

SAMPLE AGREEMENT TEMPLATE R-10

Lagging, Duct Wrap, Fire Stop and other Insulation Products

**INTERNATIONAL ASSOCIATION OF SHEET METAL,
AIR, RAIL AND TRANSPORTATION WORKERS
LOCAL XXX**

Duct/Mechanical Insulation Agreement

Agreement entered into _____, _____,
(Month) (Day) (Year)

by and between _____, hereinafter referred to as the
“Employer”, and Local XXX of the International Association of Sheet Metal, Air, Rail and
Transportation Workers (SMART) herein after referred to as the “Union”, and its jurisdiction consisting
of

_____ counties.

This Agreement is adopted in a mutual effort to further the harmonious relationship between the parties; to enhance construction user satisfaction for work performed by sheet metal workers and signatory employers that have united with SMART; to take advantage of the opportunity to capture market share and to promote growth; to provide fair and reasonable working conditions and job security for employee’s engaged in this sector of the construction industry, all of which is in the best interest of the unionized sheet metal and construction industry. To that end, the parties further agree to promote, by any reasonable means possible, work covered by this Agreement and shall cooperate fully in the establishment of training courses and/or facilities where none currently exist, in order to properly train personnel to maintain jurisdiction over this work and provide customer satisfaction.

ARTICLE I

SECTION 1. This Agreement covers the rates of pay and conditions of employment of all employees of the Employer engaged in new installation, alterations, maintenance, modifications or repair of the following work scopes including but not limited to: (a) all external duct insulation (duct wrap) applied to supply, return or exhaust systems or any other duct work for acoustical or thermal purposes, all direct application and installation of fire resistant duct wrap of grease ducts; (b) the application of thermal insulation on piping, fittings, valves, flanges, tanks, equipment, mechanical rooms, mechanical shafts, and boiler coverings requiring thermal control; (c) all lagging and protective covering over insulation regardless of material or thickness; (d) the filling and damming of fire stops and penetrations including but not limited to electrical and mechanical systems; (e) the loading, unloading, handling or distributing of insulating materials at the job site; (f) the thermal insulation of all other mechanical systems requiring

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thermal or acoustical covering not specifically mentioned but similar to the above performed on the job site.

SECTION 2. No employee presently on the Employer's payroll at the time of the signing of this Agreement shall suffer any reduction of pay or loss of any fringe benefits or any other monetary compensation as a result of the signing of the Agreement, unless mutually agreed to by the Employer and Union and to the extent provided by laws. Nothing shall preclude the payment of a higher rate at the discretion of the Employer.

SECTION 3. Definition of employee – any person employed by the Employer to perform any of the work covered under this Agreement is defined and hereinafter called “employees”.

ARTICLE II

SECTION 1. The Employer shall not subcontract or assign any of the work described herein which is to be performed at a jobsite to any contractor, subcontractor or other person or party who fails to agree in writing to comply with the conditions of employment contained herein including, without limitations, those relating to union security, rates of pay and working conditions, hiring and other matters covered hereby for the duration of the project.

SECTION 2. The Employer agrees that none but journey level specialty workers, and classified sheet metal workers shall be employed on any work described in Article I and further, for the purpose of proving jurisdiction, agrees to provide the Union with written evidence of assignment on the Employer's letterhead for certain specified items of work to be performed at a jobsite prior to commencement of work at the site. A list of such specific items, which may be revised from time to time, shall be provided to the Employer by the Union.

ARTICLE III

SECTION 1. The Union agrees to furnish, upon request by the Employer, duly qualified journey level specialty workers and classified sheet metal workers in sufficient numbers as may be necessary to execute properly work contracted for by the Employer in the manner and under the conditions specified in this Agreement. In the event the Union is unable to supply an adequate number of journey level specialty workers and classified sheet metal workers within forty-eight (48) hours, excluding Saturday, Sunday and holidays, the Employer may directly hire such employees from any source and refer them to the local union.

SECTION 2. The Union may request recognition as the exclusive collective bargaining agent for all employees employed by the Employer in the classifications and geographic jurisdiction covered by this Agreement, whether or not they are members of the Union. In determining whether the Union has the support of a majority of the Employer's employees, such showing may be based upon either a majority of those employed at the time such recognition is requested, or, a majority of those eligible to vote under the National Labor Relations Board's Steiny-Daniel formula. No later than ten (10) days following the Union's request, the Employer shall review employees' authorization cards submitted by the Union in support of its claim to represent and have the support of a majority of such employees. If a majority of the employees has designated the Union as their exclusive collective bargaining representative, the Employer will recognize the Union as such majority representative of all employees in the classifications and geographic jurisdiction covered by this Agreement. The Employer shall not file or cause the filing of a petition for election or unfair labor practice charge with the National Labor Relations Board in connection with any demands for recognition provided for here. Article X of this Agreement shall be the sole and exclusive means of resolving any dispute concerning this provision.

