

**POINTER, CLEANER, CAULKER  
COLLECTIVE BARGAINING AGREEMENT**

**BY AND BETWEEN**

**NORTHERN CALIFORNIA PCC/RESTORATION  
CONTRACTORS ASSOCIATION, INC.**

**AND**

**BRICKLAYERS AND ALLIED CRAFTWORKERS  
LOCAL UNION NO. 3, CA**

**JULY 1, 2015 THROUGH JUNE 30, 2018**

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**AGREEMENT**  
**July 1, 2015 - June 30, 2018**

PCC / POINTER CLEANER CAULKER – MASONRY RESTORATION – WATERPROOFING

THIS AGREEMENT made and entered into this 1<sup>st</sup> day of July, 2015, by and between the THE NORTHERN CALIFORNIA PCC/RESTORATION CONTRACTOR'S ASSOCIATION, INC. (hereinafter referred to as the "ASSOCIATION") for and on behalf of all employers who have designated the association as their bargaining agent, any independent employer separately signatory hereto, and BRICKLAYERS AND ALLIED CRAFTWORKERS LOCAL UNION NO. 3 of California (hereinafter the "Union"). The term "employer" or "employers" as used herein shall mean any employer who has designated the Association as its bargaining agent and any independent employer separately signatory hereto. Each and every employer, including members of the Association and employers who have an Agreement with the International Union of Bricklayers & Allied Craftworkers, shall be required to individually sign a copy of this Agreement.

PCC Labor-Management Cooperation Committee - (PCC LMCC)

The parties agree to establish a committee composed of equal number of representatives of labor and employers who shall meet quarterly to consider methods of carrying out its purposes which shall include but not be limited to the following:

- A. To improve overall communications and disseminate pertinent information between the parties;  
and
- B. To seek ways of dealing with problems of mutual concern which are detrimental to the advancement and economic development of the masonry industry; and
- C. To do what is lawfully possible to promote union masonry construction, recognizing the mutual threat of unfair competition; and
- D. To assist Employers and the Union to achieve job site safety; and
- E. To explore joint approaches to achieving organizational effectiveness.

Labor and management will make a good faith effort to meet quarterly.  
"The above agreement does not relieve Union of obligation to enforce Union agreement."

Journeyman and Apprentice Training and Safety Certification Program

Union agrees to provide and fund from package, with no additional contributions from employers signatory to this agreement, a Journeyman Training and Safety Certification upgrade program.

The Union will create the following programs and Journeymen and Apprentices will be required to attend a minimum of 24 hours annually of safety training on the following programs or other training approved by the LMCC. The following certifications, programs and safety training compensation may be changed by mutual agreement of the PCC LMCC. BAC Local 3 signatory contractors may request employee compensation for approved training at the amount currently determined by the LMCC.

- 1. Respirator fit test (funded and regulated through the PCC LMCC)
- 2. First Aid and CPR training and certification
- 3. Fall protection training and certification
- 4. OSHA 10 hour training and certification
- 5. Scaffolding, rigging and safety certification
- 6. Aerial lift training and certification
- 7. Recurrent training so members remain current in all certifications listed above.

New members and traveling members shall be given sufficient time to meet training requirements.

The foregoing programs will be incorporated into the existing Apprenticeship Program and Apprenticeship Standards. During the time period covered by this Agreement, the training will be funded from the economic package established by this Agreement and will not require any additional contributions from the employers signatory to this agreement.

The parties will work together with the JATEC, and will use their best reasonable efforts, to create and implement this training. The parties will also work together with the JATEC to include in the JATEC's Apprenticeship Standards, a requirement that all apprentices complete the above-listed training and certifications as a condition of their apprenticeship. The Union will also use its best reasonable efforts to inform Journeymen of the training, make it available to them, and encourage them to participate in it. The Union's efforts with regard to the training shall not relieve any contractor from its legal obligations under federal, state or local law, nor shall the Union incur any liability therefore.

Participation in above programs is considered mandatory by Employers. Employer may refuse referrals with no show up pay, or, discharge current employees that do not participate in programs or achieve certifications.

## **ARTICLE I RECOGNITION**

This Agreement shall be binding upon all Employers identified by the Association as having designated the Association as their bargaining agent with the same force and effect as if this Agreement had been signed by each such Employer individually. The Association shall notify the Union by certified mail of the identity of any Employer who either designates the Association as its bargaining agent or who withdraws such designation. Notice of withdrawal of designation by an Employer shall not serve as notice to the Union of the Employer's intent to terminate or amend this Agreement and such an Employer shall remain bound by this Agreement.

Each Employer expressly acknowledges that they, and each of them, have satisfied themselves that the Union represents a majority of employees employed to perform bargaining unit work and agrees that the Union is the collective bargaining representative of such employees. The employer has recognized the Union as the Section 9 (a) majority collective bargaining representative for all of the Employer's Employees performing unit work based upon a showing by the Union of, or based upon an offer by the Union to show evidence that a majority of the Employer's employees authorize the Union to represent them in collective bargaining. The employer further agrees that it is establishing, or has previously established a collective bargaining relationship by this Agreement within the meaning of Section 9 of the National Labor Relation Act of 1947 as amended. The Employer recognizes the Union as the sole and exclusive bargaining agent for all employees performing work within the jurisdiction of said Union as specifically stated herein. The Union recognizes the Association as its own bargaining agent and as the bargaining agent for any company authorizing the Association to bargain on its behalf.

A duly accredited representative of the Union shall have the right to visit the jobsite for the purpose of talking with covered employees including but not limited to the investigation of complaints, grievances, etc., during work hours, in a manner that does not unreasonably interfere with the work assigned to employees. The contractor shall notify the Union of all current projects and upcoming projects when requested by the Union. There shall be no discrimination against anyone for the enforcement of this Agreement.

## **ARTICLE II DURATION – TERMINATION – AMENDMENT**

This Agreement shall become effective on July 1, 2015 for the Association, its members and for

all independent Employers and shall continue in full force to and including June 30, 2018, and shall be automatically continued year to year thereafter unless written notice of intent to terminate this agreement or to negotiate a new agreement, in whole or part, is given in writing by either party not less than sixty (60) days nor more than ninety (90) days prior to the expiration date or any anniversary date thereafter. The Union and the Association may at any time mutually agree to change or amend any part of this Agreement and such changes or modifications shall not affect the continuing nature of this Agreement. During all the time of negotiation for changes and until the completion and signing of a new agreement, this Agreement shall remain in full force and effect. All employers that are not members of the Association hereby agree to be bound by any such amendments or any new agreement entered into by the Association and the Union.

It is mutually agreed that any amendments to this agreement by the Association and the Union shall be binding on every employer bound by this agreement and on the Union. This Agreement may only be amended or modified by a written document signed by both the Association and the Union. Any past, current or future practice which is inconsistent with the terms of this Agreement shall be void and of no effect.

The parties agree to discuss issues related to apprenticeship contributions and the establishment of the PCC Labor Management Cooperative Committee during this Agreement if either party requests. Any agreement reached shall be made part of this Agreement.

### **ARTICLE III JURISDICTION OF THIS AGREEMENT AND SCOPE OF WORK**

**Section 1. Geographic Jurisdiction.** This Agreement shall cover any new construction, maintenance, repair and renovation within the geographic jurisdiction of Bricklayers and Allied Craftworkers Local No. 3 within the following 45 California Counties: Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tuolumne, Yolo, and Yuba.

**Section 2. Work Jurisdiction.** The scope of work covered by this Agreement includes the following, but is not limited to:

- A. All washing down, cleaning, caulking, pointing and weatherproofing of brick, stone or marble work shall be performed by Pointer, Cleaner, Caulkers; including caulking and cleaning of all types of masonry (including precast masonry and concrete panels) and caulking of all window frames encased in brick, stone, concrete or other masonry.
- B. All grinding and cutting out of brick, stone, marble, or other masonry joints and replacing of joints only. Replacing, pointing, patching, dutchman patching of brick, stone, terracotta, and all masonry materials.
- C. Installation of all types of sealants including but not limited to: epoxies, silicones, and urethanes. Application of all clear weatherproofing and waterproofing materials used in pointing, cleaning, caulking, weatherproofing, waterproofing and expansion joints on all types of construction and shall cover the following but not limited to: Concrete, Brick, Concrete Block, Marble, Stone, Tile, Precast Concrete, Glass Fiber Reinforced Concrete, Exterior Insulated Finish System, Plaster, Metal Windows, Storefronts, Curtain Wall, Glass Blocks, Hollow Metal, Fire Caulking, rainscreen walls and Caulking of Cementitious Panels.
- D. This Agreement shall cover all epoxy injection, epoxy grouting, epoxy coatings, and epoxy sealants. All above grade weatherproofing and waterproofing, deck coatings and below grade damproofing.
- E. The assembly and hanging of all types of hanging platforms, baskets, boatswains chairs etc., including: setting up guard rails, electric motors, wire rope cable, rope falls, electric cables and

other miscellaneous swing staging equipment. Installation of C-hooks, out riggers, beams, counter weights, parapet clamps and the like. All rigging and safety tie backs, installation of lifelines and other fall arrest procedures and equipment. All moving and relocation of power suspended platform equipment. The operation of man-lifts, hydraulic scaffolding and aerial lifts. This agreement shall cover all products or new systems relating to the aforementioned hanging or aerial equipment.

