

AGREEMENT

Between

**District Council No. 21
International Union of Painter and Allied Trades**

And

Delaware Valley Industrial Painters Alliance, Inc.

February 1, 2019 Thru January 31, 2022

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Articles of Agreement

This Agreement is made and entered into this first (1st) day of February 1, 2019 between the Delaware Valley Industrial Painters Alliance, Inc., hereinafter called the “EMPLOYER”, and DISTRICT COUNCIL # 21 OF THE INTERNATIONAL UNION OF PAINTERS AND ALLIED TRADES, AFL-CIO-CLC, OF EASTERN PENNSYLVANIA, SOUTHERN NEW JERSEY, AND THE STATE OF DELAWARE, HEREAFTER called the “COUNCIL”.

Now, Therefore, This Agreement Witnesseth:

ARTICLE 1

Recognition

1.1 Recognition:

The Union recognizes the Delaware Valley Industrial Painters Alliance, Inc.; as the exclusive collective bargaining representative and agent under the terms of this Agreement for all of its present and future members. THE DELAWARE VALLEY INDUSTRIAL PAINTERS ALLIANCE, Inc.;

DO recognize the COUNCIL as the Bargaining representative of the Bridge and Industrial Painters of Eastern Pennsylvania and the State of Delaware.

1.2 NLRB Status:

Inasmuch as the Union has demanded recognition from the EMPLOYER as the exclusive bargaining representative of the EMPLOYEES in the bargaining unit described herein under Section 9(a) of the National Labor Relation Act, and has submitted proof thereof in the form of signed and dated authorization cards, and the EMPLOYER is satisfied that the Union represents a majority of its EMPLOYEES in the bargaining unit described herein, the EMPLOYER hereby recognizes the Union as the exclusive collective bargaining representative of its EMPLOYEES on all present and future job sites within the jurisdiction of the Union, unless and until such time as the Union loses its status as the EMPLOYEES’ exclusive representative as a result of an NLRB election requested by the EMPLOYEES. The EMPLOYER agrees that during the life of this Agreement it will not request a NLRB election and expressly waives any right it may have to do so.

ARTICLE 2

Union Security Clause

2.1 Membership:

It is agreed that after the EMPLOYEE, who by the nature of his work comes within the provisions of this Agreement and who shall have worked for any EMPLOYER for not less than seven (7) days, such EMPLOYEE shall be required to then become and remain a member of the Union in good standing, and the Union shall make membership therein continuously available to such EMPLOYEE on the same terms and conditions as are generally applicable to the other members of the Union.

2.2 Discharge of EMPLOYEE:

Any EMPLOYEE who fails or refuses to become a member of the Union after seven (7) days from the date of commencement of work with any EMPLOYER shall, upon written notice from the Union, be discharged by his current EMPLOYER.

ARTICLE 3

Check-Off Administrative Dues

3.1 Agreement of Check-Off

Every EMPLOYER, signatory to this Agreement, hereby agrees to check-off from wages of any EMPLOYEE by such EMPLOYER during the term of this Agreement, administrative dues in the then amount specified in this Agreement and/or Union's by-law and to remit said amount to the Administrator in the following manner.

3.1.1 Upon signing of this Agreement the Union will notify the EMPLOYER in writing of the amount of administrative dues specified, and will submit to the EMPLOYER a copy of the By-Laws or the appropriate By-Laws.

3.1.2 For each payroll period, the EMPLOYER will deduct from the wages of each EMPLOYEE the amount specified, based on Gross Wages and Fringe Benefits paid during said payroll period, and will accumulate said deduction at the end of the month.

3.1.3 All payments and/or transmittals of funds required under this Article shall be paid to the Administrator no later than the thirtieth (30th) day following the end of the month in which the check-off occurred. All such payments shall be made in accordance with the payment and collection procedures hereinafter set forth in Article 16.

3.2 Outside of #21's Area:

When a signatory EMPLOYER performs a job within the jurisdiction of a Union affiliated with the International Union of Painters and Allied Trades other than the Union signatory hereto and the By-Laws 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 By-Laws and shall remit said amount 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 in 3.1 thru 3.1.3 will be followed, except that it shall be the responsibility of said other Union to notify the EMPLOYER in writing of the amount of administrative dues or business agent "assessment" specified, and to submit to the EMPLOYER a copy of the By-Laws or the applicable By-Laws provision. When the signatory EMPLOYER performs a job within the jurisdiction of a Union affiliated with the International Union of Painters and Allied Trades, other than the Union signatory hereto, and the By-Laws of that other Union contains no provision for administrative dues or business agent "assessment" the EMPLOYER shall continue to be bound by 3.1

3.3 EMPLOYER'S Obligation:

The obligation of the EMPLOYER under 3.1 and 3.3 shall apply only as to EMPLOYEES who have voluntarily signed a valid dues deduction authorization card.

3.4 Time of Employment

At the time of employment of any EMPLOYEE, the EMPLOYER will submit to each such EMPLOYEE, for his voluntary signature, a dues deduction authorization card in duplicate; one copy of which is retained by the EMPLOYER and the other returned to the Union; the form to be supplied to such EMPLOYER by the Union.

3.5 Submittal Form:

On or before the thirtieth (30th) day of each month, the EMPLOYER will submit to the Union, a list of all EMPLOYEES covered by the Agreement who have not signed a dues deduction card, together with the number of hours worked by each such EMPLOYEE during the month previous.

3.6 Political Action Fund:

It is recognized that the District Council 21 has a Political Action Fund and is entitled to voluntary contributions by its members. Upon receipt of written authorization from an EMPLOYEE, the EMPLOYER agrees to deduct payments in the amount specified in Schedule A from the wages of said EMPLOYEE, and forward such monies to the Political Action Fund, in a manner consistent with Article 3.

ARTICLE 4

Function of Management

4.1 Management Rights:

In the exercise of its functions of management, the EMPLOYER shall have the right, to plan, direct and control operations of all its work, hire EMPLOYEES, direct the working forces in the field, assign EMPLOYEES their jobs, discharge, suspend or discipline for proper cause, (proper cause for discharge includes but is not necessarily limited to incompetence, insubordination, habitual tardiness or absenteeism), transfer, promote or demote EMPLOYEES, lay off EMPLOYEES because of the lack of work, or for other legitimate reasons, require EMPLOYEES to observe the EMPLOYER’S and/or contracting entities, rules and regulations not inconsistent with this Agreement, institute a fair and consistent drug policy, regulate the amount of equipment used and the use of equipment and other property of the EMPLOYER, decide the number of EMPLOYEES needed; provided, however, that the EMPLOYER will not use its rights for the purpose of discrimination against any EMPLOYEE.

ARTICLE 5

**Contract Increases & Territory covered in zones
See: SCHEDULE A for Wages & Benefits Breakdown**

Zone 1 (Phila. Metro & Delaware) Painters:

Territory: Pennsylvania Counties of: Philadelphia, Montgomery, Bucks, Delaware and Chester County and the State of Delaware.

Negotiated increases for Industrial and Bridge Painters (Philadelphia & Delaware) Highway Rate in the State of Delaware is same as Bridge Rate.

	1 st Year 2/1/19-1/31/20	2 nd Year 2/1/20-1/31/21	3 rd Year 2/1/21-1/31/22
Industrial Philadelphia	\$2.50	\$2.00	\$2.00
Industrial Delaware	\$2.50	\$2.00	\$2.00

	1 st Year 2/1/19-1/31/20	2 nd Year 2/1/20-1/31/21	3 rd Year 2/1/21-1/31/22
Bridge Philadelphia	\$2.50	\$2.00	\$2.00
Bridge Delaware	\$2.50	\$2.00	\$2.00

Containment Builder/Equipment Operator Wages 80% of Journeypersons rate;
Fringes 100%

5.1 Navigable Bridge Rate

There will be an additional \$0.25 per hour added to the FTI contribution as a stipend for Industrial Apprentices. This contribution will be made on all hours worked on bridges in the five (5) county areas and the State of Delaware over navigable waters. The Union will determine which bridges this contribution will apply to.

5.1.1 Delaware Industrial Rate

In an effort to increase portability, organizing and overall conditions, both parties mutually agreed upon, and applied to PA/DE Bridge the wages will then be added to the current DE industrial rate at 100%. The benefit portion shall be applied at 100% of the current DE industrial benefit package.

