

COMMERCIAL AGREEMENT

BETWEEN

LOCAL UNION NO. 38 (Union)

**OF THE SHEET METAL, AIR, RAIL AND
TRANSPORTATION WORKERS (SMART)**

AND

**SHEET METAL AND ROOFING CONTRACTORS'
ASSOCIATION OF SOUTHEASTERN NEW YORK**

(Known as SMACNA)

for:

COUNTIES

New York:

Westchester

Putnam

Dutchess

Orange

Rockland

Sullivan

Ulster

Connecticut:

Fairfield

Litchfield

EFFECTIVE: May 1, 2019

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FUNDAMENTAL PRINCIPLES

The Employers and the Union have a common interest in harmonious relations. All will benefit by a continuous peaceful operation of the industrial process and the devotion of the means of production for the common good. To these ends, this Agreement is made.

Gender Neutral. Wherever used herein, a pronoun in the masculine gender shall be considered as including the feminine gender, unless the context clearly indicates otherwise.

ARTICLE I

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 metal work, and all other materials used in lieu thereof, and of all air-veyor systems and the fabrication and erection of duct systems of fiberglass, plastic, or any other material;
- (b) 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;
- (c) Air handling systems regardless of material used, including setting of all equipment and all reinforcements in connection therewith;
- (d) All lagging over insulation and all duct lining; testing and balancing of all air-handling equipment and duct work; and all other work included in the jurisdictional claims of the Sheet Metal, Air, Rail and Transportation Workers (SMART).
- (e) Installation of solar panels
- (f) Metal Roofing

SECTION 2. LOCAL SHOP

- (a) Any local sheet metal contractor within the jurisdiction of SMART Local Union 38 is required to sign this Agreement and have a fabrication facility within the jurisdiction incorporating, but not limited to, an eight (8) foot brake, four (4) foot shear, and an operational Pittsburgh Machine.
- (b) Contractors must meet, where applicable, all Department of Labor Laws, demonstrate Proof of Insurance and give financial security for the payment of fringe benefits provided on applicable wage sheets.

SECTION 3. FAN MAINTENANCE

- (a) In the operation of fans and blowers in buildings under construction, prior to completion and acceptance by the owner, a Journeyman Sheet Metal Worker shall be employed by the Sheet Metal Contractor to attend fans and blowers that may be placed in operation, except when the HVAC Sheet Metal Contractors have employees on the job site between 7:00 A.M. and 5:00 P.M.; the second or third shift shall consist of an eight (8) hour day. Starting times may vary.
- (b) Shifts may not be less than eight (8) hours at the Journeyman's applicable straight time rate of pay.
- (c) Under circumstances where other mechanical trades relinquish their jurisdiction over the fan maintenance, the Union agrees to also waive this requirement.

SECTION 4. SPIRAL DUCT

Spiral duct shall not exceed twenty (20) feet in length and may be used on high pressure, high velocity systems made airtight by mechanical means, such as welding, gasketing and/or caulking. Spiral duct may be used in low pressure systems. All duct must have the yellow label affixed.

In addition, for a system to be considered high pressure, it must have pressure reduction devices such as one of the following:

- (1) Pressure reducing valve with lined duct valves
- (2) Pressure reducing valve with sound trap
- (3) Attenuation box with pressure reducing valve
- (4) Double duct or mixing box with valves
- (5) Peripheral high velocity system

FLEXIBLE DUCT

Flexible hose shall not exceed ten (10) feet in length from point to point in any one branch line.

MANUFACTURED ITEMS

Fabricated round pipe and fittings along with adjustable elbows and adjustable neck take offs, grills, louvers, registers, and diffusers may be purchased under a yellow or blue label.

SECTION 5 – FAVORED NATIONS CLAUSE

The Union agrees that if, during the life of this Agreement, it grants to any other Employer in the Sheet Metal Contracting Industry on work covered by this Agreement, any better terms or conditions than those set forth in this Agreement, the Association may adopt such better terms and/or conditions. Such better terms or conditions shall become effective as terms and/or conditions of this Agreement immediately upon

written notification to the Union of the adoption by the Association. Upon written request from the Association, the Union shall immediately provide copies of any bargaining agreement that it is party to, covering the performance of any work that falls within the scope of work covered by this Agreement, so that the Association may effectively utilize this provision.

ARTICLE II

SECTION 1. PRESERVATION OF WORK

To protect and preserve for the Building Trades employees covered by this Agreement, all work they have performed and all work covered by the Agreement, and to prevent any device or subterfuge, to avoid the protection and preservation of work, it is agreed that all the work requiring sketching and/or fabrication shall be performed by employees hereunder, either in the shop or on the job site within the geographical jurisdiction of the Union.

(a) The foregoing shall not be applicable to the manufacture for sale to the trade if purchase of the following items is under a yellow or blue label, unless otherwise specified:

- | | |
|--------------------------------------------------|-------------------------------------|
| 1. Ventilators | 7. Air diffusers, grills, registers |
| 2. Louvers | 8. Sound attenuators |
| 3. Automatic and fire dampers | 9. Chutes |
| 4. Radiator and air conditioning unit enclosures | 10. Double-wall panel plenums |
| 5. Mixing (attenuation) boxes | 11. Angle rings |
| 6. Plastic skylights | 12. Spiral Duct |

(b) Ductwork to indicate Contractor name.

(c) REFERRAL PROCEDURE - The Membership of Local Union 38 shall be at liberty to work for any local Contractor in signed Agreement.

(d) Only certified sketchers, as approved by the Union, shall be engaged to prepare shop and field drawings or sketches.

SECTION 2. SECURING WORK

Employers shall make every effort to secure all work included in the jurisdiction of the International Association of Sheet Metal, Air, Rail and Transportation Workers, and this Agreement.

