K#:9294

U. A. LOCAL UNION 38'S COLLECTIVE BARGAINING AGREEMENT

WITH

NORTHERN CALIFORNIA MECHANICAL CONTRACTORS ASSOCIATION

* * * * * *

MASTER PLUMBERS ASSOCIATION OF SAN FRANCISCO, INC.

* * * * * *

INDEPENDENT CONTRACTORS

* * * * * *

JULY 1, 2007 – JUNE 30, 2012

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ARTICLE I

RECOGNITION OF UNION AND COVERAGE OF AGREEMENT

Section 1. UNION RECOGNIZED AS COLLECTIVE BARGAINING REPRESENTATIVE OF EMPLOYEES.

The Associations and the individual Employers hereby recognize the Union as the sole and exclusive bargaining representative of all employees of the individual Employers performing work over which the Union has territorial jurisdiction and scope of work. (See Article X.)

Section 2. EMPLOYERS AND WORK COVERED.

(a) ASSOCIATION AUTHORITY TO ENTER AGREEMENT. Each Association warrants that it has written authority from each of the member firms listed on Exhibits A. to enter into this Agreement for and on their behalf.

(b) AGREEMENT BINDING ON MEMBER FIRMS. This Agreement shall be binding upon each and every firm listed on Exhibits A with the same force and effect as if said Agreement was executed by such member individually.

The Contractors submitted on Exhibits A at this time who have given Powers of Attorney to each signatory Association to represent them in negotiations, copies of which Powers of Attorney have been submitted to Local Union 38, shall be recognized as parties to this Agreement. In addition, each Association shall notify Local Union 38 of any contractor who, during the term of this Agreement grants power of attorney to the Association, copy of which power of attorney shall be submitted to Local Union 38, and Local Union 38 shall recognize such contractor on the appropriate Exhibit A on the following anniversary date of the Agreement (i.e., July 1st of each year).

(c) EMPLOYERS BOUND BY AGREEMENT. Each employer listed on an Exhibit shall be and continue to remain, personally and individually, liable under this Agreement for and during the term hereof, irrespective of whether said member shall cease to be a member of the Association prior to the date set for the expiration of said contract. Wherever this Agreement refers to an Employer in the masculine it shall be deemed to also include the feminine.

(d) CHANGES IN OWNERSHIP. This Agreement shall be binding upon each of the individual Employers party hereto, and upon their heirs, successors and assigns, including any successor partnership or corporation. The successor individual Employer, partnership or corporation shall agree to

continue in its employ those employees working for the original Employer and it shall be the legal obligation of the original Employer to include such a provision in his contract of sale to the successor Employer, partnership or corporation. In the event that this provision is violated, the Union shall invoke the arbitration clause and the arbitrator shall have the authority to assess damages for any loss of pay by employees against either the original Employer or the successor or both. Any new or additional partners or owners shall immediately sign this Agreement, but such signature shall not be necessary to their liability. Each Employer agrees to promptly notify the Union in writing by registered mail of any change in ownership, or change in partners, and persons who were partners or owners at the time this contract is executed shall remain individually responsible and liable for the observance of the terms and conditions of this Agreement until such notice is given and the new partners or owners become signatory hereto. No Employer shall hold an interest in, be affiliated with or operate in conjunction with any person, firm or corporation which is engaged in any work covered by the terms of this Agreement and is not a signatory to this Agreement with respect to work performed in the geographical area covered by this Agreement. The Employer shall give prompt notice in the event any partner or individual assumes any interest or performs any executive or supervisory functions in the firm of the Employer who also maintains an interest in, works for or contracts to have work performed by a firm engaged in plumbing, pipefitting or HVAC/Refrigeration work covered by this Agreement that is not a signatory to this Agreement. In the event, at the time of execution of this Agreement, the Employer maintains an interest in two firms, the Employer warrants that, to the fullest extent permitted by law, this Agreement shall be applicable to any firm, corporation or enterprise engaged in plumbing, pipefitting and HVAC/Refrigeration work with which he or his firm is affiliated, directly or indirectly. The Employer shall be liable for any breach of this Agreement by any other firm engaged in plumbing, pipefitting or HVAC/Refrigeration work, as above set forth.

Where a signatory to an Agreement is also an owner, partner, holds a financial interest in or occupies a managerial or supervisory position in any other firm engaged in any work covered by this Agreement, the execution of this Agreement shall be deemed to be applicable to any work covered by this Agreement performed by such other firm to the fullest extent permitted by law and the execution of this Agreement shall render the signatory personally liable for any violation of this Agreement by such other firm or enterprise.

(e) PERMITS. Except in the event of extreme emergency requiring immediate corrective action, no signatory contractor shall commence work on any job requiring the issuance of a permit unless and until the permit has been obtained. The practice of commencing work on a job and subsequently

obtaining a permit shall be discontinued.

This provision has been inserted into the Agreement in order to assist policing observance of the terms of the contract by signatory employers and, therefore, in the event of any ascertained violation of this provision, the Arbitration Committee is authorized to assess damages for such a breach in an amount up to, but not in excess of, the wages paid or that should have been paid to all employees employed or required to be employed on such work prior to the obtaining of a permit.

In the event it is not possible to obtain a permit in observance of this Section, the Employer may commence the work and simultaneously send by certified mail a notice to the Union that such a job has been commenced together with the names of the employees employed on the job.

The provision of this sub-paragraph (e) shall not be applicable to Jobbing, Service and Repair work.

(f) EMPLOYER QUALIFICATIONS. Certain qualifications, knowledge, experience and financial responsibility are required of everyone desiring to be an Employer in the plumbing, pipefitting or HVAC/Refrigeration industry. An Employer who contracts for plumbing, pipefitting or HVAC/Refrigeration work is a person, firm or corporation having these qualifications, maintaining a permanent place of business, having adequate tools and equipment and a suitable financial status to meet payroll requirements. Such Employer must be in possession of a valid State license to permit him to perform plumbing, pipefitting or HVAC/Refrigeration work and shall demonstrate to the Union that he meets these particular qualifications at all times. He shall have appropriate truck or trucks with the name of the Employer affixed to the truck at all times. He shall have a telephone at his place of business. He shall carry Worker's Compensation Insurance with a company authorized to do business in this State and shall furnish satisfactory proof of such to the Union. He shall also make payments to the Employment Development Department, State of California Health and Welfare Agency for all employees covered by the terms of this Agreement. The Union shall not be obligated to recognize any person, partnership, firm or company as an Employer who is establishing an enterprise solely for the purpose of performing one or two jobs in the local area and who does not meet the foregoing qualifications to function as an Employer.

Section 3. WORK PRESERVATION.

That the preservation of work customarily and traditionally performed by the Employers' employees and work, which is fairly claimable by them, shall be performed by them is of the essence. To that end the Employer agrees that:

(a) UNIT. The relevant unit for the purpose of determining customary,

traditional or fairly claimable work covered by this Agreement shall be composed of all individual employers signatory to this Agreement.

(b) SUB-CONTRACTING. No Employer shall subcontract or sell or broker a contract covering any work covered by this Agreement or any work fairly claimable by employees covered by this Agreement, which is to be performed at the construction site, except to a contractor who observes the schedule of hours provided in this Agreement and pays wages, penalty rates and provides working conditions and benefits not less than provided in this Agreement. It shall be made a condition of any such subcontract that the subcontractor sign this Agreement and agrees to be bound by all terms and provisions of this Agreement. The Employer shall remain responsible for the payment by any subcontractor of all wages, fringe benefits, and other payments required by this Agreement.

(c) No Employer shall subcontract or sell or broker a contract covering any work covered by this Agreement or any work fairly claimable by employees covered by this Agreement which is to be performed off the site of construction, including shop fabrications, except to a contractor, fabricator, employer or such person who agrees that the employers performing such work will:

(1) Observe the schedule of hours provided in this Agreement; and

(2) Receive not less than the total of the economic benefits provided for in this Agreement, including, but not limited to, payments equivalent to the amounts required to be paid employees under this Agreement for wages, holidays, vacations, premiums, overtime, health and welfare and pension benefits and any other program or contribution required by this Agreement; and

(3) Such employer, fabricator, contractor or person further agrees to submit any grievance or disputes concerning the performance of work subject to this section to the procedure set forth in Article XII of this Agreement.

(d) NOTICE BY THE EMPLOYER OF SUB-CONTRACTING. The Employer shall give written notice to the Union of any subcontract, sale or brokerage of a contract, involving the performance of work covered by this Agreement or fairly claimable by employees covered under this Agreement within five (5) days of entering into such subcontract, sale or brokerage and shall specify the name and address of the subcontractor or purchaser. Failure of the Employer to submit such notice shall subject the Employer to such damages as are determined by the Arbitration Committee. In the event the Union determines that the provisions of this Agreement have not been complied with, the Union may serve a written demand upon the

Employer to refrain or to cease any disputed work pending resolution of any such dispute in accordance with the procedures contained in Article XII of the Agreement. In the event the Employer fails to cease or refrain from performing or having the disputed work performed on demand of the Union, the Union may apply for and shall be granted a temporary restraining order in any court of competent jurisdiction restraining the performance of such disputed work pending resolution of the dispute in accordance with this Agreement

(e) CONTRACTING BY EMPLOYEES PROHIBITED. No Employer shall subcontract work to any employee or arrange with any employee to do work on a contract basis or any basis other than as provided in this Agreement.

Section 4. TERRITORY COVERED.

The area covered by this Agreement shall be all of the City and County of San Francisco and the Counties of Marin, Sonoma, Mendocino and Lake, State of California, and such other areas as may in the future be assigned to U.A. Local 38 as part of its jurisdiction.

Section 5. WORKING OUTSIDE THE TERRITORY.

Whenever an individual Employer whose permanent yard or shop is located within the territory covered by this Agreement takes one or more of his employees to perform work outside this territory, such Employer shall continue to pay the wage and fringe benefit contributions as provided for in this Agreement.

Section 6. EMPLOYEES COVERED.

This Agreement shall apply to and cover all persons employed by any of the individual Employers covered hereby who perform any type of work covered by this Agreement.

Section 7. WORK COVERED.

(a) GENERAL. This Agreement shall cover all work as defined in Article X.

(b) DRIVING OF VEHICLES. This Agreement shall cover the driving of vehicles for delivery of equipment or materials for use in installation by journeymen and apprentice plumbers or steamfitters or HVAC/Refrigeration as traditionally performed in the plumbing and pipe fitting and HVAC/Refrigeration industry and persons driving said vehicles must possess a valid driver's license but this shall not be a condition of employment.

Section 8. SUBTERFUGE PROHIBITED; FABRICATED PIPING.

(a) PROHIBITION AGAINST SUBTERFUGE EVASION: FABRICATED PIPING. No Employer or employee shall evade the spirit of this Agreement by any subterfuge. In particular, no Employer shall evade the spirit of this Agreement by using piping fabricated outside the territory covered

by this Agreement under this Agreement. Whenever the Union believes that fabrication is being effected in violation of this section, it may submit the matter to the grievance and arbitration process provided for in this Agreement, and until a final decision is rendered on such matter the fabricated piping shall not be used and no employee shall be required to handle or install it.

Any contractor who performs fabricating work for any job to be installed within the territory covered by this Agreement shall fabricate within the territory covered by this Agreement and under the terms of this Agreement. In the event any contractor fails to abide by this section, he shall be obligated to pay damages equivalent to the wages and fringe benefit contributions that would have been paid had the work been performed under the terms of this Agreement.

(b) PROHIBITION AGAINST COLLUSIVE ARRANGEMENTS. No Employer shall evade the spirit of this Agreement by conspiring, agreeing, or making arrangements with an owner, architect, or general contractor to avoid the effect of this Agreement through omission from the applicable specifications of work, including fabrication, which would otherwise be covered by the terms hereof. Whenever the Union believes that this subsection is being violated, it may submit the matter to the grievance and arbitration process provided for in this Agreement, and pending a decision thereon it may apply for and shall be granted a Temporary Restraining Order and Preliminary Injunction from any court of competent jurisdiction requiring the Employer to cease and refrain from continuing any work alleged to be in violation of this Section.

(c) PRE-FABRICATION SIDE LETTER. Shall become part of the Agreement.(PRE-FABRICATION Agreement is part of this Collective Bargaining Agreement)

In the event it is determined through the grievance procedures that the Employer has violated the sections of this Article, employees who should have performed the work shall be reimbursed for all wages lost and the Employer shall make the fringe benefit contributions for all days, or fraction of days, lost during the period of violation to the date the Employer corrects the violation and notifies the Union in writing that the violation has been corrected.

Section 9. RESPONSIBILITY OF NEW CONTRACTOR ON PARTIALLY COMPLETED PROJECT.

Whenever a contractor has definite knowledge that he is taking over a contract for a job that has been partially completed by another contractor, he shall notify the local union in writing before starting work. On any job or project which has been partially completed by one contractor and work

thereon has stopped because of the failure of the contractor to meet his current obligations, and money is due and payable to employees either as wages or fringe benefits and has not been paid, it shall not be a violation of this Agreement for the Union to refuse to permit persons covered by this Agreement to work on said job or project until all such wages and fringe benefits have been paid nor shall it be a violation for the Union to remove workmen from the job because of unpaid wages and fringes. Such action may be taken without prior resort to the grievance and arbitration procedures contained in this Agreement.

Section 10. COMPLIANCE WITH STATE AND FEDERAL LAWS.

All parties shall live strictly up to all State and Federal laws; City and County ordinances pertaining to the plumbing, heating, HVAC/Refrigeration, utilities and pipe fitting industry, including all State safety and health measures and laws.

ARTICLE II

HIRING PROCEDURE; UNION SECURITY.

Section 11. QUALIFIED CRAFTSMEN.

(a) ONLY QUALIFIED CRAFTSMEN EMPLOYED. Contractors shall employ only qualified journeyman: plumbers, steamfitters, pipe fitter/welders and HVAC/Refrigeration.

(b) QUALIFICATIONS. Journeyman: plumbers, steamfitters, pipe fitter/welders and HVAC/Refrigeration shall be qualified for employment if they meet the following requirements:

(1) FIVE (5) YEARS EXPERIENCE. They must have five (5) years actual practical working experience at the plumbing, pipefitting or HVAC/Refrigeration trade as a journeyman or apprentice in the plumbing, pipefitting or HVAC/Refrigeration industry of the United States as evidenced by membership in a U.A. local or by affidavits of employers.

(2) APPRENTICESHIP. Successful completion of an apprenticeship program in the building and construction industry at the plumbing, pipefitting or HVAC/Refrigeration trade, approved for the trade by the California Department of Industrial Relations Division of Apprenticeship Standards and/or Department of Labor Office of Apprenticeship, as evidenced by a state certificate, or in the case of states which do not issue certificates, by the affidavit of an officer in charge of the apprenticeship program; or

(3) PREVIOUS EMPLOYMENT. Previous satisfactory employment as a journeyman: plumber, steamfitter, pipe fitter/welder or HVAC/Refrigeration in the plumbing and piping industry.

(4) EXAMINATION. Passage of an examination given by the appropriate examining board or an individual or committee designated by the appropriate examining board, or given by or pursuant to collective bargaining agreement with another U. A. Local Union, as evidenced by a membership card in such local or by affidavit from the individual or organization giving the examination.

Examinations shall consist of objective written questions and plan problems. They shall be given twice a month, upon application to the Committee. Any applicant with proof of five (5) years actual practical work experience at the plumbing, pipefitting or HVAC/Refrigeration trade as a journeyman or apprentice in the plumbing, pipefitting or HVAC/Refrigeration industry shall be eligible to take the examination upon payment of a $100.00 examination fee.

An individual who fails an examination shall not again be eligible to take

the examination for a period of six (6) months.

Section 12. EXCLUSIVE HIRING.

Whenever any contractor has need to hire any employee to perform work covered by this Agreement, he shall obtain such employees through the Hiring Halls established by this Agreement. This shall include, but not be limited to journeymen, apprentices, foremen and general foremen categories. He shall notify the local union office, either in writing or by telephone, stating the location, the time, the type of work to be performed and the number of employees required. No Employer shall advertise for employees without the written consent of the Joint Hiring Committee and without prior compliance with other provisions of Article II.

(a) EMPLOYER MUST PLACE ORDERS BY 9:30 A.M. Employers shall place orders for employees with the Hiring Hall before 9:30 A.M. on the day preceding that on which the employees are to report. If such notification is given, then an employee who reports for work after 8:00 A.M. on the following day shall be paid from the time he/she reports. If an Employer places an order after 9:30 A.M. for the following day, the dispatcher will make every effort to have the employee report as early as possible. The provisions of this section shall apply to shift work as well as regular work. Day shift employees required to work after 1:00 A.M. and laid off before 8:00 A.M. shall be paid to 8:00 A.M. at overtime rates.

(b) REMEDIES FOR VIOLATION OF HIRING PROCEDURES. Violation of this Agreement by hiring employees without complying with the provisions of this Article, or by obtaining or transferring workmen in violation of this Article, or by assigning work covered by this Agreement to employees who are not qualified plumbers, steamfitters, pipefitter/welders, HVAC/Refrigeration journeymen or apprentices shall be subject to the following remedies, in addition to others which may be available under this Agreement or as a matter of law.

(1) Upon notification by the Union that it believes such violations to have occurred, the Employer or the Union may submit the issue to the Arbitration Committee as provided herein; but pending decision by that Committee, the Employer shall forthwith cease employing or assigning work to the employees in dispute. In the event the Union submits a matter to the grievance machinery provided for in this Agreement, and it is determined by the Arbitration Committee or through arbitration that the Employer, in fact, has violated the provisions of this Article, the Employer shall reimburse all employees who withheld their labor during the pendency of the dispute for all time lost and all fringe benefit contributions that would have been made had the employees continued to work during the period of such dispute. The Union may require that such payments be made before the employees will return to work.