- F. The chemical cleaning, water blasting, steam cleaning, other types of power washing and hand cleaning. Dry cleaning, sand blasting, power cleaning with limestone dust and crushed glass, etc. Installation and operation of all systems that collect any material after use. Paint stripping, chemical or mechanical. Mixing mortars, striping, drilling, pinning, and anchoring masonry material. Selective captured demolition for replacement with same or like material, and rebuilding of masonry., Torch cutting and welding, shelf angle and lintel replacement, flashing and epoxy anchoring as related to masonry repairs. Brick, stone, and concrete restoration and patching - including all preparatory work, chipping, sawing, clean-up and coating. Masonry and concrete chimney and smoke stack repair, terra cotta repairs and replacement, toothing of brick and stone, application of clear repellent waterproofing, application of cement base or acrylic coatings on masonry materials. Mold making and fabrication of specialty masonry and stone items. Installation of fiberglass, plastic gypsum, reinforced concrete, pre-cast, GFRC, and vinyl substitutes etc. when being replaced or substituted for masonry materials.
- G. Application of carbon fiber, epoxy fabric wrap and banding systems for the restoration and retrofit on concrete or masonry.
- H. In addition, this Agreement shall cover all other assignments mutually agreed upon by the Parties to this Agreement on any other building products or systems related to the scope and type of work covered by this Agreement that are determined by the Parties to fall within the work jurisdiction of this Agreement
- I. The Union and signatory Contractors recognize that a portion of the work described, (excluding B), in this Agreement is claimed by other Unions. Where necessary to avoid jurisdictional disputes, the Employer and the Union shall mutually agree upon establishing a composite crew for the work in question.

#### **ARTICLE IV MANAGEMENT RIGHTS AND EMPLOYEE HAND TOOLS**

**Section 1.** Except as otherwise provided herein, the employer shall have the right to hire, discharge from employment, and direct the work force, and manage its business in accordance with its best judgment, including but not limited to the right to exercise complete and exclusive control, management and operation of the employer's equipment and personnel, the location and layout thereof and the determination of the nature and scope of the employer's activities and methods pertaining thereto; the right to introduce new and to modify procedures, methods, processes, facilities and equipment and to make technological changes; the right reasonably to maintain order, safety, security and efficiency and to promulgate, publish and enforce such reasonable rules which in the discretion of management are necessary.

**Section 2.** All workmen shall furnish their own hand tools which include but are not limited to the following: Margin Trowels, Brushes, Sheffields, Sheet Rock Knives, Manual (no power) Caulking Guns, both bulk and cartridge types. The employer shall provide a lock box or safe place to store tools. Workmen who voluntarily furnish a truck for the purpose of transporting material or equipment shall be compensated at the rate of twenty dollars (\$20.00) per day, plus fuel expense as mutually agreed between the Employer and Employee at a reasonable amount.

## **ARTICLE V UNION SECURITY**

**Section 1.** All employees covered by this Agreement, shall, as a condition of employment, become members of and maintain membership in the Union after the seventh (7th) day of employment following the beginning of such employment, or following the execution of this Agreement, whichever is later. In the event any employee fails to become a member of the Union after such seventh (7th) day of employment, the Union may notify the employer. In the event the employer receives such written notification from the Union and a request that the employee be discharged, the employer shall discharge said employee within twenty-four (24) hours. In the event the employer refuses to discharge the employee as above required, the Union shall be free to take such matter to the Joint Board as described in Article XIV and to seek recovery from the employer of all fees and dues not paid by the employee. A failure by the Union to notify the employer that an employee has not become a member of the Union or the failure of any employee to become a member of the Union shall not affect the liability of the employer to comply with all of the terms and conditions of this Agreement, including making all wage and fringe benefit payments required by this Agreement for said employee as are required for any employee who is a member of the Union.

## **ARTICLE VI TRAVELING CONTRACTORS**

When the Employer has any work specified in Article III of this Agreement to be performed outside of the area covered by this Agreement, the Employer agrees to abide by the full terms and conditions of the agreement in effect in the jobsite area. Employees who are members of the Union who are sent to projects outside of the area covered by this Agreement shall be paid the fringe benefit contributions specified in the jobsite local agreement plus the greater of: (a) the established hourly wage rate specified in Article VIII of this Agreement; or (b) the established hourly wage rate of the jobsite local agreement covering the territory in which such work is being performed. The Employer shall in all other matters be governed by the provisions established in the jobsite local agreement. If employees are sent to work on a project in an area where there is no local agreement covering the work specified in Article III of this Agreement, the full terms and conditions of this Agreement shall apply.

## **ARTICLE VII PRESERVATION OF WORK (Anti-Double Breasting)**

**Section 1.** In order to protect and preserve, for the employees covered by this Agreement and all work heretofore performed by them, and in order to prevent any device or subterfuge to avoid the protection and preservation of such work, it is hereby agreed as follows: if and when the Employer performs any work of the type covered by this Agreement under its own name or under the name of another, as a corporation, company, partnership, or any other business entity, including a joint venture, wherein the Employer (including its officers, directors, owners, partners or stockholders) exercises either directly or indirectly (such as through family members) any significant degree of management or control, the terms and conditions of this Agreement shall be applicable to all such work. In interpreting the above clause, the purpose and spirit is to preclude the Employer from circumventing the Agreement by the formation of joint ventures, new corporations, firms, partnerships or by any other paper transactions.

This Agreement shall be binding upon the heirs, executors, successors, and assigns of the Employers and the Union.

**Section 2.** All charges of violations of Section 1 of this Article shall be considered as a dispute under this Agreement and shall be processed in accordance with the procedures for the handling of grievances and the final binding resolution of disputes, as provided in Article XV of this Agreement. As a remedy for violations of this Section, the Joint Board (or arbitrator) provided for in Article XV is empowered, at the request of the Union, to require an Employer to (1) pay to affected employees covered by this Agreement,

including registered applicants for employment, the equivalent of wages lost by such employees as a result of the violations, and (2) pay into the affected joint trust funds established under this Agreement any delinquent contributions to such funds which have resulted from the violations, including such interest as may be prescribed by the trustees or by law. Provision for this remedy herein does not make such remedy the exclusive remedy available to the Union for violation of this Section; nor does it make the same or other remedies unavailable to the Union for violations of other sections or articles of this Agreement.

**Section 3.** If, as a result of violation of this Article, it is necessary for the Union and/or the trustees of the joint trust funds to institute court action to compel the employer to submit to the grievance procedures set forth in Article XV or to enforce an award rendered in accordance with this Article, or to defend an action which seeks to vacate such award, the Employer shall pay any accountants' and attorneys' fees and costs incurred by the Union and/or the fund trustees, plus costs of the litigation, which have resulted from the bringing of such court action.

## **ARTICLE VIII CHECKS, PAY PERIOD, WAGES AND CONTRIBUTIONS**

**Section 1.** All employees working under this Agreement shall be paid on a regular printed payroll check before quitting time and within ninety six (96) hours after the closing of the pay period for the week. An employee being laid off shall be given his or her final paycheck in full for all hours of employment one and one-half (1½) hours before lay-off.

**Section 2.** The right to pay by regular check shall be denied any employer whose checks fail to be honored and Employer may be required thereafter to pay by a bank certified check and/or cash.

**Section 3.** The total hourly wage package including all fringe contributions for workmen covered by this Agreement shall be those rates set forth in Appendix A.

Each Employer shall maintain all records necessary to ascertain the identity of employees on each job, the type of work performed on each job, the number of hours worked by each employee on each job, and the wage and fringe benefit amounts paid by the Employer for each such employee on each job. It shall be presumed that work was payable at the rate set forth in Appendix A. If the Employer fails to maintain and keep adequate records from which the auditor for the Bricklayers Local No. 3 Trust Funds can ascertain which fringe benefit payments must be made and determine which rate was applicable, the rate set forth in Appendix A shall apply.

**Section 4.** Should the Union at any time during the existence of this Agreement grant more favorable conditions to any contractor, the Union agrees to grant those same conditions to all contractors signatory to this Agreement.

**Section 5.** All hours worked in excess of eight (8) hours per day and forty (40) hours per week and all hours on Saturday shall be paid at one and one half (1½) times the total taxable wage rate. All hours on Saturday after ten (10) hours will be paid at two (2) times the total taxable hourly wage rate. All hours worked on Sundays and Holidays shall be paid at two (2) times the total taxable wage rate. On all overtime (whether time and a half or double time) only the Vacation and Union Administration for the hours worked shall be deducted and paid into the Vacation and Union Administration Funds.

**Section 6.** On new work only; an employee working from a swing stage, scissor, fork or other mechanical or hydraulic lift on a building or when OSHA required fall restraints are required to be worn shall receive a premium four dollars (\$4.00) per hour above their hourly net wage rate for each hour worked on such equipment. High pay is described as work performed above two (2) floors from the ground on each elevation.

