

LABOR AGREEMENT

Between

BEMIDJI SUBDIVISION OF THE
IRON RANGE DIVISION
SMARCA, INC.

And

INTERNATIONAL ASSOCIATION of SHEET METAL, AIR, RAIL and
TRANSPORTATION
LOCAL UNION NO. 10

EFFECTIVE

July 6, 2020 - May 31, 2023

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LABOR AGREEMENT

THIS AGREEMENT, entered into this 6th day of June, 2020, by and between the BEMIDJI SUBDIVISION OF THE IRON RANGE DIVISION of SMARCA, Inc., and each business establishment, individually, who are not represented by the above Association, and International Association of Sheet Metal, Air, Rail and Transportation Workers (SMART), LOCAL UNION NO. 10, hereafter referred to as the Union, and its jurisdiction consisting of Lake of the Woods, Clearwater, and Beltrami Counties in Minnesota.

ARTICLE I JURISDICTION

This Agreement covers the rates of pay and conditions of employment of all employees of the Employer engaged, in, but not limited to, the (a) manufacture, fabrication, assembling, handling, erection, installation, dismantling, conditioning, adjustment, alteration, repairing and servicing of all ferrous or non-ferrous metal work and all other materials used in lieu thereof and of all airveyor 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) metal roofs.

ARTICLE II SUBCONTRACTING

Section 1. No Employer shall subcontract or assign any of the work described herein 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 limitation, those relating to union security, rates of pay and working conditions, hiring and other matters covered hereby for the duration of the project.

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

ARTICLE III WORK PRESERVATION & FAVORED NATION PROVISION

Section 1. The Employer agrees that none but journeyman, apprentice, and pre-apprentice 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 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 SMACNA and SMART, shall be provided to the Employer.

Section 2. If the Union enters into any agreement with any individual contractor or group of contractors performing work covered by the terms of this Agreement and that agreement provides for more favorable wages, hours or conditions to any other contractor, the Contractors signatory hereto shall be afforded the privilege to adopt such advantageous terms and conditions. This restriction is not intended to apply to contractors who have signed "National Maintenance Agreements", provided they do not sign a separate agreement with Local No. 10.

ARTICLE IV JOB REFERRAL

Section 1. The Union agrees to furnish, upon request by the Employer, duly qualified journeyman, apprentice, and pre-apprentice sheet metal workers in sufficient numbers as may be necessary to properly execute work contracted for by the Employer in the manner and under the conditions specified in this Agreement.

Section 2. The local Union shall be the exclusive source of referrals of applicants for employment by the Contractor. Contractors shall hire qualified journeymen by calling the Union or by written notice to the Union.

Section 3. The Contractors retain the right to reject any job applicant referred by the Union.

Section 4. 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 both currently collecting Unemployment Compensation from the Employer's State Unemployment Compensation account and in good standing with the Union.

ARTICLE V UNION SECURITY

Section 1. The Employer agrees to require membership in the Union as a condition of continued employment of all employees performing any of the work specified in Article I of this Agreement within eight (8) days following the beginning of such employment or the effective date of this Agreement, whichever is the later, provided the Employer has reasonable grounds for believing that membership is available to such employees on the same terms and conditions generally applicable to other members and that membership is not denied or terminated for reasons other than the failure of the employee to tender the periodic dues and initiation fee uniformly required as a condition of acquiring or retaining membership.

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

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

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 seven (7:00) a.m. and three-thirty (3:30) p.m. or between eight (8:00) a.m. and four-thirty (4:30) p.m. Except as otherwise provided specifically herein, the regular working week shall consist of five (5) consecutive eight (8) hour days in the shop or on the job, beginning with Monday and ending Friday of each week. The regular working day may also consist of up to ten (10) hours of labor in the shop or on the job between the hours of six (6:00) a.m. and six (6:00) p.m., in which case the regular work week will consist of four (4) consecutive ten (10) hour days labor Monday through Friday each week. These four (4) ten (10) hour days may only be worked at the straight time rate of pay where the Employer and the Union mutually agree. Where four (4) ten (10) hour days are being worked, if there is a holiday on Monday, Tuesday, Wednesday or Thursday, Friday may be worked as a makeup day at the straight time rate of pay. This provision is subject to five (5) days subsistence payment where subsistence is required; however, see the various alternatives in Article VII. 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 1, 4 and 6

of this Article, all work performed outside the regular working hours and performed during the regular week shall be as follows: All work performed on weekdays before seven (7:00) a.m. and after three-thirty (3:30) p.m. or before eight (8:00) a.m. and after four-thirty (4:30) p.m., whichever is applicable, shall be paid at double the hourly base wage rate, except that the first two (2) hours after the regular working day shall be paid at one and one-half (1½) times the hourly base rate. Work for the first eight (8) hours during the regular working day on Saturday shall be paid at one and one-half (1½) times the base hourly rate. Any other work performed on Saturday and all work (except service work) performed on Sunday or any holiday or the day recognized as the holiday shall be paid at double the hourly base wage rate. Fringe benefit contributions shall be made on hours worked and not on hours paid for all overtime pay situations, except for contributions to the Sheet Metal Workers' National Pension Fund which shall be on a hours paid basis.

On architectural sheet metal work only, when work cannot be performed because of weather or other conditions beyond the control of the Employer, the Union agrees to allow work at the regular hourly rate up to a maximum of ten (10) hours daily until forty (40) hours have been worked, Monday through Friday, in any one week. Work may be performed on this basis only by mutual consent of both the employee and the Employer.

On residential sheet metal work, the starting time will be between seven (7:00) a.m. and eight (8:00) a.m. at the shop or job site and quitting time will be between three-thirty (3:30) p.m. and four-thirty (4:30) p.m. at the shop or job site, with one-half (½) hour for lunch. The Employer may also establish a flexible work week for all service and residential work, except new construction, Monday through Saturday. The regular work day shall be eight (8) consecutive hours, with one-half (½) hour for lunch. This work must be scheduled for two (2) week blocks at a minimum. All work in excess of eight (8) hours per day shall be paid at the regular overtime rate specified herein.