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SECTION 3. 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) calendar days following the beginning of such employment or the effective date of this Agreement, whichever is the later, provided the Employer has reasonable grounds for believing that membership is available to such employees on the same terms and conditions generally applicable to other members and that membership is not denied or terminated for reasons other than the failure of the employee to tender the periodic dues and initiation fee uniformly required as a condition of acquiring or retaining membership.

SECTION 4. If during the term of this Agreement, the Labor-Management Relations Act of 1947 should be amended by Congress in such manner as to reduce time within which an employee may be required to acquire union membership, such reduced time shall become immediately effective instead of and without regard to the time limit specified in Section 3 of this Article.

SECTION 5. 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 6. The Employer agrees to deduct the appropriate amount for dues, assessment or service fees (excluding fines and initiation fees) from each week's pay of those employees who have authorized such deductions in writing, irrespective of whether they are Union members. Not later than the 20th day of each month, the Employer shall remit to the designated financial officers of SMART Local (... ____ ...) the amount of deductions made for the prior month, together with a list of employees and their social security numbers for whom such deductions have been made.

SECTION 7. Each Employer covered by this Agreement shall employ at least one (1) journey level specialty worker who is not a member of the firm on all work specified in Article I of this Agreement. However, it will be permissible for an owner-member to be the journey level specialty worker.

ARTICLE IV

SECTION 1. The journey level specialty worker must be experienced and competent with a broad range of experience specific to the application of work scope described in Article I and having worked in this sector of the construction industry for a minimum of four (4) years or, five thousand-six hundred hours as a classified sheet metal worker. A journey level specialty worker has the responsibility of supervising and training workers of lesser experience, in addition to having the qualifications (knowledge and skills) to work unsupervised.

SECTION 2(a). Foreman: It is the intent of both parties to this Agreement that the term "Foreman" shall mean any journey level specialty worker employee of the Employer signatory to this Agreement who is designated by such Employer to supervise the activities of a combination of three (3) or more journey level specialty workers or classified sheet metal workers. A Foreman shall not supervise a crew in excess of twelve (12), i.e., two (2) Foreman for crew of thirteen (13) to twenty-four (24), three (3) Foreman twenty-five (25) to thirty-six (36) etc. Foremen shall receive the appropriate shift regular journey level specialty worker taxable rate plus ten percent (10%).

(b). General Foreman: A General Foreman will be appointed on any project with a combination of more than thirty (30) journey level specialty workers or classified sheet metal workers. General Foremen will receive the appropriate shift regular journey level taxable rate plus twenty percent (20%).

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(c). When an Employer signatory to this Agreement sends one or more of its employees out of its home local's jurisdiction or into the jurisdiction of another local on a job consisting of three consecutive days or more, at least one of such employees shall receive foreman's pay.

SECTION 3. Classified sheet metal workers may perform any work described in Article I of which they are capable and will work under the general direction of a journey level specialty worker.

The wage scale for classified sheet metal workers shall be for the first six months and seven hundred (700) hours of employment in the industry, forty percent (40%) of the wage rate of journey level specialty workers and shall progress incrementally by 5% for every six month period with a minimum of seven hundred (700) hours of employment in the industry to a maximum of 75% of the wage rate of the journey level specialty worker.

First Period – First six months and one to seven hundred hours (1 to 700) worked = 40%

Second Period – Second six months and a minimum of seven hundred hours worked in the First Period = 45%

Third Period – Third six months and a minimum of seven hundred hours worked in the Second Period = 50%

Fourth Period - Fourth six months and a minimum of seven hundred hours worked in the Third Period = 55%

Fifth Period - Fifth six months and a minimum of seven hundred hours worked in the Fourth Period = 60%

Sixth Period - Sixth six months and a minimum of seven hundred hours worked in the Fifth Period = 65%

Seventh Period – Seventh six months and a minimum of seven hundred hours worked in the Sixth Period = 70%

Eighth Period - Eighth six months and a minimum of seven hundred hours worked in the Seventh Period = 75%

The Union shall bear the responsibility of tracking the classified sheet metal workers appropriate period of employment and corresponding wage scale and shall notify the Employer employing such classified workers of advancement to the next period. However, nothing herein shall preclude at the discretion of the Employer, additional compensation when conditions warrant. At no time shall classified sheet metal worker wages be less than the appropriate federal minimum or, state minimum wage if applicable, for the state where the job site is located. Beginning with the first day of employment after five thousand-six hundred hours of employment in the industry, the classified worker shall be re-classified as a journey level specialty worker.

Classified sheet metal workers shall be covered by the local health and welfare plan at the minimum contribution rate required by the (... name of local H&W plan ...). Pension contributions shall be at a percentage of the journey level specialty worker contribution rate commensurate with the classified sheet metal workers percentage progression to the journey level specialty worker wage rate.

