

**STANDARD FORM OF UNION AGREEMENT**

**and**

**ADDENDUM TO STANDARD FORM OF UNION AGREEMENT**

**between**

**INTERNATIONAL ASSOCIATION OF SHEET METAL,  
AIR, RAIL AND TRANSPORTATION WORKERS,  
LOCAL UNION NO. 36 – SOUTHWEST MISSOURI AREA**

**and**

**SOUTHWEST MISSOURI SHEET METAL  
CONTRACTORS ASSOCIATION**

**July 1, 2018 through June 30, 2021**



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**STANDARD FORM OF UNION AGREEMENT**

and

ADDENDUM TO STANDARD FORM OF UNION AGREEMENT

SHEET METAL, ROOFING, VENTILATING AND AIR CONDITIONING CONTRACTING  
DIVISIONS OF THE CONSTRUCTION INDUSTRY

1 **Agreement entered into this 1st day of July 2018, by and between** SOUTHWEST MISSOURI SHEET  
2 METAL CONTRACTORS ASSOCIATION, **hereinafter referred to as the Employer, and Local Union No.**  
3 36 - SOUTHWEST MISSOURI AREA of **INTERNATIONAL ASSOCIATION OF SHEET METAL, AIR, RAIL**  
4 **AND TRANSPORTATION WORKERS (SMART), hereinafter referred to as the Union** for the following  
5 Counties:

6			
7 BARRY	CEDAR	CHRISTIAN	DALLAS
8 DADE	DOUGLAS	GREENE	HOWELL
9 JASPER	LACLEDE	LAWRENCE	McDONALD
10 NEWTON	OZARK	POLK	STONE
11 TANEY	TEXAS	WEBSTER	WRIGHT

12  
13 This Addendum by and between the Sheet Metal Contractors of Southwest Missouri Area and International  
14 Association of Sheet Metal, Air, Rail and Transportation Workers (SMART), is attached to, incorporated in,  
15 and made a part of the Standard Form of Union Agreement Form A-08-11, by reference.

16  
17 The provisions of this Addendum are as follows:

18  
19 The Employer and the Union agree to be bound by the provisions of this Agreement, and it is understood that  
20 this Addendum adds to, modifies, repeals, and alters the Standard Form of Union Agreement, and where a  
21 conflict occurs between the provisions of this Addendum and the provisions of the Standard Form of Union  
22 Agreement, the Standard Form Agreement shall prevail.

23  
24 Any clause, or clauses, in this Agreement, which are found by a Court, or by the National Labor Relations  
25 Board to be in conflict with applicable State or Federal laws, or National Labor Relations rules, regulations, or  
26 decisions, shall be considered null and void and in such event the undersigned agree to negotiate a substitute  
27 clause in conformity with the applicable law.

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44 \*Standard Form of Union Agreement language is in bold type.

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46 \*\*Addendum to Standard Form of Union Agreement language is in regular type.

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48 NOTE: In application of this Agreement, any references to the male gender shall also mean the female, and any  
49 references to the female gender shall also mean the male.

ARTICLE I

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**SECTION 1. 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 nonferrous metal work and all other materials used in lieu thereof and of all HVAC systems, air veyor systems, exhaust 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 whether manually drawn or computer assisted used in fabrication and erection, including those taken from original architectural and engineering drawings or sketches; (e) metal roofing; and (f) all other work included in the jurisdictional claims of Sheet Metal Workers' International Association.**

ARTICLE II

**SECTION 1. No Employer shall subcontract or assign any of the work described herein which is to be performed at a jobsite to any contractor, subcontractor or other person or party who fails to agree in writing to comply with the conditions of employment contained herein including, without limitations, those relating to union security, rates of pay and working conditions, hiring and other matters covered hereby for the duration of the project.**

**SECTION 2. 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.**

**SECTION 3. Integrity Clause. For the purposes of this Agreement, a "bad-faith employer" is an Employer that itself, or through a person or persons subject to an owner's control, has ownership interests (other than a non-controlling interest in a corporation whose stock is publicly traded) in any business entity that engages in work within the scope of the SFUA ARTICLE I hereinabove using employees whose wage package, hours and working conditions are inferior to those prescribed in this Agreement or, if such business entity is located or operating in another area, inferior to those prescribed in this Agreement of the sister Local Union affiliated with International Association of Sheet Metal, Air, Rail and Transportation Workers (SMART), AFL-CIO, in that area.**

- a. An Employer is also a "bad-faith employer" when it is owned by another business entity as its direct subsidiary or as a subsidiary of any other subsidiary within the corporate structure thereof through a parent-subsidiary and/or holding-company relationship, and any other business entity within such corporate structure is engaging in work within the scope of SFUA ARTICLE I hereinabove using employees whose wage package, hours and working conditions are inferior to those prescribed in the agreement of the sister Local Union affiliated with International Association of Sheet Metal, Air, Rail and Transportation Workers (SMART), AFL-CIO, in that area.
- b. Any Employer who signs this Agreement or is covered thereby by virtue of being a member of a multi-employer bargaining unit expressly represents to the Union that it is not a "bad-faith employer" as such term is defined in SECTION 1 hereinabove and, further, agrees to advise the Union promptly if at any time during the life of the Agreement said Employer changes its mode of option and becomes a "bad-faith employer". Failure to give timely notice of being or becoming a "bad-faith employer" shall be viewed as fraudulent conduct on the part of such Employer.
- c. In the event any Employer signatory to or bound by this Agreement shall be guilty of fraudulent conduct as defined above, such Employer shall be liable to the Union for liquidated damages shall be processed as a grievance in accordance with, and within the time limits prescribed by, the provisions of SFUA ARTICLE X.

111 **ARTICLE III**

112

113 **SECTION 1. The Employer agrees that none but Journeymen, Apprentice and Sheet Metal Specialist**  
114 **Sheet Metal Workers shall be employed on any work described in ARTICLE I and further, for the**  
115 **purpose of proving jurisdiction, agrees to provide the Union with written evidence of assignment on**  
116 **the Employer's letterhead for certain specified items of work to be performed at a jobsite prior to**  
117 **commencement of work at the site. List of such specific items, which may be revised from time to**  
118 **time, as agreed to by and between SMACNA and SMART shall be provided to the Employer.**

119

120 SECTION 2. It is agreed that Stewards may be appointed on job sites and in shops by the President, or whom  
121 he may designate to make such appointments. It is further agreed that there may be one Steward appointed  
122 in each shop. It is, also, agreed that on each job requiring four (4) or more men there may be Steward  
123 appointed, until substantial completion of Sheet Metal job or issuance of punch list.

124

125 a. Said Steward shall not be sent from job to job or job to shop without the consent of the Union. Nor  
126 shall said Stewards be laid off or discharged without the consent of the Union. Whenever possible  
127 employees appointed Steward shall have been with the Employer over one (1) year. It shall be the  
128 Union responsibility to notify the Contractor involved, in writing, when Stewards are appointed.

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**ARTICLE IV**

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134 **SECTION 1. The Union agrees to furnish, upon request by the Employer, duly qualified Journeymen,**  
135 **Apprentice\***, and Sheet Metal Specialist **Sheet Metal Workers in sufficient numbers as may be**  
136 **necessary to properly execute work contracted for by the Employer in the manner and under the**  
137 **conditions specified in this Agreement.** \*Apprentices will be furnished by the local JATC subject to the  
138 provisions of ARTICLE XI, SECTION 4.

139

140

141 a. In the interest of maintaining an efficient system of production in the industry, providing for an orderly  
142 procedure of referral of applicants for employment, preserving the legitimate interest of the  
143 employees in their employment status within the area and eliminating discrimination in employment  
144 because of membership or non-membership in the Union, the parties hereto agree to the following  
145 system of referral of applicants for employment.

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- i. The Union shall be the primary source of referrals of applicants for employment.
  - ii. The Contractor shall have the right to reject any applicant for employment.
  - iii. The Union shall refer applicants for employment without discrimination against such applicants by reason of membership, or non-membership in the Union, race, age, creed, religion, color, national origin, sex, or ancestry, and such referral shall not be affected in any way by rules, regulations, by-laws, constitutional provisions, or any other aspect or obligation of Union membership policies or requirements. All such referrals shall be in accordance with the following procedure.
- b. In the event of the reduction of the work force, the Employer shall have the right to lay off and to select the employees for layoff, at the Employer's discretion, without recourse by the Union or Employee by grievance or otherwise.
    - i. The Employer shall submit a "Workorder Request for Manpower" form to the Business Representative of the Local Union for the number of applicants needed.
    - ii. When the Employer requests applicants from the hiring hall, the Union will read the Out of Work List to the Employer in the order that the applicants' names appear on the list. The Employer has the right to select any applicant whose name appears on the list. Applicants' names will appear on the Out of Work List in the order which they have registered on the List. An applicant can register by either signing the Out of Work List or phoning in a request to Union to register during regular business hours, Monday through Friday. The Out of Work List shall be available for

170 inspection by the Employer and applicant during regular business hours each day, Monday  
171 through Friday, and a copy of the list of names and skills and any other necessary information  
172 shall be furnished upon request to the five (5) man Board hereinafter described.  
173

174 iii. If the Out of Work List is exhausted and the Union is unable to refer applicants for employment to  
175 the Employer within forty-eight (48) hours from the time of receiving the Employer's request,  
176 Saturdays, Sundays and holidays excepted, the Employer shall be free to secure applicants  
177 without using the referral procedure.  
178

179 iv. The Employer may recall a former employee as long as the employee is on Out of Work List and  
180 has not worked for a new Employer more than 150 hours. A Foreman, General Foreman, or  
181 Superintendent, who has had more than one (1) year of service with the Employer may be  
182 recalled within a period of one (1) year with the employee's consent. Any applicant who is  
183 rejected by the Employer shall be returned to his/her appropriate place on the Out of Work List  
184 and shall be referred to other employment in accordance with the position on the Out of Work  
185 List. Any applicant who is employed by the Employer for a minimum of 150 hours, whose  
186 employment is terminated, shall have his/her name placed on the bottom of the Out of Work List.  
187

188 1. Any applicant may refuse two (2) jobs without losing his/her position on the Out of Work List  
189 provided, however, if the applicant refuses a third job he/she shall lose his/her position on the  
190 Out of Work List and his/her name shall be placed at the bottom of the List  
191

192 2. Any applicant who is referred out to a contractor and fails to report for work without notifying  
193 the Union Office shall be placed at the bottom of the list.  
194

195 3. Every applicant shall re-register every ninety (90) days in order to retain his/her position on  
196 the Out of Work List. Failure of an applicant to re-register shall cause said applicant's name  
197 to be removed from the Out of Work List. The only exception which shall be allowed in the  
198 referral procedure is as follows:  
199

200 (a) When the Employer states bona fide requirements for special skills and abilities in his  
201 request for applicants, the Union shall read the names of applicant possessing such skills  
202 and abilities based upon information supplied by the applicant to the Union on their  
203 Experience and Qualifications Sheet in the order that these specially qualified applicants  
204 are registered on the Out of Work List.  
205

206 c. A copy of the referral procedure set forth herein shall be posted in the office of the Local Union, and  
207 in the office of the Employer who is a party hereto.  
208

209 d. Apprentices shall be hired and transferred in accordance with the Apprenticeship provisions of  
210 ARTICLE XI of this Agreement. There will be no probationary period for Health and Welfare for new  
211 Apprentices.  
212

213 e. Grievances arising out of interpretation or enforcement of the referral system shall be referred to a  
214 five (5) man Board comprised of two (2) members from management appointed by the Southwest  
215 Missouri Chapter, Sheet Metal & Air Conditioning Contractors Association, and two (2) members  
216 appointed from labor by the Union, and one (1) neutral member mutually selected. Any expenses  
217 incurred by this Board shall be borne equally by the parties.  
218

219 f. It shall be this Board's duty to meet promptly to process and adjust any complaints lodged by  
220 either the Employer, Union or Employee over the hiring procedures.  
221

222 SECTION 2. In order for unemployed Journeymen and Apprentices to equally share in available work, the  
223 practice of loaning employees from one Employer to another is forbidden, unless the unemployed Members  
224 are not qualified to perform the specific class of work available.  
225

226 SECTION 3. The Employer or person designated to hire employees agrees to sign a form and return it to the  
227 Union Office. The form is available from the Union.  
228

229 SECTION 4. As a condition of job referrals and continued employment, all hiring hall applicants and all  
230 Employees working under the terms of this Agreement must comply with the SHEET METAL WORKERS  
231 LOCAL 36 SUBSTANCE ABUSE TESTING PROGRAM, which is included as Addendum A to this  
232 Agreement. The Contractors agreed to have their office personnel included in Program, at their cost.  
233

234 As a condition of job referrals and continued employment, all hiring hall applicants and all Employees working  
235 under the terms of this Agreement must submit written proof to Local 36 and their Employer of their  
236 successful completion of the "30-hour OSHA Construction Outreach Training Program".  
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## ARTICLE V

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

251

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

266

267 **SECTION 3. If during the term of this Agreement the Labor-Management Relations Act of 1947 shall be**  
268 **amended by Congress in such manner as to reduce the time within which an employee may be**  
269 **required to acquire union membership, such reduced time limit shall become immediately effective**  
270 **instead of and without regard to the time limit specified in SECTION 1 of this ARTICLE.**

271

272 **SECTION 4. The provisions of this ARTICLE shall be deemed to be of no force and effect in any state**  
273 **to the extent to which the making or enforcement of such provision is contrary to law. In any state**  
274 **where the making and enforcement of such provision is lawful only after compliance with certain**  
275 **conditions precedent, this ARTICLE shall be deemed to take effect as to involved employees**  
276 **immediately upon compliance with such conditions.**

277

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

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ARTICLE VI

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**SECTION 1. The regular working day shall consist of eight (8) hours labor in the shop or on the job between six o'clock (6:00) a.m. and six-thirty (6:30) p.m. and the work week shall consist of five (5) consecutive eight (8) hour days' labor in the shop or on the job beginning on Monday and ending with Friday of each week. All full-time or part-time labor performed during such hours shall be recognized as regular working hours and paid for at the regular hourly rate, except as otherwise provided pursuant to SECTION 4 of this ARTICLE. Also, there may be a 40-hour work week which would consist of ten (10) hours each day for Monday, Tuesday, Wednesday, Thursday, or Friday, if mutually agreed upon by employers, employees, and the Local Union.**

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

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Overtime: The first two (2) hours performed in excess of an eight (8) hour workday, Monday through Friday, and the first ten (10) hours on Saturday, shall be paid at one and one half (1 ½) times the regular rate of pay. All work performed on Sundays and Holidays and in excess of ten (10) hours a day on all days shall be paid at two (2) times the regular rate of pay. A make-up day may be scheduled for work missed due to inclement weather, when mutually agreed between the Local Union and Employer. The make-up hours shall be paid at the regular hourly rate of pay.