(2) The Arbitration Committee shall order payment of such amount to the Lakeside Haven/ Kids Camp Recreational Trust. In addition, the Arbitration Committee shall have the authority to levy a fine in such an amount as they deem appropriate.

Section 13. SENIORITY.

It is the desire of the parties to provide employment for persons who have worked previously within the area covered by this Agreement, and in cooperation with the plumbing, pipefitting and HVAC/Refrigeration industries to provide employment for persons who have worked in those areas as well. Therefore, qualified journeymen: plumbers, steamfitters, pipe fitter/welders and HVAC/Refrigeration shall be hired and/or rehired in accordance with seniority as follows:

(a) SENIORITY GROUP I shall consist of plumbers, steamfitters, pipe fitter/ welders and HVAC/Refrigeration journeymen who have been employed by a contractor party to this Agreement working in San Francisco, Marin, Sonoma, Mendocino or Lake Counties and for whom a minimum of 1500 hours of contributions per year, including reciprocity hours, have been contributed to the U. A. Local 38 Trust Funds since July 1,2007.

(b) SENIORITY GROUP II shall consist of all other qualified plumbers, steamfitters, pipe fitter/welders and HVAC/Refrigeration journeymen in the Building and Construction Trades Industry.

(1) No employee shall be permitted to register on any out of work list while employed.

(c) JOINT HIRING COMMITTEE POWER TO IMPOSE PENALTIES. Any individual who engages in "moonlighting", working in the territorial area covered by this Agreement for a contractor not signatory to this Agreement, or any applicant who knowingly misrepresents his past experience or employment, works under this Agreement at wages and conditions less favorable than those contained herein, or who seeks employment outside the procedures of the Hiring Hall, may be suspended from the out-of-work list for a period as determined by the Joint Hiring Committee up to twelve (12) calendar months from the date of determination by the Joint Hiring Committee that such offense occurred. He may also be assessed damages for breach of the Agreement to $1,000 for each day of violation in addition to the secretarial costs for the transcript of the hearing.

(d) PROHIBITIONS FOR INDIVIDUALS HOLDING ACTIVE CONTRACTOR'S LICENSE. No individual who holds a contractor's license will be permitted to be dispatched pursuant to the referral process to work on work covered by this Agreement unless he submits evidence that he has made his contractor's license inactive through the procedure specified by the California Contractor's State License Board. Further, contractors who

have worked as employers or self-employed persons and subsequently go out of business and desire to register pursuant to the provisions of the referral procedure shall be required as a condition precedent thereto to sign an agreement not to engage in business as a contractor for a period of one (1) year and until sixty (60) days notice is given to the Joint Hiring Committee of an intention to engage in contracting work and to cease utilizing the facilities of the referral procedure. In the event of a violation of this Section, any employee who is engaged in contracting work while employed by a contractor under the terms of this Agreement shall be penalized not less than one (1) month's wages and fringe benefits for each such violation.

Section 14. HIRING HALL LOCATIONS AND DISPATCHING PROCEDURE.

(a) OUT-OF-WORK LISTS. The Union shall maintain an out-of-work list at each of its Hiring Hall offices. The Joint Hiring Committee shall be authorized to close any of the existing Hiring Halls and to establish any new Hiring Halls as in their opinion appears proper. In the event other Hiring Halls are established, the Hiring Hall Committee shall notify applicants of Counties covered.

(b) REPORTING FOR REGISTRATION. An applicant who desires to be dispatched to a job shall register by telephone or in person on the out-of-work list. In order to maintain his/her place on the list, he/she must re-register by telephone or in person noting the date opposite his or her name at least once each month. At the time of registering, the applicant shall supply the Dispatcher with a current telephone number at which the Dispatcher may reach the applicant for the dispatch to a job. It shall be the responsibility of the applicant to inform the dispatcher of any change in the telephone number.

(c) ORDER OF REGISTRATION. The Union shall establish and maintain a separate appropriate registration list for qualified applicants available for employment as journeymen: plumbers, steamfitters, pipe fitter/welders or HVAC/Refrigeration. Applicants shall be registered on the appropriate craft out-of-work list in the order of registration. Within each craft list, applicants shall be registered in the highest seniority group for which they qualify.

(d) LOSS OF PLACE ON OUT-OF-WORK LIST. So long as applicant re-registers each month, between 8:00 and 9:30 A.M.with the dispatcher and notes the date of re-registration, an applicant shall retain his/her place on the out of work list until he/she has had at least fifteen (15) working days, unless he/she quits or requests a layoff, or is discharged for cause. Except as provided in (b) no dispatcher or other person is authorized to register or re-register for applicant. Any person who quits or requests a layoff prior to the expiration of the fifteen (15) days for the purpose of circumventing

this provision shall be placed at the bottom of the list. It is the obligation of any member who is on travel card and working in another jurisdiction to notify the dispatcher immediately whenever he goes to work in such other jurisdiction. Any member who was on travel card and who has worked at least fifteen (15) days in another jurisdiction shall have his name removed from the list.

(e) ALL DISPATCHING SHALL BE BY TELEPHONE. Applicant shall be at the telephone number he/she has designated in the membership files between 8:00 A.M. to 9:30 A.M. in order to receive dispatch calls. (Answering machines and pagers will not be accepted) In the event that the applicant is not at the designated telephone number when called by the Dispatcher, the Dispatcher shall pass his/her name and proceed to the next qualified applicant on the list. Those applicants signed in at the Dispatch Hall in San Francisco will be eligible for jobs only in San Francisco. Those applicants signed in the Santa Rosa Dispatch Hall shall be eligible for jobs only in Marin, Sonoma, Mendocino and Lake Counties.

(f) THE DISPATCHER SHALL KEEP A RECORD OF THE FOLLOWING:

(1) The date that he telephoned the applicant.

(2) Whether the applicant was dispatched to the job.

(g) REGISTRATION IN MORE THAN ONE (1) DISPATCH HALL. An applicant may register at more than one (1) Local 38 Hiring Hall provided, however, he/she must register in his/her classification, as set forth on his/her United Association membership card, in each Hall. If an applicant is dispatched from one (1) Hiring Hall, he/she shall have his/her name removed from all other out-of-work lists in the other Hiring Halls after he/she has been employed for fifteen (15) days or more.

Section 15. ORDER OF DISPATCH.

Upon the request of a contractor for employees, the Union shall endeavor to furnish the persons requested. In dispatching applicants from each list, the Union shall first refer to applicants with Group I seniority in the order in which their names appear on the list, and shall follow the same procedure successively with Group II. Provided, however, that:

(a) KEY EMPLOYEES. Requests by contractors for applicants to act as supervisors, foremen, or general foremen shall be honored without regard to the requested employee's place on the out-of-work lists; provided requests for applicants to serve as key employees from Group II shall not be honored so long as there are applicants on the Group I list. For purposes of this Section, a welder shall not be considered a key employee except in those shops that perform welding exclusively.

(b) EMPLOYEES REHIRED WITHIN ONE HUNDRED AND TWENTY

(120) DAYS. Requests by contractors for particular plumbers, steamfitters, pipe fitter/welders or HVAC/Refrigeration journeymen from Group I who have been laid off or terminated by the contractor within one hundred and twenty (120) working days prior to the request shall be honored without regard to the employee's place on the out-of-work list.

(c) SPECIAL SKILLS. Bona fide requests by contractors for plumbers, steamfitters, pipefitter/welders or HVAC/Refrigeration, journeymen, medgas, backflow certified, etc. with special skills and abilities will be honored. Jobbing, service and repair shall be considered a special skill. The dispatcher shall dispatch persons possessing such skills and abilities in the order in which their names appear on the out-of-work list.

Where a contractor requests a welder with certification, such welder shall be dispatched to the contractor even though there may be uncertified welders higher on the list.

In determining whether an applicant possesses the particular skills and abilities called for by a contractor, the dispatcher shall consider the applicant's skills and abilities gained either through personal knowledge or the reports of contractors.

The Joint Hiring Committee is empowered to draft rules and regulations relating to requests by contractors for plumbers, steamfitters, pipe fitter/welders and HVAC/Refrigeration journeymen with special skills and abilities, and to modify the provisions of this Section pursuant to issued rules and regulations by requiring additional other proof of the skills and abilities called for to define the type of special skills and abilities which will warrant a special request.

(d) RIGHT TO HIRE BY NAME. Any Employer requesting employees shall have the option of requesting journeymen and apprentices by name provided:

(1) The individual so requested by name is registered on the out-of-work list in Group I.

(2) Neither the Employer nor any representative of the Employer has caused or induced any such employee to cease working for any other Employer and to register in the Hiring Hall in order that he/she could be employed pursuant to the provisions of this Section.

The privilege of calling for an employee by name from among eligible employees in Group I by craft classification may be obtained by hiring by name first and the next hire shall be an individual from the Hiring Hall on an unnamed basis.

(e) No Employer shall be eligible to exercise the privilege of calling an

employee by name for the duration of the Agreement if, during the life of this Agreement the Employer has been found by the Arbitration Committee to have intentionally and deliberately; (a) violated any of the wages or benefit provisions of this Agreement; (b) hired any individual other than through the Union Hiring Hall; (c) solicited employees to work under scale. In addition, any Employer who is currently delinquent in the payment of fringe benefits shall be precluded from requesting an employee by name during the pendency of said delinquency.

(f) No employee shall be eligible to be dispatched pursuant to a name request if:

(1) The employee is not in Group I.

(2) The employee has been found by the Union, after charge, notice and hearing, to have worked in violation of the Agreement under circumstances leading the Union to determine that such violation was effected with knowledge that the acts committed were violative of the Collective Bargaining Agreement.

(g) GOVERNMENTAL REQUIREMENT. Whenever a contractor informs the Hiring Hall that he needs minority or female employees from defined zip codes in order to meet qualifications required for a specified governmental job, the dispatcher shall be authorized to send minority or female employees to such job without regard to his/her place on the out-of-work list.

(h) LICENSES REQUIRED. No applicant shall be dispatched to a job unless he/she possesses whatever license may be required by applicable law to perform the work involved.

(i) SENIOR EMPLOYEES. Employers shall attempt to see that of every six (6) employees employed under the terms of this Agreement, one (1) shall be over the age of fifty-five (55).

(j) DISCLAIMER OF LIABILITY. The Union shall not be responsible for the quality of workmanship or the conduct of any employee dispatched to the job, nor shall the Union be obligated to inquire into the personal background of any individual dispatched, beyond determining, in the same manner as it has in the past, his/her basic knowledge of the trade.

(k) NOT ELIGIBLE FOR REHIRE. If an employee is not eligible for rehire the employer must first send a letter to the dispatch office stating the full reason. (This section is grievable)

Section 16. DISPATCHED PERSONS NOT TRANSFERABLE.

Persons dispatched from the Hiring Hall shall only perform work in the proper classification in which they have been dispatched. It shall be a violation of this Agreement for a contractor to transfer employees from

one such classification to the other. Or transfer to or obtain, employees from another contractor, without following the referral procedure described herein.

Section 17. OUTSIDE CONTRACTORS; ONE EMPLOYEE IN PROVISION.

It is recognized that contractors whose principal place of business is outside the territory covered by this Agreement would be at a disadvantage if they were unable to bring with them at least a minimum crew familiar with the Employer's manner of operation (principal place of business may be challenged by the Union). Therefore, it is agreed that such outside contractors may bring into the area temporarily to perform work herein on each job one (1) plumber if the work to be performed is plumbing work at which time he shall simultaneously obtain one (1) plumber through the local Hiring Halls established herein, one (1) steamfitter if the work to be performed requires the skill of a steamfitter at which time he shall simultaneously obtain one (1) steamfitter through the local Hiring Halls established herein, and one (1) HVAC/Refrigeration journeyman if the work to be performed requires the skill of a HVAC/Refrigeration journeyman at which time he shall simultaneously obtain one (1) HVAC/Refrigeration journeyman through the local Hiring Halls established herein. Because the privilege of an Employer to bring an employee into the local area is designed to permit the Employer to bring in an individual familiar with the Employer's manner of operations, any employee so brought in must previously have been employed by the Employer for at least one hundred eighty (180) days in the preceding two (2) years and must have been obtained in accordance with the referral procedures prescribed in the U.A. contract prevailing in the area of their regular employment and location of the Employer's principal place of business to the extent such procedures are legal.

Any employee brought in or composing the minimum crew provided for in this Section shall deposit a travel card, be dispatched from Local 38, and be compensated solely and exclusively in accordance with the provisions of this Agreement and payments for the fringe benefits as provided in this Agreement shall be made in accordance with the following provision:

(a) When a Local 38 contractor or outside contractor who employs members dispatched by Local 38 and works these members outside the jurisdiction of Local 38,he shall pay Local 38's wages and shall send to the Administration Office of Local Union 38 all of the fringe benefits required by the Local 38 contract including overtime hours.

(b) Where an outside Local Union 38 contractor works in Local 38's jurisdiction and brings in a non-Local 38 member, he shall pay the total

taxable wages of Local 38 as stipulated in this Agreement and transmit to the Local 38 Trust Funds the difference between the non-taxable fringes required by his home local and that of the Local 38 contract including overtime hours.

If the job is new construction, the difference shall be based on the new construction non-taxable fringes of Local Union 38 and that of his home local union; if the job is a market recovery, the difference shall be based on the market recovery non-taxable fringes of Local 38 and the non-taxable fringes of his home local union.

(c) Where an outside Local 38 contractor employs a non-Local 38 member he shall, upon request, submit his payroll showing the wages paid to the non-Local 38 member within five (5) days after the payment of wages. He shall submit upon request the record of the fringes he has transmitted to the non-Local 38's member's home local along with the difference in fringes paid to the U. A. Local 38 Administration Office monthly within fifteen (15) days after completion of the work month.

(d) In the event any contractor repeatedly violates this provision, he shall be brought before the Arbitration Board who shall set a fine for each violation.

Section 18. JOINT HIRING COMMITTEE.

The parties to this Agreement herein establish a Joint Hiring Committee composed of two (2) representatives of the Union and two (2) representatives of the Contractors Association provided, however, that one (1) and one (1) shall constitute a quorum.

(a) Any alleged violation of the provisions of the Hiring Hall made by any applicant shall be submitted in writing within forty-eight (48) hours of knowledge of the alleged violation to the Joint Hiring Hall Committee. The Joint Hiring Hall Committee shall meet on the call of the Chair whenever any applicant alleges a violation of the Hiring Hall provisions. Failure to file a grievance in writing within the time limit above specified shall constitute a waiver and abandonment of such grievance.

(b) The Joint Hiring Hall Committee shall have the power to review and make any changes in the Hiring Hall provisions during the life of this Agreement. The Committee shall also have the power to establish any and all rules and regulations from time to time as it deems advisable for the operation of this provision.

(c) All applicants, employees and employers shall observe all of the provisions of this Agreement as well as any and all rules and regulations adopted by the Joint Hiring Committee.

(d) The Union shall post in the Union dispatch offices all rules and

regulations adopted by the Joint Hiring Committee.

Section 19. SCHOLARSHIP AGREEMENT.

Any apprentice and/or journeyman who goes to work for a non-union employer shall be required to repay the cost of training as agreed to by the Scholarship Agreement.

Section 20. UNION SECURITY.

All persons employed continuously or accumulatively within the unit covered by this Agreement for a period of seven (7) days from the date of their employment or the date of this Agreement, whichever is the later, shall as a condition of employment become members of the Union by tendering the full and uniform initiation fees in effect; and all persons accepted into membership shall thereafter maintain their continuous good standing in the Union as a condition of employment by paying regular dues. In the event that a person fails to tender the initiation fees or dues as required by this Section, the Union shall notify the Employer in writing, and the Employer shall discharge the person within forty-eight (48) hours. (Saturdays, Sundays and holidays excepted). Upon passage of the legislation authorizing a shorter period of time the seven (7) day period mentioned above shall be shortened accordingly. No employee shall be discriminated against, in hiring, layoff, discharge, or any term or condition of employment on account of union membership or activities, except as provided herein. This Section shall not require the Union to accept any person into membership.

Section 21. DUES/COPE AND ASSESSMENT CHECKOFF.

(a) The Dues/COPE or assessment check-off for each employee covered by this Agreement, who has executed a written authorization regarding same, in a manner and form as required by law, shall be checked off and deducted from his/her wages by the Employer, in accordance with the Agreement and submitted to the Trust Fund Administration Office, by means of transmittal of their monthly Employer's Report of Contributions to the Trust Fund's depository bank, it shall thereafter be transmitted by check to the Union.

(b) Each employee having Dues/COPE or assessments checked off shall execute the aforesaid written authorization to do so and submit same to the Union, who shall, while such written authorization remains in effect, ascertain the deduction to be made in accordance with the Agreement and shall notify the Trust Funds Administrator.

(c) The individual Employers do, for the purpose of this Article, hereby authorize the Trust Funds depository bank as their agent, and the agent for each of them, to deposit the Dues/COPE assessment funds into a separate account to be thereafter transmitted by check to the Union.

(d) The Trust Fund Administrator, prior to February 1st of each year, shall

supply the employee with a statement mailed to his last known address, as shown on the records of the Trust Funds, showing the amounts, if any, so checked off as Dues/COPE or assessments to the Union for the previous calendar year.

(e) In the event any employee has not executed an authorization in writing for the Dues/COPE or assessments, said employee shall nevertheless be liable for Dues/COPE or assessments as a condition of employment.

Section 22. LAYOFFS.