ARTICLE 6

Council Representatives

6.1 District Council 21 Representatives:

District Councils Representative only, in their capacity, shall be permitted to visit a job, or a shop, to ascertain if the terms of this Agreement are being complied with.

6.1.1 No Restriction to Jobs:

In the event that a Representative needs a pass or special permit to get on a job site because of security regulations, the EMPLOYER will assist in getting the Representative on the job. The Representative will not be restricted by the EMPLOYER in any way in the performance of his duties. If it is beyond the EMPLOYER'S control, then District Council # 21 will explore other avenues.

ARTICLE 7

General Work Rules

7.1 Productivity:

In recognition of increased competition from Non-Union subcontractors, it is understood that EMPLOYEES must begin and end the working day according to this contract, and the lunch periods must not be extended. Those who violate this understanding, or those who fail to report without sufficient notice, can be subject to discharge. It is the aim of the EMPLOYER and all of the EMPLOYEES to be as productive as possible, in order to help preserve future job security.

7.2 Ratio:

The contractor or the EMPLOYER party to this Agreement, 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 regular employees, and further provided that the EMPLOYEES will meet the job requirements.

7.3 Jurisdictional Conditions:

The EMPLOYER party hereto shall, when engaged in work outside the geographic jurisdiction of the Union party to the Agreement, comply with all of the lawful clauses of the Collective Bargaining Agreement in effect in said other geographic jurisdiction and executed by the EMPLOYERS of the industry and the affiliated Local Unions in that jurisdiction, including but not limited to, the wages, hours, working conditions, fringe benefits, and procedure for settlement of grievances set forth therein; provided however, that where no affiliated Union has a current effective Agreement covering such out-of-area work, the employer shall perform such work in accordance with this Agreement; provided however, that as to EMPLOYEES employed by such EMPLOYER from within the geographic jurisdiction of the Union party to this Agreement and who are brought into an outside jurisdiction, such EMPLOYEES, shall be entitled to receive the wages and conditions effective in either the home or outside jurisdiction which ever favorable to such EMPLOYEES, and fringe benefit contributions on behalf of such EMPLOYEES shall be made solely to their home funds in accordance with their governing documents and the difference between the wages and benefit contributions required by the away funds and the home funds, if any, shall be paid to the employees as additional wages. This provision is enforceable by the Local Union or District Council in whose jurisdiction the work is being performed, both through the procedure for settlement of grievances set forth in this applicable Collective Bargaining Agreement and through the courts, and is also enforceable by the Union party to this Agreement, both through the procedure for settlement of grievances set forth in this Agreement and through the courts.

7.3.1 Evading obligations:

The EMPLOYER shall not be permitted to evade its obligations thereunder by setting up an additional 'home' or 'branch' office or plant in an area outside District Council 21's territory.

7.4 Coffee Break:

There shall be a 15-minute coffee break per shift. This also applies to night shift.

ARTICLE 8

Picketing

8.1 Painters

EMPLOYEES covered by this Agreement shall have the right to respect any legal primary picket line validly established by any bona fide labor organization and the Union party to this Agreement has the right to withdraw employees covered by this Agreement whenever the EMPLOYER party to the Agreement is involved in a legitimate primary labor dispute with any bona fide labor organization.

ARTICLE 9

Subletting of Contracts Painters

9.1 Subcontracting

The EMPLOYER shall not contract out or subcontract any work covered by this Agreement to any sub-contractor or other person unless that sub-contractor or other person is a party to a Collective Bargaining Agreement with a District Council or Local Union affiliated with the International Union of Painters and Allied Trades, AFL – CIO.

ARTICLE 10

Preservation of Work Clause

10.1 Protection of Work:

To protect and preserve, for the EMPLOYEES covered by this Agreement, all work they have performed and all work covered by this Agreement, and to prevent any device or subterfuge to avoid the protection and preservation of such work, it is agreed as follows: If the EMPLOYER performs on-site construction work of the type covered by this Agreement, under its own name or the name of another, as a corporation, company, partnership, or other business entity, including a joint venture, wherein the EMPLOYER, through its officers, directors, partners, owners, or stockholders, exercises directly or indirectly (through family members or otherwise), management, control, or majority ownership, the terms and conditions of this Agreement shall be applicable to all such work.

10.2 Disputes:

All charges of violations of Section 13.1 of this Article shall be considered as a dispute and shall be processed in accordance with the provisions of this Agreement on the handling of grievances and the final and binding resolution of disputes. As a remedy for violations of this Article, the Joint Trade Board or Arbitrator shall be able, at the request of the Union, to require an EMPLOYER to pay 1) to effected EMPLOYEES covered by this Agreement, including registered applicants for employment, the equivalent of wages those EMPLOYEES have lost because of the violations, and 2) into the affected Joint Trust Funds to which this Agreement requires contributions, any delinquent contributions that resulted from the violations. The Joint Trade Board or Arbitrator shall be able also to provide any other appropriate remedies, whether provided by law or this Agreement. The Union shall enforce a decision of the Joint Trade Board or Arbitrator under this Article only through arbitral, judicial, or governmental (for example, the National Labor Relations Board) channels.

10.3 Enforcement of Award:

If, after an EMPLOYER has violated this Article, the Union and/or the trustees or one or more Joint Trust Funds to which this Agreement requires contributions institute legal action to enforce an award by an Arbitrator or the Joint Trade Board remedying such violation, or defend an action that seeks to vacate such award, the EMPLOYER shall pay any accountants' and/or attorneys' fees incurred by the Union and/or the Joint Trust Funds, plus costs of the litigation, that have resulted from such legal action. This section does not affect other remedies, whether provided by law or this Article that may be available to the Union and/or the Joint Trust Funds.

ARTICLE 11

Grievances and Arbitration

11.1 Jurisdiction of Procedures:

All complaints, disputes, controversies, claims or grievances (hereinafter referred to as a dispute) arising between the parties to the Agreement involving questions of interpretation, application, or breach of any part of this Agreement, or arising out of the contractual relations between the parties and their respective members shall, be resolved in the following manner:

Step 1 In the first instance, the job or shop steward shall file a grievance with the foreman on the job. The company has five (5) working days to answer this grievance. If the grievance cannot be resolved at this step it shall proceed to step two.

Step 2 The Business Representative of District Council 21 will meet with the foreman on the job. If the grievance cannot be resolved at this step within five (5) working days it shall proceed to step three.

Step 3 The Company Representative will meet with a committee appointed to hear this grievance at District Council 21's office. The committee will render its opinion within three (3) working days of the meeting. If the Company does not agree with this opinion it has two (2) working days to write its reasons why it disagrees with the opinion of the Committee. If the Committee disagrees with the written response by the Company, the Business Manager/Secretary Treasurer, will proceed to step four (4) and file for a Joint Trade Board Meeting.

Step 4 The Joint Trade Board will be made up of three members of District Council 21, and three members of the Association that best represents this grievance. From the time either party files for a "Joint Trade Board Meeting", the Board must convene within five (5) working days. The Joint Trade Board must render its decision within three (3) working days. The decision of the Joint Trade Board will be binding and final on the parties. If the EMPLOYER refuses to comply with a final and binding decision issued at the Joint Trade Board level, the District Council will have the right to direct EMPLOYEES of such EMPLOYER to refrain from work. If the "Joint Trade Board" cannot resolve the grievance, at this level: either party can file for arbitration with (AAA) American Arbitration Association, within ten (10) working days.

During the pendency of the Board's decision, there shall be no cessation of work of any type or description nor shall the EMPLOYER lock out any EMPLOYEE.

ARBITRATION

Step 5 The American Arbitration Association will submit a panel of Arbitrators from whom the parties shall select an Impartial Chairman in accordance with the Rules and Regulations of the American Arbitration Association to hear the dispute. The decision of the Impartial Chairman shall be final and binding upon all parties to the proceedings and to this Agreement.

11.2 48 hour rule:

If an EMPLOYER fails to comply with an Arbitration Award within forty eight (48) hours after it has been rendered, the Union shall have the right, aside from other legal remedies available to it, to direct the EMPLOYEES of such EMPLOYER covered by this Agreement to refrain from working for such EMPLOYER as long as he has failed to comply with the Arbitration Award, and such action by the Union and the EMPLOYEES shall not be considered a breach or violation of this Agreement.