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**Employees shall be at the shop or project site at scheduled starting time each day and shall remain until quitting time.**

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**SECTION 2. Holidays. The holidays shall be as follows: New Year's Day, Memorial Day, Independence Day, Labor Day, Veterans' Day, Thanksgiving Day, Christmas Day, Presidential Election Day or days locally observed as such, and Sunday shall be recognized as holidays. All work performed on these days will be paid at the double (2) times the rate, except for Service Work which will be at one and one-half (1 ½) times the regular rate of pay.**

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- a. If employees work in a composite crew where other craft receives double (2) times the rate, this shall apply to Sheet Metal Workers.

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**SECTION 3. It is agreed that all work performed outside of regular working hours during the regular work week and on holidays shall be performed only upon notification by the Employer to the Union in advance of scheduling such work. Preference on overtime and holiday work shall be given to employees on the job on a rotation basis so as to equalize such work as nearly as possible.**

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**SECTION 4. Shift work and the pay and conditions therefore shall be only as provided in this Agreement. Energy conservation-Retrofit work performed outside the regular work day in occupied buildings shall be performed under shift work conditions to be established by the local parties or by the National Joint Adjustment Board on the request of either party, if not locally provided.**

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- a. A minimum of one weeks' work for shift work clause to apply unless otherwise approved by Union before work is started.
- b. All shift and /or odd hours' work required, due to customer requirements, will be done at one and one-fourth (1 ¼) times the regular rate of pay. This does not apply to new construction work nor to Saturdays, Sundays and holidays, which will be paid at the overtime rate. At least one week prior to starting any job fitting this category, the Contractor will contact the Union office.
- c. Starting time in unusual situations to be agreed upon after prior notice between Contractor and Union.
- d. Shift work. Overtime to be paid at overtime rate.
- e. An early starting time of 6:00 a.m. may be used during summer months to avoid excessive afternoon temperatures. This early starting time to be used when mutually agreed upon by the Employer, the Employees and Union Business Representative.

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348 SECTION 5. A Sheet Metal Specialist classification will be included and may be employed on the ratio of One  
349 (1) Journeyman to One (1) Apprentice to One (1) Specialist per jobsite.

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- 351 a. The Sheet Metal Specialist shall be under the direct supervision of a Journeyman sheet metal worker.  
352  
353 b. The scope of work for a Sheet Metal Specialist shall be determined in accordance to the Specialist's  
354 skill level in cooperation with the Local 36 jobsite Journeyman.  
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356 c. Sheet Metal Specialist wages will be equal to forty percent (40%) of the Journeyman taxable wage  
357 rate.  
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359 d. Each employer working under this Agreement agrees to pay the Mo-Kan Sheet Metal Workers  
360 Welfare Fund or any other Welfare Fund the membership desires, the contributions indicated on the  
361 Wage Rate and Fringe Benefits Charts attached to this Agreement for each hour worked by  
362 employees covered by this Agreement.  
363  
364 e. The only fringe benefits for the Sheet Metal Specialist will be Mo-Kan Sheet Metal Workers Welfare  
365 Fund Plan B. The only deduction from pay will be the SMART per capita tax.  
366  
367 f. Sheet Metal Specialist will be hired through the Union. In no case shall Apprentices be laid off before  
368 Sheet Metal Specialists.  
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370 g. A specialist will be required to have 10-hour OSHA training as soon as possible.

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## ARTICLE VII

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376 SECTION 1. **When employed in a shop or on a job within the limits** of this jurisdiction, **Employees shall**  
377 **be governed by the regular working hours specified herein and shall provide for themselves**  
378 **necessary transportation within the said limits from home to shop or job at starting time and from**  
379 **shop or job to home at quitting time, and the Employer shall provide, or pay, for all necessary**  
380 **additional transportation during working hours.**

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382 SECTION 2. **Employees shall provide transportation for themselves which will assure their arrival at**  
383 **the limits specified in SECTION 1 of this ARTICLE at regular starting time, and the Employer shall**  
384 **provide or pay for all additional transportation for jobs outside of the limits specified in Section 1,**  
385 **including transportation from such job back to the limits specified in SECTION 1 of this ARTICLE**  
386 **which will assure arrival at such limits at quitting time. As an alternative to the foregoing method,**  
387 **travel expense may be paid by a zone or other method of payment. If this alternative method is used,**  
388 **it will be provided in a written addendum attached hereto. If an Employer sends an employee to**  
389 **perform work outside of the territorial jurisdiction of the United States of America or Canada, travel**  
390 **pay and/or subsistence arrangements shall be negotiated locally.**

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- 393 a. When a member is working **OUTSIDE** of his/her Collective Bargaining Agreement Area and requires  
394 subsistence:  
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396 i. Area Business Representative and Employer will agree on the terms of the project and  
397 subsistence BEFORE the project starts.  
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399 ii. Travel time shall be paid only once per project, for one round trip.  
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401 iii. If a member's vehicle is used, he/she will be paid mileage for that one round trip.  
402  
403 1. Mileage shall be paid at the reimbursement rate determined by the current Internal Revenue  
404 Service rate for each mile driven.

405

406 iv. Subsistence (meals and lodging) shall be paid according to the U.S. General Services  
407 Administration (GSA) rates established for that Area.

408

409 1. No more than two (2) workers shall share lodging.

410

411 2. All receipts (meals and lodging) are to be kept in the event they need to be reviewed by Area  
412 Business Representative or Employer.

413

414 SECTION 3. Any other circumstances that are not covered by the above shall be negotiated between  
415 Employer and Local 36.

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417 SECTION 4. When entering the jurisdiction of another Local Union, employees and contractors will be  
418 governed by ARTICLE VIII, SECTION 6, of this Agreement.

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## ARTICLE VIII

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424 **SECTION 1. The minimum rate of wages for Journeymen Sheet Metal Workers covered by this**  
425 **Agreement when employed in a shop or on a job within the jurisdiction of the Union to perform any**  
426 **work specified in ARTICLE I of this Agreement shall be** (as set forth in SECTION 1.a. of this ARTICLE) ,  
427 **except hereinafter specified in SECTION 2 of this ARTICLE.**

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429

430 a. The Journeyman Wage Rate and Fringe Benefit Package increases shall be as follows:

431

432 i. Effective 07/01/2018, Increase \$0.70 per hour for a Total Package of \$44.44

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434 ii. Effective 07/01/2019, Increase \$0.70 per hour for a Total Package of \$45.14

435

436 iii. Effective 07/01/2020, Increase \$0.70 per hour for a Total Package of \$45.84

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438 b. The Union will have the right to allocate wage increases into any existing funds.

439

440 **SECTION 2. On all work specified in ARTICLE I of this Agreement, fabricated and/or assembled by**  
441 **Journeymen, Apprentice or Sheet Metal Specialist Sheet Metal Workers within the jurisdiction of this**  
442 **Union, or elsewhere, for erection and/or installation within the jurisdiction of any other collective**  
443 **bargaining areas or local union affiliated with SMART, whose established wage scale is higher than**  
444 **the wage scale specified in this Agreement, the higher wage scale of the job site Union shall be paid**  
445 **to the employees employed on such work in the home shop or sent to the job site.**

446

447 **SECTION 3. The provisions of SECTION 2 of this ARTICLE, SECTION 2 of ARTICLE II and SECTION 1**  
448 **of ARTICLE III shall not be applicable to the manufacture for sale to the trade or purchase of the**  
449 **following items:**

450

451 1. Ventilators

452

453 2. Louvers

454

455 3. Automatic and fire dampers

456

457 4. Radiator and air conditioning unit enclosures

458

459 5. Fabricated pipe and fittings for residential installations and light commercial work as defined  
460 in the locality

461

462 6. Mixing (attenuation) boxes

463

464 7. Plastic Skylights

465

466 8. Air diffusers, grilles, registers

467

468 9. Sound attenuators

469

470 10. Chutes

471

472 11. Double-wall panel plenums

473

474 12. Angle rings

464 **SECTION 4.** The provisions of SECTION 2 of this ARTICLE shall not be applicable to AIR POLLUTION  
465 **CONTROL SYSTEMS** fabricated for the purpose of removing air pollutants, excluding air conditioning,  
466 heating and ventilating systems. In addition, the provisions of SECTION 2 of this ARTICLE will not be  
467 applicable to the manufacture of spiral pipe and fittings, except when such a provision is contained in  
468 the local union Agreement or Addendum to the SFUA.

469

470 **SECTION 5.** Except as provided in SECTIONS 2 and 6 of this ARTICLE, the Employer agrees that  
471 Journeymen, Apprentice and Sheet Metal Specialist Sheet Metal Workers hired outside the territorial  
472 jurisdiction of this Agreement shall receive the wage scale and working conditions of the local  
473 Agreement covering the territory in which such work is performed or supervised.

474

475 **SECTION 6.** When the Employer has any work specified in ARTICLE I of this Agreement to be  
476 performed outside of the area covered by this Agreement and within the area covered by another  
477 Agreement with another Local Union affiliated with SMART, and qualified Sheet Metal Workers are  
478 available in such area, the Employer may send no more than two (2) Sheet Metal Workers per job into  
479 such area to perform any work which the Employer deems necessary, both of whom shall be from the  
480 Employer's home jurisdiction. All additional Sheet Metal Workers shall come from the area in which  
481 the work is to be performed. Journeymen Sheet Metal Workers covered by this Agreement who are  
482 sent outside of the area covered by this Agreement shall be paid at least the established minimum  
483 wage scale specified in SECTION 1 of this ARTICLE but in no case less than the established wage  
484 scale of the local Agreement covering the territory in which such work is performed or supervised,  
485 plus all necessary transportation, travel time, board and expenses while employed in that area, and  
486 the Employer shall be otherwise governed by the established working conditions of the local  
487 Agreement. If employees are sent into an area where there is no local Agreement of the SMART  
488 covering the area then the minimum conditions of the home local union shall apply.

489

490 a. **Subsistence and Travel Pay:** Please refer to ARTICLE VII, SECTION 2., a.

491

492 **SECTION 7.** In applying the provisions of SECTIONS 2, 4, and 5 of this ARTICLE VIII, the term "wage  
493 scale" shall include the value of all applicable hourly contractual benefits in addition to the hourly  
494 wage rate provided in said SECTIONS.

495

496

497 **SECTION 8.** Benefit contributions shall not be duplicated.

498

499 **When Sheet Metal Workers** are employed temporarily outside the jurisdiction of their home local  
500 union, the parties signatory to this Agreement agree to arrange through the Health and Welfare Trust  
501 Fund to transmit health and welfare contributions made on behalf of the employee to the Health and  
502 Welfare Trust Fund in the employee's home local union.

503

504 The parties to this Agreement agree to establish a system for continuing health and welfare coverage  
505 for employees working temporarily outside the jurisdiction of the local collective bargaining  
506 Agreement when health and welfare contributions are transmitted on their behalf by trust funds from  
507 other areas.

508

509 **When Sheet Metal Workers** are temporarily employed outside the jurisdiction of their home local  
510 union, the parties signatory to this Agreement shall arrange to transmit any 401(k) contributions  
511 required to be made to a 401(k) plan where the work is performed to a 401(k) plan established for the  
512 employee's home local union, and/or to the National Supplemental Savings Fund.

513

514 This obligation is conditioned upon a suitable reciprocity arrangement being agreed to by the  
515 trustees of such plans and compliance with the rules and procedures for reciprocating contributions.

516

517 **SECTION 9.** Wages at the established rates specified herein shall be paid by Check or Cash in the shop  
518 or on the job at or before quitting time on Regular Payday of each week, and no more than three (3)  
519 days' pay will be withheld. Alternative payroll procedures, i.e., electronic and/or automatic deposit  
520 may be utilized at the employer's discretion. However, employees when discharged shall be paid in full.

521

522 **SECTION 10. Journeymen, Apprentice and Sheet Metal Specialist Sheet Metal Workers who report for**  
 523 **work by direction of the Employer, and are not placed to work, shall be entitled to two (2) hours' pay**  
 524 **at the established rate. This provision, however, shall not apply under conditions over which the**  
 525 **Employer has no control. These hours are "hours worked" for determining hours on which benefit**  
 526 **contributions are due.**

527

528 **SECTION 11. Each Employer covered by this Agreement shall employ at least one (1) Journeyman**  
 529 **sheet metal worker who is not a member of the firm on all work specified in ARTICLE I of this**  
 530 **Agreement. However, it will be permissible for an Owner-Member to be the Journeyman sheet metal**  
 531 **worker.**

532

533 SECTION 12. The employer shall appoint a duly qualified Journeyman sheet metal worker as Foreman,  
 534 General Foreman or Superintendent in accordance with the following schedule. The following are minimum  
 535 standards.

