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Title: **Builders Association of Missouri and International Union of Painters & Allied Trades (PAT), Painters District Council 3 (2002)**

K#: **8517**

Employer Name: **Builders Association of Missouri**

Location: **MO**

Union: **International Union of Painters & Allied Trades (PAT)**

Local: **Painters District Council 3**

SIC: **1721**

NAICS: **23622**

Sector: **P**

Number of Workers: **1200**

Effective Date: **04/01/02**

Expiration Date: **03/31/05**

Number of Pages: **18**

Other Years Available: **Y**

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K 8517
1,200 workers
4-1-02 - 3-31-05
18 pp.

JOINT AGREEMENT
between
THE BUILDERS' ASSOCIATION
and
PAINTERS' DISTRICT COUNCIL NO. 3

THIS AGREEMENT is between THE BUILDERS' ASSOCIATION, herein referred to as the "Employer", and DISTRICT COUNCIL NO. 3 of the UNION OF PAINTERS AND ALLIED TRADES, herein referred to as the "Union".

The Employer and the Union have a common and sympathetic interest in the painting industry. Therefore, a working system of harmonious relations are desirable from the viewpoint of the Employer, the Union and the public. Progress in industry is fostered by mutual confidence between the Employer and the Union. All will benefit by continuous peace and the adjustment of any differences by rational common sense methods.

WITNESSETH:

That the Employer and the Union covenant and agree to faithfully keep and observe the following rules:

ARTICLE I
JURISDICTION OF AGREEMENT

The jurisdiction of this Agreement shall extend to and include the counties of Bates, Benton, Caldwell, Carroll, Cass, Clay, Clinton, Cooper, Daviess, Grundy, Harrison, Henry, Jackson, Johnson, Lafayette, Livingston, Mercer, Moniteau, Morgan, Pettis, Platte, Ray, and Saline in Missouri and the following counties in Kansas: Johnson, Linn, Miami, Wyandotte and Leavenworth.

ARTICLE II
SURETY BOND

Each employer hiring employees under this Agreement and each employer making contributions to the fringe benefit programs under which health and welfare and pension benefits are provided under this Agreement shall secure and maintain a Surety Bond in the minimum amount of Ten Thousand Dollars ($10,000) if he is working five or less employees, and the sum of Twenty Thousand Dollars ($20,000) if said employer is working over five employees, and shall furnish to the Joint Trade Board copies of the procurement and continued maintenance of the appropriate bond. The Painters' District Council shall provide written notice of the procurement and continued maintenance of such bonds to the Joint Trade Board on an ongoing basis. Said bonds shall be used as a guaranty of payment of wages (including Individual Savings Account payments) and fringe benefit contributions called for in the contract under the following conditions and with the following limitations:

The Joint Board may, in the case of a delinquent employer, require said employer to increase his surety bond up to a maximum of Forty Thousand Dollars ($40,000). In addition, all new signatory employers and out-of-jurisdiction employers shall be required to post a Forty Thousand Dollar ($40,000) surety bond. A "new signatory employer" is defined as an employer who has been signatory to the collective bargaining agreement between The Builders' Association and Painters' District Council No. 3 for less than five years.

The bond of each employer shall insure payment of wages to employees accruing during a period of not more than four weeks. Such bond shall be liable for wages only in the event the Builders' Association is notified by the employees or by the Union in the two weeks following the receipt by the

employees of a check for which payment is denied or in the two weeks following the employees' failure to receive payment of wages. Such bond shall also be liable for fringe benefit contributions accruing over a period not to exceed four months.

ARTICLE III
UNION SECURITY

The Association hereby recognizes the Union as the exclusive bargaining agent for all employees of the Employer performing any type of work which has historically and traditionally been performed by members of the Union in the geographical area of this Agreement.

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

The failure of any employee to become a member of the Union as herein provided shall obligate the Employer, upon written notice from the Union to such effect, to forthwith discharge such person, provided that Union membership was available to such employee on the same terms and conditions generally available to other members. Further, the failure of any person to maintain his Union membership in good standing by his failure to pay the periodic dues of the Union, shall, upon written notice to the Employer by the Union to such effect, obligate the Employer to discharge such person.

The Employer shall not be required to discharge any employee for noncompliance with the foregoing until he receives a written request from the Union specifying the reason for such request, and the Union agrees to indemnify the Employer and hold the Employer harmless from any liability or claims by reason of compliance with the request of the Union.

It is the intention of the parties in connection with the execution of this Agreement to comply with all laws, state and federal, relative to the subject matter of this Article, and in the event that any clause of this Article should be contrary to any law, state or federal, said clause shall be inoperative in such state and the remainder of the Agreement shall remain in full force and effect.

ARTICLE IV
WORK JURISDICTION

The Association hereby recognizes the jurisdiction of the Union over work to be that work which has historically and traditionally been performed heretofore by members of the Union of Painters and Allied Trades, AFL-CIO, in the geographical area of this Agreement.

It is also agreed that if a jurisdictional dispute should occur, involving the Union and another union affiliated with the Building and Construction Trades Department, AFL-CIO, that there shall be no stoppage of work because of such dispute. If the Unions involved and the Association are unable to settle the dispute, the disputed work shall proceed as assigned by the contractor, and the problem shall be referred to the International Presidents of the unions involved to seek a settlement by them or their assigned representatives.

In the event at some future date the Painters' District Council No. 3 and The Builders' Association agree individually to be bound by a board for jurisdictional awards, then, the procedures for settlement of jurisdictional disputes as set forth by that board shall replace the procedures set forth above.

