NATIONAL AGREEMENT FOR INDUSTRIAL CONSTRUCTION AND MAINTENANCE FOR THE MINING INDUSTRY

This Agreement entered into this First Day of _______, 2012, by and between ____________________ (Company) hereinafter referred to as the “Employer”, and the Sheet Metal Workers’ International Association hereinafter referred to as the “Union”.

ARTICLE I

SECTION 1. This Agreement supersedes the Standard Form of Union Agreement (“SFUA”), local agreements and addenda (collectively “Local Collective Bargaining Agreement or Local CBA”) by only those items that are specifically described herein. All other SFUA Articles, Sections, local agreements and addenda remain in full force and effect. In no event, shall any local union or the Employer, have the authority to amend, alter, modify, or deviate from this Agreement. Any provision in the Local CBA contrary to, or in conflict with, the terms and intent of this Agreement shall not be enforced as to the Employers and Employees that are subject thereto.

SECTION 2. As a condition of this Agreement, the Employer agrees to sign a Local CBA where the Employer’s home office is located. It is understood that the grievance procedure contained within this Agreement is the sole and exclusive remedy for any asserted breaches, disputes and alleged violations of this Agreement.

SECTION 3. No Sheet Metal Journeyman, Apprentice, Pre-Apprentice or Industrial Classified Worker 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 of benefits as a result of the signing of the Agreement, unless mutually agreed to by the Employer and Union and nothing shall preclude the payment of a higher rate at the discretion of the Employer.

SECTION 4. It is the intent of the parties that this Agreement be utilized as a National Agreement covering conditions of employment of those employees of the Employer while working on projects beyond the territorial limits of the home local union jurisdiction who are engaged in; field installation, maintenance, alterations
and/or modification, unloading and handling of all ferrous or nonferrous metal work and all other materials used in lieu thereof, including but not limited to any and all types of industrial sheet metal work and equipment in connection with the Mining Industry.

SECTION 5. The local CBA (collective bargaining agreement) covering the territorial jurisdiction of the local union where the Employer’s home office is located shall be the exclusive governing CBA for terms, wages and working conditions of all employees performing work described in Section 4 of this Article within said territorial limits.

SECTION 6. This Agreement shall not include and specifically excludes: air conditioning, heating and ventilating systems installed in building enclosures to provide human comfort and; all architectural sheet metal work and work scopes described by the SMWIA Building Enclosure Agreement, work scopes described by the SMWIA National Green, Energy and Testing Agreement, work scopes described by the SMWIA National HVAC Service and Facilities Management Agreement, work scopes described by the Sign Industry Standard Form of Union Agreement and any other SMWIA National Agreements not listed herein or such other work as may be specifically excluded from coverage under mutual agreement between the parties. Furthermore, this Agreement shall not supersede any Local or National Project Labor Agreements. Notwithstanding the above, Employers shall be allowed mobility of manpower as set forth in Article VIII, Section 1 of this Agreement for projects covered by this Agreement rather than be bound by any local CBA or other agreement which limits Employer’s ability to send workers from the Employer’s home jurisdiction to work on projects outside Employer’s home jurisdiction.

ARTICLE II

SECTION 1. No Employer signatory to this Agreement shall subcontract or assign any work 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 limitation, those relating to Union Security, rates of pay and working conditions, hiring and other matters covered in this Agreement.

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

ARTICLE III

SECTION 1. The Employer agrees that none but Sheet Metal Journeymen, Apprentices, Pre-Apprentices and Industrial Classified Workers (when such classifications are contained in the collective bargaining agreement where the installation is performed) shall be employed on any work described in Article I. The Employer further agrees to provide the Union with a written assignment, on the Employer’s letterhead, for all work to be performed at a jobsite under this Agreement. Such assignment letters shall be forwarded to the Jurisdictional Department of the Union, prior to commencement of any work performed under this Agreement.

ARTICLE IV

SECTION 1. The Union agrees to furnish upon request by the Employer duly qualified Building Trades Journeymen, Apprentices, Pre-Apprentices and Industrial Classified Workers (when such classifications are contained in the collective bargaining agreement where the installation is performed) in sufficient numbers as may be necessary to properly execute work contracted for by the Employer in the manner and under the conditions specified in this Agreement. In the event the Union is unable to supply an adequate number of 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 Employer agrees to require membership in the Union, as a condition of continued employment of all employees performing any of the work specified in Article I of this Agreement, within eight (8) days following the beginning of such employment or the effective date of this Agreement, whichever is the later, provided the Employer has reasonable grounds for believing that membership is available to such employees on the same terms and conditions generally applicable to other members and that membership is not denied or terminated for reasons other than the failure of the employee to tender the periodic dues and initiation fee uniformly required as a condition of acquiring or retaining membership.
SECTION 3. 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 2 of this Article.

