

**CALIFORNIA SMALL MANUFACTURING
HEALTH & WELFARE TRUST FUND
ADOPTION AGREEMENT
FOR**

[Participating Employer Name]

This Adoption Agreement is made and entered into by and between the employer named above (Participating Employer) and the California Small Manufacturing Health and Welfare Trust Fund (Trust Fund), effective as of _____, 20____. By signing this Adoption Agreement, the Participating Employer agrees to participate in the California Small Manufacturing Health and Welfare Trust Fund Welfare Benefit Plan (Plan), sponsored by the California Metals Coalition (Association) and the Trust Fund, all as set forth in this Adoption Agreement, the trust agreement for the Trust Fund, and the Plan, as each is currently written or as subsequently amended.

A. Adoption Agreement In General.

In order to be a Participating Employer, the employer must be both (i) a member in good standing of the Association and (ii) an employer with common law employees. Therefore, for example, a sole proprietorship with no common law employees or a partnership with no common law employees cannot be a Participating Employer. The Participating Employer confirms that it is one of the following:

- A corporation (subchapter C or subchapter S) with common law employees other than a 100% percent owner of the corporation
- A limited liability company (LLC) with common law employees taxed as a corporation
- A limited liability company (LLC) with common law employees taxed as a partnership
- A limited liability partnership (LLP) with common law employees
- A partnership (general or limited) with common law employees
- A sole proprietorship with common law employees

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The Participating Employer agrees to inform the Trust Fund immediately if its status indicated above ever changes.

B. Non-Voluntary Benefits Offered Under The Plan.

The non-voluntary benefits offered by the Trust Fund that the Participating Employer shall offer to its eligible employees are the benefits selected by the Participating Employer from time to time as set forth in the Participating Employer's Attachment To Adoption Agreement as in effect from time to time.

C. Employee Coverage Waiver Of Non-Voluntary Medical Coverage.

The Participating Employer makes the following election regarding employee medical coverage waivers (this section applies only to Participating Employers that elect to contribute the entire monthly premium for single employee medical coverage – see below regarding Participating Employer contributions):

- The Participating Employer will permit employees to waive coverage according to the following terms and conditions:
- An eligible employee may decline medical coverage if the employee is (i) covered as a dependent under another group health benefit plan through the employee's spouse's coverage, (ii) is covered under military coverage or Medicare, or (iii) is covered under any government plan (e.g., State subsidized coverage). It is the responsibility of the Participating Employer to obtain written proof of alternate insurance coverage by employees declining coverage. The Participating Employer must also provide the Trust Fund auditor with copies of the proof of alternate insurance during any payroll record review. The Participating Employer shall maintain copies of these forms for no fewer than six years after they are signed.
 - The Participating Employer shall immediately notify the Trust Fund of any change in status of any employee who has declined coverage.
 - The Trust Fund has no obligation to communicate with the Participating Employer's employees about their alternate

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coverage or their declination of coverage. The Participating Employer is responsible for doing so.

- The Participating Employer will not permit employees to waive coverage.

D. Voluntary Benefits Offered Under The Plan.

The voluntary benefits offered by the Trust Fund that the Participating Employer shall offer to its eligible employees are the benefits selected by the Participating Employer from time to time as set forth in the Participating Employer's Attachment To Adoption Agreement as in effect from time to time.

E. Contributions.

The Participating Employer shall make contributions to the Trust Fund in the appropriate amounts for its eligible employees who enroll in one of more of the benefits offered by the Trust Fund. Note the following:

- For non-voluntary benefits, the Participating Employer's contributions may be paid either (i) entirely by the Participating Employer or (ii) by a combination of contributions by the Participating Employer and its eligible employees; provided, however, that for medical coverage, the Participating Employer must contribute at least 50% of the monthly premium for the lowest cost single employee medical coverage.
- The Participating Employer's eligible employees who elect any voluntary benefits offered by the Trust Fund shall contribute 100% of the premiums for such coverage unless the Participating Employer communicates a different arrangement, in writing, to the Trust Fund or its representative prior to enrollment.
- The Participating Employer shall remit all contributions made by its eligible employees to the Trust Fund as soon as administratively feasible.