ARTICLE V
WAGES

1. **Minimum Hourly Wages**	**4-1-02**
Brush & Roller (Base Rate)	$24.12
Drywall Finisher (Base Rate)	24.12
Paper Hanger	24.62
Storage Bin & Tanks - Roller or Brush	24.87
Elevated Tanks - Roller or Brush	24.87
Stageman	24.87
Beltman	24.87
Bridgeman	24.87
Steelman	24.87
Sand Blast - Base	24.87
Elevator Shaft	24.87
Bazooka, Box and Power Sander Operators	25.12
Lead Abatement	25.12
Lead Abatement (abrasive blasting in a confined area)	25.87
Sprayman	25.12
Dipping	25.12
Sprayman/Texture or Imitation Acoustics	25.12
Sandblast - Bridge	25.62
Sandblast - Stage	25.62
Sandblast - Erected Steel	25.62
Sandblast - Storage Bin & Tank	25.62
Sprayman - Storage Bin & Tank	25.87
Sprayman - Elevated Tanks	25.87
Stageman - Spray	25.87
Bridgeman - Spray	25.87
Steelman - Spray	25.87
Steeplejack (other than Elevated Tanks)	28.81
Steeplejack - Spray or Sandblast (other than Elevated Tanks)	29.81

NOTE: The hourly contribution to the Individual Savings Account (ISA) is included in the above hourly wage rates and shall be taxed as wages. The ISA contribution (for all journeymen and apprentices) is to be deducted from the hourly wage and remitted, along with fringe benefit contributions, to the bank serving as depository for fringe benefit funds.

Effective April 1, 2003, One Dollar and Seventy Cents ($1.70) per hour will be added to Wages and/or fringes, at the Unions's option. Effective April 1, 2004, One Dollar and Seventy Cents ($1.70) will be added to wages and/or fringes at the Union's option. Any or all of the above amounts may be applied to existing fringe benefit funds, upon written notice to the Association, at least thirty (30) days prior to those effective dates. In addition, effective April 1, 2003, one cent shall be added to the Industry Advancement Fund and effective April 1, 2004, one cent shall be added to the Industry Advancement Fund.

Workers performing abrasive blasting in confined spaces on lead abatement projects shall receive a premium increase of $.75 per hour, effective April 1, 2003.

NOTE: Future economic increases for employees shall be dependent upon their having successfully completed the required safety and health training. Employees shall be trained or tested in OSHA 500, CPR, First Aid, Scaffold, Fall Protection, Lead Abatement (if applicable) and pulmonary and fit-testing in order to be eligible for their April 1, 2003 increase and future increases. Training requirements in subsequent years shall consist of retraining in the aforementioned areas as needed to remain current or certified in such areas and shall include training in other areas as determined by the trustees of the Apprenticeship Health and Safety Training Fund. If training requirements are met after the effective date of future economic increases, such increases shall be paid from the time training requirements are met forward.

2. **Residential Work**

"Residential Work" wage rates are Fifty Cents (50¢) per hour below the above wage scales unless the employer is signatory to a Residential Agreement between The Builders' Association and Painters' District Council No. 3.

"Residential Work" for the purposes of this Agreement is construed to include all residential units or projects on which work is being performed at the rate of three (3) or less units at any one given time. For the purposes of this definition, any duplex shall be considered as two units.

3. **Classifications**

A. **Stagemen and Beltmen** are defined as employees who perform exterior work on swing stages, window jacks or with belts. The appropriate rate shall apply to all such work performed from the ground up, including groundmen that assist in moving hooks and/or lookouts, tying off and pulling up. The rate shall not apply to men performing ground work only.

B. **Bridgemen** are defined as employees working on any bridge except where bridge handrail only is being painted and such rail can be painted without use of scaffolding.

C. **Steelmen** are defined as employees who perform work on all exterior erected structural steel.

D. The **Storage Bin and Tank** rate shall not apply where the surface to be painted is seven (7) feet or less above the ground or other surface upon which the tank rests. If this is the only portion of the tank to be painted the classifications above shall not be applicable.

E. The **Sand Blasting** rate shall include all work performed by air, steam, abrasive, aggregate and/or sand blasting. It also includes all rigging, covering and erection of scaffolding.

F. The **Elevator Shaft** rate is for work performed in elevator shafts above twenty-seven (27) feet, distance to be measured from the bottom of the shaft. The rate applies even if the man or men are using the elevator as a means of performing the work.

G. **Drywall Finisher** - applies to the craftsman who performs work involving materials identified with but not limited to the drywall industry, and patching and preparing any and all surfaces which will receive spray material including concrete ceilings and walls, drywall board and gypsum.

H. **Bazooka, Box and Power Sander Operators** - applies to the drywall finisher craftsmen who are skilled in the use of mechanical taping equipment (examples--Bazooka applicator, mechanical box, angle and cornering tools) or electrically powered sanders.

I. **Steeple Jack Man** - applies to the craftsman who must have the skills necessary to work smokestacks, rollercoasters and erected towers over thirty-five (35) feet in height and all flag poles.

(For the purpose of clarity, an erected tower is a radio, beacon and/or television tower or platform erected on legs and/or structural supports. Stacks and towers which are erected on the roof or deck of another structure will be measured from the roof or deck to determine the height.)

J. **Steeple Jack Sandblaster or Spray Man** - applies to a Steeple Jack Man who is performing sandblasting or spray work.

K. **Sprayman/Texture or Imitation Acoustics** - This applies to individuals who spray texture and imitation acoustics and/or all drywall compounds to be sprayed on all ceilings and/or walls including concrete walls and ceilings.

