expired. Cancellation of such request, if necessary, can be made by phone.

(b) All employees who are terminated shall be furnished with a written notice of same. A copy of said termination notice shall also be furnished to the local Union. No employee so terminated shall be referred to any other Employer unless he has surrendered his termination notice to the Union office.

(c) The Employer shall have the right to rehire employees regardless of the employee's placement or location on the Union's hiring list as long as that employee is currently collecting Unemployment Compensation from the Employer's State Unemployment Compensation account.

#### **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 fees 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 Union agrees to police and enforce its members in eliminating moonlighting and making sure that all working members are paying the appropriate fringe benefit contributions listed and contained herein.

## **ARTICLE VI HOURS OF WORK & OVERTIME**

**Section 1.** The regular working day shall consist of eight (8) hours labor in the shop or on the job between eight (8:00) a.m. and five (5:00) p.m. and the regular working week shall consist of five (5) consecutive eight (8) hour days labor in the shop or on the job, beginning with Monday and ending with Friday of each week. All full-time or part-time labor performed during such hours shall be recognized as regular working hours and paid for at the regular hourly rate. Except as otherwise provided pursuant to Sections 2 and 4 of this Article, all work performed outside the regular working hours and performed during the regular work week shall be at one and one-half (1-1/2) times the appropriate base rate.

(a) **FLEXIBLE WORK HOURS.** By mutual agreement of the Union Business Agent and the Employer, the regular work week may consist of four (4) consecutive ten (10) hour days between the hours of 6:00 a.m and 6:00 p.m. in the shop or on the job site, Monday through Friday of each week. Unless prohibited by local, State, or Federal law, all full-time and part-time labor performed during these hours shall be recognized as regular working hours and paid for at the regular hourly rate. All work performed outside the agreed upon starting and quitting times shall be paid at the overtime rates.

(b) **ARCHITECTURAL-FLEXIBLE HOURS.** Employees performing architectural sheet metal work shall be allowed to begin the eight (8) hour work day before the regular starting time with mutual consent of both parties. Any additional hours over eight (8) hours shall be paid at the overtime rates.

**Section 2.** New Year's Day, Memorial Day, the Fourth of July, Labor Day, Thanksgiving Day and Christmas Day shall be recognized as holidays. Where the holiday falls on a Saturday, the Friday preceding it will be recognized as the holiday and where the holiday falls on a Sunday, the following Monday will be recognized as the holiday. All work performed on Sundays, holidays and after eight (8) hours or four-thirty (4:30) p.m. on Saturdays will be paid at two (2) times the appropriate base rate of pay. All other work performed outside the regular hours will be at one and one-half (1-1/2) times the appropriate base rate of pay. Overtime for service work, however, shall never be more than one and one-half (1-1/2) times the appropriate base rate of pay, even on holidays. The fringe benefit contributions for work done during these times shall be made pursuant to Section 1 herein.

**Section 3.** It is agreed that all work performed outside of regular working hours during the regular work week and on holidays shall be performed only upon notification by the Employer to the local Union in advance of scheduling such work, except in an emergency, in which case the Union will be notified as soon as practicable. Preference for overtime and holiday work shall be given to men on the job on a rotation basis, so as to equalize such work as nearly as possible.

**Section 4. SHIFT WORK.** The following conditions shall prevail where any shop requires more than one shift on the same job site or in the shop, or where a late shift is required and no first shift is possible because of the use or occupancy of the structure, the duration of which is to be five (5) consecutive days or longer. The shift shall consist of an entirely new crew and will begin between the hours of four-thirty (4:30) p.m. and seven (7:00) p.m. and these hours shall be the regular work hours for such shift. All work performed on such shift during the regular work hours shall be paid at the rate of one and one-fourth (1-1/4) times the appropriate base rate. On shifts of less than five (5) consecutive days, the rate of pay shall be the overtime rate, unless the Union and the Association approve such work in advance. It is the intent of the Union and the Association to approve this work at the regular shift rate of pay as long as all of the following are present: It is not possible for the shift to last five (5) consecutive days, it is necessary to do this work outside the regular working hours, and it is necessary to reduce the rate from the regular overtime rate because of a competitive situation.

**FLEXIBLE WORK HOURS.** By mutual agreement of the Union Business Agent and the Employer, a shift may consist of four (4) consecutive then (10) hour days between the hours of 3:00 p.m. and 3:00 a.m. in the shop or on the job site Monday through Thursday each week. Unless prohibited by local, state, or federal law, all full-time and part-

time labor performed during these hours shall be recognized as shift work hours and paid for at the regular shift work hourly rate set forth above in this Section 4. All hours worked outside of the agreed upon starting and quitting times will be paid for at two (2) times the appropriate base rate of pay.

**Section 5.** The base rate is defined to include all taxable earnings, including vacation.

**Section 6. LUNCH & COFFEE BREAKS.** The employer shall be allowed thirty (30) minutes time off for lunch during the middle of the work shift. There shall be two (2) fifteen (15) minute breaks per regular work day, one (1) in the forenoon and one (1) in the afternoon at a mutually agreed upon time in the area of work.

## **ARTICLE VII TRAVEL & SUBSISTENCE**

**Section 1.** When employed in the shop or on the job within the limits of the free zone herein specified, employees shall be governed by the regular working hours specified herein and shall provide for themselves the necessary transportation within said limits from home to shop or job at starting time and from shop or job to home at quitting time, and the Employer shall provide, or pay for all necessary additional transportation during working hours.