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<b>Number of Sheet Metal Workers Assigned to Job</b>	<b>Foreman</b>	<b>General Foreman</b>	<b>Superintendent</b>
4-10	1	0	0
11-20	2	0	0
21-30	3	1	0
31-40	4	1	0
41-50	5	1	1
51-60	6	1	1
61-70	6	2	1
71-80	7	2	1
81-90	8	2	1

550 The following wages shall be set forth as minimums above Journeyman wage scale for Foreman, General  
 551 Foreman and Superintendent.

552

553

554

555

556

<b>Foreman</b>	<b>General Foreman</b>	<b>Superintendent</b>
\$2.40/hour	\$2.90/hour	\$3.40/hour

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- a. **Contributions provided for in SECTION 12.b. of this ARTICLE will be used to promote programs of industry education, training, negotiation and administration of collective bargaining agreements, research and promotion, such programs serving to expand the market for the services of the Sheet Metal Industry, improve the technical and business skills of Employers, stabilize and improve Employer-Union relations, and promote, support and improve the employment opportunities for employees. No part of any such payments, however, shall be used for any other purpose except as expressly specified above.**
- b. **The Employer shall pay the Sheet Metal and Air Conditioning Contractors' National Industry Fund of the United States (IFUS) the hourly contribution rate established by the IFUS trustees. The IFUS trustees shall notify SMART of any changes to the established contribution rate prior to such change becoming effective. The Employer shall contribute said amount for each hour worked on and after the effective date of this Agreement by each employee of the Employer covered by this Agreement. Payment shall be made on or before the 20th day of the succeeding month and shall be remitted to IFUS, 4201 Lafayette Center Drive, Chantilly, Virginia 20151-1219, or for the purpose of transmittal, through SMART Local Union No. 36 Benefit Funds, 2319 Chouteau Ave., Suite 300, St. Louis, MO 63103.**
- c. **The IFUS shall submit to SMART not less often than semi-annually written reports describing accurately and in reasonable detail the nature of activities in which it is engaged or which it supports directly or indirectly with any of its funds. One time per year, the IFUS shall include in such written report a financial statement attested to by a certified public accountant containing its balance sheet and detailed statement of annual receipts and disbursements.**

580 Further specific detailed information in regard to IFUS activities or its receipts and/or  
581 expenditures shall be furnished to SMART upon written request.  
582

583 d. Grievances concerning use of IFUS funds for purposes prohibited under SECTION 12.a. or for  
584 violations of other subsections of this SECTION may be processed by SMART directly to the  
585 National Joint Adjustment Board under the provisions of ARTICLE X of this Agreement. In the  
586 event such proceeding results in a deadlock, either party may, upon ten (10) days' notice to  
587 the other party, submit the issue to final and binding arbitration. The Arbitrator shall be  
588 selected by the Co-Chairmen of the National Joint Adjustment Board. The Arbitrator shall be  
589 authorized to impose any remedial order he deems appropriate for violation of this SECTION,  
590 including termination of the Employer's obligation to contribute to the IFUS. The authority of  
591 the Arbitrator is expressly limited to a determination of a deadlocked issue under this  
592 SECTION, (SECTION 12, ARTICLE VIII), and no other.  
593

594 SECTION 13. . The Union and Employer recognize that the contributions provided in SECTION 12.b. of  
595 this ARTICLE support activities that benefit the entire sheet metal industry. It is essential that  
596 Employers support these activities, even though it may be performing sheet metal work under the  
597 provisions of a separate project agreement or maintenance agreement.  
598

599 Therefore, hours worked for purposes of determining the contributions required under SECTION 12.b.  
600 of this ARTICLE shall include all hours worked by each employee of the Employer under any project  
601 agreement or maintenance agreement, unless specifically excluded by the terms of a written  
602 addendum that is negotiated by the Contractors' Association and the Local Union that are parties to  
603 this Agreement.  
604

605 SECTION 14. Effective as of the date of this Agreement, the Employer shall contribute to the  
606 International Training Institute for the Sheet Metal and Air Conditioning Industry (iTi) the hourly  
607 contribution rate established by the iTi Trustees. Such amount shall be contributed for each hour  
608 worked by each employee of the Employer covered by this Agreement. In the event that such hourly  
609 contribution rate is changed during the term of this Agreement, such change shall become effective  
610 during the next anniversary date of this Agreement. Payment shall be made on or before the 20th day  
611 of the succeeding month and shall be remitted as designated by the Trustees of the iTi, or for  
612 purposes of collection and transmittal through SHEET METAL WORKERS' NATIONAL BENEFIT  
613 FUNDS.  
614

615 Effective as of the date of this Agreement, the Employers shall contribute to the National Energy  
616 Management Institute Committee (NEMIC) the hourly contribution rate established by the NEMIC  
617 Trustees. Such an amount shall be contributed for each hour worked by each employee of the  
618 Employer covered by this Agreement. In the event that such hourly contribution rate is changed  
619 during the term of this Agreement, such a change shall become effective during the next anniversary  
620 date of this Agreement. Payment shall be made on or before the 20th day of the succeeding month  
621 and shall be remitted as designated by the Trustees of NEMIC, or, for purposes of collection and  
622 transmittal electronically or through SHEET METAL WORKERS' NATIONAL BENEFIT FUNDS.  
623

624 Effective as of the date of this Agreement, the Employers will contribute to the Sheet Metal  
625 Occupational Health Institute Trust-SMOHIT (hereafter referred to as Institute) the hourly contribution  
626 rate established by the Institute's Trustees. Such an amount shall be contributed for each hour  
627 worked by each employee of the Employer covered by this Agreement until the Institute Trustees  
628 determine that the Trust is financially self-sufficient. In the event that such hourly contribution rate is  
629 changed during the term of this Agreement, such change shall become effective during the next  
630 anniversary date of this Agreement. Payment shall be made on or before the 20th day of the  
631 succeeding month and shall be remitted as designated by the Trustees of the Institute, or for  
632 purposes of collection and transmittal electronically or through SHEET METAL WORKERS' NATIONAL  
633 BENEFIT FUNDS.  
634

634 The parties authorize the trustees of all National Funds (as defined below) to cooperatively establish  
635 uniform collection procedures to provide for efficient and effective operation of the various National  
636 Funds. The parties recognize that the National Funds can receive and process contribution reports  
637 and remittances electronically. The parties agree to encourage Employers to utilize the electronic  
638 reporting and remittance system.

639 The parties agree to be bound by, and act in accordance with, the respective Plan Documents,  
640 Agreements and Declarations of Trusts and/or Trust Documents establishing or governing the  
641 International Training Institute for the Sheet Metal and Air Conditioning Industry (iTi), the National  
642 Energy Management Institute Committee (NEMIC), the Sheet Metal Occupational Health Institute Trust  
643 (SMOHIT), and the Industry Fund of the United States (IFUS), and to the extent that this Agreement  
644 requires contributions to the following funds; the Sheet Metal Workers' National Pension Fund (NPF)  
645 National Stabilization Agreement of the Sheet Metal Industry Trust Fund (SASMI), Sheet Metal  
646 Workers' National Health Fund, Sheet Metal Workers' International Association Scholarship Fund,  
647 Sheet Metal Workers' National Supplemental Savings Plan (collectively "National Funds"), as  
648 applicable and the separate agreements and declarations of trusts of all other local or national  
649 programs and benefit plans to which it has been agreed that contributions will be made. In addition,  
650 the parties agree to be bound by any amendments to said trust or plan documents as may be made  
651 from time to time and hereby designate as their representatives on the Board of Trustees such  
652 trustees as are named together with any successors who may be appointed pursuant to said  
653 documents.

654

655 SECTION 15. Local Training Fund. The employer agrees to pay \$0.63 per hour for each hour worked by each  
656 employee of the Employer (Journeyman and Apprentices) covered under this Agreement.

657

658 SECTION 16. SASMI. Effective as of the date of this Agreement, the Employer shall make monthly payments  
659 of an amount equal to three percent (3%) of the gross earnings of each employee covered by this Agreement  
660 to the National Stabilization Agreement of the Sheet Metal Industry (SASMI) Trust Fund. The term "gross  
661 earnings", for purposes of this provision, shall mean the sum of (a) the total compensation paid to an  
662 employee by the employer which is reportable by the employer for federal income tax purposes, and (b) any  
663 and all contributions paid by the employer on behalf of the employee to any local or national fringe benefit  
664 fund and/or other fringe benefit account including, but not limited to, Pension, Health and Welfare, Annuity,  
665 401(k) Plans and other similar or related funds.

666

667 The Employer hereby irrevocably designates as its representatives on the Board of Trustees such Trustees  
668 as are now serving, or will in the future serve, as Employer Trustees, together with their successors. The  
669 Employer further agrees to be bound by all actions taken by the Trustees pursuant to the Agreement and  
670 Declaration of Trust of the National Stabilization Agreement of the Sheet Metal Industry Trust Fund, as  
671 amended from time to time, and further agrees to be bound by all lawfully adopted Plan documents, policies  
672 and rules and regulations approved by the Board of Trustees.

673

674 All contributions shall be made at such time and in such manner as the Trustees require and the Trustees  
675 may at any time conduct an audit in accordance with provisions set forth in the Agreement and Declaration of  
676 Trust and SASMI policies and rules. A failure by the Employer to make contributions to SASMI in a timely  
677 manner shall subject the Employer to any and all remedies that SASMI may have available to it by contract or  
678 by law, including remedies set forth in the approved delinquency and collection policy adopted by the Board of  
679 Trustees, as amended from time to time.

680

681 SECTION 17. This SECTION relates to the Employer's obligation to contribute to the Sheet Metal Workers'  
682 National Pension Fund ("NPF" or "Fund"). The Parties have adopted the NPF's Default Option and the  
683 Employer agrees to contribute at the Contribution Rate set forth in this Agreement and in accordance with the  
684 Default Option under the Funding Improvement Plan and Schedule, and the Trust Document. The parties  
685 acknowledge receipt of the Funding Improvement Plan and Schedule and NPF Trust Document all of which  
686 are incorporated into, and form part of, this Agreement.

687

688 a. For the duration of this Agreement and any renewals or extensions to it, the Employer will contribute  
689 to the NPF the negotiated hourly Contribution Rate under this Agreement. The Employer will  
690 contribute for each hour or part of an hour for which an Employee covered by this Agreement works.  
691 Contributions for those hours for which wages are paid at time and one-half or double time wage  
692 rates will be made to the Fund at one and one-half (1-½), or two (2) times the hourly NPF  
693 Contribution Rate respectively, unless this Agreement does not require the contributions for any other  
694 fund to be increased at one and one-half, or two times the hourly contribution rate respectively, for  
695 such hours. The Employer shall contribute for hours for which payment is due to the employees under  
696 this Agreement such as vacation time, sickness, absences, and school, unless no funds for which  
697 cents-per-hour contributions are due under this Agreement require payment for hours for which a

698 Covered Employee is paid but does not perform services.

699

700 b. Contributions shall be paid starting with the employee's first day of Covered Employment (as defined  
701 in the Plan Document). Notwithstanding the payment of NPF contributions, eligibility for all benefits  
702 based on employment with the Employer are strictly governed by the provisions of the Plan  
703 Document.

704

705 c. All contributions shall be made at such time and in such manner, as the Trustees require. Employers  
706 shall submit remittance information and the required contributions and contribute via the Fund's  
707 Internet Payment System at [www.smwnpf.org](http://www.smwnpf.org). Contributions and remittance information must be  
708 submitted no later than the twentieth (20th) of the month following the month when Covered  
709 Employment was performed.

710

711 d. The Fund may audit the Employer's financial, payroll, wage, job or project records for determining the  
712 accuracy of Fund contributions and the Employer's ability to meet its contribution obligations. If the  
713 audit reveals that an Employer made inaccurate contributions or failed to pay contributions in full,  
714 Employer agrees to pay audit costs, interest, liquidated damages and fees, as the Trust Document  
715 requires. Failure to timely pay and file remittance reports constitutes a delinquency in violation of the  
716 Employer's obligation under this Agreement, the Trust Document and ERISA. The Trustees may take  
717 whatever steps they deem necessary, including legal action and termination of the Employer and/or  
718 termination of Covered Employment for service with the Employer, to collect such delinquent  
719 payments, notwithstanding any other provisions of this Collective Bargaining Agreement.

720

721 SECTION 18. A Trust Fund called "401(k) Trust" has been established for the "SMART Local Union No. 36  
722 401(k) Plan". For all employees covered by this Agreement, Employer shall pay to the Trustees, a contribution  
723 at the agreed upon rate, currently fifty cents (\$0.50) for each hour worked by each Employee of the Employer  
724 covered by this Agreement. Administrative costs required for the 401(k) Plan will be paid by the 401(k) Trust,  
725 not by the Employers.

726

727 When Sheet Metal Workers are temporarily employed outside the jurisdiction of their home local union, the  
728 parties signatory to this Agreement shall arrange to transmit any 401(k) contributions required to be made to a  
729 401(k) plan where the work is performed to a 401(k) plan established for the employee's home local union,  
730 and/or to the National Supplemental Savings Fund. This obligation is conditioned upon a suitable reciprocity  
731 arrangement being agreed to by the trustees of such plans, and compliance with the rules and procedures for  
732 reciprocating contributions.

733

734 a. Additional Individual Employee Elective Wage Deferral: The Employer, upon receipt of written  
735 authorization of an individual employee agrees to withhold from wages and forward to the 401(k)  
736 Trust, additional contributions elected by the employee, subject to limitations prescribed by the Plan  
737 and law.

