

K#: 8221

Company Name

Contractor's Name

Shop Number

WORKING AGREEMENT

BETWEEN

**INTERNATIONAL UNION OF PAINTERS AND ALLIED
TRADES AFL-CIO DISTRICT
COUNCIL NO. 6 OF
CLEVELAND, OHIO**

AND

**NORTHERN OHIO PAINTING
AND TAPING
CONTRACTORS ASSOCIATION, INC.
CLEVELAND, OHIO**

2005-2009



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WORKING AGREEMENT

This Working Agreement is made and entered into by and between the International Union of Painters and Allied Trades, AFL-CIO, District Council No.6 of Cleveland, Ohio (hereinafter referred to as the Union) and the Northern Ohio Painting and Taping Contractors Association, Inc., (hereinafter referred to as NOPTCA), and each employer who separately is a signatory to this Working Agreement.

Article I RECOGNITION AND COVERAGE OF AGREEMENT

Section 1 - The provisions of this Agreement shall be binding upon each and every member represented by the contracting parties and shall cover all work, tools, equipment, and materials needed in conjunction within the jurisdiction of District Council No. 6. All painting of residences, buildings, structures, industrial plants, tanks, vats, pipes, vessels, bridges, light poles, high-tension poles, traffic and parking lines on highways, parking lots, playgrounds, factories, and air line strips; all sign, pictorial, coach, car, automobile, carriage, aircraft, machinery, ship and railroad equipment, mural and scenic painting; spackling of all surfaces where adhesive materials are used; and all drywall pointing, taping and finishing.

(a) Painters: All work will include, but not be limited to: (1) preparation, application and removal of all types of coatings and coating systems in relation to all painting, decorating, protective coatings, coating and staining of concrete floors and toppings, waterproofing, masonry restoration, fireproofing, fire retarding, metal polishing, refinishing, sealing, lining, fiberglassing & Insulation materials applicators, E-Glass Fiberglass, carbon fiber, encapsulating, insulating, metalizing, flame spray, the application of Exterior Insulating Finishing Systems; (2) each and all such applications, and similar or substitute applications, on all surfaces, interior and exterior, to include, but not limited to: residences; building; structures; industrial, power, chemical and manufacturing plants; bridges, tanks; vats; pipes; stacks; light and high tension poles; parking, traffic and air strip lines; trucks; automobile and railroad cars; ships; aircraft; and all machinery and equipment; (3) any and all material used in preparation, application or removal of any paint, coating or applications, including, but not limited to: the handling and use of thinners, dryers, sealers, binders, pigments, primers, extenders, air and vapor barriers, emulsions, waxes, stains, mastics, plastics, enamels, acrylics, epoxies, epoxy injection and T-Lock welding, alkalyeds, sheet rubber, foams, seamless and tile-like coating, etc; (4) all preparation for and removal of any and all materials for finishes, such as deep cleaning, patching, all level of finishing, tape/finishing, skim coating, pointing, caulking, high pressure water, chemical and abrasive blasting, blasting for inspection, renovation, restoration and/or cleaning, environmental blasting, wet/dry vacuum work, chemical stripping, scraping, air tooling, bleaching, steam cleaning, asbestos and lead abatement/removal, building

of all containment enclosures and work platforms and operation of all necessary equipment, and the handling and cleanup of all material and debris to perform these tasks. (5) the inspection of all coating systems during their applications will be performed by members of this International Union.

(b) Wallcovering work will include, but not be limited to: (1) all material applied to walls or ceilings with adhesive, staples, tacks, by stretching or adhered by any other method, including all papers, vinyls, flexible woods, fabrics, borders, metals, upholstered wall systems, the fabric covered panels made of plastic/wood or prefinished products of micro fiberglass, etc., acrovin and various plastic wallcoverings such as waincoat, caps, corner moldings and accessories; (2) and any/all preparation of walls and ceilings such as scraping or any methodology for removal of existing materials, including patching, leveling, skim coating and priming.

(c) Drywall Finishing work will include, but not be limited to: (1) the preparation of leveling of any surface or substrate which is to receive a coating, finish and/or wallcovering; this will include, but not be limited to, all levels of finishing and/or spackling of all surfaces, including gypsum wallboard taping and finishing, fire taping and all firestopping systems, glaze coatings, skim coating or any other finishing system, spotting of nails, finishing of corner beads/flex beads, Patching and sanding is within the system of preparing surfaces for finishes; (2) all stucco and dryvit systems will be performed by members within the jurisdiction of the International Union of Painters and Allied Trades as is stated in its Constitution in Cuyahoga, Geauga, Lake, Ashtabula, and Lorain Counties, those portions of Portage and Summit Counties north of the East-West Turnpike and adjoining territories as hereinafter provided and any additional territories coming within the jurisdiction of the Union. No other agreement shall be made by the contracting parties hereto with any employer or employee or group of employers or employees, except in conformity with the provisions of this Agreement, unless agreed upon by the Joint Trade Board as hereinafter provided.

Section 2 (a) The term Employer shall be construed to include all of the members, officers, and agents of the NOPTCA and each contractor who separately is signatory to this Agreement.

(b) The term Employee shall be construed to include all persons hired by the Employer to perform the work set forth in Section 1 above.

(c) The term Union shall be construed to mean the International Union of Painters and Allied Trades, AFL-CIO, District Council No.6 of Cleveland, Ohio and its successor.

Section 3 (a) The Employer recognizes the Union as the exclusive bargaining agent for all Employees now or hereafter employed by the Employer to perform the work set forth in Section 1 above.

(b) It is a condition of employment that all Employees of the Employer covered by this Agreement, who are members of the Union in good standing on the execution date of this Agreement, shall remain members in good standing and those who are not members on the execution date of this Agreement, shall on the eighth day following the execution date of this Agreement, become and remain members in good standing in the Union. It shall also be a condition of employment that all Employees covered by this Agreement and hired on or after its execution date, shall on the eighth day following the beginning of such employment, become and remain members in good standing in the Union.

(c) It is agreed and understood that the provision in the paragraph above is satisfied by a showing of total employment for a period of seven (7) days by any member represented by the Employer Association, or any separate signatory to this Agreement, or any number of such members represented by the Employer Association or signatory, or both either singly or in the aggregate.

(d) If, during the life of this Contract, the Labor Management Relations Act of 1947, is repealed or amended or another law is enacted superseding it as far as the construction industry is concerned; the above provision shall be amended accordingly.

Section 4 - It is agreed and understood that the Employer shall notify the Union, in writing, within forty-eight (48) hours of the name of any new Employee hired who is not a member of the Union.

Article II RULES FOR EMPLOYERS

Section 1 - **No Limitation of Efficiency.** No limitation shall be placed on the amount of work which the Employee shall perform during the working day, and there shall be no restrictions against the use of machinery, tools, and labor-saving devices, nor against any material, raw or manufactured, unless an exception is agreed upon by the Joint Trade Board for the protection of the health of employees. No prison-made materials shall be used.

Section 2 - **No Limit on Production.** The Employer and Employee, recognizing the necessity of eliminating restrictions and promoting efficiency, agree that no rules, customs, or practices shall be permitted that limit production or increase the time required to do work. However, any production schedule that shall be reported as unreasonable shall be presented to the Joint Trade Board for review and recommendation.

Section 3 - **Working with Tools.** (a) There is no prohibition against any Employer or member of a firm, partnership, or corporation from working with the tools of the trade, if the Employer is employing three or more journeymen and has at work with him, on the job, at least one journeyman, and the Employer is a member of the Union,

(b) If an Employer or member of a firm, partnership, or corporation is not employing three or more journeymen, only one

member of the firm, partnership, or corporation is permitted to work at any branch of the trade, and such working member shall be so registered with the Joint Trade Board. No changes shall be made in the working member during the lifetime of this Agreement.

(c) The Joint Trade Board is empowered to make exceptions to the rules set forth in (a) and (b) above for the elderly or those otherwise handicapped.

Section 4 - **Insurance and Taxes.** Employers are to furnish evidence of continuous Workers' Compensation Insurance Coverage, of continuous Unemployment Compensation Insurance Coverage and of compliance with the Federal Social Security Act, and shall comply with the Painting Industry Insurance and Pension Fund's provisions, and those of the Apprentice Education and Promotion Fund, NOPTCA Fund and the Annuity Fund. Evidence of coverage shall be filed by the employer in accordance with rules adopted by the Joint Trade Board.

Section 5 - **Direct Labor.** All Direct Labor Employers shall be registered with the Joint Trade Board which shall administer the label plan. With this registration, the number of Employees on each such direct labor operation shall be noted and an increase of not more than twenty-five percent (25%) of such number of Employees shall be allowed on any individual operation.

Section 6 - **Non-Union Workers.** It is agreed that if individual Employees refuse to work with workers who refuse to join the Union or affiliated organization after seven (7) days of employment as set forth in this contract, it shall not be a breach of this Agreement. Employees covered by this Agreement shall have the right to respect any primary picket line established by any bonafide labor organization.

Section 7 - **Discipline.** Nothing contained in the Agreement shall interfere with the right of the Union to discipline its own member in any way not in conflict with the meaning of this Agreement.

Section 8 - Nothing contained in Sections 6 and 7 shall be construed to affect the provisions of Article II, Section 3.

Section 9 - **Deductions from Pay.** (a) The Employer shall furnish receipts, or check stubs, to all Employees for all deductions from pay when making wage payments. Receipts, or check stubs, shall be prepared in such form or manner as to permit preservation or filing by Employees. This receipt, or check stub, shall show the number of regular and overtime, or premium hours worked by the Employees.

