



**NEW MEXICO FLOOR COVERERS
COLLECTIVE BARGAINING AGREEMENT**

Between

And

**District Council 88
Local Union 823**

January 1, 2021 – December 31, 2023

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Agreement

This Agreement entered into this first (1st) day of January, 2021 by and between the International Union of Painters and Allied Trades District Council 88/Local Union 823, herein after referred to as the "Union", and _____, hereinafter referred to as the "Employer" or "Contractor".

Witnesseth

Purposes:

WHEREAS, the Contractors are engaged in contract construction work in New Mexico and area to be defined in Texas.

WHEREAS, in performance of their present and future contracting operations the Contractors are employing and will employ large numbers and members of the Union; and

WHEREAS, the Contractors desire to be assured of their ability to procure employees for all the work which they may do in the State of New Mexico in sufficient numbers and skill to assure continuity and quality of work in the performance and completion of their construction contracts; and

WHEREAS, it is in the interest of all parties to establish uniform rates of pay, hours of employment and working conditions which shall be applicable to all workmen represented by the Union and performing work for the Contractors as such work is hereinafter defined in this Agreement, and to provide for peaceful and harmonious relations during the terms of this Agreement.

NOW THEREFORE. In consideration of the premises and of the respective covenants and Agreements of the parties hereto IT IS HEREBY AGREED:

ARTICLE I

Work Jurisdiction, Area Jurisdiction & Recognition

Section 1. Work Jurisdiction: Work covered by the terms of this Agreement shall include, but not be limited to the following:

Measuring, cutting, fabrication, fitting, installing to be cemented, tacked or otherwise applied to its base whatever it may be, all materials whether used either as a decorative covering, topping or as an acoustical appliance such as carpets of all types and designs, sheet rubber, sheet vinyl, pre finished hardwood floors, laminate floors and laminate floor systems, cork carpet, rubber tile, asphalt tile, tile, cork tile, linoleum tile, mastic in sheets or tile form, vinyl tile, interlocking tile, mastic pave, composition in sheet or tile form and all derivatives of above; artificial turf and derivatives thereof, all resilient seamless materials such as epoxy, polyurethane, plastics and their derivatives, components and systems; the fitting of all devices for the attachment of the above materials and the fitting of all decorative or protective trim to and adjoining the above materials which shall include the drilling and plugging of holes and attaching of strips, slats, nosing etc., or any base where the above materials are to be installed or applied, such as drilling, plugging and slating for installing or fastening of carpet, the installing of all nosing, cap strips, comer beads and edging of any material and the preparation work of the craft for all of the aforesaid and the application of all self leveling, trowelable and board underlayment; also the cleaning of rugs and carpets and all drapery hanging, make-up and the installation of all necessary hardware for the proper installation of draperies.

Section 2. Area Jurisdiction: The geographic jurisdiction of the Agreement shall be the entire State of New Mexico and an area to be defined in Texas.

Section 3. Out of Area: 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 others shall be employed only from the "Contractor" home area.

Section 4. 50 – 50 Clause: 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 as to employees employed by such Employer from within the geographical 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, 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 grievance set forth in its 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.

Section 5. Union Recognition: The Employer agrees that if a majority of its employees authorize the Union to represent them in collective bargaining, upon presentation of such evidence the Employer will recognize the Union as the NLRA Section 9(a) collective bargaining representative for all employees performing work within the jurisdiction of the Union on all present and future job sites.

Section 6. Excluded Employees: Notwithstanding anything contained herein to the contrary, the following categories of the Contractor's employees shall not be covered by the provisions of this Agreement:

Executives, general superintendents, assistant general superintendents, civil engineers, engineers employed as engineers helpers, all supervisory employees under the Labor Management Relations Act, as amended, above the rank of craft foreman, and time keepers, messenger boys, guards and office workers.

ARTICLE II Subcontracting

For all work coming under the Jurisdiction of this agreement, the employer shall not contract out, subcontract, or outsource work to be done at the site of construction, alteration, or repair of a building or structure of other work unless the Employer or person who will perform such work is a party to a Collective Bargaining Agreement with this Union or another Union affiliated with the IUPAT.

Sub-Contractor Defined: Any person or persons who under written contract agree to perform any work that would otherwise be performed by the Employees covered by the terms of this Agreement and is performed on the job site.