**Section 2.** When employed outside the limits specified in Section 1 of this Article, and within the jurisdiction of the Union, employees shall provide transportation for themselves which will assure their arrival at the limits specified in Section 1 of this Article, at the regular starting time, and the Employer shall provide or pay for all additional transportation for such jobs, including transportation from such job back to the limits specified in Section 1 of this Article which will assure arrival at such limits at quitting time. As an alternative to the foregoing method, travel expenses may be paid as specified herein.

**Section 3.** Subsistence shall be paid at the rate of twenty-two dollars (\$22.00) per day for seven (7) days per week, plus mileage and travel time to and from the job site at the beginning and end of the job. If a job lasts five (5) days or less the subsistence shall be twenty-two dollars (\$22.00) per day for each day worked plus mileage and travel time to and from the job site at the beginning and end of the week. As an alternative to the seven (7) days subsistence, the Employer with mutual agreement with the employee, may pay the actual expense. In order to be on the job site eight (8) hours a day, travel time may be paid over and above the eight (8) hour day.

**Section 4.** The free travel zone shall be within a forty (40) mile radius from the Olmsted County Courthouse or the Employer's shop.

**Section 5.** Where an individual furnishes his own transportation, he shall be paid mileage from forty (40) miles from the Employer's principal shop at the rate of thirty-five cents (\$.35) per milc. Insofar as possible, all employees shall ride in one car. The Employer shall have the right to furnish a truck, in which case the employees shall receive no mileage. Where employees ride in a truck, they shall not obtain travel time within the free zone, unless the truck is hauling material or equipment, in which case travel time shall be paid from the Employer's principal shop to the job site.

**Section 6.** The first hour of travel time on any day shall be paid at straight time without regard to the number of hours worked.

### ARTICLE VIII WAGES & BENEFITS

**Section 1.** Minimum rate of wages for journeyman sheet metal workers 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 as follows, except as hereinbefore specified in Section I of Article III:

<u>Date</u>	<u>Base Rate*</u>	<u>Health Fund</u>	<u>Pension Funds</u>	<u>Local Appr. Fund</u>	<u>NEMI/ITI Funds</u>	<u>Schol/SMOHI Funds</u>	<u>Loc I/F</u>	<u>SE MN L/M Fund</u>	<u>Total Package</u>
<b><u>COMMERCIAL &amp; INDUSTRIAL RATE</u></b>									
5/5/03-4/30/04	\$26.58	\$4.35	\$5.86	\$ .24	\$ .15	\$ .03	\$ .09	\$ .10	\$37.40
5/1/04-4/30/05	(One Dollar and Eighty Cent (\$1.80) increase allocated before 4/30/04)								\$39.20
5/1/05-4/30/06	(One Dollar and Eighty Cent (\$1.80) increase allocated before 4/30/05)								\$41.00
<b><u>RESIDENTIAL &amp; RESIDENTIAL SERVICE RATE (80% of Commercial Base Rate)</u></b>									
5/5/03-4/30/04	\$21.26	\$4.35	\$5.86	\$ .24	\$ .15	\$ .03	\$ .09	\$ .10	\$32.08
5/1/04-4/30/05	(Increase to be paid based on percentage of Commercial base increase, plus full fringes.)								
5/1/05-4/30/06	(Increase to be paid based on percentage of Commercial base increase, plus full fringes.)								

\* Taxable Income (See (a) below for the vacation and union organizing fund deductions.)

(a) The base rate above includes an amount of Two Dollars and Thirty-five Cents (\$2.35) per hour vacation pay and union organizing fund, which shall be deducted from the base rate for all journeymen and apprentices and paid to the Sheet Metal Workers Local No. 10 Collection Agency, as provided in Article IX. The vacation amount is Two Dollars (\$2.00) per hour and the organizing and equity fund is thirty cents (\$.35) per hour.



(b) Each Employer shall provide each employee with a record of all deductions made from his wages and the same shall be given to the employee with each check.

(c) The above allocations to the Pension(s), Health Fund, Scholarship, SMOHI, Training and Vacation Funds may be changed in any year. The contribution rate(s) to these Funds (either jointly or independently) may be increased or decreased by an equal reduction or increase respectively, of the base pay. In any event, reasonable changes in allocations to these Funds shall be made by the Union, and such allocations to these Funds which are subject to a Trust Agreement shall be administered as therein provided. The Union may not reduce or eliminate contributions to the National Pension Fund to the extent it would trigger withdrawal liability for any Employer. The intent of the preceding sentence is to prevent withdrawal liability being imposed upon an Employer who remains a party to the collective bargaining agreement with the Union; it is not intended to shield an Employer from withdrawal liability who unilaterally ceases contributions to the National Pension Fund due to the Employer ending its contractual relationship with the Union.

(d) The Union shall also have the right to allocate from the total wages and fringes to the Drug portion only of the National Trust as long as this is done through the local Health Plan with that Plan's Trustees' approval.

**Section 2.** (a) A residential and residential service rate of not less than eighty percent (80%) of the commercial base plus all of the fringe contributions shall be established for the entire jurisdiction.

(b) Residential shall be defined as applying to work on any single family dwelling or multiple family housing unit, four (4) stories or less in height, where each individual family apartment is individually conditioned by a separate and independent unit or system or conditioned by a fan coil system.

(c) Work at the residential and residential service rates shall be performed on a voluntary basis by both journeymen and apprentices.