(b) Every Employer signatory to this Agreement hereby agrees to check off from the wages of any Employee employed by such Employer during the term of this Agreement, Administrative Dues in the amount specified in the Union's Bylaws, and to remit said amount to the Union in the following

manner:

Upon signing of this Agreement, the Union will notify the Employer in writing of the amount of Administrative Work Dues specified in the Union Bylaws, and upon request will submit to the Employer a copy of the Bylaws on the applicable Bylaw provision.

For each payroll period, the Employer will deduct from the wages of each Employee the amount specified in the Bylaws based on the gross wage earned during said payroll period. The accumulated amount shall be forwarded to District Council No. 6 in the manner described in Article XV. When a signatory Employer performs a job within the jurisdiction of a Union affiliated with the Brotherhood of Painters, other than the Union signatory hereto, and the Bylaws of that other union contain a provision for Administrative Dues or Business Agent "Assessment", the Employer shall check off from the wages of Employees covered by this Agreement and employed on that job, Administrative Dues or Business Agent "Assessment" in the amount stated in that other union's Bylaws, and shall be remitted to that other union. In that event, that other union shall be acting as agent of the signatory Union for the purpose of policing and administering this Agreement. In performing the check off, the procedure specified above will be followed, except that it will be the responsibility of that other union to notify the Employer in writing of the amount of Administrative Dues or Business Agent "Assessment" specified in its Bylaws, and to submit to the employer a copy of the Bylaws or the applicable Bylaw Provision. When the signatory Employer performs a job within the jurisdiction of a Union affiliated with the Brotherhood of Painters, other than the Union signatory hereto, and the Bylaws of that other union contains no provision for Administrative Dues or Business Agent "Assessment" the Employer shall continue to be bound by this section and forward Administrative Dues in the manner prescribed in Article XV.

(c) The Employer shall deduct two cents (\$.02) per hour worked from wages of all Employees, to be paid to Painters' District Council No.6 Building Trades Assessment on a monthly basis. The accumulated amounts shall be forwarded in the manner prescribed in Article XV. This money cannot be used by District Council No.6 for the purpose of a strike fund.

(d) The Employer shall deduct two cents (\$.02) per hour worked from wages of all Employees, to be paid to IUPAT PAT PC COMMITTEE on a monthly basis. The accumulated amounts shall be forwarded in the manner prescribed in Article XV.

Section 10 - Selection of Foremen. When four (4) or more Employees are on the job, one of them shall be designated as the foreman. Foremen shall be selected by, and be answerable to, the Employer without interference from Employees. The Foreman's wage shall be One Dollar (\$1.00) per hour above job classification.

Section 11 - Job Steward. (a) All jobs to have a Job Steward from among the Employees working on the job or, if no worker

is available to District Council No.6 then an outside worker shall be placed on the job and appointed the Job Steward upon notification and approval from at least one member from each side of the Joint Trade Board, where there is possible cause and violation or where previous penalty or violations existed to warrant a Steward.

The Steward's duties shall be to know the specifications of the work and general working law set forth in this Agreement, and other business pertaining to the Employees. The Steward shall not unnecessarily interfere with production in the performance of these duties. No Steward shall be replaced without the approval of District Council No. 6, and the Steward shall not be discharged except for just cause. The Steward shall be the second last Employee to be laid off on all jobs. On any job where the Steward has been laid off, if the same job is resumed, he/she shall be the first Employee recalled to work after the foreman.

(b) No Employer shall discriminate against a steward.

(c) A Steward shall perform a full day's work as an Employee, the same as the other Employees employed, and shall not perform duties as a steward on the Employer's time, except for an emergency or a dispute on the job.

Section 12 - Outside Steward. When the Joint Trade Board deems necessary, it shall direct the District Council or its Business Representative to appoint a Steward satisfactory to the Joint Trade Board from outside the job.

Section 13 - New Construction. On new construction work, the Union agrees that it will not contract with anyone except a Painting or Taping Contractor and that it will not supply men to General contractors.

Section 14 - Specifications on Job. Complete job specification, work order, or architectural specifications for taping, painting, and decorating in all its branches shall be available for Union inspection. The Union agrees that all work shall be performed in accordance with the specifications and any violation of same shall be reported immediately to the Joint Trade Board.

Section 15 Tools. (a) Painter Employees shall furnish a kit of tools including quality duster, various sized knives and all other small hand tools required to produce a workmanlike job.

(b) Paperhanger Employees all tools furnished by Employer.

All other equipment and material necessary shall be furnished and delivered by the Employer for (a) and (b) above.

Section 16 - Transportation of Tools. Employers shall not request employees to transport equipment of any kind, or material in excess of 25 pounds, in their own vehicles.

Section 17 - Responsibility for Equipment. Employees shall be required to account for all brushes, equipment and materials in their charge.

Section 18 - Clean Overalls Required. On all house, office and store work, all Employees must appear in clean white overalls at least once every week. All Employees shall be allowed five minutes wash up time at noon and at quitting time.

Section 19 - Co-operative Contracts Barred. No member or members of either Employers and/or Employees shall be allowed to contract or perform work co-operatively in an effort to prevent fair competition herein set forth. Employers will not be allowed to establish piecework arrangements with their Employees.

When subcontracting is necessary because the Employer signed to this Agreement does not have the tools or equipment to perform that operation of the painting or taping contract, the Employer shall furnish the Joint Trade Board and the Painters' District Council No.6 in writing or by telegram before starting work, with the name of the subcontractor and the approximate number of man-hours required to complete the subcontract.

The Joint Trade Board reserves the right to inquire into bid or contracts of sublet work. The Employer shall not subcontract work under the jurisdiction of the Painters to any parties other than Employers who are signatory to this Agreement.

Any Employer found guilty of subcontracting work covered by this Agreement to an unsigned employer and/or an Employer who employs Employees who are not in the Union shall be assessed liquidated damages in the sum of not less than One Thousand Dollars (\$1,000.00) none of which may be suspended, and the amount of Trust Fund contributions lost by virtue of the illegal subcontract.

Section 20 - There will be no discrimination against any Employee due to religion, race, sex, national origin or age.

Section 21 - An Employer should contract for all of the painting work on any job. He shall notify District Council No. 6 of any painting work on any job, which is omitted from the Painting Specifications and placed under other trade headings.

Section 22 - All painting Employers or taping Employers affiliated with District Council No. 6 agree that if a painting contractor or taping contractor has been dismissed, a second contractor shall not start the job until clearance is granted by District Council No. 6, with all such decisions to be reported, reviewed and finalized by the Joint Trade Board.

Section 23 - Bond. (a) Each Employer shall post a bond scaled to the number of Employees as follows: 1 to 5 Employees, Seven Thousand Five Hundred Dollars (\$7,500.00); 6 to 10 Employees, Twenty Thousand Dollars (\$20,000.00); 11 or more Employees, Forty Thousand Dollars (\$40,000.00). The bond is to cover the payment of wages and payments to all entities listed in Article XV.

(b) Each Employer who is not under the jurisdiction of the Painters' District Council No. 6 and who is not signatory to this Agreement shall post a bond as prescribed in (a) above.

(c) All such bonds shall have as sureties thereon surety companies which are authorized to do business in the State of Ohio

and such bonds shall be in a form satisfactory to the Joint Trade Board. An Employer who cannot or does not provide a bond from an appropriate surety, shall be required to post a cash bond deposit in lieu of such a bond, in an amount equal to the amount otherwise required to be provided in (a) above.

The bond shall be obtained from each Employer, by the Union, before any Employees are put to work for that Employer. Custody of the original bond shall be in the Painting Industry Insurance Fund Office and the administrator shall report to the Joint Trade Board on a monthly basis the status of all bonds. Notice of cancellation of any such bond, shall be given immediately to the Union and then by the Union to the Association.

The amount of bond required hereunder shall be subject to the review and adjustment, if necessary, by the Trustees of the Funds if the Employer is reporting on more Employees than covered by the bond. In the event the Trustees determine that the amount of the bond required must be adjusted, the Trustees may so adjust the amount to that calculated to protect the fringe benefit contribution and deductions, as called for by this Agreement based on the number of Employees of the Employer. In the event of such adjustment, the Trustees shall provide notice to the Employer of the adjustment and provide reasonable time for compliance with such adjustment by the Employer.

(d) A One Thousand Dollar (\$1,000.00) cash bond shall be made payable to the Joint Trade Board for all contractors not signatory to this Agreement.

Article III WAGES AND HOURS

Section 1A - Regular Working Day. Eight (8) hours constitutes a day's work between the hours of 7:00 A.M. and 5:00 P.M. Monday through Friday. This period shall be known as the regular working day and shall be time actually employed at work. There shall be no traveling time allowed on jobs within jurisdiction of District Council No. 6, except when men are moved from shop to job, or job to job during the working hours.

Section 2 - Time of Reporting on Job. (a) Employees shall not be required to report on job until fifteen (15) minutes before starting time and shall have their overalls on and be ready to work by starting time. Employees ordered to report at the shop of their Employer shall report as ordered not earlier than one-half (1/2) hour before starting time, and if so reported shall not be required to stand any loss of time if they are unable to arrive at the job by starting time because of distance from shop to job.

(b) When an Employee is ordered to the shop or job, his/her pay shall start from the time he/she is ordered to report. An Employee ordered to report to the shop or job and not put to work shall receive two (2) hours pay. If conditions arise that prevent the Employee from working, the Employer shall make a reasonable effort to inform the Employee prior to his/her

reporting. Employees not put to work due to inclement weather conditions shall not receive two (2) hours show up time. Employees must remain on the job for the two hours unless the chargin man releases them.