L. **Lead Abatement** - Lead abatement work is defined as that work involving the disturbance, removal or encapsulation of lead-containing paint which results in airborne concentrations of lead above the Permissible Exposure Limit (PEL) as defined by OSHA in 29 CFR 1926.62 (c). Employees shall receive lead abatement pay when they are working in such environments, or when they are testing exposure levels, so long as they wear the appropriate respirators and other personal protective equipment as required by law.

4. **Foreman**

When three or more workers are employed on a job, one worker shall be appointed foreman and shall receive One Dollar and twenty five cents ($1.25) per hour more than the base rate paid to drywall finishers and to painters using brushes or rollers covered by this Agreement. When ten or more workers are employed on a job, the foreman shall be paid $2.00 more than such base rate.

5. **Travel**

A travel allowance equal to one hour's basic wage scale per day or per diem shall be paid on all jobs more than fifty (50) miles from 12th and Broadway, Kansas City, Missouri (except jobs at Whiteman Air Force Base). Employees sent by the Employer to perform jobs beyond the jurisdiction of Painters' District Council No. 3 shall receive actual expenses of board and room.

ARTICLE VI
QUALIFICATIONS ON TOOLS AND MATERIALS

There shall be no restriction in the application of materials using the brush, roller, roller handles mitten, spray, floor applicator, trowel or scaffolding devices except as follows:

1. The use of a roller for the application of materials over nine (9) inches in width is not permissible except that there shall be no restrictions on roller widths when they are used on floors. Size of the container shall not exceed five (5) gallons.

2. The use of trowel over twelve (12) inches in length, or the use of stilts shall not be mandatory but will be left to the discretion of employer and employee. Employer shall furnish all scaffolds, applicators, machines and equipment or tools other than hand tools.

Drywall finishers shall furnish pans, knives, sanding poles, stilts, clinchers, staple guns (contractors furnish staples), banjos and tin snips. Contractors shall furnish lights, drills and paddles, bazookas, boxes, power sanders, drop cords, respirators, filters and glue.

3. There shall be no requirement that a potman be used on a spray rig.

4. No employer himself shall perform spray work.

5. Spray men must be provided with and wear at all times an air helmet or respirator of approved design. The Employer shall provide exhaust fans in enclosed areas when highly toxic materials are being sprayed. Employer shall furnish all appropriate and necessary safety equipment to conform with OSHA regulations.

6. All painting operations in connection with spray work shall be performed by painters. Only craftsmen engaged in the actual spraying, while the rig or pump is in use, will be paid spray wages. This includes only the gun men.

7. Where exceptional conditions exist that are not covered by the above regulations, the matter shall be referred to the Joint Trade Board. Subject conditions will be investigated by the Board and the Board will render such decision as may be necessary.

ARTICLE VII
APPRENTICESHIP

1. Wage Rates - Painter, Drywall Finisher and Paperhanger Apprentices

The beginning apprenticeship rate shall be 50% of journeyman scale for ninety (90) days while apprentice is on probation and throughout the initial fifteen (15) months and 1200 hours of apprenticeship, with increases as follows:

Upon Completion:	**The Rate Shall Be**
of 15 months and 1200 hours	70% of journeyman scale
of 27 months and 2400 hours	85% of journeyman scale
of 39 months and 3600 hours	100% of journeyman scale

2. Apprentices may enter the apprenticeship program on a monthly basis, twelve times a year. Actual entry dates shall be established by the Joint Apprenticeship Committee and communicated to Employers signatory to this Agreement.

3. Apprentice wages shall be regulated by the Joint Apprenticeship Committee under Government Apprenticeship Regulations.

4. The apprenticeship standards as formulated by the Painting and Decorating Joint Apprenticeship Committee are hereby made part of this Agreement and as effective as though written herein.

5. Any employer working apprentices shall be expected to rigidly adhere to the local apprenticeship program. Failure to do so will be cause for the Joint Apprenticeship Committee to revoke the employer's right to employ apprentices.

6. Apprentices brought into program after June 1, 1984 shall not be eligible to participate in the pension fringe benefit program until they become journeymen and employer shall not be required to make the pension contribution for said apprentice.

ARTICLE VIII
GENERAL WORK RULES

1. In the event any employee is required to transfer from one location to another during the regular work day, that employee will be paid at his regular rate of pay for the time involved in such transfer.

Any employee that uses his car to pull a trailer or for transferring tools from one job to another shall receive the additional sum of Two Dollars ($2.00) per day inside the city limits, and Three Dollars ($3.00) per day when he goes outside of the city. If any employee hauls more than twenty-five (25) pounds in his car or trailer, he must receive the above pay. Tapers shall not be required to haul more than 200 pounds of material and equipment over and above the employee's hand tools.

Each employer shall furnish transportation of tools and appliances from shop to job, job to job, and job to shop.

2. The Employer may choose, at his discretion, to work five eight hour days or four ten hour days with a Friday make-up day, Monday through Friday at straight time. Overtime shall be paid after eight (8) hours when working "five eights" and after ten hours when working "four tens". Notice to the Painters' District Council is required prior to instituting a "four tens" work schedule. All work schedules should be for the entire crew. When an employee is switched from one crew to another during the work week, and either crew is working under this clause, such employee should not be kept from finishing out the work day with the new work crew solely because he will be working over 40 hours in the work week.

One-half hour shall be allowed at any regular period for lunch, but in no event shall this period begin later than 12:00 o'clock noon. Employees shall be allowed five (5) minutes before 12:00 noon and five (5) minutes before quitting time for cleaning up their own person, and not for taking care of equipment or tools. Foreman or steward to call time. Where it is necessary to perform more than two hours of overtime work, there shall be cessation of work for a one hour period before starting such overtime work.