**Section 3.** Except as provided in Section 1 of Article III and Section 4 of this Article, the Employer agrees that journeyman sheet metal workers hired outside of 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 4.** When the Employer has any work specified in Article I of this Agreement to be performed outside the jurisdiction of Sheet Metal Workers' Local No. 10 and within the area covered by another agreement with another union affiliated with the Sheet Metal Workers' International Association, and qualified sheet metal workers are available in such area, he 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. Journeyman 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 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 that local agreement. If employees are sent into an area where there no local agreement of the Sheet Metal Workers' International Association covering the area, then the minimum conditions of the home local Union shall apply to the employees covered by this Agreement.

**Section 5.** In applying the provisions of Section 1 of Article II and Sections 3 and 4 of this Article, 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 6.** *Fringe benefit contributions shall not be duplicated.*

**Section 7.** Wages at the established rate specified herein may be paid via direct deposit or by check in the shop or on the job at or before quitting time on the same day of each week, and no more than two (2) days pay will be withheld. However, employees, when discharged, shall be paid in full.

**Section 8.** In the event an Employer fails to pay wages when due, then, in addition to all other remedies provided to the Union and the employee, the employee shall have six (6) years from the due date of said wages to commence legal action therefor.

**Section 9.** In addition to any and all other remedies provided by this Contract or by law to the Union or to an employee, every employee covered by this Agreement shall have a lien upon the property and assets of the Employer as security for the payment of wages due to the employee that are not paid when due.

**Section 10.** The Employer shall make available to the Union's business manager or business agent, at the Employer's office during normal business hours, payroll records for all employees doing work covered by this Collective Bargaining Agreement who are doing

sheet metal work, except owners and/or officers of the company. The contents of these records shall be held in the strictest confidence and not disclosed to anyone else except in a grievance procedure where it may only be used for insuring compliance with this Labor Agreement.

**Section 11.** Journeyman sheet metal workers who report to work by direction of the Employer and are not placed at 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 12.** Each Employer covered by this Agreement, shall employ at least one (1) journeyman sheet metal worker who is not an owner of the firm on all work specified in Article I of this Agreement.

**Section 13.** All foremen and general foremen shall be journeyman sheet metal workers. On any erection job where four (4) men, but less than seven (7) are employed, one (1) foreman shall be required. When seven (7) men, but less than twelve (12) men are employed, a general foreman and a foreman shall be required. Each additional four (4) men after twelve (12) men are employed shall require an additional foreman. A general foreman shall receive two dollars and twenty-five cents (\$2.25) per hour above the existing wage scale and each foreman shall receive one dollar and seventy-five cents (\$1.75) per hour above the existing wage scale.

**Section 14.** Employees working on swing staging or swing chair, regardless of height, shall receive an additional One Dollar (\$1.00) per hour over and above the employee basic wage rate. Employees working on any other type of scaffold that exceeds thirty (30) feet in height shall also receive One Dollar (\$1.00) per hour over and above the employee basic wage rate.

**Section 15.** All owner/members (Union members) shall pay a minimum of 1840 hours of fringe benefit contributions per year or 153.3 hours per month for their hours of work. The Union agrees to police the owner/member shops regarding all aspects of this Labor Agreement.

An "owner/member" shall be defined as an owner, agent, contractor, subcontractor, jobber, or any other person who is directly or indirectly financially interested in or who is an officer or otherwise involved in the management of a sheet metal shop, business or job. An "owner/member" includes but is not limited to a person who meets all three (3) of the following requirements:

1. The person is an employee of:
  - (a) an incorporated business if the employee is an officer, director or an owner of the business; or
  - (b) *any business enterprise, however organized, in which the business is owned or controlled by the employee and a member of the employee's family, (which shall include the employee's spouse and lineal ascendants and descendants and the spouse's lineal ascendants and descendants).*
2. The person is a member of the Union in good standing.
3. The person performs work covered by the terms of this Agreement.

## **ARTICLE IX VACATION FUND**

**Section 1.** All Employers covered by this Agreement shall be obligated to deduct from the wages of each journeyman sheet metal worker and apprentice the sum of Two Dollars (\$2.00) per hour for each hour worked and shall pay monthly to the Sheet Metal Workers' Local No. 10 Collection Agency, pursuant to Article XVI herein.

**Section 2.** In consideration of this automatic payroll deduction and reporting by the Employer, the employee agrees to take a vacation each year of two (2) weeks without pay (at one time or at separate times, provided that one time the employee takes at least seven (7) consecutive days of vacation) which includes five (5) working days between January 1 and December 31.

**Section 3.** It is mutually agreed by and between the Employers and the employees that no employee shall engage himself in sheet metal work while on vacation in any local jurisdiction.

**Section 4.** Any employee desiring to obtain funds from his vacation savings fund for vacation expenses must obtain a "vacation savings fund payment order" from his Employer, when employed. The dates of vacation time shall be set out in said order. Money may be withdrawn up to three (3) times per calendar year.

**Section 5.** These vacation rules and regulations apply to all sheet metal workers and apprentices.

## **ARTICLE X PENSION FUNDS**

**Section 1.** All Employers covered by this Agreement shall contribute and pay to the Sheet Metal Workers' National Pension Fund an amount of Two Dollars and Thirty-six (\$2.36) cents per hour and shall contribute and pay to the Sheet Metal Workers' Local 10 Supplemental Retirement Fund Two Dollars (\$2.00) per hour for each hour worked by journeyman sheet metal workers covered by this Agreement. Apprentice pension contribution rates are set forth in Article XVIII. The Union shall be allowed to participate in the Sheet Metal Workers Local No. 10 Pension Plan. Any contributions to this plan shall be allocated from the Total Package Wages set forth in Article VIII.

