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Local: **210**

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K 8478

1,800 workers

49 pgs.

7/1/2002 - 6/30/2007

**2002 - 2007**

**LABORERS'  
LOCAL UNION 210**

**INDEPENDENT**

**COLLECTIVE  
BARGAINING  
AGREEMENT**

**2002 - 2007  
AGREEMENT**

between

**LOCAL UNION NO. 210  
LABORERS INTERNATIONAL UNION  
of NORTH AMERICA  
AFL-CIO**

and

**THE EMPLOYER**



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## **2002 - 2007 Laborers' Agreement**

**THIS COLLECTIVE BARGAINING AGREEMENT** between \_\_\_\_\_ hereinafter called "Employer," and the Laborers International Union of North America, Local Union No. 210, hereinafter called "Union" or "Local 210," shall cover all employees performing work within the trade and geographic jurisdiction set forth herein.

### **Article I DEFINITIONS**

1. "Laborer, Laborers, Employee or Employees" - Individuals employed by an employer, who perform, or are hired to perform, any of the services covered by this Agreement.

2. "Employer" - This term variously describes a person, firm, partnership or corporation that becomes a signatory or bound to the terms of this Agreement during the term of this Agreement, and any other such person, firm, partnership or corporation as provided in Article XVI.

3. "General Contractor" - Any employer whose services are engaged by the owner or lessee or other persons who are responsible for the awarding of the contract and performance of the construction involved and/or any person who contracts with such owner or lessee and who himself turns over or subcontracts such work to other firms, persons or corporations.

4. "Local 210" or "Union" - Shall refer to Laborers Local 210.

## **Article II**

### **JURISDICTION**

1. The jurisdiction set forth below constitutes a description of work traditionally performed within Laborers' job classifications. Laborers claim the right to perform all work traditionally performed by Laborers.

2. This Agreement covers all watchmen, flagmen (all crafts), fire watchman, traffic control men, concrete specialists, laborers, and foremen, (grade, pipe, concrete, forms, seeding, asphalt, clearing and grubbing, clean-up, stone-laying) in the performance of the following:

- (a) The laying of all types of pipe and conduit; the spreading, pouring, raking, and tamping of all asphalt and concrete materials; the laying of all types of stone or manufactured curb, rip-rap, paving blocks, concrete blocks (paving), slope paving, Belgium Block and similar types of baskets; the handling, loading, unloading and stringing of all materials; the handling, loading and stringing of all wood products by hand or power; the sharpening of all air tool bits, drills and bull points.
- (b) Attending to, handling, and fueling any and all types of heaters at all times when in use except where existing agreements provide otherwise.
- (c) The handling, the laying and placing of forms used for curbing, gutters, roads and sidewalks and the stripping of same; the placing, setting and maintaining of all flares, blinker lights and reflectors; the cutting and chipping of road joints; the handling, loading, unloading, distributing, and erecting of chain-link fence; the handling and erecting of wire fence and overhead signs; the handling and placing of wire mesh on roads and bridges; guard-rails; the

installation and all other work on IBC barriers; the sandblasting and applying of guard rails; the sandblasting and applying of sealers, hardeners and epoxy on concrete and asphalt work; the nozzle operators on sandblasting and guniting operations; the signaling of all materials (manufactured or otherwise) that is handled or put in place by laborers; handling, loading, unloading, distributing, and installing all guard rails, highway signs and road markers.

- (d) Attending to, handling, and fueling single diaphragm and 1 1/2 pumps.
- (e) The operating of all types of machines used to seal any type of joints; the operating and servicing of mortar mixers and conveyors used in laborers' work, regardless of number; the operating and servicing of rock drilling machines; the blasting and dynamiting of all rock welding (excluding machinery, tools, structural steel); the installation of manholes and catch basins; the placing of all precast and pre-stressed materials, except when placed or installed by the manufacturer pursuant to its collective bargaining agreement.
- (f) The handling, unloading, loading, assembling and laying of all multiplate; the operating of all air, gas, electric, oil and other types of motor-driven tools, including all pusher-type equipment; the handling, tending and maintaining of Homelite or like generators.
- (g) The laying of electrical conduit; lasers when used for grading or leveling for sitework; chemical cleanup, drum handling of transformers, diving, operation of infrared destruction machines, and plasma arc plants; the storing, loading and unloading of all hazardous waste.