Classified sheet metal workers may be employed in the following ratio: one (1) classified sheet metal worker for every one (1) journey level specialty worker.

In the event the Employer is entitled to employ a classified sheet metal worker and the Union fails to comply with the Employer's written request to furnish a classified sheet metal worker within forty-eight (48) hours, the Employer may directly hire such employees, and refer them to the Union.

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SECTION 1. Authorized representatives of the Union shall have access to the Employer's fabrication shop(s) and job site(s) for the purpose of adjusting whatever grievance may develop from time to time throughout the life of this Agreement, provided, however, that such representatives do not interfere with the employees or cause them to neglect their work, and that they comply with the Employer's lawful rules.

SECTION 2. The business manager of the home local union in which the Employer's home office is located or the business manager(s) of a local union where job site(s) are located that are beyond the jurisdiction of the home local, shall have the right to appoint a working journey level specialty worker(s) to serve as steward(s). The appointment of the steward, with respect to duties, employment termination and recall, shall not be inconsistent with the scope and description for like stewards within the jurisdiction where the Employer's job site is located beyond the jurisdiction of the home local as negotiated in the job site local's local agreement.

SECTION 3. In addition to his or her work as a journey level specialty worker, the steward shall be permitted to perform during working hours those union duties which cannot be performed at other times. The Union agrees that such duties shall be performed as expeditiously as possible.

Stewards may be appointed within the rules of the Union to any job or shop of the Employer. The Employer agrees to recognize that the person designated as steward shall receive his/her fair share of the work that he/she is qualified to perform. The Employer further agrees to recognize that stewards are desirable for the proper administration of the terms of this Agreement, and that no member of the Union will remain on any job where the following rules do not apply:

- a) The Union may appoint one or more stewards to cover each Employer's operations and will notify the Employer.
- b) In no case shall a steward suffer discrimination because of the performance of his union duties.
- c) The steward shall be allowed a reasonable amount of time when necessary to perform the following duties:
 1. Handle grievances on the job or in the shop in accordance with the Agreement in effect, and to report all such grievances to the Union.
 2. Check safety, cleanliness, sanitation, heat, lighting, etc., regularly; and to report any unsafe or unclean conditions to the Employer and to the Union.
 3. Where a steward has been appointed, new employees shall give the steward a copy of the referral slip.
 4. Handle the personal belongings and supervise the immediate care and disposition of a sick or injured employee.
 5. When a steward is to be terminated, he shall be given notice on the working day prior to the working day at the close of which he will be terminated.
 6. The steward shall not assume any other authority than herein specified.
 7. Where more than one (1) man works overtime on a job away from a shop and there has been a steward appointed, the steward shall be given the opportunity to work, if qualified.

ARTICLE VI

SECTION 1. Journey level specialty workers and classified sheet metal workers covered by this Agreement shall not be permitted or required as a condition of employment to furnish the use of automobile or other conveyance to transport workers, 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.

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This provision shall not restrict the use of an automobile or other conveyance to transport its owner and personal tools from home to the job site at starting time or from job site to home at quitting time.

SECTION 2. When employed on a job within the limits of (...home local or zone...) employees shall be governed by the regular working hours specified in Article VIII and shall provide for themselves necessary transportation within the said limits from home to the job site at starting time and from job site to home at quitting time, and the Employer shall provide, or pay, for all necessary additional transportation during working hours.

SECTION 3. The parties intend travel pay to fairly compensate employees for travel, not to place contractors at a competitive disadvantage due to geographic location or to create artificial barriers against out-of-area contractors. Travel beyond (...home local or zone...) to a job site outside of the (...home local or zone...) those miles from the border of the (...home local or zone...) to the job site and back to the border at the end of the work day or, at the beginning and end of the work week if overnight stays are required, shall be reimbursed at the current IRS auto mileage allowance.

SECTION 4. When an overnight stay is required while performing work covered by this Agreement outside of the (...home local or zone...), lodging and meals shall be at a minimum governed by the established working conditions of the home local collective bargaining agreement and not less than the job site collective bargaining agreement. In the event that both collective bargaining agreements are silent, the Employer shall provide reasonable lodging. In no case shall Employer provided lodging be less than and comparable to Comfort/Quality Inn, Holiday Inn or similar. A minimum of forty dollars per day per diem shall be provided to the Employee to cover the cost of meals.

SECTION 5. This Agreement in no way relieves any individual SMART member of his/her obligation of reporting in to the jobsite local union. This is in accordance with Article 16, Section 10(a) of the Constitution and Ritual of SMART as amended August, 2014.