The Participating Employer makes the following elections with respect to the non-voluntary benefits it has selected:

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1. Employee medical coverage – The Participating Employer makes the following election regarding Participating Employer contributions with respect to employee medical coverage:

The Participating Employer will contribute ____% of the monthly premium for single employee medical coverage regardless of which medical coverage the employee has

The Participating Employer will contribute ____% of the monthly premium for single employee medical coverage applicable to coverage under the following coverage option:

The Participating Employer will contribute a flat rate in the amount of \$_____ toward the monthly premium for the employee's medical coverage regardless of which medical coverage the employee has (not to exceed the actual premium for such coverage – this amount must be automatically increased by the Participating Employer, without having to execute a revised Adoption Agreement (although a revised Participating Employer's Attachment To Adoption Agreement may be executed, if necessary for the Participating Employer's contributions to be at least 50% of the monthly premium for the lowest cost single employee medical coverage)

Other (describe): _____

2. Dependent medical coverage – The Participating Employer makes the following election regarding Participating Employer contributions with respect to dependent medical coverage:

The Participating Employer will contribute ____% of the monthly premium for dependent medical coverage regardless of which medical coverage the dependent has

The Participating Employer will contribute ____% of the monthly premium for dependent medical coverage applicable to coverage under the following coverage option: _____

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The Participating Employer will contribute a flat rate in the amount of \$_____ toward the monthly premium for the dependent's medical coverage regardless of which medical coverage the dependent has (not to exceed the actual premium for such coverage)

Other (describe): _____

3. Employee dental coverage – The Participating Employer makes the following election regarding Participating Employer contributions with respect to employee dental coverage:

The Participating Employer will contribute ____% of the monthly premium for single employee dental coverage regardless of which dental coverage the employee has

The Participating Employer will contribute ____% of the monthly premium for single employee dental coverage applicable to coverage under the following coverage option:

The Participating Employer will contribute a flat rate in the amount of \$_____ toward the monthly premium for the employee's dental coverage regardless of which dental coverage the employee has (not to exceed the actual premium for such coverage)

Other (describe): _____

4. Dependent dental coverage – The Participating Employer makes the following election regarding Participating Employer contributions with respect to dependent dental coverage:

The Participating Employer will contribute ____% of the monthly premium for dependent dental coverage regardless of which dental coverage the dependent has

The Participating Employer will contribute ____% of the monthly premium for dependent dental coverage applicable to

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coverage under the following coverage option: _____

The Participating Employer will contribute a flat rate in the amount of \$_____ toward the monthly premium for the dependent's dental coverage regardless of which dental coverage the dependent has (not to exceed the actual premium for such coverage)

Other (describe): _____

5. Employee vision coverage – The Participating Employer makes the following election regarding Participating Employer contributions with respect to employee vision coverage:

The Participating Employer will contribute ____% of the monthly premium for single employee vision coverage regardless of which vision coverage the employee has

The Participating Employer will contribute ____% of the monthly premium for single employee vision coverage applicable to coverage under the following coverage option:

The Participating Employer will contribute a flat rate in the amount of \$_____ toward the monthly premium for the employee's vision coverage regardless of which vision coverage the employee has (not to exceed the actual premium for such coverage)

Other (describe): _____

6. Dependent vision coverage – The Participating Employer makes the following election regarding Participating Employer contributions with respect to dependent vision coverage:

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- The Participating Employer will contribute ____% of the monthly premium for dependent vision coverage regardless of which vision coverage the dependent has
- The Participating Employer will contribute ____% of the monthly premium for dependent vision coverage applicable to coverage under the following coverage option: _____

- The Participating Employer will contribute a flat rate in the amount of \$_____ toward the monthly premium for the dependent's vision coverage regardless of which vision coverage the dependent has (not to exceed the actual premium for such coverage)
- Other (describe): _____

The first contributions owed to the Trust Fund by the Participating Employer are for the month beginning with the effective date of this Adoption Agreement set forth above. Contributions to the Trust Fund will be made on a monthly flat-rate basis in advance, accompanied by such information as is required by the Trust Fund or its representative. Contribution rates will be set from time to time by the Trust Fund and set forth in the monthly invoices. The Participating Employer agrees to pay contributions at the rates established from time to time by the Trust Fund for each of the benefit options selected by the Participating Employer.

Contributions to the Trust Fund will be made on a corporate or business check payable to "California Small Manufacturing Health and Welfare Trust Fund" or by electronic transfers in a manner permitted by the Trust Fund. The Trust Fund does not accept personal checks from employees (other than for COBRA premiums).

Monthly contributions are due by the 20th day of the month preceding the month of coverage (unless the Trust Fund notifies the Participating Employer to the contrary – for example, it is possible that the Trust Fund may make arrangements with the provider(s) of voluntary benefits to have the premiums paid in arrears). The Participating Employer may be liable for (i) interest at the rate of 10% per annum on delinquent contributions and

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(ii) liquidated damages as set forth in the trust agreement for the Trust Fund should the delinquency continue.