If any employer accepts any job, by any contract or otherwise, and all of the work included is in the jurisdiction of the International Association of Sheet Metal, Air, Rail and Transportation Workers and this Agreement, and considered part of the job normally but not included therein, employees covered by this Agreement and the Union shall have the right to refuse to perform any work on or for such a job.

In order to carry out the intent of the above paragraph, the Business Manager, or his

duly authorized representative, shall have (a) the right to demand evidence in the way of purchase orders, invoices and/or checks, from any contractor to prove compliance with this and related paragraphs of this Agreement; and (b) immediate access to any shop where employees covered by this Agreement are employed.

SECTION 3.

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.

ARTICLE III

Employers agree that none but Journeypersons, Apprentices and Classified Sheet Metal Workers shall be employed on any work described in Article I and further, for the purpose of proving jurisdiction, agree to provide the Union with written evidence on the employer's letterhead for certain specified items of work to be performed at job site prior to commencement of work at the site. List of such specific items, which may be revised from time to time, as agreed to and by and between SMACNA and SMART shall be provided to the employer.

Employers shall send Work to be Performed Statements and Letters of Assignment on Company Letterhead, as soon as they enter into a contract to perform work in accordance with the Union Agreement. The Employer's sketcher will be responsible for providing this information. Non-compliance can result in a fifty dollar (\$50) penalty.

ARTICLE IV

SECTION 1.

- (a) The Union agrees to furnish, upon request by the employer, duly qualified Journeypersons, Apprentices and Classified Sheet Metal Workers in sufficient number as may be necessary to properly execute work contracted for the employer in the manner and under the conditions specified in this Agreement.
- (b) The Union shall continue to implement an Affirmative Action Program.
- (c) Subject to the applicable state laws, it is agreed that the parties to this Agreement will establish rules and regulations to maintain a drug free workplace.
- (d) The Union will continue to offer training and certifications to its members. It is mandated that all employers outside Local 38's jurisdiction must assume the cost of additional training, if any, for special training and certifications needed to complete a project.

SECTION 2. DEFINITION OF WORK

- (a) Architectural Sheet Metal Work shall be defined as interior and/or exterior work, either done for waterproofing or decorative purposes, but not limited to such. This can include metal roofing, gutters, leaders, valley flashing, cornice work, skylights, chimney flashing and cover caps, interior and exterior soffits, storefronts, and countertops.
- (b) Specialty Work shall be defined as sheet metal work under the guidelines of Resolution 78. All hours worked shall be paid per applicable wage sheets.

ARTICLE V

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

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

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

SECTION 4. The Union may request recognition as the exclusive collective bargaining agent for all employees employed by the Employer in the classifications and geographic jurisdiction covered by this Agreement, whether or not they are members of the Union. In determining whether the union has the support of a majority of the Employer's employees, such showing may be based upon either a majority of those employed at the time such recognition is requested, or, a majority of those eligible to vote under the National Labor Relations Board's Steiny-Daniel formula. No later than 10 days following the Union's request, the Employer shall review employees' authorization cards submitted by the Union in support of its claim to represent and have the support of a majority of such employees. If a majority of the employees has designated the Union as their exclusive collective bargaining representative, the Employer will recognize the Union as such majority representative of all employees in the classifications and

geographic jurisdiction covered by this Agreement. The Employer shall not file or cause the filing of a petition for election or unfair labor practice charge with the National Labor Relations Board in connection with any demands for recognition provided for here. Article X of this Agreement shall be the sole and exclusive means of resolving any dispute concerning this provision.

ARTICLE VI

SECTION 1.

- (a) Regular working days shall consist of eight (8) hours labor in the shop or on the job between 6:00 A.M. and 5:00 P.M., and the regular working week shall consist of five (5) consecutive eight (8) hour days' labor in the shop or on the job, beginning with Monday and ending with Friday of each week.
- (b) 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.
- (c) Employees shall be at their work stations prepared to start work at the designated time and provide eight (8) hours of labor for eight (8) hours' pay
- (d) The work week shall consist of forty (40) hours per week. Employees shall work 8 (eight) hours between 6:00 AM and 5:00 PM, with a one-half hour lunch period (unpaid) taken between 11:00 AM and 2:30 PM. Employees shall be entitled to a 15 minute (paid) break in the morning.

SECTION 2. HOLIDAYS

New Year's Day	Memorial Day
Good Friday	Independence Day
Labor Day	Veterans' Day
Thanksgiving	Day after Thanksgiving
Christmas Eve Day	Christmas Day

Note: When a holiday falls on a Thursday, the day after (Friday) shall be paid at the overtime rate.

SECTION 3. TRAVEL TIME

Employers shall provide all additional transportation during regular working hours when traveling from shop to job, or job to job. When an employee uses his own transportation, he shall be reimbursed at the standard mileage rate as set forth by the U.S. Internal Revenue Service.

SECTION 4. SHOW UP TIME

When employees report to work at employer's discretion and are not put to work, they shall be paid the following:

- (a) Show up at designated time and unable to start - 2 hours pay.
- (b) Inability to continue work after 2 hours - 2 hours additional pay.
- (c) Inability to continue work after 4 hours - 2 hours additional pay.

Under no circumstances shall the contractor be responsible for payment of more than an additional two hours of compensation.

SECTION 5. LAYOFF PROCEDURE

- (a) Employers must notify the Union office by 12:00 noon and pay employee by 3:30 P.M., or one hour before quitting time, should work hours be at different starting times.
- (b) Employees of local contractors on layoff shall have all fringe benefits paid in full as per Article XII, Section 2, not later than the 20th day of the month following layoff.
- (c) Employees of "out-of-town" contractors shall have all fringe benefit payments paid in full at the time of layoff.
- (d) Employees covered by this Agreement on the day of layoff, shall be given a STATE LAYOFF SLIP, if applicable.