ARTICLE VII

SECTION 1. Journey level specialty workers and classified sheet metal workers covered by this Agreement shall provide for themselves all necessary hand tools. All other tools and equipment shall be provided by the Employer. The Union and the Employer shall recognize this standardized employee provided tool list which is attached hereto:

12 foot measuring tape	Spring clamps
Cutting knives and scabbards	Chalk box
Wire nippers and pliers	Rubber mallet
Shears or scissors	Tool box or bucket
Lacing needle	Dividers
Pointing trowel	Scratch awl
Flat trowel	Assorted screwdrivers
Keyhole saw	Bull snips
Sheet metal aviation snips	Tri-square

SECTION 2. Safety standards of the project owner and all safety policies of the Employer must be observed by the employees on all work covered by this Agreement. Failure or refusal to comply with the safety requirements heretofore referred to, or failure to participate and cooperate in such safety programs, may be cause for discharge. The Union agrees that all employees will be required to use all required safety equipment and all required protective clothing. Failure or refusal to use such protective

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equipment is cause for discharge. It is further agreed that employees will bear the responsibility of purchasing and providing steel toed safety boots when required at the job site. Any and all other personal protective equipment will be provided by the Employer.

ARTICLE VIII

SECTION 1. The regular work day shall consist of either five (5) days of eight (8) hours labor on the job between 6:00 a.m. and 6:00 p.m., beginning with Monday and ending with Friday of each week or; four (4) consecutive days of ten (10) hours labor on the job between 6:00 a.m. and 6:00 p.m., beginning with Monday and ending with Friday of each week. The four (4) day, ten (10) hour schedule must last at least one week. Once the work day schedule is established, it must remain in effect for the entire week and cannot be modified until the beginning of the following work week.

SECTION 2. Except as otherwise provided pursuant to Section 1 of this Article, all work performed outside the regularly scheduled daily working hours (eight (8) or ten (10) respectively if four by ten schedule) during the regular work week, or before or after the regular work day, and on Saturday shall be paid at one and one-half (1½) times the regular rate, except all hours worked on Sundays and holidays shall be paid at two (2) times the regular rate. Holidays shall be recognized as: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, the Friday after Thanksgiving Day, Christmas Day or days locally observed as such as per the collective bargaining agreement of the local union having jurisdiction over the Employer's job site.

If a holiday falls on Saturday, the holiday shall be observed on the preceding Friday. If a holiday falls on Sunday, it's observed the following day (i.e., Monday). In the event work is performed on the observed Friday or Monday, or the actual holiday if Saturday or Sunday, these hours shall be paid at two (2) times the regular rate.

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

SECTION 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 Union in advance of scheduling such work. Preference on overtime and holiday work shall be given to employees on the job on a rotation basis so as to equalize such work as nearly as possible.

SECTION 4. Regular time rates of pay and shift differential shall not be less than the rates and working hours negotiated in the Employer's home local for employees sent from the home local to the job site local. If a more favorable condition exists at the job site, job site conditions shall prevail. Employees shall be at the project site at a scheduled starting time each day and shall remain until quitting time.

SECTION 5. Shift work may be scheduled at the option of the Employer provided it is scheduled for a minimum of five (5) consecutive working days. The first shift (regular day shift) shall be compensated at the regular rate of pay. Second shift (swing shift) shall be compensated at the regular rate of pay plus 10%. Third shift (grave yard) shall be compensated at the regular rate of pay plus 15%. Regular work day, hours worked and overtime to be in compliance with Sections 1 and 2 of this Article.

SECTION 6. Temporary shift work on occupied premises: as long as mutually agreeable by the Employer and the local union, any eight (8) hour or ten (10) hour shift, if working a four day workweek, may be compensated at the second shift rate of pay (regular rate plus 10%).

SECTION 7. Shift Break: On work consisting of eight (8) hours or more or a combination of

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straight time and overtime consisting of eight (8) hours or more, straight time may not be reverted to without an eight (8) hour break. There will be a one-half (1/2) hour lunch break, on employers time, after twelve (12) hours, if shift continues. Pay will be at straight time for one-half (1/2) hour lunch break.

SECTION 8. Journey level specialty workers and classified sheet metal workers who report for work by direction of the Employer, and are not placed to work, shall be entitled to two (2) hours pay at the established rate. This provision, however, shall not apply under conditions over which the Employer has no control.

ARTICLE IX

SECTION 1. On all work specified in Article I of this Agreement, performed by journey level specialty workers and/or classified sheet metal workers within the jurisdiction of this Union, or elsewhere, to be performed within the jurisdiction of any other collective bargaining areas or local union affiliated with SMART, whose established wage scale is higher than the wage scale specified in this Agreement, the higher wage scale of the jobsite Union, per their local duct/mechanical insulation agreement, shall be paid to the employees employed on such work in the home shop or sent to the jobsite.

SECTION 2. The Employer further agrees that journey level specialty workers and classified sheet metal workers hired outside the territorial jurisdiction of this Agreement shall receive the wage scale and working conditions of the local duct/mechanical insulation agreement covering the territory in which such work is performed or supervised.