11.3 Cost

Each party shall pay one-half (1/2) the costs of arbitration including administrative fees and the cost of an arbitrator. This shall not include the legal fees of any party using the services of an attorney or any other professional service, which shall be the responsibility of the party(s) engaged. The exception being, as pertaining to any and all fees as outlined in Article 13 and Article 6 will apply.

11.4 Termination of Agreement:

In the event it has been determined by the appropriate body that any EMPLOYER, party to this Agreement, has violated it, in any respect, depending on the severity of the offenses, then this Agreement shall be terminated as to such EMPLOYER, and the Union is privileged to withdraw the workers from the employment of that EMPLOYER.

All matters considered beneficial to the painting, wallcovering, drywall finishing and glazing industries, not presently provided for in this Agreement, shall be referred to the Joint Trade Board for consideration and appropriate action.

11.5 Non-Members of Associations:

The parties hereto agree that the arbitration procedure outlined above will be available for any dispute which may rise between the Union and EMPLOYER who is not a member of the Delaware Valley Industrial Painters Association, Inc.; and any or all Independent EMPLOYERS and Associations the Union may recognize, but who has agreed to accept and be bound by the arbitration procedures and machinery set forth above.

When a non-member signator of this Agreement is charged with violating any of the provisions or conditions of this Agreement or any other Agreement District Council No. 21 is a party to, indenture or condition related to the Collective Bargaining Agreement between the parties hereto, they shall be given the right to designate another non-member signator to the Agreement, in good standing, to sit in the place instead of one Chapter designated member of the Board, for the purpose of hearing and determining the particular charge or charges; in such an event the Chapter shall temporarily remove one of its appointed members of the Board to give effect to the aforementioned objective. The non-member signator designee shall be vested with the same powers and authority as held by the other member of the Board.

ARTICLE 12

Security of Funds

12.1 Upon signing an EMPLOYER to this Collective Bargaining Agreement, the EMPLOYER must submit to the Union a complete list of all EMPLOYEES and jobs; also, proof of having proper Worker's Compensation and Unemployment Insurance.

12.2 ALL BRIDGE & INDUSTRIAL EMPLOYERS ONLY

Bonding of Fringe Benefits and Employee Deductions Only

Bonding limits based on average manpower over last 12 months.

If 12 months not available Prior 6 months.

If No prior history, Employer estimated average for year.

When current Employer bonds expire, new bonds will be provided as follows:

Monthly Payer

(January due by the end of February)

Journeypersons & Apprentices

1-5	\$ 20,000
6-10	\$ 40,000
11-15	\$ 60,000
16-20	\$ 80,000
21-30	\$100,000
31-40	\$125,000
Over 40	\$150,000

Bi-Monthly Payer

**(January 1 -15, due January 31st
January 16-31, due February 15th)**

Journeypersons & Apprentices

1-5	\$ 10,000
6-10	\$ 20,000
11-15	\$ 30,000
16-20	\$ 40,000
21-30	\$ 50,000
31-40	\$ 62,500
Over 40	\$ 75,000

Bonds will be issued on a yearly basis and will only be modified on renewal.

Memorandum of Understanding:

Council will work to modify Painter, Glazier and Drywall Employers bonds to these levels, so all Employers in CBA maintain the same level of Bonding.

Employers and Council will work to increase bonding rates in year 2 of this Agreement as follows:

Bonding of Fringe Benefits and Employee Deductions Only

Bonding limits based on average manpower over last 12 months.

If 12 months not available Prior 6 months.

If No prior history, Employer estimated average for year.

When current Employer bonds expire, new bonds will be provided as follows:

Bonds will be issued on a yearly basis and will only be modified on renewal.

Monthly Payer

(January due by the end of February)

Journeypersons & Apprentices

1-5	\$ 40,000
6-10	\$ 80,000
11-15	\$120,000
16-20	\$160,000
21-30	\$200,000
31-40	\$250,000
Over 40	\$300,000

Bi-Monthly Payer

**(January 1-15, due January 31st
January 16-31, due February 15th)**

Journeypersons & Apprentices

1-5	\$ 20,000
6-10	\$ 40,000
11-15	\$ 60,000
16-20	\$ 80,000
21-30	\$100,000
31-40	\$125,000
over 40	\$150,000

Employers and Council shall both help fund an account within the H&W Fund through excess of bond cost and or H&W contributions.

Employers and Council shall work to develop plan to establish an Insurance policy / Bond Facility/ Bond Pool / Bonding stop-loss policy / etc. that may help Employers obtain the increased Bond levels with a goal that will limit or exclude the need for Employer Owner's personal guarantees on these Bonds.

It shall be understood that both Employers and Council shall work together to help reduce the risk to the Funds by increasing Bond levels. In doing so, both Employers and Council shall not create an Undue Hardship/Burden on the other.

12.3 For All BRIDGE & INDUSTRIAL PAINTING EMPLOYERS, in lieu of a minimum bond or letter of credit, the EMPLOYER eligible for the minimum coverage must deposit the sum of \$ 1,500.00 Per Man Per Week, by certified check to be held in escrow by the Fund Office, until such time the EMPLOYER shall produce a bond based on the above scale, or no longer employs District Council # 21 members.

Example: 5 Journeypersons & or apprentices
Payment due the following week.

Calculation: \$15,000.00 total to cover 2 weeks

12.3.1 EMPLOYERS working under these circumstances may be required by the Union to pay fringe benefits and deductions on a weekly basis.

12.4 Vacation Fund escrow will also be retained (per Article 13.4.1)

ARTICLE 13

Various Funds

13.1 Health & Welfare Funds: (1) The EMPLOYER agrees to be bound by all provisions set forth in the Agreement and Declaration of Trust, and all amendments thereto, governing establishment and operation of the I.U.P.A.T. District Council No. 21 Welfare Fund. The Trust Agreement provides, *inter alia*, for the receipt of contributions by the Welfare Fund for the purpose of providing group health, medical surgical disability and other related welfare benefits to eligible workers and their families, in such form and amounts as the Trustees of the Welfare Fund may determine in conformity with the discretion vested in them under provisions set forth in the Trust Agreement. The EMPLOYER agrees to contribute for each EMPLOYEE covered by this Agreement to the Welfare Fund in the manner provided herein, in the then current amounts and for the periods as set forth in Article 5 and Schedule A.

13.2 The I.U.P.A.T. Union and Industry Pension Fund and Annuity:

13.2.1 The EMPLOYER agrees to be bound by all provisions set forth in the Agreement and Declaration of Trust, and all amendments thereto, governing establishment and operation of the I.U.P.A.T. Union and Industry National Pension Fund (“Pension Fund”). The Trust Agreement provides *inter alia*, for the receipt of contributions by the I.U.P.A.T. Union and Industry National Pension Fund for the purpose of providing pension and other related benefits to eligible workers and their families, in such form and amounts as the Trustees of the I.U.P.A.T. Union and Industry National Pension Fund may determine in conformity with the discretion vested in them under provisions set forth in the Trust Agreement. The EMPLOYER agrees to contribute for each EMPLOYEE covered by this Agreement to the Pension Fund in the manner provided herein, in the then current amounts and for the periods as set forth in Article 5 and Schedule A.

13.2.2 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.

13.2.3 The payments to the Pension and Annuity Fund required above shall be made to the I.U.P.A.T. Union and Industry National Pension Fund which was established under an Agreement and Declaration of Trust dated April 1, 1967.

13.2.4 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 Agreement and Declaration of Trust.

13.2.5 All contributions shall be made at such time and in such manner as set forth in this Agreement. The Trustees shall have the authority to have an independent certified public accountant audit the payroll and wage records of the EMPLOYER for the purpose of determining the accuracy of contributions to the Pension Fund.

13.2.6 If an EMPLOYER fails to make contributions to the Pension Fund within thirty (30) days after the date required by the Trustees, the Union shall have the right to take whatever steps are necessary to secure compliance with this Agreement, any other provisions hereof to the contrary notwithstanding, and the EMPLOYER shall be liable for all costs for collecting payments due, together with attorneys' fees and such liquidated damages as may be assessed by the 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.

13.2.7 The Pension Plan adopted by the Trustees of the Pension Fund shall at all times conform with the requirements of the Internal Revenue Code so as to enable the EMPLOYER at all times to treat contributions to the Pension Fund as a deduction for income tax purposes.