SECTION 6. OVERTIME

- (a) Overtime work must be reported to the local union office before 3:30 P.M. on the day of such overtime. In the case of Saturday and Sunday work, work shall be reported by 3:30 P.M. on the Friday preceding.
- (b) There will be a Local 38 Journeyman on all overtime.
- (c) Work outside of the regular established work hours shall be paid at one and one-half (1 1/2) times the hourly base and vacation rate Monday through Saturday. Benefits, except vacation, are paid on hours worked.
- (d) Double the hourly total package rate for all work performed on Sundays and Holidays. All benefits are paid on hours worked.
- (e) Overtime work performed in the shop or on the job should be performed on a rotating basis.
- (f) Roofing and Architectural Sheet Metal contractors shall be allowed to use Saturday as a make-up day for inclement weather only. The Contractor must notify the Union of this change in schedule. If Saturday is used as a make-up day, any hours over 40 for the week will be paid at time and one-half.

SECTION 7. SHIFT WORK

Shift work will be allowed on all construction when established in the shop or in the field for a minimum of five (5) working days. All man power to be employed to meet shift requirements must be employed from Local Union 38. The Employer has the option to provide one (1) Foreman.

- First Shift - Eight (8) hours pay for eight (8) hours worked between the hours of 6:00AM and 5:00 PM.
- There will be a 10% increase for any shift outside of the above timeframe (2nd and 3rd Shifts)

Shift work performed on Saturdays shall be at one and one-half (1 1/2) times the hourly base and vacation rate. Benefits for Saturday work, except vacation, are paid on hours worked. Sundays and Holidays shall be at double the hourly total package. All Sunday and Holiday benefits are paid on hours worked.

A shift premium will be paid on Public Work contracts for 2nd and 3rd shifts when mandated by the NYS DOT or other Government Agency contracts.

Shift work shall have a minimum duration of five (5) working days and the contractor must notify the Union Business Office seventy-two (72) hours before shift work starts, and confirm in writing. Second and Third shift work shall be paid a ten percent (10%) increase for any shift outside the 6:00AM to 5:00 PM hours.

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.

SECTION 8. SHOP STEWARD

- (a) There shall be a Union Steward on all jobs as well as in the shop, during all working hours where three (3) or more employees are employed; the Steward may not be transferred without notice to the Business Manager.
- (b) The Employer, or duly authorized representative, shall notify the Union Business Office and Steward seventy-two (72) hours in advance (excluding weekends and holidays) of laying off a duly appointed Steward.

If a dispute arises as to the proper performance of a Steward's duties, the Steward will remain on the job until a Local Joint Adjustment Board hearing takes place, within seventy-two (72) hours whenever possible, excluding Saturdays, Sundays, and Holidays. Unless the dispute is promptly resolved, it shall be resolved in accordance with Article X of this Agreement.

If either party fails to meet, such party shall be liable for one day's pay to the employee for each working day lost and another meeting shall be scheduled within twenty-four (24) hours; above mentioned penalty to be imposed upon the party not showing up for the meeting. This procedure shall be followed until the meeting is held.

The Steward shall be the third from the last man on the job or in the shop. In the event of a temporary shutdown, if the Steward is not the third man rehired on the job or in the shop, the Union shall have recourse to a grievance hearing under Article X; such hearings shall be held seventy-two (72) hours (exclusive of weekends and holidays) of the time the Steward is not rehired, and the same penalty as above shall apply. Steward shall be notified by the Employer when overtime work is necessary and given the names of the employees working overtime.

SECTION 9. FOREMAN

There shall be a Local Union 38 foreman in every shop and every location where four (4) or more workers are employed. Ratios as follows:

Up to four (4) workers	One (1) Foreman
Upon employment of 12th worker	Two (2) Foremen
Upon employment of 20th worker	General Foreman <i>plus</i> Two (2) Foremen
Upon employment of 28th worker	General Foreman <i>plus</i> Three (3) Foremen

There will be one (1) additional Foreman upon the employment of each 8th worker thereafter.

On a job employing twelve (12) or more workers, the first Foreman shall be the Foreman through whom orders are issued to the other Foremen. All Foremen shall be Journeypersons Sheet Metal Workers.

<i>GENERAL FOREMAN RATE OF PAY</i>	\$ 8.50 above Journeyperson rate
<i>FOREMAN RATE OF PAY</i>	\$ 5.00 above Journeyperson rate

ARTICLE VII

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

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

ARTICLE VIII

SECTION 1. The minimum rate of wages for Journeypersons Sheet Metal Workers covered by this Agreement, when employed in a shop or on a job, shall be per applicable wage sheets.

SECTION 2. On all work specified in Article I of this Agreement, fabricated and/or assembled by Journeypersons, Apprentices, and/or Classified Sheet Metal Workers within the jurisdiction of this Union, or elsewhere, for erection and/or installation within the jurisdiction of any other local union affiliated with SMART, whose established wage scale is higher than the wage scale specified in this Agreement, the higher wage scale of the jobsite Union shall be paid to all employees completing work on or for the out of jurisdiction project.

SECTION 3. Provisions of Section 2 of this Article shall not be applicable to AIR POLLUTION CONTROL SYSTEMS fabricated for the purpose of removing air pollutants, excluding air conditioning, heating, ventilation, and smoke purge systems. In addition, the provisions of Section 2 of this Article will not be applicable to the manufacture of spiral pipe and/or fittings for high pressure systems.

SECTION 4. Except as provided in Sections 2 and 6 of this Article, the Employer agrees that Journeypersons Sheet Metal Workers hired outside the territorial jurisdiction of this Agreement shall receive the wage scale and working conditions of that local Agreement.