SECTION 3. When the Employer has any work specified in Article I of this Agreement to be performed outside of the area covered by this Agreement and within the area covered by another Agreement with another local union affiliated with SMART, and qualified journey level specialty workers or classified sheet metal workers are available in such area, the Employer may send no more than a combination of two (2) journey level specialty workers or classified 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 journey level specialty workers or classified sheet metal workers shall come from the area in which the work is to be performed. Journey level specialty workers and classified sheet metal workers covered by this Agreement who are sent outside of the area covered by this Agreement shall be paid at least the established minimum wage scale specified in (...local addendum...) but in no case less than the established wage scale of the local Agreement covering the territory in which such work is performed or supervised, plus all necessary transportation, travel time, board and expenses while employed in that area, and the Employer shall be otherwise governed by the established working conditions of the local Agreement. If employees are sent into an area where there is no local SMART Agreement covering the area then the minimum conditions of the home local union shall apply.

SECTION 4. This Agreement in no way relieves any individual member of his/her obligation of reporting in to the job site local union. This is in accordance with Article 16, Section 10(a) of the Constitution and Ritual of the Sheet Metal Worker's International Association as amended August, 2014. At the discretion of the SMART General President, an Employer whose employees have not reported appropriately to the job site local union per Article 16, Section 10(a) may cause the abrogation of this Agreement for that Employer.

SECTION 5. In applying the provisions of Sections 1, 2, and 3 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. Wages at the established rates specified in (...addendum ___ ...) shall be paid in the shop or on the job at or before quitting time on Friday of each week, and no more than two (2) days' pay

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will be withheld. Alternative payroll procedures, i.e., electronic and/or automatic deposit or additional hold back may be negotiated by the Employer and the Union. However, employees when discharged shall be paid in full.

ARTICLE X

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

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

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

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

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 procedure prescribed in Section 2 of this Article, because of a deadlock or failure of such Board to act, may be appealed jointly or by either party to a panel, consisting of one (1) representative appointed by the Labor Co-Chairman of the National Joint Adjustment Board and one (1) representative appointed by the Management Co-Chairman of the National Joint Adjustment Board. Appeals shall be mailed to the National Joint Adjustment Board.* Notice of appeal to the panel shall be given within thirty (30) days after termination of the procedures prescribed in Section 2 of this Article. Such panel shall meet promptly but in no event more than fourteen (14) calendar days following receipt of such appeal, unless such time is extended by mutual agreement of the panel members. Except in case of deadlock, the decision of the panel shall be final and binding.

In establishing the grievance procedure of the Standard Form of Union Agreement, it was the intent of SMART and the Sheet Metal and Air Conditioning Contractors' National Association, Inc. to establish a method for resolving grievances permitting appeals for out-of-area employers from the grievance arbitration procedures established for the territory in which work is performed. An employer who was not a party to the labor agreement of the area in which the work in dispute is performed, may appeal the decision of the Local Joint Adjustment Board from that area, including a unanimous decision, as well as a decision of any alternative arbitration tribunal established for that area, and request a panel hearing as set forth in Section 3 of this Article, providing such appeal is approved by the co-chairmen of

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the National Joint Adjustment Board. Such a right of appeal shall exist despite any contrary provision in the agreement covering the area in which the work is performed.

For the purposes of this Section, an Employer who is party to the Labor Agreement of the area in which the work in dispute is performed, but has no permanent shop within the area served by the Local Joint Adjustment Board that rendered the unanimous decision, may also be entitled to appeal a deadlocked or unanimous Local Joint Adjustment Board decision, and request a Panel hearing.

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

SECTION 5. A Local Joint Adjustment Board, Panel and the National Joint Adjustment Board are empowered to render such decisions and grant such relief to either party as they deem necessary and proper, including awards of damages or other compensation.

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

***All correspondence to the National Joint Adjustment Board shall be sent to the following address:**

National Joint Adjustment Board, P.O. Box 220956, Chantilly, VA 20153-0956

or 4201 Lafayette Center Drive, Chantilly, VA 20151-1219.

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

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

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

If the co-chairmen of the National Joint Adjustment Board believe the dispute might be adjusted without going to final hearing before the National Joint Adjustment Board, each will then designate a

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panel representative who shall proceed to the locale where the dispute exists as soon as convenient, attempt to conciliate the differences between the parties and bring about a mutually acceptable agreement. If such panel representatives or either of them conclude that they cannot resolve the dispute, the parties thereto and the co-chairmen of the National Joint Adjustment Board shall be promptly so notified without recommendation from the panel representatives. Should the co-chairmen of the National Joint Adjustment Board fail or decline to appoint a panel member or should notice of failure of the Panel representatives to resolve the dispute be given, the parties shall promptly be notified so that either party may submit the dispute to the National Joint Adjustment Board.

