

**Alternative Dispute Resolution Agreement (" ADR ")
Between Local 36 and Local 220 of the
United Union of Roofers, Waterproofers & Allied Workers
And the Union Roofing Contractors Association**

This Agreement is made and entered into the 17th day of March, 2003, by and between the signatory Union Locals 36 and 220 of the United Union of Roofers, Waterproofers & Allied Workers (hereinafter referred to as the "UNION") and the signatory members of the Union Roofing Contractors Association (hereinafter referred to as "ASSOCIATION"). The term "parties" as used herein shall refer to ASSOCIATION and the UNION. It shall apply only to contracting firms who sign a Memorandum of Understanding to be bound by the terms of the Agreement. The Board of Trustees of the Trust established under this Agreement may change, alter or amend this list at any time.

ARTICLE I

INTENT & PURPOSE

It is the intent and purpose of this Agreement to:

- 1.1 Provide union roofing contractor employees who claim compensation for bodily injuries and occupational diseases (hereinafter referred to as "injuries") under the California Workers' Compensation Law (hereinafter referred to as the "Law") with improved access to high-quality medical care, and
- 1.2 Reduce the number and severity of disputes between employees and the workers' compensation benefits provider resulting from such injuries, and
- 1.3 Provide an efficient and effective method of dealing with such disputes by utilizing the provisions of Labor Code Section 3201.5 to establish a system of medical care delivery and dispute prevention and resolution which may be used by any ASSOCIATION contractor working in the State of California who is signatory to a collective bargaining agreement with the parties to this Agreement.

ARTICLE II

PARTIES TO AGREEMENT

2.1 This agreement which was negotiated by the ASSOCIATION and the UNION shall apply to all firms who either sign this Agreement or a memorandum of understanding to be bound by this Agreement. The term "employer" as used herein, shall refer to any such a firm.

SCOPE OF AGREEMENT

2.2 This Agreement shall apply only to injuries as defined by the Law sustained by employees covered by UNION collective bargaining agreements during their employment by an employer in California during the term of this Agreement.

TERM OF AGREEMENT

2.3 This Agreement shall remain in effect for a period of one year from the date of its execution by the parties. It shall continue in effect from year to year thereafter unless terminated by either party to the Agreement in the manner provided herein.

TERMINATION OF AGREEMENT

2.4 Either party desiring to terminate this Agreement must notify the other, and the Trust established under this Agreement, (hereinafter referred to as the "Trust") in writing, not more than 90 days prior to the anniversary date of this Agreement. Any employer wishing to withdraw from this Agreement may do so upon the anniversary date, provided it notifies the parties and the Trust, in writing, at not more than 90 days prior to the anniversary date. Upon termination, or withdrawal, any case involving an injury that occurred during the term of the Agreement, or during the term this Agreement was applicable to the withdrawing employer, shall continue and be resolved subject to the terms of this agreement.

COMPLETE AGREEMENT

2.5 This Agreement represents the complete understanding of the parties with respect to the subject matter dealt with herein.

CONFLICT IN LAW

2.6 In any instance of conflict, the provisions of this Agreement shall take precedence over provisions of the Law, so far as permitted by the provisions of Labor Code 3201.5 of the State of California.

LABOR-MANAGEMENT SAFETY & HEALTH COMMITTEE

2.7 There shall be a labor-management safety and health committee established. The UNION shall appoint one member for each participating local and the ASSOCIATION Boards of Directors shall appoint a corresponding number of members to this Committee. The terms of the appointees shall run concurrent with the term of this Agreement. The Committee shall promulgate rules for its operation.

EXCLUSIVE VOCATIONAL REHABILITATION PROVIDERS

2.8 The parties to this Agreement have developed an exclusive list of vocational rehabilitation providers attached hereto and marked Attachment "A". The Board of Trustees of the Trust established under this Agreement may change, alter or amend this list at any time.

FEE SCHEDULES

2.9 The parties to this Agreement agree that it is in their mutual best interest to establish a fee schedule limiting the fees which may be charged for medical treatments, vocational rehabilitation, mediation, arbitration, attorneys fees, providing documents and narratives, and any other associated costs to workers' compensation claims. This "Fees Schedule" list is attached hereto and marked Attachment "B". The Board of Trustees of the Trust may change, alter or amend this list at any time.