ARTICLE III
Accredited Representatives and Stewards

Section 1. Job Access: Accredited representatives of the Union shall have reasonable access during regular working hours on all jobs, but in no case shall they unnecessarily delay workmen or the progress of the job.

Section 2. Stewards: All stewards shall be approved by the Union Business Manager or his representative, and the Contractor or his representative shall be notified in writing of the selection of each steward in his employ. All such stewards shall be working journeymen.

The duties of the steward shall be to check all employees on the job for Union membership and to act as a liaison between the Union and the Contractor in all cases of violation of this Agreement. It shall be the duty of the steward to report any violation of this Agreement to the Contractor and the Union, and try to remedy any such violations on the job site. In the event he is unable to do so, he shall be allowed to report same to the Union and shall not be penalized for reporting same.

No steward shall be discriminated against for performing his duties and shall not be laid off as long as work is available and he is qualified to perform such work.

ARTICLE IV
Employment Provisions

Section 1. It is agreed that all workmen covered hereby shall become a member of the Union after the seventh (7th) day following the beginning of such employment or the effective date of this Agreement whichever is later, and remain continuously a member in good standing of the Union signatory hereto, as a condition of employment; and that all workmen who are members of the Union at the time of their hire shall remain members in good standing as a condition of employment. Employer, for the intent of this Article, shall include all Contractors signatory hereto including any multi-employer unit.

- A. Good standing, for the intent of the above Section 1 shall mean the tendering of the uniform initiation fees and dues customarily charged other members of the Union signatory hereto for the admission to and retaining of membership.

Section 2. In the employment of workmen for all work covered by this Agreement, the following provisions shall govern:

- A. The Union shall establish and maintain open and nondiscriminatory referral lists of applicants for employment of this trade at Albuquerque, New Mexico; and referrals shall be made from said list according to the applicants' place on the list. The Employer may call out applicants from the list by name. The Union office in Albuquerque, New Mexico shall be the dispatching point for all applicants of employment. The address on file at the dispatching office shall determine the residence of the employee for the purpose of dispatching. The phone prefix must match the residence of the employee; otherwise the phone number shall determine the area from which an employee is dispatched.

- B. The Employers shall call upon the Union for all workmen they may need at any time and the Union shall immediately dispatch the required number of qualified and competent workmen to the Employer.

In the dispatching of workmen by the Union, each applicant shall be furnished an introductory work slip by the Union, stating the workman's name, classification, job location, by whom requested and signed by the Business Representative or his Representative.

In the event the Union is unable to supply the required number of qualified workmen in twenty-four (24) hours after the request of same by the Employer, the Employer may then acquire his workmen from any other source, subject to Section 1 of this Article.

Upon request by the Employer for workmen to the Union, in the event no employees are available at the time of request, the twenty-four (24) hours shall not apply.

Each employee shall be furnished a termination slip at the time of lay-off or discharge.

Section 3. Each applicant for employment shall be required to re-register on the referral list every thirty (30) days so said list may be kept current with available workmen.

Section 4. Referral of Journeymen and Apprentices shall be on the following terms:

- A. Selection of applicants for referral to jobs shall be on a nondiscriminatory basis and shall not be based on, or in any way affected by Union membership, Bylaws, rules, regulations, constitutional provisions, or any other aspect of Union membership, policies or requirement.
- B. The Employer retains the right to reject any new job applicant referred by the Union at the Employers discretion. The Employer may discharge any employee for just cause, provided there is no discrimination against any employee for Union activities. Entry Level Journeymen may be terminated during their probationary period as provided for herein.
- C. The Employer may request and receive an applicant by name from anywhere on the referral list; subject to Article IV Section 1(A) of this agreement provided that after receiving an applicant by name the next referral to the Employer will be from the top of the out of work list.
- D. The Employer may request and receive an applicant from a specific locality from the referral list within this Agreement's jurisdiction, to work in that locality, subject to Section (1) of this Article.
- E. Any registrant who refuses a job call without just cause shall have their name placed at the bottom of the referral list.
- F. The Union and each contractor signatory to this Agreement shall post in places where notice to all employees and applicants for employment are customarily posted, all provisions relating to the functioning of the hiring provisions of this Agreement.
- G. No applicant for employment shall be discriminated against for reasons of race, color, age, sex, or national origin.