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

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

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

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

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

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

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

Such a dispute may be submitted upon the request of either party any time that local negotiations for such an agreement, or amendment thereof, have been unsuccessful. Such a dispute shall be submitted to the NJAB pursuant to the rules as established and modified from time to time by said Board. The

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unanimous decisions of said Board shall be final and binding upon the parties. There shall be no strike or lockout over such a dispute.

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

ARTICLE XI

SECTION 1. The fringe benefit funds and programs ("funds") to which the Employer contributes for its employees may vary depending upon the jurisdiction in which work under this Agreement is performed and the composition of the Employer's work force as described in Article IX. Subject to the limitations in Article IX, the Employer may bring employees ("traveling employees") it currently employs from local unions outside of the local union jurisdiction in which the job site is located. Depending upon the number of employees needed, the Employer may also employ sheet metal workers or sheet metal journey level specialty workers or classified sheet metal workers affiliated with the local union in whose jurisdiction a job site is located. Under this Agreement, the payment of wages and fringe benefit contributions and other payments for an employee's work under the terms of this Agreement shall be determined as follows:

- a) For traveling employees who are currently on the Employer's payroll before the start of a project, the wages, fringe benefits and other payments the Employer is responsible for, shall be paid under the collective bargaining agreement in effect for the home jurisdiction of those employees. In the event that the collective bargaining agreement covering the work performed on the job site provides for a higher total wage scale, the difference shall be paid in wages to the traveling employee. [These contribution rates are set forth in Addendum "A" as updated or amended from time to time.]
- b) For employees who are represented for the purposes of collective bargaining by the local union with primary jurisdiction over the job site, the wages, fringe benefits and other payments to be paid shall be those payable under the collective bargaining agreement in effect for the jurisdiction of the job site. These contribution rates are set forth in Addendum B as updated or amended from time to time.
- c) In the event that no local union has jurisdiction over the job site and except as otherwise agreed to by the parties, the applicable fringe benefit funds to which the Employer is obligated shall be the same as those paid on behalf of the traveling employees.
- d) To the extent applicable, when covered employees are employed temporarily outside the jurisdiction of their home local union and contributions are not made to such employees home local union funds, the parties agree that contributions made to the health and welfare funds and retirement plans made on behalf of covered employees to funds other than home local union funds, shall be transferred to employee's home local funds pursuant to the "Sheet Metal Workers' International Association Master Reciprocal Agreement."

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- e) The Employer shall contribute starting with the first hour of employment for all employees covered by this Agreement. The Employer shall remit monthly fringe benefit fund contributions to the funds office no later than the twentieth (20th) day of the month following the month in which work under this Agreement is performed. Contributions, remittance data, and other payments for funds within the jobsite, or outside of the jobsite, as applicable under this Agreement, shall be transmitted to the collection agents specified below and/or by such funds or programs.
- f) The funds have the authority to audit the Employer's financial, payroll, wage, job or project records for determining the accuracy of contributions and an Employer's ability to meet its contribution obligations. If the audit reveals that inaccurate or insufficient of underpaid contributions, the Employer agrees to pay all unpaid contributions, interest and additional charges as provided in the plan and trust documents of the funds.
- g) The Employer's failure to contribute in full and on-time subjects the Employer to any and all remedies that the funds have under law, including termination, and the Union's withdrawal of labor with seventy-two hours' notice.
- h) This Agreement incorporates the funds' plan and trust documents, policies and rules and regulations copies of which will provided to the Employer upon request.
- i) The Employer recognizes as its representatives on the funds' Boards of Trustees such employer trustees now serving, or who serve in the future. The Employer further agrees to be bound by all actions taken by the funds' trustees pursuant to the plan and trust documents, as amended.
- j) Welfare benefit contributions, including without limitation, those described in Article VII, shall not be duplicated.
- k) The Employer shall comply with uniformly applied bonding requirements of that local area or funds that are reasonable and necessary to ensure the timely payment of any contribution that may be required to the funds, but in no event shall such bonds be in excess of three (3) months estimated contributions to the funds.
- l) The Employer and the Union understand that a pension plan for which contributions are due under this Agreement may issue a rehabilitation plan or a funding improvement plan. In addition, the parties to this agreement shall adopt a schedule or schedules under a rehabilitation plans or the funding improvement plans. The parties agree that any rehabilitation or funding improvement plan schedule will be deemed to be adopted automatically if, in accordance with this Agreement, the Union allocates or reallocates a portion of the wage and fringe-benefit package, or where the agreement provides for an automatic allocation or reallocation of the wage and fringe-benefit package, that is sufficient to cover fully any increases in contribution rates to the pension fund that has issued that schedule.