A ten-minute break period shall be allowed for each employee in the morning and in the afternoon. The morning break shall be taken between one and one-half hours to three hours after start time and the afternoon break shall be taken between one and one-half hours and two and one-half hours after the lunch break. The break must be taken at or adjacent to the employee's place of work on the jobsite and any snack or beverage consumed during the break must already be with the employee at the break site. Employees shall not leave their approximate work area to congregate for a break.

When overtime is necessary it shall be equally and impartially divided among the workmen on the job insofar as it is practical. The transferring of an employee not working on the job during the regular working hours shall not be permitted on overtime work while any of the regular crew are available.

Employee's work day and pay begins at the time he reports to the shop or to the job to pick up tools, equipment, and/or supplies (when instructed to do so), and ends when day's work or job errands are completed.

3. When an employee is ordered to work and reports for work and no work is furnished him, weather permitting, he shall be allowed one hour's pay. Any employee starting to work shall be guaranteed two hours work or pay in lieu thereof.

4. All work performed on Sundays and the following holidays: New Year's Day, Decoration Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day shall be paid for at the rate of double time. In the event any of the above holidays falls on Saturday, then that holiday shall be observed on Friday. In the event any of the above holidays falls on Sunday, then that holiday shall be observed on Monday. All Saturday work shall be paid for at the rate of time and one-half the regular wage rate. All night work during the regular work week other than the above-mentioned days shall be paid for at the rate of time and one-half the regular wage scale until midnight and double time after midnight except make-up time will be allowed under the conditions set forth in paragraph 4-A of this Article, and except for the straight time work allowed in Section 6 of this Article. Except as provided in paragraph 4-A, all work performed on Saturdays, Sundays and legal holidays must be authorized by the Business Representative or Secretary of District Council No. 3. All permits for weekend work and/or holiday work shall be obtained from District Council Office during regular working hours by contractor or contractor representative. No work shall be performed on Labor Day except in case of emergency and then only after permission is granted by the representative of the Union.

A. In the event of inclement weather on exterior projects which prevents working the full regular eight (8) hour day, forty (40) hour work week schedule, a Saturday make-up day shall be granted if either the Employer or the employee notifies the Painters' District Council No. 3 prior to 4:00 P.M. on Friday stating the weather has prevented him from working the eight (8) hours and states that he wants to work a Saturday make-up day. If such notification is given to work Saturday as a make-up under the above conditions, then said work on Saturday shall be paid at the straight time rate of pay up to a maximum total of forty (40) hours per week.

5. When shifts are to be used, prior notice must be given to the Secretary-Treasurer of the Painters' District Council or appropriate Business Representative. When shifts are being utilized (two or three shifts) the first shift will work eight (8) hours at straight time pay, the second shift shall work seven and one-half (7½) hours for eight hours pay with 25¢ premium pay per hour, and the third shift shall work seven (7) hours for eight (8) hours pay with 50¢ premium pay per hour. On all shift work performed Saturday, Sunday or holidays the applicable overtime rates shall start with the beginning of the first or morning shift.

Shift work will not be recognized as such unless, in fact, there is a day shift working and the job runs at least five (5) days, in which event the shift work will be recognized from the first day.

6. On inside jobs, where it is impractical to work during the regular work day, including heavy traffic areas such as offices, retail stores and grocery stores, etc., work may be performed at the regular hourly rate. This clause is not to include any industrial plants or new construction. All other work rules, and other provisions of this Agreement shall apply when such work is being performed, and such work shall not be performed on Saturday or Sunday. Before starting any such project prior notice must be given to by the Painters' District Council office. All such work in excess of eight hours daily shall be at the appropriate overtime rate. Any individual employee who has worked during the regular work day shall not be worked under this clause on the same day.

7. It is hereby agreed that employees covered hereby will not work for an employer who cannot qualify under the terms of this Agreement.

8. The representative of the Union shall be allowed access to any building where employees represented by it are, or were, employed and in event of a dispute concerning payment of wages the Employer agrees to furnish evidence of proper payment.

9. Workmen shall be held responsible for the Employer's tools, equipment and material providing the Employer furnishes a tool box with a proper lock, or other safe place for the storing of such tools, equipment and materials.

10. On jobs having a foreman, workmen must not take directions or orders or accept the layout for any work from anyone except the foreman. The foreman shall receive instructions from the employer or superintendent. No workman shall serve as foreman for more than one job at the same time.

All apprentices or trainees shall work under the direct supervision of a journeyman or foreman in charge.

11. A journeyman shall be required to make any necessary corrections in workmanship for which he is responsible on his own time during the regular working hours. Failure to do so will be cause for citation before the Joint Trade Board.

12. The Employer shall not discharge any employee for upholding his union principles, but there shall be no limitation of the amount of work a man shall perform during the working hours.

13. Each employer agrees to establish and maintain a weekly pay day which shall be Friday of each week at which time the employee shall be paid in full. In no case shall more than three days pay be held back by an employer. In case any employer's check comes back marked insufficient funds, said employer shall be required to pay in cash. Each employer shall show on each paycheck stub all withholdings from the employee's pay, number of hours worked, and all contributions made on the employee's behalf to fringe benefit funds. Time cards shall be furnished weekly to each employee who will fill out and sign them prior to weekly payment; or, as an alternate method, the employer's foreman will keep track of work performed weekly by each employee and include a copy of this weekly time report with the employee's weekly check.