**Section 2.** Payments pursuant to this Article shall be made in accordance with Article XVI herein.

## **ARTICLE XI HEALTH & WELFARE FUND**

**Section 1.** All Employers covered by this Agreement shall contribute and pay into the Sheet Metal Workers' Health & Welfare Fund an amount of Four Dollars and Thirty-five (\$4.35) cents per hour for all hours actually worked by journeyman sheet metal workers and apprentices, both for straight time and overtime.

The Contractor must provide health insurance coverage for a trainee after the trainee has completed 1,000 hours of work. The Contractor has the option of providing health coverage under either the Health and Welfare Fund set forth in this Article or the health insurance plan the Contractor has in effect for its office employees. However, the Contractor retains the right, in its sole discretion, to amend its office worker health insurance coverage.

**Section 2.** Payments pursuant to this Article shall be made in accordance with Article XVI herein.

**Section 3.** In the event that a national or state health insurance program is enacted, the Employer contribution to the current Health and Welfare Plan, as described in this Article, shall be applied to any cost incurred by the Employer and/or employees covered hereunder in connection with the national or state health plan. In the event the enactment of a national or state health insurance program results in the Employer or the employees incurring additional costs relating to health insurance, the parties agree to conduct negotiations on this issue only, and neither the Employer nor the employees shall incur additional cost related to health insurance unless the parties conduct further negotiations on this issue. In the event the enactment of a national or state health insurance program results

in a decrease in the contributions to the Fund, the reduction from the total package will revert to the employees to allocate as they wish.

## **ARTICLE XII INDUSTRY FUND**

**Section 1.** All Employers covered by this Agreement shall contribute nine cents (\$.09) per hour for each hour worked by journeyman sheet metal workers and apprentices covered by this Agreement to the Sheet Metal & Roofing Industry Fund of the North Central Region (Southern Minnesota Division) for the purposes specified by the applicable Agreement and Declaration of Trust, which provides for the establishment and administration of the Sheet Metal & Roofing Industry Fund of the North Central Region (Southern Minnesota Division).

**Section 2.** The contributions provided for in Section 1 of this Article will be used to promote programs of industry education, training, negotiation, and administration of collective bargaining agreements (including the printing of this Agreement), 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 is expressly specified above.

**Section 3.** The 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 time per year, the Fund shall include in such written report a statement attested by a certified public accountant and containing its balance sheet and detailed statement of receipts and disbursements. Further specific detailed information in regard to Fund activities or its receipts and/or disbursements shall be furnished to the business manager of the Union upon his written request.

**Section 4.** Grievances concerning use of local Industry Fund monies to which the Employer shall contribute for the purposes prohibited under Section 2 herein or for violations of other sub-sections of this Section, shall be handled under the provisions of Article XXV of this Agreement.

**Section 5.** Payments pursuant to this Article shall be made in accordance with Article XVI herein.

### **ARTICLE XIII SCHOLARSHIP FUND AND SMOHI**

**Section 1.** All Employers covered by this Agreement shall contribute one cent (\$.01) per hour for each hour worked by journeyman and apprentice sheet metal workers to the Sheet Metal Workers Scholarship Fund. The Employers covered by this Agreement shall also contribute two cents (\$.02) per hour for each hour worked by journeyman and apprentice sheet metal workers to the Sheet Metal Occupational Health Institute (SMOHI) Trust.

**Section 2.** Payments pursuant to this Article shall be made in accordance with Article XVI herein.

### **ARTICLE XIV TRAINING FUNDS**

**Section 1.** All Employers covered by this Agreement shall contribute and pay into the Southern Minnesota Sheet Metal Joint Apprenticeship and Training Fund twenty-four (\$.24) cents per hour for each hour worked by journeyman sheet metal workers and apprentices covered by this Agreement. The Southern Minnesota Sheet Metal Joint Apprenticeship and Training Fund shall be continued for the purpose of training apprentices and journeymen. The Training Fund shall be administered by the appointed Trustees, pursuant to the Trust Agreement.

**Section 2.** All Employers covered by this Agreement shall contribute to the International Training Institute for the sheet metal and air conditioning industry ten cents (\$.10) per hour for each hour worked on and after the effective date of this Agreement by journeyman sheet metal workers and apprentices covered by this Agreement. Three cents (\$.03) of this contribution is for the purpose of N.E.M.I., and the International Training Institute shall transmit the appropriate amount of the contributions made to them by the signatory Contractors to said organization.

**Section 3.** Payments pursuant to Sections 1 and 2 of this Article shall be made pursuant to Article XVI herein.

**Section 4.** The Southern Minnesota Sheet Metal Joint Apprenticeship and Training Fund, referred to in Section 1, above, may be changed to become a part of a statewide apprenticeship and training fund for all of Local No. 10's jurisdiction. In that case, the monies shall be contributed and forwarded to the proper Trust Fund. Such Trust Fund shall be limited in the expenditure of monies collected under this Agreement to proper administrative expenses, as well as the training and administrative expenses of the Southern Minnesota Sheet Metal Joint Apprenticeship and Training Committee. The statewide Trust

shall also not impose upon the Southern Minnesota Joint Apprenticeship and Training Committee any training programs which that Committee has not approved.

## **ARTICLE XV SOUTHEASTERN MINNESOTA CONSTRUCTION PARTNERSHIP**

**Section 1.** All Employers covered by this Agreement shall contribute and pay into the Southeastern Minnesota Construction Partnership ten cents (\$.10) per hour for each hour worked by journeyman sheet metal workers and apprentices covered by this Agreement. This contribution represents a five cent (\$.05) per hour contribution by the Employer and a five cent (\$.05) per hour contribution by each employee.