Section 3 - **Rates of Wage.** (a) The following wage rates are to be paid for work in and on new construction, remodeling and renovation, and on bridges, stacks, water and other towers, and skeleton structural steel.

These rates also to be paid for all work done for all branches of Federal, State, and Local Governments, where there is a published established prevailing wage rate.

All schoolwork will be at ninety percent (90%) of new construction rate unless prevailing wage has been posted.

Residential work as defined in Section 3 (c) to be excluded from these rates.

Wage Rates on all of the above:
May 1, 2005 through April 30, 2006

CLASSIFICATION:

Painters, Brush and Roll	.....	\$.25.54 per hour
Paperhangers	.....	\$.25.54 per hour
Spray Painting	.....	\$.26.24 per hour
Sandblasting, and Buffing	.....	\$.25.94 per hour
Closed Steel Above 55 Feet Open Structural Steel, Tanks, Water and Other Towers		\$.26.24 per hour
Fiberglass & Insulator		
Material Applicator	.....	\$.26.24 per hour
Tapers	.....	\$.26.24 per hour

BRIDGES

Bridge Blaster	.....	\$.27.24 per hour
Bridge Painter	.....	\$.26.24 per hour
Bridge Rigger	.....	\$.26.24 per hour
Containment Builder	.....	\$.26.24 per hour
Quality Control-Quality Assurance		\$.21.95 per hour
Flag Person	.....	\$.21.95 per hour
Equipment Operator	.....	\$.21.95 per hour
Boat Person	.....	\$.21.95 per hour
Paint Mixer	.....	\$.21.95 per hour
Driver	.....	\$.21.95 per hour
Vacuum (Grit Reclamation) Operator		\$.21.95 per hour

(b) The following wage rates to be paid for all re-paint work not included in section 3 (c) to be excluded from these rates. Repaint rates: will be paid where 80% or more of surfaces to be finished exist. A General Contractor/Construction Manager holding a construction contract does not constitute determining the rate of pay.

Wage Rates for re-paint (old) work:
May 1, 2005 through April 30, 2006

CLASSIFICATION:

Painters, Brush and Roll	.....	\$.24.04 per hour
Paperhangers	.....	\$.24.04 per hour
Spray Painting	.....	\$.24.74 per hour

Sandblasting, and Buffing	.....	\$.24.44 per hour
Closed Steel Above 55 Feet Bridge and Open Structural Steel, Tanks, Water and Other Towers		N/A

(c) The following wage rates to be paid for all residential repaint (old) work and for all residential new work consisting of four (4) stories per building or less, but does not include nursing homes, clinics, hospitals, etc., where nursing homes and medical services are provided.

Wage Rates on the above:
May 1, 2005 through April 30, 2006

CLASSIFICATION:

Painters, Brush and Roll	.....	\$.21.09 per hour
Paperhangers	.....	\$.21.09 per hour
Spray Painting	.....	\$.21.79 per hour
Sandblasting, Buffing	.....	\$.21.49 per hour
Tapers	.....	\$.21.79 per hour

(d) The wage rates will automatically be reduced if it is mutually agreed that a portion of these increases be delegated to payments into the Painting Industry Insurance and Pension Funds or Apprentice Education Promotion Fund.

(e) The Foreman shall be paid at a rate of One Dollar (\$1.00) per hour above job classification.

(f) Employees using catalytic materials under Class 3 Hazardous per materials safety data sheets (MSDS) sixty-five cents (\$.65) application of catalytic materials under Class 4 per (MSDS). One Dollar (\$1.00) above job classification.

(g) The wage rate for Brush and Roll classification shall be paid to Employees doing taping of the first 2,000 feet on any taping job done by the Painting Contractor.

(h) Definitions of work constituting structural steel painting shall be the same as those of the Industrial Commission of Ohio under Manual 5040 of the year 1942 (skeleton structural steel unenclosed, steel bridges, chimney and smokestacks, metal towers and water tower tanks).

(i) This Agreement provides for the following wage increases:

For New Construction, Remodeling and Repaint work described in Section 3 (a) and (b):

May 1, 2005	May 1, 2006	May 1, 2007	May 1, 2008
\$-0- per hr.	\$.60 per hr.	\$.60 per hr.	\$.60 per hr.

For Residential Work described in Section 3 (c)

May 1, 2005	May 1, 2006	May 1, 2007	May 1, 2008
\$-0-per hr.	\$.60 per hr.	\$.60 per hr.	\$.60 per hr.

(j) **Prevailing Wage Rates.** On jobs where a prevailing wage rate prescribed by a governmental body or agency is less than that set forth in this Labor Agreement, such prevailing wage shall supersede the wage rate called for herein for the specific job or project established by a governmental body or agency. This applies to the wages only. One hundred per cent (100%) of the fringes must be paid per the current working agreement.

Section 4 - Overtime Pay. (a) All labor performed by an Employee in excess of the regular working day shall be paid for at the rate of time-and-one-half, except as provided in Article III Section 5 (b) and (c).

(b) No work shall be performed on the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

(c) When in an emergency, work is performed on the legal holidays mentioned in Paragraph (b), the rate of pay shall be double the regular rate.

(d) No work is to be performed on any holiday or outside of the regular working days unless a special permit is issued by District Council No 6 in writing. However, if an honest effort has been made to obtain a permit and it is unobtainable through no fault of the applicant, work may proceed without interference on approval of a member of the Joint Trade Board.

(e) The Employee has the right to arrange with his/her foreman, or Employer, to take off a reasonable amount of time from the job for the purpose of registering or voting at election time.

(f) **Rain Day.** Saturday may be worked at straight time to make up for lost time Monday through Friday due to inclement weather conditions, except where an observed Holiday falls on a workday during that week.

If an Employee is put to work, a minimum of four (4) hours is guaranteed. If an Employee is not put to work due to inclement weather that day he/she shall be paid for two (2) hours show up time.

Employees working on the specific job will have the first opportunity to work on Saturday. After that, any Employee working for the Employer who lost time that week may work on said project. The number of Employees working straight time on Saturday may not exceed the number of Employees working on the job that week.

These provisions do not apply to jobs considered to be 'new work'.

Section 5 - Shift Work. (a) Shift work is performed outside the Regular Working Day as defined in Article III, Section 1 of the Working Agreement; namely after 12:01 A.M. on Monday through Friday 12:00 (midnight).

(b) Shift work may be performed at a rate of Three Dollars (\$3.00) for second shift and Three and 50/100 Dollars (\$3.50) for third shift above classification rates in Article III Section 3 (a) for new construction and major alteration work.

(c) Shift work may be performed at a rate of One and 50/100 Dollars (\$1.50) above the repaint classification rate for second shift and One and 75/100 Dollars (\$1.75) above the classification rates in Article III Section 3 (b) for third shift.

(d) This shift rate shall not be applicable to Employees who have worked during the day.

(e) For such shift work, Employers must obtain a permit from the District Council office in accordance with Article III, Section 4 (d) of the Working Agreement.

Section 6 - Overtime Limited. In dull periods such as December 1st through March 31st as covered in Section 5 above, no journeyman shall work more than forty (40) hours in one week, foreman and charginan excepted, nor shall such journeyman work during the night of the same day during which he/she has been employed.

Section 7 - Differential Wage Rates. District Council No. 6 shall notify the Joint Trade Board of members granted Special Dispensation. The Joint Trade Board shall be empowered to recognize differential wage rates for elderly workers and those otherwise handicapped and shall endeavor to place these workers on jobs where they may earn a livelihood for themselves and perform a service for the Employer. The placement and distribution of workers granted differential wage rates shall be in accordance with the rules and regulations as determined by the Joint Trade Board.

Section 8 - Payment of Transportation. For the purpose of travel and compensation thereof, we recognize the limits of District Council No. 6 to be as follows: East the jurisdictional line of eastern Ashtabula County; West the jurisdictional line of western Lorain County; North the south shore of Lake Erie; South-25 miles south of Cleveland's Public Square (see map); and adjoining territories as hereinafter provided. In the event an Employee is directed to drive his/her own vehicle beyond the original limits of District Council No. 6, the Employer shall pay for the use of such car at the rate of forty cents (\$.40) per mile for duration of Working Agreement. Should an employee(s) be required to work outside the jurisdiction covered by this agreement and is required by the Contractor to stay overnight then said employee(s) is/are to be provided with a paid hotel room with no more than two workers in any one room, and a per diem rate of Twenty-Five Dollars (\$25.00) per day said employee is out of town.

Section 9 - (a) When engaged in work outside the geographical jurisdiction of the Union party to this Agreement, shall employ not less than fifty percent (50%) of the workers employed on such work from the residents of the area where the work is performed or from among persons who are employed the greater percentage of their time in such area; any others shall be employed only from the Contractor's home area.

(b) **Outside Jurisdiction.** When it is necessary for an Employer to send Employees outside the jurisdiction of District Council No. 6, the Employer shall pay the Employee

transportation once to and from the job, and board and room if the Employee is required to reside in the vicinity of the job. On work performed outside the jurisdiction of District Council No. 6, the Employer shall pay either room and board or allow travel time required from the border of the jurisdiction of District Council No.6.