Section 2. New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day are 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.

Section 3. It is agreed that all work performed outside of the 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. It is agreed that if it is necessary to work extra shifts, employees working the extra shifts shall be paid the basic hourly wage rate plus fifteen percent (15%) for each hour worked during the extra shift. Fringe benefits shall be paid on the same basis as fringe benefits

payments in overtime situations. No other premium shall be paid and no extra shift shall be started for less than five (5) days' duration, unless the Union and the Association approve such shift in advance. It is the intent of the Union and the Association to approve this work at the regular shift premium as long as: it is not possible for the shift to last five (5) 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. These shift provisions shall also apply where no first (1st) shift is possible because of the use or occupancy of the structure.

Section 5. If a holiday falls on a Tuesday, Wednesday or Thursday, an employee working at a job site beyond the free zone shall be paid the same mileage allowance that he is paid on normal work days, regardless of whether he works or not.

Section 6. Service work performed after the regular working day will be paid at one and one-half (1½) times the regular wage rate, including Sundays and holidays. The regular work day and work week may be modified as specified in Section 1 of Article VIII.

ARTICLE VII TRAVEL & SUBSISTENCE

When employed in the shop or on a job, the employee shall be governed by the regular working hours and, upon direction of the Employer, provide for himself necessary transportation that will ensure his arrival at the shop or job at the starting time within said limits and shall provide for himself necessary transportation from shop or job at quitting time after a full eight (8) hours on the job.

The Employer shall furnish or pay for all additional transportation during working hours, as specified in this Article. It is understood that no company tools or materials are to be hauled by the employee; otherwise, he is paid full mileage.

When it is necessary for an employee to use his personal automobile during working hours for the Employer's convenience, he shall be paid mileage or subsistence.

When employed on the job:

- (A) If the job is within a forty-five (45) mile radius of the shop or the employee's home, no mileage, travel time or subsistence will be paid. An on-site job trailer does not constitute a shop.
- (B) Where the job site is beyond the free zone, upon mutual consent, if the Employer provides transportation from either the employee's home or the shop each day and back, there shall be no subsistence or travel time paid regardless of how far the job

is away from either the employee's home or the shop. However, the Bemidji taxable rate will be paid for one (1) trip at the beginning of a job and one (1) trip at the end of a job on projects with more than one thousand (1,000) field hours.

- (C) Where the employer is providing transportation to the job site at the start of each week and back to the shop or the employee's home at the end of the week, and with mutual consent, the Employer may pay motel costs if the employee stays overnight with a room for every 2 employees. The motel must be of satisfactory quality and sanitary standards comparable to a Super 8 or a Motel 6 or equal. The contractor will work on special problems with the employee concerning hotels while working out of town.
- (D) Where mutual consent is not reached and where the job is outside the free zone and no subsistence is being paid, employees providing their own transportation will be paid the IRS mileage rate from the edge of the free zone to the job site each day the employees travel to and from the job. The employees will also receive travel time from the edge of the free zone to the job site and from the job site back to the edge of the free zone each day at the same cents per mile as the IRS mileage rate.

Where mutual consent is not reached and where the job is outside the free zone and subsistence is being paid, employees will be paid the IRS mileage rate from the edge of the free zone to the job site once at the beginning of the job and once at the end of the job. The employees shall also be paid travel time at the same cents per mile as the IRS mileage rate, again once at the beginning of the job and once at the end of the job. Also, where the employee(s) is called in by the Employer to work at another job, the employee will be paid travel time and mileage from the job back to the free zone and from the free zone back to the job should the employee be sent back to that job later. The IRS rate will be the rate in effect June 1 of each year. Where the employees actually stay overnight and the job is at least sixty (60) miles from the closer of either the employee's home or the shop and the Employer is not paying for the motel costs, the employee shall receive forty dollars (\$40.00) per day worked

- (E) For travel during the work day in the employee's vehicle, the employee shall receive the IRS mileage rate as well as the normal hourly rate.
- (F) Where the employee is offered company transportation, but cannot drive that vehicle because of a poor driving record, the company is not required to pay mileage for that employee. In such cases the company will attempt, with the cooperation of the employee, to provide a ride to and from the job site if a company vehicle is already going to and/or from that job site.

- (G) There will be no travel time paid for time in a company vehicle where that vehicle is also hauling company tools (or employees' tools) or materials unless travel time is otherwise payable.
- (H) Where there is any dispute as to what the mileage to a job site is, the business representative of the local Union will meet with the Employer and make a joint determination based on the forty-five (45) mile radius involved for each job for each employee.
- (I) Mileage reimbursement shall be paid at the IRS approved rate in effect June 1st of each year and shall remain in effect until the following June 1st.

**ARTICLE VIII
WAGES & BENEFITS**

Section 1. WAGES & BENEFITS: The following is the wage and benefit schedule for journeyman sheet metal workers of Local No. 10, Bemidji Area.

ALL COMMERCIAL AND INDUSTRIAL WORK:

| | July 6, 2020 | June 1, 2021 | June 1, 2022 |
|-----------------------------------|--------------|--------------|--------------|
| Base Wage* | 29.82 | 1.60** | 1.65** |
| <i>(Deduct Organizing Funds)</i> | (.93) | | |
| SASMI | 1.52 | | |
| Health Fund | 10.66 | | |
| Local 10 Pension | 3.36 | | |
| Supplemental Pension | 6.00 | | |
| SMOHI/Local Training Fund | .34 | | |
| NEMI/Scholarship Fund/ITI | .18 | | |
| Local Industry Fund | .14 | | |
| Nat'l Industry Fund | .13 | | |
| Fair Contracting Foundation (FCF) | .02 | | |
| TOTAL PACKAGE | 53.08 | 54.68 | 56.33 |