SECTION 5. When the Employer has any work specified in Article I of this Agreement and within the area covered by another Agreement with another local union affiliated with SMART, and qualified sheet metal workers are available in such area, he may send no more than two (2) Sheet Metal Workers per job site into such area to perform any work which the Employer deems necessary. All additional Sheet Metal Workers shall come from the area in which the work is to be performed. Journeypersons Sheet Metal Workers covered by this Agreement who are sent outside of the area covered by this Agreement shall be paid in accordance with applicable wage sheet, plus all necessary transportation, travel time, board and expenses while employed in that area, and the Employer shall be otherwise governed by the established working conditions of the Local Agreement. If employees are sent into an area where there is no local Agreement of SMART covering the area, then the minimum conditions of the home local union shall apply.

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

SECTION 7. Health benefit contributions shall not be duplicated. When Sheet Metal Workers are employed temporarily outside the jurisdiction of their home local, the Contractor agrees to transmit health contributions to the employee's home local.

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

SECTION 8. Each employer covered by this Agreement shall employ at least one (1) Journeyperson Sheet Metal Worker who is not an owner of the firm, on all work specified in Article I of this Agreement.

SECTION 9.

- (a) The Employer shall pay to the Sheet Metal Contactors' Industry Fund of Southeastern New York on each hour worked by each employee of the Employer covered by this Agreement, at the amount set forth on the **APPLICABLE WAGE SHEET**. Payment shall be in accordance with Article XII, Section 2. The Local Industry Fund has agreed that there will be no additional monies allocated to this Fund for the duration of this CBA.
- (b) Contributions will be used to promote programs of industry education, training, negotiation and administration of collective bargaining agreements, research and promotion, 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.
- (c) Local Industry Fund shall furnish to the Business Manager of the Union, not less often than semi-annually, written reports describing, in reasonable detail, the nature of activities in which it engaged or which it supports, directly or indirectly, with any of its funds. One time per year, the local industry fund shall include in such written report, a statement attested to by a certified public accountant and containing its balance sheet and detailed statement of receipts and disbursements.
- (d) Grievances concerning use of Local Industry Fund monies to which an employer shall contribute, or for violations of other subsections of this Section, shall be processed pursuant to Article X of this Agreement.

SECTION 10. Effective as of the date of this Agreement, the Employers will contribute to all National Funds (per applicable wage sheets).

SECTION 11. PAYMENT OF WAGES BY CHECK

Employers who desire to pay wages by check must first: Employers approved to pay by check shall have the work week end on Tuesday and the paycheck must be given to the Employees on Thursday of the same week at or before quitting time. Payments made by check must be drawn on a bank in the jurisdiction of Local 38, within commuting distance of the job site. Otherwise, payment must be made in cash on Friday before 3:30 P.M. If a holiday falls on a Thursday, paychecks will be given to the Employees on a Wednesday.

- (a) Employers shall remit payment for all Local and National benefits in accordance with procedures set forth in Article XII.
- (b) Employees shall receive pay receipts with each pay, showing name, hours worked, hours paid, specialty hours, and all deductions from the gross wages.

(c) **ELECTRONIC TRANSFER OF PAYCHECKS** - The Union sanctions the use of electronic transfer of paychecks as an alternative to being paid at the worksite. Members who chose not to partake in electronic transfer will not be discriminated against. If charges of discrimination with regard to the transfer are filed against a Contractor by any Member, the Union will rescind this privilege.

(d) A check issued by the Employer which cannot be cashed on the date the check is issued, or if the Employee is not paid cash by 3:30 PM on Friday, the Employer shall be liable for one day's pay for each calendar day the Employee waits for cash, after the Employee notifies the Union Office or Business Representative.

SECTION 12.

(a) Employers shall obtain applicable State Disability Benefits for each covered employee when working in Local 38's jurisdiction. Premiums for same may be deducted from employee's wages as allowed by State Law.

SECTION 13. Employer agrees that upon receipt by the Union of a validly executed authorization form from the Employee/Member, it will deduct from the authorizing Employee's pay, the amount of working assessments so indicated. Not later than the 20th day of each month, for monthly payers, and within ten (10) days of the end of the pay week for weekly payers, the Employer shall remit to the Union, the Union working dues deducted for the prior month, including the hourly per capita dues owed to the International Association of Sheet Metal, Air, Rail and Transportation Workers, together with a list of employees and their social security numbers for whom such deductions have been made.

ARTICLE IX

SECTION 1. Sheet Metal Workers covered by this Agreement shall provide for themselves all necessary hand tools.

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

SECTION 3. PROTECTIVE EQUIPMENT

Employers shall furnish protective equipment such as, but not limited to, gloves, goggles for welding and burning, as well as foul weather gear, such as weatherproof raincoat, hat, boots and gloves, when employees are required to work in inclement weather. When employees work with fiberglass duct, employers are to furnish protective clothing.

SECTION 4. EXPLOSIVE TOOLS

Explosive tools may be used only in accordance with all State, Federal OSHA and Industry Safety Requirements. All Sheet Metal Workers will be certified by a special training program conducted by the Craft Training Fund.

SECTION 5. HEATED SHANTIES

Employers shall provide suitable heated areas on all jobsites where there are over seven (7) workers employed for thirty (30) days or more during the months of November through March.

SECTION 6. INSTALLATION OF DUCTWORK/MANIFOLDING

Safety conditions shall be observed when hoisting by chain hoist, duct lifts, well wheels, come-alongs, etc. The maximum length of duct to be lowered, lifted or hoisted shall be eighteen (18) feet. All side taps shall be no greater than twelve (12) inches. If the duct has a width or diameter of thirty-six (36) inches or more, a minimum of two (2) duct lifts or hi-jacks must be used - all lifting capacities must be observed.

SECTION 7. VEHICLES

Employers shall have the name of the Corporation or Company clearly and legibly painted or stenciled on all of their vehicles bearing commercial license plates.

SECTION 8. LOSS OF TOOLS

The Employer shall reimburse all Employees against loss of tools and clothing on the jobsite due to robbery, when locked in a gang box or secured in a room where forced entry can be proven, or loss through fire or explosion.