(a) STEWARD LAST EMPLOYEE TO BE LAID OFF. In the event of layoff, with the exception of the foreman, the steward shall be the last employee laid off provided he/she is competent and capable to perform the duties assigned. The retention of the foreman in lieu of the steward shall be applicable only if the foreman is a long-time employee of the Employer or his/her retention is necessary because of special competence to perform the work. This exception shall not be abused to circumvent the necessity of retaining the steward. Stewards shall not be discharged except for just cause and then only after a meeting with the Union stating the cause. Stewards shall not be transferred from job to job without the consent of the Business Manager of the Union.

(b) LAYOFF IN ORDER OF SENIORITY GROUPINGS. Except in the case of discharge for good cause, employees shall be laid off in the reverse order of the seniority groups provided for in the Hiring Hall provisions; that is, persons in Group II shall be laid off before persons in Group I. Layoffs of apprentices shall follow the ratios established in Article III.

(c) THIRTY (30) MINUTE LAYOFF TIME. Where an employee is laid off or discharged, he/she shall be given at least thirty (30) minutes notice before the end of the last day of work, with compensation, to pick up tools and equipment.

(d) EMPLOYER COMPLIANCE. The Employer shall immediately notify the dispatch office upon his laying off any applicants dispatched to him setting forth the time, date and job of layoff. Any Employer who fails to comply shall pay a fine in the amount established by the Arbitration Committee.

Section 23. SHOP STEWARD.

When an order is presented for an employee and the Business Manager believes it is in the interest of the Union that the shop and/or job should have a shop steward, the dispatcher can dispatch an applicant on the list who is qualified to be the shop steward regardless of where he/she appears on the dispatch list.

Section 24. EMPLOYMENT OF FITTER IN CERTAIN TYPES OF WORK.

In the event any welding is to be performed in the installation of any industrial piping, a steamfitter shall be employed to work with a pipefitter/welder and shall perform the layout, measuring, and other tasks such as safety.

Section 25. NON-DISCRIMINATION COMPLIANCE MODIFICATIONS

All of the provisions of this Article may be subject to change pursuant to requirements of applicable law.

ARTICLE III

APPRENTICES AND SUPPLEMENTARY TRAINING OF JOURNEYMEN

Section 26. JOINT APPRENTICESHIP COMMITTEE.

The U.A. Local 38 Apprentice and Journeyman Training Trust is empowered to establish programs of training for apprentices and for supplementary training of journeymen. In fulfilling its functions, the Trustees of the Apprentice and Journeyman Training Trust have placed under the Joint Apprenticeship Committee all duly qualified apprentices. The Joint Apprenticeship Committee shall consist of eight (8) members. Four (4) shall be designated by the Union; and four (4) shall be designated by signatory Associations, three (3) from MCA and one (1) from SFMPA, provided however that two (2) and two (2) shall constitute a quorum. The Joint Apprenticeship Committee shall have the function of serving as the operating administrators of the U.A. Local 38 Apprentice and Journeyman Training Trust, and in this connection shall have the power:

(a) POWER TO ESTABLISH STANDARDS. To establish uniform apprenticeship standards, governing eligibility, registration and education of duly qualified apprentices to meet the needs and requirements of the trade, which standards shall become part of this Agreement;

(b) POWER TO MOVE APPRENTICES AMONG EMPLOYERS.To insure each apprentice obtains complete and well-rounded training in all phases of his classification; and to that end, the Committee, upon the recommendation of the Training Director, may move apprentices from one (1) Employer to another;

(c) SUPERVISION OVER JOURNEYMEN TRAINING PROGRAMS. To supervise and carry out a program of supplementary training for journeymen plumbers, steamfitters, HVAC/Refrigeration journeymen and welders.

(d) AFFIRMATIVE ACTION PROGRAM. To implement a program of affirmative action to assure that apprentices are selected in accordance with the requirements of existing and applicable Federal and State Law.

(e) SUPPLEMENTARY TRAINING OF JOURNEYMEN. In establishing and continuing programs for supplementary training of journeymen, the U.A. Local 38 Apprenticeship and Journeyman Training Trust, its Trustees, the Joint Apprenticeship Committee and the Training Director shall develop and maintain effective programs providing training to adequately prepare employees to be foremen and supervisors, and shall also develop and maintain effective programs to increase journeymen knowledge and technology, "as-built" drawings, mathematics pertinent to the construction

industry, relevant CAL-OSHA regulations, new materials and technologies used or expected to be used in the construction industry, earthquake construction, building codes and proposed building codes.

Section 27. TRAINING DIRECTOR.

There shall be a full-time Training Director, whose duties shall be to carry out the program of the Joint Apprenticeship Committee and the U.A. Local 38 Apprentice and Journeyman Training Trust. His/her salary shall be paid from the U.A. Local 38 Apprentice and Journeyman Training Trust. He/she shall have such secretarial and other assistants as the Trustees may decide.

The Training Director shall be in charge of implementing any affirmative action program or agreement entered into between the parties to this Agreement and any Federal, State or Local Agency. It shall be his/her responsibility, subject to the direction of the Apprentice and Journeyman Training Trust, to maintain all applications for apprentice status, and to see that the appropriate committees take action in compliance with any affirmative action program adopted by the parties, to see that all tests are fair and free of racial or sex bias and to oversee and coordinate the activities of all individuals and committees functioning in the employment process, examination process, application process for journeymen or apprentice membership to the fullest extent necessary to implement any required affirmative action effort.

Section 28. APPRENTICES.

WHEREAS, it is the desire of Local Union 38 to assist the Employer in reducing aggregate crew costs so that Employers will bid on jobs on which they have abandoned bidding because of non-union competitive costs, Local Union 38 proposes and the parties agree to the following.

(a) RATIO OF APPRENTICES TO JOURNEYMEN PER CONTRACTOR. On all new construction or alteration work, whenever a contractor hires one (1) journeyman, either a plumber, a steamfitter or a HVAC/Refrigeration journeyman, he shall be entitled to hire two (2) apprentices. In the event that he hires only one (1) apprentice, the apprentice may be from either low or high period at the option of the employer. In the event he hires two (2) apprentices, one (1) shall be from the sixth(6th) through the tenth (10th) period and the other may be from the first (1st) through the fifth(5th) period.

The fourth (4th), fifth (5th) and sixth (6th) persons hired shall be journeymen. The seventh (7th) person hired must be an apprentice from the sixth (6th) through the tenth (10th) period. The eighth (8th) person hired may be an apprentice from any period. The ninth (9th) through the eleventh (11th) persons hired shall be a journeyman. The twelfth (12th) person hired may be an apprentice but must be a high period. The thirteenth (13th) person

hired may be an apprentice from any period. The fourteenth (14th) through the sixteenth (16th) persons hired shall be a journeyman. The seventeenth (17th) persons hired can be an apprentice but must be from a high period. The ratio thereafter shall be three (3) journeyman followed by an apprentice from alternating periods (low/high).

(1) Low period apprentices shall be designated as one (1) through five (5).High period apprentices shall be designated as six (6) through ten (10).

(2) Although the ratio is shop wide, it is not the intent of the parties to overload any single job site with apprentices. It would be a violation of this Agreement for any single job site to be overloaded with apprentices contrary to Section 28 (a). Apprentice ratio by high and low periods are agreed to by the parties "if available".

(b) STEAMFITTER, PLUMBER AND HVAC/Refrigeration APPRENTICES CONFINED TO RESPECTIVE WORK. Steamfitter apprentices shall perform only steamfitter work, plumbing apprentices shall perform only plumbing work and HVAC/Refrigeration apprentices shall perform only HVAC/Refrigeration work.

(c) HOLE CUTTING/PACKING, PIPE LABELING AND DITCH DIGGING WORK OF APPRENTICES. All manual labor related to the work of journeymen under this Agreement, including the digging of ditches and the cutting/packing of holes, and labeling of pipes shall be the work of the apprentices under this Agreement.

(d) SHOP BOY. It shall be a violation of this Agreement for any employer to employ any shop boy or to permit any employee, however designated, other than Local Union 38 apprentices to perform any work within the Fifty Points of the Scope of Work of Local Union 38 and the United Association.

(e) UNION ORIENTATION PROGRAM. A suitable portion of each apprentice school training period, as determined by the Joint Apprenticeship Committee, shall be devoted to educating apprentices with respect to the background, history and functioning of the labor movement, the United Association and Local Union No. 38.

(f) UNION MEMBERSHIP REQUIREMENT. Following an apprentice's indenture, said apprentice shall become a member of the Union and shall thereafter remain in good standing in the Union as a condition to remain in the apprenticeship program.

ARTICLE IV

FOREMEN

Section 29. DEFINITION OF FOREMEN.

A General Foreman or Foreman shall be defined as a journeyman plumber, steamfitter or HVAC/Refrigeration journeyman who assumes responsibility for the Employer and supervises installations and "lay out" work for other journeymen and apprentices.

Section 30. SELECTION AND NUMBER OF ALL FOREMEN.

The selection and number of all foremen is the responsibility of the individual Employer, subject to the provisions of Article II, the exceptions provided in Section 34, and the following requirements.

(a) STEAMFITTER FOREMEN. On any job or in any shop where steam fitter work is to be performed by two (2) or more employees, at least one (1) of the steamfitters shall be designated and paid as foreman and additional foremen designated and paid on the basis of minimum requirements outlined in the schedule below (for purposes of this subsection, the word "employees" means journeymen or apprentice steamfitters):

(b) PLUMBING FOREMEN. On any job or in any shop where plumbing work is to be performed by two (2) or more employees, at least one (1) of the plumbers shall be designated and paid as foreman and additional foremen designated and paid on the basis of minimum requirements outlined in the schedule below (for purposes of this subsection, the word "employees" means journeymen or apprentice plumbers.)

(c) HVAC/Refrigeration FOREMEN. On any job or in any shop where HVAC/Refrigeration work is to be performed by two (2) or more employees, at least one (1) of the HVAC/Refrigeration journeymen shall be designated and paid as foreman and additional foremen designated and paid on the basis of minimum requirements outlined in the schedule below (for purposes of this subsection, the word "employees" means journeymen or apprentice HVAC/Refrigeration.)

(d) NUMBER OF FOREMEN ON JOBS.

2 - 7 Persons	On any job, or in any building or building complex where there are from two (2) to seven (7) employees, one shall be designated as a foreman to receive twelve percent (12%) above the journeyman rate of pay. Foremen so designated can work with the tools.

8-12 Persons	One (1) shall be a foreman, receiving sixteen percent (16%) above the journeyman wage, but cannot work with the tools. One (1) shall be a foreman so designated to work with the tools receiving twelve (12%) above journeyman rate of pay.
13- 17 Persons	One (1) shall be a foreman receiving sixteen percent (16%) above the journeyman wage, and two (2) shall be a foreman receiving twelve percent (12%) above the journeyman wage.
18- 22 Persons	One (1) shall be a foreman receiving sixteen percent (16%) above the journeyman wage and three (3) shall be foremen receiving twelve percent (12%) above the journeyman wage.
23- 27 Persons	One (1) shall be a General Foreman receiving twenty-five percent (25%) above the journeyman wage and four (4) shall be foremen receiving twelve percent (12%) above the journeyman wage.
28- 32 Persons	One (1) shall be a General Foreman receiving twenty-five percent (25%) above the journeyman wage and five (5) shall be foremen receiving twelve percent (12%) above the journeyman wage.
33- 37 Persons	One (1) shall be a General Foreman receiving twenty-five percent (25%) above the journeyman wage, one(1) shall be a foreman receiving sixteen percent (16%) above the journeyman wage and six (6) shall be foremen receiving twelve percent (12%) above the journeyman wage.
More Than 37 Persons	Additional foremen receiving twelve percent (12%) above the journeyman wage shall be designated from among each five (5) additional employees beginning with the thirty-eighth (38th). For example, if there are thirty-eight (38) employees, eight (8) shall be foremen receiving twelve percent (12%) above the journeyman wage. If there are forty-three (43) employees, nine (9) shall be foremen receiving twelve percent (12%) above the journeyman wage.
More Than 44 Persons:	The same formula for each additional five (5) employees shall apply and General Foreman IV shall receive thirty-five (35%) above the journeyman rate of pay.

(e) NUMBER OF FOREMEN TO BE EMPLOYED ON A JOB. In computing the number of foremen to be employed pursuant to the provisions of this Article, all employees shall be counted by craft, whether they are plumbers, steamfitters, HVAC/Refrigeration, welders journeymen, apprentices or individuals in any other classification.

(f) REPLACEMENT OF FOREMEN OR GENERAL FOREMEN ON A JOB. Whenever foremen or general foremen are required to be employed pursuant to the provisions of this Agreement, and the foreman is not on the job for any reason, including illness, vacation or absence for any reason, he shall be replaced for the duration of his absence from the job.

Section 31. FOREMAN RATES.

(a) INCREASES FOR FOREMEN IN SUBSEQUENT CONTRACT YEARS. Wages and contributions for Vacation and Holiday for the contract years commencing July 1, 2007 and each anniversary year thereafter under this Agreement shall be increased in an amount to maintain the contract percentage differential above the journeyman rate. In addition, contributions for their fringe benefits and trust shall be made by the Employer in the same manner and to the same extent as that applicable to journeyman contribution rates per hour of work. The determined amounts of such wages and contributions shall be set forth in the Wage and Fringe Benefit Addenda for such subsequent contract years.

(b) FOREMEN AND TEMPORARY FOREMEN TO RECEIVE PAY FROM FIRST HOUR OF WORK. Any employee temporarily or permanently assigned to work as a foreman or general foreman shall receive the pay of the highest classification from and including the first hour of such assignment.

Section 32. GENERAL FOREMEN.

The duties of all General Foremen classifications shall include the supervision of all work and the lay-out and supervision of the plumbing and mechanical work entailed in the particular job assignmment. Except in cases of emergency, a general foreman shall not give orders directly to employees.

(a) DEFINITION OF GENERAL FOREMAN (23-43 Men). Any person who supervises the work of employees on two or more alterations or construction jobs, or whenever it is known that there will be at least twenty three (23) employees on a job, a foreman shall be hired as General Foreman (23-43 men) at the beginning of the job and shall be known as General Foreman (23-43 men) in accordance with this Article. He\she shall also be responsible for the supervision of all work to assure its compliance to mechanical and plumbing codes as well as all applicable safety and health codes.

(b) DEFINITION OF GENERAL FOREMAN (44 and over men). Whenever it is known that there will be at least forty-four (44) employees on a job, a

foreman shall be hired as General Foreman (44 and over men) and shall be known as General Foreman (44 and over men) in accordance with this Article. He\she shall also be responsible for the supervision of all work to assure its compliance to mechanical and plumbing codes as well as all applicable safety and health codes.

Section **33. FOREMEN NOT TO WORK WITH TOOLS.**

A foreman or general foreman with seven (7) or more employees under his/her supervision shall not work with the tools.

Section 34. SEPARATE SUPERVISION FOR PLUMBING, STEAMFITTING AND HVAC/REFRIGERATION.

The plumbing general foreman and foremen shall supervise only plumbers, the steamfitter general foreman and foremen shall supervise only steamfitters and the HVAC/Refrigeration general foreman and foremen shall supervise only HVAC/Refrigeration fitters, as if the plumbing, steamfitting and HVAC/Refrigeration were being performed by separate plumbing, heating or HVAC/Refrigeration contractors.

Whenever the work being performed involves more than one (1) craft by the same employer, and one (1) craft has only one (1) employee, then the foreman can be from either of the crafts; i.e., plumber, steamfitter or HVAC/Refrigeration fitter.

Section 35. JOBBING, SERVICE & REPAIR AND COMBINATION JOBS OR SHOPS.

On any job which involves exclusively jobbing, service or repair work, foremen classifications are not required. If a job or shop involves a combination of jobbing, service or repair work with construction or alteration work, foremen classifications are required in accordance with the above schedule and should be paid the rates provided in Article V. The Employer shall observe the provisions requiring employment of foremen on any maintenance job and any maintenance contract shall not be considered as jobbing, service and repair.

(a) STAND-BY COMPENSATION. Any employee who is required to be on call for immediate emergency response on Saturdays, Sundays, and Holidays shall be compensated at two (2) hours of their total taxable wages, including 401 annuity. When such employees are called to perform service calls during the period of such stand-by service they shall be paid while engaged in the service call at the overtime rate of pay for a minimum of two (2) hours and the two (2) hour stand-by pay will be absorbed if called out.

Overtime and on call status will be distributed equally by a rotating list. Employees will be readily available to respond to such calls.

ARTICLE V

WAGE & FRINGE BENEFITS

Section 36. COST ITEM SHEETS

The current cost item sheet is a part of this Collective Bargaining Agreement and binding on all parties. Current cost item sheets may be obtained from Local Union 38 Trust Funds Office and/or the respective Associations.

Section 37. SUBSEQUENT INCREASES.

(a) The wages and fringe increases shall be as follows:

a.) year one 07/01/2007 through 06/30/2008

The total package, wages & fringes will increase by $5.50. Includes S.F. sick pay ordinance.

b.) year two 07/01/2008 through 06/30/2009

The total package, wages & fringes will increase by $6.00. Includes S.F. sick pay ordinance.

c.) year three 07/01/2009 through 06/30/2010

The total package, wages & fringes will increase by $5.50. Includes S.F. sick pay ordinance.

d.) year four 07/01/2010 through 06/30/2011

The total package, wages & fringes will increase by $5.00. Includes S.F. sick pay ordinance.

e.) year five 07/01/2011 through 06/30/2012

The total package, wages & fringes will increase by $5.00. Includes S.F. sick pay ordinance.

The said amount to be allocated as determined by the Union allocations of increases shall comply with the recommendation from the pension actuary presented as during negotiations. The existing formulas for prorating the increases to foreman and apprentices shall be applied.

(b) It shall be the responsibility of the Trust Fund office to print and distribute copies of the Collective Bargaining Agreement to the Employers and Union and to notify the Employers and the Union of contract changes in wages and fringe benefit rates. It shall also be the responsibility of the Trust Fund Office to send out Cost Item Sheets to employers and members.