(c) Any member under the jurisdiction of District Council No. 6, working for a local registered Employer out of town or State must be considered a home town Employee, whether he is ordered to the job or is hired out on the job site. The Employer party hereto shall, when engaged in work outside the geographical jurisdiction executed by the Employers of this industry and the affiliated Local Unions in that jurisdiction, including wages, hours, conditions, fringe benefits and grievance procedures set forth therein provided, that as to members of District Council No. 6 who are brought into an outside jurisdiction shall be entitled to receive all wages and conditions effective in either the home or outside jurisdiction, whichever is more favorable for the Employee.

(d) In order to provide continuity of coverage: Employer fringe Benefit payments shall be made only to the funds in the employee's home area as required by the Collective Bargaining agreement prevailing in that area. There shall be no duplication of any fringe fund payment requirements.

Section 10 - Method and Time of Paying Wages.

(a) Employees shall be paid once each week in currency or by check and shall receive their pay on the job not later than quitting time pay-day.

(b) Employees temporarily laid off because of job completion are to receive their pay on the regular pay-day.

(c) Employers not signatory to the local Working Agreement when employees are laid off or discharged they shall be paid in full at the time of said lay-off or discharge. If employee is not paid off then Section C will apply. Out of Town employers laid off is pay-off.

(d) If an Employee voluntarily quits a job, it is his/her responsibility to report his/her time to the Employer immediately, and all be paid on the regular payday. Employees discharged for cause shall be paid within twenty-four (24) hours and the employer is responsible for the delivery of the check. If the check is not received within twenty-four (24) hours, the employee shall receive eight (8) hours pay for each twenty-four (24) hour waiting period. Saturday and Sunday excluded.

(e) Wage and fringe differences, including Health-Welfare, Pension and Promotion, shall be reported within four (4) weeks the first infraction.

(f) Any Employee, for any reason, who does not get the pay-check by the regular payday Section C above, will apply.

Section 11 - Retaining Pay. No more than three (3) days pay

shall be retained by the Employer at the end of the working week.

Section 12 - Employees shall be paid up to five dollars (\$5.00) per day per Employee when there is no free parking. Receipts must be turned in.

Article IV FRINGE BENEFITS

Section 1- The Employer agrees to be subject to the provisions of the agreements and declarations of trust and/or other governing instruments of the Painting Industry Insurance Fund, the Painting Industry Profit Sharing Annuity Plan, International Painters and Allied Trades Industry Pension Fund, the Apprentice Education and Industry Promotion Fund and any other fringe benefit, industry and related funds or accounts established by the parties to this Agreement (collectively the "Funds" or "Plans").

a. The Employer shall also be bound by the terms, provisions and conditions of all rules, regulations, resolutions and amendments thereto promulgated by the Trustees of the Plans in accordance with the aforesaid Trust Agreements, whether currently existing or promulgated during the term of this Agreement.

b. The Employer hereby accepts the designation of the Employer Trustees of the Plans and any successor Trustees appointed in accordance with the provisions of the Trust Agreements.

c. The Employer acknowledges that the Plans provide coverage and benefits to and the Employer is obligated to make contributions for and on behalf of all its employees who are members of the collective bargaining unit represented by the Union, without regard to membership in the Union.

d. The participating Employers and the Union further acknowledge and agree that the Trustees shall have the sole and exclusive authority to determine the rules of eligibility to participate in said plans and the benefits and coverages to be provided therein. No person shall have a vested right to participate in any Plan or to receive any benefit or coverage from any Plan except as expressly stated therein.

Section 2 - a. **Annuity.** There is established within the framework of the Painting Industry Collective Bargaining Agreement, an Employer-paid Defined Contribution Plan hereinafter called the Painting Industry Profit Sharing Annuity Plan, to which all Employers shall pay in excess of the regular established wage, an amount as established by this Agreement for every hour worked commencing May 1, 2001 for their bargaining unit employees covered by this Agreement.

b. **Health and Welfare.** There is established within the framework of the Painting Industry Collective Bargaining

Agreement, an Employer-paid Health and Welfare Plan hereinafter called the PAINTING INDUSTRY INSURANCE FUND, to which all Employers shall pay in excess of the regular established wage, an amount as established by this Agreement per hour for every hour worked commencing May 1, 2001, for their bargaining unit employees covered by this Agreement. Such payments shall be used for the maintenance and operation of the Health and Welfare Plan.

Section 3 - International Painters and Allied Trades Industry Pension Fund.

a. For the purpose of this Article, each hour paid for, including hours attributable to show up time, and other hours for which pay is received by the employee in accordance with this Agreement, shall be counted as hours for which contributions are payable. For the purpose of this Agreement the contributions on overtime hours will be payable on only actual hours worked.

b. Contributions shall be paid on behalf of any employee starting with the employee's first day of employment in a job classification covered by this Agreement. This includes but is not limited to apprentices.

c. The payments to the Pension Fund required above shall be made to the IUPAT Industry Pension Fund, which was established under an Agreement and Declaration of Trust, dated April 1, 1967. The Employer hereby agrees to be bound by and to the said Agreement and Declaration of Trust, as amended from time to time, as though he had actually signed the same.

d. The Employer hereby irrevocably designates as its representatives on the Board of Trustees such Trustees as are now serving, or who will in the future serve, as Employer Trustees, together with their successors. The Employer further agrees to be bound by all actions taken by the Trustees pursuant to the said Agreement and Declaration of Trust, as amended from time to time.

e. All contributions shall be made at such time and in such manner as the Trustees require; and the Trustees may at any time conduct an audit in accordance with the provisions of this Agreement or said Declaration of Trust.

Section 4 - The payments shall be made by the Employer monthly, no later than the 15th day of the month following the end of the month when bargaining unit employees performed work, with a weekly breakdown of the hours, names of the Employees and their social security numbers, hours worked, on forms specifically provided for this purpose by Trustees of the Fringe Benefit Funds. It shall be the obligation of the Employer to have and use the official reporting forms. If the Employer maintains its payroll records and information on computer or electronic equipment and desires to use and submit the required information in the form printed out by the computer or other electronic equipment, the Employer may use and submit such forms other than official reporting forms; provided, however,

the Trustees shall have the right to reject such forms if they are not consistent or reconcilable with the official form.

Section 5 - If the Board of Trustees of the Health and Welfare Fund believe additional contributions or payments are needed during the term of this Agreement to operate the Health and Welfare Fund, the Trustees shall recommend such change in writing to the parties to this Agreement.

Section 6 - The payments made to the Funds in accordance with the terms of this Agreement shall be sent with the appropriate reporting form to the designated depository when due. In reporting periods in which the Employer did not have any Employees working he shall submit a reporting form marked "NO EMPLOYEES WORKING". If the Employer has completed all work in the jurisdiction covered by this Agreement and will not have Employees working in the jurisdiction thereafter, he shall note on the reporting form for his last reporting period "WORK COMPLETED - FINAL REPORT".

Section 7 - The failure of an Employer to pay the contributions, payroll deductions, delinquency assessments or other monies required hereunder, when due, shall be a violation of this Agreement as well as a violation of said Employer's obligations under the agreements and declarations of trust. Nonpayment by an Employer of any contributions, payroll deductions, delinquency assessments or other monies when due, shall not relieve any other employer of the obligation to make payment of same when due. In the event that an Employer submits a check for payment to the Funds and it is returned by his bank stamped "Insufficient Funds", said check must be replaced, and the Trustees may require that future payments must be made by either certified check, cashier's check or money order.

Section 8 - An Employer who is delinquent in making payments as herein required or who fails to send the reports on time, shall be assessed as liquidated damages, a delinquency assessment of ten percent (10%) of the total amount due plus one and one-half percent (1.5%) of the total due per calendar month thereafter. Provided however, that with respect to delinquencies to the IUPAT Industry Pension Fund a delinquent employer shall be assessed liquidated damages, interest and late fees in accordance with the IUPAT Pension Fund's Trust Agreement and Rules and Regulations.

Section 9 - Whenever an Employer is delinquent, the Funds Administrator shall, within ten (10) days after becoming aware or otherwise being notified of the delinquency, notify the Surety Company which supplied the bond for that Employer of the fact of said delinquency and shall at the same time send a copy of such notice to the Association and Union.

Section 10 - Whenever an Employer is delinquent, the Union may, upon seventy-two (72) hours written notice to the delinquent Employer, withdraw Employees from the employment of the Employer, until such amounts that are due and owing are paid, without such withdrawal being considered a breach of any

of the provisions of this Agreement, provided the Employer fails to show adequate proof that the delinquent amounts have been paid to the Funds.

a. Each Employer agrees to permit an audit or examination of such books, records, papers or reports of the Employer as may be necessary in the discretion of the auditor, to determine whether the Employer is making full and prompt payment of all sums required to be paid to the Funds. The audit or examination shall be performed by an auditor or agent designated by the representative of the Funds. If, as a result of said audit or examination, a deficiency or more in payments to a Fund is discovered, the Funds may assess their costs in performing the audit or examination to the Employer, and said cost shall be collectible as any other amount due from the Employer to the Funds.

Section 11 - The respective Trustees of the Funds, and their successors in office, shall be deemed to be the joint and several beneficiaries of this Agreement, for the purpose of enforcing the provisions of this section of the Agreement and shall, in addition to and with or without the Union, have standing to sue on this Agreement to enforce the terms hereof and of the respective agreements and declarations of trust and/or other governing instruments of the Funds and the payment by any Employer of all sums and contributions due to the Funds. A delinquent Employer shall also be liable for, and obligated to pay the audit fees, delinquent assessments provided for herein, reasonable interest, all court costs, attorney's fees and other expenses incurred in the collection of contributions due from said delinquent Employer and/or if the Trustees believe, in their sole discretion, it is necessary to commence litigation. The Trustees shall further have all such other relief (including temporary and permanent injunctive relief) and remedies against a delinquent Employer to which they may be entitled at law or in equity. The Trustees may compel and enforce the payment of contributions in any manner which they deem proper, and the Trustees may make such additional rules and regulations, which are binding upon the Employer as if fully rewritten, to facilitate and enforce the collection and payment thereof as they may deem appropriate.