738

739 ii. Employer agrees to report and forward monthly to the Trustees, by the 15th of the following  
740 month, all amounts withheld from wages for the 401(k) Trust and the agreed upon  
741 Employer contribution.

742

743 i. Amounts deducted by Employers from wages of an employee are not to be treated as reducing the  
744 gross earnings of the employee upon which Employer contributions to other fringe benefit trust  
745 funds are calculated, for overtime wage calculations, or for other purposes under this Agreement.  
746 Example: an employee elects \$1.00 per hour wage deferral to be paid to the 401(k) Trust,  
747 reducing his wages by \$1.00 per hour; the 10% vacation payment and any overtime payment  
748 shall be calculated on the full wage rate, without reduction for the \$1.00 deferral to the 401(k)  
749 Trust.

750

751 iii. The Trust Agreement between SMACNA and Local 36 for the 401(k) Plan, grants the  
752 Trustees authority to establish terms and conditions of the Plan itself.

753

754

755



756 iv. All payments by Employers to the Plan shall be tax deductible. If Internal Revenue Service or  
757 a court of competent jurisdiction rules that Employer payments are not tax deductible, the  
758 parties agree to immediately amend the Plan retroactively and to take any other  
759 appropriate steps to secure such tax deductibility. Employer agrees to provide the  
760 Trustees with information, which the Trustees request to comply with the actual deferral  
761 percentage (ADP) test and, other requirements of the Internal Revenue Code.  
762

763 SECTION 19. Health and Welfare. Each employer working under this Agreement agrees to pay the Mo-Kan  
764 Sheet Metal Workers Welfare Fund or any other Welfare Fund the membership desires, the contributions  
765 indicated on the Wage Rate and Fringe Benefits Charts attached to this addendum for each hour worked by  
766 each employee covered by this Agreement.  
767

768 The Mo-Kan Sheet Metal Workers Welfare Fund shall be administered pursuant to the Agreement and  
769 Declaration of Trust dated May 5, 1952, as heretofore and hereafter amended, executed by SMART, Local  
770 No. 2 and the Commercial Sheet Metal Contractors Association of Kansas City, Missouri now known as the  
771 Sheet Metal and Air Conditioning Contractors Association of Greater Kansas City, Inc., and said Agreement  
772 and Declaration of Trust shall be considered as part hereof as set forth in detail.  
773

774 The contributions are to be stated on forms provided by the Union. If during the duration of this Agreement,  
775 the members covered by this Agreement desire larger contributions to the Health and Welfare program and  
776 by proper notification of each member the members desire has expressed same by majority vote of those  
777 voting, the Employers, signatory to this Agreement, will pay the larger contribution in lieu of this amount being  
778 placed on the negotiated wage increase, provided these changes are made at time of wage increase, and  
779 that an Addendum to the Agreement will be prepared showing the new wage scale after the larger  
780 contribution has been deducted and the Employers agree to sign such Addendum. It is agreed that \$0.30 per  
781 hour will be allocated to the Health and Welfare fund each year of this Agreement, if this amount is not  
782 needed for the Health and Welfare fund it will become part of the taxable wage.  
783

784 It is agreed that should a project agreement be put in effect during the life of this Agreement, the Employer  
785 agrees to pay the current negotiated rate needed to maintain current Health and Welfare benefits.  
786

787 a. It is agreed that \$0.30 per hour will be paid to the Mo-Kan Sheet Metal Workers Welfare Fund Retiree  
788 subsidy program.  
789

790 SECTION 20. E.O.P.R. The amounts indicated on the Wage Rate and Fringe Benefit Charts are to be  
791 withheld from the net pay after taxes and deposited in the Fund known as "Educational, Organizational and  
792 Public Relations Fund."  
793

794 a. The contributions are to be stated on forms being provided by the Union. If during the duration of this  
795 Agreement, the members covered by this Agreement, desire larger contributions to the E.O.P.R.  
796 Fund and by proper notification of each member, the members desire has expressed same by  
797 majority vote of those voting, the Employers, signatory to this Agreement, will pay larger increase,  
798 provided these changes are made at the time of wage increase, and that an addendum to this  
799 Agreement will be prepared showing the new amount to be deducted from new pay, after taxes, and  
800 the Employers agree to sign such addendum.  
801

802 SECTION 21. Equality Fund. The amounts indicated on the Wage Rate and Fringe Benefit Charts attached to  
803 this Addendum are to be withheld from net pay after taxes and deposited to the Equality Fund.

804 SECTION 22. P.A.L. If an employee voluntarily signs a SMART Political Action League (P.A.L.) Political Fund  
805 Authorization Card, and after notification by the Union to the Employer working under this Agreement agrees  
806 to withhold from net pay, after taxes two cents (\$0.02) per hour for each hour worked by each employee of  
807 the Employer covered by this Agreement. These amounts will be deposited to a Fund known as "SMART PAL  
808 Political Fund".  
809

810 a. The contributions are to be stated on forms provided by the Union. If, during the duration of this  
811 Agreement, the members covered by this Agreement, desire larger contributions to PAL Political  
812 Fund and proper notification of each member, the members desire has expressed same by majority  
813 vote of those voting, the Employers, signatory to this Agreement, will deduct the larger increase,  
814 provided these changes are made at time of wage increase, and that an addendum to this Agreement

815 will be prepared showing the new amount to be deducted from the net pay after taxes, and the  
816 Employers agree to sign such addendum.

817

818 SECTION 23. Reports and Payments. In order to simplify reports and payments on Fringe Benefits and  
819 Contractor Contributions, there shall be one reporting form for contributions to the National Pension Fund,  
820 National Training Fund, NEMI, SMOHIT, and SASMI, and one check is to be issued to Sheet Metal Workers'  
821 National Benefit Fund, 8403 Arlington Blvd., Fairfax, VA 22031.

822

823 SECTION 24. Employers doing work in the area covered by this Agreement and failing to pay the 401(k)  
824 Trust, National Pension Fund (NPF), SASMI Trust Fund (SASMI), Industry Fund of the United States (IFUS),  
825 International Training Institute (ITI), National Energy Management Institute (NEMIC), Sheet Metal  
826 Occupational Health Institute Trust (SMOHIT), MOKAN Health and Welfare, Apprenticeship Fund, and the  
827 Educational Organizational and Public Relations Fund (EOPR) contributions monthly as heretofore stated  
828 shall suffer work stoppage on all their job and/or shops until proper payments have been brought up to date at  
829 no loss of pay to the men employed by them on their respective jobs.

830

831 a. Payment to all Funds and Trusts as provided in this Agreement shall be due as follows:

832

833 i. Payment to 401(k) Trust shall be due on the 15<sup>th</sup> of the month for the previous month. Payments  
834 received by the 15th day of that month will be accepted and no penalties, damages or interest will  
835 be charged.

836

837 ii. Payment to NPF, SASMI, IFUS, ITI, NEMIC, SMOHIT, MOKAN, Apprenticeship Fund and the  
838 EOPR shall be due by the 20th of the month for the previous month. Payments received by the  
839 20th day of that month will be accepted and no penalties, damages or interest will be charged.

840

841 b. If the Employer becomes delinquent in payment of said Funds or Trusts, the Union shall have the  
842 power to cancel this Agreement. The power of cancellation notwithstanding the Employer may cause  
843 this Agreement to be automatically reinstated by becoming current with such Funds or Trusts within a  
844 reasonable time. Employer shall pay all regular wages lost by his employees while this Agreement is  
845 canceled and all fees as outlined below.

846

847 c. If an Employer contribution is not received by the Trust Fund Office on the date that it is due, the  
848 Employer is to pay each Trust Fund the amount set out in the Trust Agreement or other documents of  
849 each Fund.

850

851 SECTION 25. Each Employer shall carry Workers' Compensation Insurance under the State of Missouri  
852 Workers' Compensation Act for all employees covered by this Agreement. Each Employer shall cover all  
853 employees covered by this Agreement under the State of Missouri and Federal Unemployment  
854 Compensation. It is further agreed when an employee is injured during working hours in the shop or on the  
855 job, said employee shall be paid for the time required to visit a physician during the day of injury up until  
856 normal quitting time for that day.

857

858 SECTION 26. Tool Fund. Each employer working under this Agreement agrees to pay the fund known as  
859 "TOOL FUND", one cent (\$.01) per hour for each hour worked by each Employee of the Employer covered by  
860 this Agreement. The fund is established to help replace part of a member's tools that are a police investigated  
861 theft from a job site gang box. The guidelines for the member's tool replacement shall be taken from  
862 ARTICLE IX, SECTION 1. The contributions are to be stated on forms provided by the Union.

863

864 SECTION 27. The Employer shall comply with any bonding provisions governing local Funds that may be  
865 negotiated by the local parties and set forth as in this Agreement. The Employer shall likewise comply with  
866 bonding requirements established by the Trustees of the National Funds.

867

868 a. The bond shall be in the amount of two thousand dollars (\$2000.00) per employee based on the  
869 average number of men employed during the preceding year or the number employed immediately  
870 before his first work stoppage, whichever is greater.

871

872 b. Said surety or cash bond shall be for the faithful payment of all fringe benefits including Pension,  
873 Health and Welfare, Industry Fund, Apprentice Training Fund, SASMI, Tool Fund, E.O.P.R. and

874 P.A.L. Fund. The bond shall in no case be less than ten thousand dollars (\$10,000.00).  
 875  
 876 i. In lieu of a bond, an Irrevocable Letter of Credit may be accepted.  
 877  
 878 c. Contractors coming into the jurisdiction of SMART Local Union No. 36, Southwest Missouri Area may  
 879 or can be required to post bond or security to cover wages and contractual benefits.  
 880  
 881 d. **When an Employer is performing any work specified in ARTICLE I of this Agreement outside of**  
 882 **the area covered by this Agreement, and within the area covered by another Agreement with a**  
 883 **Local Union affiliated with SMART, the Employer shall comply with uniformly applied bonding**  
 884 **requirements of that local area that are reasonable and necessary to ensure the timely**  
 885 **payment of any contribution that may be required to local and national Funds, but in no event**  
 886 **shall such bonds be in excess of three (3) months estimated contributions to local and**  
 887 **national Funds.**  
 888  
 889 e. **An Employer that has been delinquent in making contributions to any national or local fund**  
 890 **shall, upon written notification of the trustees or local union, make the specified payment to**  
 891 **such fund at weekly intervals. Such obligation shall continue until the Employer has not been**  
 892 **delinquent in making contributions for a period of three (3) consecutive months.**  
 893  
 894 SECTION 28. Favored Nations Clause. The Union agrees that during the life of this Agreement it will not  
 895 enter into any contract with any firm containing more favorable terms or conditions for the Employer than are  
 896 provided in this Agreement.  
 897

898 SECTION 29. It is agreed that should a project agreement be put in effect during the life of this Agreement,  
 899 the Employer agrees to pay the current negotiated pension increment and, also agrees to pay the amount  
 900 needed to maintain current Health and Welfare benefits during the term of the project, if needed.

901  
 902  
 903  
 904  
 905

**ARTICLE IX**

906 **SECTION 1. Journeymen, Apprentice and Sheet Metal Specialist Sheet Metal Workers covered by this**  
 907 **Agreement shall provide for themselves all necessary hand tools as set forth below.**

908			
909			
910			
911	1 tinnens hammer	1 pair bull dog bench snips	1 pair aviation snips (right)
912	1 pair aviation snips (left)	1 pair hand folders	1 pair hand notchers
913	1 pair crimpers	1 pair wire pliers	1 set screw drivers
914	1 phillips screw driver	1 pair dividers	1 pair trammel points
915	1 hand punch	2 pair locking pliers	1 pair duct tongs
916	1 center punch	1 drift pin	1 scratch awl
917	1 pair straight bench snips	1 steel tape (9 ft. or over)	1 six foot folding rule
918	1 fifty ft. tape	1 combination square	1 plumb bob
919	1 set hex key wrenches	1 torpedo level	1 hacksaw frame
920	1 adjustable wrench (8", 10" or 12")	1 blind rivet gun	

921 a. Members shall not furnish or provide power tools, extension cords, ladders, or any tool or equipment  
 922 considered by this Local Union to be unfair to other workmen or contrary to the best interest of the  
 923 Union.  
 924

925 **SECTION 2. Journeymen, Apprentice and Sheet Metal Specialist Sheet Metal Workers covered by this**  
 926 **Agreement shall not be permitted or required as a condition of employment to furnish the use of**  
 927 **automobile or other conveyance to transport men, tools, equipment or materials from shop to job,**  
 928 **from job to job, or from job to shop; facilities for such transportation to be provided by the Employer.**  
 929 **This provision shall not restrict the use of an automobile or other conveyance to transport its owner**  
 930 **and personal tools from home to shop or job at starting time or from shop or job to home at quitting**  
 931 **time.**

ARTICLE X

932

933

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

936

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

943

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

947

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

956

957 Notice of appeal to the Local Joint Adjustment Board shall be given within thirty (30) days after  
958 termination of the procedures prescribed in SECTION 1 of this ARTICLE, unless the time is extended  
959 by a mutual agreement of the parties.

960

961 SECTION 3. Grievances not disposed of under the procedure prescribed in SECTION 2 of this  
962 ARTICLE, because of a deadlock or failure of such Board to act, may be appealed jointly or by either  
963 party to a Panel, consisting of one (1) representative appointed by the Labor Co-Chairman of the  
964 National Joint Adjustment Board and one (1) representative appointed by the Management  
965 Co-Chairman of the National Joint Adjustment Board. Appeals shall be mailed to the National Joint  
966 Adjustment Board.\* Notice of appeal to the Panel shall be given within thirty (30) days after  
967 termination of the procedures prescribed in SECTION 2 of this ARTICLE. Such Panel shall meet  
968 promptly but in no event more than fourteen (14) calendar days following receipt of such appeal,  
969 unless such time is extended by mutual agreement of the Panel members. Except in case of deadlock,  
970 the decision of the Panel shall be final and binding.