SECTION 4. 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.

ARTICLE V

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 the Local CBA and 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(s) of the local union(s) in which the Employer’s fabrication shop(s) or job site(s) are located shall have the right to appoint a working Building Trades Journeyman to serve as Steward. The appointment of the Steward, duties, employment termination and recall, shall not be inconsistent with the scope and description for like Stewards within the jurisdiction where the Employer’s shop or job site is located as negotiated in the Local CBA. In addition to his or her work as a Building Trades Journeyman, 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.

ARTICLE VI

SECTION 1. Subject to the limitations set forth in the SFUA, the Local CBA and this Agreement, the Employer shall have the right to plan, direct, control and schedule (including the scheduling of the work force and the scheduling of overtime) the operation of all its work, not limited to, the implementation of new methods or processes established in the Construction and Fabrication Industry; hire
employees and supervision and determine crew size to safely perform the work; 
direct the working forces, assign employees and supervision to their jobs; 
discharge, suspend or discipline, transfer, promote or demote employees and 
supervision for just cause in line with the SFUA, the Local CBA and this 
Agreement; layoff employees and supervision because of lack of work or for other 
legitimate reasons without regard to any layoff priority rules; except those 
pertaining to stewards; require employees and supervision to observe the 
Employer's rules and regulations not inconsistent with the SFUA, the Local CBA 
and this Agreement, establish, eliminate, change or introduce new or improved 
methods, machinery, or quality standards.

**ARTICLE VII**

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 ten (10) hour schedule must 
last at least one week.

SECTION 2. Except as otherwise provided pursuant to Section 1 of this 
Article, all work performed outside the regular working hours (after eight (8) or ten 
(10) respectively) or performed after forty (40) hours during the regular work 
week, 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, 
or days locally observed as such as per the collective bargaining agreement of the 
Local Union having jurisdiction over the Employer’s shop or job site.

SECTION 3. 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 4. 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. Preference to 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.

ARTICLE VIII

SECTION 1. When the Employer’s principal place of business is located outside the jurisdiction of the job site local union, the Employer may assign the first four (4) Sheet Metal Workers from a local union outside the job site local union’s jurisdiction to the project site to perform any work the Employer deems necessary. When Sheet Metal Workers are needed in addition to the four (4) referred by the Employer, the fifth (5th) through eighth (8th) Sheet Metal Workers shall be referred from the job site local union. After eight (8) Sheet Metal Workers are employed on the project and additional Sheet Metal Workers are needed, the Employer may refer additional Sheet Metal Workers to the project from outside the jurisdiction of the job site local union provided a ratio of one (1) Sheet Metal Worker from the job site local union to one (1) Sheet Metal Worker from a local union outside the jurisdiction of the jobsite is maintained.

SECTION 2. The ratios of Sheet Metal Workers from inside and outside the job site local union shall be maintained provided the jobsite local can furnish Sheet Metal Workers in sufficient numbers as may be necessary to properly execute work contracted by the employer and said Sheet Metal Workers of the job site local union have received the offsite MSHA training as required in Article XII, Section 1 of this Agreement.

SECTION 3. Should an Employer have an opportunity to secure work that exceeds the limitations contained in Section 1 above of this Article and classifications described in Article III, Section 1 which could lead to more employment opportunities for covered employees by this Agreement, the SMWIA may consider modifications on a case-by-case basis. The SMWIA shall not approve any variances in scope and other terms and conditions unless submitted in writing prior to bidding and approved by the SMWIA before implementation. The application attached as part of this Agreement shall be used to that end.

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, 2009.
ARTICLE IX

SECTION 1. After the Employer’s operation has commenced at the project site, no subsequent change in wages, benefits or working conditions in such area will become effective on the Employer, except to the extent that any such change in wages, fringe benefits, fringe benefit contribution rates or working conditions not in conflict with this Agreement may have been agreed upon in negotiations between the local union having jurisdiction over the project site and a recognized bargaining agency of contractors in such areas. The Employer agrees to accept the new wage rates, fringe benefits, and fringe benefit contribution rates, working conditions, and effective dates so agreed upon.

SECTION 2. Should the job site Local CBA expire while this Agreement is in effect, there shall be no strike by the Union and no lockout by the Employer. It is agreed that the Employer shall pay retroactively to the expiration date of the preceding Local CBA the rate negotiated in the new Local CBA. In the event of a strike of the local contractors upon the expiration of the SMWIA Local Building Trades Collective Bargaining Agreement, the Employer agrees that they will not ship fabricated material to struck jobs within the affected area.