ARTICLE V
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, subject to the provision of Article II: 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 officer, 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 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 the trustees of one (1) or more Joint Trust Funds to which this Agreement requires contributions institute legal action to enforce an award by an Arbitrator or Joint Trust Board remedying such violation, or defend an action that seeks to vacate such award, the Employer shall pay any accountant's and/or attorney's fees incurred by the Union and/or 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 VI Hours of Work

Section 1. Eight (8) consecutive hours, exclusive of lunch period, between 6:30 a.m. and 5:30 p.m. shall constitute a day's work. Forty (40) hours, Monday through Saturday, shall constitute a week's work. The Employer may schedule employees to work four (4) ten (10) hour work days. The starting and quitting time may be changed by consistent with the Employer's needs.

An employee who misses a day of work Monday through Friday shall be allowed to work on Saturday at straight time wages as a make-up day, provided that the time is available and approved by the company. This make-up day is on a voluntary basis and no employee shall be compelled to work under this provision against their wishes.

Section 2. Multiple Shifts: When multiple shifts are scheduled, the first (1st) shift or daylight shift shall work eight (8) hours in accordance with Section 1 above and receive eight (8) hours pay. Second (2nd) shift shall work seven and one-half (7½) hours, exclusive of lunch period and receive eight hours pay. Third shift shall work seven (7) hours, exclusive of lunch period and receive eight (8) hours pay. Shift work as described above shall be paid for at straight time rate. All shift work shall be accumulative to the day the first (1st) shift started. Four (4) ten (10) hour work shifts may be utilized under this multiple shifts provision with employees working nine and one-half (9½) hours, exclusive of a lunch period, and being paid for ten (10) hours.

Section 3. Special Shifts: When maintenance or remodeling work cannot be performed on the regular shift because of the fact that establishments cannot suspend operating during the day, a special single shift may be employed starting at 5:30 p.m. Monday through Saturday, and employees of this shift will work seven and one half (7½) consecutive hours exclusive of a thirty (30) minute lunch period, for which they will receive eight (8) hours pay at the straight time rate. It is agreed, however, in the operation of this shift, no employee will lose a shifts work. Four (4) ten (10) hour work shifts may be utilized under this special shift provision. Employees of this shift will work nine and one half (9½) consecutive hours exclusive of a thirty (30) minute lunch period, for which they will receive ten (10) hours pay at the straight time rate.

Section 4. Holidays: The recognized holidays hereunder shall be: New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, the day after Thanksgiving, and Christmas Day. Whenever any of these holidays fall on a Sunday, the Monday following shall be the legal holiday. No work shall be performed on Labor Day.

Leave: Upon thirty (30) days notice to the Employer, the employees will be allowed to take a week of unpaid leave.

Section 5. Show-Up Time: An employee shall report to work unless he has been notified before leaving home not to report. Note: This provision shall not be construed to prevent an employee from calling to inquire concerning a work assignment.

An employee ordered to report to work in a free zone, pursuant to the provisions of this sub-section, for whom no work is provided shall receive two (2) hours pay at straight time rate for reporting. Outside of a free zone, an employee shall receive three (3) hours pay. Inclement weather and other Acts of God beyond the control of the Employer excepted.

Section 6. Clean-Up Time: Fifteen (15) minutes shall be allowed for journeymen and apprentices to clean tools and for storing Employers' tools and materials, and to straighten up, provided that no journeyman or apprentice shall leave the shop site before the established quitting time.

Section 7. Overtime: All work performed on Sundays and Holidays shall be paid at double time the regular wage scale. All work performed in excess of forty (40) hours in any workweek shall be paid at the rate of one and one-half (1½) times the regular rate of pay.

ARTICLE VII Tools

Section 1. Employer Tools: Employers shall furnish the following tools and materials: Linoleum dollies, linoleum rollers, five (5) gallon or more butane tanks and gas for torches, all cleaning materials, wax and steel wool, buffers, sanders, carpet stretchers and carpet cleaning machines. Employees shall not, as a condition of employment be required to furnish such tools and/or materials.

Section 2. Employee Tools:

- A. Tile and Linoleum Mechanics: Knives, blades, scribes, dividers, notch spreaders, files, miter box, tin snips, pointing trowel, base shoe tool, hammer, screw driver, nail set, hacksaw and blades, hand roller, rule-6, fox tail brush, chalk line and chalk, brooms, one quart butane tanks (optional to employee).
- B. Carpet Layers: Knee kicker, tack hammer, carpenters hammer-heavy, carpet shears, hacksaw

and blades, screw driver, staple gun, carpet knives-carborundum, 50 foot tape, padding knife, curved needles, straight needles, thimble, strip cutter, carpet awl, base shoe tool, chalk line and chalk, broad knife, glue spreader, stair tools, brooms and trimmer knives and blades.