971

972 In establishing the grievance procedure of the Standard Form of Union Agreement, it was the intent of  
973 SMART and the Sheet Metal and Air Conditioning Contractors' National Association, Inc. to establish  
974 a method for resolving grievances permitting appeals for out-of-area Employers from the grievance  
975 arbitration procedures established for the territory in which work is performed. An Employer who was  
976 not a party to the Labor Agreement of the area in which the work in dispute is performed may appeal  
977 the decision of the Local Joint Adjustment Board from that area, including a unanimous decision, as  
978 well as a decision of any alternative arbitration tribunal established for that area, and request a Panel  
979 hearing as set forth in SECTION 3 of this ARTICLE, providing such appeal is approved by the Co-  
980 Chairmen of the National Joint Adjustment Board. Such a right of appeal shall exist despite any  
981 contrary provision in the agreement covering the area in which the work is performed.

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

986

987 SECTION 4. Grievances not settled as provided in SECTION 3 of this ARTICLE may be appealed  
988 jointly or by either party to the National Joint Adjustment Board. Submissions shall be made and  
989 decisions rendered under such procedures as may be prescribed by such Board. Appeals to the  
990 National Joint Adjustment Board shall be submitted within thirty (30) days after termination of the

991 procedures described in SECTION 3 of this ARTICLE. The Procedural Rules of the National Joint  
992 Adjustment Board are incorporated in this Agreement as though set out in their entirety. (Copies of  
993 the procedures may be obtained from the National Joint Adjustment Board.)\*  
994

995 SECTION 5. A Local Joint Adjustment Board, Panel and the National Joint Adjustment Board are  
996 empowered to render such decisions and grant such relief to either party as they deem necessary and  
997 proper, including awards of damages or other compensation.  
998

999 SECTION 6. In the event of non-compliance within thirty (30) calendar days following the mailing of a  
1000 decision of a Local Joint Adjustment Board, Panel or the National Joint Adjustment Board, a local  
1001 party may enforce the award by any means including proceedings in a court of competent jurisdiction  
1002 in accord with applicable state and federal law. If the party seeking to enforce the award prevails in  
1003 litigation, such party shall be entitled to its costs and attorney's fees in addition to such other relief as  
1004 is directed by the courts. Any party that unsuccessfully challenges the validity of an award in a legal  
1005 proceeding shall also be liable for the costs and attorneys' fees of the opposing parties in the legal  
1006 proceedings.  
1007

1008 SECTION 7. Failure to exercise the right of appeal at any step thereof within the time limit provided  
1009 therefore shall void any right of appeal applicable to the facts and remedies of the grievances  
1010 involved. There shall be no cessation of work by strike or lockout during the pendency of the  
1011 procedures provided for in this ARTICLE. Except in case of deadlock, the decision of the National  
1012 Joint Adjustment Board shall be final and binding.  
1013

1014 SECTION 8. In addition to the settlement of grievances arising out of interpretation or enforcement of  
1015 this Agreement as set forth in the preceding sections of this ARTICLE, any controversy or dispute  
1016 arising out of the failure of the parties to negotiate a renewal of this Agreement shall be settled as  
1017 hereinafter provided:  
1018

- 1019 a. Should the negotiations for a renewal of this Agreement or negotiations regarding a  
1020 wage/fringe reopener become deadlocked in the opinion of the Union representative(s) or of  
1021 the Employer('s) representative(s), or both, notice to that effect shall be given to the National  
1022 Joint Adjustment Board.  
1023

1024 If the Co-Chairmen of the National Joint Adjustment Board believe the dispute might be  
1025 adjusted without going to final hearing before the National Joint Adjustment Board, each will  
1026 then designate a Panel representative who shall proceed to the locale where the dispute exists  
1027 as soon as convenient, attempt to conciliate the differences between the parties and bring  
1028 about a mutually acceptable agreement. If such Panel representatives or either of them  
1029 conclude that they cannot resolve the dispute, the parties thereto and the Co-Chairmen of the  
1030 National Joint Adjustment Board shall be promptly so notified without recommendation from  
1031 the Panel representatives. Should the Co-Chairmen of the National Joint Adjustment Board fail  
1032 or decline to appoint a Panel member or should notice of failure of the Panel representatives  
1033 to resolve the dispute be given, the parties shall promptly be notified so that either party may  
1034 submit the dispute to the National Joint Adjustment Board.  
1035

1036 In addition to the mediation procedure set forth above or as an alternate thereto, the Co-  
1037 Chairmen of the National Joint Adjustment Board may each designate a member to serve as a  
1038 Subcommittee and hear the dispute in the local area. Such Subcommittees shall function as  
1039 arbitrators and are authorized to resolve all or part of the issues. They are not, however,  
1040 authorized to deadlock and the matter shall be heard by the National Joint Adjustment Board  
1041 in the event a Subcommittee is unable to direct an entire resolution of the dispute.  
1042

1043 The dispute shall be submitted to the National Joint Adjustment Board pursuant to the rules  
1044 as established and modified from time to time by the National Joint Adjustment Board. The  
1045 unanimous decision of said Board shall be final and binding upon the parties, reduced to  
1046 writing, signed and mailed to the parties as soon as possible after the decision has been  
1047 reached. There shall be no cessation of work by strike or lockout unless and until said Board  
1048 fails to reach a unanimous decision and the parties have received written notification of its  
1049 failure.

- 1050  
1051 b. Any application to the National Joint Adjustment Board shall be upon forms prepared for that  
1052 purpose subject to any changes which may be decided by the Board from time to time. The  
1053 representatives of the parties who appear at the hearing will be given the opportunity to  
1054 present oral argument and to answer any questions raised by members of the Board. Any  
1055 briefs filed by either party including copies of pertinent exhibits shall also be exchanged  
1056 between the parties and filed with the National Joint Adjustment Board at least twenty-four  
1057 (24) hours in advance of the hearing.  
1058  
1059 c. The National Joint Adjustment Board shall have the right to establish time limits which must  
1060 be met with respect to each and every step or procedure contained in this SECTION. In  
1061 addition, the Co-Chairmen of the National Joint Adjustment Board shall have the right to  
1062 designate time limits which will be applicable to any particular case and any step therein  
1063 which may be communicated to the parties by mail, facsimile or telephone notification.  
1064  
1065 d. Unless a different date is agreed upon mutually between the parties or is directed by the  
1066 unanimous decision of the National Joint Adjustment Board, all effective dates in the new  
1067 agreement shall be retroactive to the date immediately following the expiration date of the  
1068 expiring agreement.  
1069

1070 **SECTION 9.** Employers not contributing to the Industry Fund of the United States (IFUS) will be  
1071 assessed a fee to be determined periodically by the Administrator of the National Joint Adjustment  
1072 Board. Proceeds will be used to reimburse IFUS for costs of arbitration under the provisions of  
1073 **ARTICLE X.**  
1074

1075 **SECTION 10.** In addition to the settlement of disputes provided for in **SECTIONS 1** through **8** of this  
1076 **ARTICLE**, either party may invoke the services of the National Joint Adjustment Board to resolve  
1077 disputes over the initial establishment of terms for specialty addenda, if the provisions of **ARTICLE X**  
1078 have been adopted in their entirety, and without modification.  
1079

1080 Such a dispute may be submitted upon the request of either party any time that local negotiations for  
1081 such an agreement have been unsuccessful. Such a dispute shall be submitted to the National Joint  
1082 Adjustment Board pursuant to the rules as established and modified from time to time by said Board.  
1083 The unanimous decision of said Board shall be final and binding upon the parties. There shall be no  
1084 strike or lockout over such a dispute.  
1085

1086 **SECTION 11.** In administering and conducting dispute resolution activities under the arbitration  
1087 procedures of the Standard Form of Union Agreement, the National Joint Adjustment Board, SMART,  
1088 the Sheet Metal and Air Conditioning Contractors' National Association, Inc., and their  
1089 representatives, are functioning as arbitrators and not as the representative of any entity that is party  
1090 to such dispute. Therefore, they shall enjoy all of the rights, privileges, and immunities afforded to  
1091 arbitrators under applicable law.  
1092

1093 **\*All correspondence to the National Joint Adjustment Board shall be sent to the following address:**  
1094 **National Joint Adjustment Board, P.O. Box 220956, Chantilly, VA 20153-0956 or 4201 Lafayette Center**  
1095 **Drive, Chantilly, VA 20151-1219.**  
1096

1097  
1098

## 1099 **ARTICLE XI**

1100  
1101 **SECTION 1.** All duly qualified Apprentices shall be under the supervision and control of a Joint  
1102 Apprenticeship and Training Committee (JATC) composed of an equal number of trustees, half of  
1103 whom shall be selected by the Employer, and half by the Union. There shall be a minimum of 4  
1104 trustees. Said Joint Apprenticeship and Training Committee shall formulate and make operative such  
1105 rules and regulations as they may deem necessary and which do not conflict with the specific terms  
1106 of this Agreement, to govern eligibility, registration, education, transfer, wages, hours, working  
1107 conditions of duly qualified Apprentices and the operation of an adequate Apprentice system to meet

1108 the needs and requirements of the trade. Said rules and regulations when formulated and adopted by  
1109 the parties hereto shall be recognized as part of this Agreement.

1110

1111 **SECTION 2.** The Joint Apprenticeship and Training Committee designated herein shall serve for the  
1112 life of this Agreement, except that vacancies in said Joint Apprenticeship and Training Committee  
1113 caused by resignation or otherwise, may be filled by either party hereto, and it is hereby mutually  
1114 agreed by both parties hereto, that they will individually and collectively cooperate to the extent that  
1115 duly qualified Apprentices be given every opportunity to secure proper technical and practical  
1116 education experience in the trade, under the supervision of the Joint Apprenticeship and Training  
1117 Committee.

1118

1119 a. The parties will review the needs for specialized and skill-upgrade training and cooperate to  
1120 establish necessary programs which will then be supervised by the Joint Apprenticeship  
1121 Training Committee.

1122

1123 **SECTION 3.** It is the understanding of the parties to this Agreement that the funds contributed by  
1124 signatory Employers to the International Training Institute and any Local Joint Apprenticeship and  
1125 Training Fund (JATC) will not be used to train Apprentices or Journeymen who will be employed by  
1126 employers in the Sheet Metal Industry not signatory to a collective bargaining agreement providing  
1127 for contributions to the International Training Institute and a Local JATC. Therefore, the trustees of  
1128 the International Training Institute and Local JATC shall adopt and implement a Scholarship Loan  
1129 Agreement Program which will require Apprentices and Journeymen employed by signatory  
1130 Employers to repay the cost of training either by service following training within the union sector of  
1131 the industry or by actual repayment of the cost of training if the individual goes to work for a  
1132 non-signatory Employer in the Sheet Metal Industry. The cost of training shall include the reasonable  
1133 value of all International Training Institute and Local JATC materials, facilities and personnel utilized  
1134 in training. If a Local JATC does not implement the Scholarship Loan Agreement, the Local JATC  
1135 shall be prohibited from utilizing International Training Institute materials and programs.

1136

1137 **SECTION 4.** It is hereby agreed that the Employer shall apply to the Joint Apprenticeship and Training  
1138 Committee and the Joint Apprenticeship and Training Committee shall grant Apprentices on the basis  
1139 of one (1) Apprentice for each one (1) Journeymen regularly employed throughout the year. Provided,  
1140 however, an Employer will not be entitled to a new Apprentice if the Employer has an Apprentice on  
1141 layoff for lack of work.

1142

1143 **SECTION 5.** Each Apprentice shall serve an Apprenticeship of up to five (5) years and such  
1144 Apprentices shall not be in charge of work on any job and shall work under the supervision of a  
1145 Journeyman until Apprenticeship terms have been completed and they have qualified as Journeymen.

1146

1147 **SECTION 6.** A graduated scale for Apprentices is as follows:

1148

	<u>Hours</u>	<u>Percentages</u>
1149		
1150	0-1000	50%
1151	1000-2000	55%
1152	2000-3000	60%
1153	3000-4000	65%
1154	4000-5000	70%
1155	5000-6000	75%
1156	6000-7000	80%
1157	7000-8000	85%

1158

1159 **SECTION 7.** The parties will establish on a local basis the SMART 'Youth-to-Youth Program' (the Program)  
1160 and the procedures to enable all apprentices to participate in the program. The activities of the Program that  
1161 deal with organizing and other traditional union activities shall be funded by the Local Union Equality Fund  
1162 through a \$0.04 per hour deduction to be held separately for that purpose.

1163

1164 **SECTION 8.** The parties agree that concentrated Apprenticeship training is preferable to night-  
1165 schooling and urge the Joint Apprenticeship and Training Committee to implement concentrated  
1166 training during the term of this Agreement.