* Taxable Income

** This amount will be allocated at that time.

ALL RESIDENTIAL & ALL SERVICE WORK FOR JOURNEYMEN:

| | <u>July 6, 2020</u> | <u>June 1, 2021</u> | <u>June 1, 2022</u> |
|----------------------------------|---------------------|---------------------|---------------------|
| Base Wage* | 26.12 | 1.60** | 1.65** |
| <i>(Deduct Organizing Funds)</i> | (.93) | | |
| SASMI | 1.13 | | |
| Health Fund (Single Plan B) | 3.48 | | |
| Local 10 Pension | 3.36 | | |
| Supplemental Pension | 4.55 | | |
| SMOHI/Local Training Fund | .34 | | |
| NEMI/Scholarship Fund/ITI | .16 | | |
| FCF | .02 | | |
| Local Industry Fund | .14 | | |
| Nat'l Industry Fund | .13 | | |
| TOTAL PACKAGE | 39.43 | 41.03 | 42.68 |

* Taxable Income

** This amount will be allocated at that time.

*** There was a one cent (\$.01) decrease in the Local Industry Fund resulting in a Total Package increase of \$1.74.

For Residential Journeymen, the default health coverage is Plan B single coverage, should the journeyman wish to choose family coverage Plan B or either single or family Plan A coverage, then the additional cost will be deducted from the base wage with the Total Package remaining the same.

Fringe benefits will not be duplicated. The Union may allocate for fringes out of the total package each June 1st, and such other times where needed, with a thirty (30) day advance notice to the Employers. The Employer may also increase or decrease the contribution rate to the Local and/or National Industry Funds. However, any change will not increase or decrease the taxable base. Any increase or decrease will result in any equal increase or decrease in the total package. The contractors will bear the entire cost of any such increase or receive any such reduction.

Industrial work applies to work on power plants, paper mills, lumber mills, iron ore facilities, and processing plants, such as sugar and potato; however, the wage rate is the same as the commercial wage rate.

A "Residential Rate" as set out above is established for the entire jurisdiction. "Residential" applies to fabrication and installation work on any single-family dwelling or multiple-family housing unit of four (4) stories or less where each individual family apartment unit is individually conditioned by a separate and independent unit or system. In addition, Residential journeymen and apprentices may also work on Commercial work at the Residential rate on Commercial HVAC projects valued under \$125,000 (the HVAC portion) within a ten (10) mile radius around the Bemidji Court House. All Residential sheet metal workers working on this work must be attending or have completed four (4) years of apprentice school. The Business Representative will work with the company to help manage manpower on this work.

Residential journeymen and apprentices may also be used on Commercial work in open Commercial apprentice or pre-apprentice positions within the established ratio. This is an effort to keep Residential workers employed during periods when there is not enough residential work so they can later be used to expand the Residential Market Share.

Section 2. On all work specified in Article I of this Agreement, fabricated and/or assembled by journeyman sheet metal workers and apprentices, for erection and/or installation within the jurisdiction of any other local union affiliated with SMART or within an area covered by a different labor agreement with 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 and apprentices employed on such work in the home shop or sent to the job site. The higher wage scale shall be paid to apprentices only when the apprentice is sent to and employed on the job site.

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

1. Ventilators
2. Louvers
3. Automatic & Fire Dampers
4. Radiator & Air Conditioning Unit Enclosures
5. Fabricated Pipe & Fittings
6. Mixing (Attenuation) Boxes
7. Plastic Skylights
8. Air Diffusers, Grilles, Registers
9. Sound Attenuators
10. Chutes for Residential Installations Only

Section 4. The provisions of Section 2 of this Article shall not be applicable to the manufacture for sale to the trade or purchase of air pollution control systems fabricated for the purpose of removing air pollutants, excluding air conditioning, heating and ventilating systems.

Section 5. Except as provided in Sections 2 and 6 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 6. TWO PERSON RULE: When the Employer has any work specified in Article I of this Agreement to be performed outside of the area covered by this Agreement and within the area covered by another agreement with another union affiliated with the SMART, 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 and apprentice sheet metal workers covered by this Agreement who are sent outside of the area covered by this Agreement shall be paid at least the established minimum wage scale specified

in Section 1 of this Article, but in no case less than the established wage scale of the local agreement covering the territory in which such work is performed or supervised, plus all necessary transportation, travel time, board and expenses while employed in that area and the Employer shall be otherwise governed by the established working conditions of that local agreement. If employees are sent into an area where there is no local agreement of the SMART covering the area, then the minimum conditions of the home local union shall apply.

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

Section 8. Wages at the established rates specified herein shall be paid by check in the shop or on the job or by automatic deposit at or before quitting time on Friday of each week, and no more than five (5) days' pay will be withheld. However, employees, when discharged, shall be paid in full on the same date and method as by current contractor.

Section 9. Journeyman, apprentice, and pre-apprentice sheet metal workers who report for 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 10. Each Employer covered by this Agreement shall employ at least one (1) journeyman sheet metal worker who is not a member of the firm on all work specified in Article I of this Agreement.

Section 11. The Employer agrees to pay the following amounts listed per hours worked to the Funds listed beside that amount:

| | |
|-------|--|
| \$.12 | International Training Institute (ITI) |
| .03 | National Energy Management Institute (NEMI) |
| .32 | Fargo/Grand Forks/Bemidji Local Joint Apprenticeship Fund (Local JATC) |
| .02 | Sheet Metal Workers Occupational Health Institute (SMOHI) |
| .02 | Fair Contracting Foundation |
| .01 | Sheet Metal Workers Scholarship Fund |
| <hr/> | |
| \$.52 | |

Section 12. SHOP STEWARD IN EACH SHOP: A steward shall be a working journeyman appointed by the business manager of the local Union. The steward will not be dismissed for protecting the jurisdiction and working conditions, as defined in this Agreement.

Section 13. SAFETY TRAINING: A joint committee will be set up to monitor safety training. Sheet metal workers must attend five (5) hours of non-paid safety training each year. Those that attend this training shall receive a \$100.00 stipend for attending.