ARTICLE VIII Arbitration

Any grievance arising over the interpretation of this Agreement and cannot be settled between the Contractor and the Union within ten (10) working days from the date the grievance arose shall be settled in the following manner:

On the eleventh (11^h) working day after the date of the grievance, either party may request of the Federal Mediation and Conciliation Service to submit a panel consisting of the names of five (5) arbitrators. Option: Either party may request mediation prior to submitting to arbitration. Written notice shall be served to the Federal Mediation and Conciliation Service Mediator requesting their services. The notice for mediation shall clearly state the nature of the complaint and the Section or Article of this Agreement alleged to be violated.

The Union and the Contractor shall meet within two (2) working days from the date of receipt of panel names and alternately strike one (1) name; the remaining name shall be the arbitrator. The selection of an arbitrator shall be determined by the flip of a coin as to which party strikes first.

The Federal Mediation and Conciliation Service shall within two (2) working days following the selection of the arbitrator be notified of the arbitrator selected and requested to arbitrate the grievance.

Said arbitrator's decision shall be final and binding on both parties who shall equally share the expense of the arbitrator.

ARTICLE IX Labor Management Cooperation Fund

Section 1. Commencing as of the effective date of this Agreement, and for the duration of this Agreement, and any renewals or extensions thereof, the Employer agrees to make payments to the Painters and Allied Trades Labor-Management Cooperation Fund for each employee covered by this Agreement as follows:

- A. For each hour or portion thereof, for which an employee receives pay, the Employer shall make a contribution of ten cents (\$0.10) to the Fund.
- B. For the purpose of this Article, each hour paid for, including hours attributable to show-up time, and other hours for which pay is received by the employee in accordance with the Agreement, shall be counted as hours for which contributions are payable.
- C. Contributions shall be paid on behalf of any employee starting with the employee's first (1st) day of employment in a job classification covered by this Agreement. This includes, but is not limited to, apprentices, helpers, trainees and probationary employees.
- D. The Employer and the Union signatory to this Agreement agree to be bound by and to the Agreement and Declaration of Trust, as amended from time to time, establishing the Fund.

Section 2. 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.

Section 3. All contributions shall be made at such times 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.

Section 4. If an Employer fails to make contributions to the Fund within the 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 to the payments due together with the attorney's fees and such penalties 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 X

New Mexico Finishing Trades Institute

Section 1. There is hereby established an Apprenticeship Training Program, the New Mexico Finishing Trades Institute (NM FTI), to be administered by a Joint Apprenticeship Committee consisting of three (3) members appointed by the Employers and three (3) members appointed by the Union, with one (1) alternate from each side. The above named committee shall elect a Chairman and a Secretary from the above named members, one (1) of whom shall be from the Employers and one (1) from the Union.

- A. The NM FTI shall establish a Trust to maintain and administer any and all contributions called for elsewhere in this Agreement and paid to the Joint Apprenticeship Committee.
- B. The NM FTI shall adopt Standards of Training for this industry in conjunction with the New Mexico State Apprenticeship Bureau and the U.S. Department of Labor, Bureau of Apprenticeship and Training.

It shall be the duty of the NM FTI to obtain and supervise the Apprenticeship Coordinator and Instructor and to draft standards governing the functions of the committee.

Any such standards of apprenticeship adopted by the NM FTI shall become a part hereto as though expressly written herein. Each Employer and Apprentice shall be furnished a copy of said standards.

- C. It is the intent of the Employers and the Union signatory hereto to establish a non-discriminatory apprenticeship-training program to train qualified people to become mechanics of the trades covered hereby.
- D. **Apprentice Ratio for Each Shop:** No Employer shall be permitted to employ more than one (1) apprentice to one (1) journeyman, carpet work excluded. Additional apprentices may be employed at the same ratio.

Apprentice Ratio for Carpet: Employers shall be allowed to employ four (4) apprentices to one (1) journeyman.

Any Employer having five (5) or more journeymen must employ at least one (1) apprentice.