13.3 The I.U.P.A.T. District Council 21 Annuity Fund:

13.3.1 The EMPLOYER agrees to be bound by all provisions set forth in the Agreement and Declaration of Trust, and all amendments thereto, governing establishment and operation of the I.U.P.A.T. District Council 21 Annuity Fund. The Trust Agreement provides *inter alia*, for the receipt of contributions by the I.U.P.A.T. District Council 21 Annuity Fund for the purpose of providing pension and other related benefits to eligible workers and their families, in such form and amounts as the Trustees of the I.U.P.A.T. District Council 21 Annuity Fund may determine in conformity with the discretion vested in them under provisions set forth in the Trust Agreement. The EMPLOYER agrees to contribute for each EMPLOYEE covered by this Agreement to the Annuity Fund in the manner provided herein, in the then current amounts and for the periods as set forth in Article 5 and Schedule A.

13.3.2 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.

13.3.3 The payments to the Annuity Funds required above shall be made to the I.U.P.A.T. District Council 21 Annuity Fund which was established under an Agreement and Declaration of Trust dated June 1, 1972.

13.3.4 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 Agreement and Declaration of Trust.

13.3.5 All contributions shall be made at such time and in such manner as set forth in this Agreement. The Trustees shall have the authority to have an independent certified public accountant audit the payroll and wage records of the EMPLOYER for the purpose of determining the accuracy of contributions to the Annuity Fund.

13.3.6 If an EMPLOYER fails to make contributions to the Annuity Fund within thirty (30) days after the date required by the Trustees, the Union shall have the right to take whatever steps are necessary to secure compliance with this Agreement, any other provisions hereof to the contrary notwithstanding, and the EMPLOYER shall be liable for all costs for collecting payments due, together with attorneys' fees and such liquidated damages as may be assessed by the 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.

13.3.7 The Annuity Plan adopted by the Trustees of the Annuity Fund shall at all times conform with the requirements of the Internal Revenue Code so as to enable the EMPLOYER at all times to treat contributions to the Annuity Fund as a deduction for income tax purposes.

13.4 Vacation Fund: (1) The EMPLOYER agrees to be bound by all provisions set forth in the Agreement and Declaration or Trust, and all amendments thereto, governing establishment and operation of the I.U.P.A.T. District Council No. 21 Vacation Fund. The Agreement provides, *inter alia*, for the receipt of contributions by the Vacation Fund for the purpose of providing vacation benefits to eligible workers and their families, in such form and amounts as the Trustees of the Vacation Fund may determine in conformity with the discretion vested in them under provisions set forth in the Trust Agreement. The EMPLOYER agrees to contribute for each EMPLOYEE covered by this Agreement to the Vacation Fund in the manner provided herein, in the then current amounts and for the periods as set forth in Article 5 and Schedule A.

13.4.1 A certified check for no less than Five Hundred Dollars (\$500.00) and no more than Two Thousand Five Hundred Dollars (\$2,500.00) shall be deposited with the Administrator of the Vacation Fund by each EMPLOYER. The Board of Trustees of the Vacation Fund shall determine the amount due from each EMPLOYER, predicated on the basis of one-twelfth (1/12) of the yearly amount of funds submitted by the EMPLOYER to the Vacation Fund in the preceding year. In addition to any other remedies available to the Vacation Fund as set forth in this Article, an EMPLOYER who is delinquent in submitting contributions to the Vacation Fund shall have the delinquent monies withdrawn from its certified check, and will be required to resubmit a new check in full covering this delinquency.

13.5 Training and Education Fund:

The EMPLOYER agrees to be bound by all provisions set forth in the Agreement and Declaration of Trust, and all amendments thereto, governing establishment and operation of the I.U.P.A.T. District Council 21 Apprenticeship Training and Journey Person Education Fund (hereinafter referred to as The Training Fund). The Trust Agreement provides, *inter alia*, for the receipt of contributions by the Training Fund for the purpose of establishing and administering a Training Program as the Trustees of the Apprenticeship Fund may determine in conformity with the discretion vested in them under provisions set forth in the Trust Agreement. The EMPLOYER agrees to contribute for each EMPLOYEE covered by this Agreement to the Apprenticeship Fund in the manner provided herein, in the then current amounts and for the periods as set forth in Article 5 and Schedule A.

13.6 National Apprenticeship Fund: The EMPLOYER agrees to contribute the sum of ten cents (\$.10) per hour for each hour for which an EMPLOYEE receives pay to the National Apprenticeship Fund. Trustees of said Fund shall remit said sum to the National Painting and Decorating and Drywall Apprenticeship and Manpower Training Fund at such regular periods of time, and in the manner and form as shall be determined by the Trustees of the National Apprenticeship Fund from time to time.

13.7 The District Council 21 Scholarship Fund:

13.7.1 The EMPLOYER agrees to be bound by all provisions set forth in the Agreement and Declaration of Trust, and all amendments thereto, governing establishment and operation of the District Council 21 Scholarship Fund (“Scholarship Fund”). The Trust Agreement provides *inter alia*, for the receipt of remittance by the Scholarship Fund for the purpose of providing educational relief to eligible workers and their families, in such form and amounts as the Trustees of the Scholarship Fund may determine in conformity with the discretion vested in them under provisions set forth in the Trust Agreement. The EMPLOYER agrees to remit for each EMPLOYEE covered by this Agreement to the Scholarship Fund in the manner provided herein, in the then current amounts and for the periods as set forth in Article 5, Schedule A.

13.7.2 Remittances 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.

13.7.3 The EMPLOYER further agrees to be bound by actions taken by the Scholarship Fund Trustees pursuant to the Agreement and Declaration of Trust.

13.7.4 All remittances shall be made at such time and in such manner as set forth in this Agreement. The Trustees shall have the authority to have an independent certified public accountant audit the payroll and wage records of the EMPLOYER for the purpose of determining the accuracy of deductions and remittances to the Scholarship Fund.

13.7.5 If an EMPLOYER fails to make remittance to the Scholarship Fund within thirty (30) days after the date required by the Trustees, the Union shall have the right to take whatever steps are necessary to secure compliance with this Agreement, any other provisions hereof to the contrary notwithstanding, and the EMPLOYER shall be liable for all costs for collecting payments due, together with attorneys' fees and such liquidated damages as may be assessed by the 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.

13.8 Board of Trustees:

As to each Fund referenced in Sections 13.1 through 13.15 of this Article, the EMPLOYER hereby irrevocably designates as its representatives on the Boards of Trustees such Trustees as are now serving, or will in the future serve, as EMPLOYER Trustees, together with their successors appointed and/or elected in accordance with provisions set forth in the Agreement and Declaration of Trust for each Fund. The EMPLOYER further agrees to be bound by all actions taken by the Trustees of each respective Fund pursuant to each such Agreement and Declaration of Trust, and to be further bound by any and all rules and regulations duly adopted by each Board of Trustees. The Welfare Fund, Vacation Fund and Training Fund shall each be administered, pursuant to an Agreement and Declaration of Trust, by a Board of Trustees composed of an equal number of representatives selected by the AMPD, IFCA, AGMA and DVIPA and or other Associations that the Council may acknowledge, by its Board of Directors, and by District Council No. 21 in accordance with its Bylaws. A copy of the Trust Agreements, together with Amendments thereto, shall be made available upon request by the parties and shall be considered a part of this Agreement as if set forth herein at length. The said Trust Agreements and any Amendments thereto, shall provide for annual audits of each respective Fund. The payments by the EMPLOYERS of contributions to each respective Fund shall be made monthly, on or before a date and in a manner and form that shall be prescribed by the Trustees. Each EMPLOYER shall be bound to provide such information to each Fund as its Board of Trustees may require in order to verify the amount(s) of contributions due and owing by such EMPLOYER.