ARTICLE IX TOOLS

Section 1. Journeyman and apprentice sheet metal workers covered by this Agreement shall provide for themselves the following hand tools:

| | | |
|---|--|-----------------------------|
| Whitney Hand Punch | #17 Wiss Snips | 16' Measuring Tape |
| Crescent Wrenches | Bull Snips | Plumb Bob & Chalk Line |
| Screwdrivers | Combination Square | 3" Hand Seamer (Hand Tongs) |
| Center Punches | Tinner Hammer | 12" Dividers |
| Hack-Saw Frames | 3/8" Socket Set | Side Cutter Pliers |
| Wood & Cement Chisels | Scratch Awls | Tinner's Pliers |
| Wrecking Bars | Aviation Snips (L&R) | Hand Crimper |
| Marking Gauge | Pop Riveter (to cost not more than \$35.00) | |
| Torpedo Level | 1/4"-3/4" Combination Wrenches (1 Set) | |
| Utility Knife (but not replacement blades) | | |

Section 2. Journeyman, apprentice, and pre-apprentice 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 at starting time or from job to home at quitting time.

When an employee is excluded from the Employer's vehicle insurance coverage due to the employee's driving record (for example, due to driving under the influence, reckless driving, number of speeding tickets, etc.), the provisions of Article IX, Section 2 above shall not apply to that employee. The Employer shall provide prior written notice to the Union that an employee is excluded from the Employer's insurance coverage, listing the beginning and ending dates of the exclusion.

Section 3. Employees will provide safety shoes and OSHA-approved prescription safety glasses where OSHA or owner requires. The Employer will provide, and the employee shall wear, hard hats, non-prescription safety glasses and other safety equipment as required.

ARTICLE X SETTLEMENT OF DISPUTES

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.

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 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. The local Employers' Association, on its own initiative, may submit grievances for determination by the Board as provided in this Section. 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 procedures 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 General President of SMART and one (1) representative appointed by the Chairman of the Labor Relations Committee of Sheet Metal and Air Conditioning Contractors National Association, Inc. Appeals on behalf of employees shall be mailed to the General Secretary-Treasurer of the SMART and those on behalf of an Employer mailed to the Secretary of the Labor Committee of the Sheet Metal and Air Conditioning Contractors National Association, Inc. Joint appeals shall be mailed to the Secretaries of both Associations. 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.

Notwithstanding the provisions of paragraph 1 of this Section, a contractor 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, including a unanimous decision, and request

a panel hearing, as set forth in Section 3 of this Article, providing such appeal is approved by both the Chairman of the Labor Relations Committee of Sheet Metal and Air Conditioning Contractors National Association, Inc., and by the General President of SMART.

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 and, if it is believed warranted, to direct that the involved agreement and any other agreement or agreements between the Employer and any other local union affiliated with the SMART be canceled, provided that any decision of a Local Joint Adjustment Board directing cancellation of an agreement or agreements may be appealed by the affected Employer or local Union as a matter of right, directly to the National Joint Adjustment Board.

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, 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 of the Local Joint Adjustment Board only 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.

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.

ARTICLE XI APPRENTICESHIP

Section 1. All duly qualified apprentices shall be under the supervision and control of the Fargo/Grand Forks/Bemidji Joint Apprenticeship Committee composed of up to eight (8) members, four (4) of whom shall be selected by the Employer 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 and 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 and 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 two (2) journeymen; three (3) apprentices for four (4) journeymen; five (5) apprentices for six (6) journeymen; six (6) apprentices for seven (7) journeymen; seven (7) apprentices for eight (8) journeymen; and one (1) apprentice for every two (2) journeymen thereafter, regularly employed throughout the year. The ratio for Employers engaged in residential work shall be one (1) apprentice for every one (1) journeyman regularly employed throughout the year.

Section 4. All applicants for apprenticeship shall be at least seventeen (17) years of age and each apprentice 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. For apprentices (Commercial & Residential), a graduated scale for apprentices is established and maintained on the following percentage basis of the applicable established base wage rate of journeyman sheet metal workers:

| Hours | Commercial & Industrial Percentage | Hours | Residential Percentage |
|-----------|------------------------------------|-----------|------------------------|
| 0-2000 | 50% | 0-1000 | 60% |
| 2001-4000 | 59% | 1001-2000 | 70% |
| 4001-6000 | 67% | 2001-3000 | 80% |
| 6001-8000 | 75% | 3001-4000 | 90% |

For Commercial apprentices the taxable base rate is determined by multiplying the taxable base rate of Commercial Journeyman with Family Plan A health coverage by the

apprentice's applicable percentage and adding seventy-five cents (\$.75). For Residential apprentices the taxable base rate is determined by multiplying the taxable base rate of Residential Journeyman (which already includes the \$.75 per hour adjustment) with Single Plan B coverage by the apprentice's applicable percentage.

Commercial and Residential apprentices, receive their pension contributions at their applicable percentage. The taxable base rate for these apprentices is determined by multiplying the applicable (commercial or residential) journeyman taxable base rate with Plan A family health coverage (for commercial apprentices) by the apprentice's applicable percentage and adding seventy-five cents (\$.75) to that result. This then is the taxable base rate for the new apprentices with Plan B single health coverage. Should the apprentice choose Plan B family health coverage, their taxable base rate will be reduced by the cost difference between Plan B single and Plan B family health coverage. The total package remains the same as those choosing single Plan B health coverage.

Section 6. It is the understanding of the parties to this Agreement that the funds contributed by signatory Employers to the International Training Institute and any Local Joint Apprenticeship and Training Fund (Local JATC) will not be used to train apprentices or journeymen who will be employed by employers in the Sheet Metal Industry not signatory to a collective bargaining agreement providing for contributions to the International Training Institute and Local JATC. Therefore, the Trustees of the International Training Institute and Local JATC shall adopt and implement a Scholarship Loan Agreement Program which will require apprentices and journeymen employed by signatory Employers to repay the cost of training either by service following training within the Union sector of the Industry or by actual repayment of the cost of training if the individual goes to work for a non-signatory employer in the Sheet Metal Industry. The cost of training shall include the reasonable value of all International Training Institute and Local JATC materials, facilities and personnel utilized in training. If a Local JATC does not implement the Scholarship Loan Agreement, the Local JATC shall be prohibited from utilizing International Training Institute materials and programs.