1167

1168 **The parties recognize that previous experience in the industry can be considered when evaluating**  
1169 **and placing Sheet Metal Workers into the Apprenticeship program and the JATC shall work**  
1170 **cooperatively with the parties in establishing standards for placing employees into the program. The**  
1171 **parties shall also address the need to provide continuity in health care for those workers entering the**  
1172 **program with prior experience in the industry.**

1173

1174 **SECTION 9. The parties agree that career-long skill upgrade training is necessary for an effective**  
1175 **workforce and agree to undertake those measures available to them to encourage continuing training**  
1176 **for sheet metal Journeymen.**

1177

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1180

**ARTICLE XII**

1181

1182 **SECTION 1. Sheet metal workers shall complete OSHA 30 training, as well as any mandatory refresher**  
1183 **course, as a condition of employment in the sheet metal industry. Such training shall be completed**  
1184 **on the employee's time.**

1185

1186 **The parties to this Agreement shall take appropriate steps to provide that the cost of any materials**  
1187 **used in such training, as well as the costs associated with providing instruction, shall be paid for by**  
1188 **the Local Joint Apprenticeship and Training Fund.**

1189

1190 **SECTION 2. The parties are committed to maintaining a workplace that is safe, productive, and free of**  
1191 **alcohol and illegal drugs. Therefore, they shall establish a substance abuse program which will include, as a**  
1192 **minimum, the following components: owner-mandated, reasonable suspicion, post- accident, and random**  
1193 **drug and alcohol testing. In the case of random testing, the procedures shall be established and administered**  
1194 **in a manner so that such testing is conducted in a manner that is truly random. Any testing program shall be**  
1195 **conducted on an industry wide basis, and in conformity with all applicable laws. The parties shall establish an**  
1196 **appropriate means of funding such testing activities on an industry wide basis.**

1197

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1200

**ARTICLE XIII**

1201

1202 **SECTION 1. SMACNA and the SMART are committed to promoting productive and cooperative labor-**  
1203 **management relations. In furtherance of this goal, the local Employers' association and Local Union**  
1204 **agree to establish a labor-management committee which shall meet on a regular basis, but not less**  
1205 **often than quarterly, to discuss industry issues of mutual concern. Such committees will strive to**  
1206 **improve communications, understand and respond to industry direction and trends, and resolve**  
1207 **common issues collaboratively.**

1208

1209 **SECTION 2. CODE OF EXCELLENCE: SMART Local Union No. 36 and all signatory contractors support the**  
1210 **Code of Excellence Program responsibilities as set forth below. The future of the union sheet metal industry is**  
1211 **dependent upon our ability to establish our added value to our customers. The implementation of the Code of**  
1212 **Excellence is the responsibility of both the Sheet Metal Workers and the contractor.**

1213

1214 **a. Sheet Metal Workers' Responsibilities: Each member of SMART Local Union No. 36 agrees to accept**  
1215 **the following responsibilities:**

1216

1217 **i. Working Time: First and foremost, our members shall adhere to our core principle of productivity,**  
1218 **a full day's work for a full day's pay.**

1219

1220 **ii. All members shall adhere to established contractual starting and quitting times and shall meet**  
1221 **their responsibility to their fellow members and employers by arriving to work on time and ready**  
1222 **to work.**

1223

1224 **iii. Break and lunch periods are limited to the time allowed by the contract, or agreement(s).**

1225



- 1226 iv. Members shall meet their responsibility not to leave the jobsite without proper approval.  
1227  
1228 v. When absent the member shall contact supervision in advance of their established starting time  
1229 to confirm such absence.  
1230  
1231 vi. All members shall be productive and efficient, with idle time kept to a minimum.  
1232  
1233 1. Personal cell phone usage shall be limited to appropriate break times or lunch periods, or  
1234 emergency use as defined by the Business Manager.  
1235  
1236 2. Members shall meet their contractual responsibility to eliminate work disruptions on the job.  
1237  
1238 3. All members shall work toward the goal of completion of projects on or under the allotted  
1239 time.  
1240  
1241 b. Safety being a primary concern for both our members and contractors, members shall meet their  
1242 obligation to perform work safely and effectively, following employer and industry established rules.  
1243  
1244 i. Members will meet their contractual and personal responsibility to utilize proper safety equipment  
1245 and safety methods.  
1246  
1247 ii. Members will participate in OSHA 30 courses as offered by the local union when required by their  
1248 collective bargaining agreements.  
1249  
1250 c. Tools: In meeting their responsibility as highly skilled and qualified craftsmen, all members shall carry  
1251 the necessary and proper tools as required by the collective bargaining agreement.  
1252  
1253 i. Members shall meet their responsibility in taking care of the equipment and tools provided by the  
1254 employer.  
1255  
1256 d. Fitness for Duty: Members shall meet their responsibility of being fit for duty by accepting work for  
1257 which they have the requisite skills and training.  
1258  
1259 i. Members shall exhibit and maintain a level of craftsmanship recognized to be within the  
1260 industry standard.  
1261  
1262 ii. Members shall meet their responsibility to be fit for duty, with zero tolerance for substance abuse.  
1263  
1264 iii. As representatives of their local union and the employer, all members will be professional in  
1265 appearance.  
1266  
1267 iv. The wearing or display of inappropriate materials shall not be tolerated.  
1268  
1269 v. The Business Manager or his/her designee and leaders on the job shall work with other members  
1270 who have displayed unacceptable work habits so that each member on the job meets a standard  
1271 of quality and productivity second to none.  
1272  
1273  
1274 e. Contractor Responsibilities: The ultimate responsibility of managing the work and projects falls within  
1275 the control of the contractor. Therefore, each signatory contractor agrees to the following  
1276 responsibilities:  
1277  
1278 i. To address ineffective supervisors, including superintendents, general foremen, and foremen.  
1279  
1280 ii. To insure proper job planning, supervision and layout, to minimize down time.  
1281  
1282 iii. To make available the proper types and quantities of tools, equipment and materials to ensure job  
1283 progress.  
1284

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- iv. To ensure proper maintenance, care, storage, and security for employer-provided equipment and tools and employee- provided tools.
  - v. To demonstrate to the customer the efficiency of our partnership, the employer will ensure there are adequate numbers of employees to perform the work efficiently and conversely, to limit the number of employees to the work at hand.
  - vi. To provide the necessary jobsite leadership to eliminate problems and provide effective solutions.
  - vii. To instill in supervisors the necessary positive attitude that the SMART local union, their members and the employer are working together.
  - viii. To ensure that jobsite leadership takes the necessary ownership of mistakes created by management decisions.
  - ix. To eliminate unsafe work conditions and ensure that proper safety training, equipment, and methods are utilized.
  - x. To address concerns brought forth by the Business Manager or his/her designee.
    - 1. If the problem is not resolved at the lowest level of management, the Business Manager or his/her designee may choose to address the issue with higher levels of management.
    - 2. If the issue is not resolved, the local union or employer may call for a labor-management meeting to resolve concerns or issues.
  - xi. To treat all employees with dignity and respect.
  - xii. To discipline fairly and reasonably.
- f. The success of the Code of Excellence is dependent upon the acceptance and understanding by each member of the scope of their responsibilities as established within the program. SMART Local Union No. 36, as well as the employer, must endeavor to correct performance problems with individual members at the workplace, so that their performance meets the standards of the Code of Excellence Program.
- i. However, there will be instances where the local union ultimately must withhold contractual referral privileges from those employees that have demonstrated that they are either unwilling, or incapable, of meeting acceptable standards of workplace behavior.
  - ii. In such circumstances, employers have a reciprocal obligation to terminate such employees for cause, rather than merely laying them off, so that such employees are not simply referred for employment with another employer. A disciplinary action shall be implemented for repeated discharge as described in Paragraph g.
- g. Appeals Committee: An Appeals Committee is hereby established composed of one member appointed by SMART Local Union No. 36 and one member appointed by the Contractors' Association and a third "Neutral" member agreed upon by both the Union and the Contractors' Association.
- i. It shall be the duty of the Appeals Committee to consider the case of any individual discharged as described below.
  - ii. An Appeals Committee is hereby established composed of one member appointed by the Union and one member appointed by the Contractors' Association and a third "Neutral" member agreed upon by both the Union and the Contractors' Association.

- 1343           iii. It shall be the duty of the Appeals Committee to consider any violations of the above
- 1344               responsibilities as well as to consider the case of any individual discharged as described below.
- 1345
- 1346           iv. Recommend that the union take the necessary action according to the Constitution and Ritual of
- 1347               SMART to terminate the employee’s membership.
- 1348
- 1349
- 1350           h. Repeated Discharge: An applicant who is discharged for cause two times within a twelve (12) month
- 1351               period shall be referred to the Appeals Committee for a determination as to the applicant’s continued
- 1352               eligibility for referral. The Appeals Committee shall, within three (3) business days, review the
- 1353               qualifications of the applicant and the reasons for the discharge. The Appeals Committee may in their
- 1354               sole discretion:
- 1355
- 1356           i. Require the applicant to obtain further training from the J.A.T.C. before again being eligible for
- 1357               referral; Disqualify the applicant for referral for a period of four weeks or longer depending upon
- 1358               the seriousness of the conduct and/or repetitive nature of the conduct;
- 1359
- 1360           ii. Refer the applicant to an employee assistance program for evaluation and recommended action;
- 1361
- 1362           iii. Restore the applicant to his/her appropriate place on the referral list;
- 1363
- 1364           iv. Determine whether a warning or continued suspension is necessary. This determination would be
- 1365               based on the particulars in instances of behavior, attendance or other punitive matters, including
- 1366               substance abuse.
- 1367
- 1368           i. If the Union Member of the Committee and the Contractor Member of the Committee are unable to
- 1369               agree on one of the actions described above, then the Neutral member of the Committee will have
- 1370               the power to impose any of the above.

1371

1372

1373 SECTION 3. “HVAC – Sheet Metal EXPERTISE”. Use for Partnerships and Advertising. Should be hung at all

1374 shops, offices, gang-boxes, Union Hall, Training School and handed out in Apprenticeship Applicant

1375 Packages.

- 1376
- 1377           HVAC & SHEET METAL EXPERTISE
- 1378           E ... Excellence
- 1379           X .. Expertise
- 1380           P .. Professional
- 1381           E .. Education
- 1382           R .. Responsibility/Respect for others/by others
- 1383           T ... Tradition/Training
- 1384           I .... International/Integrity
- 1385           S .. Safety
- 1386           E .. Experience/Eliminate waste

## ARTICLE XIV

1387

1388

1389

1390           **SECTION 1. In applying the terms of this Agreement, and in fulfilling their obligations thereunder,**

1391           **neither the Employer nor the Union will discriminate in any manner prohibited by law.**

- 1392
- 1393
- 1394
- 1395           a. The parties to this Agreement agree to continue their policy of no discrimination against any
- 1396               employee because of race, religion, color, age, gender, natural origin, disability, or membership in the
- 1397               uniformed services as provided for in the Uniformed Services Employment and Re-employment Act of
- 1398               1994 in regard to all terms and conditions of employment except as the laws provide for the good
- 1399               faith establishment and enforcement of job qualifications, employee benefit plans, or seniority
- 1400               systems.

ARTICLE XV

1402

1403

1404 **SECTION 1.** This Agreement and Addendum shall become effective on the 1st day of July 2018, and  
1405 remain in full force and effect until the 30th day of June 2021, and shall continue in force from year to  
1406 year thereafter unless written notice of reopening is given not less than ninety (90) days prior to the  
1407 expiration date. In the event such notice of reopening is served, this Agreement shall continue in  
1408 force and effect until conferences relating thereto have been terminated by either party by written  
1409 notice, provided, however, that, if this Agreement contains ARTICLE X, SECTION 8, it shall continue in  
1410 full force and effect until modified by order of the National Joint Adjustment Board or until the  
1411 procedures under ARTICLE X, SECTION 8 have been otherwise completed.

1412

1413 **SECTION 2.** If, pursuant to federal or state law, any provision of this Agreement shall be found by a  
1414 court of competent jurisdiction to be void or unenforceable, all of the other provisions of this  
1415 Agreement shall remain in full force and effect. The parties agree to meet and negotiate a substitute  
1416 provision. If negotiations are unsuccessful, the issue may be submitted for resolution by either party  
1417 pursuant to ARTICLE X, SECTION 8 of this Agreement.

1418

1419 **SECTION 3.** Notwithstanding any other provision of this ARTICLE, or any other ARTICLE of this  
1420 Agreement, whenever an amendment to the Standard Form of Union Agreement shall be adopted by  
1421 the sponsoring national associations, any party to this Agreement, upon the service of notice to all  
1422 other parties hereto, shall have this Agreement reopened thirty (30) days thereafter, for the sole and  
1423 only purpose of attempting to negotiate such amendment or amendments into this Agreement for the  
1424 duration of the term hereof. There shall be no strike or lockout over this issue.

1425

1426 **SECTION 4.** Each Employer hereby waives any right it may have to repudiate this Agreement during  
1427 the term of this Agreement, or during the term of any extension, modification or amendment of this  
1428 Agreement. This shall be effective during the entire term of any collective bargaining agreement that  
1429 has been entered into under Section 8(f) of the National Labor Relations Act, and upon conversion of  
1430 the bargaining relationship to one under Section 9(a) of the National Labor Relations Act, either by an  
1431 election conducted by the National Labor Relations Board, or through the procedures set forth in this  
1432 Agreement.

1433

1434 **SECTION 5.** By execution of this Agreement the Employer authorizes Southwest Missouri Sheet Metal  
1435 Contractors Association to act as its collective bargaining representative for all matters relating to this  
1436 Agreement. The parties agree that the Employer will hereafter be a member of the multi-employer  
1437 bargaining unit represented by said Association unless this authorization is withdrawn by written  
1438 notice to the Association and the Union at least one hundred and fifty (150) days prior to the then  
1439 current expiration date of this Agreement.

~ End

*ADDENDUM A*

**SHEET METAL WORKERS LOCAL 36  
SUBSTANCE ABUSE TESTING PROGRAM**

**POLICY**

**EFFECTIVE: September 1, 1997**

**REVISED: June 1, 2011**

# SHEET METAL WORKERS LOCAL 36

## SUBSTANCE ABUSE TESTING PROGRAM POLICY

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## I. PROGRAM OBJECTIVE

The Union and Contractors/Employers are committed to establishing and maintaining a drug free workplace for every employee, both those covered under the Collective Bargaining Agreement (CBA) and those employees not under the CBA. As such, the objective of this Substance Abuse Testing Program Policy (Policy and Program) is to provide consistent, fair, and manageable procedures for drug and alcohol screening of employees that will be accepted by participating contractors and job site Owners, and to maintain a central database of participating individuals in order to expedite their employment and access to the Owner's job site.