**Section 2.** The Southeastern Minnesota Construction Partnership shall provide for cooperative efforts between labor and management for the benefit of the industry, under the authority of Section 6(b) of the Labor-Management Cooperation Act of 1978 and Section 302(c)(9) of the Taft-Hartley Act. Should Congress amend these Acts in such a way as to prevent the Southeastern Minnesota Construction Partnership from carrying out its purpose or should the Southeastern Minnesota Construction Partnership be dissolved, the Employer will no longer be required to contribute to the Partnership and the Union shall designate whether its five cent (\$.05) per hour contribution should be placed in another fund or paid to employees as wages.

## **ARTICLE XVI PAYMENT DUE FUNDS/FUNDS OFFICE CONTROL BOARD**

**Section 1.** The contributions to the Funds designated in Articles VIII, IX, X, XI, XII, XIII, XIV, and XV of this Agreement shall be paid in accordance with the applicable Trust Agreements. The contributions are to be stated on a form provided by the Funds Office. The Employer agrees to conform in all respects with the applicable Agreement and Declaration of Trust for each of said Funds and all amendments thereto, as well as the administrative rules and regulations promulgated from time to time by the Trustees of said Funds, as fully as if the same were set forth in detail herein.

**Section 2.** Contributions to the Funds designated in Section 1 shall be made monthly in the form of a single payment written payable to a suitable collection agency, bank or other institution designated by the parties. Payments to be made by the Employer shall constitute fulfillment of the Employer's obligation to make contributions to the Funds herein provided. Failure to make such payments in full, when and as due, constitutes a breach of contract on the part of such Employer and relief therefor shall be available as herein provided. Any administrative charges for this service shall be borne by the Employer.



**Section 3.** The Employer shall make available to the Funds designated in Section 1 any and all records of the covered employees that the said Funds may require in connection with the sound and efficient operation of said Funds.

**Section 4.** The payments provided in Articles VIII, IX, X, XI, XII, XIII, XIV, and XV of this Agreement are due in the Funds Office on the tenth (10th) day of the following month and Employers whose contributions are not received by the Funds Office within five (5) days after the 10th, or the first working day thereafter, shall be deemed delinquent.

Delinquent Employers shall become subject to a liquidated damages assessment equal to ten percent (10%) of the contributions due for the month. If these delinquent contributions, together with the liquidated damages assessment, are not received by the Funds Office on or before the tenth (10th) day of the next month, the liquidated damages assessment will increase to twenty percent (20%) of the delinquent contributions. In addition to the twenty percent (20%) assessment, the delinquent Employer shall, on that same date, become subject to interest on the delinquent contributions at the interest rate determined by the Internal Revenue Code under Section 6621. The interest charges will accrue on both the delinquent contributions and the liquidated damages assessments from their due dates. Any attorney's fees incurred in the collection of the preceding sums shall also be payable by the delinquent Employer. Where the Funds Office Control Board determines necessary, and the delinquent payment is not rendered when the Employer is contacted by the Funds Office Control Board, the Board may recall all employees of the delinquent Employer and the employees will be directed not to return to work until the obligation of the delinquent Employer is paid in full.

In addition to the foregoing, all such delinquent Employers may be required to either:

1. Make weekly payments to all Funds which payment shall be made by cash or certified check. These weekly payments will be hand-delivered to the Fund Office on the delinquent Employer's regular pay day. If payment is not received on this date, the Fund Office Control Board may recall all the employees of the delinquent Employer and the employees will be directed not to return to work until such obligation is paid in full; or,

2. The delinquent Employer may post bond in an amount equal to the average monthly contribution of the delinquent Employer for the previous year.

In the event the delinquent Employer selects alternative number 1 and does not meet his weekly payments, bonding, as described in alternative number 2 will become

mandatory. Such requirements may be relieved at the discretion of the Funds Office Control Board.

**Section 5.** The Funds Office Control Board shall be administered pursuant to the provisions of the applicable Agreement and Declaration of Trust executed jointly by an equal number of representatives of the Union and representatives of the Association as well as the rules and regulations drawn up and executed jointly by said Trustees. The applicable Agreement and Declaration of Trust and said rules and regulations shall be considered a part hereof as if set forth in detail.

**Section 6.** A Control Board Trustee must be a current Trustee of at least one (1) of the following Local No. 10 Trustees: The Pension, Welfare or Journeyman Apprentice Trust Funds.

## **ARTICLE XVII TOOLS**

**Section 1.** The journeyman sheet metal workers and registered apprentices covered by this Agreement shall provide for themselves the following hand tools, which shall be kept in accordance with OSHA Standards:

Tool Box	Small Hand Tongs	Dolly Bars
Whitney, Small	6' Folding Rule	Combination Square
Crescent Wrench or Open End	Scratch Awls	Prick Punch
Screw Driver	Pliers	10' Tape
Center Punches	Snips, Straight-Aviation	Hack-Saw Frame
Hammers (Tinners)	L&R	Dividers
	Chisels	

The Employer shall furnish a proper enclosure or field box to safeguard the employee's hand tools on the job.

**Section 3.** Journeyman, apprentice and trainee 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 job to home at quitting time.