13.9 Auditing of Books:

Each or any of the Funds referenced in this Article may engage a certified public accounting firm to periodically audit the books and records of any contributing EMPLOYER (or contractors working in this area) for the purpose, of verifying contributions due and owing to the respective Fund and/or liabilities for contributions due and owing to such Fund. The EMPLOYER shall make available to any Fund auditor all books and records requested by the auditor and/or Board of Trustees, including, but not limited to; payroll, wage, general ledger, cash disbursement records, compensation insurance audits, and any other pertinent records deemed necessary for the purpose, of ascertaining and/or verifying payments and/or determining liabilities. Such records shall be made available to Fund auditors upon reasonable notice. In the event such audit shall disclose for any period a deficiency in the payment reported owed and/or paid to the Fund(s) of five percent (5%) or more of the amount that should have been paid for such period under this Agreement, the cost of the audit shall be borne by the EMPLOYER. A confirmation report from the Funds will be available annually upon request by any EMPLOYER pertaining to its payments into the Funds, Industry Advancement Program, and Check-Off Administrative Dues.

13.10 The benefit programs adopted by each respective Board of Trustees shall be described in a Summary Plan Description (if one is required by law) and made available to all eligible participants of each Fund.

13.11 Each EMPLOYER agrees to furnish the Board of Trustees of each respective Fund with information necessary and appropriate to verify required contributions on reporting forms to be provided by each respective Fund. Such information shall be reported each month and shall include, but not be limited to, the names, classifications, Social Security numbers of the EMPLOYEES, and the number of hours worked by each EMPLOYEE during the period or periods for which the contributions are being made.

13.12 All EMPLOYERS from jurisdictions other than the jurisdiction of District Council No. 21 shall be subject to the above provisions contained in this Agreement and the gross payroll contributions when performing work within the geographical jurisdiction of District Council No. 21, including IAP contributions which shall be paid to the appropriate association representing that trade.

13.13 Delinquencies/Collection Procedures/Rights and Remedies of the Union and Fringe Benefit Funds: In addition to any rights, remedies or obligations set forth in this Agreement, each EMPLOYER shall have the obligations and the Union and each Fringe Benefit Fund shall have the rights and remedies set forth below:

13.13.1 All reports to the Union with respect to check-off and administrative dues, as well as amount due and owing must be filed with and paid to the Administrator of the Union and/or each respective Fund by the earlier of the thirtieth (30th) day or last calendar day of each month following the month in which the contributions and/or check-off became due and owing. Liquidated Damages of Seven Hundred Fifty Dollars (\$750.00) for failure to file a timely remittance report and not make a timely payment shall

automatically be levied upon the delinquent EMPLOYER; Liquidated Damages of Five Hundred Dollar (\$500.00) shall be levied on the delinquent EMPLOYER in circumstances where a report is submitted in a timely manner, but the EMPLOYER has failed to pay the appropriate contribution to the Union and/or Fund. All liquidated damages paid pursuant to this Section shall be distributed pro rata to the Union (dues); the Association (IAP contributions) and the respective Funds based upon the amount of the delinquent obligation owed to each entity. Nothing contained herein shall be construed as a limitation on the right of any Fringe Benefit Fund to impose liquidated damages and/or costs of collection proceedings on a “delinquent” EMPLOYER in accordance with provisions set forth in ERISA or applicable law.

13.13.2 In the event the wage payments, Fringe Benefit (Fund) contributions, Union Administrative Dues (Check-off) or any other payments required by any provision in this Collective Bargaining Agreement are not transmitted to the EMPLOYEES, the Union or the appropriate EMPLOYEE Benefit Fund, as the case may be, in a timely manner, in accordance with provisions set forth herein, or in the event the reporting forms relating to Union assessments and/or EMPLOYEE Benefit Fund contributions are not submitted in a timely manner as provided herein, the EMPLOYER shall be considered as “delinquent.” In addition to the liquidated damages set forth in (13.13.1) above, the “delinquent” EMPLOYER shall be obligated to pay any assessments and/or interest on the debt that may be required under rules, regulations or procedures governing delinquent contributions established by the Trustees of the Various Fringe Benefit Funds identified in this labor contract and not inconsistent with this Agreement or as may otherwise be imposed by law. Each EMPLOYER shall be bound and governed by any rules, regulations or procedures adopted by any of the Boards of Trustees or any of the Fringe Benefit Funds to which contributions are due and owing under this Agreement. The rules, regulations or procedures adopted by the Trustees of the Various Fringe Benefit Funds may require payment by a delinquent EMPLOYER of liquidated damages, assessments, interest on the debt (in an amount determined by the Trustees or by applicable law) and shall also assess against a delinquent EMPLOYER audit fees incurred during the collection, including, but not limited to counsel fees and costs. Such charges and expenses shall be paid to that entity to whom such contributions and payments are owed. The Co-Chairman of the Joint Trade Board may require any “delinquent” EMPLOYER or any EMPLOYER who has demonstrated a pattern of delinquency to submit its contributions on a weekly basis, notwithstanding any provisions set forth in this labor Agreement. In addition, the Board of Trustees of the Various Fringe Benefit Funds are empowered to adopt rules and regulations requiring any “delinquent” EMPLOYER or any EMPLOYER that has demonstrated a pattern of delinquency to furnish to the Board of Trustees a bond or other appropriate surety in an amount sufficient to protect the respective Fund(s) from any financial loss that may result from future delinquencies by any EMPLOYER that is, or has been, delinquent in its obligations to the Fund. The amount of any such bond or other surety shall be in the sole discretion of the Board of Trustees, and the Board in determining the amount of any such bond, may consider the costs related to the collection of future delinquencies, as well as contribution amounts.

13.13.3 In addition to all other remedies available to the parties and/or the various Fringe Benefit Funds with respect to “delinquent” EMPLOYERS, the Union may treat any failure by an EMPLOYER to satisfy a delinquency as a breach of this Agreement. In such event, the Union may, in addition to any other remedy that may be available to it, and without being limited by any “no strike” obligation that may appear in this Agreement or be implicit in its terms, remove its members from any job(s) of such delinquent EMPLOYER. A removal of manpower by the Union, pursuant to this provision, shall not be construed as a “termination” of this Agreement with respect to any affected EMPLOYER.

**13.14 The International Union of Painters and Allied
Trades Finishing Industry Labor Management Partnership**

13.14.1 Commencing with the 1st day of May 1997, and for the duration and any renewal of this Agreement, the EMPLOYER agrees to make payments to The International Union of Painters and Allied Trades Finishing Industry Labor Management Partnership (“Fund”) for each EMPLOYEE covered by this Agreement, as follows:

13.14.2 For each hour or portion thereof, for which an EMPLOYEE receives pay, the EMPLOYER shall make the then current contribution of \$.10 to the Fund.

13.14.3 For the purpose of this Article, each hour worked for, including hours attributable to show up time, and other hours for which pay is received by the EMPLOYEE in accordance with the Agreement, shall be counted as hours for which contributions are payable.

13.14.4 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.

13.14.5 The EMPLOYER and Union signatory to this Agreement agrees to be bound by and to the Agreement and Declaration of Trust, as amended from time to time, establishing the Fund.

13.15 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.

13.16 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 Agreement and Declaration of Trust.

13.17 If an EMPLOYER fails to make contributions to the Fund within twenty (20) days after the date required by the Trustees, the Union shall have the right to take whatever steps are necessary to secure compliance with this Agreement, any other provision hereof 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 liquidated damages as may be assessed by the 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.

ARTICLE 14

Pinpointing Funds

Fund One

Job Organization Program: Eligibility and Rules Painters

14.1 Purpose:

The EMPLOYER and District Council No. 21 agree to establish the District Council No. 21 "JOB ORGANIZATION PROGRAM" for the purpose of providing subsidies on specific jobs in order to enable contractors who are signatory to this Agreement to bid more competitively on certain projects in the marketplace. To implement the Jobs Organization Program ("JOP"), the EMPLOYER and District Council No. 21 further agree as follows:

14.2 Trust Fund:

The EMPLOYER and District Council No. 21 shall establish a Trust Fund to be known as the "International Union of Painters and Allied Trades, District Council No. 21 Jobs Organization Program Trust Fund."

14.3 Purpose of Trust Fund:

The purpose of the Jobs Organization Program Trust Fund shall be to provide, in accordance with the Jobs Organization Program Trust Agreement, financial subsidies for eligible contractors. The Jobs Organization Program Trust Fund shall be the sole and exclusive source of funding for all subsidies, expenses and other charges and liabilities incurred by operation of the Jobs Organization Program and shall not be liable for such charges in excess of the assets in the Fund.