The purpose of the Policy and Program is to increase on-the-job safety and ensure high quality services and productivity to customers by denying job site presence to individuals whose abilities are impaired by drugs or alcohol. The types of testing conducted under this Policy and Program will involve pre-employment, pre-assignment, random, post accident/incident, reasonable cause/suspicion, periodic, return to work, and probationary status/follow-up testing. This Policy and Program, along with the Employee Assistance Program (EAP), will:

1. Help produce a safe, healthful and drug-free work place for all employees;
2. Increase Union market share with Owners/Customers;
3. Educate employers and employees on the signs, symptoms and consequences of substance abuse;
4. Improve work place safety and reduce substance abuse-related injuries and property damage;
5. Reduce substance abuse-related absenteeism and tardiness;
6. Refer employees with substance abuse problems to appropriate care and assistance;
7. Deter individuals from bringing, possessing, using, distributing or having in their systems alcohol or other drugs on work time or premises;
8. Improve the image of our industry;
9. Improve productivity and service quality.

## II. DEFINITIONS

As used in this Policy and Program, the following terms shall have the following meaning:

1. **“Adulterated Test Result”** - The donor has tainted the specimen with a foreign contaminate, such as bleach, to prevent the detection by the laboratory of an illegal or controlled substance. An adulterated sample is considered an administrative positive and has the same consequences as a confirmed positive test result.



2. **“Alcohol”** – The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols, including methyl and isopropyl alcohol.
3. **“Applicant”** – Any individual who will perform work and has been referred for hire by a labor local or a person selected through a direct hire process. As a condition of employment, applicant must meet the applicable conditions of this policy prior to employment.
4. **“Breath Alcohol Technician”** – A person trained to proficiency and certified in the use of Evidential Breath Testing device (EBT) in a DOT course.
5. **“Communicator”** – Employer and/or Union Representatives designated by the Employer and/or Union to preserve the confidentiality of employee’s drug testing information. The Employer and Union is required to designate both a Primary Communicator and Alternate Communicator.
6. **“Company Premises”** – Any and all property, facilities, land, parking lots, structures, and vehicles owned, leased, used or under the control of the Contractor, and any job site to which the Contractor assigns any Employee.
7. **“Diluted Test Result”** - A diluted test result means that the specific gravity of the specimen is 1.003 or less and the creatinine level is less than 20 mg/dl. The following are some of the causes for a diluted sample and the related procedures:

### **Causes**

- a. Dialysis or chemotherapy
- b. A kidney or pancreas disorder requiring medical attention.
- c. The individual is attempting to flush out their system of illegal substances. This requires an enormous amount of water to be consumed over approximately twenty-four (24) hours prior to providing a sample. The normal consumption of liquids or consuming liquids prior to testing will not cause a sample to be diluted.

### **Procedures**

- a. A diluted specimen with a creatinine level of less than 20 mg/dl but greater than 5 mg/dl will require the employee to provide another sample.
- b. A diluted specimen with a creatinine level greater than or equal to 2 mg/dl, but less than or equal to 5 mg/dl will

require the employee to provide another specimen under direct observation

- c. A diluted specimen with a creatinine level of less than 2 mg/dl will be ruled as a substituted specimen and will have the same consequences as a positive test result.
8. **“Employee”** – Any individual employed by the Contractor or subcontractor who directly or indirectly performs work for a Customer.
9. **“Illegal/Unauthorized Drugs”** – Any drug that is illegal and/or the use of a controlled substance by an individual other than the individual for whom the controlled substance was prescribed or the abuse of a controlled substance by the individual for whom it was prescribed.
10. **“Incident/Accident”** - An event that causes or could have caused personal injury or the damage of equipment or property.
11. **“Legal/Controlled Drugs”** – Any prescribed or over-the-counter drug, which has been legally prescribed / obtained and is being used for the purpose for which it was prescribed / manufactured.
12. **“Medical Review Officer (MRO)”** - All urine samples confirmed, as non-negative by the laboratory shall be referred to a Medical Review Officer for interpretation and final confirmation. The MRO is a licensed physician, certified by the American Association of Medical Review Officers, who has knowledge of substance abuse disorders and has received the appropriate medical training to interpret and evaluate an individual’s positive test result as it relates to the Employee’s medical history and any other biomedical condition.
13. **“Negative Test Result”** - A negative result indicates that the alcohol level is below .04 BAC and/or an illegal/unauthorized substance below the levels as described in this Policy and Program, has not been detected in the person’s specimen by the laboratory.
14. **“Not Consistent With Human Urine or Substituted Test Result”** - This test result is self-explanatory and is determined by the laboratory. A not consistent with human urine or substituted test result has the same consequences as a confirmed positive test result.
15. **“Positive Test Result”** - A positive test result indicates that the alcohol level is .04 BAC or above and/or the laboratory and the MRO has confirmed an illegal/unauthorized drug(s) in the person’s system as described in this Policy and Program.
16. **“Possession”** - Actual or constructive care, custody, control or immediate access to illegal or unauthorized drugs.

17. **“Prohibited Substances and Items”** include:
- a) Illegal or legal drugs that have not been legally prescribed for the individual and controlled substances, “look-alike”, designer and synthetic drugs and mood or mind altering substances;
  - b) Prescribed drugs used in a manner inconsistent with the prescription;
  - c) Alcoholic beverages; and
  - d) Substance paraphernalia in the possession of or being used by an employee on the job, excluding any substance or paraphernalia prescribed by a physician and being used in a manner consistent with the prescription.

18. **“Reasonable Suspicion”** - A belief based on objective and articulated written facts sufficient to lead a supervisor, who has received the proper training, to suspect that drugs or alcohol might influence an individual's behavior.

Reasonable Suspicion shall be defined as aberrant or unusual on-duty behavior of an employee who:

- 1. Is observed on-duty by either the employee's immediate supervisor trained in accordance with this policy, or other managerial personnel of the contractor who have been trained to recognize the symptoms of drug abuse, impairment or intoxication, which observations shall be documented by the observers;
- 2. Exhibits the type of behavior which shows accepted symptom(s) of intoxication or impairment caused by controlled substances or alcohol or addiction to or dependence upon said controlled substances or alcohol; and
- 3. Exhibits conduct that cannot be reasonably be explained as resulting from other causes, such as fatigue, lack of sleep, side effect of prescription or over-the-counter medications, illness, reaction to noxious fumes or smoke.

Exhibit E, Reasonable Cause/Suspicion Documentation, should be utilized when an Employee is suspected of alcohol and / or drug use by actions, appearance or conduct, which constitutes a major change in the person's appearance and/or behavior. Employees testing for reasonable suspicion shall have the right to have their job steward present during written documentation and testing.

19. **“Safety Sensitive”** - A predictable exposure to operations where failure could result in serious harm to public or employee well being, company

property, or the environment. Supervisors of company personnel are included.

20. **“Substance Abuse Professional (SAP)”** – A Substance Abuse Professional is a licensed physician or certified counselor who has received the appropriate training in substance abuse disorders to provide rehabilitation, assistance and recommendations to individuals who have a drug and/or alcohol problem.
21. **“Substance Testing”** – Drug and alcohol analysis by means of breath, urine, blood, and/or saliva.
22. **“Third Party Administrator” (TPA)** – A TPA is an independent third party professional organization that will implement and monitor the Policy and Program and its contents, including, but not limited to drug and/or alcohol testing; collection sites; random selection; random testing; auditing of Policy and Program integrity; and updating and maintaining the Policy and Program to keep pace with current and developing trends in the field of substance abuse and screening.
23. **“Under the Influence”** - The presence of a **PROHIBITED SUBSTANCE** in body fluids or breath that affects the individual in any detectable manner. The symptoms of influence may be, but are not limited to, slurred speech or difficulty in maintaining balance. Under the Influence for alcohol refers to a breath alcohol content of .04 or greater.
24. **“Unsuitable Test Result”** - The laboratory determines that the specimen contains a foreign contaminate or the individual has ingested fluids to mask the illegal/unauthorized drug but the levels are not in the range to legally determine if the specimen is adulterated or substituted. An unsuitable test result will require the individual to provide another sample under observation.
25. **"Worker Status"** – The TPA shall maintain a database of employees indicating their current eligibility status in the Program. A worker's status shall indicate the individuals compliance or non-compliance with the Program's terms and conditions as follow:
  - a. **Active Status:** employees who have been subject to and have complied with the Program's terms and who therefore are eligible for immediate placement without having to take another drug test.
  - b. **Inactive Status:** employees who have missed a random test through no fault of their own (not willful), or who have had a diluted or unsuitable test result and need to be re-tested.
  - c. **Pending Status:** employees who have provided a specimen but the final results have not been received from the laboratory and/or MRO

- d. **Random Status:** employees who have been selected for a random drug test and have not yet been tested
- e. **Reinstate Status:** employees who have been suspended for violation of the Policy and must complete the reinstatement requirements prior to being returned to Active status.

### **III. PROGRAM STATEMENT**

1. This is to notify all employees that the use, abuse, or reporting to work under the influence, bringing onto the worksite, the unlawful manufacture, distribution, possession, transfer, storage, concealment, transportation, promotion or sale of illegal and unauthorized drugs, controlled substances, alcoholic beverages or drug related paraphernalia by employees is strictly prohibited and is a violation of this Policy and Program and subject to disciplinary action, up to and including immediate termination.
2. Employees using prescription medication, which may impair the performance of job duties, either mental or motor functions, must immediately inform the employer's designated Communicator of such prescription substance use. For the safety of all employees, the Communicator will consult with the individual and the individual's physician to determine if a reassignment of duties is necessary. The Communicator will attempt to accommodate the employee's needs by making an appropriate reassignment, if required. However, if a reassignment is not possible, the employee will be placed on temporary medical leave until released as fit for duty by the prescribing physician.
3. Each employee must acknowledge in writing their acceptance of the Policy and Program and provide consent to be tested for drugs and alcohol and authorize release of the results to the Third-Party Administrator, communicators, the clinic, the laboratory, the MRO and the Union. An example of such consent form is attached.

### **IV. PROGRAM MEMBERSHIP**

Only contractor and labor groups will be provided full access to the Substance Abuse Database. Owners will be allowed to receive Compliance Reports from Contractors indicating the workers' Active Status.

### **V. PROGRAM ADMINISTRATIVE COMMITTEE**

The development, implementation and overall responsibility of this Policy and Program shall be the responsibility of the Policy and Program Administrative Committee (Committee). The Committee shall:

1. Determine operating procedures.
2. Interpret the Policy and Program.

3. Appoint a Third Party Administrator (TPA).

## **VI. THIRD PARTY ADMINISTRATOR RESPONSIBILITIES**

The Committee will appoint a TPA to administer this Policy and Program. The responsibilities of the TPA shall be:

1. Select and utilize the services of a laboratory certified by the Substance Abuse and Mental Health Services Administration (SAMHSA) under the Department of Health and Human Services.
2. Select a Medical Review Officer that is licensed by the American Association of Medical Review Officers.
3. Provide chain-of-custody forms, test kits and collection locations that utilize SAMHSA procedures to insure both proper chain of custody protocols and employee confidentiality is met.
4. Inform the Committee of revisions to SAMHSA regulations, enhancements to the Policy and Program and new technology in drug and alcohol testing.
5. Maintain appropriate systems, databases, records and administrative procedures to provide participating employers with accurate and timely information as to the donor's eligibility status in order to expedite their employment and access to the Owner's job site.
6. Perform random selections by use of a computer-generated numerical software program designed to ensure that no employee is singled out.
7. Notify Communicator of employees that have been selected for a random and periodic renewal drug and alcohol test.
8. Notify the Communicator of all positive test results.
9. Notify Communicator of individuals, who have provided a laboratory confirmed non-negative test result, to the MRO for interpretation and final confirmation as to whether the urine sample is positive or negative.
10. Ensure that the Substance Abuse Professional has released individuals, who have tested positive, to return to work and that the individuals have provided a negative return to work drug and alcohol test.
11. Ensure that all necessary follow-up/probationary status tests are performed as provided for in the Policy and Program.
12. Provide training to the employers' designated employees and union representatives (Communicators) in their responsibilities and administration of the Policy and Program and to supervisory personnel responsible for determining whether an employee must be tested based on reasonable cause/suspicion.

13. Confirm that individuals, who have tested positive for drugs and/or alcohol, have received the appropriate rehabilitation counseling and have been released to return to work.
14. Ensure that the Policy and Program complies with applicable Federal, State and Local laws.

## **VII. MEDICAL REVIEW OFFICER (MRO) RESPONSIBILITIES**

The responsibilities of the MRO shall be to:

1. Review the chain-of-custody form to ensure that proper SAMHSA protocols have been maintained.
2. Discuss with the individual, who has provided a non-negative test result confirmed by the laboratory, to allow the individual to provide documentation for any legal/controlled drug(s).
3. Notify the individual of the positive or negative test result.
4. Allow individuals who have provided a confirmed positive drug test result an opportunity to request that their **original sample** be retested by a SAMHSA certified laboratory of their choice.

## **VIII. RIGHTS OF EMPLOYEES**

Employees shall have the following rights:

1. Provided with this Policy and Program prior to being requested to provide a drug and alcohol test. The employer or union shall provide each employee with the Employee Notice of Policy, Consent and Release Form (example attached).
2. Allowed the opportunity to discuss with the MRO any medical conditions, prescription medication that the individual is currently taking or has recently taken or any other relevant information to explain the non-negative test result.
3. Allowed the opportunity to request, in writing, from the MRO a retest of the **original sample** from a SAMHSA certified laboratory of the individual's choice. This request must be postmarked within two (2) days of the date of being notified of the confirmed positive test result. The retest result shall be communicated in writing to the employee.
4. Reimbursed for the cost of the retest and paid all lost wages and benefits if retest results in a negative test result.
5. Except for a retest requested and a return to work test, all costs associated with this Policy and Program shall be borne by the employer (unless said costs are paid by an alternative manner).