SECTION 3. Nothing contained in this Article shall be construed to prohibit strikes over the failure of the Employer to pay wages or make fringe benefit payments required by the applicable local union collective bargaining agreement.

SECTION 4. It shall not be a violation of this Agreement or of the foregoing no-strike clause if members of the SMWIA refuse to cross a lawful picket line established in accordance with the rules of the Building and Construction Trades Department.

ARTICLE X

SECTION 1. Article X of the SFUA shall be the governing procedure for grievances and arbitration with the following exception: following Section 1 of Article X, and before Section 2 of Article X, there shall be one additional step.

SECTION 2. The Section 1, Article X language contained in the SFUA shall be considered Step 1A. In the event that the parties are unable to resolve the grievance locally within ten (10) working days, the grievance shall proceed to Step 1B.
SECTION 3. Step 1B - The grievance shall be submitted to the SMWIA Office of the General President for assignment to an International Representative and by the Employer to the Employer’s Labor Relation Manager. In the event that the parties are unable to resolve the grievance within ten (10) working days, the grievance shall proceed to Step 2 as described in Article X, Section 2 of the SFUA. By mutual consent, time lines may be extended for any step during the grievance process.

ARTICLE XI

SECTION 1. When Sheet Metal Workers covered by this Agreement are assigned to projects beyond the local union territorial jurisdiction where the Employers home office is located, the Employer agrees to abide by the terms and conditions (unless modified by this Agreement) of the local collective bargaining agreement where the work is being performed including: classifications and work scope, wage scale, wage progression and fringe benefit contributions for all bargaining unit employees of the employer performing work scope described in Article I of this Agreement.

SECTION 2. Monthly fringe benefit contributions on all employees covered by this Agreement shall be paid no later than the twentieth (20th) day of the month following the month in which work under this Agreement is performed. All contributions shall be made at such time and in such manner as the Trustees of the fringe benefit plans, funds and programs (collectively, the “Funds”) require and the Trustees may at any time conduct an audit in accordance with provisions set forth in Fund documents. An Employer’s failure to make contributions in a timely manner shall subject the Employer to any and all remedies that the Funds may have available under law. The Employer recognizes as its representatives on the Funds’ Board of Trustees such Trustees as are now serving, or will in the future serve, as Employer Trustees, together with their successors. The Employer further agrees to be bound by all actions taken by the Trustees pursuant to the Fund documents, as amended from time to time, and further agrees to be bound by all lawfully adopted Fund documents, policies and rules and regulations approved by the Boards of Trustees. Contributions shall be made to the following Funds.

a. Contributions to ITI, NEMI and SMOHIT funds shall be the rate as set forth per the Local CBA starting with the first hour of employment for all employees covered by this Agreement. Payment shall be made no later that the twentieth (20th) day of the month following the month in which work under this Agreement is performed and shall be remitted as designated by the Trustees of the funds, or for purposes of collection and
transmittal through Sheet Metal Workers' National Benefit Funds, P.O. Box 79321, Baltimore, MD 21279-0321.

b. Contributions to both Local and National Industry Funds, and local training funds shall be the rate as set forth per the Local CBA starting with the first hour of employment for all employees covered by this Agreement. Payment shall be made no later that the twentieth (20th) day of the month following the month in which work under this Agreement is performed and shall be remitted to the collection agent designated by the Trustees of the funds.

c. Health care plan contributions will be paid on all hours worked from the first hour of employment. The contribution rate shall be the rate set forth by the applicable trust and/or the Local CBA. Payment shall be made no later that the twentieth (20th) day of the month following the month in which work under this Agreement is performed and shall be remitted to the collection agent designated by the Trustees of the health care plan.

d. The Employer shall pay monthly contributions to the Pension Fund or Funds for all classes of employees covered by this Agreement from the first hour of employment, in accordance with the provisions of the Local CBA. In the event that a Pension Fund has issued schedules under a rehabilitation plan or funding improvement plan, the schedule selected in the Local CBA shall apply under this Agreement. Payment shall be made no later that the twentieth (20th) day of the month following the month in which work under this Agreement is performed and shall be remitted to the collection agent designated by the Trustees of the Pension Fund.