Section 12 - An employer not presently a member of the association who does not have two consecutive years as a non-delinquent contributing employer shall be required to make all payments referred to in this Article and the reports referred to in this Article IV on a weekly rather than a monthly basis until said employer shall establish a two consecutive year record as a non-delinquent contributing employer. Any Employer who shall become thirty or more days delinquent in making fringe benefit payments required by this Agreement shall be required to make all payments and reports referred to in this Article IV on a weekly rather than monthly basis until said Employer shall have established a full one year record as a non-delinquent contributing employer.

Section 13 - If an Employer fails to make contributions for the international fringe benefit plan within twenty days after the date required by the International Trustees, the Union shall

have the right to take whatever steps are necessary to secure compliance with this Agreement, any other provision thereof to the contrary notwithstanding, and the Employer shall be liable for all costs of collection of the payments due together with attorney fees and such penalties as may be assessed by the International Trustees. The Employer's liability for payment under this Article shall not be subject to or covered by any grievance or arbitration procedure or any "no-strike" clause which may be provided or set forth elsewhere in this Agreement.

Section 14 - The International Plans adopted by the international Trustees shall at all times conform with the requirements of the Internal Revenue Code so as to enable the Employer at all time to treat contributions to the International fringe benefit plans as a deduction for Income tax purposes.

Section 15 - The Union and Association recognize and understand that the prompt and regular payment of contributions and amounts withheld from wages of employees for all of the the Fringe Benefit Funds provided for in this Agreement, are an essential compliance with this Agreement in order to protect the employees on whose behalf these contributions were negotiated, and the Employer who honors his contract. Therefore, to assist in the orderly administration of these Funds, the contracting parties hereto empower and authorize the Board of Trustees of the various Funds to recommend to the Joint Trade Board whatever action is deemed appropriate, including decertification, if necessary, but within their discretion to enforce payment of contributions and/or amounts withheld by any Employer for failure to comply with the contractual provisions covering contributions and payments to the aforementioned Funds.

Article V SPRAY PAINTING AND SAFETY

For the purpose of safety, the PDCA Safety Handbook and Program may be used as a guide for all Employers. All safety programs must be approved by the Joint Trade Board.

Section 1 - **Health and Safety.** (a) The Employer shall provide adequate protective clothing, safety shoes, helmets, gloves, safety glasses or goggles, respiratory equipment, ventilation equipment and skin protection as required by job situation and materials used.

(b) All applicable sections of the "Specific Safety Requirements of the Industrial Commission of Ohio, Relating to Construction, effective April 1, 1986 (IC-3)" and Occupational Safety and Health Act provisions will be part of this Working Agreement.

(c) Any condition on the job, which is a danger to the safety or health of the men working there, shall be a negotiable grievance at once. When a dangerous condition exists, a union member on the job may go to the nearest telephone to call the District Council. If the Business Representative comes on the

job and finds that the danger is such that the job should not be allowed to continue, he shall be authorized to stop that part of the job where the dangerous situation prevails until it is remedied.

(d) Proper toilet facilities shall be provided. In the absence of such facilities, the Employee shall be allowed to use the nearest available toilet facility.

(e) The Employer shall provide effective respirators for employees working in spray mist areas. Spraying with flammable materials shall not be performed where the mist areas are exposed to fire or electric arcs. Work with the airless spray gun shall be conducted with due regard for the danger of contact with the spray fan. All workers shall be warned of this danger if they are to operate or clean an airless spray gun. Epoxy, xylols, polyurethane, and other irritant or dangerous vapors which can be ventilated by fan must be so ventilated. Fans will be used as exhaust fans and work will proceed from the point nearest the fan to work away from the fan so that the worker will be in an area of fresh air supply. In closed areas which cannot be effectively ventilated, an air supply hood, mask, or other suitable device will be provided for a source of clean air.

(f) Sandblasting: Air-fed hoods shall be provided for sandblasting; they shall have wide windows to allow adequate vision. Sandblast nozzles shall be equipped with a device which will automatically stop the blast if the nozzle is dropped (Deadman Shut-Off).

Section 2 - Rest Periods. Employees are entitled to two ten (10) minute rest periods once in the morning and once in the afternoon.

Employees spraying, sandblasting, or using catalytic materials any of which require air fed hood or charcoal respirator and all employees working in the area who require air fed hood or charcoal respirators will be entitled to an additional five (5) minute break.

ARTICLE VI TAPING

Section 1 - Taping Working Conditions. This Working Agreement sets forth all the working conditions for the taping of Drywall as shown in Article VI, Section 3.

Section 2 - Taper Apprentices. (a) There is established a Taper's Apprentice and Training Program which is subject to all the rules and regulations of Article X of this Agreement as determined by the Apprentice Education and Promotion Program Board, with the following exceptions:

- (b) First six months45% of journeyman's Rate
- Second six month . . .50% of journeyman's Rate
- Third six months . . .55% of journeyman's Rate
- Fourth six months . . .60% of journeyman's Rate
- Fifth six months65% of journeyman's Rate
- Sixth six months70% of journeyman's Rate

(c) Full payment to Painting Industry Insurance Fund from first day of employment, payments to the International Painters and Allied Trades Industry Pension Fund on behalf of apprentices at the following rates: \$.50 first year, \$.75 second year, \$1.00 third year. Painting Industry Annuity Plan to be paid at the following rates: first year exempt, remainder to be paid as determined by the percentage of wage scale applicable to apprentice. Year will be determined by apprentice committee at date of hire.

(d) No apprentice shall work on any job unless a journeyman is on the job with him.

(e) Apprentices will be paid for school days as follows:

- First year \$50.00 a day
- Second year \$60.00 a day
- Third year \$70.00 a day

(f) The period of indentureship for taper apprentices shall be three (3) years.

Section 3 - This Section shall regulate the taping work done under this Agreement. All terms, provisions and conditions of the Working Agreement will be adhered to, excepting those provisions which are specifically modified or changed as listed below:

Rates of Wages: Wage rates established in Article 111, Section 3 Paragraph (a) (c), Classification Tapers, in the Working Agreement, shall remain in full force and effect except for the following: Two (2) times the hourly rate shall be paid on Sundays.

Paragraph (c) "Residential Taping": Residential taping to be defined as only those units built, either as single homes or multi-residential dwellings, for permanent homes, but does not include nursing homes, clinics, hospitals, etc, where nursing care and medical services are provided.

(a) Job Stewards will continue to be placed in accordance with Joint Board Directives issued June 23, 1984 requiring the placement of outside job stewards on all taping jobs of 15,000 square feet or more. These directives shall remain in force with the following exceptions: The job steward shall be the second man/woman put to work on the job. Job stewards may be selected from among tapers already employed and assigned by the employer to work on the job site, if approved by the District Council office. Without such approval, the District Council will continue to place outside stewards on the jobs.

(b) Employers will supply all materials, at no cost to the taper.

Section 4 - When four or more Drywall Finishers are on the job the Employer will provide a drill motor and a paddle.

ARTICLE VII JOINT TRADE BOARD

Section 1 - **Administration.** The administration of this Agreement shall be by the Painters Joint Trade Board. This Board is authorized and given jurisdiction to act as a fact finding Tribunal and as an Arbitration Board with respect to any complaints or disputes arising under this Agreement, and also regarding any questions of interpretations of any provisions of the Agreement.

Section 2 - **Membership of Board.** The Joint Trade Board shall be composed of an equal number of representatives of the NOPTCA and District Council No.6. Total membership of the Board shall not exceed six (6) members, three representing the Employers and three representing the Employees. Each organization shall choose his own representatives. Business Representatives shall not be members of the Board, but may attend meetings as advisors to the regular members representing the Employees.

Section 3 - **Meetings.** Bi-monthly meetings of the Joint Trade Board shall be held on the second Thursday of the month. Other meetings may be held from time to time on the call of the Chairman and Secretary or upon the request in writing of any three members of the Joint Trade Board. All members shall be notified of all special meetings through the Chairman and Secretary of the Joint Trade Board.

Section 4 - **Inspection.** The Joint Trade Board may make a determination that an inspection of the records of a specific Employer, which relate to the performance of this Agreement, is necessary. Upon such determination being made, the said board shall appoint a committee which shall include a representative of the Employers and a representative of the Union, and the committee shall have accompanying it such attorneys, accountants, bookkeepers and other persons to give it technical assistance in the inspection, as the Joint Trade Board sees fit, and specifies in the appointment of the committees. The Joint Trade Board shall specify the time for the inspection to be held, after a notice to the employer whose records are to be inspected, and the inspection shall be held during working hours and may be adjourned from day to day until completed.

Section 5 - **Rules, Regulations and Decisions.** The Joint Trade Board shall be empowered to make such rules and regulations as may be necessary to give force and effect to the intent and purpose of this Agreement. Decisions shall not be rendered without a quorum present. A quorum shall consist of two members from each group. All decisions of the Joint Trade Board shall require approval from a majority vote, with an equal number from each group voting, and the decision may include rendering an assessment as liquidated damages in an amount the Board sees fit, under circumstances of the particular case against the party who is charged with violating the contract. The Joint Trade Board shall be empowered to enforce collection of wages and fringes due. All monies paid to the Joint Trade Board for assessments as liquidated damages or from registration fees for Union Labels, or from any other income,

shall be used by the Joint Trade Board to pay the expense of administering the contract.