Section 2. Commencing with April 1, 1998 and for the duration of this Agreement, and any renewals or

extensions thereof, the Employer, as defined in the Agreement and Declaration of Trust executed by and between the International Union of Painters and Allied Trades District Council 88/Local Union 823 and the signatory Employers, agrees to make payments to the NM FTI for each employee covered by this Agreement as follows:

- A. For each hour worked or portion thereof, for which an employee receives pay, the Employer shall make a contribution of forty cents (\$0.40) to the above mentioned Apprenticeship Fund.
- B. For the purpose of this Article, for each hour an employee receives pay, including hours attributable to show-up time and other hours for which pay is received by the employee in accordance with this Agreement, shall be counted as hours for which contributions are payable.
- C. Contributions shall be paid on behalf of any employee, starting with the employee's first (1st) day of employment in a job classification covered by this Agreement. This includes, but is not limited to; apprentices, journeymen, trainees, probationary employees and part-time help.
- D. The payments to the NM FTI required above shall be made to the New Mexico Finishing Trades Institute which was established under an Agreement and Declaration of Trust, dated 1 April 1976. The Employer hereby agrees to be bound by and to the said Agreement and Declaration of Trust, as though he had actually signed the same.
- E. From the funds collected in the above manner, the Trustees of the NM FTI shall hold in trust the sum of ten cents (\$0.10) per hour for each hour worked or portion thereof for which an employee receives pay and remit said sum to the International Union of Painters and Allied Trades Joint Apprenticeship and Training Fund (IUPAT JATF) for all Painters, Decorators, Drywall Finishers, Floor Coverers, and Sign and Display Workers at such regular periods of time and in the manner and form as shall be determined by the Trustees of the International Fund.
- F. The payments to the International Fund as required above shall be made to the IUPAT JATF, which was established under an Agreement and Declaration of Trust dated 1 May 1995. The Employer hereby agrees to be bound by and to the said Agreement and Declaration of Trust, as though he has actually signed the same.
- G. The Employer hereby irrevocably designates as its representatives on the Board of Trustees of the IUPAT JATF, such Trustees as are now serving, or who will in the future serve, as Employer Trustees, together with their successors, as provided for in the aforesaid Trust Indenture.
- H. The Union hereby irrevocably designates as its representatives on the Board of Trustees of the IUPAT JATF, such Trustees as are now serving, or who will in the future serve, as Union Trustees, together with their successors, as provided for in the aforesaid Trust Indenture.
- I. The parties hereto further agree to be bound by all actions taken by the Trustees of the IUPAT JATF pursuant to the said Agreement and Declaration of Trust.

Section 3. All contributions shall be made at such time and in such manner as the Trustees require; and 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 Apprenticeship Fund.

Section 4. If an Employer fails to make contributions to the NM FTI within twenty (20) days after the date required by the Trustees, such failure shall be deemed a violation of this Agreement, and the Union shall have the right to take whatever steps are necessary to secure compliance with this Agreement, and other provisions hereof to the contrary notwithstanding, and the Employer shall be liable for all costs of collecting the payments due together with attorney's fees and such penalties 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 for elsewhere in this Agreement.

Section 5. The Apprenticeship Plan adopted by the Trustees of said Apprenticeship Funds shall at all times conform with the requirements of said Internal Revenue Code and other applicable laws and regulations so as to enable the Employer at all times to treat contributions to the Apprenticeship Fund as a deduction for income tax purposes.

ARTICLE XI

Zones, Wages, Classifications, Dates Applicable, and Employer Contributions

Section 1. When the employee is directed to report to a job site and the distance to the job site requires the employee to stay out of town overnight, the Employer shall provide housing arrangements for the affected employees.

Zones Defined:

- Zone 1: Base pay up to 30 miles
 - Zone 2: 30 miles to 75 miles, \$1.00 per hour above base pay.
 - Zone 3: 75 miles and beyond, \$3.125 per hour above base pay.
- (Albuquerque, Santa Fe, and Belen shall be considered Zone 1)

It is understood and agreed that the Employer will give notice to the Employees, 24 hrs when possible, on out-of-town work assignments that require overnight stays. It is also agreed the Employer will furnish transportation or gasoline for all work performed beyond the thirty (30) mile radius that encompasses the free cities of Albuquerque, Santa Fe and Belen.