e. Only when such contributions are required by the local CBA in effect where work is being performed as described in Article I, Section 4 of this Agreement shall the Employer be required to make monthly payments of an amount equal to three percent (3%) of the gross earnings of each employee covered by this Agreement to the National Stabilization Agreement of the Sheet Metal Industry (SASMI) Trust Fund. Payment shall be made on or before the twentieth (20th) day of the succeeding month and shall be remitted as designated by the Trustees of the Fund, or for purposes of collection and transmittal through Sheet Metal Workers' National Benefit Funds, P.O. Box 79321, Baltimore, MD 21279-0321. The term “gross earnings”, for purposes of this provision, shall mean the sum of
(a) the total compensation paid to an employee by the Employer which is reportable by the Employer for federal income tax purposes, and (b) any and all contributions paid by the Employer on behalf of the employee to any local or national fringe benefit fund and/or other fringe benefit account including, but not limited to, Pension, Health and Welfare, Annuity, 401k Plans and other similar or related funds.

f. The Employer agrees to make a contribution in the amount of one ($0.01) cent per hour from the first hour of employment, for each hour worked by all employees covered by this Agreement to the Sheet Metal Workers’ International Scholarship Fund. Payment shall be made no later that the twentieth (20th) day of the month following the month in which work under this Agreement is performed and shall be remitted to the collection agent designated by the Trustees of the Fund, or for purposes of collection and transmittal through Sheet Metal Workers' National Benefit Funds, P.O. Box 79321, Baltimore, MD 21279-0321.

g. For Journeymen and Apprentices who perform work covered by this Agreement, the Employer shall make all of the preceding monthly fringe benefit contributions, plus any additional fringe benefit Fund contributions, not reflected above, that are payable on Journeymen and Apprentices under the Local CBA.

f. Welfare benefit contributions, including without limitation, those described in Article XI, Sections 2 (a) through 2 (f) shall not be duplicated.

ARTICLE XII

SECTION 1. All employees covered by this Agreement shall have MSHA Safety Training as required per the Federal Mine Safety Act of 1977, MSHA Part 48, Sub-Part A and Sub-Part B as required by work scope and job site.

SECTION 2. The Employer shall provide at the Employers expense, on-site safety related training and annual refresher safety and health training as required.

SECTION 3. 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. Any employee who fails to comply with the safety requirements heretofore referred to, or failure to participate and cooperate in such safety programs, shall 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 equipment is cause for discharge. It is further agreed that employees will bear the responsibility of purchasing and providing steel toed safety boots. Any and all other personal protective equipment will be provided by the Employer.

**ARTICLE XIII**

SECTION 1. Only when such contributions are required by the local CBA in effect where the work is being performed as described in Article I, Section 4 of this Agreement will the Employer agree to honor political contribution authorization from its employees who are union members.

When required, the political contribution deduction shall be made on each pay period, during which an employee who has performed compensated service has in effect a voluntarily executed political contribution deduction authorization. The money shall be remitted within twenty (20) days following the first (1st) day of each month thereafter to PAL Political Fund, 1750 New York Avenue, N.W., Washington, DC 20006, accompanied by a form stating the name and hours worked for each employee for whom a deduction has been made.

**ARTICLE XIV**

SECTION 1. By execution of this Agreement, the Employer agrees to the terms and conditions of Article X, Section 8 of the SFUA. Should the negotiations for a renewal of this Agreement or negotiations regarding a the renewal of the local agreement or local wage/fringe reopener where the Employers shop is located become deadlocked in the opinion of the Union or the Employer, or both, notice to that effect shall be given to the National Joint Adjustment Board pursuant to the rules as established and modified from time to time. 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.

This Agreement signed the First Day of __________, 20___, shall remain in full force and effect for one year and shall continue in full force and effect from year to year thereafter unless either party notifies the other within 90 days of the anniversary date of their desire to negotiate changes or abrogate this Agreement.
ARTICLE VIII APPLICATION

In accordance with Article VIII, Section 3 of the National Agreement for Industrial Construction and Maintenance for the Mining Industry, I am requesting permission to exceed the limitations of manpower portability and/or request the addition of Industrial Classified Workers on the below listed project:

Name of employer: __________________________________________________

Address: _____________________________________________________________

Contact name and phone number: _________________________________

Home local union: ______

Job site name: ______________________________________________________

Job site address: _____________________________________________________

Job site local union: ______

Anticipated project start and completion: _____________ to ______________

*Request additional manpower from beyond the project site local union for the following reason(s):

____________________________________________________
____________________________________________________
____________________________________________________

Additional number requested: ______

*Request the use of Industrial Classified Workers for the following reason(s):

____________________________________________________
____________________________________________________
____________________________________________________

Industrial Classified Workers to be ________% of local Building Trades Jry wage.
Industrial Classified Worker fringe benefits:

________________________________________________________________________

________________________________________________________________________

Number of Industrial Classified Workers requested: ____________

Signed:

_________________________________________      Date: __________________

Employer

_________________________________________       Date: _________________

General President, SMWIA

Date: _______________

Date: ________________