If a Participating Employer's contributions are not received by the 10th working day of the month of coverage, the Participating Employer's participation in the Plan and Trust may be terminated retroactively to the last day of the month of coverage for which contribution payments were received from the Participating Employer.

Contributions to the Trust Fund are "plan assets" upon receipt by the Trust Fund. As such, they cannot be returned to the Participating Employer unless the Trust Fund determines, in its sole and absolute discretion, that there was a "mistake of fact" and the contributions can be returned within one year of the date when they were received by the Trust Fund.

F. Eligible Employees.

The Participating Employer's eligible employees shall be the full-time employees of the Participating Employer who are not otherwise excluded from participation (see below for exclusions). A "full-time" employee shall mean an employee who is regularly scheduled to work at least:

- 20 hours per week if hourly, salaried, or both hourly and salaried
- 30 hours per week if hourly, salaried, or both hourly and salaried

An eligible employee shall be eligible for enrollment in the Plan as of the first day of the month next following the completion of:

- 0 days if hourly, salaried, or both hourly and salaried
- 30 days if hourly, salaried, or both hourly and salaried
- 60 days if hourly, salaried, or both hourly and salaried

of full-time employment with the Participating Employer.

G. Excluded Employees.

The Trust Fund excludes otherwise eligible employees from participating in the insured benefits offered by the Trust Fund if they are (i) covered by a

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collective bargaining agreement (unless it requires participation), (ii) nonresident aliens with no U.S. source income, (iii) employees of a Participating Employer's affiliated employer (as defined in the plan document) unless the affiliated employer has signed its own Adoption Agreement, (iv) leased employees (as defined in the plan document), and (v) workers whom the Participating Employer does not treat as an employee (e.g., an independent contractor). The Participating Employer agrees that the Participating Employer shall immediately notify the Trust Fund if the Participating Employer begins collective bargaining negotiations with any union or labor organization.

In addition to the individuals who are excluded from participation in the Plan pursuant to the Eligible Employees; Excluded Employees section of the Plan, the following employees of the Participating Employer are excluded from participation in the plan document (even if they might otherwise satisfy the eligibility criteria specified in the Plan):

- None
- Other (describe): _____

H. Summary Plan Descriptions.

The Participating Employer will cooperate fully with the Trust Fund in the Trust Fund's preparation of the summary plan description (or any modifications to it) and distributing the summary plan description (or any modifications to it) to its eligible employees at the times and in the manner(s) required by the Trust Fund.

I. Payroll Audits.

The Participating Employer will cooperate fully with the Trust Fund in allowing the Trust Fund or its accountant(s) to examine the Participating Employer's payroll records in order to verify that the Participating Employer has complied with the terms of its participation in the Plan and remitted the correct amount of the contributions to the Trust Fund. Upon the Trust Fund's request, the Participating Employer shall provide names, Social Security Numbers, family status, and wage and hour information, for all eligible employees. The Participating Employer is responsible for maintaining complete and accurate records of this information for review by the Trust Fund or its accountant(s).

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J. Indemnification.

The Participating Employer will fully defend, indemnify and hold harmless the Trust Fund and its Trustees, employees, consultants, administrators, legal counsel and agents against any and all loss, damage, liability, claim, demand or suit resulting from injury or harm to any person or property arising out of or in any way connected with the participation of the Participating Employer under this Adoption Agreement. This promise is intended to include, but is not limited to, employment-related claims, statutory violations, breach of contract claims and claims for damages resulting from personal injury or injury to property, except to the extent that any such claim arise from the breach by the Trust Fund or its Trustees, employees, consultants, administrators, legal counsel or agents of their legal obligations to the Participating Employer and its employees.

K. Termination Of Participation.

The Participating Employer may not terminate this Adoption Agreement during the 12 month period following the effective date set forth above. Thereafter, the Participating Employer may terminate this Adoption Agreement effective as of midnight of the last day of the Participating Employer's annual anniversary date by giving written notice of termination to the Trust Fund at least 60 days in advance of the specific termination date. The Participating Employer that terminates the Adoption Agreement may not retroactively reduce its premiums. If a premium refund is due from the Trust Fund to the Participating Employer, the Trust Fund or its representative will communicate this fact to the Participating Employer.