## **ARTICLE XVIII APPRENTICESHIP**

**Section 1.** All duly qualified apprentices shall be under the supervision and control of a Joint Apprenticeship Committee composed of eight (8) members, four (4) of whom shall be selected by the Employers' Association and four (4) by the Union. Said Joint Apprenticeship Committee shall formulate and make operative such rules and regulations as they may deem necessary and which do not conflict with the specific terms of this Agreement, to govern eligibility, registration, 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. Said rules and regulations, when formulated and adopted by the parties hereto, shall be recognized as part of this Agreement.

**Section 2.** The Joint Apprenticeship Committee designated herein shall serve for the life of this Agreement, except that vacancies in said Joint Apprenticeship Committee caused by resignation or otherwise may be filled by either party hereto, and it is hereby mutually agreed by both parties hereto that they will individually and collectively cooperate to the extent that duly qualified apprentices be given every opportunity to secure proper technical and practical education experience in the trade, under the supervision of the Joint Apprenticeship Committee.

**Section 3.** It is hereby agreed that the Employer shall apply to the Joint Apprenticeship Committee and the Joint Apprenticeship Committee shall grant apprentices on the basis of one (1) apprentice for one (1) journeyman, two (2) apprentices for five (5) journeymen, three (3) apprentices for nine (9) journeymen, and one (1) apprentice for every four (4) journeymen thereafter, regularly employed throughout the year. Provided, however, that the ratio for Employers engaged in solar, retrofit or energy-related work shall be one (1) to three (3). Provided also, however, that the ratio for Employers engaged in residential work and/or architectural sheet metal work, shall be one (1) apprentice or one (1) trainee for each journeyman performing that type of work. The Apprenticeship Committee shall make the determination of whether to supply an apprentice or a trainee.

In applying these ratios, service departments of Employers will be looked at as a separate and individual Employer. Journeymen employed in this department will not be counted in determining the appropriate number of apprentices that Employer is entitled to in their other departments; however, they will count in determining the number of apprentices available for that department and the above ratios will be applied to that department as if they were a totally separate Employer. In the event the Joint Apprenticeship Committee does not grant an apprentice to the Employer entitled to one within five (5) days of the Employer's request, that Employer shall immediately become

entitled to use a trainee in place of an apprentice until such time as an apprentice becomes available. This trainee shall not count as a trainee in the ratio set forth in Article XVIII herein.

If no qualified service man is available (either a journeyman or an apprentice), the Employer shall have the right to recruit and hire one. This service person would then be paid the same rate as an apprentice and would progress to the journeyman's rate accordingly. This service person will be under the direction of the Joint Apprenticeship Committee but shall only be required to attend service-related classes only. This service person will also not be indentured.

**Section 4.** All applicants for apprenticeship shall be at least seventeen (17) years of age and each applicant shall serve an apprenticeship of four (4) years and such apprentices shall not be put in charge of work on any job and shall work under the supervision of a journeyman until apprenticeship terms have been completed and they have qualified as journeymen.

**Section 5.** A graduated scale for apprentices shall be established and maintained on the following percent basis of the appropriate base wage rate of journeyman sheet metal workers:

<u>Period</u>	<u>Hours</u>	<u>Base Rate</u>
1	0-1000	50%
2	1001-2000	55%
3	2001-3000	60%
4	3001-4000	65%
5	4001-5000	70%
6	5001-6000	75%
7	6001-7000	80%
8	7001-8000	85%

Employers shall make contribution to the Sheet Metal Workers' National Pension Fund and the Sheet Metal Workers' Local 10 Supplemental Retirement Fund on behalf of apprentices for all hours worked by the apprentice. The contribution rate for the National Pension Fund shall be the apprentice's base rate percentage times the journeyman contribution rate to the National Pension Fund. The contribution rate for the Supplemental Retirement Fund shall be the journeyman Supplemental Retirement Fund rate minus One Dollar and Twenty-five cents (\$1.25); the balance is then multiplied by the apprentice's base rate percentage. Employers shall pay the full contribution rate for the remaining fringe benefits on behalf of apprentices:

**Section 6.** When an apprentice is employed on residential work or residential service work, the base rate of pay shall be the apprentice's percentage rate of pay times the appropriate base rate.

## **ARTICLE XIX TRAINEES**

**Section 1.** It is hereby agreed that the Employer may apply to the Joint Apprenticeship Committee and the Joint Apprenticeship Committee shall grant trainees on the basis of one (1) trainee to two (2) journeymen; two (2) trainees to five (5) journeymen; three (3) trainees to nine (9) journeymen; and an additional trainee for every four (4) additional journeymen. On residential work and architectural sheet metal work, the Joint Apprenticeship Committee shall grant trainees on the basis set forth in the previous Article. The Employer shall have the appropriate number of apprentices prior to hiring trainees except in architectural and service work. Also, trainees will be worked either in commercial, residential or architectural work according to the above ratios for that type of work, and when layoffs occur, they will be laid off in accordance with these same ratios. The Apprenticeship Committee shall have five (5) days to supply the requested trainee. This five days shall not be in addition to the five (5) days set forth in Section 3 of Article XVIII herein.

The starting minimum wage scale for trainees shall be forty percent (40%) of the basic wage rate of journeyman sheet metal workers in the appropriate areas. The Trainee's base wage rate shall increase not less than ten percent (10%) per year, on the anniversary date of the Trainee's initial starting date. After 1,000 hours of work, the Employer must provide health insurance coverage for trainees pursuant to Section 1 of Article XI herein.

Such trainees shall not be put in charge of work on any job but shall work under the supervision of a journeyman except trainees shall be allowed to work alone on residential work with frequent supervision of a journeyman, at the direction of the Union's business agent.