**Section 7.** Parking will be payable as follows at all job sites in the areas where free off-street parking is not available and/or where parking meters are in effect. The employee shall be paid his actual parking

expenses. Employees must be prudent in selecting the least expensive parking facility within six (6) blocks of the job site. The employee must provide the Employer with valid parking receipts. Bridge tolls will be payable to the employee upon presentation of receipts. BART/public transportation reimbursement shall be paid in lieu of parking, unless free parking is provided and available.

**Section 8.** All employees working under this Agreement must be paid with a regular printed payroll check on the job, if the men are working, or at a mutually agreed place, if the men are not working, and in either case not later than the sooner of one-half (1/2) hour before the end of the regular eight hour day or 4:00 P.M. weekly, excepting however, when designated payday falls on a holiday the men will be paid on the day prior thereto. In no event shall the employer hold back more than four (4) days' wages. When employees are discharged or laid off, they must be paid in full, one-half ½ hour prior to the final time on the job or they must be allowed adequate time from the job to the office where payment is to be made on the day of termination. In the event payday is not observed as herein stated, the employer will pay to the employee waiting time as per schedule rate of wages per day for each day or portion thereof (not to exceed seven (7) or eight (8) hours for each twenty-four (24) hour period) until the pay is actually received by the employee, not to exceed thirty (30) days.

If an employee receives a check that is returned from the bank as uncollectible, then the employee shall be paid waiting time at the regular straight time rate for each working hour of waiting until such check is honored, not to exceed thirty (30) days, plus all other charges incurred by said employee regarding payment of the check.

Each payroll check shall separately report on it at least all of the following information:

- A. The number of hours worked during the pay period at straight time and overtime rates,
- B. Rate as described in Section 3 of this Article, is the basis for determining the amount of pay due to the employee; and,
- C. All amounts deducted for vacation, union administration and taxes.

**Section 9.** The union shall have the right to allocate all increases.

**Section 10.** Employees shall be entitled to 10 minute paid rest periods and 30 minute unpaid meal / lunch periods in accordance with the California Labor Code and Wage Order #16 and heat illness recovery periods authorized by the California Labor Code and the California Code of Regulations. Any dispute regarding an alleged failure to provide rest periods, meal periods or heat illness recovery periods as required by this Section or California law shall, except as otherwise provided in this section 10, be resolved in accordance with Article XV (Grievance Joint Board And Arbitration) and shall not be the subject of a civil lawsuit, a Labor Commissioner complaint or any other legal proceeding. Any employee who does not receive meal periods, rest periods or heat illness recovery periods as provided in this paragraph shall be entitled to whatever remedy, damages or penalty is provided in the California Labor Code, by Wage Order #16 or the California Code of Regulations.

Employees may pursue claims for meal period, rest period and heat illness recovery period violations before an impartial arbitrator, in accordance with Article XV, Section 1(D), as if there has been a deadlock of the Joint Board, without regard to the Union's position and the only time limits for commencing such an arbitration shall be the applicable statute of limitations and not the time limits set forth in Article XV.

## **ARTICLE IX HIRING PREFERENCE**

All Employers signatory to this Agreement agree that the exclusive source for the employment of employees covered by this Agreement shall be the Union. The Union shall maintain a non-discriminatory hiring and dispatch procedure consistent with the requirements of the National Labor Relations Act and the Equal Employment Opportunities Act. In the event the Union is unable to supply an employee within two

(2) business days after a request for employees by an employer, the employer shall be free to hire employees from any source. All employers engaged in any construction work within the geographic jurisdiction covered by this Agreement, shall, in hiring workmen covered by this Agreement, give preference to persons residing or normally employed in the geographic area covered by this Agreement. Nothing in this agreement shall preclude any union member from soliciting his/her own job.

## **ARTICLE X FOREMEN**

**Section 1.** Foremen shall be selected by and be the representative of the employer and shall be a journeyman mechanic of the trade they supervise.

**Section 2.** Foremen supervising four (4) or more employees shall receive three dollars and fifty cents (\$3.50) per hour above the journeymen's wage rate. Foreman supervising eight (8) or more employees shall receive five dollars and fifty cents (\$5.50) per hour above the journeymen's wage rate. The number of covered employees to be supervised by a working foreman is subject to the employer's discretion. There shall be but one foreman over a crew. No employee shall receive orders from any person other than the foreman, and when shifts are being worked, no foreman shall work or have charge of more than one shift. Each shift shall have its own foreman; and all foremen shall hire and discharge the men on their crew or shift.

**Section 3.** Any Employer whose principal place of business is located outside the geographic area set forth in Article III of the Agreement shall be permitted to bring with him one foreman. Such foreman's wages and fringes shall be the higher of those set forth in this Agreement or the home local agreement. Fringe payments shall be made to Bricklayers Local 3 fringe benefit trust funds, and shall be, to the extent provided for in any reciprocal agreements entered into by the trust funds, transferred to each employee's home local fringe benefit funds. All other employees hired by the outside employer shall be referred by the Union. Outside employers shall report all jobs within the jurisdiction of the Union to the Union at least twenty-four (24) hours prior to the start of said job.

## **ARTICLE XI APPRENTICES**

**Section 1.** In order to train sufficient skilled mechanics for the industry, the Parties to this Agreement recognize and encourage the necessity for employment of apprentices. It is understood and mutually agreed that the employment of apprentices shall be in accordance with the standards adopted by the Joint Apprenticeship Training Education Committee (JATEC), which are incorporated herein by reference. There must be (3) three journeypersons on each job where apprentices are employed. Each shop must maintain a ratio of three times the journeyperson hours to apprentice hours. Any deviations must be approved by the JATEC.

**Section 2.** For apprentice wages and fringe benefits, refer to Appendix A.

Apprentices shall receive one dollar (\$1.00) per hour to be remitted to the Defined Benefit Pension Plan when they attain 60% status with the JATEC. All Apprentice Health and Welfare contributions shall be equivalent to the Journeyman Health and Welfare contribution.

**Section 3.** The standards adopted by the Local Joint Apprenticeship Training Education Committee (JATEC) established by this Agreement are made part of this Agreement.

**Section 4.** Each monthly contribution to the Apprenticeship Fund shall be made promptly and if not paid in full by the date required in this Article and Article XIII the employer shall be delinquent and subject to liquidated damages in accordance with Article XIII.

**ARTICLE XII  
UNION DUES CHECK-OFF**

The employer shall deduct from the basic hourly pay of each employee who has signed a check-off authorization conforming to applicable law, and transmit monthly on the fringe contribution report form, listing the name and social security number of the employee and hours worked, to the administrator designated to collect such deduction, the sum provided in this Agreement for each hour worked. The dues check-off deduction for journeymen will be higher than the amount shown above for apprentices.

**ARTICLE XIII  
TERMS COMMON TO ALL B.A.C. LOCAL #3 TRUST FUNDS**

**Section 1. TRUST FUNDS**

- A. All employers shall be required to submit to the Trust Funds, on a form provided by the Trust Funds, a contribution report form each and every calendar month, signed by the employer, regardless of whether that employer had any employees for that particular month, together with payment for fringe benefits so reported. The report must be mailed (postmarked) to the Trust Funds, to be postmarked on or before the fifteenth (15<sup>th</sup>) day of the calendar month following the month in which such hours were worked. The Contribution Report Form shall contain the information described in paragraph C of this Section 1.

The employer shall pay all fringe benefits for each hour worked by each employee on all work covered by this Agreement, regardless of whether or not the employee is a member of the Union. The fringe benefit payments will be made to the appropriate trust fund, associated with the Union, for the fringe benefits described in Appendices A and B. The employer agrees to and shall be bound by all the terms and conditions, including any amendments hereafter made, to those trust agreements governing the trusts which sponsor or administer the pension, welfare and other benefits provided in this agreement, including, but not limited to, the Bricklayers And Allied Craftworkers Local No. 3 Health And Welfare Trust, the Bricklayers Local 7 Pension Trust, the Bricklayers Local No. 3 Pension Trust, the Bricklayers And Allied Crafts Local No. 3 Apprentice Training Trust and the International Union Of Bricklayers And Allied Craftsmen Pension Fund. The terms of this Article XIII shall apply to each and every Trust Fund referenced in this Agreement. Each employer hereby agrees that it does irrevocably designate and appoint the Association, the Northern California Mason Contractors Multi-Employer Bargaining Association, its member associations and the employer-appointed trustees of the Trust Funds listed in the preceding sentence as its attorneys in fact for the selection, removal and substitution of trustees as provided in the Trust Agreements as may be provided by or pursuant to said Trust Agreements.