Section 6 - **Registration.** Each Employer shall furnish the Joint Trade Board with the following items on May 1st of each year:

1. Registration fee of:
 - Two Hundred Fifty Dollars (\$250.00) for 2006.
 - Three Hundred Dollars (\$300.00) for 2007 and
 - Three Hundred Fifty Dollars (\$350.00) for 2008made payable to the Joint Trade Board;
2. Federal tax identification number;
3. Copy of evidence of Workers' compensation coverage;
4. Copy of evidence of premium payment for Ohio Unemployment Compensation;
5. Bond as detailed in Article II, Section 23.

Section 7 - **Hearings, Decisions and Enforcement.** The Joint Trade Board shall notify an Employer that is charged with violating the Agreement at least ten (10) days prior to the date of the hearing on the charges. Upon notification the Employer shall have a right to appear before the Joint Trade Board and present evidence in support of its position. No attorney may be present at the hearing to represent the Union, Employee or Employer. The purpose of the hearing is to resolve the charges in a fair manner without the formality of a proceeding at which attorneys are present. If the Joint Trade Board decides by a majority vote that the Employer has violated the Agreement, the Employer shall be notified in writing of the decision and the amount of damages, liquidated or otherwise, that has been determined the Employer owes. The Employer shall pay the full amount of the damages within fifteen (15) days of the date the notification is sent, unless extended by the Joint Trade Board. An Employer who is delinquent in paying the damages shall be liable for liquidated damages of ten percent (10%) of the total amount due plus three percent (3%) of the total due per calendar month thereafter. The Joint Trade Board shall, in addition to and with or without the Union, have standing to sue for an Employer's failure to pay the damages assessed against it. The Employer shall also be liable for, and obligated to pay, the delinquent assessments provided herein, reasonable interest, all court costs, reasonable attorney fees and other expenses incurred in the collection of damages assessed against said Employer. The Joint Trade Board may compel and force the payment of damages decided by the Joint Trade Board in any manner which it deems proper including, but not limited to, the Union notifying its members who are Employees of the violating Employer not to work for the Employer until the damages and costs owed by the Employer are paid in full. The Joint Trade Board may make such additional rules and regulations to facilitate and enforce the collection and payment as it deems appropriate.

Section 8 - **Disputes.** In case difficulty, dispute or disagreement shall arise between the parties to this Agreement, the same shall be reported to the Chairman or the Secretary of the Joint Trade Board. Action shall be taken on the case within one (1) working day. The Joint Trade Board shall then be governed by the following regulations.

A - A meeting shall be called by the Chairman or Secretary upon written request of either side, stating the objects for which the meeting is called.

B - Four (4) members shall constitute a quorum, two (2) from each side. Neither side shall cast more ballots than the other shall. A majority vote shall be required to carry any motion.

C - In the event the Joint Trade Board does not arrive at a decision within twenty-four (24) hours, the difficulty, dispute or disagreement shall be submitted to a Board of Umpires immediately. This board of Umpires shall consist of one representative of the aforementioned Employer and Employee, and a third member to be selected by these two representatives. In the event of failure to agree on the third member, either party may refer the matter to the American Arbitration Association and it shall then be arbitrated according to the rules of the American Arbitration Association. Decisions of this Board of Umpires shall be final and binding on all parties, and there shall be no recourse from such decisions.

D - Pending decision of the Joint Trade Board or the Board of Umpires, no strikes, lockouts, or stoppage of work shall be ordered or permitted against either party thereto except as provided herein.

Section 9 - **Records.** Full and complete records shall be kept of all proceedings of the Joint Trade Board and copies shall be supplied to each organization.

Section 10 - **Election of Officers.** The members of the Joint Trade Board shall proceed to elect a permanent Chairman and a permanent Secretary-Treasurer. The Chairman and Secretary-Treasurer shall not be elected from among the representatives of the same group. In the absence of either the permanent Chairman or permanent Secretary-Treasurer, a pro tem officer or officers shall be elected.

Section 11 - **Duties of Officers.** (a) The Chairman shall preside at all regular or special meetings of the Joint Trade Board and sign the minutes of each meeting.

(b) The Secretary-Treasurer shall keep an accurate record of all proceedings of the Joint Trade Board and carry out the orders of the Board.

Section 12 - **Inquiry Into Prices.** The Joint Trade Board is empowered to inquire into bids or contract prices on any job. When inquiry after a fair and impartial hearing discloses unethical trade practices, the Joint Trade Board may take such corrective measures as it may determine.

ARTICLE VIII GRIEVANCE PROCEDURE

Section 1 - Should any difference arise between the Employer, Union or Employees regarding the interpretation or application of any provisions of the Agreement, it shall be set-

tled in the following manner:

Step 1. Between the Employee, his union representative if he desires, and his Employer or employer representative within three (3) working days after the event upon which the grievance is based.

Step 2. If the grievance is not settled at Step 1, it shall be reduced to writing five (5) days after the answer under Step 1 and taken up before the representative of District Council No. 6 and the Employer or his representative within five (5) working days after the grievance is filed.

Step 3. If the grievance is not settled at Step 2, the Union may within fifteen (15) calendar days after the answer under Step 2 take the grievance to the Joint Trade Board for settlement. In the event the Joint Trade Board does not arrive at a settlement within twenty-four (24) hours, the grievance shall be taken to arbitration.

Step 4. The parties shall attempt to agree upon an impartial arbitrator, but if they are unable to agree within seven (7) calendar days from the request for arbitration, they shall jointly request the American Arbitration Association to submit a panel of three (3) arbitrators. The arbitrator shall then be chosen in accordance with the Association's applicable rules. The fees and expenses of the arbitrator shall be borne equally by the parties.

Section 2 - Any grievance which affects a substantial number of employees may initially be presented by the Union at Step 2.

Section 3 - Any grievance not timely presented or processed thereafter, shall not be considered and shall not be arbitrable unless time is extended by mutual agreement.

ARTICLE IX SUBSTANCE ABUSE JOINT LABOR - MANAGEMENT UNIFORM DRUG/ALCOHOL ABUSE PROGRAM

I. **POLICY STATEMENT.** The Parties recognize the problems created by drug and alcohol abuse and the need to develop prevention and treatment programs. (Company Name), and the signatory unions have a commitment to protect people and property, and to provide a safe working environment. The purpose of the following program is to establish and maintain a drug free, alcohol free, safe, healthy work environment for all of its employees.

II. DEFINITIONS.

a) **Company Premises** - The term "Company Premises" as used in this policy includes all property, facilities, land, building, structures, automobiles, trucks and other vehicles owned, leased or used by the company. Construction job sites for which the company has responsibility are included.

b) **Prohibited Substances** - Prohibited substances include illegal drugs (including controlled substances, look alike drugs and designer drugs) and alcoholic beverages in the possession of or being used by an employee on the job.

c) **Employee** - Individuals, who perform work for (Company Name) including, but not limited to, management, supervision, engineering, craft workers and clerical personnel.

d) **Accident** - Any event resulting in injury to a person or property to which an employee, or contractor/contractor's employee, contributed as a direct or indirect cause.

e) **Incident** - An event which has all the attributes of an accident, except that no harm was caused to person or property.

f) **Reasonable Cause** - Reasonable cause shall be defined as excessive absenteeism or tardiness, slurred speech, alcohol smell, and erratic behavior such as noticeable imbalance, incoherence, and disorientation.

g) **Under the Influence of a Prohibited Substance**-“Under the influence of a prohibited substance” as used by this policy, means the following:

1) Alcohol -Blood alcohol level of .08, as measured by blood or breath tests.

2) Other Prohibited Substances - Positive results over the following thresholds for urine testing

a) Marijuana - 100 ng/ml initial screen 15 ng/ml confirmatory test

b) Cocaine - 300 ng/ml initial screen 150 ng/ml confirmatory test

c) Opiates - 300 ng/ml initial screen and confirmatory test

d) Phencyclidine – 25 ng/ml initial screen and confirmatory test

e) Amphetamines - 1000 ng/ml initial screen 300 ng/ml confirmatory test

f) Barbiturates - 300 ng/ml initial screen and confirmatory test

g) Benzodiazepines - 300 ng/ml initial screen and confirmatory test

h) Methadone - 300 ng/ml initial screen and confirmatory test

i) Methacualone -300 ng/ml initial screen and confirmatory test

j) Propoxyphene - 300 ng/ml initial screen and confirmatory test

k) Levels for other prohibited substances shall be in accord with accepted GC/MS quantitative procedures'

III. DRUG/ALCOHOL TESTING.

The parties to this policy and program agree that under certain circumstances, the company will find it necessary to conduct drug and alcohol testing. While “random” testing is not necessary for the proper operation of this policy and program, it may be necessary to require testing under the following conditions:

a) A pre-employment drug and alcohol test may be administered to all applicants for employment:

b) A test may be administered in the event a supervisor has a reasonable cause to believe that the employee has reported to work under the influence, or is or has been under the influence while on the job; or has violated this drug policy. During the process of establishing reasonable cause for testing, the employee has the right to request his on site representative to be present:

c) Testing may be required if an employee is involved in a workplace accident/incident or if there is a workplace injury:

d) Testing may be required as part of a follow-up to counseling or rehabilitation for substance abuse, for up to a 1-year period:

e) Employees may also be tested on a voluntary basis. Each employee to be tested will be required to sign a consent and a chain of custody form, assuring proper documentation and accuracy.