14.4 Guidelines:

The Jobs Organization Program Trust Agreement shall provide that the following guidelines and rules must be satisfied:

14.4.1 There must be Non-Union competition bidding on the project.

14.4.2 The project is within District Council 21's territorial jurisdiction and scope of work covered in this Collective Bargaining Agreement.

- 14.4.3** The EMPLOYER making application must be signatory to District Council 21's Collective Bargaining Agreement and utilize members of said bargaining unit. EMPLOYERS signed to project Agreements are not eligible to apply for JOP subsidies.
- 14.4.4** The EMPLOYER making application must not be delinquent in any fringe benefit reporting and contribution obligations at the time of application and at the start of the approved project or shall have reached an appropriate Agreement, satisfactory to the Trustees, in resolution of any outstanding delinquencies.
- 14.4.5** Only the District Council shall have the authority to approve a subsidy with respect to a project.
- 14.4.6** Subsidized hours granted under the Jobs Organization Program will only apply to members of District Council No. 21 and then only to the EMPLOYEES that are based in that zone. These subsidies will not apply and/or be used for change order work but only to the original contract.
- 14.4.7** Only the hours worked on an approved JOP project will be subsidized and then only up to the amount approved by the District Council; provided that the District Council shall grant relief equal to the total of all fringe benefit contributions required of the EMPLOYER under Schedule A of the Collective Bargaining Agreement for each hour of relief approved.
- 14.4.8** The EMPLOYER will report the start of a JOP project. There will be a job steward placed and appointed by the District Council at the start of any JOP project. When the project requires more than five (5) workers, 50% of the additional workers starting with the sixth, will be assigned by the District Council from the "out of work register", qualifications prevailing.
- 14.4.9** JOP subsidies shall not be unreasonably denied by the District Council. The District Council shall respond to any JOP application within five (5) working days.
- 14.4.10** If any EMPLOYER is found to have abused the JOP subsidies more than once in any given year, said EMPLOYER will not be eligible for JOP subsidies for a period of up to one year. A third finding of abuse will suspend said EMPLOYER'S use of JOP subsidies for the remaining term of the Agreement.
- 14.4.11** Nothing contained herein shall prevent the Trustees from adopting additional rules and regulations not inconsistent with or in conflict with the foregoing.

ARTICLE 15
Industry Advancement Funds
Delaware Valley Industrial Painters Alliance &
National Steel Painting Contractors Association

15.1 Recognition:

The Industry Advancement Funds (I.A.F.) shall be established for the sole purpose and intent of promoting, advancing and protecting the industry and shall be managed solely by the individual Associations. No part of the Funds or property of the I.A.F. may be used to undermine the COUNCIL, its Collective Bargaining Agreements, and its right to represent EMPLOYEES, to encourage or support litigation against the COUNCIL.

15.2 Payments to D.V.I.P.A. & NSPCA

EMPLOYERS covered by the DVIPA, NSPCA and any employee engaging in industrial or bridge type work– shall make contributions to the DVIPA Industry Advancement Fund (I.A.F.) at the rate of \$.32 per hours worked and also the NSPCA Industry Advancement Fund (I.A.F) at the rate of \$0.05 per hours worked.

ARTICLE 16

**District Council 21 Apprenticeship
And Journeyman Training**

16.1 Standards:

The Finishing Trades Institute of the Mid-Atlantic Region (hereinafter referred to as the FTI) is hereinafter recognized as the official training provider for IUPAT District Council 21. All documents regarding training issues are created and approved by the staff and trustees of the FTI. Nothing in these documents shall be interpreted as being inconsistent with existing or subsequent Collective Bargaining Agreements establishing higher standards. In the event of a conflict, the higher standards, whether in the Apprenticeship Documents or the Collective Bargaining Agreement, shall prevail.

16.2 EMPLOYERS participation:

All EMPLOYERS must participate in the Apprenticeship Program and will employ apprentices as directed by the Trustees of the FTI.

It is further agreed that all apprentices must attend school classes as part of their Apprenticeship-Training Program. The schedule for these classes shall be determined by the FTI.

16.3 Training Fund:

The FTI will consist of an equal number of members designated by the Associations and by District Council 21, with the right of each party to replace any of their designees. Refer to “Recognition” clause – Article 1.

The FTI shall be authorized to determine expenditures necessary for the proper functioning of the Training Program, such as a Coordinator, instructors, materials, equipment and such other items for personnel and training as deemed necessary.

Revenue for the FTI shall be provided by a contribution of the then current amounts provided herein per hour, per EMPLOYEE, paid by EMPLOYERS. This Payment shall be made in accordance with Article 13, Section 13.13.1.

The FTI Trustees are hereby authorized to adopt such rules and procedures as it deems necessary and same shall bind all signatories to this Agreement.

16.4 Ratio of Employment:

Consistent with proper supervision, training, safety, and continuity of employment throughout the Apprenticeship, the ratio of apprentices to journey workers shall be one apprentice to three journey workers (1 to 3) or fraction thereof, or at a higher ratio determined by District Council 21*

16.4.1 *Fraction thereof is defined as:

“The EMPLOYER may place one Apprentice on the job-site for one, two or three journey workers’; two apprentices for four, five or six journey workers’, three apprentices for seven, eight and nine journey workers, and follow this procedure thereafter.”

16.5 No EMPLOYER shall be permitted to employ an apprentice unless approval is given by the Training Fund upon application.

16.6 Apprentice Wage Rates:

In subsequent years of this contract, Apprentices will be given the appropriate percentage of the Journeypersons total increase based on the current term of the Apprentice. Distribution of the increase is determined by the Union.

Bridge and Industrial: *All Zones (1-5)

Term 1 = 53%

Term 2 = 65%

Term 3 = 80%

Term 4 = 90%

ARTICLE 17

State Safety Code Compliance

- 17.1** All tools and equipment will meet and be used in conformity with all provisions of Federal Safety Codes.
- 17.2** An EMPLOYEE willfully misusing said equipment, especially personal protective equipment designed for his or her safety, could be discharged by the EMPLOYER pending notification to the Union.

ARTICLE 18

Compensation Insurance Coverage

- 18.1 Compensation Insurance Coverage:**
EMPLOYER shall be responsible for providing Workers' Compensation Insurance to his EMPLOYEES pursuant to the provisions of the Workers' Compensation Act of Pennsylvania" and in any other state in which the EMPLOYEE may be working.
- 18.2 Notification of Injury:**
All EMPLOYERS must, when a worker is injured as a result of an accident while working on a job, notify District Council No. 21 within 24 hours thereafter giving full report as to when, where and the extent of injuries sustained insofar as the facts will permit.
- 18.3** The Foreman or Steward shall notify the COUNCIL and their EMPLOYER of any accident on the job. If for any reason there is not a Foreman or Steward on that job the member who is present on that job must notify the COUNCIL and their EMPLOYER

Article 19

Acts, Relations, Rulings, Legal Jurisdiction

- 19.1 Saving Clause**
Any Provisions here in this Agreement contained that are contrary to or held to be in violation of any Federal, State or Municipal law now in force and effect, or that may be hereafter enacted and effective, shall have no force and effect for the duration of such violation, it being intended, however, the remaining lawful provisions hereof shall be unaffected.

ARTICLE 20

Promotion for Better Journey Persons and Industries

- 20.1** It is agreed that the advancement of a better-qualified journey person is to be promoted at all times.
- 20.2** It is agreed that a standing Industry Committee made up of Labor and Management be appointed and meet at such times that are mutually agreed upon to discuss joint problems of the Industries of Painting, Wallcovering, Drywall Finishing, and Glazing and to make such recommendations to the EMPLOYER Associations and the District Council.

ARTICLE 21

More Favorable Terms

- 21.1 More Favorable Terms:**
The COUNCIL agrees that should it enter into any Agreement with an individual EMPLOYER or group of EMPLOYERS to provide wages or working conditions more favorable to the EMPLOYER than are included in this Agreement, such more favorable wages and working conditions shall automatically be included in this Agreement.

ARTICLE 22

Duration

- 22.1 Term:**
This Agreement will continue for a term of three (3) years from February 1, 2019 thru January 31, 2020, between District Council 21 and the D.V.I.P.A., and shall continue thereafter from year to year unless terminated by either side giving to the other written notice at least sixty (60) days prior to the expiration of the then current term of their desire to modify or terminate.