ARTICLE X

The Union and the Employer, whether party to this Agreement independently or as a member of a multi-employer bargaining unit, agree to utilize and be bound by this Article. The Trustees of the Local 38 Funds, may, at their discretion, utilize the grievance procedure to collect unpaid contributions of contributing Employers.

SECTION 1. Grievances of the Employer or the Union, arising out of interpretation or enforcement of this Agreement, shall be settled between the Employer directly involved and the duly authorized representative of the Union, if possible. Both parties may participate in conferences through representatives of their choice.

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

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

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

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

Notwithstanding the provisions of Paragraph 1 of this Section, an employer who was not a party to the Labor Agreement of the area in which the work in dispute is performed, may appeal the decision of the Local Joint Adjustment Board from that area, including a unanimous decision, and request a Panel hearing as set forth in Section 3 of this Article, providing such appeal is approved by the Co-Chairperson of the National Joint Adjustment Board.

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

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

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

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

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

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

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

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

The dispute shall be submitted to the National Joint Adjustment Board pursuant to the rules as established and modified from time to time by the National Joint Adjustment

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

- (b) Any application to the National Joint Adjustment Board, shall be upon forms prepared for that purpose, subject to any changes which may be decided by the Board from time to time. The representatives of the parties who appear at the hearing will be given the opportunity to present oral argument and to answer any questions raised by members of the Board. Any briefs filed by either party, including copies of pertinent exhibits, shall also be exchanged between the parties and filed with the National Joint Adjustment Board at least twenty-four (24) hours in advance of the hearing.
- (c) The National Joint Adjustment Board shall have the right to establish time limits, which must be met with respect to each and every step or procedure contained in this Section. In addition, the Co-Chairperson of the National Joint Adjustment Board shall have the right to designate time limits, which will be applicable to any particular case and any step therein, which may be communicated to the parties by mail, telegram/fax, e-mail, or telephone notification.
- (d) Unless a different date is agreed upon mutually between the parties, or is directed by the unanimous decision of the National Joint Adjustment Board, all effective dates in the new Agreement shall be retroactive to the date immediately following the expiration date of the expiring agreement.
- (e)

***All correspondence to the National Joint Adjustment Board shall be sent to the following address: National Joint Adjustment Board, PO Box 220956, Chantilly, VA 20153-0956, or 4201 LaFayette Center Drive, Chantilly, VA 20151-1219.**

ARTICLE XI

SECTION 1. Apprentices shall be under the supervision and control of a Joint Apprenticeship and Training Committee (JATC) composed of six (6) members, three (3) of whom shall be selected by the Employer, and three (3) by the Union. Said Joint Apprenticeship and Training Committee shall formulate, and make operative, such rules and regulations as they may deem necessary and which do not conflict with the specific terms of this Agreement, to govern eligibility registration, education, transfer, wages, hours, working conditions of duly qualified apprentices, and the operation of an adequate apprentice system to meet the needs and requirements of the trade. Said rules and regulations, when formulated and adopted by the parties hereto, shall be recognized as part of this Agreement.

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

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

SECTION 4. It is hereby agreed that the Employer shall apply to the Joint Apprenticeship and Training Committee, and the Joint Apprenticeship and Training Committee shall grant apprentices on the basis of:

- 2:1 with unemployment of 100 or less, for three (3) consecutive months
- 3:1 with unemployment over 100

However, an Employer will not be entitled to a new apprentice if the Employer has an apprentice on layoff for lack of work.

SECTION 5. Apprentices shall not be in charge of work on any job, and shall work under the supervision of a Journeyperson until apprenticeship terms have been completed and they have qualified as Journeypersons.

SECTION 6. Wage scale for Apprentices shall be established and maintained on the following percentage basis of the established wages of the Journeypersons Sheet Metal Workers per applicable wage sheet:

First Year	-- Term 1 - 40%	Term 2 - 45%
Second Year	-- Term 3 - 50%	Term 4 - 55%
Third Year	-- Term 5 - 60%	Term 6 - 65%
Fourth Year	-- Term 7 - 70%	Term 8 - 75%

SECTION 7. Concentrated Apprenticeship Training Program will be set forth by the Craft Training Fund Trustees and all first year Apprentices will be probationary.

ARTICLE XII

SECTION 1. CLASSIFIED WORKERS RATIO

- (a) One (1) Classified Worker for any Employer who employs an Apprentice.
- (b) Two (2) Classified Workers for any Employer who employs at least three (3) Apprentices.
- (c) Thereafter, ratio of one (1) Classified Worker for each additional three (3) Apprentices.

Classified Workers may perform any work covered by Article I and will work under the supervision of a Journeyman. The wage rate will not exceed 35% of the Journeyman wage rate. (See applicable wage rate sheet).

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

SECTION 2. FUNDS

1. *OBLIGATION OF EMPLOYER TO CONTRIBUTE.* For all work performed pursuant to the terms of this Agreement, an Employer shall make contributions to the various Sheet Metal Workers' Local 38 Fringe Benefit Funds and other designated funds as described herein, including but not limited to those National Benefits described in paragraph 3(h)-(m), below (hereinafter "National Benefits").
2. *SHEET METAL WORKERS' LOCAL 38 FRINGE BENEFIT FUNDS.* The Sheet Metal Workers' Local 38 Fringe Benefit Funds ("Local 38 Funds") are as follows: Sheet Metal Workers' Local 38 Individual Vacation Account; Sheet Metal Workers' Local 38 Insurance and Welfare Fund; Sheet Metal Workers' Local 38 Labor Management Committee & Trust Fund; Sheet Metal Workers' Local Union 38 Profit Sharing Fund; Sheet Metal Workers' Local 38 Craft Training Fund; Sheet Metal Workers' Craft Training Building Fund; and, SMACNA Industry Fund.