No workman shall return to work for the same individual employer after pay day until he has received all wages due him on that pay day.

Employees discharged or laid-off shall be paid immediately **in full** up to and including the time when his check is handed to him, unless other mutually satisfactory arrangements are made between the employee and the employer. If he is required to go to the shop, office or elsewhere (this applies only to office or shop in the Kansas City Metropolitan area) he is to receive an additional two hours extra pay on that check.

14. All job starts are to be reported to the District Council No. 3 office, 816/358-2440.

Employer will notify the Painters' District Council No. 3 office on each Friday after hiring a new employee, giving name and social security number of said new employee. A new employee is defined to be a person who has not worked for the employer within the preceding 12 months.

15. Each employer may employ up to one (1) apprentice for each two (2) journeymen employed on a "per shop" basis and up to one (1) apprentice for each (1) journeymen employed on a "per job" basis. If the employer consistently employs five (5) or more journeymen then he shall retain at least one (1) apprentice. This applies to tapers, painters and paperhangers.

16. Each employer who employs five men or more may employ one or more sixty years of age for every five men so employed. Such men shall have the privilege of asking for a reduced wage scale, such scale to be that agreed upon between the employee and the representative of the District Council.

17. Each employer employing one or more men hereby agree to voluntarily comply with the Missouri and Kansas Unemployment Compensation Act, and each employer shall carry Workers' Compensation and liability insurance for the protection of the men employed by them in a reliable company authorized to write policies in the states of Missouri and Kansas, and it shall be their duty to file certificates of said insurance with the Joint Trade Board.

A journeyman contractor may work at the trade only at such times he is working with one of his journeyman employees. Whenever a journeyman's wife becomes a contractor, the journeyman must also be considered a partner or principal owner for the purposes of and for the enforcement of this contract.

If a journeyman recognized as being a contractor should go to work as an employee for another contractor he shall not be recognized as a journeyman contractor or partner for at least one year.

18. Definition of employer - To qualify as an employer the business must maintain a designated place of business open and manned with management personnel on a permanent basis and a business telephone listed in the firm name of the signatory employer; the place of business shall be located in a zone permissible for the operation of said business as required by the laws and ordinances of the area in which said business is located; the business must affix a sign on the office large enough to be legible from the street, designating the name of the company and type of business.

19. The contractor or 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 other shall be employed only from the contractor's home area.

The Employer party hereto shall, when engaged in Painter's work outside the geographic jurisdiction of the Union party to this agreement, comply with all the lawful clauses of the Collective Bargaining Agreement in effect in said or 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 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 employee shall be entitled to receive the wages and conditions effective in either the home or outside jurisdiction whichever are more 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. 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 its applicable Collective Bargaining Agreement and through the courts.

20. If the Employer shall sell, transfer, or otherwise dispose of its business, or cause it to be merged or consolidated with that of any other person or corporation, the agreement by which such sale, transfer, disposition, merger or consolidation is made shall provide that the employer thereafter to operate the business shall assume all of the terms and conditions of this Agreement.

If and when the Employer (or its officers or directors) shall perform work covered by this Agreement under the name of the employer, or under the name of another as a corporation, company, partnership, enterprise, or any combination, including a joint venture, this Agreement shall be applicable to all such work performed under the name of the employer or the name of any other corporation, company, partnership, enterprise, combination or joint venture.

21. It shall not be in violation of this Agreement and it shall not be cause of discharge or disciplinary action if any employee refuses to perform any service which his employer performs by arrangement with an employer or person whose employees are on a lawful primary strike, and which service, but for such strike, would be performed by employees of the employer or persons on strike.

It shall not be a violation of this Agreement, and it shall not be cause for discharge and disciplinary action, for any employee to refuse to cross or work behind any lawful primary picket line at his employer's place of business or job site.

ARTICLE IX
STEWARDS

1. **Shop Steward** - A Shop Steward shall be appointed through action of the Joint Trade Board. When the Joint Trade Board agrees that a Shop Steward shall be appointed, the Painters' District Council shall have the right to appoint a Shop Steward from among the employees of the Employer. The Employer shall make the names of all employees available to the Shop Steward on a weekly basis.

2. **Job Steward** - The Painters' District Council shall have the right to appoint a Job Steward and the Steward shall work on all overtime if qualified to do the work. The first man on the job other than the foreman shall act as Steward until one is appointed by the Painters' District Council. This appointment shall be made from employees on the job only with respect to employers who have maintained a permanent office within the area of the Agreement for a period of one year and who are fully familiar with wages, working conditions and work jurisdiction claimed by the Painters' District Council. The Steward shall not be transferred without permission of the Secretary-Treasurer of the District Council.

3. The names of Stewards shall be made known to their employers by letter. A Steward shall not be discriminated against for performing the duties of a Steward, nor shall the Steward be discharged without reasonable notice first being given to the District Council No. 3 Secretary-Treasurer. A Steward shall not be discharged except for just cause. Any disagreement between the parties on discharge of a Steward shall be a proper subject for settlement by the Joint Trade Board. If discharge is found to be in error, the contractor shall compensate the Steward for all lost time at the established wage rate effective during this time loss.

ARTICLE X
PAINTERS FRINGE BENEFIT PROGRAMS, INDIVIDUAL SAVINGS ACCOUNTS AND SUPPLEMENTAL DUES

The Employer and Union agree that the jointly administered Painters' District Council No. 3 Pension Fund ("Pension Fund"), the Painters' District Council No. 3 Health and Welfare Fund ("Health and Welfare Fund"), and the Painters' Apprenticeship Health and Safety Training Fund shall be administered from a neutral location not occupied by the Employer or Union.