## **ARTICLE XX COMPENSATION & INSURANCE**

**Section 1.** The undersigned Employer expressly agrees that, if he is exempt under any provision of the law from the statutory obligation of carrying workers compensation insurance or exempt from the requirements to make social security and unemployment compensation insurance contributions, at any time or under any circumstances, the Employer shall, nevertheless, carry the appropriate insurance and make the statutory contributions so that his employees shall be covered by the workers compensation insurance, social security and unemployment compensation benefits and, specifically with

respect to the Minnesota Unemployment Law, the Employer agrees that he will immediately elect to be covered, pursuant to Minnesota Statutes, Section 268.11, Subdivision 3, and for that purpose will immediately send notice of his determination to so elect to the Director of the Division of Employment and Security, State of Minnesota.

**Section 2.** SMARCA, Inc. shall have the right to request the certificates of insurance for workers compensation and unemployment compensation insurance from any Contractor signatory to this Agreement. This shall be supplied within ten (10) days following receipt of the request.

## **ARTICLE XXI SHOP STEWARDS & JOB ACCESS**

**Section 1.** A steward shall be a working journeyman, appointed by the business manager or business representative of the local Union. The steward will not be dismissed for protecting the jurisdiction and working conditions, as defined in this Agreement, and in any case the Employer shall not knowingly dismiss a steward without first contacting the business manager or business representative of the local Union and informing such representative of the reason for such dismissal and discussing the dismissal with such representative.

**Section 2.** Any alleged violation shall first be brought to the attention of the steward and, if not resolved, shall then be brought to the attention of the business representative of the local Union. Any dispute arising under this Article which cannot be settled between the Employer and the representative of the Union shall be referred to the grievance procedures contained herein.

**Section 3.** The Employer shall not prohibit business representatives of other local Union from access to any shop or job within the jurisdiction covered by this Agreement at any reasonable time, provided that the representative notifies the management of his presence.

## **ARTICLE XXII EQUAL EMPLOYMENT OPPORTUNITY**

No work practices, hiring practices or recruiting practices shall permit discrimination because of race, color, religion, age, sex or national origin and shall be in compliance with Executive Orders No. 11246 and No. 11375.

### **ARTICLE XXIII PREVAILING RATE FORMS**

The Employer agrees to provide at the request of the Union information with respect to the prevailing wage rates on forms provided by the State and/or Federal Government. Such forms shall be completed and returned to the Union within two (2) weeks of date of request.

### **ARTICLE XXIV CREDIT UNION DEDUCTIONS**

The Employer agrees to make a payroll deduction for each employee who authorizes such deductions and remit same to the applicable Credit Union for the purpose of crediting it to the employee's account at the Credit Union. This shall be done only in accordance with the following provisions: The employee will make such arrangements with the Credit Union for these deductions and the Credit Union shall duly notify his Employer. Any termination of such arrangement shall be made through the Credit Union, which shall duly notify the Employer of such termination. The Employer assumes no responsibility for cessation of these deductions, but will act only upon certification by the Credit Union.

The failure, refusal or neglect of an Employer to transmit and pay the deductions authorized to the Credit Union, on or before ten (10) days following the month in which such deductions were made, shall subject the Employer to payment of interest lost, together with collection costs and reasonable attorney's fees and the Settlement of Disputes procedure contained in Article XXV herein.

### **ARTICLE XXV SETTLEMENT OF DISPUTES**

**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. An Employer may have the local Association present to act as his representative. 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 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 having jurisdiction over the parties 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, to render a final

and binding determination, except as provided in Sections 3 and 5 of this Article. The Board shall consist of an equal number of representatives of the Union and of the local Employers' Association and both sides shall cast an equal number of votes at each meeting. The local Employers' Association, on its own initiative, may submit grievances for determination by the Board as provided in this Section.

Notice of appeal to the Local Joint Adjustment Board 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 procedures described 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 Board of Arbitration within thirty (30) days after the termination of procedures prescribed in Section 2. The Board of Arbitration shall consist of three (3) persons, one (1) to be selected by the Union, one (1) to be selected by the employer and the third, who shall act as an Impartial Chairman, to be selected mutually by the representative of the Union and the representative of the employer.

The aggrieved party shall name one (1) member to the Board of Arbitration at the time of making its submission by registered or certified mail. The other party shall name one (1) member within three (3) working days after receipt of such notice.

If the two (2) members thus selected fail to agree on the selection of an Impartial Chairman within six (6) working days following receipt of the notice of submission by the aggrieved party to the other party, the State or Federal Mediation and Conciliation Service may be requested by either party to submit a list of five (5) persons from which the Impartial Chairman shall be selected by mutual agreement of the employer and Union representatives.

In the event of failure to agree on any one of the names submitted, the Union and the employer representatives shall each strike off the names of two (2) of the five (5) names as being unacceptable and shall indicate the order or preference of those remaining. If more than one name remains, the State or Federal Mediation and Conciliation Service shall then be requested to appoint an arbitrator from the names remaining on the list, with due consideration as to preference and availability.

No decision shall be made by the Board of Arbitration without the participation of the representatives of both the Union and the employer, unless, in the judgment of the Impartial Chairman, either the employer or the Union is unnecessarily delaying arbitration proceedings (and after due notice of such judgment by the Chairman to both parties hereto), in which case decisions may be reached without the participation of the party causing the delay.



In the event either party refuses arbitration or fails to appoint its member to the Board of Arbitration, the other party may select an Impartial Chairman and proceed to arbitration independently.