- B. The Union and/or each Trust Fund, shall be entitled to and may file a legal action to compel production of monthly reports, to compel production of payroll records and other relevant records for audit, and for the collection of any and all wages, fringe benefit contributions, Industry Funds and liquidated damages and interest due and owing by the employer and thereafter may settle or compromise such legal action. In the event it is necessary for the Union or the Trust Funds to obtain legal counsel for any of these purposes, the Union or the Trust Funds shall, in addition to recovering payments of all amounts due and the legal rate of interest thereon, also be entitled to recover from the employer their reasonable attorney's fees and costs incurred, whether or not any lawsuit is ever initiated. Each Trust Fund and the Union may institute legal proceedings described in the first sentence of this Section 1 (B), including the filing of a lawsuit, without having the matter first heard and determined by the Joint Board.
- C. Each monthly contribution to the Trust Funds shall be postmarked and mailed on or before the fifteenth (15<sup>th</sup>) day of the calendar month following the month in which such hours are worked. If not postmarked by the fifteenth (15<sup>th</sup>) day of the month, the contribution will be considered to be

delinquent and subject to liquidated damages and interest. Each employer shall also prepare a monthly transmittal covering each employee who performs work subject to this Agreement setting forth the following information: Name of each employee, each employee's Social Security Number, the number of hours worked by each employee in the appropriate geographical location, whether the employee is an apprentice or journeyman, and the gross amount of fringe benefits payable. It shall be the responsibility of the employer to make sure the monthly contribution and report form is postmarked by the Post Office on or before the fifteenth (15<sup>th</sup>) day of the month. If such envelope containing the contribution and report form is postmarked after the fifteenth (15<sup>th</sup>) day of the month, such report form and contribution shall be considered delinquent, the employer shall be in breach of this Agreement and liquidated damages shall be assessed. The Association, NCPA and the Union recognize and acknowledge that the regular and prompt payment of employer contributions and report forms is essential to the maintenance of the Trust Funds, and it would be extremely difficult, if not impractical, to fix the actual damage and expense to the Trust Funds which would result from failure of any employer to pay such monthly contributions and furnish contribution forms within the time provided. Therefore, the amount of liquidated damages to the Trust Funds resulting from any such failure shall be presumed to be the sum of one hundred dollars (\$100.00) or ten percent (10%) of contributions reported as due, whichever amount is greater. If the delinquency persists over thirty (30) days, the charge will be twenty percent (20%) of the amount due. Such amount shall become due and payable to the Trust Funds by the delinquent employer as liquidated damages and not as a penalty and payable at the place where the contribution is payable on the day immediately following the date on which the contribution became delinquent. In addition to such liquidated damages, the delinquent employer shall also be liable for interest, calculated at 10% per annum, on the amount of the delinquent contributions.

- D. No employer who is delinquent in contributions due under this Agreement shall be entitled to employ, continue to employ, or request the dispatch of craftworkers under this Agreement.
- E. The Trustees of each Trust Fund shall have the authority to require any employer, employee, Union or Association signatory to or covered by this Agreement to submit to it any information, data, reports or documents reasonably relevant to and suitable for the purpose of administration of the Trust Fund(s). Upon request by the Trust Fund, each employer signatory hereto shall permit an auditor selected by the Trust Funds to enter upon the premises of such employer at a reasonable time or times and to examine the payroll records, the Federal and State Quarterly Contribution Reports and all other records requested by the auditor as necessary to conduct its inspection. Upon request by the Trustees, each employee covered under this Agreement shall permit an auditor, selected by the Trust Fund(s), to examine the Federal and State Income Tax Returns, W-2's and other documents requested by the auditor to determine whether the employer or employers of such employee have made full and complete payment of all contributions required by this Agreement. In the event it is determined as a result of such examination that an employer has failed to make full and complete payment of contributions required by this Agreement, then said employer, in addition to immediately paying all amounts found due and owing, including liquidated damages and interest, shall forthwith pay all costs incurred for said examination in addition to any other payments required by this Agreement. The Association, Union, Trust Funds and employers agree that they will use their best efforts to secure compliance with any reasonable request made by any Trust Fund, the Union or the NCPA for any information, data, reports or documents described in this paragraph.
- F. Reciprocal Agreements permit the payment of certain fringe benefit contributions to the home area of any employee temporarily working in this jurisdiction. Reciprocity payments shall be made in accordance with such Reciprocal Agreements that are agreed to by the Trustees of each Trust Fund. Where Reciprocal Agreements relating to any Trust Fund mentioned in this Agreement are entered into, the Trustees of said Trust Fund are authorized to pay to or collect from the trust funds associated with other local unions in accordance with the Reciprocal Agreement.

- G. With the exception of the Industry Fund, and Cash Bond Deposits, should any of the above Funds be discontinued for any reason, the contribution to such discontinued Fund of Funds shall be added to the wage rate.

**ARTICLE XIV  
SURETY BOND**

**Section 1. SURETY BONDS**

- A. In order to secure payment of (1) wages, (2) liquidated damages or (3) employer contributions any other financial obligations of the employer, under this agreement, each and every employer shall obtain a bond in the amount of ten thousand dollars (\$10,000.00). An exit audit may be required of all contractors to determine that all amounts have been properly paid to the Union and/or Trust Funds pursuant to the terms of this Agreement.
- B. If a surety bond company is used to comply with this guarantee, such company must be acceptable to the Trustees. This bond must be evidenced by completion by the employer and its surety of the bond form attached to this Agreement. A bond containing terms different in any manner from that of the bond form attached to this Agreement is not acceptable. Said bond shall be filed with the Trust Funds' administrator.
- C. Active employers leaving this jurisdiction, or retiring from business may, upon request to the Board of Trustees, be granted inactive status and removed from the monthly mailing list. A condition required for inactive status is that the employer notify the Union if he/she returns to active status in this jurisdiction.
- D. If an employer on inactive status does not notify the Union within one (1) day after commencing work in this jurisdiction, he will be liable for liquidated damages at the rate of twenty dollars (\$20.00) per month or ten percent (10%) of all contributions due during his first month of work, whichever is greater, for each month from the date inactive status was granted to the date notice is given.
- E. Upon return to active status from inactive status, the employer further agrees to renew a surety bond for ten thousand dollars (\$10,000.00) from an approved surety company.
- F. In the event (1) an employer is not located in this jurisdiction and starts work on a project covered by this Agreement, which project will, in the opinion of the Trustees, be likely to be completed before the Trust Fund contribution report is required to be filed, or (2) an employer fails to pay Trust Fund contributions when due, or (3) an employer's unpaid Trust Fund contributions exceed the bond that has been posted pursuant to this Agreement, the Trustees, in their discretion, may require any such employer to furnish to the Trustees a surety company bond in the amount of twenty-five thousand dollars (\$25,000.00) to guarantee payment of contributions, liquidated damages, and delinquency charges under this Agreement, in addition to the bond hereinabove described. As an alternative to the surety company bond described above, the Trustees may require of the employers described in (1), (2), or (3) above to file contribution reports and pay contributions weekly after five (5) days' notice to such employers by the Health & Welfare Fund Trustees.

**ARTICLE XV  
GRIEVANCE JOINT BOARD AND ARBITRATION**

**Section 1.**

- A. It is mutually agreed that during the term of this Agreement, the Union will not initiate, authorize or condone any strike, slowdown, or stoppage of work involving any disputes, complaints or grievances arising under or out of the terms and conditions of this Agreement; nor will any employer engage in any lockout or work stoppage. However, notwithstanding anything in the preceding sentence to the contrary, it shall not be a violation of this Agreement for employees, without any recourse to the grievance or arbitration procedures set forth in this Article, to engage in a work stoppage, strike or concerted refusal to work for any employer who fails to pay the wages and/or benefits as set forth in this Agreement or in any other agreement with the Union, or any payroll taxes, after 48 hours written notice from the Union that the employer is in default. In addition, notwithstanding anything in the first sentence of this paragraph 1(A) to the contrary, it shall not be a violation of this Agreement for employees to engage in a work stoppage, strike or concerted refusal to work for any employer who fails to abide by any award, ruling or decision rendered pursuant to the grievance and arbitration process set forth in this Article.
- B. There is hereby established a Joint Board which shall consist of four (4) members, two (2) selected by the Union and two (2) selected by the Northern California PCC/Restoration Contractors Association. The Joint Board shall meet at such time as it may decide; however, it shall meet within two (2) days after written notice by either party to all four (4) members of the Joint Board. The Joint Board shall require two (2) NCPCA representatives and two (2) Union representatives present for a quorum to conduct business. All actions of the Joint Board shall require majority approval of the Joint Board. The members of the Joint Board shall select one of its members as Chairman and one of its members as Secretary. However, when the Chairman is selected from among the Union representatives, the Secretary shall be selected from the NCPCA representatives and vice versa. The Joint Board may extend the time limits set forth in paragraphs B and D of this Article
- C. The Joint Board shall have authority to hear and determine all grievances and disputes arising under the terms of this Agreement. The Joint Board shall not have the power to amend, change, or add to this Agreement. The Joint Board shall have the power to assess damages, require the enforcement of all provisions of this Agreement, order the cessation of practices in conflict with this Agreement, recommend to the Trustees of the Health & Welfare Trust Fund an assessment against the cash bond deposit furnished by an employer, and grant other remedy to effectuate this Agreement.
- D. Decisions by the Joint Board shall be rendered within one (1) day after the matter is heard by the Joint Board. In the event that the Joint Board is deadlocked or fails to act within the time hereinabove specified, an impartial member shall be selected by mutual agreement, however, if no agreement is reached, such impartial member selected shall be selected under the provisions set forth by the American Arbitration Association and the cost of such arbitration shall be borne equally by all parties involved in the matter before the arbitrator. All decisions of the Joint Board or decision of an impartial member, in the case of arbitration, shall be final and binding on the Union, the employers and all persons bound to or signatory to this Agreement.
- E. Except as otherwise provided in this Agreement, the Union, the Association, or the affected employer shall present to the Joint Board all facts concerning a possible violation of this Agreement within forty (40) working days of the event(s) giving rise to the alleged violation. All charges must be presented in writing and included with notice of the meeting of the Joint Board to all members of the Joint Board. All alleged violations of this Agreement by anyone covered by this Agreement must be presented to the Joint Board for determination prior to any action or actions being taken by the Union, except for the following reasons:

- a. Failure to pay wages
  - b. Furnishing a check that is unable to be negotiated (NSF)
  - c. Delinquent in contributions required by this Agreement
  - d. Failure to comply with the cash bond requirements of this Agreement
- F. Anyone covered by this Agreement who is accused of violation of this Agreement must be presented with a copy of the alleged violations at the time the person is notified to appear before the Joint Board to answer such charges. Such notice shall be served at least two (2) days prior to such meeting of the Joint Board and shall be sent by Certified Mail with return receipt requested and such notice of the meeting shall give the time and place of the meeting of the Joint Board. After the Joint Board has heard the testimony of the accused violator and has provided an opportunity for the accused violator to appear before the Joint Board or answer the alleged violations in writing, the Joint Board shall make a determination of the dispute. If the Joint Board determines that the accused has violated this Agreement, the Joint Board may assess damages against the violator. The amount of assessed damages shall be determined by the Joint Board in accordance with the damages suffered by the masonry industry through actions of the violator and the seriousness of the violation. Any assessed damages collected shall be deposited into the Cash Bond Fund administered by the Health and Welfare Trust Fund.
- G. Any grievance or dispute involving this Agreement shall be referred by the Union to the Employer involved. In the event these parties are unable to adjust the matter, the Union shall present such dispute to the Joint Board in accordance with Section F hereinabove.
- H. It shall not be a violation of this Agreement for the Union to refuse to man any job or withdraw its members from any job of any employer who has been found in violation of this Agreement by the Joint Board or the impartial arbitrator and when the employer refuses to comply with the decision of the Joint Board or impartial arbitrator.
- I. In the event of any grievance where any party requests books or records, and in the opinion of the Joint Board the production of such books and records would be deemed relevant, and would assist in the disposition of the grievance, such books and records shall be brought to the meeting of the Joint Board. This request shall be written and such books and records will be made available for the inspection and perusal by the parties.

## **ARTICLE XVI SUBCONTRACTING**

**Section 1.** All employers signatory to this Agreement covenant and agree that they will notify subcontractors who perform the kind of work to which this Agreement is applicable, of the terms and conditions imposed by this Agreement and shall require that said subcontractors be bound by this Agreement. Said subcontractor shall be bound by the terms and conditions of this Agreement including, but not limited to, the payment of all wages and fringe benefits set forth in Article VIII of this Agreement. This section will not apply to the assembly or installation of scaffolding (Article III, Section, 2. E).

All work covered by this Agreement, whether performed by members of the Association, or by signatory employers who are not members of the Association, or by any person, firm, partnership, corporation, joint venture or other entity, whether or not a signatory employer to this Agreement, for or on behalf of any signatory employer or under subcontract with, or in association with, or under any other arrangement with any signatory employer, shall be governed by the terms and conditions of this Agreement. A signatory employer shall be liable for the payment of all wage and payment to the Trust Funds for fringe benefits for all work covered by this Agreement performed by the employee of any person, firm, partnership, corporation, joint venture or other entity, including any hours worked by any sole proprietor, under subcontract with, or in association with, or under any other arrangement with such signatory employer, as if such work had been performed by an employee of the signatory employer. For example should a signatory employer subcontract with a sole proprietor, the signatory employer shall be

liable for the payment of all fringe benefits, including, but not limited to, pension, health and welfare, vacation and union administration, for all hours worked by the sole proprietor where such work is within the work jurisdiction of the Union.

**Section 2.** Violations of this Article may be processed under the grievance and arbitration provisions set forth in Article XV of this Agreement or, if the Union and Association so agree, may be the subject of a civil lawsuit. Notwithstanding anything in this Agreement to the contrary, if a violation of this Article is processed under the grievance and arbitration procedures set forth in Article XV, the limitations period for bringing such a grievance shall be the applicable statute of limitations for violation of a written contract and the Union may also seek in such a grievance union dues and initiation fees in addition to any other damages lost as a consequence of a violation of this Article. Nothing herein shall be construed to limit the right of the Trust Funds identified in Article XIII to bring a civil action against a signatory employer for fringe benefits owed for work performed by employees of non-signatory contractors.

## **ARTICLE XVII STEWARDS, REPORTING PAY, WORK RULES AND SAFETY**

**Section 1.** When one or more craftworkers are employed on a job, a steward will be either appointed by the union or elected at the job site, at the Union's option. In no event shall an employer discriminate against a shop steward or lay him/her off before the completion of the job because of any action taken by him/her in the proper performance of his duties or the enforcement of this agreement. The shop steward is to receive grievances and disputes from the employees and report same to the Field Representative as soon as practical. The steward shall see that all terms of this agreement are complied with including the proper observation of the rest periods and meal periods. The steward shall see that the CAL/OSHA regulations pertaining to safety and scaffolds are complied with on the job.

The first man on the job, workman, foreman or steward, shall notify the Union of the location of the job and the name of the employer within four (4) hours after the job has started. The employer agrees to allow sufficient time for this notification requirement. Restarting of a job follows the same rule.

**Section 2.** Any employee requested to report and reporting for work at the regular starting time and for whom no work is provided, shall receive two (2) hours pay at straight time pay or other applicable rate, as well as the expense payment due for the day, if any expense payment is due for that job, except when; the employee has been notified before the end of the preceding shift not to report, or the employee is prevented from working for reasons beyond the control of the employer, including, but not limited to such factors as inclement weather, or breakdown causing discontinuance of a major unit of the project. If an employee shows up for work and no work is provided due to inclement weather; expense payments due for the day shall be paid. If an employee reports to work and is put to work, he/she shall receive at least three and one-half (3-1/2) hours pay if he/she works any portion of the work day. All hours worked over three and one-half (3-1/2) hours will be paid for actual hours worked.

**Section 3.** Employees will be paid for time spent loading and unloading trucks. Employees must be paid for going from one job to another and from the shop to the job site and back if requested by the employer during working hours and shall not use any of the lunch period in making such a job transfer.

**Section 4.** Employees shall be entitled to 10 minute paid rest periods and 30 minute unpaid meal / lunch periods in accordance with the California Labor Code and Wage Order #16. Employees shall also be provided "recovery periods" to avoid heat-related illness for employees who work outside in accordance with section 226.7 of the California Labor Code. Any dispute regarding an alleged failure to provide rest periods, meal periods, or recovery periods as required by this Section or California law shall be resolved in accordance with Article XV (Grievance Joint Board And Arbitration) and shall not be the subject of a civil lawsuit, a Labor Commissioner complaint or any other legal proceeding. Any employee who does not receive rest periods, meal periods, or recovery periods as provided in this paragraph shall be entitled to whatever remedy, damages or penalty is provided in the California Labor Code and by Wage Order #16 and the California Code of Regulations.

**Section 5.** The employer shall provide ice water in sanitary drinking water containers, and individual drinking cups.

**Section 6.** The employer shall furnish at the jobsite all necessary equipment not considered the personal tools of the trade. The tools of the trade are defined in Article IV, Section 2, of this Agreement.

**Section 7.** The employer shall not base pay or other compensation on a predetermined amount of work or output by the employee; and the Union shall not countenance any limitation of the productivity of the employer's work force.

**Section 8. Substance Abuse Testing and Assistance Program**

A. The Individual Employers and the Union are committed to providing a safe and productive work environment. Substance abuse decreases efficiency, increases the risk of property loss or damage, and increases the risk of injury to employees.

B. No drug or alcohol testing of any kind may be done until employee assistance programs or local drug and alcohol abuse programs have been identified and are in place and a written drug policy has been give to applicants and employees in the form of an Employee Notice and Acknowledgement Form

The employer will bear the cost of all drug and alcohol testing. The time taken to perform a drug test will be considered work time, and will be compensated by the Employer.

C. Accordingly, the Union and the signatory Employers agree that:

(1) Employees shall not use, possess, dispense, or receive alcohol or controlled substances (other than prescription drugs which do not impair job performance, including medical marijuana) during working hours, on company property, at a job sit, or in Company vehicles.

(2) Employees will not report for work while impaired by alcohol or controlled substances.

D. Pre-Employment Testing

(1) Testing may be performed on new hire applicants for employment as a condition of employment. An employee or applicant who has been laid off for thirty (30) calendar days or more, or a new employee may be required to undergo a pre-employment drug test for non-prescription drugs as a condition of consideration of employment with the Employer or prior to being approved to work at any Employer facility or work area. This is provided that an employee or applicant who can demonstrate that he or she successfully passed a pre-employment drug test by the same employer within the previous ninety (90) days, shall not be required to undergo a pre-employment drug test. There shall be no pre-employment alcohol testing. Notwithstanding the foregoing, drug testing standards set by the general contractor that are more stringent than the above provisions shall apply to testing under this Section D.

(2) Pre employment testing must be in place and such testing must actually be conducted before the Employer can conduct any Random Testing as described herein.