Section 7. The Local J.A.T.C. shall develop a three (3) year residential apprentice program and will establish minimum wage increments to be paid in the program. There will be no change in this Article until such a program is adopted by the Local J.A.T.C.

ARTICLE XII PRE-APPRENTICES

Section 1. It is hereby agreed that the Employer may apply to Local 10 and Local 10 shall grant pre-apprentices on the basis of one 1) pre-apprentice for each four (4) journeymen; two (2) pre-apprentices for five (5) journeymen; three (3) pre-apprentices for six (6) journeymen; four (4) pre-apprentices for seven (7) journeymen; five (5) pre-apprentices for eight (8) journeymen; six (6) pre-apprentices for nine (9) journeymen; and one (1) additional pre-apprentice for each two (2) additional journeymen, regularly employed throughout the year.

Section 2. The wage scale for pre-apprentices shall be forty percent (40%) of the hourly base wage rate of the commercial journeyman sheet metal worker plus the full contribution to the Local Joint Apprenticeship Fund for the first (1st) one thousand (1,000) work hours and .17 cents per hour for the ITI, NEMI & SMOHIT, Then Health and Welfare contributions shall also be made by the Employer, beginning at one thousand and one (1,001) hours.

The Employer has the option of providing Health & Welfare benefits either by making contributions to the Twin Cities Trade Area Sheet Metal Workers Benefit Fund or by providing office employee coverage through the plan or carrier used to provide that coverage.

Pre-apprentices must make application for apprenticeship to meet minimum requirements of the Apprenticeship Program in order to remain a pre-apprentice beyond one thousand (1,000) hours.

Section 3. Where there is a reduction in the number of journeymen which causes a reduction in apprentices and/or pre-apprentices because of the ratios set forth herein and in Section 1 of Article XVI, an apprentice may be retained in place of a pre-apprentice, subject to the pre-apprentice ratio in this Section. Also, apprentices may be hired in place of pre-apprentices anywhere within the above ratio at the discretion of the Employer.

ARTICLE XIII EQUAL EMPLOYMENT OPPORTUNITY

There will be no discrimination in violation of Federal, State or local laws.

ARTICLE XIV FOREMAN/GENERAL FOREMAN

FOREMEN & GENERAL FOREMEN: All foremen shall be paid one dollar and fifty cents (\$1.75) per hour above the applicable minimum journeyman rate. All general foremen shall be paid two dollars and fifty cents (\$2.50) above the applicable journeyman rate. The person who acts as the foreman or general foreman on a job shall be assigned by the Employer, based on that person's responsibilities on the job and the following ratios: zero foremen for one (1) to four (4) men; one (1) foreman for a five (5) to eight (8) man crew; one (1) foreman and one (1) general foreman for a nine (9) to sixteen (16) man crew; two (2) foremen and one (1) general foreman for a seventeen (17) to twenty-four (24) man crew. As the crew size increases, the number of foremen will increase in proportion thereto.

ARTICLE XV PENSION FUNDS

Section 1. The parties agree that should they at some future point jointly agree to begin contributing to the Sheet Metal Workers National Pension Fund (hereinafter referred to as the “Pension Fund”) the amount per hour of said contributions agreed to for each hour worked by journeyman and apprentice employees covered by this Agreement.

Section 2. Residential and HVAC Journeyman, Foreman, General Foreman, apprentices may individually elect to participate in the 401k feature of the *Sheet Metal 10 Supplemental Pension Fund* by completing a tax deferred contribution authorization form approved by the Fund’s Trustees directing the employer to reduce the employee’s hourly pay up to maximum amount allowed by the Plan. An employee may change the amount per hour of their tax-deferred contributions once per year on January 1st or upon a new hire at an employer. An employer may elect to accept an authorization from an employee other than the scheduled time. Employee tax-deferred contributions shall be reported in accordance with Article XX and the same manner as employers are reporting with respect to regular contributions to the Supplemental Pension Fund or as the Trustees of the Fund shall direct. Employee that elect to have tax-deferred contributions made to the Fund, must be done in writing at least ten (10) days prior to the stated elected date, other than initial employment or if an employer elects to accept an authorization change. All tax-deferred contributions requests must be filled by the employee with the employer who will then provide a copy to Fund office as directed by the Fund Trustees.

Section 3. The said Pension Fund shall be administered pursuant to the provisions of the applicable Agreement and Declaration of Trust, executed jointly by equal representatives of the Union and representatives of the Association, and shall be considered as a part hereof, as if set forth in detail. However, there shall be no incorporation of or agreement to any term requiring Employer payments greater than the hourly contributions specified in this Agreement, actual interest and liquidated damages resulting from delinquent contributions and withdrawal liability provisions including in applicable federal law.

Section 4. Employers covered by this Agreement shall contribute to the Local No. 10 Supplemental Pension Fund the amount per hour as specified in Article VIII, Section 1 for each hour worked by journeyman employees, and the applicable percentage for apprentices, covered by this Agreement. This contribution shall be out of, not in addition to, the Total Package wage rate and any increases to the Total Package wage rate as set forth in Article VIII of this Agreement. This Pension Fund shall be administered pursuant to the provisions of the applicable Agreement and Declaration of Trust, executed jointly by equal representatives of the Union and representatives of the Association, and shall be considered as a part hereof, as if set forth in detail.