**Section 4.** All fees and expenses of the Impartial Chairman shall be shared equally by the Union and the employer.

All decisions of the Board of Arbitration shall be made and mailed to the parties within ten (10) days following the conclusion of the arbitration hearing, exclusive of the last day of such hearing.

All decisions of the Board of Arbitration made within the scope of the submission and within the authority of the Board, as defined herein, shall be final and binding on all parties concerned.

The Board of Arbitration shall have no right to require of the employer, the Union, or any employee of the employer, any act it or he is not required by law or by this Agreement to perform, nor to render any interpretation outside the scope of this Agreement.

In the event of a failure of the Board of Arbitration to reach a majority decision, the written decision and award of the Impartial Arbitrator shall constitute a majority decision and award within the meaning of this Article.

The requirements of Section 2, with respect to the selection of one (1) person by the employer and one (1) person by the Union to serve as members of the Board of Arbitration, may be waived by the parties by written agreement in any given case, in which case the Impartial Chairman shall constitute the Board of Arbitration and his decision and award, subject to all other conditions herein, shall be final and binding upon the parties.

Working days, where used in this Article, shall include Monday through Friday. Time limits imposed in this Article may be extended only by written mutual consent of the parties.

**Section 5.** 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 grievance involved. There shall be no cessation of work by strike or lockout during the pendency of the procedures provided for in this Article.

**Section 6.** Nothing contained in this Article shall apply in any controversy or dispute arising out of any notice of reopening of this Agreement, as provided in Article XXVIII hereof.

## ARTICLE XXVI DRUG AND ALCOHOL TESTING

**Section 1. 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). Currently, a program is available from TEAM, Inc., under the terms of the local health and welfare plan. 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 issues, only.

No substance testing program should be implemented unless there is an Employee Assistance Program (EAP) implemented to provide treatment for any bargaining unit employees.

**Section 2. GENERAL PROVISIONS.** The Union and the Employers regard blood/urine testing as problematic and do not advocate reliance on such procedures to identify individuals with an alcohol/chemical dependence. However, certain circumstances support substance testing as a warranted vehicle for determining possible impairment and/or a propensity for substance abuse. These include:

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

Whenever testing is utilized it shall be accomplished through dignified and humane procedures ensuring 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. In all cases where testing is conducted, the Employer shall be responsible for the costs of the testing as required by Minnesota law.

For all testing, the Employer shall comply with the testing and notice requirements of Minnesota law, which may be set forth separately, and 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 adopted by the Alcohol, Drug Abuse and Mental Health Administration of the United States Department of Health

& Human Services, or standards established by the applicable State having jurisdiction (Minnesota), whichever are the more stringent. The testing laboratories must also maintain high quality control procedures and follow manufacturer's protocols. All initial positive tests shall be subject to a confirmation assay, such as a Gas Chromatography with Mass Spectrometry (GC/MS). The levels of detected substances for determining positive results shall be those established as legitimate by the Alcohol, Drug Abuse & Mental Health Administration of the United States Department of Health & Human Services, or those established by the State having jurisdiction (Minnesota), whichever are the more stringent.

**Section 3. PRE-EMPLOYMENT SCREENING.** The Employer may conduct drug and alcohol testing of applicants for employment and may refuse to hire applicants who test positive for drugs or alcohol, in accordance with the requirements of Minnesota law. If an Employer conducts pre-employment testing under this Section, all applicants must be tested. For purposes of this Section, applicant testing may not be performed on applicants who are journeyman or apprentice members of the Union at the time of their application for employment.

**Section 4. 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, or otherwise appears unable to perform his/her job in a safe manner.

**Section 5. 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 a 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.

**Section 6. PROVISIO.** Testing in any of the above situations shall be conducted and governed in accordance with the general provisions of this Policy Statement.

## **ARTICLE XXVII SEVERABILITY CLAUSE**

Should any provisions of this Agreement be declared illegal by any court of competent jurisdiction or by Federal or State Law, such provisions shall immediately become null and void, leaving the remainder of this Agreement in full force and effect and the parties shall thereupon seek to negotiate substitute provisions which are in conformity with the applicable laws.

**ARTICLE XXVIII**  
**EFFECTIVE DATES AND SIGNATURES**

**Section 1.** This Agreement shall become effective on the 5th day of May, 2003 and shall remain in full force and effect until the 30th day of April, 2006, 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.

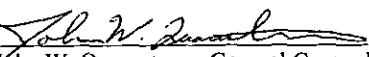
**Section 2.** Notwithstanding any other provisions of this Article, or any other Article of this Agreement, whenever an amendment to the Standard Form of Union Agreement shall be adopted by the National Joint Labor Relations Adjustment Committee, any party to this Agreement, upon the service of notice 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 3.** Each Employer and the Union hereby waives any right it may have to repudiate this Agreement during the term of the Agreement, or during the term of any extension, modification or amendment to this Agreement.

**IN WITNESS WHEREOF**, the parties hereto affix their signatures and seal this 5th day of May, 2003.

ROCHESTER-AUSTIN-ALBERT LEA  
SUBDIVISION OF THE SOUTHERN  
MINNESOTA DIVISION OF

LOCAL UNION NO. 10  
SHEET METAL WORKERS  
INTERNATIONAL ASSOCIATION

By   
John W. Quarnstrom, General Counsel

By   
Rich Leitschuh, Recording Secretary

By   
Greg Andrist, Business Agent



SMARCA, The  
1406 Lake Drive N. #100  
Minneapolis, MN 55422  
763-592-0941



Sheet Metal Workers Union Local No. 8  
1000 East Cape Avenue  
St. Paul, MN 55109  
763-770-2388