(c) There shall be no other general increase in wages or fringes except that Section 84, 10% Differential, shall be applicable.

(d) Upon 30 days notice from the Union to the Associations, the Union

shall have the right to reallocate any wages or fringes of any Trust Fund under this Agreement, with the exclusion of the Contract Administration Fund, and said allocation shall take effect at the end of the 30 day period.

(1) PREPAID GROUP LEGAL PLAN.

The Union shall have the right to establish a lawful trust to provide a prepaid group legal plan and may allocate from any available increase at each anniversary date an amount to be paid to such prepaid group legal plan, provided neither the establishment of such trust nor the plan shall require the Employer to provide any additional money beyond the required increases set forth in this Agreement applicable to wages and fringes and further provided that such trust must enable the Employer to deduct any contributions to the trust as an ordinary and necessary business expense pursuant to the provisions of the Internal Revenue Code.

(2) CHILD CARE CENTER.

The Union shall have the right to establish a lawful trust to provide a child care center plan and may allocate from any available increase at each anniversary date an amount to be paid to such childcare center trust, provided neither the establishment of such trust nor the plan shall require the Employer to provide any additional money beyond the required increases set forth in this Agreement applicable to wages and fringes.

(3) TRUSTEES INSURANCE PROGRAM.

A Trustee program to be established by mutual agreement with the proviso that there should be no added cost to the Employer for such a plan.

(4) HOUSING PLAN.

At any time during the terms of this Agreement the Union may establish a Housing Plan in accordance with Section 302 of the Labor/Management Relations Act provided that there shall be no added cost to the Employer for such a Plan.

(5) SUPPLEMENTARY PENSION PLAN

At any time during the terms of this Agreement the union may establish a Supplementary Pension Plan provided that there should be no added cost to the employer for such a plan.

ARTICLE VI

Section 38. MARKET RECOVERY PROGRAM.

Whereas the Market Recovery Program is herein agreed to by the parties for the specific purpose of encouraging Employers to bid types of jobs which they have not heretofore bid with the intent and purpose of increasing the amount of work of the Employers and increasing the job opportunities of members of Local Union 38, each Employer shall be required to notify the Union of all jobs falling within the Market Recovery Program on which he bids and shall likewise notify Local Union 38 as to whether he was awarded the job or not and to whom the job was awarded, provided, however, jobbing, service and repair or one (1) day jobs need not be reported.

There shall be a Committee of two (2) appointed by the Union and two (2) appointed by signatory Associations that shall meet quarterly for the purpose of reviewing the Market Recovery Program.

However, one (1) and one (1) shall constitute a quorum.

The Committee shall review the results of the Market Recovery Program and in the event the program is not successful in resulting in Employers bidding jobs heretofore not bid and job opportunities increasing for the Local Union 38 members, the Committee with mutual consent shall have the right to cancel any or all parts of the Market Recovery Program.

Market Recovery Program shall not apply in San Francisco except for plumbing service and repair.

The work covered by the Market Recovery Program is defined as follows:

1. Service and Repair for plumbing only shall be at 80% of the new construction taxable wage rate.(including Vacation, Holiday, Dues Checkoff in the Market Recovery.)

2. Refrigeration/HVAC Service and Repair shall be at 100% of the new construction taxable wage rate (including, Vacation, Holiday and Dues Checkoff) and 100% of new Construction fringe package.

3. Structures five stories or less in Marin, Sonoma, Mendocino and Lake Counties shall be considered Market Recovery.

4. (a) All work in Marin, Sonoma, Mendocino and Lake Counties shall be at 80% of the San Francisco New Construction Journeyman taxable wage rate until 07/01/2009 when it will change to 85%.

(b) All new Construction or remodel of prisons and /or jails, hospitals, casinos, colleges, or waste water treatment plants and research facilities in Marin, Sonoma, Mendocino and Lake Counties shall be at 100% the San Francisco New Construction Journeyman taxable wage and 100%

of new Construction fringe package.

The wages for the Market Recovery Program work shall be as follows:

1. The journeyman taxable wage rate (including Vacation, Holiday, Dues Checkoff in the Market Recovery Program) for service and repair of plumbing only shall be 80% of the journeyman taxable wage rate for new construction in San Francisco until 07/01/2009 when it will change to 85%.

2. In all counties for new construction/alteration of HVAC/ Refrigeration and Controls/Control Piping, the wage rate shall be at 100% of the new construction rate in San Francisco.

3. The work day shall be a guaranteed eight (8) hour day at straight time. The regular starting time of the day shift shall be 8:00 A.M. except that where as to any locality or as to any plant of any Employer, existing traffic conditions render it desirable to start the day shift at an earlier hour, such starting time may by agreement between the Employer and the Union be made earlier, but in no event earlier than 6:30 A.M. All other hours shall be at the appropriate overtime rate..

4. The first two (2) hours of overtime shall be at the rate of time and one-half. All hours over ten (10) shall be at double time.

5. Non-taxable fringe benefits for all overtime work shall be calculated and paid as straight time.

6. Sundays and holidays shall be at the double time rate.

7. Saturday to be at time and one-half for the first ten (10) hours and double time for all hours thereafter.

8. Apprentices working under this program shall be paid wages at the same percentage rate as set for apprentices.

9. Jobs successfully bid under the Market Recovery Program will be completed under the Market Recovery Program.

Section 39. APPRENTICE RATES.

(a) WAGE AND FRINGE BENEFIT CONTRIBUTIONS. Employers shall pay the wage and fringe benefits in the amounts as set forth in the Wage and Fringe Benefit Addenda (Cost Item Sheets) for each contract year.

(b) It shall be a violation of this Agreement for any employer to employ any shop boy or to permit any employee, however designated, other than Local Union 38 apprentices to perform any work within the Fifty Points of the scope of work of Local Union 38 and the United Association. Any employer found guilty of violating this provision by the Arbitration Board shall, in addition to any fine levied against him by the Arbitration Board,

forfeit the right to utilize the Market Recovery Program for the duration of this Agreement.

(c) Apprentices shall receive a percentage of the journeyman wage rate as provided in the current cost item sheet, depending upon their period of apprenticeship.

ARTICLE VII

Section 40. OVERTIME.

(a) REDUCTION OF CONSISTENT PATTERNS OF OVERTIME. In an effort to reduce costs to the Employer and improve the working conditions of the employees, whenever the Union finds that there is a consistent pattern of overtime assignments, the Union reserves the right to require the Employer to hire employees on the shift basis within the terms of the Agreement.

(b) COMPUTATION OF OVERTIME. Except as provided in Article VI, the eighth and ninth hour on Monday through Friday and the first nine (9) hours on Saturday shall be paid at the rate of time and one half. All hours after nine (9) hours Monday through Friday and all hours after nine (9) hours on Saturday and all hours on Sundays and Holidays are to be paid at the double time rate. All overtime non-taxable fringe benefit payments shall be made at the straight time hourly rate except for defined contribution, which is a non-taxable fringe subject to overtime provisions.

The first two (2) hours before or after the regular work shift shall be at the rate of time and one-half (provided the hours are continuous). All other hours shall be at double time.

(c) NO SATURDAY, SUNDAY OR HOLIDAY WORK. Except as provided in Article VI, no employee shall be called upon to perform alteration, remodeling, utility work or new work on Saturdays, Sundays or Holidays without written permission from the Union's Business Manager or authorized representative.

(d) ASSIGNMENT OF OVERTIME WORK. Where overtime work is performed it shall be assigned to employees who regularly perform the work which necessitates the overtime. The Union Steward shall be included on all overtime work provided he/she is capable of performing the duties required.

Section 41. PREMIUM PAY.

(a) WELDING WORK. Any employee, while welding or burning galvanized pipe or stainless steel, or any other pipe or material that gives off toxic and/or poisonous gases, shall receive from the Employer one dollar and fifty cents ($1.50) cents per hour over the regular hourly rate of pay.

(b) HIGH WORK. Any employee required to work from trusses, swinging scaffolds, bos'n chairs, temporary staging or unguarded structures at a height of twenty-five (25) feet or more from the ground, water or supporting structure, shall receive one dollar and fifty cents ($1.50) cents per hour over the regular rate of pay. This premium does not include scissor lifts, JLG's or guarded scaffolds.

pay at the applicable overtime rate. In each instance the pay shall include overtime rate on the taxable fringe benefit contributions including defined contributions.

(b) EXCEPTION - INCLEMENT WEATHER. The provisions of this Section shall not apply when weather or strike conditions make it impracticable to put such an employee to work, provided that where work, having begun, is stopped on account of inclement weather, the employee shall be paid to the end of the hour and in no event shall receive less than two (2) hours pay for any fractional part of the day. It shall be the obligation of the Employer to notify employees as far in advance as possible whether or not they should report when he knows in advance of inclement weather or strike conditions that will preclude the performance of scheduled work.

The exception provided in this paragraph for inclement weather shall not be applicable to any job requiring travel for fifty (50) or more miles from the point of dispatch and any employee entitled to travel pay for fifty (50) or more miles from the point of dispatch shall be guaranteed at least four (4) hours show-up wages and fringe benefits, notwithstanding the fact that inclement weather has precluded the employee from being utilized. In the event the employee is put to work and works in excess of four (4) hours, he/she shall receive not less than a full day's pay on any such job requiring the employee to travel fifty (50) or more miles from the point of dispatch.

(c) FRINGE BENEFITS. The provisions of this Section shall apply to fringe benefits as well as wages.

Section 44. TRAVEL TIME.

(a) POINT OF DISPATCH. For the purpose of this Section "point of dispatch" shall mean the location from which an employee is dispatched to a job, that is one (1) of the two (2) Union dispatch offices at San Francisco and Santa Rosa or the individual Employer's shop. A "shop" shall mean a permanent place of business or permanent fabricating shop or permanent branch shop, and not a job site or temporary fabricating shop, located within the territory covered by this Agreement. A "permanent branch shop" shall mean a branch shop which has been in operation continuously for at least one (1) year. Zone miles shall be based on the shortest road route.

(b) OVER 50 MILES. On jobs over fifty (50) miles from the point of dispatch, either the San Francisco or Santa Rosa Offices or the individual employers shop, the employees shall receive subsistence as follows:

(1) SUBSISTENCE: Effective July 1, 2007, subsistence shall be $83.00 per day worked or actual cost of room and board satisfactory to the employee for all days employees are required to stay overnight.

On each anniversary date (July 1st of each year of this Agreement), there

shall be added an additional $5.00 per day to subsistence.

(2) TRAVEL TIME: Travel time is an amount equal to the straight time wage rate and fringes, not to exceed eight (8) hours in any work day.

(3) TRAVEL EXPENSES: Whenever at the start and finish of a job the Employer does not furnish transportation, travel expenses at the rate of the published IRS rate per mile. This rate shall be paid from the point of dispatch to the job and return, plus bridge tolls.(the IRS rate for mileage is currently .49 cents per mile)

(c) LEGITIMATE EXPENSES. All expenditures for telephone calls, tools, purchase of material, travel cards, etc., authorized by the Employer and incurred as a legitimate job expense shall be reimbursed.

(d) WATER TRANSPORTATION. Whenever it is necessary for employees to cross water in order to reach the job and there is no standard means of transportation available, the Employer shall furnish transportation by boat. Employees shall not be required to report to the boat dock earlier than 8:00 A.M., and shall receive portal pay from 8:00 A.M. until such time as they return.

(e) PENALTY FOR QUITTING EARLY. If an employee leaves work before it is completed and without the consent of the Employer, he/she shall not be entitled to return travel time and transportation.

(f) TRAVEL TIME BASED ON ORIGINAL DISPATCH POINT. Travel time shall be computed on the basis of the employee's original point of dispatch. If any Employer lays an employee off and then rehires him/her through a different dispatch point, travel time must, nevertheless, be paid on the basis of his original dispatch point.

(g) APPLICABILITY OUT SIDE OF JURISDICTION: The requirements of this Section apply whether or not the job is located within the territorial jurisdiction of U. A. Local 38.

Section 45. PARKING ALLOWANCES.

Any employee who is required to report to work at a location where no free parking is available within three (3) blocks or one-eighth (1/8) of a mile from the job site shall be reimbursed for parking expenses in the nearest garage where space is available. The Employer shall have the right to designate parking areas to be used. It shall be the responsibility of the foreman and/or shop steward to collect parking expense vouchers from each employee weekly and to see that such is reimbursed by the Employer. No employee shall be entitled to parking expenses if he/she is requested to report to a location where free parking is available or the Employer provides transportation to the job at no cost to the employee on the employees' time at the beginning of their shift and employers' time at the end of their shift. The

amount to be paid for parking shall be the actual cost incurred as verified by receipt.

The foreman and/or shop steward will be responsible for collecting parking allowances and assuring that such allowances are paid to employees entitled to such allowances. No Employer shall use a form to be executed by the employee for parking reimbursement that has not been approved by the Union.

Section 46. PAYMENT OF WAGES.

(a) WEEKLY THREE (3) AND FIVE (5) DAY WITHHOLDING. Pay day shall be once each week and the Employer shall not withhold pay for any day more than the three (3) working days but in no event more than five (5) working days following the end of the pay period unless because of the size of the job additional payroll time is needed. In the event additional time is needed, upon request and approval by the Union, the Employer may withhold not more than five (5) days. If the regular pay day falls on a holiday or on a day on which the Employer chooses to close his shop, employees shall be paid on the preceding work day.

(b) MUST BE PAID ON JOB DURING REGULAR SHIFT. Employees are to be paid during their shift, whether working in a shop, individual Employer's yard or in the field. If they are required to wait beyond regular working time, they shall be paid during the waiting period at the regular hourly wage rate and fringes.

(c) PAYOFF ON LAYOFF IMMEDIATE. When employees are laid off or discharged, they must be paid wages due them immediately at the time of layoff or discharge, in compliance with the California State Labor Code.

(d) FRINGE PAYMENTS TO SHOW ON PAYCHECK. The total of all fringe benefits shall be listed on the stub of each employee paycheck.

(e) PAYMENT IS RESPONSIBILITY OF EMPLOYER. It is the obligation of the Employer to pay the wages and fringe benefits provided in the Agreement and as from time to time determined by allocation, and any delegation by the Employer of this responsibility to bookkeepers, foremen or other individuals shall not relieve the Employer of his responsibility in the event of any error, mistake or failure to pay in accordance with the provisions of the Agreement.

ARTICLE VIII

DESIGNATION OF TRUST FUNDS

Section 47. GENERAL

(a) There are seven (7) jointly administered Trust Funds: The Health and Welfare Trust, The Vacation and Holiday Trust, The Apprentice and Journeyman Training Trust, The Pension Trust, The Group Supplemental Unemployment Benefit Trust, The Jury Duty Trust and The Scholarship Trust. If for any reason during the life of this Agreement the Union or Employers should determine that it is necessary to amend the Trust Agreements and the related provisions of this Article, the parties will immediately meet to discuss and make all necessary changes.

(b) Each of these trusts has equal representation of Union and Employer trustees as defined in each trust. Six (6) Trustees shall be Union representatives and six (6) shall be Employer representatives; five (5) to be appointed by the Northern California Mechanical Contractors Association and one (1) to be appointed by the Master Plumbers Association of San Francisco. All Employer trustees shall be contractors who regularly employ not less than three (3) journeyman members of Local 38, unless such trustee is the executive paid staff member of a signatory Association representing a minimum of forty (40) contractors. If a contractor is proposed who does not regularly employ at least three (3) journeyman members of Local 38, the full board may,in its discretion, allow him to serve as an Employer trustee by a majority vote; but the board shall have no authority to make any exception to this rule except on an individual basis as herein stated.

(c) The Board of Trustees shall have the following officers: Chairman, Co-Chairman, Secretary and Treasurer. They shall be elected by the Board of Trustees annually. If the Board Member elected as Chairman was designated to the Board by Management, then the Co-Chairman shall be a Board member designated by the Union and vice versa. If the Board member elected as Secretary was designated to the Board by Management, then the Treasurer shall be a Board Member designated by Union and vice versa.

The duties of the officers shall be as follows:

(1) Chairman. The Chairman shall preside at all meetings and conduct the business of the Board of Trustees with the right to vote on any matter. He shall be a member ex-officio of all regular and special committees. He shall perform such other duties as pertain to the office of Chairman and shall see that the provisions of the applicable Trust Agreements and all actions of the Board are carried into effect.

(2) Co-Chairman. The Co-Chairman shall perform the duties and exercise the powers of the Chairman in the event of his absence or

disability and shall perform such other duties as the Board of Trustees may prescribe.

(3) Secretary. The Secretary shall be responsible for recording all Minutes of the meetings of the Board of Trustees.

(4) Treasurer. The Treasurer shall examine and verify the accounts of all funds received and disbursed by the Board of Trustees.

(d) Regular meetings of the Board of Trustees shall be held quarterly and written notice of the meeting shall be mailed to all members of the Board by the Trust Office. Special meetings of the Board of Trustees may be called by either the Chairman or Co-Chairman or upon the request of any three (3) members of the Board to the Chairman. Written notice of such meetings shall be mailed to all members of the Board at least three (3) days before such special meetings by the Trust Office. In between quarterly meetings, the business of the Trust shall be conducted by the four (4) officers who shall report their actions to the full Board of Trustees at their next regular meetings.

(e) A quorum at any special or regular meeting shall consist of at least three (3) Trustees designated by the Employers and three (3) Trustees designated by the Union.

(f) The parties agree to be bound by the Trust Agreement applicable to said trusts and by any duly adopted amendments thereto. Any claim, dispute or controversy between any Employer, Employer Association, employee or employees and the trustees of any jointly administered trust that is not otherwise resolved by procedures for the settlement of disputes specified in the applicable trust Agreement or Plan, may, upon request by the trustees, be submitted to the determination of a neutral Arbitrator as provided in Article XII of this Agreement. In the event of any such request by the trustees, no Employer, employee or person claiming on behalf of any Employer or employee shall have recourse to any court until the arbitration processes of this Agreement have been exhausted.