The Employer hereby expressly agrees to be bound by each and all of the terms and provisions of the Trust Agreements establishing the Pension Fund, Health and Welfare Fund and the Painters' Apprenticeship, Health and Safety Training Fund. The Employer further agrees to be bound by all amendments, alterations or changes in the aforementioned Trust Agreements heretofore made or hereafter made during the terms of the current and subsequent labor contracts as long as such labor contracts provide for contributions to each of said Funds. The Employer further agrees to adhere to, comply with and be bound by all rules, regulations and resolutions of the Boards of Trustees of said Funds. The Employer authorizes the parties to said Trust Agreements to appoint trustees and successor trustees to administer said Funds and hereby ratifies and accepts the trustees so appointed as if made by the Employer.

The Employer and Union agree that the amounts of fringe benefit contributions specified hereinafter shall be due and owing for all bargaining unit work performed by all employees in the geographic area covered by this Agreement. For the purposes of this Article X "employee" shall include all persons performing bargaining unit work under this Agreement whether the person is a member of the Union or not, and all apprentices except an apprentice who:

A. Is accepted as an apprentice by the Painting and Decorating Joint Apprenticeship Committee or certified as an apprentice by the Bureau of Apprenticeship and Training after June 1, 1984; and

B. Has not worked for an employer required to make contributions to the Pension Fund and/or has not earned pension credits pursuant to the Pension Plan prior to June 1, 1984.

Pension Fund contributions will not be required on behalf of apprentices satisfying the requirements set forth in paragraphs A. and B. above.

The Employer and Union further agree that for purposes of this Article "employee" shall include any and all persons or individuals who perform bargaining unit work at the request of the Employer, except for legitimate subcontractors.

Said persons or individuals shall be "employees" for purposes of this Article, regardless of the manner of payment for said work, the extent of the Employer's right to control or actual control over the method and manner of the work, or the Employer's characterizations of said persons or individuals or payments to said persons or individuals as "contract labor", "independent contractor", "subcontractor" or other similar term.

Further any such persons or individuals shall be "employees" for the purpose of this Article unless said individuals or persons comply with the following list of criteria which indicates they are legitimate subcontractors:

A. Compliance with Article II of this Agreement; and

B. Compliance with Article VII, paragraph 18 of this Agreement; and

C. Compliance with all applicable state workers' compensation and employment security laws; and

D. Compliance with all applicable federal employment and tax laws; and

E. Obtaining and maintaining a federal employer identification number.

1. **Hourly Rate Contributions**

The contributions required by this Article shall be remitted to United Missouri Bank of Kansas City, N.A., or to such other Depository as the parties to this Agreement and the trustees of the involved Funds may agree upon. Said contribution payments shall be made within ten (10) days after the last day of the preceding month for the hours worked during said preceding month. Simultaneously with the making of said contribution payments the Employer shall prepare and file a written report with said Depository setting forth the names, social security numbers, locations of work, and hours worked by each employee and such other information as is required by the trustees of the involved Funds. The written, report forms shall be furnished to the Employer by the trustees of the involved Funds.

A. Effective April 1, 2002, in addition to the wages set out in this Agreement, each employer agrees to pay for each hour worked in the area covered by this Agreement by journeymen, Nine Dollars and Thirty Six Cents ($9.36) [apprentices would require $3.95 less] which after receipt by the depository shall be paid out by the depository bank as follows:

Two Dollars and Seventy Five cents ($2.75) of each hourly contribution to the Painters' District Council No. 3 Health and Welfare Trust Fund; Three Dollars and Ninety-Five cents ($3.95) to the Painters' District Council No. 3 Pension Trust Fund, Thirty Eight cents ($.38) to the Painters' Apprenticeship, Health and Safety Training Fund; Sixteen cents ($.16) to the Builders' Association Painters' Agreement Industry Advancement Fund; Five cents ($.05) to

the Labor Management Cooperation Fund (LMCF), Two dollars ($2.00) to the Individual Savings Account, Five cents ($.05) to the National Joint Apprenticeship Training Committee (NJATC) and Two cents ($.02) to an administrative account of the Association to be used by it in paying its cost of administering this contract and the various funds thereunder and in pursuing other matters of benefit to the industry.

2. **Individual Savings Account**

Each employer shall pay $2.00 per hour, for each hour worked, to all journeymen and apprentice employees covered by this agreement into Individual Savings Accounts (ISA) established by Painters District Council No. 3 and its membership and maintained under terms and conditions arranged between Painters District Council No. 3 and its membership and the custodial institution. The employer shall note the amounts so remitted on fringe benefit reports and shall make such remittances, along with all other remittances required in Section 1 of this Article, to the bank serving as depository for fringe benefit funds in accordance with the schedule for remittance of fringe benefit fund contributions. Employers who make such remittances as required in this section shall not be liable or responsible for the administration or distribution of such individual savings accounts. In addition, the Builders' Association shall not be liable or responsible for the collection, administration or distribution of such individual savings accounts.

3. **Supplemental Dues**

Upon receipt and in accordance with an individual and voluntary written authorization for check-off of membership dues in a form permitted by the provisions of Section 302(c) of the Labor Management Relations Act, each employer will deduct the amounts set forth in the District Council No. 3 By Laws as Supplemental dues. Said sums shall be remitted to the depository in the same manner and on the same forms provided for the payment of all current fringe benefit programs. The depository shall remit all such sums to Painters' District Council No. 3. It shall be the obligation of the District Council No. 3 to notify the Builders' Association and other signatory contractors to this Agreement thirty (30) days prior to any change in the amount of the Supplemental Dues.