- (h) Functioning as safetyman and batch plant foremen; functioning as nursery worker; functioning in the installation of sound barriers.
- (i) Removal of asbestos, including demolition and/or dismantling for scrap and video x-ray operation.
- (j) Installation of welding and jointing; installation of oil lines, grime, chemical, transmission lines; all fiber optics; installation of all communication lines and pumping facilities; waterproofing, installation of underwater cable.
- (k) All handling and sorting of materials by hand or power in or about storage points, shall be by laborers if such points are on the job site, adjacent thereto or of a temporary nature.
- (l) Excavating for building and all other construction; digging of trenches, piers, foundations and holes; digging, lagging, sheeting, cribbing, bracing and propping of foundations, holes, caissons, cofferdams, dams, dikes and irrigation trenches, canals and all handling, filling and placing of sandbags connected therewith. All drilling, blasting and scaling on the site or along the right-of-way, as well as access roads, reservoirs, including temporary lines.
- (m) On-site preparation and sight-of-way for clearance of any structures of the installation of traffic and transportation facilities, such as highways, pipelines, electrical transmission lines, dam sites and reservoir areas, access roads, etc. Clearing and slashing of brush or trees by hand or with mechanical cutting methods. Blasting for all purposes, such as stumps, rocks, general demolition. Falling, bucking, yarding, loading or burning of all trees on construction areas. Choker setter, off bearers; erection, dis-

mantling and/or reinstallation of all fences. Clean-up of right-of-way, including tying on, signaling, stacking of brush, trees or other debris and burning where required.

- (n) All soil test operations or semi- and unskilled labor, such as filing of sandbags, handling timbers and loading and unloading of the same.
- (o) The hooking on, signaling, dumping and unhooking the bucket when concrete or aggregates are conveyed by crane or derrick, or similar methods; placing of concrete or aggregates, whether poured, pumped, gunnited, or placed by any other process; the assembly, uncoupling of all connections and parts of or to equipment used in mixing or conveying concrete aggregates or mortar, and the cleaning of such equipment, parts and/or connections. Where stone or pre-stressed or pre-cast concrete slabs, walls or sections; all mixing, handling, conveying, placing and spreading of grout for any purpose; green cutting of concrete or aggregate in any form, by hand, mechanical means, grindstones or air or water.
- (p) The filling and patching of voids, crevices, etc., to correct defects in concrete caused by leakage, bulging, sagging, etc.
- (q) The loading, unloading, carrying, distributing and handling of all rods, mesh and material for use in reinforcing concrete construction, to the stockpile and from the stockpile to the point of installation.
- (r) All work on interior concrete columns, foundations for engine and machinery beds.
- (s) The moving, cleaning, oiling and carrying of all forms to the next point of erection.

- (t) The snapping of wall ties and removal of tie rods. Handling, placing and operation of the nozzle, hoses and pots or hoppers on sand-blasting or other abrasive cleaning.
- (u) The erection, installation and handling of all post-mounted traffic signs, regardless of make of materials, including excavation, backfill, cleanup, placing concrete, installation of posts, braces and panels; installation of delineators and posts.
- (v) The cutting of streets and ways for laying of pipes, cables or conduits for all purposes; digging of trenches, manholes, etc.; the handling and conveying of all materials; concreting, backfilling, grading and resurfacing and all other labor connected therewith; the clearing and site preparation as described herein; the cutting or jackhammering of street, roads, sidewalks or aprons by hand or the use of air or other tools; the digging of trenches, ditches and manholes and the leveling, grading and other preparation prior to laying pipe or conduit for any purpose; the loading, unloading, sorting, stockpiling, wrapping, coating, treating, handling and distribution of water mains, gas and all pipe, including placing, setting and removal of skids; the cribbing, driving or sheet piling, lagging and shoring of all ditches, trenches and manholes; the handling, mixing, or pouring of concrete and the backfilling and compacting of all ditches, resurfacing of roads, streets, etc.; the restoration of lawns and landscaping.
- (w) The unloading, sorting, stockpiling, coating, treating, handling, distribution and lowering or raising of all pipe or multiplate; the breaking of concrete, backfilling, tamping, resurfacing and paving of all ditches in preparation for the lay-