ARTICLE III

AUTHORIZED MEDICAL PROVIDERS

3.1 All medical and hospital services required by employees subject to this Agreement as the result of a compensable workers' compensation injury, shall be furnished by health care professionals and facilities selected by the employee from a list of health care professionals and facilities. The Board of Trustees for the Trust shall select the "Authorized Providers" subject to this Agreement. This Authorized Providers list is attached hereto and marked Attachment "C". The Authorized Providers shall include, but not be limited to, the local health and welfare trust preferred provider network. The Board of Trustees for the Trust may change, alter or amend this list at any time. Any health care professionals not listed on the approved list of authorized providers may be submitted to the Board of Trustees for review and inclusion. All "Authorized Providers" shall be board certified in their respective specialties, assuming that such is available in the geographic area.

3.2 In case of an emergency when no authorized provider is readily available, the employee may obtain treatment from a health care professional or facility not otherwise authorized by this agreement. The employer or its insurance carrier shall transfer responsibility for further or continuing treatment to an authorized provider as soon as possible, consistent with sound medical practices.

3.3 After selecting an authorized provider to furnish treatment for a particular injury, an employee may change once to another authorized provider.

3.4 When referred by the authorized provider to another provider in a particular specialty, the employee may also change once to another authorized provider in such specialty. Additional changes will be made only with written agreement of the employer.

3.5 Neither the employer nor its insurance carrier shall be responsible for the cost of medical services furnished by a health care professional or facility not authorized pursuant to this Agreement. Nothing in this Article shall be construed to create a right for an employee to receive care at employer obligation or expense that is not reasonably required to cure or relieve a work related injury.

3.6 The list of authorized providers shall include, but not be limited to, providers within the following specialties:

- Cardiology
- Chiropractic
- Dermatology
- General Practice
- Internal Medicine
- Neurosurgery
- Neurology Occupational Medicine
- Oncology
- Ophthalmology
- Orthopedics
- Psychiatry
- Pulmonary /Respiratory Radiology

3.7 The Board of Trustees for the Trust may include providers from additional specialties or providers who are not specialists on the list of authorized providers. In the event that an authorized provider furnishing treatment to an employee determines that consultation or treatment is necessary from a specialty for which no authorized provider has been selected through this agreement, or in the event that distance makes it impractical for treatment from the authorized provider, the authorized provider and injured employee shall mutually select the additional specialist or the additional provider who offers treatment at a distance not greater than 40 miles in one direction for the employee.

PRESCRIPTION MEDICINE PROVIDERS

3.8 All prescription medicines required by virtue of injury subject to this Agreement shall be furnished by the employer through a prescription medicine provider or providers agreed to by the Board of Trustees for the Trust. This "Prescription Medicine Providers" list is attached hereto and marked Attachment "D". The Board of Trustees for the Trust may change, alter or amend this list at any time by mutual agreement, except in those instances in which an authorized medical provider determines that due to time constraints or other valid medical reasons, use of another prescription source is required.

Generic forms of prescription medicines shall be provided unless the Authorized Medical Provider specifically specifies otherwise in writing.

SECOND OPINIONS

3.9 Both the employer and the employee may request a second opinion from an authorized provider regarding diagnosis, treatment and evaluation of an injury. Only one such second opinion shall be permitted by either party for any injury.

DISAGREEMENT WITH AUTHORIZED PROVIDER FINDINGS

3.10 The opinion and recommendations of the authorized provider selected in accordance with this agreement shall bind both the employer and the employee. In the event of disagreement with an authorized provider's findings or opinion, the sole recourse shall be to obtain a second opinion through dispute prevention and resolution procedures established in this agreement.

ARTICLE IV

DISPUTE PREVENTION AND RESOLUTION

The parties to this agreement acknowledge that the provisions of California law governing the adjudication of disputed Workers' Compensation claims have resulted in delay, increased expense and other inefficiencies which result in undue detriment to employees and employers. In recognition of the foregoing, the parties hereby establish the following exclusive Alternative Dispute Resolution System.

4.1 The dispute prevention and resolution program will consist of three components:

- I. Ombudsman
- II. Mediation
- III. Arbitration

4.2 This program shall replace all of those dispute resolution processes, to the maximum extent permitted by law including those authorized pursuant to California Labor Code Section 3201.5, subject to the following exception:

Disputes between a party to this agreement and a person or entity who is not subject to the provisions of this agreement by subscription or law, unless such third party or entity agrees in writing to submit to the jurisdiction of this dispute prevention and resolution program.