Drug testing will be conducted by an independent accredited laboratory (National Institute on Drug Abuse and/or College of American Pathology), which is jointly selected by the employer and the Union. The testing may consist of blood, breath, or urine tests, as required. In the case of a positive test result, the employee shall have the opportunity to contest the result by having an appropriate portion of the sample re-tested at an independent laboratory selected by the employee from those listed at the end of the Substance Abuse Section (Article IX).'

The company will bear the costs of all testing procedures except that the employee will pay the cost of any retest requested by the employee.

IV. TESTING PROCEDURES

1) All samples for testing will be taken by appropriately qualified personnel (e.g. medical personnel for drawing blood).

2) To the greatest extent possible, the privacy of the employee will be preserved while the sample(s) to be tested are taken. However, some precautions will help to ensure that pure specimens are obtained. When urine samples are collected, the following procedures should be observed:

- a) There shall be no visual observation of the act of urination.
- b) If the person at the collection site does not know the employee to be tested, some form of photographic identification will be required or identification by a supervisor at the collection site;
- c) The person at the collection site will ask the employee to remove unnecessary outer garments such as coats and jackets and to leave personal belongings such as purses and bags with the other garments. The employee may retain his or her wallet;
- d) The employee shall be instructed to wash and dry his or her hands prior to urination;
- e) The employee may provide his or her specimen in the privacy of a stall or partitioned area;
- f) Bluing agents shall be placed in the toilet so that the water always remains blue. No other water source should be available.

g) The person at the collection site shall remain outside the stall until the employee hands that person the container with the specimen inside (minimum of 60 milliliters). The specimen shall be visually inspected for signs of contamination;

3) Regarding both urine and blood samples, the following procedures will be observed;

a) The specimen container shall be immediately sealed and labeled by the person at the collection site, in the presence of the employee. The label shall contain only an identification number and the date, and shall be initialed by the employee;

b) The identification number will be entered into a ledger, which will then be signed by the employee and the person at the collection site;

c) A chain of custody form will be completed by the person at the collection site and initialed by the employee;

d) The chain of custody form and the specimen should be immediately shipped to the laboratory;

e) Appropriate security measures will be taken at the collection site.

4) Initial testing of a urine sample shall use an immunoassay. All samples identified as positive shall be confirmed by gas chromatography/mass spectrometry (GC/MS).

5) Reports shall be made in writing and sent to the single person designated by the employer. In the case of urine testing, only those specimens which showed positive results on both the initial screening and the confirmatory test shall be reported as positive. The completed chain of custody form shall accompany any positive report, and copies of analytical reports shall be available to the employee and the employer.

6) Samples shall be properly stored at all times. All reported as positive will be stored frozen for at least 365 days. If the employer or employee requests it, the sample shall be stored for a longer period.

7) All handling and transportation of each specimen will be properly documented through strict chain of custody procedures

V. CONFIDENTIALITY

a) All parties to this policy and program have only the interests of employees in mind. Therefore, encourage any employee with a substance abuse problem to come forward and voluntarily accept our assistance in dealing with the illness. An employee assistance program will provide guidance and direction for you during your recovery period.

If you volunteer for help, the company will make every reasonable effort to return you to work upon your recovery.

The company will also take action to assure that your illness is handled in a confidential manner.

b) All actions taken under this policy and program will be strictly confidential and disclosed only to those with a "need to know" within the company.

c) No test results will be disclosed to persons outside the company or the Union except in response to a subpoena.

d) The persons with a "need to know" are designated as follows:

VI. RULES-CORRECTIVE ACTIONS -GRIEVANCE PROCEDURES

1) **Rules.** All employees must report to work in a physical condition that will enable them to perform their jobs in a safe and efficient manner. Employees shall not:

a) Use, possess, dispense or receive prohibited substances on or at the job site; or

b) Report to work while under the influence of a prohibited substance.

2) **Corrective Action.** When the company has reasonable cause to believe an employee is under the influence of a prohibited substance, for reasons of safety, the employee may be suspended until test results are available. If no test results are received after three (3) working days, the employee, if available, shall be returned to work with back pay. If the test results prove negative, the employee shall be reinstated with back pay. In other cases:

a) Applicants testing positive for drug use will be suspended from consideration for a period of two months, and may be considered upon re-application if he or she can demonstrate meaningful participation in a rehabilitation program following the positive drug test.

b) Employees will be required to sign the required consent and chain of custody forms as a condition of continued employment or will otherwise be terminated. If an employee then refuses to cooperate with testing procedures in accordance with the policy, he will be presumed to be under the influence of a prohibited substance and will be subject to discipline as provided by subsection e) of this section.

c) Employees found in possession of drugs will be subject to corrective action as provided by subsection e) of this section.

d) Employees found to be under the influence of a prohibited substance, including alcohol, while on duty or operating a company vehicle shall be subject to corrective action as provided by subsection e) of this section.

e) The following stages of corrective action shall be imposed:

1) On the first violation of this policy, the employee shall be given a written reprimand and shall be required to demonstrate meaningful participation in a rehabilitation program as a condition of further employment.

2) On the second violation of this policy, the employee shall be suspended for up to six weeks without pay and shall be required to complete a further rehabilitation program as a condition of further employment.

3) On the third violation of this policy, the employee shall be terminated.

4) In designated safety-sensitive positions, the first violation may result in corrective action as described in subsection (2), and the second violation may result in termination. The following positions are designated as safety-sensitive: _____

3) **Prescription Drugs.** Employees using a prescribed medication which may impair the performance of job duties, either mental or motor functions, must immediately inform their supervisor of such prescription drug use. For the safety of all employees, the company will consult with you and your physician to determine if a reassignment of duties is necessary. The company will attempt to accommodate your needs by making an appropriate reassignment. However, if re-assignment is not possible, you will be placed on temporary medical leave until released as fit for duty by the prescribing physician.

4) **Sale and Distribution.** Any sale and/or distribution of a prohibited substance on Company property is grounds for immediate termination.

5) All aspects of this policy and program will be subject to the grievance procedure of the applicable collective bargaining agreements.

VII. REHABILITATION AND EMPLOYEE ASSISTANCE PROGRAM

Employees are encouraged to seek help for a drug or alcohol problem before it deteriorates into a corrective action matter. If an employee voluntarily notifies supervision that he or she may have a substance abuse problem, the company will assist in locating a suitable employee assistance program for treatment, and will counsel the employee regarding medical benefits available under the company or union health & welfare/insurance program.

If treatment necessitates time away from work, the company shall provide for the employee an unpaid leave of absence for purposes of participation in an agreed upon treatment program. An employee who successfully completes a rehabilitation program shall be reinstated to his/her former employment status, if work for which he/she is qualified exists.

Employees returning to work after successfully completing the rehabilitation program will be subject to drug tests without prior notice for a period of one year. A positive test will then result in corrective action as previously outlined in this policy and program.

VIII. NOTIFICATION.

This policy will go into effect one month after its announcement to current employees: All applicants will be informed of the policy. All employees will be required to sign a form indicating their consent to the terms of this policy and testing procedure as a condition of employment which form is attached hereto as Exhibit A.

EXHIBIT A CONSENT FOR ALCOHOL AND DRUG TESTS

I, _____, hereby consent and agree to give specimens of my body fluids(*) at a medical facility designated by _____ for transmittal and testing by an approved, testing laboratory.

It is my understanding that body fluid(*) specimens will be tested to detect the presence of Alcohol and/or other drugs in my body.

In addition to testing at the initial time of application for employment, in the event I am directly involved in a work-related accident, or if there is reason to suspect my use of drugs or alcohol intoxications, I agree and consent to provide specimens of my body fluids(*) for testing to discover the presence of alcohol and/or drugs.

It is agreed that upon request I will be furnished results of tests performed on my body fluids(*) specimen by the testing laboratory. The testing laboratory is only authorized to confirm, to the employer designated above, whether test results are

POSITIVE or NEGATIVE in accordance with the predetermined threshold levels.

Body fluids tests will normally utilize urine specimens and blood specimens. Tests which entail the withdrawal of blood may be exercised in situations involving an injury accident where I am rendered unconscious and unable to provide a urine specimen, and I agree and consent to such a test under those circumstances.

I acknowledge that I have read, understand and have received a copy of the employers Alcohol and Drug Policy. Furthermore, I understand that refusal to submit to the alcohol and drug screening test will constitute voluntary withdrawal of my application of employment: if employed, refusal to submit to such testing will result in the appropriate level of corrective action as specified by the Policy. The presence of alcohol or one or more of those prohibited drugs at or above the defined threshold level will also result in the appropriate level of corrective action as specified by the Policy.

_____	_____
Witness Signature	Employee Signature
_____	Social Security Number
_____	Date

¹ These levels are drawn from the Scientific and Technical Guidelines for Drug Testing Programs adopted by the Department of Health and Human Services in 1987. It may be advisable, during negotiations, to solicit more current information from the laboratory selected to perform the testing.

² Laboratories to be selected.

³ This progressive corrective action scheme is just one example. This policy might also be cross-referenced to an existing progressive corrective action system, but any system should include at least one opportunity to seek rehabilitation.

**ARTICLE X
APPRENTICE EDUCATION AND
PROMOTION PROGRAM**

All Employers party to this Agreement who hire three (3) or more journeymen should employ at least one (1) apprentice.