Required Training Certifications: General Foreman, Foreman, and Carpet, Tile and Resilient Floor Covering Journeymen must have and maintain certification of the following training:

- . (10) Hour OSHA Construction Class - within every three (3) years
- . First Aid Class - every two (2) years
- . CPR Class – every two (2) years

Entry Level Journeyman: Effective April 1, 2007, any Journeyman dispatched by the Union from the referral list who is new to the Employer and new to the IUPAT shall be considered an Entry Level Journeyman (“ELJ”) and shall serve a 400 hour probationary period and receive wages and benefits as specified herein. If during the 400-hour probationary period, the Employer determines the Employee is not qualified to receive full journeyman wages called for in this Agreement; the Employee shall have the option of being placed in the Apprenticeship program at the appropriate step or the employee may be terminated from employment, at the Employer’s discretion.

Wages: Classifications and wages for employees covered under this Agreement are listed in Appendix A – Wages and Fringe Benefits, which is attached.

Section 2. Safety Incentive Program: The signatory parties agree that a Safety Incentive Program has been added as an addendum to this Agreement.

Section 3. Build New Mexico: The signatory parties agree that upon mutual consent, contributions to Build New Mexico may be discontinued any time during the life of the contract and contributions reverted back to the contributors in equal amounts to each.

Section 4. Administrative Dues Check-Off: The Employer agrees to withhold Administrative Dues from the gross wages earned each pay period for each hour worked by the employee covered hereby and pay said amount to the International Union of Painters and Allied Trades District Council 88/Local Union 823 on or before the tenth (10th) day of each month for which they are withheld. Payments of Administrative Dues by the Employer shall be in accordance with the payment of Health and Welfare contributions.

The Union will certify to the Employer the amount to be deducted. The Union shall furnish the Employer authorization forms to be signed by the employee authorizing the withholding of said dues.

The Union shall furnish all Employers with authorization forms to be signed by those employees who are not hired through the Union office. The Employer shall assume the responsibility of obtaining these signatures.

The authorization shall be signed by all employees and presented to the Contractor prior to any deduction being made.

Section 5. Payment of Wages: Employees shall be paid weekly on the job site not later than 4:30 p.m. on Friday. In the event they are not paid by the above-stipulated time, the employee shall be allowed thirty (30) minutes time to pick up his pay at the Employer's place of business.

Employees who are discharged for just cause, shall receive pay for actual time spent working, and the Employer shall be allowed a maximum of four (4) hours to have the employee's check delivered to the job site to pay the employee all monies due at the time of discharge.

In the event the Employer fails to comply with the above, the employee shall receive waiting time in the amount of eight (8) hours for each day the Employer fails to comply at the straight time hourly rate.

Any Employee who is paid by check which is not negotiable on account of insufficient funds on deposit in the bank on which it is drawn, shall be in the status of employee who has not been paid. The above shall also apply hereto.

Section 6. Zone Pay – Free Zone: Free Zone: An area within a thirty (30) mile radius of the main post office in the city or town where an employee permanently resides at the time of hire shall be considered Zone 1.

All jobs beyond the thirty (30) mile radius shall be covered by the zone schedule under wages.

Section 7. Fringe Benefits:

A. **Health and Welfare:** Commencing with the first (1st) day of April, 1976 and continuing for the duration of this Agreement, and any renewals or extensions thereof, the Employer agrees to make payments to the International Union of Painters and Allied Trades Local Union 823 Health and Welfare Fund, to provide health and welfare benefits for the employees covered hereby and their dependents as follows:

1. For each hour of portion thereof, for which an employee receives pay, the Employer

shall make a contribution to the above-mentioned fund in accordance with the contribution schedule.