(g) In order to curtail the expenses of meetings, the Union and the Employer Association shall, to the fullest extent practicable and if not in conflict with the provisions of the applicable Trust Agreement, designate as trustees the same individuals who serve on their respective behalf as trustees of other jointly administered trusts established pursuant to this Agreement.

(h) There are four (4) Independent Trustee administered trusts: Lakeside Haven, a.k.a, Kids Camp/Recreational Trust, Hiring Hall and Arbitration, C.R.A.F.T. (Craft Recruitment Achievement Fund Trust) and Jurisdictional Protection Trust. There shall be a Labor/Management Advisory Committee consisting of an equal number of Union Representatives and Employer

Representatives to advise and consult with the Independent Trustee. The Independent Trustee shall be governed solely by the terms of the applicable Trust Agreement. If for any reason, during the life of the Agreement, the Union should determine that it is necessary to amend the Trust Agreements and the related provisions of this Article, the parties will immediately meet to make all necessary changes. In the event of any sale of Lakeside Haven Properties the parties shall meet to revise the language of this section.

(i) There is one (1) Employer administered Fund by each signatory Association, hereafter called the Contract Administration Fund. The Union shall not have any responsibility in connection with the administration or application of this Fund. It is governed solely by the terms of the Fund Agreement as it may, from time to time, be amended, subject to the notification (or approval) of the Union or provided they meet the intent of the Fund.

(j) All monies contributed by Employers to the Contract Administration Fund shall be used solely and exclusively for the purposes set forth in the Fund Agreement, and shall not be used by any Employer who is not a party to a collective bargaining agreement with Local 38. In no event shall such monies be used to pay for litigation or any type of lawsuit or other action against Local 38, including but not limited to grievances and arbitrations against Local 38, National Labor Relations Board charges against Local 38, federal or state agency or department charges against Local 38, nor for any attorneys' fees in connection with any of the above.

(k) In the event that Local 38 claims that any of the monies in said Contract Administration Fund are being used for a prohibited purpose as set forth above or for any purpose other than those set forth in said Fund, the Union shall notify the Fund and such expenditures shall immediately cease. Either party may then submit the matter to the Arbitration Committee according to the provisions of Article XII of this Agreement, and in the event the Arbitration Committee is unable to decide the dispute, the matter may then be submitted to arbitration as provided in Article XII of this Agreement. In the event that the Arbitration Committee or the arbitrator decides that any monies have been expended for any prohibited purpose as set forth above or for any purpose other than those set forth in said Fund Agreement, the persons who made the expenditure shall be personally liable for the reimbursement of such monies to the respective Fund. Further, should Local 38 expend any monies in defense of any action or litigation improperly instituted or funded under this Section or under said Fund and/or should Local 38 be required to pay any damages as a result of such action or litigation, Local 38 shall be reimbursed therefor from the Fund which has violated this Section and/or the provisions of their own Fund Agreement as set forth above.

Section 48. GENERAL DESCRIPTION OF TRUSTS.

(a) HEALTH & WELFARE TRUST. The Health and Welfare Trust provides hospitalization, medical benefits, life insurance, a dental plan, a vision care plan, a prescription drug plan and a limited income protection plan during periods of disability for eligible employees and their dependents. A booklet and brochures describing the various Health and Welfare Benefits Plans are available in the Trust Fund office.

Any benefits provided by the U. A. Local 38 Health & Welfare Trust Fund to retirees over and above the plan of benefits for retired employees shall be provided only to retirees who are members in good standing of Local Union 38. This provision to become effective July 1, 1998.

(b) VACATION AND HOLIDAY TRUST. The Vacation and Holiday Trust receives contributions from Employers, maintains records for the employees on whose behalf contributions are made, and makes payments to the employees based upon amounts accumulated and subject to the provisions for eligibility requirements set forth in the Trust Agreement. The funds received are deposited in a national bank and a portion of the funds are invested in short-term certificates of deposit. The earnings from the certificates of deposit and the interest on savings accounts are used, in part, to defray the expenses of record keeping, data processing and administration expense. After payment of administrative expense, the amounts held are paid to eligible employees for purposes of vacation and reimbursement for lost pay attributable to holidays provided in the Agreement to the extent contributions have been made on behalf of the particular employee.

(c) APPRENTICE AND JOURNEYMAN TRAINING TRUST. The Apprentice and Journeyman Training Trust receives contributions from Employers based on hours worked by employees and the amounts so contributed are utilized to finance the training of apprentices and also to train journeymen in new and special techniques in the plumbing and pipe fitting industry. The trustees are authorized to provide all facilities, personnel, and services necessary for the administration of the trust and to maintain facilities for apprenticeship and journeyman training and the expenses of instructors, coordinators and the Joint Apprenticeship Committee who supervise the apprentices in the course of their apprenticeship. The Employer members of the Joint Apprenticeship Committee shall be contractors who regularly employ not less than two (2) apprentices of Local 38. The trustees of the Apprentice and Journeyman Training Trust are also authorized to construct facilities for the training of apprentices and journeymen.

The Apprentice and Journeyman Training Trust is also authorized to conduct special educational programs relating to the industry and skills for foremen, journeymen and apprentices and to conduct seminars for a limited number of such individuals as may from time to time be determined

by the Board of Trustees. Such seminars shall include new techniques, methods of obtaining greater productivity, creating greater understanding of the problems of the Industry and obtaining participation in assisting in the growth of the industry.

A special training and educational program shall be instituted for apprentices and journeymen in the jobbing and service trade. This will include a special course for apprentices, a special program for journeymen to include, but not be limited to, installation techniques, sales and merchandising programs, promotion and marketing ideas and other services to upgrade, promote and improve the jobbing and service business. The Employer Association shall assist in preparing the curriculum, training aids, help provide instructions and promote cooperation of manufacturers in supplying material for the success of this program.

(d) PENSION TRUST. The Pension Trust collects contributions from Employers made on behalf of individual employees for both the U. A. Local 38 Defined Benefit Plan and the U. A. Local 38 Defined Contribution Plan (Section 401(a). The terms of both the Defined Benefit Plan and the Defined Contribution Plan providing retirement and death benefits for eligible employees are set forth in booklets available at the Trust Fund office. The trust may be amended where feasible to provide for participation in the United Association Umbrella Pension Plan.

Any payments made to retirees by the U. A. Local 38 Pension Trust Fund which are in addition to regular accrued vested benefits, such as for example, the Annual Retirees Week, including the Multiphasic Examination, etc shall be made only to those retirees who are members in good standing of Local Union 38. This provision to be effective July 1, 1998. .

(e) GROUP SUPPLEMENTAL UNEMPLOYMENT BENEFITS TRUST. There has heretofore been established a Group Supplemental Unemployment Benefits Trust. The purpose of this trust is to provide supplementary unemployment benefits to employees on whose behalf contributions are made and to establish rules of eligibility for such benefits. The Plan provides for payment to eligible employees of weekly supplementary unemployment benefits after an employee has been unemployed for a period of four (4) weeks and is actively seeking employment. The Trustees are authorized to establish rules of eligibility and to determine the amounts of benefits to be provided. The actual benefits to be received will be reviewed by the Actuary. The trustees are authorized to accumulate the monies contributed to this trust to provide a fund for the payment of benefits pursuant to the Trust Plan. A description of the Plan is available at the Trust Fund office.

(f) JURY DUTY TRUST. The Jury Duty Trust receives contributions from Employers, maintains records for the employees on whose behalf

contributions are made, makes payments to employees who are called for jury duty, and pays the administrative expenses attributable to this trust. The Jury Duty Trust so established shall detail the rules and regulations for eligibility for jury duty in accordance with pre-existing regulations for eligibility and payment of jury duty benefits.

(g) SCHOLARSHIP FUND. There has heretofore been established a trust for the receipt of money for the maintenance of the Scholarship Program. Each Employer shall contribute according to the Wage and Fringe Benefit Schedule Addendum to this Agreement for the continuation of this program to the Scholarship Trust. The terms of the Scholarship Trust shall be amended to provide for from one (1) to three (3) public members for the purpose of a selection committee. . The Scholarship Fund shall be used exclusively to provide scholarships for attendance in colleges or universities by the sons and daughters of employees in the Plumbing and Pipe Fitting Industry covered by the Collective Bargaining Agreement. It shall also pay all accrued and future amounts necessary for any scholarship award meetings, printing of applications and other administrative forms and certificates of award and any incidental expenses to the Scholarship Program including an annual luncheon or dinner for scholarship award winners and their parents. Rules and regulations covering applications and scholarships, the maximum amount of scholarship to be granted and the conditions of such scholarship shall be as established by the trustees. Neither Union nor Employer Trustees or representatives shall participate in the selection of those receiving scholarship awards and all applications and selection of awards shall continue to be made solely by the public Trustees. No portion of the Scholarship Fund shall be susceptible to reversion to any of the contributing Employers. The scholarship awards shall be granted annually and shall be effective for the academic year commencing in September.

(h) LAKESIDE HAVEN/KIDS CAMP RECREATIONAL TRUST. When the Convalescent Trust Fund terminates during the term of this Collective Bargaining Agreement, a new Kids Camp/Recreation Trust will be implemented. The Kids Camp/Recreation Trust shall be governed by separate declaration of trust and will provide summer camping programs and picnic facilities for participants and beneficiaries of the UA Local 38 Health and Welfare Trust Fund. Contributions to be allocated to the Kids Camp/Recreation Trust will be made in accordance with the terms of the Collective Bargaining Agreement.

The Lakeside Haven/Kids Camp Recreational Trust will operate the Kids Camp. Kids Camp is a facility available to employees children on whose behalf contributions have been made. The funds received by the Lakeside Haven/Kids Camp Recreational Trust are used to pay the cost of construction, operation and maintenance. The rules of eligibility for participation of the

children of eligible employees are contained in a brochure available at the Trust Fund office.

(i) HIRING HALL AND ARBITRATION TRUST. The Hiring Hall and Arbitration Trust monies are to be used to assist and defray the expenses of operating Hiring Halls and employing dispatchers and to assist and defray the expenses of processing grievances which arise under the provisions of this Agreement. The trustee is authorized to hire sufficient qualified personnel from a list supplied to the trustee and compensation of personnel shall be set at twenty percent (20%) above the journeyman's hourly rate of wages and fringes plus expenses, and to provide suitable office space, supplies, equipment and any other necessary facilities or assistance in order to carry out the various purposes of the Trust. The trustee shall further have the power to allocate contributions between the Hiring Hall and Arbitration functions of the Trust. In this regard the trustee shall have the power to allocate all of the funds contributed to this Trust for the purposes of processing grievances. In the event in any contract year no funds are allocated to the Hiring Hall purposes of the Trust, the Hiring Hall purpose shall be carried out and funded from any unexpended funds which have previously been allocated to the Hiring Hall function of the Trust. The amount to be allocated to this Trust shall be as set forth in the Wage and Fringe Benefit Schedule Addendum of this Agreement.

The independent trustee shall be aided by an Advisory Committee made up of an equal number of Union and Employer representatives. The Employer representatives must be Employers who currently, traditionally and historically hire journeymen and apprentices.

At each anniversary date of this Agreement the independent trustee may in consultation with the Advisory Committee allocate such portions of the excess funds to the Apprentice and Journeyman Training Trust as he deems economically desirable.

(j) C.R.A.F.T. (CRAFT RECRUITMENT ACHIEVEMENT FUND TRUST). There shall be established a trust known as C.R.A.F.T. (Craft Recruitment Achievement Fund Trust). The trust shall be administered by an independent trustee with the advice of a policy committee made up of one (1) representative from the Association and one (1) representative from the Union.

The purpose of the trust shall be to employ, generate and publish by any avenue or process of public or private communication, display, projection or emanation that in any manner portrays, displays, suggests or imparts information, knowledge, statistics, procedures, history, background, skills, arts, functions, methods, processes and applications involved with and associated with the industries in the Plumbing, Heating, Piping, Refrigeration,

Air Conditioning, Construction, Erection, Venting, Machining, Welding, Fixing, Repairing, Maintaining, Delivering, Adjusting and Connecting of improvements, parts and units for the general utility and function of such industries.

(k) CONTRACT ADMINISTRATION. The Contract Administration Fund is a fund created by Employers to be administered by Employer Associations. The purpose of the Contract Administration Fund is to support the activities of Employer Associations and Employers, including both national and local Employer Associations. The Fund may also support Employer education, training, safety, research, and other activities for the benefit of Union signatory Employers. Said Fund may also be used to provide for Employer administration of the Collective Bargaining Agreement, and assuring enforcement by Employers and the Union of the terms of the Collective Bargaining Agreement.

Each Employer in the bargaining unit of each signatory Association shall pay to the Contract Administration Fund the amount set forth in the Wage and Fringe Benefit Schedule Addendum for each hour worked by employees of Employers within the bargaining unit of the signatory Association. Said Fund shall be administered solely by Employers and their chosen representatives and the Union shall have no responsibility in connection with the administration of such Contract Administration Fund. No portion of such funds shall be paid to any representative of employees and no portion of such funds shall be used for purposes inimical to the Union or employees within any bargaining unit covered by the provisions of this Agreement.

In the event the Union believes that funds are being used for purposes inimical to the Union or employees, the Union shall be authorized to file a grievance seeking a declaration that the proposed use violates this provision, and said grievance shall be adjudicated in accordance with grievance and arbitration provisions of the Agreement. The sole remedy for any such violation shall be an injunction.

(l) JURISDICTIONAL PROTECTION TRUST - INSURANCE AND INDEMNITY TRUST. The Jurisdictional Protection Trust-Insurance Indemnity Trust monies shall be used for the purpose of setting up a program including the hiring of personnel, the establishment of an office and equipment, to work with architects, engineers and general contractors so that they will include in their plans and specifications all U. A. Local 38's jurisdiction for contractors bidding on jobs covering U. A. jurisdiction as well as programs approved by the Independent Trustee for promoting job opportunities and employment of Local Union 38 members. Jurisdiction Protection-Insurance and Indemnity Trust Fund monies may also be used for the purpose of fostering beneficial legislation and to meet with

representatives of public and quasi-public bodies or groups and other groups or associations in the construction industry or allied fields; to foster, promote and urge beneficiary legislation within the State of California relating to the plumbing and pipe fitting industry; its standards, specifications, improved technological skills or any other matter pertaining thereto; to acquaint the public at large with the work of plumbing and pipe fitting industry and to foster good public relations. This fund shall be administered by an Independent Trustee.

The Independent Trustee shall have the authority to provide insurance to cover individuals, including the Trustees of the U. A. Local 38 Trust Funds who are acting on behalf of the Industry and/or the U. A. Local 38 Trust Funds to the extent prudent and lawful. The Independent Trustee shall determine the type and the amount of insurance including but not limited to Errors and Omissions, Comprehensive Liability, etc. The Independent Trustee shall have the authority to self insure the above, including indemnifying any and all designated individuals, in the event that he determines self insurance or indemnification to be prudent and lawful. The Trustee shall be authorized to borrow any funds from established banking institutions to accomplish the foregoing.

Section 49. ADMINISTRATION OF TRUST FUNDS.

(a) GENERAL. There has heretofore been established an Administration Office to handle the record keeping and other common functions of the various trust funds that are jointly administered. This Administration Office also arranges for the printing of Employer reporting forms and the transmittal to the accounts of each of the respective trusts amounts contributed to it. Each of the participating trusts shall be urged to continue utilizing the facilities of the Administration Office for record keeping, collection and deposit of funds on behalf of the Board of Trustees of each particular trust. The services to be performed shall be determined by the trustees and the details of such services and the amount to be paid to the Administration Office for such services shall be set forth in a written agreement between each trust and the Administration Office.

(b) DUE DATE FOR MONTHLY PAYMENTS. Employers shall make monthly payments to the Trust Funds on behalf of each employee covered by this Agreement as set forth in the above Trust Provisions. Contributions to the Trust Funds are due on or before the twentieth (20th) day of each month for hours worked during the previous month, and after that date they become delinquent. Contributions to all Trust Funds shall be set forth in a single reporting form adopted by the trustees and shall be made in a single payment.

(c) DAMAGES FOR DELINQUENT PAYMENTS. It is agreed that timely contribution to the Trust Funds provided for in this Agreement is essential

for the protection of the beneficiaries, and that delinquent contributions entail additional expense to the Trust Administration. Since the exact damage to the beneficiaries and the Trust Administration from a delinquent contribution is impossible to measure in money, it is agreed that whenever an Employer is delinquent in his payment to any of said Trust Funds he shall become liable to the Trustees thereof by way of liquidated damages and not as a penalty, in the amount of ten percent (10%) of the contribution owed unless a different amount is specified in either the Trust Agreement or the Plan.

(d) RIGHT OF TRUSTEES TO AUDIT EMPLOYER'S BOOKS.

(1) The Trustees of any Trust Fund established under this Agreement may inspect or audit the payroll books of any Employer at any reasonable time for the purpose of ascertaining whether contributions to the Funds have been made as required by this Agreement. In conducting such inspection, the Trustees may designate the Administrator or any other person to conduct the inspection or audit on behalf of the Trustees. Should it be determined as a result of such audit or inspection that contributions required to be made to any Trust Fund have not been made, the Employer shall be liable,in addition to the payment of determined delinquent contributions and liquidated damages, for the cost of such inspection or audit.

(2) The Trustees, or their authorized representatives, may require any employer to submit to it any information relevant to the administration of the Trusts. Upon notice in writing from the Trustees, an Employer must permit an accountant of the Trustees to enter upon the premises of such Employer during business hours to examine and copy the following records of the Employer:

(i) Canceled checks and check stubs showing all monies paid to each employee of the Employer for wages.