ing of all pipe; pipe laying, leveling and making of the joint of any pipe used for main or side sewers and storm sewers; all of the laying of clay, terra cotta, ironstone, vitrified concrete or other pipe and the making of joints for main or side sewers and storm sewers and all pipe for drainage; the unloading, handling, distribution, assembly in place, bolting and lining up of sectional metal or other pipe, including corrugated pipe; the laying of lateral sewer pipe from main sewer or side sewer to building or structure; the laying of lateral sewer pipe from main sewer or side sewer to building or structure; the laying, leveling and making of the joint of all multi-cell conduit or multipurpose pipe; the cutting of holes in walls, footings, piers or other obstructions for the passage of pipe or conduit for any purpose and the pouring of concrete to secure said holes; digging under streets, roadways, aprons or other paved surfaces or the passage of pipe, by hand, earth auger or any other method and manual and hydraulic jacking of pipe under said surfaces.

- (x) The installation of septic tanks, cess-pools and drain fields.
- (y) The underpinning, lagging, bracing, propping and shoring, raising and moving of all structures; raising of structure by manual or hydraulic jacks or other methods. Clean-up and backfilling, landscaping old and new site. All work of drilling, jackhammering and blasting; operating all rock and concrete drills; handling, carrying, laying out of hoses, installation of all temporary lines and handling and laying of all blasting mats; all work in connection with blasting, handling and storing explosives and carrying to the point of blasting, loading holes, setting fuses, making primers and

exploding charge; securing of surface with wire mesh and any other materials; setting of necessary bolts and rods to anchor same; high scaling and other rock breaking and removal after blast; handling and laying nets and other safety devices and signaling, flagging, road guarding; serving as signalmen on all construction work defined herein, including traffic control signalmen or flagmen at construction sites.

- (z) The clearing, excavation, filling, backfilling, grading and landscaping of all sites for all purposes and all labor connected therewith, including chainmen, rodmen, grade markers, etc.
- (aa) Material yards, junk yards, asphalt plants, concrete products plants, cemeteries, landscape nurseries and the cleaning or reconditioning of streets, ways, sewers and water lines and all maintenance work and work of an unskilled and semi-skilled nature, including laborers in shipyards, tank cleaner, ship scalers, boatmen, operation of all grout, concrete, aggregate pumps, all laser operations, all layout, stake out and other means of surveying, shipwright helpers, watchmen, flagmen, guards, security and safety men, toolroom men.
- (bb) All drillers, blasters and/or powermen, nippers, signalmen, laborers in quarries, crushed stone yards and gravel and sand pits and other similar plants, including temporary and portable Batching Plants.
- (cc) The wrecking or dismantling of buildings and all structures. Breaking away roof materials, beams of all kinds, with use of cutting or other wrecking tools as necessary. Burning or otherwise cutting all steel structural beams. Breaking away, cleaning and removal of all masonry and wood or metal fixtures for sal-

vage or scrap. All hooking on and unhooking and signaling when materials for salvage or scrap are removed by crane or derrick. All loading and unloading of materials carried away from site of wrecking. All work in salvage or junk yards in connection with cutting, cleaning-up, removal of debris, burning, back-filling and landscaping of the site of wrecked structure.

- (dd) Right-of-way clearance as described above, excavation, grading, sub-grading, blasting and compacting of right-of-way. Loading, unloading, stockpiling, handling and distribution of track and ties and placing of or jacking track and ties at point of installation. All burning or otherwise cutting of track. Setting of tie plates, bolting, leveling and gauging of rails and all spiking, whether by hand or mechanical means. Placing and tamping of ballast by hand or mechanical means. Construction and/or relocation of mainlines, shoe flies, sidings, gradings, crossings, relocating of pipes, drainage and culverts connected with same and removal and replacing of all fences.
- (ee) Operation of all hand, pneumatic, electric, motor combustion or air-driven tools or equipment necessary for the performance of work herein. All concrete saws, including wall saws and all walk behind concrete saws. Track drills, wagon drills, jumbos, welding machines, pin pullers. Tending of all material used in construction, unloading, handling and distributing of all materials, fixtures, furnishings and appliances to the point of erection and installation. Installation of all types of fence, all nursery work (planting of trees, flowers, shrubs, grass etc., and grading involved), all demolition work, burning, welding, rod placement, mesh