2. For the purpose of this Section, each hour paid for including hours attributable to show-up time and other hours for which pay is received by the employee in accordance with this Agreement shall be counted as hours for which contributions are payable.
 3. Contributions shall be paid on behalf of any employee starting with the employee's first (1st) day of employment in a job classification covered by this Agreement. This includes but is not limited to apprentices, helpers, trainees, journeymen and probationary Employees.
 4. The payments to the Health and Welfare Fund required above shall be made to the International Union of Painters and Allied Trades Local Union 823 Health and Welfare Fund which was established under an Agreement and Declaration of Trust dated September 4, 1969. The Employer hereby agrees to be bound by and to said Agreement and Declaration of Trust as though he had actually signed same.
 5. The Employer hereby irrevocably designates as his 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 said Agreement and Declaration of Trust.
 6. All contributions shall be made to the above fund on or before the tenth (10th) day of the month for which they are due. 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 Health and Welfare Fund.
 7. If an Employer fails to make contributions to the Health and Welfare Fund within twenty (20) days after the date required by this Agreement, the Union shall have the right to take whatever action it deems necessary to secure compliance with this Agreement, any other provision hereof to the contrary notwithstanding, and the Employer shall be liable for all costs for the collection of the payments due, together with the attorney's fees and such damages as may be assessed by the Trustees.
 8. The Health and Welfare Plan adopted by the Trustees of such plan 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 Health and Welfare Fund as a deduction for income tax purposes.
- B. **Pension:** The only Agreement between the Employers and Union parties to this Agreement regarding pensions or retirement for employees covered by this Agreement is as follows:
1. Commencing with the first (1st) day of April, 1976, and continuing for the duration of this Agreement and any renewals or extensions thereof, the Employer agrees to make payments to the IUPAT Union and Industry National Pension Fund for each employee covered by this Agreement as follows:
 2. For each hour of portion thereof, for which an employee receives pay, the Employer shall make a contribution to the above-mentioned Pension Fund in accordance

contribution schedule.

3. For the purpose of this Section, each hour paid for, including hours attributable to show-up time and other hours for which pay is received by employees in accordance with this Agreement, shall be counted as hours for which contributions are payable.
4. Contributions shall be made on behalf of any employee starting with the employee's first (1st) day of employment in a job classification covered by this Agreement. This includes, but is not limited to apprentices, helpers, trainees, journeymen, and probationary Employees, except as specified within this Agreement.
5. The payment to the pension fund required above shall be made to the IUPAT Union and Industry National Pension Fund, which was established under an Agreement and Declaration of Trust, dated April 1, 1967. The Employer hereby agrees to be bound by and to said Agreement and Declaration of Trust as though he actually signed the same.
6. The Employer hereby irrevocably designates as its representatives on the Board of Trustees such Trustees as are now serving or who will in the future serve, as Employer Trustees together with their successors. The Employer further agrees to be bound by all actions taken by the Trustees pursuant to the said Agreement and Declaration of Trust.
7. All contributions of the above Pension Fund shall be made on or before the tenth (10th) day of the month following the month for which they are due. 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.
8. If an Employer fails to make contributions to the Pension Fund within twenty (20) days after the date required by this Agreement, 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 for collection of the payments due together with attorney's fees and such penalties 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.
9. The Pension Plan adopted by the Trustees of said 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.
10. On January 14, 2022 the Pension Fund elected to enter "Red Zone" status, requiring the adoption of a Rehabilitation Plan. The Rehabilitation Plan provides bargaining parties the opportunity to elect between two proposed "alternate schedules" of contributions and benefits or to accept the Rehabilitation Plan's Default Schedule. The parties to this Agreement hereby elect "Alternate Schedule 2" and adopt the following required increased hourly Pension Fund contributions:
 - a. Effective January 1, 2023, there shall be an increase of 20% (\$0.75) above the existing hourly contribution rate.

- C. **Fringe Option:** It is hereby agreed the Union, upon ninety (90) days notice to the Employers, may apply any part or all of said increase to fringe benefits and the wage scale be reduced by that amount.

ARTICLE XII Management Rights

The Employer retains full exclusive authority for the management of his operations. Except as expressly limited by the terms of this Agreement, the Employer retains the right to direct his working forces as his sole prerogative, including, but not limited to hiring, promotion, transfer, lay-off or discharge for just cause. No rules, customs, or practices shall be permitted or observed which limit or restrict the working efforts of employees. The Employer shall utilize the most efficient method or techniques of construction, tools, or other labor saving devices. There shall be no limitations upon the choice of materials or design. The Employer shall schedule work, and shall determine where overtime will be worked.

The foregoing enumeration of management rights shall not be deemed to exclude other functions not specifically set forth. The Employer, therefore, retains all legal rights not specifically covered by this Agreement.

Nothing contained herein shall prevent the party's signatory hereto from entering into a Project Agreement covering specific jobs during the term of this Agreement.

ARTICLE XIII No Strike – No Lockout

During the life of this Agreement there shall be no stoppages of work, strikes or lockouts. However, 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 this Agreement is involved in a legitimate primary labor dispute with any bona fide labor organization.

Notwithstanding any other provision of this Agreement, and in particular any "no strike" clause that may be contained herein, the Union shall be free to strike or engage in any other lawful, primary, economic action over any dispute between the parties involving wages and fringe benefits.