(ii) Canceled checks, check stubs and business records of the Employer showing all sums paid to persons other than employees for work performed such as sub-contractors, independent contractors, relatives, partners and joint venturers of the Employer.

(iii) The individual earnings records of each employee of the Employer showing the name and address of the employee, social security number, wage rate, hours worked, gross pay, amount withheld and net amount paid for each employee.

(iv) Copies of all fringe benefit returns of Employers prepared for filing with the Trust Funds for each month.

(v) Those canceled checks showing sums actually paid by the

Employer to the Trust Funds for each month.

(vi) Copies of the Employers' Quarterly Federal Tax Return Form 941 for each quarter and copies of Quarterly State Tax Returns Form DE 3 for each quarter.

(vii) Individual employee time records for each employee of the Employer.

(viii) Records of each job involving work covered by this Agreement by the Employer, to the extent the contractor has control of such records and if such records exist, including:

(1) Name and address of the owner of the property where the work was done;

(2) Street address where the work was performed;

(3) Total gross payment received;

(4) Total payroll cost of each job.

(ix) Copies of Federal Forms W-2 and W-3 prepared by the Employer of each employee.

(x) Disbursement journal of the Employer.

(xi) Payroll journal of the Employer.

(e) LIABILITY OF EMPLOYER FOR LEGAL COSTS TO COLLECT DELINQUENT PAYMENTS. Should it become necessary for the Trustees to consult an attorney or to bring legal action for the collection of amounts due any of said Trust Funds, the delinquent Employer shall be liable for the payment of reasonable attorney fees. Whenever an employer has been delinquent for over ten (10) days, the Administrator of the Trust Funds shall proceed to collect any and all delinquent payments due from the delinquent employer in compliance with the UA Local 38 Trust Funds Collection Policy and Procedures re: Delinquent Employers Wage and Fringe Benefit Contribution Accounts Manual.

In the event a decision is made by the Arbitration Committee or an Arbitrator determining the liability of the Employer for delinquent payments, the Administrator of the Trust Funds may reduce the determination of the Arbitration Committee or the Arbitrator to a Court Judgment and institute collection procedures in the event the Employer fails to pay upon demand. In such event, also, the Employer shall also be liable for the payment of reasonable attorneys' fees incurred in implementing this process.

(f) COLLECTION MATTERS-ORDER OF ALLOCATION. In the event collection procedures are instituted to recovery wages and fringe benefit payments due pursuant to the agreement and the sums collected are not

sufficient to cover all delinquent obligations, the sums collected shall be distributed in the following order of priority:

(1) Taxable Wages

(2) Defined Contribution (401(A)

(3) Health and Welfare

(4) Defined Benefit Pension

(5) Apprentice/Journeyman Training

(6) Kids Camp/ Recreational

(7) Scholarship

(8) Group Supplemental Unemployment

(9) Jury Duty

(10) Jurisdictional Protection

(11) C.R.A.F.T.

(12) Hiring Hall

(13) Contract Administration

(g) DEPOSIT OF PERFORMANCE OR SURETY BOND. Except as otherwise allowed by the Board of Trustees, each Employer shall deposit a performance or surety bond to assure the payment of wages and fringe benefit contributions required by this Agreement. The bond shall be in a form satisfactory to the Board of Trustees and in an amount as specified by the following formula:

No. of Employees	Amount of Bond
1 - 5	$ 50,000
6 - 10	100,000
11 - 20	200,000
21 - 40	400,000
41 - 60	600,000
61 - 80	800,000
Over 80	1,500,000

The amount of bond, as described above, shall apply during the contract year ending June 30,2008. Thereafter, the Board of Trustees may adjust said amounts.

In the event any Employer is unable or unwilling to post such a performance or surety bond, the Board of Trustees may allow weekly or daily payments of fringe or wage payments and, in addition, a reasonable amount to cover the amount of extra bookkeeping.

The Board of Trustees may increase the bond amount required of any chronic delinquent Employer to an amount greater than the amount set forth in the above formula if, in the opinion of the Board of Trustees, such an increase is required to protect employees and assure payment of wage and fringes. The increased bond amount shall not exceed triple the amount of the delinquent Employer's average monthly fringe contributions and wages for the preceding six (6) months. The Union, the Board of Trustees or any Employer may file a grievance against an Employer to require the Employer to post the required increased bond amount, or the bond amount required under the formula set forth above, as appropriate. The increased bond shall continue in force and effect until such time as the Employer has gone twelve (12) consecutive months without being delinquent in the payment of wages or fringes, such months to include carryover into the next Agreement.

The Administrator shall deliver a report to the Board of Trustees at each of its regular meetings which will identify each employer who is not in compliance with this Section, specify the nature of the noncompliance and make such recommendations as he believes are in order.

If the Board of Trustees shall certify to the Union that any Employer is not in compliance with this Section, the Union will not provide employees to that Employer or, if employees who are members of Local 38 are currently working for that Employer, the Union shall have the right to withdraw such employees.

Section 50. CONTINUATION OF TRUST DURING STRIKES OR WORK STOPPAGES.

In the event of any strike during the life of this Agreement, there shall be no interference with the operations of the Trusts and these Trusts shall continue to function as though no strike had occurred and all Trustees shall continue to attend all meetings of the Trust and shall provide for an orderly continuation of the payment of benefits and programs during the period of the strike. This shall not require, unless otherwise required by other provisions of this Agreement, any contributions on behalf of employees during the period of any work stoppage. Signatory Employers and Employer Associations shall be responsible for the implementation of this provision.

Section 51. RECIPROCITY AGREEMENTS.

The Trustees of any Trusts established under this Agreement may enter into agreements with Trustees from other areas employing comparable classifications to those covered under this Agreement to provide on a mutually agreeable basis for the payment of contributions required to be made under this Agreement for particular benefits to be made to the Trust in the area where the employee on whose behalf the contributions have been made is customarily employed, and employees customarily working in the area covered by the provisions of this Agreement shall have contributions made for work performed in areas other than covered by the provisions of this Agreement would be paid to the corresponding Trust established under the terms of this Agreement. In the event any such reciprocity agreement is executed and money transmitted to any other Trust pursuant to such reciprocity Agreement, it shall be considered that the contribution made by the Employer has been made directly to such other Trust and, conversely, contributions received by Trusts established under this Agreement pursuant to the terms of any reciprocity Agreement shall be deemed to be contributions made directly to the Trust receiving such contributions.

ARTICLE IX

WORKING CONDITIONS

Section 52. NEW CONSTRUCTION AND ALTERATION.

The regular work day shall consist of seven (7) consecutive hours, exclusive of one-half (1/2) hour lunch period, between 8:00 A.M. and 3:30 P.M., and the regular work week shall consist of thirty-five (35) hours of work, Monday 8:00 A.M. to Friday 3:30 P.M., except as provided in Article VI. Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. Nothing in this provision shall prevent an employer from staggering rest periods to avoid interruption in the flow of work and to maintain continuous operations, or from scheduling rest periods to coincide with breaks in the flow of work that occur in the course of the workday. The authorized rest period time shall be based daily at the rate of ten (10) minutes net rest time for every four (4) hours worked or major function thereof. Rest periods shall take place at employer-designated areas, which may include or be limited to the employees' immediate area. If a dispute arises over rest periods it shall be referred to the Joint Arbitration Board.

Section 53. MEAL PERIODS.

A meal period of one-half (1/2) hour shall be allowed on the Employer's time at overtime rate if the employees are required to work overtime in excess of two (2) hours in accordance with State Law. Employees working overtime shall receive lunch period of one-half (1/2) hour on Employer's time at the overtime rate after every four (4) hours thereafter. The foregoing shall not apply to the noon-day lunch period of Saturdays, Sundays or Holidays.

Employees working above the ground in the construction of buildings of ten(10) or more stories shall be allowed time, in addition to the one-half (1/2) hour meal period, in which to reach the ground floor.

Section 54. SHOW-UP AND QUITTING TIME.

Employees shall be required to be at the individual Employer's shop, yard or his place of work not more than five (5) minutes before the commencement of the work day and under no circumstances shall the employee leave the individual Employer's shop, yard or place of work prior to the end of the work day. Employees shall not report for work earlier than fifteen (15) minutes before starting time. The handling of tools and materials and time required by employees to reach the ground from work on buildings of ten (10) or more stories shall be considered time worked.

Section 55. SHIFT CONDITIONS.

The conditions under which shifts may be established and the division of shifts and the applicable rate are set forth in Article VII, Section 42.

Section 56. HOLIDAYS.

The following days are recognized as Holidays:

New Year's Day, Martin Luther King's Birthday, Presidents Day, Memorial Day, July Fourth, Labor Day, Thanksgiving, The Friday after Thanksgiving, Day before Christmas, Christmas, Day before New Years, employee's Birthday and Good Friday and two (2) floating Holidays to be prearranged with the Employer. . If any such holiday falls on a Saturday, the preceding Friday shall be considered a legal holiday; and if the preceding Friday is already a holiday, then the preceding Thursday shall be considered a legal holiday. If any such holiday falls on a Sunday, the following Monday shall be considered a legal holiday; and if the following Monday is already a holiday, the following Tuesday shall be considered a legal holiday. Work done on such days shall be paid for at overtime rate, provided that the overtime rate shall not be required for jobbing, service and repair work performed on the Friday after Thanksgiving. No work shall be required on Labor Day, except in cases of extreme emergency.

Section 57. ELECTION DAYS.

Time off for voting on election days shall be granted in accordance with the existing State Law.

Section 58. TOOLS.

EMPLOYER FURNISHES TOOLS. All tools and equipment necessary to a job shall be furnished by the Employer. No employee shall be required or permitted to supply, lease, rent or lend any means of conveyance, tools or equipment; provided that a employee may (but shall not be required to) furnish his/her own hood and goggles. The Employer shall furnish clear glass for hoods and goggles, and shall furnish helmets to employees for their protection.

All workmen shall accept the responsibility for and proper care of all tools and/or equipment furnished by the individual Employer. Any workman who abuses the provisions of this section shall be subject to investigation by the Arbitration Board and any disciplinary action it levies.

Section 59. LOCKERS AND SHELTERS.

On all construction jobs the Employer shall furnish a suitable shanty or locker for the exclusive use of employees covered by this Agreement to be used for changing and storing clothing and tools; and shall, from November through April, furnish a covered three-sided shed or other suitable shelter for employees to protect them from the weather while working on machines

or fabrication.

Section 60. PROHIBITION AGAINST USE OF EMPLOYEE'S AUTOMOBILE FOR WORK PURPOSES.

No employee covered by the terms of this Agreement shall furnish an automobile or any conveyance for any purpose other than to convey said employee to and from work, except by written permission of the Business Manager of the Union, and then he/she shall be reimbursed in an amount equal to IRS standard mileage rates for the remainder of the contract.

Section 61. EMPLOYER CONVEYANCES.

(a) STANDARDS FOR EMPLOYER'S VEHICLE USED TO TRANSPORT EMPLOYEES. Any Employer's vehicle used to transport employees whether or not the job is located within the territorial jurisdiction of the Union) shall be driven by a competent driver, and shall be satisfactorily enclosed against the elements of the weather, provided with seats or benches, and shall not contain gasoline, solvent, pipe fittings, equipment or materials in the portion carrying the employees. Employees are expressly forbidden to ride in trucks which do not conform to these standards.

(b) EMPLOYER'S NAME PROMINENTLY DISPLAYED ON ALL VEHICLES. All vehicles used in the plumbing and pipe fitting industry (whether leased or otherwise) shall bear the name of the Employer's firm on both sides in letters legible at one hundred (100) feet. In the event an Employer violates the provisions of this Section, the Union shall be free to withhold labor.

(c) PENALTY FOR VIOLATION OF PROVISIONS REQUIRING PROMINENT DISPLAY OF EMPLOYER'S NAME. In the event any employees are withheld pursuant to the provisions of this Section, the Employer shall be liable for the wages and fringe benefits provided in this Agreement for the duration of such withholding but not beyond the day in which the Employer effects the correction and notifies the Union in writing that such correction has been executed.

(d) REQUIREMENTS AND PENALTIES FOR USE BY EMPLOYER OF LEASED OR BORROWED EQUIPMENT. In the event the Employer temporarily leases or borrows a truck he shall give notice in writing to the Union of such temporary vehicle and the jobs where such vehicle is to be used. In the event he fails to do so, the Arbitration Committee will have the authority to impose a penalty not to exceed $500.00 for each day during which such temporary vehicle is used in the plumbing and pipe fitting industry, and such penalty shall be paid prior to obtaining any further employees through the Hiring Hall in accordance with this Agreement.

Section 62. SAFETY, SANITARY AND HEALTH CONDITIONS

It is in the best interest of both the Employers and the employees to maintain a safe shop and job site.

The Employers realize the importance of a safety program.

The employees realize it is their responsibility to be aware of all safety regulations and follow the safety program established by their Employer.

The Employers will comply with all applicable safety regulations.

(a) PROTECTIVE CLOTHING AND EQUIPMENT. Employees required to work in any area where they are exposed to acids and caustics or any other hazardous conditions shall be supplied with protective clothing and equipment by the individual Employer. When employees are required to work during inclement weather, they shall be supplied with suitable foul weather gear.

(b) DEAD MAN SWITCHES REQUIRED ON PORTABLE POWER HAND TOOLS. "Dead Man" switches (that shut off whenever pressure is released on the trigger or switch) shall be required on all portable power hand tools.

(c) EQUIPMENT TO BE SUPPLIED BY AN EMPLOYER. On all jobs there shall be provided by the Employer (1) Brazing and safety goggles; (2) Hard hats; (3) New hat bands; (4) Sturdy and adequate scaffolding and ladders; (5) Adequate ventilation equipment for welding galvanized pipe; (6) Temporary water and toilet facilities sufficient to maintain proper sanitary conditions.

(d) LIMITATIONS ON USE OF CHEMICAL TOILETS IN CONSTRUCTION. Chemical toilets shall be used only when absolutely necessary and only when facilities are not available. For the duration of the project, the Employer shall have the obligation of maintaining such facilities and employees covered by this Agreement shall be employed at all times to maintain them.

The previous two paragraphs shall not apply to jobbing, service and repair.

(e) RIGHT OF UNION TO WITHHOLD EMPLOYEES ON VIOLATION OF STATE SAFETY LAWS AND PROCEDURES. In the event the Employer covered by this Agreement is violating any of the safety laws of the State, and it has been so determined by a committee of the Building Trades Council in the affected area, it shall not be a violation of the Agreement for the Union to request the employees to withhold their labor until, in the opinion of the Building Trades Committee, the violations have been corrected. In the event the Employer has violated the safety provisions covered by the Agreement

and has failed to promptly correct the same after notice demanding such correction by the Joint Arbitration Committee, it shall not be a violation of this Agreement for the Union to withhold employees until the correction is effected and written notice is given the Union of such correction. In the event the employee should lose any time pursuant to withholding, such lost time shall be regarded as time worked and the Employer shall pay the wages and fringe contributions required by the Agreement for the period of time such labor has been withheld. The Union may require payment of such additional wages and fringe benefit contributions as a condition pursuant to the return to work by the affected employees.

(f) EMPLOYER RESPONSIBLE FOR CLOTHING. Employers shall reimburse employees for any damage which may occur to their clothing while the employees are working or while their clothing is on the Employer's premises or job site when such damage is caused by fire, acid, chemicals or theft by forcible entry as covered by standard policies.

(g) NUMBER OF EMPLOYEES ON JOBS. No employee shall be required to install pipe or material three (3) inches or more in diameter and exceeding ten (10) feet in length, or pipe or material which weighs more than sixty (60) pounds without the assistance of at least one (1) other journeyman or apprentice; nor shall any employee be required to work alone on welding work when it would be unsafe to do so.

(h) EMPLOYEE INJURED ON JOB. Any employee injured on a job, seriously enough to require medical treatment, shall be paid for the entire work day for the date the injury occurred if the attending doctor determines the employee is not able to return to work.

Section 63. EMPLOYER WORKING WITH THE TOOLS.

An Employer who chooses to work with the tools may do so provided the following conditions are met:

(a) The Employer becomes and remains a member of Local 38 per Section 20 of this Agreement;

(b) The Employer hires at least one (1) journeyman in addition to the Employer;

(c) The Employer pays the contract total of ALL fringe benefit Trust Fund contributions on himself for a minimum of one hundred and forty (140) hours per month even though pension coverage may not be available to the Employer by virtue of Internal Revenue Service rules and regulations, which may affect the tax exempt status of the Pension Trust. Any Employer prohibited from making pension contributions for himself shall instead contribute the equivalent of the pension fringe benefit amount to the Apprentice & Journeyman Training Trust in addition to the regular contribution to said

Trust. This section is limited to one employer per company.

Section 64. TESTS.

Whenever any test is required of any employee by an individual Employer, the Union agrees that, upon being requested to furnish employees for such test, they will supply only employees who are experienced in the type of work for which the test is required, unless otherwise expressly agreed to by the individual Employer. Before any employee commences the test, he/she shall be placed on the payroll of the individual Employer, and shall be paid in accordance with Article V.

Section 65. LABOR-SAVING DEVICES.

No rules, customs or practices shall be permitted that limit production or increase the time required to do any work. There shall be no limitation or restriction on the use of machinery, tools or other labor-saving devices supplied by the individual Employer providing such equipment is operated in accordance with the jurisdictional awards of the Building and Construction Trades Department of the American Federation of Labor, and approved by the Industrial Accident Commission of the State of California.