## **IX. EMPLOYEE ASSISTANCE PROGRAM (EAP)**

The Policy and Program recognizes that chemical dependency and other medical behavioral conditions creates serious problems for workers, their families, the workplace and the community and are highly complex problems, which often can be successfully treated. Each employee is responsible for seeking help before an alcohol or drug problem leads to disciplinary action. The employee's decision to seek assistance (Self-Referral) prior to a violation of the Policy and Program will not be used as a basis for disciplinary action and will not be used against the employee in any disciplinary proceeding. Employees are encouraged to contact their Health and Welfare Program for assistance.

## **X. SUBSTANCE ABUSE TESTING PROTOCOLS**

Employees will be required to undergo substance abuse testing to determine the use of any illegal or unauthorized drug, alcohol or substances prohibited by the Policy and Program.

**a. CONFIDENTIALITY:** An employee's expectation of privacy and confidentiality is a top priority of this Policy and Program. Accordingly, all testing records will be considered confidential and will only be released upon written consent of the employee, except that such information will be released, regardless of consent, to inform the designated contact person in accordance with this policy that the employee is eligible to perform the work requested, and/or upon issuance of a subpoena compelling release of such information from a duly situated and authorized administrative or judicial forum, the parties of a grievance initiated by the employee or union in which the test results are a material issue or to workers compensation carriers and the Unemployment Compensation Commission in which the test results are a material issue.

**b. SAMPLE COLLECTIONS:** Certified Collection Specialists and Breath Alcohol Technicians will collect all samples, utilizing Substance Abuse & Mental Health Services Administration (SAMHSA) procedures to insure both proper chain of custody protocols and employee confidentiality are met. All samples will be collected with concern for each employee's personal privacy, dignity, and confidentiality. The TPA shall provide the following three (3) options for drug and alcohol screening collections:

**1. Mobile On-Site Collections:** Certified collectors shall be available to conduct the substance abuse collections at the job site, the employer's office or union hall.

**2. Clinical Collections:** The TPA shall make arrangements with clinical collection sites for testing of employees.

**3. TPA Office Collections:** Substance abuse collections shall be available at the TPA's office.

**c. TYPES OF TESTING TO BE CONDUCTED:**



The following type of testing is recommended by use of urine, blood, saliva or breath:

- 1. Enrollment Testing:** All individuals will be required to have a negative drug test prior to acceptance into the Program. Individuals who do not provide a negative test result will have an Inactive Status.
- 2. Pre-Assignment Testing:** Employees shall remain subject to the testing requirements of the Customer for which they are working unless otherwise excluded by the Customer.
- 3. Grandfathering:** The Company can “grandfather in” workers who provided a negative drug and/or alcohol test within the previous 90 days when the previous negative drug and alcohol test result meets or exceeds the standards of this Policy and Program as verified by the TPA.
- 4. Random Testing:** Employees shall be subject to unannounced random drug and alcohol testing. Random selections will be made 12 times a year at an annualized rate of fifty (50) percent. Random selections will be made by use of a computer-generated numerical program designed to ensure that no employee can be singled out. Upon notification of workers selected for random testing, communicators shall have fifteen (15) calendar days to complete the random testing requirement. Workers must report for random testing as instructed, within a maximum of twenty-four (24) hours, by their communicator of their selection for random testing.
- 5. Post-Accident/Incident Testing:** Employees shall be required to take a drug and alcohol test after having been involved in, or after causing, an incident/accident, which caused or could have caused personal injury or damage to equipment or property. Testing of employees will be consistently/equally applied to all employees. Drug and alcohol testing by use of blood will only be used for post-accident/incident testing and only when the employee is unable to provide a normal urine drug and/or breath screen.

If testing under this policy is ever required of an employee who is in need of medical attention, necessary medical attention will not be delayed in order to collect the specimen. However, such an employee shall promptly, upon request, provide the necessary authorization for obtaining hospital reports and records and any other information at the time the need for medical attention and/or testing arose.

The Company will make transportation arrangements for any employee to be tested following the mandatory guidelines of the Department Health and Human Services (DHHS).

- 6. Reasonable Suspicion Testing:** Employees will be subject to a drug and alcohol test based on reasonable and articulated belief that an employee is using or has recently abused drugs, alcohol or substances prohibited by this Policy and Program. A decision to test will be based on specific physical, behavioral or performance indicators and documented by a supervisor who has received training in the detection of possible symptoms of drugs and alcohol use and must be witnessed by a second supervisor.

During the process of establishing reasonable suspicion for testing, the employee has the right to request his on-site representative to be present.

The Company will make transportation arrangements for any Employee to be tested following the mandatory guidelines of DHHS.

- 7. Periodic Testing:** A drug and alcohol test will be required of individuals who have not been tested within a twenty-four (24) month period.
- 8. Return To Work, Post Treatment, Rehabilitation Testing:** Employees shall be required to successfully pass a drug and alcohol test upon release from an approved rehabilitation and/or assessment program prior to being returned to work. The cost of this test is borne by the employee.
- 9. Probationary Status/Follow-up Testing:** Individuals who have previously tested positive for drugs and/or alcohol and upon completion of the Reinstatement Requirements of the Policy and Program will be subject to additional random testing for a period of up to sixty (60) months at an annualized rate of fifty (50) percent.
- 10. Retest:** Individuals receiving a confirmed positive test result shall have the right to request that their **original sample** be retested by a SAMHSA certified laboratory of their choice. The request must be in writing and postmarked to the MRO within two (2) business (M-F) days of the notification of a confirmed positive test result. The employee requesting the retest shall pay the initial cost for a retest in advance to the MRO. The employee shall be furnished in writing the result of the retest.

In the event that said retest should prove to be negative, the employee shall be reimbursed for the cost of the test, paid any

back wages and benefits lost, and made re-eligible for hire if work is available or reinstated as an employee provided work is available with the contractor

**11. Federally Mandated Testing:** Any employee, for whom testing is mandated under a Federal Substance Abuse Testing Program, will remain subject to such testing notwithstanding the requirements of this Policy and Program.

**d. SPECIMEN ANALYSIS:** All samples collected under this Policy and Program will be analyzed by a SAMHSA certified laboratory, and shall include an initial Enzyme Multiplied Immunoassay Screening Test (EMIT) and, when necessary, confirmed by a Gas Chromatography/Mass Spectrometry (GC/MS) Confirmation Test. Said testing must screen, at a minimum, for the following substances and below the following levels to result in a negative test:

<u>Drugs Tested</u>	<u>(EMIT) Initial Test Cut-Off Level (ng/ml)</u>	<u>(GC/MS) Confirmation Test Cut-Off Level (ng/ml)</u>
Amphetamines	300	200
Barbiturates	300	100
Benzodiazepines	300	100
Cannabinoids (Marijuana - THC)	50	15
Cocaine Metabolite	300	150
Methadone	300	100
Opiates	2000	2000
Phencyclidine (PCP)	25	25
Propoxyphene	300	200
Breath/Blood Alcohol Content (BAC)	.02%	.02%

1. The Policy and Program shall have the right to change the drugs tested, the cut-off levels and the analysis procedures as new technology in substance abuse testing warrants.
2. A diluted specimen is not accepted as a valid negative Program test and the participant will have the option to retest immediately upon notification or not more than 24 hours after notification by contractor. If the second specimen is also diluted, the participant may require a third test by the oral fluid or hair test method. This will be at the participant's own expense unless a valid medical reason for the diluted specimen is provided and verified.
3. When a shy bladder occurs, the participant will be instructed by the TPA's collector to drink fluids and provide an acceptable urine sample within two hours. At any time during these two hours, the contractor can direct the participant or the participant will have the option to provide an oral fluid or hair sample. The laboratory oral fluid and hair test will be in lieu of the laboratory urinalysis test.

If the participant does not complete the test under one of the above-mentioned options, the participant will be treated as a refusal and will have the same result as a positive test.

A participant will not be able to use the oral fluid test more than once in a twenty-four (24) month period.

4. Any worker who provides an unsuitable test result will be required to have the subsequent drug test observed.
5. Blood, saliva or breath screen tests are acceptable for alcohol testing.
6. Saliva screening for alcohol will utilize the QED-A150, which gives a quantitative reading (a range of alcohol from 0 – 150 mg/dl). If the QED-A150 registers any level equal to or greater than 20 md/dl (.02%), then a Breath Alcohol Test will be performed. A confirmed screening level less than 20 md/dl (.04%) is considered negative.

**e. RECORD KEEPING:** Hard copy testing results shall be maintained by the TPA for the following specified periods:

Negative test results will be maintained for one (1) year

Positive test results will be maintained for five (5) years

Rehabilitation records will be maintained for five (5) years.

## **XI. POLICY VIOLATIONS**

An employee's failure to comply with any provisions of the Policy and Program shall be cause for disciplinary action, up to and including immediate termination.

### **A. Determination for Violation of Policy:**

1. A confirmed positive drug or alcohol test result.
2. Failure or refusal to sign Notice of Policy and Consent to be tested.
3. Failure to contact the Medical Review Officer as directed.
4. Failure to report as directed for testing.
5. The use, possession, sale or distribution of alcohol or a controlled illegal or unauthorized substance, or the presence of any employee in the work place with such ingested substances for non-medical reasons.
6. Working, reporting to work, being in the work place, or in a Customer/Employer owned, leased or rented vehicle while Under The Influence Of Alcohol (.04 BAC or greater).

7. Switching, adulterating, or attempting to tamper with any sample submitted for drug or alcohol testing, or otherwise interfering or attempting to interfere with the testing process.
8. Refusal to submit a specimen for testing will be viewed as a positive test and will carry with it the same consequences as specimens tested and confirmed as positive.
9. The use of a controlled substance by an individual other than the individual for whom the controlled substance was prescribed or the abuse of a controlled substance by the individual for whom it was prescribed.

## **B. Confirmed Positive Test Results:**

### **1. Medical Review Officer Notification (MRO)**

After the reporting of a non-negative test by the laboratory, it will be necessary for the MRO to speak with the employee to allow the individual the opportunity to provide documentation for any legal/controlled drug(s). Employees who fail to contact the MRO within 2 days of their notification will be reported as a non-contact positive, and will carry the same consequences as a confirmed positive test.

### **2. ILLEGAL AND/OR CONTROLLED SUBSTANCES**

Any employee who receives a confirmed positive test result for a substance prohibited by the Policy and Program will be subject to disciplinary action, up to and including immediate termination and will be reclassified to the Reinstatement Status.

### **3. ALCOHOLIC OR INTOXICATING BEVERAGES**

The following actions of an employee that involve alcoholic beverages are prohibited by the Policy and Program and any violation thereof and the employee will be subject to disciplinary action, up to and including, immediate termination:

- a. The consumption, manufacture, distribution, possession, use, sale, or storage of any alcoholic beverage while on or in the work place is prohibited.
- b. The performance or attempted performance of any job function or the operation of any Owner and/or contractor property or equipment while Under the Influence of Alcohol.
- c. An alcohol screening and confirmation result of .04 BAC or greater.

### **C. Reinstatement Requirements:**

An individual with a confirmed positive test result cannot return to work until all of the following conditions are satisfied and if work is available:

1. The Substance Abuse Professional (SAP) notifies the TPA in writing that the individual has completed or is actively participating in a Program/Company approved drug and/or alcohol assessment, treatment, and/or counseling program and that the individual is released to return to duty.
2. The employee agrees prior to returning to work to submit a drug and alcohol test through the TPA to determine the existence of foreign substances and alcohol within the system and such screening tests is negative. The cost of this test shall be borne by the employee.
3. The individual agrees in writing to the TPA to continue the prescribed treatment, counseling or rehabilitation as required by the SAP. If the individual does not complete the required treatment, he/she will be subject to disciplinary action, up to and including immediate termination.
4. The individual agrees to be subject to Probationary Status/Follow-up Testing.

### **D. Probationary Status/Follow-up Testing:**

Upon completion of the reinstatement requirements, individuals will be subject to additional random testing at an annualized rate of fifty (50) percent for a period of up to sixty (60) months. During this period, the Policy and Program has the right to conduct up to six of these additional random tests in the first twelve (12) months.

## **XII. GRIEVANCE**

All aspects of this Policy and Program shall be subject to the grievance procedure of the applicable collective bargaining agreement.

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In witness whereof, the parties hereto affix their signatures and seal this 1st day of July, 2018.

**Southwest Missouri Area Contractors Association (SMACNA)**

By:   
Bryan F. Fielder, President

**International Association of Sheet Metal, Air, Rail and Transportation Workers (SMART),  
Local Union No. 36, AFL-CIO**

By:   
Ray D. Reasons II, President/Business Manager

**ACCEPTANCE OF AGREEMENT**

I/We hereby certify that I/We have read and have full knowledge of the terms and conditions of this Agreement, on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

I/We hereby agree to be bound by and subject as required by the terms of this Agreement.

Company: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

By: \_\_\_\_\_ Title: \_\_\_\_\_  
(Signature)  
\_\_\_\_\_  
(Print Name)

**Union: International Association of Sheet Metal, Air, Rail and Transportation Workers (SMART),  
Local Union No. 36, AFL-CIO**

Address: 3605 East Kearney St. Springfield, MO 65803

Telephone: 417-865-4210

By: \_\_\_\_\_ Title: \_\_\_\_\_  
(Signature)  
\_\_\_\_\_  
(Print Name)