ARTICLE 23

SPECIFIC PROVISIONS & CONDITIONS FOR ALL PAINTERS

23.1- PAINTER

23.1: SPECIFIC PROVISIONS & CONDITIONS FOR PAINTERS

23.1.1 Scope of Work Painter

The work jurisdiction of the Painters and Decorators shall include but not necessarily be limited to the description provided in the I.U.P.A.T. General Constitution, but will also include all types of coatings in conjunction with painting, waterproofing, masonry restoration, metal polishing/refinishing, decorating, sealing, caulking, lead removal and/or abatement, encapsulating, lining, fire-proof, etc; including any and all preparations, such as cleaning, patching, caulking, blasting, stripping, and/or all removal necessary to apply any and all coatings interior and/or exterior, the installation and maintenance of material containment debris platforms, and their enclosures, the operation of all necessary equipment, and the handling of all clean-up of all material and debris in conjunction with the work on bridges, tunnels, viaducts and appurtenances.

23.1.2 Bridge & Industrial – Containment Builder/Equipment Operation

This classification is described as a support function of painting operations such as handle all materials, man safety boats, handle traffic control devices, load and unload trucks, clean abrasive blast materials, operate equipment to support surface preparation and painting, construction of containment enclosures, apply masonry coatings, and other assigned work with the exception of performing surface preparation, and application of coating materials of steel. Apprentices will have precedence in performing this work with when available.

23.1.3 Tools and Equipment:

All tools, material and equipment including the debris caused thereby, pertaining to the work and the preparation thereof which is covered under this Agreement, including but not limited to compressors, hoppers, power tools, and all mechanical and hand tools used for surface preparation and surface finishing, the loading and unloading thereof, shall be handled and/or performed by EMPLOYEES covered by this Agreement.

Work schedule

23.1.4 Hiring of EMPLOYEES

23.1.4.1 Referrals and Registration of EMPLOYEE:

The Council shall register and refer all qualified applicants for employment for the painting, decorating, wallcovering and drywall finishing industries, and all work covered under this Agreement. The District Council will be the first source of referrals for qualified applicants for employment and will furnish the EMPLOYER with the required number of qualified EMPLOYEES needed that are registered on the out-of work list posted at the District Council.

23.1.4.2 Non-Discrimination:

The selection of qualified applicants for referral to jobs shall be on a non-discriminatory basis and shall not be based on, or in any way affected by, Union membership, by laws, regulations, constitutional provisions or any other aspect or requirements, except as outlined in this Agreement.

23.1.4.3

The EMPLOYER and the Union agree that there shall be no discrimination against EMPLOYEES or applicants in violation of federal, state or municipal statutes.

23.1.4.4 Special skills:

When the EMPLOYER requests a qualified applicant with special skills and abilities, the Union shall refer, to the best of their ability, such EMPLOYEE who is qualified to perform the work.

23.1.4.5 Rehire of steady EMPLOYEE:

The EMPLOYER shall have the right to hire back at any time, steady EMPLOYEE. These designated EMPLOYEES will be registered with the Union once a year at the beginning of the year. Recall to work of these EMPLOYEES will not count as a turn in the 50/50 hiring system now in place, but all steady EMPLOYEES must register with the Union when they are laid off and rehired.

23.1.4.6 Members Refusal to work:

The Union will not be held responsible for any member's refusal to return to work for any previous EMPLOYER.

23.1.4.7 Priorities in employment:

The EMPLOYER agrees that priority in employment shall be given in the following manner.

23.1.4.7.1 EMPLOYEES previously employed by that EMPLOYER.

23.1.4.7.2 EMPLOYEES who have been employed within the industries by any EMPLOYERS having a collective Bargaining Agreement with the District Council 21 A.M.P.D; A.G.M.A; I.F.C.A, PDCA and any other/ EMPLOYER Association recognized by this Union.

23.1.4.7.3 EMPLOYEES otherwise employed in the industries and lastly to persons competent and qualified for employment.

23.1.4.8 50/50

It is understood and agreed that the hiring system will be a “shared hiring system of 50/50 or 1 to 1. The first qualified member selected by the EMPLOYER will be referred by the District Council from the “out of work register.” The next qualified member to be employed by said EMPLOYER will be selected by the Employer from the “out of work register;” and will continue so on in an alternating manner for all hired EMPLOYEES, qualifications prevailing.

23.1.4.9 Reject EMPLOYEE:

The EMPLOYER shall have the right to reject an applicant for employment in as long as it does not interfere with the member’s rights and responsibility as a member of the I.U.P.A.T.

23.1.4.10 Exhaustion of out of work list:

If the registration list is exhausted and the District Council is unable to refer applicants for employment to the EMPLOYER within 48 hours after receiving such request, (weekends and holidays exempt, the EMPLOYER shall be free to secure applicants from any sources available, without the referral procedure. The EMPLOYER must notify the District Council promptly of the names, address and Social Security numbers of any such hired EMPLOYEES.

23.1.5 Reporting of jobs:

The EMPLOYER must report to the District Council the start and/or re-start of any job before EMPLOYEES are sent to said job. The EMPLOYER must submit to the Council, a weekly report listing all current jobs, current EMPLOYEES and termination of EMPLOYEES.

23.1.6 Work Day:

The regular workday is to be any 8 hours between 6 A.M. to 6 P.M. However, when a make-up day is desired, a 10-hour day may be worked when mutually agreed. Present EMPLOYEES on the job will have first option to work.

23.1.6.1 Make-Up Day Exterior:

Due to inclement weather during the normal work week and through no fault of the Contractor, a makeup day (Saturday) may be used. The make-up day will be paid at straight time rate.

23.1.6.2 Make-Up Day Interior:

A make-up day may be used when due to no fault of the Contractor and mutually agreed upon between the EMPLOYER and District Council 21. Wages will be paid at straight time rate. Prior notice must be given to District Council 21.

23.1.6.3 Work Week:

The work week is forty (40) hours. The flexible work week will be Monday through Saturday.

23.1.7 Overtime:

Time worked in excess of eight hours per day (except when the ten-hour work day option is utilized) or more than 40 hours per week shall be paid at the overtime rate. This applies to Saturday and Sunday work, which shall be paid at the overtime rate.

23.1.7.1

All overtime will be paid at time and a half unless stipulated in a National Agreement. (Bridge, Tank, Refinery)

23.1.8 Four Tens:

When the ten-hour day option is used, then the eleventh and twelfth hours will be paid at time and one half. The fifth day will also be paid at time and one half. After twelve hours or five days the hours shall be paid at double time.

23.1.9 Saturday-Sunday Work:

When Saturday and/or Sunday is required, the EMPLOYER shall notify the COUNCIL before 4:00 P.M. on the Friday preceding, with the understanding that an EMPLOYER be permitted to notify after that hour if an emergency came up after 3:00 p.m. If the EMPLOYER'S client fails to notify him to proceed with work on Saturday and/or Sunday in time for the EMPLOYER to so notify the COUNCIL, then the EMPLOYER shall fax the notice to the office of the COUNCIL, or work will not proceed.

23.1.10 Payment of Fringes and Wages

Wages shall be paid weekly. No more than five (5) days shall be retained by the EMPLOYER at any time. EMPLOYEES shall be paid on the job site. Check to be mailed if EMPLOYEE is absent. A new EMPLOYEE has the option to request and obtain an advance against retained earnings during the first week of employment. Whether wages are paid cash or check, EMPLOYEES shall be furnished with forms, e.g., check stubs, on which shall be noted worked and deductions made for the period.

23.1.11 Bad Checks:

When an EMPLOYEE is paid with a bad check, the EMPLOYER shall be made to pay cash thereafter for the duration of this Agreement. The EMPLOYEE will be paid the hourly rates until the EMPLOYER rectifies this offense.

23.1.12 Fringe Calculations:

The EMPLOYER agrees to pay fringes for each hour paid up to eight (8) hours, and after eight (8) hours, fringes on each hour worked.

23.1.13 Notice of Layoff:

Notice of layoff shall be given one (1) hours before quitting time. When EMPLOYEE is laid off or quits, his check may be mailed at the next regular pay period.

23.1.13.1 Layoff for Alleged Cause:

When an EMPLOYEE is laid off by the EMPLOYER for alleged cause, and is replaced by another EMPLOYEE on the same job, EMPLOYEE shall immediately report the matter to the Council for investigation. The matter will be handled under Article 14.