ARTICLE X

SCOPE OF WORK

Section 66. SCOPE OF WORK

The recognized scope of work of the United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada, as established and recognized by the Building and Construction Trades Department of the American Federation of Labor, is as follows:

(1) All piping for plumbing, water, waste, floor drains, drain grates, supply, leader, soil pipe, grease traps, sewage and vent lines.

(2) All piping for water filters, water softeners, water meters and the setting of same.

(3) All cold, hot and circulating water lines, piping for house pumps, cellar drainers, ejectors, house tanks, pressure tanks, swimming pools, ornamental pools, display fountains, drinking fountains, aquariums, plumbing fixtures and appliances, and the handling and setting of the above-mentioned equipment.

(4) All water services from mains to buildings, including water meters and water meter foundations.

(5) All water mains from whatever source, including branches and fire hydrants, etc.

(6) All down spouts and drainage areas, soil pipe, catch basins, manholes, drains, gravel basins, storm water sewers, septic tanks, cesspools, water storage tanks, etc.

(7) All liquid soap piping, liquid soap tanks, soap valves, and equipment in bath and washrooms, shower stalls, etc.

(8) All bathroom, toilet room and shower room accessories, i.e., as towel racks, paper holders, glass shelves, hooks, mirrors, cabinets, etc.

(9) All lawn sprinkler work, including piping, fittings and lawn sprinkler heads.

(10) All sheet lead lining for x-ray rooms, fountains, swimming pools or shower stalls, tanks or vats for all purposes and for roof flashings in connection with the pipe fitting industry.

(11) All fire stand pipes, fire pumps, pressure and storage tanks, valves, hose racks, fire hose, cabinets and accessories, and all piping for sprinkler work of every description.

(12) All block tin coils, carbonic gas piping for soda fountains and bars, etc.

(13) All piping for railing work and racks of every description, whether screwed or welded.

(14) All piping for pneumatic vacuum cleaning systems of every description.

(15) All piping for hydraulic, vacuum, pneumatic, air, water, steam, oil or gas used in connection with railway locomotives.

(16) All marine piping and all piping used in connection with ship building and ship yards.

(17) All power plant piping of every description.

(18) The handling, assembling and erecting of all economizers, superheaters, regardless of the mode or method of making joints, hangers and erection of same.

(19) All internal and external piping on boilers, heaters, tanks and evaporators, water legs, water backs and water grates, boiler compound equipment, etc.

(20) All soot blowers and soot collecting piping systems.

(21) The setting, erecting and piping for all smoke consuming and smoke washing and regulating devices.

(22) The setting, erecting and piping of instruments, measuring devices, thermostatic controls, gauge boards and other controls used in connection with power, heating, refrigerating, air conditioning, manufacturing, mining and industrial work.

(23) The setting and erecting of all boiler feeders, water heaters, filters, water softeners, purifiers, condensate equipment, pumps, condensers, coolers and all piping for same in power houses, distributing and boosting stations, refrigeration, bottling, distilling and brewing plants, heating, ventilating and air conditioning systems.

(24) All piping for artificial gases, natural gases and holders and equipment for same, chemicals, minerals and by-products and refining of same, for any and all purposes.

(25) The setting and erecting of all underfeed stokers, fuel burners, and piping, including gas, oil, power fuel, hot and cold air piping and all accessories and parts of burners and stokers, etc.

(26) All ash collecting and conveyor piping systems, including all air washing and dust collecting piping and equipment, accessories and

appurtenances and regulating devices, etc.

(27) The setting and erection of all oil heaters, oil coolers, storage and distribution tanks, transfer pumps and mixing devices and piping thereto of every description.

(28) The setting, erecting and piping of all cooling units, pumps, reclaiming systems and appurtenances in connection with transformers, and piping to switches of every description.

(29) All fire extinguishing systems and piping, whether by water, steam or gas or chemical, fire alarm piping and control tubing, etc.

(30) All piping for sterilizing, chemical treatment, deodorizing, and all cleaning systems of every description and laundries for all purposes.

(31) All piping for oil or gasoline tanks, gravity and pressure lubricating and greasing systems, air and hydraulic lifts, etc.

(32) All piping for power or heating purposes either by water, air, steam, gas, oil, chemicals or any other method.

(33) All piping, setting and hanging of all units and fixtures for air conditioning, cooling, heating, roof cooling, refrigerating, ice making, humidifying, dehumidifying, dehydrating, by any method, and the charging and testing, servicing of all work after completion.

(34) All pneumatic tube work and all piping for carrying systems by vacuum, compressed air, steam, water or any other method.

(35) All piping for stoves, fire grates, blast and heating furnaces, ovens, dryers, heaters, oil burners, stokers and boilers and cooking utensils, etc. of every description.

(36) All piping in connection with central distributing filtration treatment stations, boosting stations, waste and sewage disposal plants, central chlorination and chemical treatment work, and all underground supply lines to cooling wells, suction basins, filter basins, settling basins and aeration basins.

(37) All process piping for refining, manufacturing, industrial and shipping purposes of every character and description.

(38) All air piping of every description.

(39) All temporary piping of every description in connection with building and construction work, excavating and underground construction.

(40) The laying out and cutting of all holes, chases and channels, the setting and erection of bolts, inserts, stands, brackets, supports, sleeves,

thimbles, hangers, conduits and boxes used in connection with pipe fitting industry.

(41) The handling and setting of boilers, setting of fronts, setting of soot blowers and attaching of all boiler trimmings.

(42) All pipe transportation lines for gas, oil, gasoline, fluids and liquids, water aqueducts and water lines and booster stations of every description.

(43) All acetylene and arc welding, brazing, lead burning, soldering and wiped joints, caulked joints, expanded joints, rolled joints or any other mode or method of making joints in connection with the pipe fitting industry.

(44) Laying out, cutting, bending and fabricating of all pipe work of every description by whatever mode or method.

(45) All methods of stress relieving of all pipe joints made by every mode or method.

(46) The assembling and erecting of tanks used for mechanical, manufacturing or industrial purposes to be assembled with bolts, packed or welded joints.

(47) The handling and using of all tools and equipment that may be necessary for the erection and installation of all work and materials used in the pipe fitting industry.

(48) The operation, maintenance, repairing, servicing and dismantling of all work installed by journeymen members of the United Association.

(49) All piping for cataracts, cascades (i.e., artificial waterfalls), make-up water fountain, captured waters, water towers, cooling towers and spray ponds used for industrial, manufacturing, commercial or for any other purposes.

(50) Piping herein specified means pipe made from metals, tile, glass, rubber, plastics, wood or any other kind of material or product manufactured into pipe usable in the pipe fitting industry regardless of size or shapes.

In addition to the foregoing defined "50 Points", the jurisdiction shall extend to substitute products or new technology relating to any of the products or functions listed in the "50 Points" including but not limited to prefabricated installations, nuclear power plants, combination equipment designed to fulfill multiple functions, including any of the functions or materials listed in the "50 Points" of jurisdiction, sewers, including main and lateral

lines, control systems designed to regulate or test any of the materials or products above defined or to control the movement of substances or gasses in and through pipes, and all work incidental to the installation, repair or maintenance to same.

All work traditionally performed by the United Association members such as landscape irrigation piping and all utility piping shall continue to be performed by United Association members under the terms of this agreement.

ARTICLE XI

ENFORCEMENT OF AGREEMENT AND SETTLEMENT OF DISPUTES

Section 67. BUSINESS REPRESENTATIVES ACCESS TO JOB SITE.

The Business Representatives of the Union shall have access to the job site during working hours for the purpose of checking the members of the Union and the manner in which the terms of the Agreement are being complied with. If any conditions requiring adjustment are observed, he shall report them to the individual Employer or his authorized representative. Employers representatives shall assist Business Representatives with the general contractor for jobsite visits if necessary. For the purpose of this section employers shops shall also be considered a job site.

Section 68. STEWARDS.

Only the Business Manager of the Union, or his authorized representative, may appoint any competent journeyman on a job as Steward, and may also revoke the appointment as Steward without affecting his/her employment. Stewards shall be allowed ample time to perform their duties as Steward. The layoff of Stewards is governed by the provision of Section 22 of Article II. The Union reserves the right to litigate the propriety of the discharge of any Steward through the grievance processes of the Agreement.

Stewards and Business Representatives of the Union shall have access to all portions of the Employer's premises where work is being performed, in the opinion of the Union, for the purpose of determining whether the terms of this Agreement are being complied with. The Union Steward shall be included on all overtime work provided he/she is capable of performing the duties required.

No Steward is authorized to sanction any violation of any term or provision of this Agreement.

The Steward shall be identified to the Employer by the Business Manager or his authorized representative.

In the event the Steward is of the opinion any portion of the Collective Bargaining Agreement is being violated he/she shall discuss the matter with the foreman and endeavor to have the violation corrected as a result of such discussion. Any discussion shall be in a businesslike manner and no Steward is authorized to order or threaten a work stoppage as a method of resolving a dispute.

In the event the Steward is unable to resolve the matter in discussions with the foreman, he/she shall contact the Local Union 38 Business Office for advice on the appropriate manner of handling any violation. No

Steward is authorized to agree to any modification of any provision of this Agreement.

Section 69. ADJUSTMENT OF DISPUTES.

The Union or any Employer shall submit any dispute arising out of this Agreement to the Arbitration Committee as provided in Article XII and its decision shall be final and binding on all parties. In the event that the Committee is unable to agree, the matter may then be submitted to an impartial arbitrator as provided in Article XII and the decision of the arbitrator shall be final and binding. It shall be a violation of this Agreement for either party to go to any outside agency or to the courts without first submitting the dispute to the Arbitration Committee.

Section 70. STRIKES AND LOCKOUTS.

The Union will not authorize or call any strike, slowdown or stoppage of work, and the Employer shall not conduct, authorize or participate in any lockout of employees during the term of this Agreement except as otherwise provided in this Agreement; provided, however, that if the Arbitration Committee or Arbitrator fails to render a decision within the time limits specified herein, or if an Employer fails to comply with a ruling of the Arbitration Committee or Arbitrator within twenty-four (24) hours thereof, the Union may, without violating this Agreement, and without prejudice to other remedies, engage in a work stoppage or picketing or both against the Employer involved; and if the Employer has been found or is subsequently found by the Arbitration Committee or an Arbitrator to have violated this Agreement, the Employer shall be liable for wages and fringe benefits lost by employees who engage in such a work stoppage. Nothing in this Section shall preclude the right of the Union to engage in lawful economic action in the event of an inability to agree upon terms and conditions pursuant to any reopening under Section 83 of this Agreement for negotiation of new wages and fringe benefits in the event of wage controls. Notwithstanding the foregoing or any other provision of this Agreement, the Union shall not authorize or call any strike, slowdown, or stoppage of work, nor shall the Employer authorize or participate in any lockout of employees during the terms of this Agreement with respect to working conditions.

Section 71. RIGHT OF UNION TO WITHHOLD LABOR BECAUSE OF FAILURE TO PAY WAGES OR MAKE FRINGE BENEFIT CONTRIBUTIONS.

Notwithstanding any of the other provisions of the Agreement, in the event the Employer fails to pay wages and make the fringe contributions at the time provided in this Agreement, the Union shall have the right to instruct the employees to withhold their labor until the required payments are made in full.

In the event the Union does instruct the employees to withhold their labor,

(c) ASBESTOS WORK. Any employee required to work in any area that is under full asbestos containment procedures and required to wear related safety clothing and breathing apparatus shall receive one dollar and fifty cents ($1.50) per hour over the regular hourly rate of pay. Asbestos certification shall be recognized as a special skill. Employees shall not be responsible for any cost associated with certification or any required equipment for performing work under asbestos containment. Employees can not be terminated for refusal to work in an asbestos area.

Section 42. SHIFTS.

Shifts may be established by an individual Employer with the mutual consent of the Union and the Employer. In the event that the Union consents to shift work, said work shall be performed on the following basis:

(a) REGULAR DAY SHIFT HOURS. The regular starting time of the day shift shall be 8:00 A.M. except that where as to any locality or as to any plant of any Employer, existing traffic conditions render it desirable to start the day shift at an earlier hour, such starting time may by agreement between the Employer and the Union be made earlier, but in no event earlier than 6:30 A.M.

Such shift shall consist of seven (7) hours provided that the employee shall be permitted thirty (30) minutes for meals. Pay for a full shift period shall be a sum equivalent to seven (7) times the regular hourly rate with no premium.

(b) SECOND SHIFT. The second shift shall consist of six and one-half (6-1/2) hours provided that the employee shall be permitted thirty (30) minutes for meals. Pay for a full second shift period shall be a sum equal to seven (7) times the regular hourly rate as set forth in Article V plus ten percent (10%). This percentage is to be calculated using the gross taxable wage prior to any 401(A) deductions.

(c) THIRD SHIFT. The third shift shall consist of six (6) hours provided that the employee shall be permitted thirty (30) minutes for meals. Pay for a full third shift period shall be a sum equal to seven (7) times the regular hourly rate as set forth in Article V plus fifteen percent (15%). This percentage is to be calculated using the gross taxable wage prior to any 401(A) deductions.

(d) IRREGULAR SHIFTS. The regularly established starting time of the day shift shall be recognized as the beginning of the twenty-four (24) hour work day period. When irregular or broken shifts are worked, overtime rates shall apply before the regular starting time and after the regular quitting time of the shift on which the employee is regularly employed.

(e) TRANSFERRING SHIFTS. Employees transferred from one shift to another unless relieved from work at least a full shift as set forth herein,

the employee or employees shall be paid for all time lost from the time labor is withheld to the time that full payments have been effected by the Employer. The payment shall include payment of fringe benefit contributions required by the Agreement in addition to the amounts attributable to lost wages. The Union may require such additional payments to be made prior to the return to work by the affected employees.

This shall not foreclose the Union from utilization of the grievance machinery of the Agreement if, in addition to withholding labor, it also proceeds to arbitration under the grievance procedure or chooses, in addition, to proceed through the Labor Commissioner's Office.

Section 72. RIGHT OF UNION TO STRIKE AND PICKET EMPLOYERS IN VIOLATION OF PROVISIONS HEREIN PERTAINING TO EXCLUSIVE HIRING.

The Union shall have the right in addition to any other remedies provided by this Agreement to strike and picket any Employer who has violated any of the provisions of Article II, relating to the requirement to hire exclusively through the Hiring Hall established by this Agreement.

Section 73. CAUSE FOR DISCIPLINE.

No employee shall be discharged or otherwise disciplined without good cause. It shall not be cause for disciplinary action for an employee to refuse to cross a picket line sanctioned by the local Building and Construction Trades Council and/or the San Francisco Labor Council and Teamsters Joint Council #7. nor to refuse to work in violation of State or Municipal ordinances, codes or safety regulations.

Section 74. JURISDICTIONAL DISPUTES.

In the event of any dispute between the Union and any other union or group as to the jurisdiction of the work performed by individual employees, the dispute shall be referred to and settled by the procedure established by the Building and Construction Trades Department of the American Federation of Labor and the Employer agrees not to enter into any agreement with any group or other labor organization that would preclude the submission of any such jurisdictional disputes in this manner. Any assignment of work covered by this Agreement to parties not affiliated with the AFL-CIO or Building Trades Department shall be in violation of this Agreement.

Section 75. CONFLICTING CONTRACTS.

(a) In the event any Employer enters into any agreement with any other labor organization to perform any of the work covered by the terms of this Agreement, this Agreement shall also be observed to the fullest extent permitted by law, and if it may not be enforced specifically, the Union shall nevertheless be entitled to damages for the failure to implement this Agreement.

(b) No employee will sign any form or affidavit other than those required by Federal or State Law, unless the form, affidavit or document has been first approved in writing by the Union. Any form, affidavit or document signed without the proper written approval of the Union shall be a violation of this Agreement and subject to Arbritration..

ARTICLE XII

Arbitration of Disputes

Section 76. ARBITRATION COMMITTEE

(a) An Arbitration Committee shall be established for the purpose of dealing with disputes pursuant to the provisions of this Agreement and to aid in the settlement of any dispute which may arise between the parties. The Arbitration Committee shall consist of three (3) representatives from the Mechanical Contractors Association and one (1) representative from the Master Plumbers Association and four(4) representatives of the Union. The Employer Associations shall appoint their respective representatives and the Union shall appoint its representatives.

(b) Notwithstanding (a) above, any grievance involving a signatory Association, or an Employer represented by a signatory Association, may be submitted to an Arbitration Committee consisting of four (4) Employer representatives appointed solely by said signatory Association and four (4) representatives of the Union. If a request for hearing under this (b) is not made in writing, sent by registered mail to the Union, by the affected signatory Association or Employer and postmarked within five (5) days of receipt of the filing of the grievance, then the Committee will be as set forth in (a) above.

(c) Any party found guilty of a violation of any provision of the Agreement by the Arbitration Committee, shall pay in addition to any penalty imposed upon him by the Committee, the costs incurred by the Arbitration Committee in regards to the case. The Arbitration Committee shall order payment of such amount to the Lakeside Haven/Kids Camp Recreational Trust. In addition, the Arbitration Committee shall have the authority to levy a fine in such an amount as they deem appropriate.

(d) Disputes shall be submitted to the Arbitration Committee by any party having a grievance through its authorized representatives.

(e) Notice of the charge and grievance shall be served upon the party alleged to have violated the Agreement in accordance with rules and regulations established by the Arbitration Committee. The staff secretary or administrator of the Committee may sign any and all notices on behalf of the Committee.

(f) The Arbitration Committee shall notify all parties of the time and place of a hearing upon such charge.

(g) It is mandatory that a quorum of the Committee appear at the time and place for such scheduled hearing. The Arbitration Committee may proceed to hear evidence concerning the alleged violation and to render a

decision notwithstanding the absence of any party to the dispute. If either the Employer Association representatives or the Union representatives fail to appear at the time and place for such scheduled hearing, the party presenting the grievance may unilaterally move the dispute directly to arbitration as if the Committee had deadlocked with a tie vote.