A - The parties hereto hereby established an Apprentice Education and Industry Promotion Program.

B - The Apprentice Education and Industry Promotion Program shall be administered by the Apprentice Education

and Industry Promotion Fund. This Board shall consist of an equal number of members appointed by the Union and the Employers who are signatories hereto.

C - A Declaration of Trust has been drafted and executed and will govern the parties hereto.

D - The Apprentice Education and Industry Promotion Board shall promulgate all rules and regulations for the administration of the said program.

E - Every Employer under this Agreement shall contribute and pay to the Apprentice Education and Industry Promotion Fund twenty-eight cents (\$.28) per man hour worked by his employees covered by this Agreement effective from May 1, 2005. Every Employer shall contribute five cents (\$.05) to the National Joint Apprenticeship and Manpower Training Fund effective May 1, 2005. Said Contribution shall be made monthly. The Fund hereby established shall be administered by the members of the said Board. The said Board is vested with full authority and powers to administer the said Fund on behalf of the program and to enforce all provisions of this Collective Bargaining Agreement pertaining to said program.

F- Labor and Management agree Journeyman upgrading is needed. Upgrade classes must be taken between May 1 and April 30 of each year. All journeymen and apprentices are required to maintain respirator assurance and the drug-free workplace program requirement and four (4) hours of additional safety training not to exceed eight (8) hours in total. Journeymen that maintain One Thousand Six Hundred (1,600) working hours per contractual year (May 1 thru April 30) will not be required to attend Journeymen skills training. Any new employee who has not completed the initial sixteen (16) hours of OSHA training must do so as soon as possible after commencing employment. If training is not completed as set forth herein, the next scheduled increase will not be given.

G- As of May 1, 1998, Employer to start paying two cents (\$.02) per hour worked and labor to begin paying two cents (\$.02) per hour worked for Journeyman upgrading training.

**ARTICLE XI
PRE-APPRENTICE EMPLOYMENT &
WAGES PAINTERS AND TAPERS**

Employees hired in this classification will not be allowed to work in this classification for more than One Thousand (1,000) hours at which time he or she will be required to join the apprenticeship program

The pre-apprentice classification will be paid at not less than Thirty-Five Percent (35%) of journeyman wage with no benefits and shall not be required to pay dues check off.

No pre-apprentice will be allowed to work on prevailing wage jobs requiring journeyman and registered certified apprentice only, unless they are paid journeyman rate plus benefits.

Pre-Apprentices under Joint Trade Board policy.

**ARTICLE XII
PAINTERS APPRENTICE EMPLOYMENT
AND WAGES**

Section 1 - Apprentice Wages. Apprentices shall be paid the following wage scale:

First six months	45% of Scale of Journeymen
Second six months	50% of Scale of Journeymen
Third six months	55% of Scale of Journeymen
Fourth six months	60% of Scale of Journeymen
Fifth six months	65% of Scale of Journeymen
Sixth six months	70% of Scale of Journeymen
Seventh six months	75% of Scale of Journeymen
Eighth six months	80% of Scale of Journeymen

The period of indentureship shall be four (4) years.

Section 2 - Full payment to Painting Industry Insurance Fund from first day of employment, payments to International Painters and Allied Trades Industry Pension Fund on behalf of apprentices at the following rates: \$.50 first year, \$.75 second year, \$1.00 third year, \$1.50 fourth year. Painting Industry Annuity Plan to be paid at the following rates: first year exempt, remainder to be paid as determined by the percentage of wage scale applicable to apprentice. Year will be determined by apprentice committee at date of hire.

Section 3 - No apprentice shall work on any job unless a journeyman is on the job with him.

Section 4 - A minimum of 650 hours must be worked within a six-month period for the advancement in wage rate to apply. These hours may be accumulated and banked, to be used in subsequent six-month periods.

Section 5 - Apprentices shall be paid for those days attending school on the following schedule:

First year	\$.50.00 per day
Second year	\$.60.00 per day
Third year	\$.70.00 per day
Fourth year	\$.70.00 per day

**ARTICLE XIII
NORTHERN OHIO PAINTING AND TAPING
CONTRACTORS ASSOCIATION**

Section 1 - This fund shall be administered by the Trustees of the NOPTCA.

Section 2 - Effective May 1, 2005, the NOPTCA contribution will be sixteen cents (\$.16) per hour on 25,000 hours each year. The per hour rate shall decrease to eight cents (\$.08) per hour for additional hours. NOPTCA has option to increase one cent (\$.01) on the first 25,000 hours worked within the life of this contract if needed.

Section 3 - Such payments shall be made monthly. Delinquent contributions shall be subject to such penalties or assessments as the Trustees of the Fund may prescribe from time to time.

Section 4 - The Trustees of said Fund shall comply with all present and future Federal Laws governing the same.

Section 5 - These monies are not to be used by the NOPTCA members for the purpose of a strike or lockout fund.

Section 6 - The Employer Association Party to this Agreement agrees to defend, indemnify and hold harmless the Union from any and all claims made against it arising out of the establishment and existence of the Fund.

**ARTICLE XIV
LABOR MANAGEMENT
COOPERATION INITIATIVE (LMCI)**

Effective May 1, 1997, there is established within this contract the Labor Management Cooperation Initiative (LMCI) a minimum of five cents (\$.05) for each hour for which an employee receives wages. The accumulated amount shall be forwarded to District Council 6 in the manner described in Article XV.

**ARTICLE XV
PAINTING INDUSTRY FUNDS**

Effective for hours worked on and after June 1, 1985, payment of all contributions and deductions required under the Working Agreement for the following entities:

1. Painting Industry Insurance Fund
2. International Painters and Allied Trades Industry Pension Fund
3. Northern Ohio Painting and Taping Contractors Association, Inc.
4. Painters' District Council No. 6, Working Dues Assessment
5. Apprentice, Education, & Industry Promotion Fund
6. Building Trades Council
7. Political Action Fund
8. Labor Management Cooperation Initiative

Payment shall be made by one check payable to "Painting Industry Funds" and mailed with the reporting form to:

Painting Industry Funds
8257 Dow Circle
Cleveland, Ohio 44136

**ARTICLE XVI
AMENDMENTS AND RATIFICATION**

It shall be within the jurisdiction of the Joint Trade Board to suggest and consider amendments to this agreement, which they shall recommend to the membership of both Employers' and Employees' organizations. If ratified by both organizations, said amendments then become part of this Agreement.

With the signing of this Agreement, all former agreements and supplements thereto entered into between the NOPTCA, and the District Council No. 6, International Union of Painters and Allied Trades shall become null and void.

**ARTICLE XVII
TERMINATION**

Section 1 - This contract shall become effective as of May 1, 2005 and will continue in force until April 30, 2009, with the following provisions and exceptions:

(a) This contract shall be re-opened for negotiations sixty (60) days prior to May 1, 2009.

(b) This Agreement will continue in force from year to year after May 1, 2009, unless either party desires to modify or terminate the Agreement and notifies the other party in writing of its desire to do so at least sixty (60) days prior to May 1, 2005 or May 1 of any subsequent year.

(c) The rules governing termination for non-Association members of signatory employers who have not given the Association bargaining rights are set forth in sections two (2) through four (4) below.

Section 2 - The Union will notify the Association of the name and address of any Employer who becomes signatory to or bound by this Agreement during the term of this Agreement. The notices shall be given in writing within ten (10) days of the

time any such Employer becomes signatory or bound hereto. The notice shall include a copy of the signature page of the contract or the assent card and, if not noted thereon, a statement of the date the contract or assent card was signed or the date the Employer became bound.

Section 3 - After a non-Association Employer receives notice from the Union of the Union's intent to negotiate pursuant to Section 1 of this Article, the Employer shall have thirty (30) days to send written notification to the Union of its intent to negotiate separately. If an Employer does not notify the Union within said thirty days, the Employer shall be deemed and presumed to agree to such terms and conditions of an agreement arrived at in negotiations between the Union and the Association and be bound by the collective bargaining agreement resulting therefrom.

Section 4 - The provisions of this Article shall operate for successive collective bargaining agreements until such time as the Employer of the Union gives timely notice that said party desires to negotiate separately. Said notice shall be given within time periods provided for in this Article of this Agreement or any successive collective bargaining agreements.

IN WITNESS WHEREOF, we the undersigned EMPLOYER and District Council No. 6, International Union of Painters and Allied Trades, hereunto affix our hands this day of May 1, 2005.

Company Name

Employer's Signature

Print Name & Title
Date Signed: _____

DISTRICT COUNCIL NO. 6 &
INTERNATIONAL UNION OF
PAINTERS AND ALLIED TRADES, AFL/CIO

Executive Secretary

IN WITNESS WHEREOF, we the undersigned duly authorized representatives of the Northern Ohio Painting and Taping Contractors Association, Inc., and District Council No. 6, International Union of Painters and Allied Trades, hereunto affix our hands as such representatives for and in behalf of such organizations, their officers and agents and members, at Cleveland, Ohio on this first day of May 1, 2005.

DISTRICT COUNCIL NO. 6 & INTERNATIONAL UNION OF
PAINTERS AND ALLIED TRADES AFL/CIO

NORTHERN OHIO PAINTING AND TAPING CONTRACTORS
ASSOCIATION, INC.

Terrance J. Conroy
Jeffery Newbould
Terrence O'Neil
Stephen Protz III

Brendan J. McGarry
Brad Pinchot
Guy Reph
Mike Ritenour