Section 5. Employers covered by this Agreement shall contribute to the Local No. 10

Pension Fund the amount per our as specified in Article VIII, Section 1 for each hour worked by journeyman employees, and the applicable percentage for apprentices, covered by this Agreement. This contribution shall be out of, not in addition to, the Total Package Wage Rate and any increases to the Total Package Wage Rate as set forth in Article VIII of this Agreement. This Pension Fund shall be administered pursuant to the provisions of the applicable Agreement and Declaration of Trust, executed jointly by equal representatives of the Union and representatives of the Association, and shall be considered as a part hereof, as if set forth in detail. However, there shall be no incorporation of or agreement to any term requiring Employer payments greater than the hourly contributions specified in this Agreement, actual interest and liquidated damages resulting from delinquent contributions and withdrawal liability provisions including in applicable federal law.

In the event that employer assessments or excise taxes are required to be paid to any pension fund (or the IRS in the case of an excise tax) for work performed under this Labor Agreement, the Employer shall be entitled to make an equal offset to the taxable base rate. As an example, if the Employer is required to pay an assessment of twenty-five cents (\$.25) per hour to the Local 10 Pension Fund, the Employer shall deduct an equal amount from the employee's taxable base.

ARTICLE XVI HEALTH & WELFARE FUND

Section 1. All Employers covered by this Agreement shall contribute the amount per hour specified in Article VIII, Section 1, into the Sheet Metal Workers Local 10 Health Fund for each hour worked by journeyman and apprentice employees covered by this Agreement.

Section 2. The said Welfare Fund shall be administered pursuant to the provisions of the applicable Agreement and Declaration of Trust, executed jointly by equal representatives of the Union and representatives of the Association, and shall be considered as a part hereof, as if set forth in detail.

Section 3. In the event that a National Health Insurance Program is enacted, the Employer contribution to the current Health and Welfare Plan, as set forth in Article VIII, Section 1, shall be applied to any cost incurred by the Employer and/or the employees covered hereunder in connection with such National Health Plan.

If the current Employer contribution is in excess of the cost of such National Health Plan, then, at the discretion of the employees covered hereunder, the difference shall become a contribution to either a supplemental health and welfare insurance plan and/or the existing pension plan.

If the current Employer contribution is less than the cost of such National Health

Program, both parties agree to reopen the contract to renegotiate this item only.

ARTICLE XVII VACATION AND ORGANIZING FUND

Section 1. At the current time, there is no Vacation Fund or vacation deduction.

Section 2. Every Employer signatory to this Agreement hereby agrees to deduct, from the Taxable Base Wage Rate of all employees covered by this Agreement, an organizing fund/dues assessment for each hour worked in the amount of ninety-three cents (\$.93) for journeypersons and apprentices and forty cents (\$.40) for pre apprentice workers. This assessment shall be established and administered solely by the Union to promote, support, and improve employment opportunities for members through organizing, market expansion, regulatory initiative, and to include any and all other legitimate purposes approved by the membership.

ARTICLE XVIII INDUSTRY FUND

Section 1. All Employers covered by this Agreement shall contribute fifteen cents (\$.15) per hour for each hour worked by an employee covered by this Agreement to the Sheet Metal and Roofing Industry Fund of the North Central Region (BEMIDJI SUBDIVISION OF THE IRON RANGE DIVISION) for the purposes specified by the applicable Agreement and Declaration of Trust, which provides for the establishment and administration of the Sheet Metal and Roofing Industry Fund of the North Central Region (IRON RANGE DIVISION).

Section 2. The contributions provided for in Section 1 of this Article will be used to promote programs of industry, education, training, negotiations 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 than is expressly specified above.

Section 3. The Fund shall furnish to the business manager of the Union not less than semi-annually written reports describing in reasonable detail the nature of activities in which it is engaged or which it supports, directly or indirectly, with any of its funds. One (1) time per year the 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 purposes prohibited under Section 2 hereof or for violations of other sub-sections 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 5.

(a) Contributions provided for in Section 1 of this Article VIII (\$.14 per hour) 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) thirteen cents (\$.13) per hour for each hour worked on and after the effective date of this Agreement by each journeyman and apprentice sheet metal worker employed by the Employer covered by this Agreement. Payment shall be made pursuant to Article XIX herein.

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

(d) Grievances concerning use of IFUS funds for purposes prohibited under Section 5(a) or for violations of other subsections of this Section may be processed by the Sheet Metal Workers' International Association directly to the National Joint Adjustment Board 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 5, Article XVIII and no other.

Section 6. Payments pursuant to this Article shall be made in accordance with Article XIX hereof.

ARTICLE XIX PAYMENTS DUE FUND

Section 1. The contributions to the National Pension, Supplemental Pension, Health, Vacation, Organizing, SASMI, National and Local Apprenticeship and National Energy Management Institute (NEMI), SMOHI, the Sheet Metal Workers' Scholarship and Local and National Industry Funds designated in Section 1, Article VIII, 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 promulgated from time to time by the Trustees of said Funds, as fully as if the same were set forth in detail herein. However, there shall be no incorporation of or agreement to any term requiring Employer payments greater than the hourly contribution specified in this Agreement, actual interest and liquidated damages resulting from delinquent contributions and withdrawal liability provisions included in applicable federal law.

Section 2. The payments provided in Section 1 above 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 tenth (10th), or the first (1st) 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 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:

(a) Make weekly payments to all Funds, which payments shall be made by cash or certified check. These weekly payments will be hand-delivered to the Funds Office on the delinquent Employer's regular pay day. If payment is not received on this date, the Funds 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,

(b) 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 (2) and does not meet his weekly payments, bonding, as described in alternative (2) will become mandatory. Such requirements may be relieved at the discretion of the Funds Office Control Board.

The Funds Office Control Board will meet the first (1st) working day following the day the contributions must be received in the Funds Office in order not to be deemed delinquent, to review the delinquent list. All delinquent Employers will be contacted immediately by authorized representatives of the Funds Office Control Board.

Section 3. The Employer shall make available to the Funds designated in Section 1 of this Article 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 Funds Office shall be administered and directed pursuant to the rules and regulations drawn up and executed jointly by a four (4) man Control Board, consisting of two (2) Union representatives and two (2) Association representatives.