Current Hourly Rate Deduction – Three per cent of gross wages per hour for each hour worked, by each employee, (whether straight time hours or overtime) shall be deducted from wages for the Painters' Supplemental Dues. (This does not include bonus pay or premium pay and all Supplemental Dues calculations shall be based on base rate for hours worked.)

4. The employers agree to furnish to the trustees of such Funds, upon request, such information and reports as they may require in the performance of their duties under the particular Agreement and Declaration of Trust establishing such Funds. The trustee or any authorized agent or representative of the trustees shall have the right at all reasonable times during business hours to enter upon the premises of any employer and to examine and copy such of the books, records, papers, and reports of the employer as may be necessary to permit the trustees to determine whether the employer is fully complying with the provisions of Sections 1 and 2 of this Article.

5. No employee shall have the option to receive instead of the benefits provided for by the Agreement and Declaration of Trust, any part of the payment of an employer. No employee shall have the right to assign any benefits to which he may be or become entitled under any particular Agreement and Declaration of Trust, or to receive a cash consideration in lieu of such benefits either upon termination of the trusts therein created or through severance of employment or otherwise.

6. In the event that the Union receives written notice from one or more of the trustees or any authorized agent or representative of the trustees that an employer has failed to pay in full any sum due the particular trusts under Sections 1 and 2 and that such failure has continued for fifteen (15) days, the Union may, after at least a one (1) week's notice in writing to employer's main office, with a copy to The

Builders' Association, direct the employees of such employer to discontinue or refuse to work for such employer until all sums due from that employer under Sections 1 and 2 above have been paid in full. When the Union directs an Employer's employees to discontinue or refuse to work because the Employer has failed to make timely fringe benefit contributions, the Employer shall pay such employees for the remainder of the workday upon which they discontinued or refused to work. The remedy provided for in this sub-paragraph shall be in addition to all other remedies available to the Union and to the trustees and may be exercised by the Union, anything in this collective bargaining Agreement to the contrary notwithstanding.

7. The trustees in their own names as trustees, may institute or intervene in any proceeding at law in equity or in bankruptcy for the purpose of effectuating the collection of any sums due the trusts from the Employer under the provisions of Sections 1 and 2 of this Article.

8. If the payment of any sums pursuant to this Article is made later than twenty days after the time specified herein, the respective trustees may require the Employer to add 10% to the amount due or $50 whichever is greater, plus one percent (1%) per month as liquidated damages. If it becomes necessary for the trustees to file suit against the Employer for delinquent payment of monies to such funds the Employer agrees to pay, in addition to the liquidated damages all litigation costs including a reasonable attorney fee.

9. In the event payment is not made to the Funds within fifteen (15) days following the end of the month in which the work was performed, and because of such delinquency, claims for benefits are denied employees of such employers who would have been eligible for benefits if the employer had not been delinquent, such employer agrees to reimburse such employees, their survivors of their estates in an amount equal to that which would have been paid by the appropriate fund(s).

10. The amounts collected for the Builders' Association Painters' Agreement Industry Advancement Fund shall be paid over by the depository to The Builders' Association and, thereafter shall be administered by The Builders' Association for the purpose of, and as set out in, the instrument entitled "Builders' Association Painters' Agreement Industry Advancement Fund" dated May 10, 1978.

11. The amounts collected for the Labor Management Cooperation Fund (LMCF) shall be paid over by the depository to the International Painters Council.

12. The amounts collected for the National Joint Apprentice and Training Committee fund (NJATC) shall be paid over by the depository to the International Union of Painters and Allied Trades.

ARTICLE XI
SUBCONTRACTOR CLAUSE

The Employer agrees whenever work covered by this Agreement to be done at a site of construction, alteration or repair of buildings, structures, or other work is subcontracted, it shall be subcontracted only to employers who are a party to or agree to become a party to a current written agreement with Painters' District Council No. 3. Failure to comply will be a direct violation of this contract and subject to a penalty of up to $4,000 for the first offense and $8,000 for the second offense within a three year period, through the Joint Trade Board.

Nothing contained in this Article shall be construed to force or require any employer to cease or refrain from doing business with any specific person or employer or otherwise require the disruption of any existing business relationship with any other employer or person.

Any Painter, Paperhanger or Taper and/or Drywall Finisher employer who subcontracts any and all work covered under this Agreement to another subcontractor shall notify the District Council No. 3 office two days prior to commencement of the work covered by this Agreement.

ARTICLE XII
PRESERVATION OF WORK CLAUSE

Section 1. 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 within the counties set forth in Article I of 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.

Section 2. All charges of violations of Section 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 affected 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.

Section 3. If, after an employer has violated this Article, the Union and/or Trustees of 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 if the union and/or the trustees of one or more Joint Trust Funds are the prevailing party. 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 XIII
OTHER AGREEMENTS

The Union agrees that the Association shall automatically be given the benefit of any wages, working conditions or other terms more favorable to the Employer than those provided in this Agreement, if given to any other employer within the jurisdiction of this Agreement. This clause shall not apply to maintenance agreements.

ARTICLE XIV
ARBITRATION

1. It is expressly agreed between the parties of this Agreement that no strikes or lockouts shall be declared during the life of this Agreement, subject to the following provisions concerning compliance with arbiter decision or Joint Trade Board decision.