The Trustees may terminate this Adoption Agreement at any time (i) for any of the reasons set forth in the trust agreement for the Trust Fund or in the plan document, (ii) if continued participation by the Participating Employer would cause the Trust Fund to lose its tax exempt status, or (iii) if continued participation by the Participating Employer would cause the employee welfare benefit plan sponsored by the Trust Fund to be treated by the U.S. Department of Labor as not being a single plan at the Trust Fund level under the Employee Retirement Income Security Act (ERISA).

L. Confidential And Proprietary Information.

The Participating Employer agrees not to disclose Confidential and Proprietary Information, as defined below, to any third party at any time while it is a Participating Employer. The Participating Employer further

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agrees not to disclose Confidential Proprietary Information to any third party for a period of three years after it has ceased to be a Participating Employer.

Confidential and Proprietary Information includes any information related to the management or operation of the Trust Fund. Examples of Confidential and Proprietary Information shall include, but not be limited to:

- Information or documents of any type related to the governance or operation of the Trust Fund.
- Information or documents of any type related to third parties who have at any time had a business relationship with the Trust Fund, including, but not limited to, insurance companies, accounting firms, law firms, consulting firms or record keeping firms (as well as agents or employees of any of these types of firms).
- Any financial or accounting records or data of any type related to the operations or administration of the Trust Fund, including, but not limited to, reports, statements, summaries, correspondence and memoranda.
- Any Protected Health Information subject to the privacy standards set forth under the Health Insurance Portability and Accountability Act (HIPAA).

The Participating Employer agrees that in the event it ceases to be a Participating Employer for any reason the Participating Employer shall maintain the confidentiality of any and all information and/or documents in its possession which contain Confidential and Proprietary Information described above. The Participating Employer agrees that the information and documents listed above are confidential and proprietary and that the contents may not be disseminated in any manner by the Participating Employer or any agent of the Participating Employer. The Participating Employer further agrees not to discuss the contents of such Confidential and Proprietary documents with any third party, including business associates or family members, in accordance with the terms set forth herein.

Confidential and Proprietary Information does not include (whether before or after the date of this Adoption Agreement) information that is or becomes available to the public unless as a result of a breach of confidentiality by the Participating Employer.

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M. Disputes.

The Participating Employer also agrees that any dispute arising under this Adoption Agreement will be submitted to arbitration in accordance with rules of the American Arbitration Association. The arbitration shall take place in San Diego County, California before a single arbitrator. In the event the parties involved in the dispute are unable to agree upon the identity of the arbitrator, the arbitrator shall be appointed by the American Arbitration Association. The decision of the arbitrator shall be in writing and shall contain the findings of fact and conclusions of law on which his or her decision is based. Such decision shall be final and binding on the parties and may be enforced in any court of competent jurisdiction. The parties agree that the prevailing party in any such arbitration shall be entitled to recover its reasonable attorneys fees and costs and other non-reimbursable arbitration expenses, including witness fees, travel expenses and investigation expenses. Notwithstanding the forgoing, either party may go to a court of competent jurisdiction in San Diego County, California to obtain interim injunctive relief to prevent a violation of this Adoption Agreement or to enforce the arbitration dispute mechanism herein.

N. Trust Agreement And Plan Document.

The Participating Employer acknowledges that it has received a copy of the trust agreement for the Trust Fund and a copy of the employee welfare benefit plan document for the Plan adopted by the Trust Fund. The Participating Employer hereby agrees to be bound by (i) all the terms, conditions and obligations imposed by and under the trust agreement for the Trust Fund and any modifications, alterations, or amendments made thereto, (ii) all the terms and conditions of the employee welfare benefit plan(s) adopted by the Trustees in which the Participating Employer's employees participate as such plan(s) may be in effect from time to time, (iii) all the policies and procedures adopted by the Trust Fund, the Trustees or the Administrator, as such policies and procedures may be in effect from time to time, and (iv) all of the insurance policies and provider contracts adopted by the Trust Fund, the Trustees or the Administrator, as such policies and contracts may be in effect from time to time.

O. Participating Employer Information.

1. Legal name: _____
2. D.B.A. (if any): _____

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3. Employer identification number: _____
4. Address: _____

5. Telephone number: _____
6. Facsimile number: _____
7. Contact person: _____
8. E-mail address: _____

P. Execution Of Adoption Agreement.

By signing below on behalf of the Participating Employer, the undersigned represents and warrants that the undersigned has been duly and fully authorized by the Participating Employer to sign this Adoption Agreement on behalf of the Participating Employer and to bind the Participating Employer to the terms of this Adoption Agreement.

Executed this _____ day of _____, _____.

[Participating Employer Name]

California Small Manufacturing Health
and Welfare Trust Fund

By: _____

By: _____

Title: _____

Title: _____

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