E. Post Accident Testing

(1) Any employee involved in an accident will be required to submit to a test for the presence of alcohol or drugs. An "accident" is an event that results in professional

medical treatment or significant damage to the Employer's property. This requirement will be waived when the accident was solely the result of a third party's actions, or where it can be determined that drugs or alcohol were not a contributing factor. Notwithstanding the foregoing, drug testing standards set by the general contractor that are more stringent than the above provisions shall apply to testing under this Section (E).

F. Testing Procedures:

(1) All testing will be conducted according to SAMHSA guidelines and will include a screening test; a confirmation test; review by a Medical Review Officer, including the opportunity for employees who test positive to provide legitimate medical explanation, such as a physician's prescription, for the positive result; and a documented chain of custody. Any employee who disputes the positive results shall have the right within ten (10) working days of when he is notified of the test results to have his initial sample independently retested by a SAMHSA certified laboratory of his choice at his own expense. If the independent retest results in a negative result, that negative result shall be considered a successful completion of the drug testing, and the employee will be put back to work immediately, be reimbursed for the cost of the retesting, and be made whole for any loss of pay occasioned by the first positive test results.

(2) All laboratory reports and test results shall be treated as confidential medical information and shall be maintained in a medical file separate from the employee's personnel file. Test results shall be disclosed by the testing facility to the Medical Review Officer (MRO) only. After interpreting the test results, the MRO shall communicate to the Employer, the employee and the Union only that the test result is "positive" or "negative".

(3) Job applicants testing positive for drug use may be suspended from consideration by Employer for a period of two (2) months. An applicant may be considered upon re-application after a shorter period, however, if he or she can demonstrate meaningful participation in a rehabilitation program following the positive drug test.

(4) Employers must notify employees, applicants for employment and the union in advance of any drug testing requirements. The employee shall be allowed to contact a union representative prior to submitting to the drug/alcohol testing.

**Section 9.** The employer shall supply ladders to all scaffolds built over five (5) feet in height. Ladders and scaffolds shall comply with all OSHA regulations.

**Section 10.** Should craftsmen be required to work in a place exposed to falling objects, a suitable protective overhead covering shall be provided. Said covering shall be a minimum of 5/8" plywood. When craftsmen are working on the walls of, or in, the elevator shafts, hatchways, and/or stairwells, there shall be a protection of not more than one (1) story below them at any time.

**Section 11.** When an employee notifies his employer of his intention to quit the job, and has turned in all equipment and badges to the employer, the employer must pay the employee all wages in full not more than seventy-two (72) hours after such notification; or waiting time at the regular hourly rate, not to exceed eight (8) hours in any twenty-four (24) hour period, will be charged until paid.

**Section 12.** Any craftsman who does not receive all the money due him at the time of a layoff shall be entitled to two (2) hours pay.

**Section 13.** No more than two partners or two officers of a corporation shall work with the tools of the trade on any one job. A violation of this clause shall be referred to the Joint Board of the Union and the Management Committee.

Partners or sole proprietors who work with the tools of the trade shall pay all fringe benefits which would otherwise be payable under contract except pension contributions and at their option health and welfare contributions. Employees of corporations who are also officers or shareholders of said corporation who work with the tools of the trade shall pay all fringe benefits on themselves which would be applicable to regular employees under this agreement.

**Section 14.** There will be no piece work or attempt to set up a certain amount of work to be done for a given unit of labor, but all employees will diligently apply themselves to an efficient performance of their work.

**Section 15.** Where required by law the employer shall be required to furnish the safety helmets and glasses for the employees' use. Craftsmen will be required to adhere to all company safety policies and rules and to OSHA rules. Violations will result in termination.

**Section 16.** Employer shall abide by all State and Federal OSHA Regulations.

### **ARTICLE XVIII NO STRIKE AND NO LOCKOUT PROVISION**

**Section 1.** It is understood and mutually agreed that there shall be no strikes, slowdowns, work stoppages or lockouts over a dispute concerning this Agreement during its term until the grievance procedures described in Article XV have been exhausted and then only in the event a party fails or refuses to abide by the final decision under Article XV of this Agreement. This Article does not apply in those cases where an employer fails or refuses to make in whole or in part any payments required under this Agreement including all hourly pay, fringe benefit contributions, or other payments that have been established under this Agreement.

**Section 2.** It shall not be a violation of this Agreement for a workman to respect a primary picket line, supported, established and sanctioned by the local Building Trades Council having jurisdiction over the area where the job is being picketed.

### **ARTICLE XIX WAIVER OF BENEFITS AND WAIVER OF AGREEMENT**

**Section 1.** No employee shall be permitted to waive any of the fringe benefits required by this Agreement and in the event the employer paid some or all of the fringe contributions directly to the employee, such employer shall not be excused from paying such fringe benefits to the appropriate Trust Funds required by this Agreement. No estoppel, waiver or consent to employment under conditions other than as specified in this Agreement may be countenanced by any party.

**Section 2.** No business agent or steward has the authority to alter or amend any of the provisions of this Agreement or to sanction a violation of this Agreement. No business agent or official of this Union has the authority to orally permit: a violation of this Agreement or waive any of the benefits herein contained. Any such waiver must be in writing and signed by the President or Vice-President of the Union, except in emergencies, and in such a case written confirmation of any oral statement of any official or business agent shall be sought, in writing, by registered mail, from the Union by the employer within four (4) working days.

**Section 3.** To the extent permitted by law, the Union hereby waives all benefits of all current and future State and local paid sick leave ordinances, including but not limited to California Labor Code sections 245-249 and the San Francisco, Oakland and Emeryville paid sick leave ordinances.

**Section 4.** Effective retroactive to February 14, 2014, the Union hereby waives the benefit of San Francisco's Family Friendly Workplace Ordinance (FFWO), codified as Chapter 12Z of the San Francisco Administrative Code.

**ARTICLE XX  
WORKING HOURS – MAKE-UP DAY – SHIFT WORK – HOLIDAYS**

**Section 1.** At the option of the employer/employee, the regular work day may consist of seven (7) or eight (8) hours at the straight time rate. A regular work week shall consist of five (5) regular work days totaling thirty-five (35) or forty (40) hours per week, Monday through Friday. The regular work day may begin at 7:00 a.m., 7:30 a.m., or 8:00 a.m. at the employer's option or the regular work day may begin between 5:00a.m. and 7:00 a.m. upon mutual agreement between the Union and the employer. In the event the employer makes a change in the regular starting time, a three (3) day notice shall be given prior to the change. Four (4) ten (10) hour days at straight time may be agreed to by the Union and the employer, if the need arises.

**Section 2.** In the event a crew on a project is prevented from working on a regular workday due to weather, that crew will be permitted to work on the following Saturday at the regular straight time rate on a voluntary basis after notification to the Union. In the event any of the employees working on Saturday exceed forty (40) hours of employment, all hours worked in excess of forty (40) shall be paid at the rate of one and one half of the regular wage rate.

**Section 3.** SHIFT WORK: The first eight (8) hours worked on any shift shall constitute a day's work. Each shift shall include thirty (30) minutes for lunch. The rate of wages for employees shall be as set forth in Appendix A & B of this Agreement.

- A. When three (3) - eight (8) hour shifts per day are worked the day shift will commence between 6:00 AM and 8:00 AM, as designated by the customer, to avoid conflicts with other crafts, and terminate between 2:00 PM and 4:00 PM, (i.e. 8 hours after starting). Swing shift will commence between 2:00 PM and 4:00 PM and terminate between 10:00 PM and midnight, as determined by the start of the day shift. Graveyard shift will commence between 10:00 PM and midnight and terminate between 6:00 AM and 8:00 AM, as determined by the start of the day shift.
- B. When two (2) - ten (10) hour shifts per day are worked, the day shift shall commence between 6:00 AM and 8:00 AM and terminate between 4:00 PM and 6:00 PM. The swing shift shall commence between 4:00 PM and 8:00 PM and terminate between 2:00 AM and 6:00 AM. The first eight (8) hours in either shift will be at straight time and the last two (2) hours at time and one-half the total taxable hourly wage rate or double the total taxable hourly wage rate as specified in Article VIII Section 5.
- C. When two (2) - twelve (12) hour shifts per day are worked, the first ten (10) hours will be paid in accordance with Article VIII, Section 5 above and the last two (2) hours will be paid at the double the total taxable hourly wage rate.
- D. Shift work at straight time will commence at midnight Sunday and terminate at midnight Friday. All work from midnight Friday to midnight Saturday shall be paid at a rate of time and one-half (1 ½) the total taxable hourly wage rate. All work from midnight Saturday to midnight Sunday, or on Holidays shall be paid at a rate of double the total taxable hourly wage.
- E. SHIFT DIFFERENTIAL: Day shift shall receive the total taxable hourly wage rate; swing shift shall receive 15% above the total taxable hourly rate and the graveyard shift shall receive 20% above the total taxable hourly wage rate.
- F. All shifts less than twelve (12) hours will be provided a thirty (30) minute lunch break. For swing shift and graveyard shifts only, the lunch break will be at the employer's expense. All employees shall be allowed ten (10) minutes to clean up before quitting time. All shifts over (12) hours shall receive two lunch breaks per California Labor Code.
- G. In no case shall an employee work more than one shift in any one calendar day. Each shift shall have its own separate foreman, as required.