SECTION 2. In addition to fund contributions payable under SECTION 1 or any Addenda to this Agreement, the Employer shall contribute to the International Training Institute for the Sheet Metal and Air Conditioning Industry (ITI), the National Energy Management Institute Committee (NEMIC) and the Sheet Metal Occupational Health Institute Trust (SMOHIT) at the hourly contribution rates established by the Trustees of these Funds. The Employer shall transmit contributions and remittance data electronically

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via the National Benefit Funds' Internet Payment System, accessible [at www.smwnpf.org](http://www.smwnpf.org) (or call 1-800-231-4622).

SECTION 3. Health care plan contributions shall be at the rate set forth in Addenda and consistent with the requirements of (...Local health care plan or plans...) _____. Contributions and remittance data shall be transmitted to the collection agent designated by the health care plan(s).

SECTION 4. Contributions to the (...local training funds...) shall be the rate specified by those training funds. Contributions and remittance data shall be transmitted to the collection agent designated by the training funds.

SECTION 5. The Employer shall pay contributions on behalf of all covered employees to the (...name of local pension...) for all classes of employees covered by this Agreement. The contribution rate payable for appropriate contribution rates shall be determined as set forth herein. The contribution rate payable on behalf of classified sheet metal workers may be made at a percentage of the contribution rate payable on behalf of journey level specialty workers if that the percentage is no less than the percentage applicable to wages under Article IV, Section 3. Contributions and remittance data shall be transmitted to the collection agent designated by the pension fund.

SECTION 6. The Employer shall pay contributions to the Sheet Metal Workers' National Pension Fund ("NPF") for all classes of employees covered under this Agreement. The parties have adopted the NPF's Default Option under the NPF's Funding Improvement Plan and Schedule and the Employer agrees to contribute at the Contribution Rates set forth in this Agreement and in accordance with the Default Option. The parties acknowledge receipt of the Funding Improvement Plan and Schedule, which are incorporated into, and form part of, this Agreement. The hourly Contribution Rate payable on behalf of journey level specialty workers shall be no less than \$2 per hour. The hourly Contribution Rate payable on behalf of classified sheet metal workers may be no less than a percentage of the contribution rate payable on behalf of journey level specialty workers provided that the percentage is no less than the percentage applicable to wages under Article IV, Section 3. The Employer shall transmit contributions and remittance data electronically via the National Benefit Funds' Internet Payment System, accessible at www.smwnpf.org (or call 1-800-231-4622).

SECTION 7. Contributions payable to the National Stabilization Agreement of the Sheet Metal Industry (SASMI) Trust Fund shall be at a cents-per-hour rate that equates to three percent (3%) of the contractual wages plus 3% of contributions payable to retirement and welfare plans payable on behalf of each covered employee. The SASMI Trust Fund shall specify the appropriate cents-per-hour rate. The Employer shall transmit contributions and remittance data electronically via the National Benefit Funds' Internet Payment System, accessible at www.smwnpf.org (or call 1-800-231-4622).

SECTION 8. The Employer shall pay contributions to the Sheet Metal Workers' National Supplemental Savings Plan ("NSSP") for all classes of employees covered under this Agreement as described below.

- a) The Employer agrees to enter into salary-reduction agreements with all employees covered by this Agreement for all hours worked to withhold from the employee's paycheck the amount elected by the employee; and to forward the salary reduction amounts to the Sheet Metal Workers' National Supplemental Saving Plan ("NSSP") as soon as administratively possible after each pay period but in no event later than the 20th day of the month for amounts withheld in the prior month.
- b) The Employer agrees to contribute to the Fund at the hourly contribution rate, as set forth in the Addenda, for each hour worked.

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[The following paragraph is optional. Complete only if the Employer is to make Matching Contributions]

- c) The Employer agrees to make matching contributions in the following amounts **[Select one of the following]:**

A fixed dollar amount equal to the salary deferrals made by the Employee, up to a maximum of _____ **[insert dollar amount or percentage of Compensation];** or

A fixed percentage of salary deferrals made by the Employee, up to a maximum of _____ **insert dollar amount or percentage of Compensation].**

The Employer shall transmit contributions and remittance data electronically via the National Benefit Funds' Internet Payment System, accessible at www.smwnpf.org (or call 1-800-231-4622).

SECTION 9. The Employer shall contribute to the Sheet Metal Workers' International Association Scholarship Fund at the hourly contribution rate set forth in the Addenda, for each hour or part of an hour worked by all employees covered by this Agreement. Contributions and remittance data should be transmitted electronically via the National Benefit Funds' Internet Payment System, accessible at www.smwnpf.org (or call 1-800-4622).

ARTICLE XII

SECTION 1(a). Contributions provided for in Section 1(b) of this Article will be used to promote programs of industry education, training, negotiation and administration of collective bargaining agreements, research and promotion, such programs serving to expand the market for the services of the sheet metal industry, improve the technical and business skills of employers, stabilize and improve employer-union relations, and promote, support and improve the employment opportunities for employees. No part of any such payments, however, shall be used for any other purpose except as expressly specified above.