The Local 38 Funds shall be administered by an equal number of representatives of the Employers and Union, in accordance with the respective Agreements and Declarations of Trust pursuant to which they are established. Any Employer signatory to this Agreement, whether or not a member of the Association, authorizes the Association to enter into appropriate Trust Agreements necessary for the administration of the Local 38 Funds and agrees to accept the Trustees appointed by the Association (and their successors) as its representatives and hereby waives all notice of such appointments and ratifies all actions already taken or to be taken by such Trustees within the scope of their authority.

The Agreements and Declarations of Trust, establishing the Local 38 Funds and National Benefits, shall conform to all requirements by law. The parties agree that all of the terms and conditions of the Agreement and Declarations of Trust, and the Plans of the Local 38 Funds and National Benefits provided for in this Agreement, are incorporated as if fully set forth herein.

In compliance with Section 302 of the National Labor Relations Act, 29 U.S.C., Section 186, the Trustees of the Local 38 Funds shall accept contributions only from employers who are bound either to this collective bargaining agreement or to a written agreement with the Trustees of the respective Funds specifying the basis upon which contributions to the Local 38 Funds are to be made.

3. **CONTRIBUTIONS.** Employers shall contribute to the following funds on behalf of their Employees according to the wages and fringe benefits negotiated by the parties ("the applicable wage sheet").
- (a) Sheet Metal Workers' Local 38 Individual Vacation Account
 - (b) Sheet Metal Workers' Local 38 Insurance and Welfare Fund
 - (c) Sheet Metal Workers' Local 38 Labor Management Committee & Trust Fund
 - (d) Sheet Metal Workers' Local 38 Profit Sharing Fund
 - (e) Sheet Metal Workers' Local 38 Craft Training Fund
 - (f) Sheet Metal Workers' Local 38 Craft Training Building Fund
 - (g) SMACNA Industry Fund
 - (h) Sheet Metal Workers' National Pension Fund
 - (i) International Training Institute (I T I)
 - (j) National Energy Management Institute (NEMI)
 - (k) Sheet Metal Occupational Health Institute, Inc. (SMOHIT)
 - (l) Sheet Metal Scholarship Fund
 - (m) Stabilization Agreement of the Sheet Metal Industry (SASMI)

Contributions, except for vacation, are based upon hours worked. The parties agree that in accordance with procedures adopted by the Sheet Metal Workers' Local 38 Individual Vacation Account ("Vacation Account") and Sheet Metal Workers' Profit Sharing Fund ("Profit Sharing Fund"), a participant may elect to forego contributions to the Individual Vacation Account to which he/she is otherwise entitled, and in return have such monies contributed on his/her behalf to the Sheet Metal Workers' Profit Sharing Fund, with the understanding that such contributions will be made on an after tax basis.

Employer contributions become vested plan assets at the time they become due and owing to the above-referenced Funds. Title to all contributions paid into, and/or due and owing such Funds, shall be vested in, and remain exclusively in, the Fund.

Employers shall also forward the Sheet Metal Workers Local 38 Work Assessments deducted from employees' pay at the same time and in the same manner as the contributions to the fringe benefit funds.

The Employer expressly agrees to make available its books and records to any auditor appointed by the Trustees of all Funds set forth in Paragraph 3 above, in

order to verify the correctness of the Employer's reporting and payment of contributions. The Employer agrees to pay all legal expenses and costs of collection for the cost of an audit in the event the Trustees are required to compel the Employer to submit to an audit, or if the audit reveals that the Employer failed to make contributions during the audit period in an amount greater than 20% of the total contributions paid during that audit period, The Employer also agrees to pay interest in the amount of 5% on delinquent contributions discovered during an audit.

4. *BILLING PROCEDURE.* The Employers shall submit hours worked by bargaining unit employees directly to Local Union 38 for all Local Benefits and to the National Benefit Fund for National Benefits, on the Programs designated by the Local and the National Pension Fund, by the 7th day of the month following the month in which hours are worked for monthly contributors and within 2 days of the end of the work-week for those paying on a weekly basis. Until such time as deemed unnecessary by the Local, Employers must continue to submit hours to the Fund office on the contribution form as supplied by the Fund Office.
5. Employers shall report all hours worked (or the absence thereof) by Employees under this Agreement. Upon input of the hours into the designated programs, the invoices will be generated and the Employer must submit payment of National Benefits to the NBF, and Local Benefits to the designated Local Funds and Work Assessments to the Union, no later than the 20th day of the month following the month in which the hours were worked, for monthly payers, and within ten (10) days after the week ending for those Employers paying weekly. New Employers engaging in collective bargaining with Local 38 shall be required to submit benefits weekly for a period of one (1) year. Until such time that ACH is available, Employers shall submit seven (7) individual checks for all Local Benefits due and one (1) individual check for Work Assessment. National Benefits shall be paid by ACH through the National Pension Fund designated program. At the time that ACH is available for payment of Local Benefits, Employers may choose to continue to issue eight (8) separate checks or use ACH payments to each of the seven (7) Funds and one (1) to the Union for Work Assessments, using the ACH system developed by the Local.
6. In the event the Employer's Local contributions and Work Assessments fail to meet the Employer's entire obligation and a shortage occurs, any moneys subsequently remitted and/or collected shall be applied as follows: first to 100% of the outstanding balance of the first below listed Fund (a), and then 100% to the outstanding balance of the second listed Fund (b). Any further monies remitted and/or collected shall be applied on a pro-rata basis for each successive Fund (c-h).
 - (a) Sheet Metal Workers' Local 38 Individual Vacation Account
 - (b) Work Assessment
 - (c) Sheet Metal Workers' Local 38 Profit Sharing Fund
 - (d) Sheet Metal Workers' Local 38 Insurance and Welfare Fund
 - (e) Sheet Metal Workers' Local 38 Craft Training Fund
 - (f) Sheet Metal Workers' Local 38 Craft Training Building Fund
 - (g) Sheet Metal Workers' Labor Management Committee & Trust Fund
 - (h) Sheet Metal Contractors' Industry Fund of Southeastern New York