- H. The employer is to provide a meal, if practical or one-half (½) hour pay on any "unscheduled" overtime over nine and one half (9½) hours. Time for this meal will be provided by the Employer.
- I. When an employee is required to work twelve (12) hours, the Employer will provide two thirty (30) minute lunch breaks on the Employers time.
- J. To meet conditions and schedules required on certain projects, various starting and quitting times may be established. Overtime of one and one-half (1 ½) the wage rate shall be paid for all hours worked in excess of eight (8) hours in any twenty-four (24) hour period.
- K. On all projects where a swing shift or night work is implemented for less than one (1) calendar week the pay rate shall be one and one-half (1 ½) times the total taxable hourly rate.

**Section 4.** HOLIDAYS. The following holidays will be observed: New Year's Day, President's Day, Martin Luther King's Birthday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, the day after Thanksgiving Day, and Christmas Day. All work performed on the above holidays shall be paid for at the rate of double time. Should a holiday fall on Saturday, the Friday immediately prior shall be construed as a holiday. Should a holiday fall on a Sunday, the Monday immediately following will be observed.

## **ARTICLE XXI TRAVEL & SUBSISTENCE**

**Section 1.** Determination of Mileage for 45 Northern California Counties covered under this Agreement.

- A. For the purpose of determining travel and subsistence reimbursement, all employees required to travel more than forty (40) miles from their residence or the Employer's principal place of business, whichever is closer to the job site, shall be paid travel reimbursement and subsistence as follows: Mileage to be determined by the California State Automobile Association.
- B. The Employer's principal place of business is the city or town recognized as such by the California State Contractors' License Board. The Employer's principal place of business must be a bona fide place of business, which is permanent. Temporary offices or other places of business established at or near the job site after the bid opening date shall not be recognized as principal place of business for purposes of this Article.
- C. Any individual Employer who has no principal place of business within the area covered by this Agreement shall use the employee's residence in place of the Employer's principal place of business for the purposes of this Article.

### **Section 2. - TRAVEL and SUBSISTENCE**

A. Travel reimbursement shall not exceed the following:

Less than 40 miles	Free Zone
41 to 50 miles	\$16.00 per day
51 to 60 miles	\$20.00 per day
61 to 70 miles	\$24.00 per day
71 to 80 miles	\$28.00 per day
Over 80 miles	Subsistence

B. Subsistence expense reimbursement shall be actual expense not to exceed the following:

On all jobs of over eighty (80) miles the employee shall receive a subsistence allowance of up to Eighty Five dollars (\$85.00) per day for each day worked. When an employee is entitled to

subsistence and cannot work because of inclement weather, job shut down or act of God, the Employee shall be entitled to subsistence. When subsistence applies, employees traveling from their residence or the Employer's principal place of business, whichever is closer to the job site, located outside the eighty (80) miles distance, and are not entitled to subsistence payment for reason of failure to produce expense receipts, that employee shall be paid mileage, not to exceed \$75.00 per day, calculated at the current published IRS rate on the day of travel (as published at [www.irs.gov](http://www.irs.gov)) per mile, one way, plus bridge tolls, for each day said employee is required to report to the job site and does not receive subsistence reimbursement. The Employer, at his option, may provide covered transportation in lieu of payment of transportation or bridge tolls as heretofore set forth.

All subsistence for room and board shall be reimbursed as per receipts produced by the employee not to exceed Eighty Five (\$85.00) dollars per day. Travel expense and subsistence shall be paid where applicable for each day worked or part of a day worked and shall not be prorated.

## **ARTICLE XXII SEVERABILITY AND SAVINGS PROVISION**

Section 1. It is the intent of the Parties hereto to abide by all applicable Federal and State statutes and rules and regulations made pursuant thereto. If any provision of this Agreement is held invalid by any court or governmental agency having jurisdiction, or if compliance with or enforcement of any provision of this Agreement is restrained by such tribunal pending a final determination as to its validity, then such provision or provisions shall continue in effect only to the extent permitted and all other provisions of this Agreement shall remain in full force and effect.

Section 2. In the event that any provision of this Agreement is restrained, the Union and the Contractor shall enter into immediate collective bargaining negotiations for the purpose of arriving at a mutually satisfactory replacement, incorporating the substance of such provision to the extent allowable under the law, to be in effect during the period of invalidity or restraint.

## **ARTICLE XXIII EMPLOYERS BOUND BY THIS AGREEMENT**

Any employer signing this Agreement, holding itself out as a contractor must hold a current California State Contractors License which permits such contractor to perform work covered by this Agreement. The exception is a contractor performing work on a Federal project where no State License is required.



**APPENDIX A  
PCC JOURNEYMAN AND APPRENTICE ALLOCATION, EFFECTIVE 7/01/2015 to 6/30/2016**

San Francisco County Only													
Trade	Wage	Vac	Dues	Taxable	H&W	Def. Benf.	Def. Cont.	IJ Pen	Appr	IMI	LMCC	Promo	TOTAL
45% Apprentice	\$ 17.66	1.00	1.00	19.66	5.50	.00	.00	.54	.10	.26	.00	.00	\$ 26.06
55% Apprentice	\$ 22.03	1.00	1.00	24.03	9.79	.00	.00	.54	.10	.35	.00	.00	\$ 34.81
65% Apprentice	\$ 26.40	1.00	1.00	28.40	9.79	1.00	.00	.54	.10	.40	.00	.00	\$ 40.23
75% Apprentice	\$ 30.37	1.00	1.40	32.77	9.79	1.00	.00	.54	.10	.45	.00	.00	\$ 44.65
85% Apprentice	\$ 33.74	2.00	1.40	37.14	9.79	1.00	.00	.54	.10	.49	.00	.00	\$ 49.06
95% Apprentice	\$ 38.11	2.00	1.40	41.51	9.79	1.00	.00	.54	.10	.53	.00	.00	\$ 53.47
Journeyman	\$ 39.27	2.50	1.92	43.69	9.79	6.50	3.75	.54	.80	.66	.30	.10	\$ 66.13

Counties of: Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Monterey, Napa, San Benito, San Mateo, Santa Clara, Santa Cruz, Siskiyou, Solano, Sonoma and Trinity.													
45% Apprentice	\$ 17.53	1.00	1.00	19.53	5.50	.00	.00	.54	.10	.26	.00	.00	\$ 25.93
55% Apprentice	\$ 21.86	1.00	1.00	23.86	9.79	.00	.00	.54	.10	.35	.00	.00	\$ 34.64
65% Apprentice	\$ 26.20	1.00	1.00	28.20	9.79	1.00	.00	.54	.10	.40	.00	.00	\$ 40.03
75% Apprentice	\$ 30.14	1.00	1.40	32.54	9.79	1.00	.00	.54	.10	.44	.00	.00	\$ 44.41
85% Apprentice	\$ 33.48	2.00	1.40	36.88	9.79	1.00	.00	.54	.10	.49	.00	.00	\$ 48.80
95% Apprentice	\$ 37.82	2.00	1.40	41.22	9.79	1.00	.00	.54	.10	.53	.00	.00	\$ 53.18
Journeyman	\$ 38.98	2.50	1.91	43.39	9.79	6.50	3.75	.54	.80	.66	.30	.10	\$ 65.83

Counties of: Alpine, Amador, Butte, Calaveras, Colusa, El Dorado, Fresno, Glenn, Kings, Lassen, Madera, Mariposa, Merced, Modoc, Nevada, Placer, Plumas, Sacramento, San Joaquin, Shasta, Sierra, Stanislaus, Sutter, Tehama, Tuolumne, Yolo and Yuba.													
45% Apprentice	\$ 15.47	1.00	1.00	17.47	5.50	.00	.00	.54	.10	.24	.00	.00	\$ 23.85
55% Apprentice	\$ 19.36	1.00	1.00	21.36	9.79	.00	.00	.54	.10	.32	.00	.00	\$ 32.11
65% Apprentice	\$ 23.24	1.00	1.00	25.24	9.79	1.00	.00	.54	.10	.37	.00	.00	\$ 37.04
75% Apprentice	\$ 26.72	1.00	1.40	29.12	9.79	1.00	.00	.54	.10	.41	.00	.00	\$ 40.96
85% Apprentice	\$ 30.11	1.50	1.40	33.01	9.79	1.00	.00	.54	.10	.45	.00	.00	\$ 44.89
95% Apprentice	\$ 33.99	1.50	1.40	36.89	9.79	1.00	.00	.54	.10	.49	.00	.00	\$ 48.81
Journeyman	\$ 35.60	1.50	1.73	38.83	9.79	6.50	1.95	.54	.80	.59	.30	.10	\$ 59.40

Future increases:

San Francisco County: First year \$1.60; Second year \$1.65; Third year \$1.70;

Bay Area Counties: First year \$1.70; Second year \$1.80; Third year \$1.85;

Sacramento/Valley: First year \$1.60; Second year \$1.65; Third year \$1.70;

IN WITNESS of the foregoing, and in agreement therewith, we the undersigned authorized representatives of the parties to this Agreement hereby bind, by our signatures, the NORTHERN CALIFORNIA PCC/RESTORATION CONTRACTORS ASSOCIATION, BRICKLAYERS AND ALLIED CRAFTWORKERS LOCAL UNION No. 3 of California, and all employers and employees to this Agreement.