Any claim subject to this Agreement filed with the WCAB for resolution will immediately be removed and placed within the program established by this Agreement. This is the sole means of dispute resolution and no dispute shall proceed to the California Workers' Compensation Appeals Board until it has completed the Ombudsman, mediation and arbitration processes defined by this agreement.

OMBUDSMAN

4.3 The Board of Trustees for the Trust will select the Ombudsman. The Ombudsman shall receive complaints from employees who have filed claims for Workers' Compensation benefits subject to this Article and upon request of the employee shall assist the employee in attempting to resolve those disputes with the workers' compensation insurer of an employer. The Ombudsman shall, upon request of an employee, assist the employee in filing requests for mediation and arbitration related to alleged work-related injuries subject to this Article.

It is further understood and agreed that the Ombudsman shall be available at all times to employers and employees as a source of information regarding any questions relative to the workers' compensation process and benefits available. A claim need not exist or be in dispute for an employee or employer to obtain Ombudsman services.

MEDIATION

4.4 An employee covered by this Agreement, who believes that he/she is entitled to treatment and/or benefits beyond those of an authorized provider's findings or opinion, shall notify the Ombudsman. If the issue cannot be resolved to the satisfaction of the employee within ten working days, the employee shall apply for mediation on the "Request For Mediation" form attached hereto and marked Attachment "E". The Ombudsman shall assist the employee in filing the application with the mediator. The employee and employer may mutually agree to extend the ten working day period. No issue will proceed to mediation without first being presented to the Ombudsman. The response of the Ombudsman to the employee shall be explained in terms that are readily understandable by the employee. The Ombudsman shall maintain a log recording all Ombudsman activity, including the date of each notification and the date of each response. The employer shall also be allowed to file disputes with the Ombudsman. A third party, not a party to this Agreement, may file a written request with the Ombudsman to assist in resolving dispute involving either or both of the parties hereto, provided the dispute is related to a claim of industrial injury covered by this Agreement.

4.5 Application for mediation shall be made not more than 60 days after the Ombudsman has responded to the employee or employer's notification. Failure to mediate will bar any further right to adjudicate the issue. Any application for mediation shall be assigned to a mediator selected under this Agreement within three 3 working days of a receipt of a request. The mediator will contact the parties to the dispute, including the insurance carrier and take whatever steps the mediator deems reasonable to bring the dispute to an agreed conclusion.

4.6 The mediator subject to this Agreement shall be from the list determined by the Board of Trustees for the Trust and who has experience with the California workers' compensation system. This "Authorized Mediators" list is attached hereto and marked Attachment "F". The Board of Trustees for the Trust may change, alter or amend this list at any time.

4.7 Mediation shall be completed in not more than ten working days from the date of referral. In no event shall an issue be permitted to proceed beyond mediation until and unless the moving party cooperates with the mediator and the mediation process, or if both the employee and the employer mutually agree to an extension.

4.8 Neither party will be permitted to be represented by legal counsel at mediation. The fact that an employee or an employer representative or its workers; compensation insurer's representative has had legal training or is a licensed attorney shall not bar such person from participation in mediation, unless he or she seeks to participate on the basis of a attorney-client relationship. All communications between the mediator and the parties shall be directly with the parties and not through legal counsel. This Agreement is not intended to limit any party's right to obtain legal advice. Any party has a right to legal advice and representation at such party's own expense. The participation of legal counsel during any proceedings under this program is limited to the Arbitration, provided a written request for Arbitration has been timely filed with the Trust.

ARBITRATION

4.9 In not more than 30 calendar days after completion of the mediation process, any party not satisfied with the outcome shall file with the Trust a request that the matter be referred for arbitration. Upon receipt of such a request, the Trust shall immediately refer the matter for arbitration as provided for herein. The arbitration date will be set with sufficient advance notice to permit the parties to retain and/or consult with legal counsel.

4.10 The arbitrator shall have experience and be knowledgeable in the California workers' compensation dispute process and shall have been at one time a certified specialist in workers' compensation law or a California Workers' Compensation Administrative Law Judge. The arbitrator shall be assigned by the Trust, or its designee for such purpose, from the list of Arbitrators determined by The Board of Trustees for the Trust. This "Authorized Arbitrators" list is attached hereto and marked Attachment "F". The Board of Trustees for the Trust may change, alter or amend this list at any time.