ARTICLE XIV Savings Clause

It is not the intent of either party hereto to violate any laws or any ruling or regulations of any governmental authority or agency having jurisdiction over the subject matter of this Agreement, and the parties hereto agree that in the event any provisions of this Agreement are held or constituted to be void as being in contravention of any such laws, rulings, or regulations, the remainder of this Agreement shall remain in full force and effect, unless the parts found to be void are wholly inseparable from the remaining portion of this Agreement.

ARTICLE XV
National Guard and Reserves

The Employer shall recognize and abide by the Laws set forth in the Uniformed Services Employment and Re-employment Rights Acts (USERRA) Title 38 U.S.C. Chapter 43.

ARTICLE XVI
Opening, Termination and Renewal

This Agreement shall remain in full force and effect until December 31, 2023. Either party desiring to terminate or change the terms of this Agreement on April 1, 2021, shall notify the other in writing at least sixty (60) days immediately prior to January 1, 2023 of its intent. Failure to do so shall result in this Agreement being extended for successive one (1) year periods until such notice is given in accordance with the above provision.

This Agreement may be reopened by the parties hereto for the purpose of negotiating wage and fringe increases on January 1, 2022 and on January 1, 2023, for the balance of the Agreement's duration. Either party desiring to reopen shall notify the other in writing at least sixty (60) days immediately prior to January 1, 2022 and on January 1, 2023.

**NEW MEXICO FLOOR COVERERS
COLLECTIVE BARGAINING AGREEMENT**

BETWEEN

**DISTRICT COUNCIL 88
LOCAL UNION 823**

AND

January 1, 2021 – December 31, 2023

District Council 88/Local Union 823
5425 Spindle Dr.
Houston, Texas 77086
346-226-6200

For the Union

For the Company

Date

Date

**APPENDIX A
WAGES & FRINGE BENEFITS**

<u>DATES APPLICABLE</u>	<u>1/1/2021</u>	<u>1/1/2022</u>	<u>1/1/2023</u>	<u>1/1/2024</u>
Carpet, Tile and Resilient Floor Covering- Journeyman	\$20.30	\$20.75	\$21.00	Contract
Entry Level Journeyman	\$18.67	\$19.00	\$19.00	Open

Wages and Fringes for Los Alamos County shall be set by the Master Labor Agreement, signed into effect on 11/3/08 with LANS in Los Alamos County. Increases to these wages and fringes shall mirror the dates and increases set forth in aforementioned Master Labor Agreement.

Employee Deductions

International Administrative Dues – Effective 06/01/22 ten cents (\$0.10) post-tax deduction per hour
Administrative Dues Check-Off – 4.25% of gross wages or as specified in the Local Union Bylaws.

Apprentice Wages:

All apprentices shall be paid a percentage of the highest Journeyman rate of the classification of work he is employed on:

1 st 6 months: 50%	4 th 6 months: 65%
2 nd 6 months: 55%	5 th 6 months: 75%
3 rd 6 months: 60%	6 th 6 months: 85%

Section 2. Employer Contributions except on behalf of Entry Level Journeymen and Apprentices

<u>Effective:</u>	<u>1/1/2021</u>	<u>1/1/2022</u>	<u>1/1/2023</u>	<u>1/1/2024</u>
Apprenticeship & Training	\$0.40	\$0.40	\$0.40	Contract
Health and Welfare	\$4.40	\$4.60	\$4.60	Open
Pension	\$3.60	\$3.75	\$4.50	
Labor Management Cooperation Fund	\$0.10	\$0.10	\$0.10	

Employer Contributions for Entry Level Journeymen and Apprentices

<u>Effective:</u>	<u>1/1/2021</u>	<u>1/1/2022</u>	<u>1/1/2023</u>	<u>1/1/2024</u>
Apprenticeship & Training	\$0.40	\$0.40	\$0.40	Contract
Labor Management Cooperation Fund	\$0.10	\$0.10	\$0.10	Open
Health and Welfare				
0 to 400 Hours of Employment	\$0.00	\$0.00	\$0.00	
Over 400 Hours of Employment	\$4.40	\$4.60	\$4.60	
Pension				
Apprentices:	\$0.40	\$0.40	\$0.50	
Entry Level Journeymen:				
0 to 400 Hours of Employment	\$0.40	\$0.40	\$0.50	