installation, jackhammering, drilling, blasting, placing of dynamite or other explosive, placing of blasting mats, asbestos removal, all chemical cleanup, installation of all plaster, concrete, mortar or other aggregate. All drying of aggregates, handling and installation of all precast and precast materials, the aging and curing of concrete mortar and other materials, handling to point of erection of all block and brick. Cleaning of all debris, including wire brushing of windows, scraping of floors, removal of surplus material from all fixtures within confines of structure and cleaning of all debris in construction and building area. The general cleanup, including sweeping, cleaning, wash-down and wiping of construction facility, equipment and furnishings and removal and loading of debris, including crates. Washing of all walls, windows; washing, waxing, polishing of all floors or areas. All warehousemen, all sharpening of tools, handling and installation of all pipe (concrete, transite, cast iron, plastic, stainless steel, etc.) Handling and installation of all (water, sewer, oil, gas) lines. All conduit for the telephone companies, all transmission lines. Handling and unloading of all drywall, plaster, or other aggregates. Placing and compacting roadbeds, all tree cutting electrical transmission lines, all soil testing, handling of timber, filling of sandbags, all fireproofing, all waterproofing, handling, conveying and placing of concrete and placing of concrete, asphalt, bituminous concrete, or aggregates for walls, footing, foundations, floors, roads or any other construction. All gunniting, vibrating, whether done by hand or machine. Installation, stripping, handling of all concrete forms. Pouring, finishing of all concrete, installation of manholes, multiplate drop inlets,

all paving stones, all house moving, all landscaping, all safety men, first-aid men, all work in salvage, all railroad track work, all right-of-way clearance, excavation for track-work, handling and installation of all track, all ballast, setting of tie plates.

- (ff) All tank testing, tank removal, scaling and replacement, removal of all oil, retro filing, testing and labeling for shipping. Drilling, core samples, monitors, bagging and labeling for shipping. Drilling, core samples, monitors, bagging and labeling, all supersuckers, guzzlers, vacuum machines (except maintenance), all high-pressure washing machines under 2 nozzlemen. All nozzlemen on all washing units. All industrial cleaning, all oil spills, installation of all temporary dams. Shoring, piling, sheeting, bridging. Dismantling of railroad cars, and installation of security barriers. Handling of all air, oil and other meters.
- (gg) All work in connection with the handling, control, removal abatement, encapsulation or disposal of asbestos, lead and/or toxic waste will be assigned to the members of the Laborers' International Union of North America. The work tasks shall include but not be limited to, the erection, moving, servicing and dismantling of all tools equipment normally used in the handling, control, removal or disposal of asbestos, lead and toxic waste; the bagging, cartoning, crating or otherwise packaging of materials for disposal.
- (hh) In addition to the actual removal or encapsulation of hazardous material, all work tasks associated with any and all safety requirements and final clean-up and disposal of such hazardous waste material. All decontamination of equip-

ment used on hazardous material shall be performed by Laborers.

- (ii) All sludge removal, containment cleaning and removal of heavy metals, phenols, PCB's paint sludges, methylethyl keystone, penat-chlorophenols, fuel oils, phenolictars, arsenic bearing waste, solvents, calcium, hydroxides, ferro chrome, silicon alloy, dust and slag, Ferro manganese slag, ferro chrom, dust, all carbon materials, aluminum chlorides, rocket fuel spills, fly ash sand, plastic molds, solidified clays, waste waters, sewage sludge, peroxides, keetox and oxylite waste, foundry sands, hexachroetranes, cooling water, spent catalyst, contaminated soils, lube and hydraulic oils, pickle liquor, lime sludge, mill scale, drummed chemical waste, carbolic acids, iron salts, toluene, cutting oils, vinyl chlorides, trichloroflorometanes, DDT, all organic phosphates, sulfur compounds, all waste from lagoons, offgrade products, carbonfurans, primary inorganics. Thidans, TCP's brine sluge, sewer pumps, all polymer blends, all environmental protection agency classified waste products and all future classified waste products by any Federal or State Regulatory Agency. The containment of, transfer, stockpiling, burning, destruction, changing or neutralizing machines, BIO-GENETIC, or landfilling, operation of all machines and manual work shall be the work of the Laborer.
- (ij) **Miscellaneous:** All such work and jurisdiction as may have been acquired by reason of amalgamation or merger with former national or international unions and as may be hereafter acquired, including all such work and jurisdiction as declared by actions of the executive council of Laborers International Union. The

work herein is intended to describe the jurisdiction of Laborers Local 210, and is not intended to exclude any work which is covered by the Laborers International Union or its Charter.