(b). The Employer shall pay the Sheet Metal and Air Conditioning Contractors' National Industry Fund of the United States (IFUS) the hourly contribution rate established by the IFUS trustees. The IFUS trustees shall notify SMART of any changes to the established contribution rate prior to such change becoming effective. The Employer shall contribute said amount for each hour worked on and after the effective date of this Agreement by each employee of the Employer covered by this Agreement. Payment shall be made on or before the 20th day of the succeeding month and shall be remitted to IFUS, 4201 Lafayette Center Drive, Chantilly, Virginia 20151 -1219, or for the purpose of transmittal, through (... name of third party administrator ...).

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

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regard to IFUS activities or its receipts and/or expenditures shall be furnished to SMART upon written request.

(d). Grievances concerning use of IFUS funds for purposes prohibited under Section 1(a) or for violations of other subsections of this Section may be processed by SMART directly to the National Joint Adjustment Board under the provisions of Article X of this Agreement. In the event such proceeding results in a deadlock, either party may, upon ten (10) days' notice to the other party, submit the issue to final and binding arbitration. The arbitrator shall be selected by the co-chairmen of the National Joint Adjustment Board. The arbitrator shall be authorized to impose any remedial order he deems appropriate for violation of this Section, including termination of the Employer's obligation to contribute to the IFUS. The authority of the arbitrator is expressly limited to a determination of a deadlocked issue under this Section, (Section 1, Article VIII), and no other.

SECTION 2(a). Contributions provided for in Section 2(b) of this Article will be used to promote programs of industry education, training, negotiation and administration of collective bargaining agreements, research and promotion, such programs serving to expand the market for the services of the sheet metal industry, improve the technical and business skills of employers, stabilize and improve employer-union relations, and promote, support and improve the employment opportunities for employees. No part of any such payments, however, shall be used for any other purpose except as expressly specified above.

(b). The Employer shall pay to the (...name and address of local industry fund...) the hourly contribution rate established by the trustees of such local industry fund. The trustees of the local industry fund shall notify the Union of any changes to the established contribution rate prior to such change becoming effective. The Employer shall contribute said amount for each hour worked on and after the effective date of this Agreement by each employee of the Employer covered by this Agreement. Payment shall be made monthly on or before the twentieth (20th) day of the succeeding month.

(c). The local industry fund shall furnish to the business manager of the local 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 local industry fund shall include in such written report, a statement attested to by a certified public accountant and containing its balance sheet and detailed statement of receipts and disbursements. Further specific detailed information in regard to local industry fund activities or its receipts and/or disbursements shall be furnished to the business manager of the local union upon his written request.

(d). Grievances concerning use of local industry fund monies to which an Employer shall contribute for purposes prohibited under Section 2(a) or for violations of other subsections of this Section shall be handled under the provisions of Article X of this Agreement. The National Joint Adjustment Board shall be authorized to impose any remedial order for violation of this Section, including termination of the Employer's obligation to contribute to the local industry fund.

SECTION 3. The Union and Employer recognize that the contributions provided in Sections 1(a) and 2(a) of this Article support activities that benefit the entire sheet metal industry. It is essential that the Employer support these activities, even though it may be performing sheet metal work under the provisions of a separate project agreement or maintenance agreement.

Therefore, hours worked for purposes of determining the contributions required under Sections 1(a) and 2(b) of this Article shall include all hours worked by each employee of the Employer under any project agreement or maintenance agreement, unless specifically excluded by the terms of a written addendum that is negotiated by the Employer and the Union that are parties to this Agreement.

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ARTICLE XIII

SECTION 1. This Agreement and addenda numbered _____ through _____ attached hereto shall become effective on the _____ day of _____, 20____ and remain in full force and effect until the _____ day of _____, 20__ and shall continue in force from year to year thereafter unless written notice of reopening is given not less than ninety (90) days prior to the expiration date. In the event such notice of reopening is served, this Agreement shall continue in force and effect until conferences relating thereto have been terminated by either party by written notice, provided, however, that, since this Agreement contains Article X, Section 8, it shall continue in full force and effect until modified by order of the National Joint Adjustment Board or until the procedures under Article X, Section 8 have been otherwise completed.

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

SECTION 3. Each Employer hereby waives any right it may have to repudiate this Agreement during the term of this Agreement, or during the term of any extension, modification or amendment of this Agreement. This shall be effective during the entire term of any collective bargaining agreement that has been entered into under Section 8(f) of the National Labor Relations Act, and upon conversion of the bargaining relationship to one under Section 9(a) of the National Labor Relations Act, either by an election conducted by the National Labor Relations Board, or through the procedures set forth in this Agreement.

Company (...name...)

SMART (...local number...)

Signature

Business Manager

(Print Name)

Title