(h) The Arbitration Committee shall meet and render a decision by a majority vote within ten (10) days of submission of the dispute unless the time is extended by a majority vote of the Arbitration Committee. A tie vote shall be deemed a failure to render a decision. In the event the Arbitration Committee renders a decision, it shall be final and binding on all parties to the dispute. A quorum shall consist of two (2) Employer Board members and two (2) Union Board members.

(i) The Arbitration Committee shall serve upon the parties to the dispute a copy of its decision. The decision shall be in writing.

(j) If the Arbitration Committee fails to reach a decision within ten (10) days after receipt of all of the evidence in connection with the dispute, then upon the request of either party the dispute shall be submitted to a decision by a neutral Arbitrator selected in a manner herein prescribed.

(k) The impartial Arbitrator shall be selected by the members of the Arbitration Committee. In the event that the members of the Arbitration Committee are unable to agree upon an impartial Arbitrator, they shall request the California State Conciliation Service to furnish a list of three (3) persons from which the Arbitration Committee shall select one (1) to act as impartial Arbitrator.

(l) The Arbitrator's decision shall be rendered within thirty (30) days after submission of all of the evidence to the Arbitrator. The Arbitrator's decision shall be final and binding upon the parties.

(m) The Arbitration Committee or the Arbitrator shall have the power to grant appropriate remedy for violations of the Agreement, including but not limited to, fines and/or an award of damages resulting from the violation. In the event it is determined that the party charged has violated the Agreement, in addition to damages and any other specific remedy ordered by the Arbitration Committee, the expenses of the time of the secretary to type the minutes, the findings and decision and any attendant mailings shall be determined and assessed against the party determined to have violated the Agreement.

(n) If the Arbitration Committee requires the presence of an employee at a meeting during working hours, the employee shall be paid by his Employer for any time lost in attending. In the event the Employer is not the charged party, the Employer shall be reimbursed by the Union or the charged

Employer or individual as determined by the Arbitration Committee.

(o) Hearings before the Arbitration Committee shall be informal and it shall not be necessary to keep a verbatim transcript of the proceedings. However, if it is requested by any party, the Arbitration Committee shall designate a court reporter and the expenses of such court reporter shall be paid by the party requesting a transcript. The party requesting the transcript shall make satisfactory arrangements with the court reporter for payment of the expenses of providing a transcript to the party requesting the same and a duplicate copy to the Arbitration Committee.

(p) The Arbitration Committee looks with disfavor upon the participation of attorneys in any proceedings. However, if any party to the proceeding desires the presence of an attorney, notices shall be given forty-eight (48) hours in advance in writing to other parties to the proceeding that an attorney will be present in order that other parties may also arrange for the presence of an attorney. The Arbitration Committee shall be free to consult an attorney in connection with any questions of law that they may deem appropriate and may make such consultation ex parte.

(q) The Arbitration Committee shall meet upon the call of the Chairman or any three (3) members of the Arbitration Committee. In the event any individual who is appointed to the Arbitration Committee is unable to attend a meeting of the Arbitration Committee, the party effecting the appointment shall designate his substitute to appear in his place and stead to attend and participate as a member of the Arbitration Committee at any particular date for a meeting of such Committee and he shall have the same powers and authority as the regularly designated member of the Arbitration Committee.

(r) No Union representative who is the representative filing a charge or who has participated in the investigation of a charge against an Employer or individual shall participate as a member of the Arbitration Committee hearing that charge. This shall not preclude other Union representatives of Local 38 from sitting on the Arbitration Committee. No Management representative who is the representative filing a charge or who has participated in the investigation of a charge shall participate as a member of the Arbitration Committee hearing that charge. This shall not preclude other Management representatives serving as and in place of said disqualified Management representative on the Arbitration Committee.

(s) In the event there is a challenge on the grounds of bias, prejudice or conflict of interest against any member of the Arbitration Committee by any party to the dispute, the matter shall be ruled on by the remaining members of the Arbitration Committee. Any challenge on the grounds of bias, prejudice or conflict of interest shall be filed at least forty-eight (48)

hours before the meeting of the Arbitration Committee and shall specify in detail the grounds for such disqualification. In the event the challenge on the ground of bias, prejudice or conflict of interest is made against a majority of the Arbitration Committee, the matter shall be ruled upon by the neutral Arbitrator selected in accordance with the provisions of (k) of this Article.

(t) In the event any charged party fails to abide by a decision of the Arbitration Committee or a neutral Arbitrator, as the case may be, and it is necessary to petition the Court for confirmation of the award or otherwise to take legal steps to enforce any judgment, the individual or organization or corporation failing to abide by such decision shall be responsible for all reasonable attorney fees incurred in so pursuing and enforcing the award.

(u) Any expenses incurred by the Arbitration Committee in performing its functions under this Section that are not reimbursed pursuant to other provisions of this Section shall be paid by the Hiring Hall and Arbitration Trust Fund.

(v) A quorum of the Arbitration Committee shall consist of two (2) members appointed as herein provided by the Union and two (2) members appointed as herein provided by the Employers. Neither the Union nor the Employers shall have more votes than the other in rendering any decision under this Collective Bargaining Agreement. This shall not require unit voting.

(w) No dispute, complaint or grievance which is not called to the attention of the Union or the Employer within thirty (30) days of the occurrence or ten (10) days after knowledge of any alleged violation, shall not be recognized by the Arbitration Committee.

Section 77. JOINT CODE COMMITTEE.

There shall be established a Joint Code Committee consisting of two (2) Employer representatives, one (1) shall be from MCA and one (1) shall be from MPASF and two (2) Union representatives although a quorum shall consist of one (1) member from an Employer Association and one (1) member from the Union whose function is from time to time to evaluate the provisions of existing Building Codes relating to the Plumbing and Pipe Fitting Industry in the geographical areas covered by this Agreement; and to propose changes in such Codes as, in the opinion of the Code Committee, would be beneficial to the Plumbing and Pipe Fitting Industry and the public at large; and to oppose changes in the Building Codes that would be inimical to the Plumbing and Pipe Fitting Industry or the public at large. The signatory Associations and the Union agree not to unilaterally propose or oppose changes relating to Building Codes covered by the provisions of this Subsection, but to operate in the area of amendments of Building Codes solely and exclusively through the Joint Code Committee. During

the period of this Agreement, the parties shall meet to discuss and develop changes in the provisions of this Subsection that may be desirable to foster cooperation in implementing the intent of the provisions of this Subsection. This Committee shall work under the direction and supervision of the Jurisdiction Protection Coordinator.

(a.) There shall be a committee formed of an equal number of Labor and an equal number of Management to study a forty (40) hour work week.

ARTICLE XIII

AMENDMENTS AND TERMINATION

Section 78. AMENDMENTS.

This Agreement may be amended at any time by agreement between the parties hereto and any such amendment shall be binding upon any Employer who has executed an agreement agreeing to be bound to this Agreement and amendments hereto.

Section 79. ADDITIONAL WORKING CONDITIONS.

Notwithstanding any provision of this Agreement to the contrary, either of the parties to this Agreement shall have the right to reopen this Collective Bargaining Agreement on each anniversary date for the purpose of proposing changes in working conditions. Notice of a desire to change working conditions shall be given to the other party not later than sixty (60) days prior to the anniversary date and the proposed working conditions shall be submitted at that time. In the event that the parties are unable to reach agreement on the proposed changes in working conditions, the proposed working conditions shall be submitted to an impartial arbitrator whose decision shall be final and binding. For purposes of this Section, holidays shall be considered a working condition. The work week and hours shall not apply to this section unless the Joint Labor Management Committee agrees.

Section 80. SAVINGS CLAUSE.

It is not the intent of either party hereto to violate any laws, rulings or regulations of any governmental authority or agency having jurisdiction of the subject matter of this Agreement, and the parties hereto agree that in the event any provisions of this Agreement are finally determined to be illegal or void as being in contravention of any such laws, rulings or regulations, the remainder of the Agreement shall remain in full force and effect and the parties shall immediately enter into negotiations for the purpose of correcting the illegal or void portions so as best to effectuate the intent of this Agreement. In the event the parties are unable to agree on such corrections, the matter may be referred to arbitration by either party in accordance with the provisions contained herein. Under no circumstances shall any alleged illegality excuse payment of wages or fringe benefits.

In the event any fringe benefit contribution is contended to be illegal or void, such contention shall not excuse making the required contribution, but such contribution shall accumulate in escrow pending determination of the legality and should it ultimately be determined to be illegal, the fringe benefit contribution and the monies accumulated in escrow shall be allocated to such lawful fringe benefit program as the Union may determine

and the parties shall endeavor to, so far as possible, correct the illegality to conform as closely as possible and legally permissible to the intent of the original fringe benefit contribution.

Section 81. WAGE CONTROL PROVISIONS.

It is recognized that the Union has entered into this Agreement for five(5) calendar years on the assumption that no Governmental Agency will disapprove any of the increases or provisions of this Agreement. In the event of the imposition of wage or other controls resulting in a reduction or denial of any wage or benefit provided in this Agreement, the Union, at its option, may reopen the Collective Bargaining Agreement at any time during the term of this Agreement upon sixty (60) days written notice with a view to renegotiating wages and fringes.

In any such reopening, it shall be the objective of the parties to preserve the real wages and fringe benefits of this Agreement to the fullest extent permitted by law and to permit the Union to recapture any losses at the earliest date it is legally permissible to do so.

In the event of any dispute whether any Governmental regulation, order or statute does preclude payment of any wages or fringe benefits provided in this Agreement, the parties shall continue to pay any disputed amount into escrow until a court of competent jurisdiction has determined that it is unlawful or improper to do so.

Section 82. WARRANTY.

Each of the parties hereto warrants and agrees that it will not, by the adoption or amendment of any provisions of its articles of incorporation, ownership or change in geographical location, constitution, by laws or by contract, or by any means whatsoever, take any action that will prevent or impede it in the full and complete performance of each and every term or condition hereof. The warranties and agreements contained in this paragraph are made by each of the signatories hereto on its own behalf and on behalf of each organization for which it is acting hereunder. The individuals signing this Agreement in their official capacity and the signatories hereto hereby guarantee and warrant their authority to act for and bind the respective parties or organizations whom their signatures purport to represent and the local union on whose behalf the said parties are signing the said Agreement.

This Agreement contains all of the covenants, stipulations and provisions agreed upon by the parties hereto and no agent or representative of either party has authority to make and none of the parties shall be bound by nor liable for any statement, representation, promise, inducement or agreement not set forth herein; that any provision in the working rules of the local union, with reference to the relations between the individual Employer and their

employees, in conflict with the terms of the Agreement, shall be deemed to be waived and any such rules or regulations which may hereafter be adopted by the local union shall have no application to work hereunder.

Section 83. CANCELLATION OF AGREEMENT.

Not withstanding any other provision herein contained, the Union may, at its option, cancel this Agreement with respect to any Employer who fails to comply with a decision of the Arbitration Committee or Arbitrator within five (5) days of notification of such decision.

Section 84. MAINTAINING DIFFERENTIAL ON REOPENING.

(a) At all times for the duration of this Agreement, Local Union 38 shall maintain not less than ten percent (10%) differential in aggregate wages and fringe benefits, as defined below, above the highest total of aggregate wages and benefits negotiated by any of the following Bay Area United Association locals within their jurisdiction: U.A. Local Unions 159, 342, 343, 393 and 467.

(b) Sub-section A shall be suspended for four (4) years until June 30, 2011 when it will be reinstated in its entirety and calculated on January 1, 2011.(For example, if the calculations for January 1, 2011 show money due regarding Section 84, such monies will be paid effective July 1, 2011 over and above the negotiated $5.00 increase and after such increase if Local 38 is behind the 10% by any percentage such percentages are also due on July 1, 2011.)

(c) For the purpose of performing the calculations required under this section of the Agreement, "aggregate wages and fringe benefits" means the total amount payable to a journeyman as taxable wages, including but not limited to401A define contribution, vacation and holiday contributions, or their equivalent, and all contributions which the Employers are obligated to pay to all trust funds, excluding "Employer Trusts." The "Employer Trusts" are Contract Administration Trust and the Hiring Hall and Arbitration Trust.

Contributions to Employer trust funds for the other U.A. locals shall be excluded from the calculations required under this Section.

(c) COMPUTATION OF THE DIFFERENTIAL.

(1) TEN PERCENT (10%) ABOVE THE HIGHEST RULE. Except as otherwise provided in this Section, aggregate Local 38 wages and fringes shall not be less than the differential percentage of one hundred ten percent (110%) of the aggregate wages and fringes enjoyed by any of the U.A. local unions identified above enjoying the highest aggregate wages and fringes under any collective bargaining agreement.

(2) CONTINUOUS ADJUSTMENT. If at any time during the

remaining term of this Agreement an increase in wages and/or fringes shall become effective for any other U.A. local unions listed above which would result in the members of Local 38 enjoying less than the aggregate amount required by the differential percentage, a differential increase shall be paid from the date such increase is agreed upon.

In the event that any U.A. local listed above has negotiated an increase in wages and/or fringe benefits that requires a differential increase for Local 38, and that local's increase is made retroactive to an earlier date, U.A. Local 38's differential increase shall not be retroactive. Instead, an amount equal to the amount that would have been due as a differential increase under this Section had such other local's increase actually commenced on the effective date of such increase, shall be amortized and paid over the remaining days in the contract year (July 1 to June 30) in which such increase occurs for the other U.A. local and shall continue to be paid during the term of the Agreement. This additional pro-rated amount shall be paid in addition to the amount of differential increase due as a prospective only increase. Example: If on October 1st another U.A. local negotiates an increase in their wages or fringe benefits that necessitates a differential increase of $1.00 per hour in U.A. Local 38 wages or fringe benefits to maintain the ten percent (10%) differential, and that other U.A. local's increase is made retroactive to July 1st of that same contract year, U.A. Local 38 is due a total differential increase of $1.33 per hour commencing October 1st and continuing during the term of the Agreement.

(3) ALLOCATION. Differential monies are subject to allocation by the Union pursuant to Section 37 of this Agreement, but the Union may allocate between wages and fringes at any time that differential is first paid or thereafter increases. Differential monies shall not be allocated to the Employer trusts.

(4) NO DECREASE IN PERCENTAGE DIFFERENTIAL. The differential percentage shall not be decreased during the term of this Agreement.

Section 85. FAVORED NATION CLAUSE.

The Union shall have the right to negotiate conditions relative to the needs of the Employers in particular geographical areas covered by this Agreement. In the event the Union should negotiate terms or conditions more favorable to any individual contractor or contractor associations in a particular geographical area, said terms and conditions shall be made available to all signatory Employers working in such geographical area.

Section 86. SPECIAL PROJECT AGREEMENT.

When a project to be constructed in the jurisdiction of Local Union 38 presents a unique problem of manning hours worked, or effective competition, the

individual Employer may, through his representative Association, petition the Business Manager or his designated representative for Special Project Agreement consideration. After presentation of special circumstances of the project, the Special Project Agreement may be written by the Business Manager or his designated representative provided that the parties agree and that Special Project Agreement be available to all individual Employers or through their representative Associations.

The favored nation provision shall not apply to the work performed under the Special Project Agreement.

Section 87. LANDSCAPING/UTILITY

Any contractor signatory to this Agreement who performs landscaping and/or utility work may perform such work in accordance with the terms and provisions of the Landscape and/or Utility Agreement.

Section 88 UNITED ASSOCIATION STANDARD OF EXCELLENCE

The Parties to this Agreement agree to incorporate for reference purposes, The United Associations Standard of Excellence.

Section 89 WAIVER OF SAN FRANCISCO SICK LEAVE ORDINANCE

In accordance, with Section 12W9, of Proposition F of the City and County of San Francisco which provides that all or any portion of the applicable requirements of this chapter shall not apply to employees covered by a bona fide Collective Bargaining Agreement to the extent that such requirements are expressly waived in the Collective Bargaining Agreement in clear and unambiguous terms, the parties hereto agree that the employers shall not be required to pay sick leave and that no employer shall be required to pay compensation to any employee because he/she is absent from work due to illness.

Section 90 SMOKE FREE JOBSITE

A smoke free jobsite can be mutually agreed upon by the Local Union and the Employer.

Section 91 INTERNATIONAL TRAINING FUND

Parties agreed that effective 07/01/2008 the I.T.F hourly contribution shall increase from $.5 cents to $.10 cents per hour.

Section 92. TERM OF AGREEMENT.

This Agreement shall become effective as of July 1, 2007 and shall remain in full force and effect until June 30, 2012, and thereafter from month to month unless either party gives written notice to modify or terminate this Agreement not less than sixty (60) days prior to June 30, 2012 or any subsequent month. Provided, however, that in the event a national emergency is declared by the President of the United States, either party may reopen for negotiations upon

sixty (60) days written notice, but no such reopening may diminish any of the wages or benefits as provided for in this Agreement. No written notice to terminate or modify may be made by any Employer after a successor Agreement has been reached between the Union and any Association and the Employer has not, prior to the execution of such Agreement, notified the Union of its intent to terminate or modify the Agreement. The Employer shall be deemed bound by the Association Agreement so executed to the extent he has previously executed an Agreement to be bound by the terms of any successor Agreement.

NORTHERN CALIFORNIA MECHANICAL CONTRACTORS ASSOCIATION

Signed for the Union:

LAWRENCE J. MAZZOLA

LARRY J. MAZZOLA, JR.

Signed for the Association:

SCOTT STRAWBRIDGE

* * * * * * * *

MASTER PLUMBERS ASSOCIATION OF SAN FRANCISCO, INC.

Signed for the Union:

LAWRENCE J. MAZZOLA

LARRY J. MAZZOLA, JR.

Signed for the Association:

DANIEL ORSOT

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