In any case that has been regularly assigned to an Arbitrator for hearing hereunder, the Arbitrator shall have full power, jurisdiction and authority to hear and determine all issues of fact and law presented and to issue interim, interlocutory and final orders, findings, decisions and awards as may be necessary to the full adjudication of the case. The decision of the Arbitrator is subject to review by the Workers' Compensation Appeals Board (WCAB) in the manner required by Labor Code Section 3201.5, and shall have the same force and effect as an award, order, or decision of a Workers' Compensation Administrative Law Judge.

4.11 Arbitration will be conducted pursuant to the rules of the American Arbitration Association, or such other rules agreed to by the Trust, using the arbitrator assigned by the Trust. Unless the parties to the matter otherwise mutually agree, arbitration proceeding shall be completed in not more than 30 days after referral, and an arbitration decision rendered within 10 working days of the completion of the proceedings. The arbitrator's decision shall be written in written form consistent with the WCAB practices.

4.12 No written or oral offer, finding or recommendation made during the mediation process by any party or mediator shall be admissible in the arbitration proceedings except by mutual agreement of the parties.

4.13 Whenever the employee prevails at arbitration, either through the entry of a favorable arbitration decision or by agreement with the employer at any time subsequent to mediation, the employer shall pay a fee to the employee's attorney in an amount comparable to the prevailing wage of attorneys practicing in workers' compensation for the geographical area which the dispute has arisen.

The arbitrator may increase or decrease such fee based on the complexity of the dispute or the effort expended by the attorney. This amount shall not exceed 12% of the Permanent Disability (P. D.) award. The Arbitrator shall make a finding as to which party is the prevailing party for purposes of this section.

4.14 The mediator or arbitrator may in his/her sole discretion appoint an authorized health care professional to assist in the resolution of any medical issue, the cost to be paid by the insurance carrier, unless voluntarily paid by the employer.

4.15 The parties may submit a proposed settlement to the Trust at any time for assignment to an Arbitrator for expeditious issuance of award and/or order. Any such settlement shall be in the form of a Compromise and Release Agreement or in the form of Stipulations with Request for Award. The settlement shall be filed on a pre-printed form approved by the Trust. The Trust may create a separate list of Arbitrators to handle settlements under separate contract (s), and change such list at the Trust's discretion.

4.16 In order to better serve injured workers, it is agreed that the Trust may assign Ombudsmen, Mediators and Arbitrators to specific geographical areas.

ARTICLE V

TRUST FUND

5.1 There shall be a statewide Board of Trustees for the Union Roofing Contractors Workers' Compensation Trust Fund (identified above as the "Trust" and referred to in the alternative herein as the "Board"). The Board of Directors of the Trust shall have one member from each Local representing the UNION and a corresponding number of members representing ASSOCIATION. The Board shall select from its membership, one representative each from the ASSOCIATION and the UNION, to serve as Chairman and Secretary, who shall retain voting privileges. The Board shall meet at least twice per year and also when called by the Chairman.

5.2 The Board shall supervise all matters involving implementation and conformity with the provisions of this Agreement and the Law and labor codes. The Board shall have full power and authority to develop and implement any procedures the Board deems necessary to carry out or effect the purpose and scope of this Agreement. In case of deadlock, the matter in dispute shall be referred to the American Arbitration Association for expedited adjudication. The arbitrator's decision shall be final and binding upon both parties hereto.

5.3 The Board is hereby instructed and authorized to employ an administrator and an Ombudsman at such time as is possible and practical. The Board shall delegate to the administrator the responsibility and authority deemed necessary by the Board.

EMPLOYER CONTRIBUTIONS

5.4 The parties recognize that adequate funding is essential in assuring the success of this Agreement. There is a need to pay the administrative expenses that flow from the duties of the administrator of the Trust. The Ombudsman appointed pursuant to this Agreement shall serve as an independent contractor and will incur expenses facilitating resolution to disputes governed by this Agreement. There is a need to pay the expenses that flow from the duties of the Ombudsman under this Agreement. In order to provide adequate funding for the administration of the alternative dispute resolution system of this Agreement, the employers signatory hereto agree to pay to the Trust a yearly contribution equal to one percent (1%) of their respective annual workers compensation premium paid. The employer agrees to supply such documentation of its premium paid as to satisfy the parties. Failure to supply satisfactory documentation or to pay the specified contribution shall be grounds for the Board to terminate this Agreement with the employer.

The costs of mediation and arbitration shall be borne by the workers' compensation insurance company covering the claim subject to the mediation and/or arbitration provided, however, in those cases involving uninsurable risks under California Labor Code section 132a (discrimination) and California Labor Code section 4553 (serious and willful misconduct) the employer subject to the claim shall be responsible for the costs of mediation and arbitration. Mediation and arbitration costs include, but are not limited to, the fees of the mediator and arbitrator.