Section 5. A Control Board member must be a current Trustee of at least one (1) of the following: The Pension, Welfare or Apprenticeship Trust Funds.

ARTICLE XX SASMI

Section 1. Beginning on the effective date of this Agreement, the Employer shall make monthly payments of an amount equal to three percent (3%) of only the minimum straight time contractual taxable base earnings of each applicable employee subject to this Agreement (the amount per hour specified in Section 1 of Article VIII) to the National Stabilization Agreement of the Sheet Metal Industry (SASMI) Trust Fund. Gross earnings, for the purposes of this Agreement, shall mean (a) total minimum contractual wages pursuant to this Labor Agreement paid to and employee by the Employer which are reportable by the employee for federal income tax purposes, and (b) any and all contributors paid by such Employer on behalf of the employee to a pension fund and health fund. SASMI is the same per hour for straight time, time and a half and double time. The contribution rate for foreman & general foreman is made at the same rate

as journeyman.

Section 2. The Employer agrees to adopt the National SASMI Trust as presently constituted and as the same may be amended from time to time.

Section 3. The Employer also agrees to make the appropriate SASMI contribution for journeymen and apprentices employed under the Industrial Addendum to this Labor Agreement. Where a SASMI contribution is made pursuant to this Section, an equal reduction will occur in the base rate of the journeymen and/or apprentices.

ARTICLE XXI JOB & SHOP ACCESS

The Employer shall not prohibit the business representative of the local Union from access to any job or shop at any reasonable time, provided that the representative goes to the Employer's office prior to entering the shop.

ARTICLE XXII CROSSING PICKET LINES

It shall not be a violation of this Agreement and it will not be cause for discharge, disciplinary action or permanent replacement if any employee covered by this Agreement refuses to go through a primary picket line sanctioned by organized labor. It shall also not be a violation of this Agreement, nor cause for discharge, disciplinary action or permanent replacement, if any employee covered by this Agreement refuses to work behind a primary picket line sanctioned by organized labor, unless the Employer furnishes the Union representative a copy of his contract governing said work and the contract indicates that the Employer may be removed for non-performance where his employees refuse to work behind said picket line and the general contractor, prime contractor and/or the owner have also informed the Employer that they will exercise such provision in the Agreement if work is not commenced by the Employer and evidence of this communication is produced to the Union representative. When the above two (2) requirements have been met, the Union representative will instruct the employees to return to work.

ARTICLE XXIII COMPENSATION & INSURANCE

Section 1. Employers agree that they will carry workers compensation and public liability insurance and pay social security and unemployment taxes and the employees covered hereunder agree not to work for an Employer who does not carry such insurance and pay such

taxes.

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.

Section 3. ALTERNATIVE DISPUTE WORKERS' COMPENSATION PROGRAM.

The parties agree to allow any contractor(s) signatory to this Agreement to participate in the jointly managed alternative dispute resolution workers' compensation program known as the Union Construction Craft Workers' Compensation Program. Each signatory contractor, acting alone and at their sole option, may (1) decide to participate, (2) decide not to participate, and (3) if once participating, decide unilaterally to cease participation in said program.

It is the purpose of this alternative dispute resolution workers' compensation program to provide a system to ensure the timely and fair payment of workers' compensation benefits required by Minnesota law or the law of any other jurisdiction to participants who have suffered work-related illnesses or injuries while performing work under this Collective Bargaining Agreement.

The operation of the alternative dispute resolution workers' compensation program will be determined by the trustees in accordance with the Agreement and Declaration of Trust of the Union Construction Crafts Workers' Compensation Program (hereinafter the "Program"). This Program will be administered by an equal number of Employer Trustees and Union Trustees and will be funded from contributions from participating Employers on behalf of employees covered by this and other Collective Bargaining Agreements.

The parties hereto and any contractor deciding to participate in this Program agree to be bound by the Agreement and Declaration of Trust establishing the Program, together with any amendments thereto and rules and regulations established by the trustees. The parties hereby designate as their representatives on the Board of Trustees such trustees as are named pursuant to the Trust Agreement, together with any successors who may be appointed pursuant to the Trust Agreement.

The participating contractors hereby agree to be bound by the delinquency collection procedures established by the trustees of the Fund. The amount of contributions to this Fund shall be established by the trustees and may be changed from time to time.

The parties and all participating contractors also agree that participation in this Program is specifically entered into based upon the "Indemnification Policy" that was agreed to by the Program's Board of Trustees on January 17, 2006, and the representations regarding that

“Indemnification Policy” made by Kevin Gregerson of Union Construction Craft Workers’ Compensation Program; Bill Ecklund of Felhaber, Larson, Fenlon and Vogt; and Shaun Irwin of the Anderson Agency.

In the event that said “Indemnification Policy” is modified or terminated by the Program or its underlying insurance policy provided by Chubb is modified or terminated, this section (Section 3) is terminated effective that same date. This termination will be effective without any action necessary by the parties to this Agreement. In such an event, the parties may agree to reinstate this section, but any agreement to do so must be done in writing and signed by authorized representatives of Local No. 10 and the Bemidji Division of SMARCA, Inc.

ARTICLE XXIV DRUG & ALCOHOL TESTING ADDENDUM

Upon a sixty (60) day notice, the following Drug and Alcohol Testing Policy may be implemented:

Section 1. PREFACE. Alcohol / substance abuse is recognized as a serious health and safety problem. 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 Benefit (Health) Fund. 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:

- a. Following the sixty (60) day required notice of the implementation of this Program, all currently employed sheet metal workers (journeymen, apprentices, classified and all industrial sheet metal workers, including metal trades mechanics) shall be tested initially for the presence of drugs and/or alcohol.
- b. Pre-employment screening.
- c. Probable cause testing.
- d. Work opportunity mandated testing.
- e. Post-accident testing.
- f. Random 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.