In the event of a shortage in the payment of National Benefits, the allocation process will be determined by the National Pension Fund for the below Funds:

- (a) Sheet Metal Workers' National Pension Fund
- (b) International Training Institute (I T I)
- (c) National Energy Management Institute (NEMI)
- (d) Sheet Metal Occupational Health Institute, Inc. (SMOHIT)
- (e) Sheet Metal Scholarship Fund
- (f) Stabilization Agreement of the Sheet Metal Industry (SASMI)

7. In the event an Employer fails to timely remit contributions as set forth in Article XII, Section 2 (4) Billing Procedure, or becomes delinquent in benefit payments, or delinquent in furnishing security for benefit payments, or is not compliant with Paragraph (9) below, the Union Business Manager shall have the right to remove all covered employees without notice to the Employer.

Each Employer agrees that if contributions are not received (postmarked by such date is not sufficient) by the Individual Funds and Local Union as of the last working day of the month in which such contributions were due, it will be assessed liquidated damages upon the delinquency at the rate of 5% of contribution for a default 5-15 days late from the date the delinquency first occurs (i.e., the due date set forth in Article XII, Section 2 (4) Billing Procedure); 10% of contributions for a default of payment for 16-30 days late; and 12% of contribution for default of payment greater than 30 days late. The liquidated damages are based on the length of time contributions are overdue, the amount of delinquent contributions, the date payment is actually made, and the administrative and other office expenses required to collect the delinquent contributions. Liquidated damages hereunder are not a penalty. The liquidated damages shall be calculated in accordance with rules and regulations adopted by the Trustees of Local 38 Funds and Local Union, and are incorporated as if set forth herein. Acceptance of any contributions by the Individual Funds, Local Union, Trustees, or Administrator shall not constitute a waiver of the right to assess liquidated damages if such contributions were paid after the due date.

Each Employer agrees that if contributions are not timely remitted, as set forth in Article XII, Section 2 (4) Billing Procedure, it shall pay all legal expenses (including attorney's fees), accounting expenses, or other costs which can be calculated with reasonable certainty, incurred by the Individual Funds and Local Union in pursuing collection of delinquent contributions.

The above damages are cumulative and in addition to, and not in lieu of, any other legal rights and remedies available to the Funds under ERISA or other applicable law, whether or not legal action is commenced to collect the delinquent contributions.

Whenever either the Union or the Individual Funds seeks to collect delinquent Employer contributions, or seeks to require any Employer to submit to an audit, suit may be brought in a court of competent jurisdiction. In lieu of the foregoing, and in the sole discretion of the Individual Funds or the Union, either the Union or the Individual Funds may utilize the procedures of Article X when seeking to collect

delinquent Employer contributions or when seeking to require any Employer to submit to an audit.

8. Out of town Contractors will pay Local and National Benefits weekly, submitting hours as outlined in Section 2 (4) above.
9. Employers shall make and keep available any and all records pertaining to covered Employees, for inspection, examination and/or copying by the Trustees.
10. Local Contractors shall timely remit contributions as set forth in Article XII, Section 2 (4) Billing Procedure and 2 (5), by any of the following means:
 - (a) Weekly payments directly to the Individual Funds and the Union.
 - (b) Monthly payments to the Individual Funds and the Union, where payment has been secured by either:
 - (1) Transferable savings account or Certificates of Deposit duly assigned to the Funds and/or Union in such form that it may be cashed or collected by the Funds, in amounts at least equal to the Surety Bonds under alternative 2.
 - (2) Surety Bond of the licensed insurance company, protecting all fringe benefits and work assessments, in form acceptable to the Funds and the Union, and containing the customary provision for cancellation only following reasonable notice to the Individual Funds and the Union, in the following amounts (subject to review by Labor/Management Committee) IN MULTIPLES OF \$30,000 FOR THE FIRST FIVE (5) EMPLOYEES, AND \$30,000 FOR EACH FIVE (5) ADDITIONAL EMPLOYEES
 - (c) Employers whose Work Assessment check and/or Individual Funds' checks are returned twice in a course of six (6) months, or whose employees are removed for non-payment of benefits, shall make weekly payments of all individual funds and Work Assessment, for a period of six (6) months.

11. WAGE INCREASES – Effective

May 1, 2019	\$ 2.10 per hour
July 1, 2020	\$ 2.25 per hour
July 1, 2021	\$ 2.25 per hour
July 1, 2022	\$ 2.25 per hour
July 1, 2023 – April 30, 2024	\$ 2.25 per hour

12. After due negotiation of the alternatives proposed by the Sheet Metal Workers' National Pension Fund (NPF) in its 2012 Alternative Schedule, the parties adopted the 2012 First Alternative Schedule for the Sheet Metal Workers' National Pension Fund's Rehabilitation Plan, which will require the following contributions during the term of this CBA, to be paid out of the previously negotiated annual wage increases set forth in Article XII, Section 2, Paragraph 11, above.

The Trustees determined that, barring any catastrophic event, there would be no mandated increase for 2018 or 2019.

Recently, the Trustees met to discuss increases beyond 2019. Many factors weighed into their decision such as successfully meeting the scheduled progress as required by the FIP, future projections, the tumultuous 2018 investment year, and the talk of potential legislation that could adversely affect multi-employer funds. The Trustees have determined that, again, barring any catastrophic event affecting the Fund, there will be no mandatory contribution rate increase for 2020.

Beyond 2020, the Trustees have determined that the following rate increases will be required for 2021 and 2022:

The First Alternative Schedule requires a 2% Contribution Rate increase for 2021 and 2022.

The Trustees, along with the Funds' actuaries, will continue to monitor funding to meet our scheduled progress. Although an increase is not required for 2019 and 2020, it is important to note that any change in an Allocation Date in a Collective Bargaining Agreement ("CBA") which has the effect of delaying or postponing a future increase, must be approved by the Trustees.