2. It is hereby agreed between the Employer and the Union that there shall be formed a Joint Trade Board composed of four (4) members appointed by the Builders' Association and four (4) members appointed by District Council No. 3. The above-referenced Joint Trade Board, as constituted, shall have the power to settle all disputes except work jurisdiction disputes, between the Employer and the Union that may arise over interpretation of their labor agreement from time to time, and their majority decision shall be final and binding on both parties. Any expense incurred by the Joint Trade Board shall be paid for by the losing party. The Joint Board shall have the express authority to levy punitive fines up to $2,000 per violation of this Agreement and to appoint working job stewards to employers, and increase bonds to employers, who have repeatedly violated this Agreement. All fines collected shall first be used to defray expenses of the Joint Board and all excess monies shall be given to Painters' District Council No. 3 Health and Welfare Plan. This Board shall meet regularly every month, or within five (5) days of notification of a request for a meeting regarding a dispute. Any party shall have five (5) days notice prior to hearing. The failure of a charged party who has been duly notified of a grievance in accordance with this Article, to appear at a hearing of the Joint Board, shall constitute a waiver of that party's right to be present and not withstanding the failure of the charged party to appear, the Joint Board shall have the full power to decide and remedy the grievance.

3. Any grievance, dispute or claim arising under this Agreement must be taken up between the parties involved (employee and/or steward with the superintendent and/or Union and contractor) within seven days of the occurrence of the circumstances which gave rise to the grievance, otherwise, the grievance will be considered abandoned.

4. It is expressly provided that in case they cannot agree at any time during the life of this Agreement on any matter before them for a decision or ruling, that a "disinterested person" as agreed upon by the Joint Board shall be called in to act as arbiter in such case and his decision shall be final and binding.

5. In the event that the Joint Trade Board is unable to agree upon an arbiter within five (5) days, the Joint Trade Board members shall select an arbiter in the following manner:

Whenever the Builders' Association-appointed and Union-appointed members of the Joint Trade Board are deadlocked on any appropriate matter submitted for their concurrence, the Joint Trade Board members shall appoint an impartial umpire to decide such dispute. If the Board members fail to agree upon an impartial umpire within five (5) days after the issue upon which the Board members are deadlocked was first voted upon, a majority of either the Builders' Association-appointed Board members or the Union-appointed Board members may request the Federal Mediation and Conciliation Service to submit a list of five names from which the Employer Board members shall strike two names and the Union Board members shall strike two names, and the remaining name shall be the impartial umpire to decide such dispute. The decision of such impartial umpire shall be conclusive and binding on all parties to the Agreement, but limited only to the interpretations of the issues submitted by the Board members. The costs of such arbitration shall be borne by the losing party.

It is agreed that no members of the Joint Board shall be held liable by any party for any conduct within the scope of his duties as a member of the Joint Board.

The Joint Trade Board shall meet at least once every six (6) months for the purpose of discussing problems between labor and management and to find ways to jointly promote the industry.

ARTICLE XV
APPRENTICESHIP, HEALTH AND SAFETY TRAINING PROGRAM

Effective May 10, 1993 the Painters' Apprenticeship, Health and Safety Training Fund shall be established. This fund shall be jointly administered by duly-appointed representatives of The Builders' Association and Painters' District Council No. 3 and shall provide for apprenticeship training as well as ongoing health and safety training for both journeymen and apprentices. All employees working under the jurisdiction of this Agreement shall be trained within one year under the mandatory health and safety training program. Employees shall be certified as having completed a variety of such training and examination under this program including, but not limited to, First Aid, CPR, pulmonary and lead level blood testing, respirator fit testing, etc.

It is agreed that lead abatement health and safety training shall be required only for those painters performing lead abatement work. It is also understood that all non-lead abatement employees will be required to take all of their health and safety training as required by the contract.

ARTICLE XVI
DRUG & ALCOHOL POLICY

It is understood that no employee shall consume or be under the influence of drugs or alcohol while at work.

Effective September 9, 1996, the joint apprenticeship committee shall institute a pre-employment drug testing program for apprentices. An Employer may require a blood alcohol content test or urine drug test for any employee who has been involved in a serious job-related injury or any accident involving lost time. Such drug or alcohol test must be carried out in a professional and scientific manner to insure accurate results. The Painters Apprenticeship, Health and Safety Training Fund shall pay for the cost of the pre-employment drug testing program for prospective apprentices. The cost for drug or alcohol testing done after a serious job-related injury or lost time accident shall be paid by the Employer.

The Union's role in this testing program is solely advisory. Nothing in this Agreement will make the Union liable to the employer, any employee, or to any other person, and the Union will be held harmless from any damages. The Employer will not engage in any litigation against the Union.

An employee at his discretion shall have the right to be represented by a Union representative at any disciplinary hearing or meeting as a result of an Employer's drug or alcohol testing, and the Union retains the right to grieve or arbitrate any aspect of the drug testing program instituted by the Employer or any disciplinary action resulting from it under the grievance and arbitration clause of this Agreement.

ARTICLE XVII
ENFORCEMENT AND EXECUTION

It shall be the duty of the Joint Trade Board to enforce the terms of this Agreement and they shall have full power to keep in force the wage scale from time to time under this Agreement subject to the approval of the membership of both parties and they further agree that this covenant shall be in full force and effect from April 1, 2002 to March 31, 2005, midnight, and shall continue from year to year thereafter unless abrogated by either party hereto for changes or termination by a written notice to the other party at least sixty (60) days prior to the expiration date.

Executed this 5th day of July, 2002.

THE BUILDERS' ASSOCIATION

PAINTERS' DISTRICT COUNCIL NO. 3. UNION OF PAINTERS AND ALLIED TRADES, AFL-CIO