For all testing, the Employer shall comply with the testing and notice requirements of Minnesota law (and Wisconsin law where required), 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 issued 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 or Wisconsin), 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 or Wisconsin), whichever are the more stringent.

Section 3. PRE-EMPLOYMENT SCREENING. The Association and (in the cases of apprentices) the Sheet Metal Joint Apprenticeship and Training Committee (JATC) shall require all persons who have applied to work as an apprentice, classified worker, and metal trades mechanic to submit to a drug and alcohol test. The apprentice, classified worker, metal trades mechanic, and journeyman not previously tested will be required to submit to testing only after an Employer has made a request for a worker in that classification from the Union hall and prior to that person reporting to the Employer for work. The initial request for an apprentice, classified worker, metal trades mechanic or journeyman not previously tested shall be a conditional offer of employment. The costs of the test will be paid by the Association.

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, which 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.

Where work opportunity mandated testing has taken place, the employee may elect (where permitted) to have the results of that testing transmitted to this drug testing program. Those results could then be used in certain future work opportunity mandated testing so that those employees who had been tested recently could avoid being retested.

Section 6. POST-ACCIDENT TESTING. Employees shall be tested for the presence of drugs or alcohol if the employee sustains a personal injury, as that term is defined in Minn. Stat. §176.011, Subd. 16, or has caused another employee to sustain a personal injury or has caused a work-related accident or was operating or helping to operate power tools, machinery, equipment, or vehicles involved in a work-related accident.

Section 7. RANDOM TESTING. Under Minn. Stat. §181.950, Subd. 13, *Safety Sensitive Position means a job, including any supervisor or management position, in which an impairment caused by drug and alcohol usage would threaten the health or safety of any person.* By nature of our work, all work performed by employees under this Agreement is safety sensitive within the meaning of Minn. Stat. §176.011, Subd. 16 and thus, all employees are subject to random testing. The Employer may conduct random testing on a total number of employees not to exceed twenty percent (20%) each year.

Section 8. PROVISIO. Testing in any of the above situations shall be conducted and governed in accordance with the general provisions of this Agreement. In addition, should this program not be accepted by the Employer customers who are currently requiring testing of the employees prior to allowing them to work on their property and/or equipment within one (1) year after its implementation, the parties agree to meet and negotiate a program that will meet the customer's requirements.

Section 9. PROGRAM ADMINISTRATIVE COSTS. The parties agree that the Local Industry Fund will be used to pay for the administration of this Drug and Alcohol Testing Program. One hundred percent (100%) of the cost of the administration will be paid for by the Employers over and above the current total package costs. The Employers may increase the total package to institute this Program so long as they give a sixty (60) day notice for both the initial cost increase and any subsequent cost increases.

ARTICLE XXV

ENFORCEMENT, FAIR CONTRACTING FOUNDATION AND MISCELLANEOUS

Section 1. 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.

Section 2. Where the Employer is making fringe benefit contributions on behalf of the owner or the owner's spouse pursuant to this Agreement, a minimum of one hundred forty-five (145) hours of contribution per month must be made to the various fringe benefit funds listed herein in that person's behalf. SMARCA, Inc. agrees to enforce this provision.

Section 3. The Employer shall contribute the amount specified herein to all fringe benefit funds on behalf of every employee covered by this Agreement, except pre-apprentices, for each hour worked with the tools, whether in the shop or field. For pre-apprentice sheet metal workers, the Employer shall contribute the amounts specified to the Funds as required by this Agreement. If any of these contributions are not accepted by any of the funds, for whatever reason, those same contributions must then be made to the Local Training Fund. The total contributions per hour shall be the same regardless of which fringe benefit funds in the Agreement ultimately receive the contributions except if the Local Industry Fund has been excluded from the Agreement that amount will not be added to the Local Training Fund.

Section 4. **Fair Contracting Foundation:** All employers covered by this Agreement shall contribute the amount per hour specified in Article VIII Section 1 and the applicable wage rate sheets to the Fair Contracting Foundation of Minnesota Trust Fund for each hour worked. The FCF shall function in accordance with a Trust Fund established solely and exclusively for the FCF by separate Agreement and Declaration of Trust for the Fair Contracting Foundation of Minnesota, any amendments thereto, and any of its governing documents. The terms of the FCF Agreement and Declaration of Trust and all other governing documents are fully incorporated into this section by reference.

ARTICLE XXVI

TERM OF AGREEMENT & REOPENING

Section 1. This Agreement shall become effective on the 1st day of June, 2017, and remain in full force and effect through the 31st day of May, 2020, 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. 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. There shall be no strike or lockout over this issue.

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

Section 4. Each Employer hereby waives any right it may have to repudiate this Agreement during the term of the Agreement, or any modification or amendment to this Agreement.


Section 5. It is mutually agreed that SMARCA will produce the first (1st) draft of a new contract document within thirty (30) days of agreement. The Union will provide a response within ten (10) days of receiving the draft. Thereafter, the exchange between both parties will continue on the ten (10) day cycle until final approval is reached.

IN WITNESS WHEREOF, the parties hereto affix their signatures this 6th day of June, 2020.


BEMIDJI SUBDIVISION OF THE
IRON RANGE DIVISION OF
THE SHEET METAL, AIR
CONDITIONING & ROOFING
CONTRACTORS' ASSOCIATION, INC.
(SMARCA)

BEMIDJI UNIT,
LOCAL UNION NO. 10, SMART

By 
James E. Bigham
Chief Executive Officer
SMARCA, Inc.


By 
Matt Fairbanks
Business Manager
Local No. 10

Employer

By 
Dean Kaldahl
Business Representative
Local No. 10

Address

City/State/Zip

By 
Dave Holzer
Business Representative
Local No. 10

By

Title

Date



SMART Local No. 10
1681 East Cope Avenue
St. Paul, MN 55109
(651) 770-2388



**Sheet Metal, Air Conditioning &
Roofing Contractors Association**

SMARCA, Inc.
1405 Lilac Drive N. #100
Minneapolis, MN 55422
(763) 593-0941