NORTHERN CALIFORNIA PCC/RESTORATION  
CONTRACTORS' ASSOCIATION

BRICKLAYERS AND ALLIED  
CRAFTWORKERS LOCAL UNION NO. 3  
of California

By: \_\_\_\_\_  
Mike Courtney, Chairman  
For Giampolini & Co., & Giampolini/Courtney

By: \_\_\_\_\_  
Dave Jackson, President

By: \_\_\_\_\_  
Emile Kishek, Negotiating Committee  
For Alpha Restoration and Waterproofing

By: \_\_\_\_\_  
Gary Peifer, Vice-Chair

By: \_\_\_\_\_  
Chris Abell, Negotiating Committee  
For Rainbow Restoration and Waterproofing

By: \_\_\_\_\_  
Troy Garland, Vice-Chair

By: \_\_\_\_\_  
Gordon Bryant, Negotiating Committee

By: \_\_\_\_\_  
Victor Camacho, Negotiating Committee

MEMORANDUM AGREEMENT FOR INDIVIDUAL EMPLOYER

IT IS AGREED between the undersigned Employer/Contractor and (BAC) Bricklayer & Allied Craftworkers Local 3, California ("Union") in consideration of services performed and to be performed by PCC employees for the Contractor as follows:

1. The Employer agrees to comply with all of the terms, including wages, hours, and working conditions, as set forth in the agreement between the Union and the Northern California PCC/Restoration Contractor's Association Inc. Effective July 1, 2015 through June 30, 2018 (which Agreement is incorporated herein by reference and a copy of which has been delivered to me and receipt of which is hereby expressly acknowledged).

2. The term "Master Agreement" referred to in this Memorandum Agreement shall be the Master Agreement referred to above or any other agreement designated in writing by BAC Local 3, California as the "Master Agreement" for a term or period subsequent to July 1, 2015 or any subsequent modification, changes, amendments, supplements, extensions or renewals of or to said designated Master Agreement.

3. The Employer agrees to comply with all of the terms, including wages, hours, and working conditions of the Master Agreement and to any future modifications, changes, amendments, supplements, extensions or renewals of or to said Master Agreement which may be negotiated between the parties thereto for the term thereof.

4. The Employer agrees that he or it does irrevocably designate and appoint the employer members of said Trust Funds and Plans mentioned in the Master Agreement as his or its attorneys in fact for the selection, removal and substitution of Trustees or Board members as provided in the Trust Agreements or Plans as may be hereinafter provided by or pursuant to said Trust Agreements or Plans.

5. Each Employer signatory hereto specifically waives any right that he or it may have to terminate, abrogate, repudiate or cancel this Agreement during its term or during the term of any future modifications, changes, amendments, supplements, extensions or renewals of or to said Master Agreement, or to file any petition before the National Labor Relations Board seeking to accomplish such termination, abrogation, cancellation or repudiation or to file a petition seeking clarification or redefinition of the bargaining unit covered by this Agreement.

6. This Memorandum Agreement shall remain in full force and effect for the period of the term of the Master Agreement between the Northern California PCC/Restoration Contractors Association, Inc. (the "Association") and BAC Local 3, California for the period July 1, 2015 through June 30, 2018 and for the term of any successor Master Agreement and the Contractor does hereby authorize the Association to represent the Contractor, unless the Union or the Contractor shall give written notice by certified mail to the other of desire to change or cancel this Memorandum Agreement at least sixty (60) days, but not earlier than ninety (90) days prior to the termination date of a successor Master Agreement. All notices given by BAC Local 3, California to the Association shall constitute sufficient notice to the Contractor by BAC Local 3, California, provided that a notice to the Association by the Contractor shall not constitute sufficient notice of intent not to be bound by a new Master Agreement or renewal or extension of the Master Agreement and Trust Agreements.

Company Name \_\_\_\_\_

Print Name \_\_\_\_\_

Signature \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

Address \_\_\_\_\_

City and State and ZIP \_\_\_\_\_

Telephone \_\_\_\_\_

Fax \_\_\_\_\_

Contractors License No. \_\_\_\_\_ Class \_\_\_\_\_

E-Mail \_\_\_\_\_ WEB: \_\_\_\_\_

BAC Local 3, California  
Union Representative:

Name \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

BOND NO. \_\_\_\_\_

PREMIUM \_\_\_\_\_

TERM \_\_\_\_\_

## BOND

Know all men by these presents:

That, we, \_\_\_\_\_

Contractor's Firm Name

\_\_\_\_\_ Address

hereinafter referred to as Principal and \_\_\_\_\_

Surety Firm Name

hereinafter referred to as the Surety, a corporation created, organized and existing under by virtue of the laws of the State of \_\_\_\_\_ are held and firmly bound unto International Union of Bricklayers and Allied Craftsmen, AFL-CIO, Local Union No. 3 (hereinafter "BAC #3) in the sum of Ten Thousand (\$10,000.00) Dollars, lawful money of the United States of America to be paid to BAC #3 for which payment, well and truly to be made, we bind ourselves, our heirs, executors and successors jointly and severally firmly by these presents.

The condition of the above obligation is such that:

Whereas, the Collective Bargaining Agreement between the Northern California PCC/Restoration Contractor's Associations, Inc., on behalf of individual contractors, and BAC #3, International Union of Bricklayers and Allied Craftsmen, requires that each contractor post a surety bond executed by a Surety Company in the amount of Ten Thousand (\$10,000.00) Dollars, to guarantee compliance by the Contractor to all the terms and conditions of the Collective Bargaining Agreement, against a Contractor for violations of this Agreement, and shall guarantee payments by the Contractor of all wages and/or of all fringe benefit amounts (herein defined as Health and Welfare, Pension, Dental, Vacation, Union Administration ("Dues"), Apprenticeship Training, Labor-Management Cooperation Committee, and Industry Promotion payments) on a local or national plan, including costs of collection, liquidated damages, audit fees and charges, attorney's fees, and all other charges.

Now, therefore, if said Contractor shall pay all damages and all fringe benefit amounts on a local or national plan, including costs of collection, liquidated damages, audit fees and charges, attorney's fees, and all other charges then this obligation shall be null and void; otherwise, to remain in full force and effect. Provided, that this bond is conditioned upon the following conditions and limitations:

1. In the event, after thirty (30) days written notice by certified mail to the last known address of the contractor, the contractor fails to pay, in full, all amounts due under the provisions of the preceding paragraphs, whether by virtue of bankruptcy or other reason, the Surety shall guarantee under this Bond payment of all damages, wage and/or fringe benefit amounts previously set forth, including costs of collection, liquidated damages, audit fees and charges, attorney's fees, and all other charges.

2. Payment shall be made by the Surety Company under this Bond within thirty (30) days of the date of notification to the Surety that the Contractor notwithstanding the written notice set forth herein paragraph 1, has neglected, failed or refused to pay the amounts claimed to be due. The Contractor consents to any payment made by the Surety Company in reliance upon notification of the Surety.

3. The aggregate liability of the Surety hereunder for all causes of action arising under this Bond shall not exceed the total sum of Ten Thousand (\$10,000.00) Dollars, plus all reasonable attorney's fees and costs incurred by Bricklayers Local 3 and its affiliated trust funds in enforcing this Bond agreement.

4. This Bond shall not apply to any debt of the Contractor existing prior to the effective date of this Bond.

5. The Surety named herein may cancel this Bond and be relieved of any further liability hereunder at any time after one year from the effective date of this Bond, except as to any liability incurred or accrued, and any damages or delinquencies committed prior to the giving of sixty (60) days notice in writing to BAC #3.

6. No right of action shall accrue under this Bond to or for the use of any person other than the obligee, BAC #3, its successor unions and their affiliated trust funds.

In Witness Whereof, the seal and signature of the Surety Company and the Principal is hereto affixed and attested by its duly authorized attorney-in-fact, in the City of \_\_\_\_\_, State of \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
State Contractor's License Classification

\_\_\_\_\_  
Company Name (Please Print)

\_\_\_\_\_  
Contractor's Address

By: \_\_\_\_\_  
Principal (Contractor)

The \_\_\_\_\_  
Surety

\_\_\_\_\_  
State Contractor's License No.

By: \_\_\_\_\_  
Attorney in Fact

All communication relative to the Bond shall be mailed to:

BAC Local #3  
10806 Bigge Street  
San Leandro, CA 94577

BRICKLAYERS AND ALLIED CRAFTS LOCAL NO. 3 CA  
10806 Bigge Street  
San Leandro, CA 94577  
510-632-8781

NORTHERN CALIFORNIA PCC/RESTORATION  
CONTRACTORS ASSOCIATION  
1482 67<sup>th</sup> Street  
Emeryville, CA 94608  
415-345-1218

BENESYS ADMINISTRATORS  
2610 Crow Canyon Rd. Ste. 200  
San Ramon, CA 94583  
925-208-9995

*Contact Benesys Administrators for information on pension and health and welfare and  
for medical, dental and vision care forms if needed.*