23.1.14 Holidays:

The holidays to be observed are: New Year's Day, Memorial Day, Independence Day, Thanksgiving Day, and Christmas Day. No work may be performed on Labor Day. Time worked on these days will be worked at the overtime rate.

Wage provision

23.1.15 Foreman:

When one to eight (8) EMPLOYEES are employed on a job one EMPLOYEE will be designated foreman and shall receive \$1.00 above the then current base rate. When nine (9) to nineteen (19) EMPLOYEES are employed on a job the foreman shall receive \$2.00 above the then current base rate. When there is more than twenty (20) EMPLOYEES on a job a foreman shall then receive \$3.00 above the then current base rate.

23.1.15.1 EMPLOYEE Deductions:

The EMPLOYER shall deduct the sum covering the Vacation Fund, \$1.00 per hour, and \$.20 per hour P.A.C. Fund and \$.03 per hour for the DC # 21 Scholarship Fund (which are included in the Schedule A rates) from the net weekly pay (i.e.; after taxes) and make a notation of such deduction on the EMPLOYEE'S pay envelope or check stubs. These deductions and payments are not applicable to overtime work. These Monies deducted shall be paid in accordance with Article 16 of this Agreement.

23.1.15.2 Automatic Reduction:

The rate of wages will be automatically reduced if it is mutually agreed that a portion of these increases be allocated to payments into the Various Funds. Payments for fringe benefits are provided under Article 16 and Schedule A hereof.

23.1.15.3 Two shifts:

If a Journeyperson is required to report on a day job, after having worked on a previous night job EMPLOYEE shall not work beyond 12:00 mid-night, but shall be paid eight (8) hours.

23.1.15.4 Shift work:

Employees working a second or third shift are entitled to a ten percent (10%) shift premium over the base wage rate.

23.1.15.5 Show Up Time / Minimum Hours:

When an EMPLOYEE reports to either the shop or a job site and is unable to work due to circumstances beyond the control of the EMPLOYER, then the EMPLOYEE shall be paid two (2) hours "show up time". Should that EMPLOYEE begin working, then EMPLOYEE shall be paid for the actual time worked.

23.1.15.6 Pyramiding:

There shall be no pyramiding of Premium Rates.

23.1.15.7 Higher rates:

It is agreed that when EMPLOYEES are working in a Zone where higher rates are paid, COUNCIL members are to be paid the higher rate.

23.1.15.7.1 Higher rates / Two Jurisdictions:

When two bridges span or encompass the jurisdiction of two District Councils, the higher rate of the two will apply.

23.1.15.8 Room & Board:

EMPLOYERS are to pay full board and fare to and from work out of town where such men do not return home daily. Men shall furnish itemized list of expenses to EMPLOYER. Pay for travel time not to exceed eight (8) hours of twenty-four (24) hour day.

Defined Rates:

23.1.15.9 Industrial Rate: (See Schedule A)

23.1.15.10 Bridge & Highway Rate: (See Schedule A)

Work Rules Painters

23.1.16 Clothing Protection:

EMPLOYER shall provide suitable space on the job site for the safeguarding of clothing of EMPLOYEES. The EMPLOYERS shall furnish to all EMPLOYEES protective apparel necessary to safeguard EMPLOYEES from health hazards, as prescribed for by Federal regulations.

23.1.16.1 Personal wash-up Facilities:

Water and soap shall be provided to EMPLOYEES for use at noon time and quitting time; for each time they shall have five (5) minutes grace for washing up. Clean up time to be fifteen (15) minutes for EMPLOYEES working on the outside of a job. This time is to be used for personal clean up only.

23.1.16.2 Furnishing of Equipment:

EMPLOYER shall furnish and deliver all equipment for the use of EMPLOYEES.

23.1.16.3 Cause for Dismissal:

It shall be the responsibility of the EMPLOYEE to use all safety equipment provided by the EMPLOYER. Violators shall be subject to immediate dismissal for failing to do so.

23.1.16.4 EMPLOYEES Tools:

EMPLOYEES shall furnish putty knives and dusters, and will furnish and wear clean white overalls on commercial and residential work.

Work definitions Painters

23.1.17 Bridge:

All bridges that span water, railroad bridges, bridges over canyons, viaducts, and appurtenances.

23.1.17.1 Industrial:

Refineries, tanks, hangers, ceiling over 60 feet, nuclear plants, steel mills, towers, steeples, dams etc., and or any work, that would require cables as a platform to work on.

23.1.17.2 Highway Rate – State of Delaware:

Overpasses, underpasses, medians, concrete parapets, sound walls, concrete abutments and piers, will be the same as Bridge Rate in the State of Delaware.

23.1.18 Wage & Benefits:

As per Article 5.

23.1.19 Job Steward, Painters:

23.1.19.1 Place & Appointments:

All Jobs will have a designated Job Steward. All Job Stewards will be designated by the Union.

On all jobs of six or more the Job Stewards will have accessible work tasks. The Employer shall furnish the Union with written reports upon request of all jobs being currently performed by the Employer. Such reports shall include the name and location of the job and the number and names of the employees employed. The Union may, at its option, appoint a Job Stewart on any job where its members are employed from among the employees on the job. The Union shall notify the Employer at that time of the identity of the Steward.

23.1.19.2 Duties of:

The duties of the Job Stewards shall be as follows:

- To see that the provisions of this Agreement are observed;
- To receive and endeavor to adjust at the first step, all grievances that may be submitted to him or her;
- To report to the full-time Representatives of the Union any IUPAT trade jurisdiction work being performed on the job site by any person who is not an IUPAT member;
- To Mentor fellow members concerning the importance of a professional and productive approach to work;
- To keep an accurate daily record of the names, District Council Members' actions, and time of each and every member on his particular job, and will report to the Union on a weekly basis.

23.1.19.3 Pay Scale & Removal Of:

The Job Stewards shall be allowed sufficient and reasonable time during working hours to carry on any activities necessary to discharge their duties. They shall have authority to check the identification of individuals employed on the job or in the shop. The Employer shall not dismiss or otherwise discipline any Steward for properly performing his or her duties, nor shall the Employer dismiss or otherwise discipline any employee for making a complaint to the Steward or giving evidence with respect to an alleged violation of this Agreement. Except for General Foremen and Foreman, the Job Steward shall have top seniority on the job to which he or she is assigned, as long as he or she remains in the positions of Steward and so long as he or she has the qualifications and ability to perform the available work. The Job Steward shall be the first person offered overtime, provided he/she has the qualifications and ability to perform the available work. Job Stewards may be relieved of their duties at any time at the discretion of the Union. It is agreed by the parties hereto that the Job Steward shall not have the authority to call for or initiate a work stoppage or job action at the workplace or job site and must immediately report all problems to the Business Manager or Business Agent.

23.1.19.4 Dispute over Layoff:

Steward, if laid off contrary to **23.1.19.3** of this Article, or any dispute relative to this clause, upon complaint of the Steward, case shall be referred to, and handle by, the EMPLOYER, COUNCIL Representative and Steward on the job and, if not settled by these parties, case shall be referred to the grievance procedure herein provided for proper consideration and disposition.

Signature Page

February 1, 2019 thru January 31, 2022

In Witness Whereof, the parties hereto, intending to be legally bound, have hereunto set their hands and seals the day and year first above mentioned.

Date _____

I/We, the undersigned, an EMPLOYER in the Bridge Painting and Industrial Painting Industry have read the foregoing Agreement and am familiar with its provisions, accept and agree to be bound by all its terms and conditions. I also agree, with the signing of this Agreement, to provide to District Council #No. 21 a complete list of all my journeypersons and apprentices whom I employ along with any persons considered Containment Builder/Equipment Operators.

THE DELAWARE VALLEY INDUSTRIAL PAINTERS ALLIANCE

By /s/ _____ By /s/ _____

**District Council # 21
International Union of Painters and Allied Trades**

By /s/ _____
**Joseph T. Ashdale
Business Manager/Secretary Treasurer**

Signature Page

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INDEPENT EMPLOYER

**District Council # 21
International Union of Painters and Allied Trades**

By /s/ _____
Joseph T. Ashdale
Business Manager/Secretary Treasurer

Company

BY /s/ _____
Employer Representative or Independent Employer