The NPF increase effective 2023 and 2024 is to be determined.

13. SASMI Rate of Contributions. In order to effectuate the purposes hereof, each Employer shall contribute to the SASMI Fund, to a collection agent authorized by the Fund, or to a Local Fund, for transmittal to or for the use of the Fund, the amount of Contributions set forth herein, such amount to be required by the Contract.

- (a) The Employer shall make contributions in an amount stated in the Contract as a "cents per hour paid" amount (excluding Holiday, Vacation and Sick hours unless contractually required to be paid) for each employee covered by the Contract to the National Stabilization Agreement of the Sheet Metal Industry Trust Fund (SASMI) to the National Benefit Fund through the National Pension Funds' designated program. This contribution amount shall be, and shall remain, at all times equal to three percent (3%) of the gross earnings of each employee covered by the Contract. The term "gross earnings", for purposes of this provision, shall mean the sum of (i) three percent (3%) of the amount of wages due at the gross contractual hourly wage rate for the classification plus (ii) three percent (3%) of any and all contributions payable by the employer to any of the following fringe benefit plans or programs: Pension, Annuity, 401K and retirement plans of any kind, and Health and Welfare Benefit Plans.

- (b) The "cents per hour paid" contribution amount described in sub paragraph (a) above shall be automatically adjusted to reflect any and all changes that may occur in the gross earnings of an employee during the term of the Contract.

ARTICLE XIII

SECTION 1. Pursuant to Federal or State law, if any provision of this Agreement is found to be void or unenforceable by a court of competent jurisdiction, all of the other provisions of this Agreement shall remain in full force and effect. The parties agree to meet and negotiate a substitute provision. If negotiations are unsuccessful, the issue may be submitted for resolution by either party pursuant to Article X, Section 8 of this Agreement.

SECTION 2. Notwithstanding any other provision of this Article, or any other Article of this Agreement, whenever an amendment to the Standard Form of Union Agreement shall be adopted by the sponsoring national associations, any party to this Agreement, upon the service of notice to all parties hereto, shall have this Agreement reopened thirty (30) days thereafter, for the sole and only purpose of attempting to negotiate such amendment or amendments into this Agreement for the duration of the term hereof. There shall be no strike or lockout over this issue.

SECTION 3. Each Employer hereby waives any right it may have to repudiate this Agreement during the term of this Agreement, or during the term of any extension, modification or amendment of this Agreement.

SECTION 4. This Agreement shall become effective on the 1st day of May, 2019, and shall remain in effect until April 30, 2024, and shall continue in force from year to year thereafter unless written notice of reopening is given not less than ninety (90) days prior to the expiration date.

In the event such notice of reopening is served, this Agreement shall continue in force and effect until conferences, relating thereto, have been terminated by either party by written notice, provided however, that, if this Agreement contains Article X, Section 8, it shall continue in full force and effect until modified by decision of an arbitrator under the procedures set forth under Article X, Section 8.

SECTION 5. The undersigned Employer has examined and agrees to comply with all the existing terms and conditions of this Collective Bargaining Agreement. It is also agreed by the Employer that any notice given by the Union to the Association, pursuant to the provisions of this Collective Bargaining Agreement, shall be notice to the Employer and shall have the same legal force and effect as though it were served upon the Employer personally. The Employer additionally agrees that, unless it notifies the Union at least 150 days prior to the termination date of this Collective Bargaining Agreement or any subsequent Agreements, the Employer will be bound by and adopt all Agreements reached by the Union and the Association during subsequent negotiations. Finally, the Employer will notify the Union a minimum of thirty (30) days prior to any change in company ownership or address, and will notify the Union within 24 hours of any formal change of company name.

ARTICLE XIV

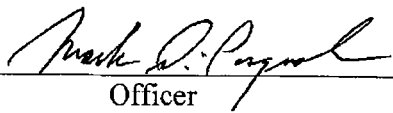
The Employer agrees to designate an agent for the receipt of work assessment authorizations. Such authorizations shall be as per the applicable wage sheets. All dues deduction authorizations which have been voluntarily and individually executed by the Employees shall be deposited with said agent. Upon notification of receipt of such authorizations, the Employers shall deduct the current allocated sum per hour as working dues for all hours worked, whether on a straight-time or overtime basis, from the wages of Employees covered by said authorizations and shall remit said sums to an agent designated by the Association for transmittal to the Local Union. The Union shall indemnify and save the Association and/or its members harmless against any and all claims, demands, suits and other forms of liability that may arise out of or by reason of an Employer's deduction of working dues pursuant to this Section.

This document is not a substitute for the Official Agreement and does not change, or otherwise alter, the terms of the Official Agreement. If there are any discrepancies between this document and the Official Agreement the language of the Official Agreement is controlling in all cases.

IN WITNESS WHEREOF, the parties hereto affix their Signatures and seal this 11th day

of March, 2011.

Sheet Metal and Roofing Contractors' Association of Southeastern New York (Known as SMACNA)

BY:  President
Officer Title

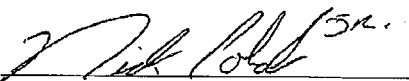
PRINT OFFICER'S NAME: Mark D. Pasqua

ADDRESS: 330 Meadow Avenue
Newburgh, NY 12550

TELEPHONE: (845) 562-4280

E-MAIL: aseidman@cchv.com

Local Union No. 38 of the Sheet Metal, Air, Rail and Transportation Workers

By:  President/Business Manager
Local Union Officer's Signature Title

PRINT OFFICER'S NAME: Nick Colombo Sr.

ADDRESS: 38 Starr Ridge Road, PO Box 119
Brewster, New York 10509

TELEPHONE: (845) 278-6868

E-MAIL: unionoffice@sheetmetallocal38.org