5.5 The Trust shall segregate such contributions on the books and records of the Trust Fund and shall segregate the expenses of this alternative dispute resolution system on the books and records of the Trust.

5.6 The administrator of the Trust shall advise the Board quarterly of contributions received and expenditures made related to this alternative dispute resolution system. Should the administrator advise the Board that the existing contributions are not sufficient to pay the costs of this alternative dispute resolution system, the Board agrees to meet and determine the further contribution necessary to pay the expense of this alternative dispute resolution system. All employers subject to this Agreement are bound to pay the additional contribution levied by the Board.

SUSPENSION OF ALTERNATIVE DISPUTE RESOLUTION SYSTEM

5.7 Failure of the Board to determine, levy and collect additional contributions necessary to pay the costs of this alternative dispute resolution system, this alternative dispute resolution system shall be suspended. During the periods of any such suspension, employees covered by this Article and the insurers of employers covered by this Article shall utilize the dispute resolution system set forth in the California Labor Code and the Rules and Regulations adopted related thereto.

5.8 In no event shall the Trust Fund be liable for the expenses of employer, employee, or insurance carrier.

TRUST FUND RESERVES

5.9 The Board shall determine minimum and maximum levels of capital reserves for the Trust Fund. The initial funding of the Trust will be capped at \$500,000, unless during the course of the year the Board determines that there is a need for additional funding. Should the Trust Fund contributions collected exceed the maximum level of capital reserves determined by the Board, the Board shall develop a formula of suspending contributions and returning contributions to individual employers, whereby each employer's contribution bears a proportionate relationship between their individual payroll and the collective payroll of all participating employers.

ARTICLE VI

MISCELLANEOUS ISSUES

6.1 The Trust may elect to consider a workers' compensation insurance plan that would provide for a risk sharing mechanism for some or all of the participating employers. Other than deductible amounts included in such a plan, all payments required to be made by the employer pursuant to this Agreement shall, in accordance with California law, be made by its workers' compensation insurance carrier. Similarly, all actions required by law to be undertaken by the insurance carrier rather than the employer shall be performed by the employer's workers' compensation insurance carrier.

6.2 The Board shall have the authority to place collections and maintain cash deposits in bank interest bearing trust accounts. All interest earned will become part of the operating reserves of the Trust.

6.3 Upon termination of this Agreement the parties and the employers shall take whatever steps are necessary to insure that all obligations under this Agreement are fulfilled until all claims subject to this Agreement are resolved.

6.4 On projects where the owner, developer or general contractor supplies a "project specific", "owner controlled" "wrap-up" type of insurance program that includes worker' compensation insurance, the employer at its option may suspend this Agreement for that specific project.

6.5 In the event of legal action contesting the legality of this Agreement, or any portion of it, the Trust shall pay the cost of defending the Agreement, and shall actively assist in such defense.

If any provision of this Agreement or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Agreement that can be given effect without the invalid provision or application, and to this end the provisions of this Agreement are declared to be severable.

Union Roofing Contractors Association: _____

Title: _____

Date _____

UURWAW Local 36: _____

Title: _____

Date _____

UURWAW Local 220: _____

Title: _____

Date _____

ATTACHMENT "A"

WORKERS' COMPENSATION INSURANCE CARRIERS

1. Ulico Insurance Group, P O Box 5131, Chino, CA 91708-5131
2. CNA, P O Box 6500, Brea, CA 92822-6500

ATTACHMENT "B"

EXCLUSIVE LIST OF VOCATIONAL REHABILITATION
AND EARLY RETURN TO WORK PROVIDERS

The California Association of Rehabilitation and Reemployment Professionals' list of Professional Members shall be the authorized providers for vocational rehabilitation and early return to work services. The website address is: www.carrp.org.

ATTACHMENT "C"

FEE SCHEDULES

The fees paid for services shall not exceed those authorized by the California Labor Code.

ATTACHMENT "D"

AUTHORIZED PROVIDERS
HEALTHCARE PROFESSIONALS AND FACILITIES
PRESCRIPTION MEDICINE PROVIDERS

Authorized Healthcare Professionals and Prescription Medicine providers for the UURWAW / Union Roofing Contractors Workers' Compensation Insurance Trust shall include those healthcare providers and prescription medicine providers authorized by the Union Roofing Contractors Health and Welfare Trust.