3. The foregoing applies in the performance of all the aforementioned work and all other work coming under the jurisdiction of the L.I.U. of N.A., A.F.L.-C.I.O.

### **Article III**

## **GEOGRAPHIC JURISDICTION**

This Agreement shall cover all building and heavy construction, highway and heavy highway, tunnel and utility work, in Erie County, New York; Perrysburg and the City of Gowanda in Cattaraugus County.

### **Article IV**

## **HIRING**

1. (a) The Union shall operate a Hiring Hall for the referral of workers to jobs under the Agreement.
- (b) The Hiring Hall shall maintain an out-of-work registration list ("out-of-work list") for each classification of "qualified applicants" as defined in subparagraph c below, who are out of work, in the order in which such individuals register with the Hiring Hall. The out-of-work list shall be based on one or more of the following elements: length of service in the industry, skills, residence and availability in the region, prior work for the requesting Employer, and availability to work.
- (c) An applicant shall be qualified, and thus eligible for employment, only if that applicant (1)

has not been previously discharged for cause or rejected in writing by the Employer who submitted the request; and (2) has all current documentation, licenses or certificates required to be eligible to work or to perform the work that is the subject of the Employer's request to the Union.

- (d) The Union shall fill Employer referral requests and dispatch to the Employer qualified employee applicants in order of their registration on the out-of-work list.
  - (e) The Employer shall only hire individuals registered on the out-of-work list. By tendering the required registration fee, any individual may be registered on the out-of-work list, regardless of Union status. The registration fee shall be paid monthly and shall not exceed the cost of maintaining the out-of-work list for each individual.
2. (a) Whenever an Employer requires employees to perform work covered by this Agreement on any job, the Employer shall provide to the Hiring Hall written notification (on a form to be supplied by the Union to all signatory Employers), stating the job location, the date the work is to commence, the shift start time, the estimated duration of the shift and of the job, the number and type of employees required, the name of the person at the job site to whom the employees are to report, and the name of the general contractor. The Employer shall provide such written notice to the Hiring Hall at least 48 hours before the start time of the applicable job, provided that when the Employer itself receives less than 48 hours' notice of a job's start time, the Employer shall provide such written notice to the Hiring Hall (which notice may be by facsimile) as promptly as possible.

- (b) Whenever the Hiring Hall fills an Employer's request for Employees, the Hiring Hall shall provide to the Employer written notification, to be sent by facsimile, stating each employee's name and work classification, and the start time, date, and location of the job to which each employee has been dispatched.
- (c) Each applicant referred to an Employer shall be given a written dispatch slip by the Hiring Hall confirming his or her dispatch to the Employer, his or her work classification, and the specific request the dispatched applicant is filling. All employees performing work covered by this Agreement hired by the Employer shall be listed on the out-of-work list. The Union shall not knowingly refer or dispatch any employee then currently employed by any other Employer working under an Agreement with the Union.
3. (a) On all job sites, the first Building Laborer on the job site shall be a Foreman selected by the Employer. The second employee on the job site shall be a Shop Steward appointed by the Union. Commencing with the third employee on the job site, 50% of all Building Laborers shall be furnished and referred by the Union to the Employer from the out-of-work list and 50% shall be selected by the Employer (which shall mean that the Employer shall select the Foreman and the third, fifth, seventh, etc. laborer and the Union shall select the Shop Steward and the second, fourth, sixth, etc. laborer). It is understood that the Employer shall not discharge a Shop Steward appointed by the Union without prior approval of the Business Manager or Trustee. All Building Laborers hired by the Employer shall be listed on the out-of-work list.

- (b) The Employer has the right to refer employees to the Union to be added to the out-of-work list.
- 4. (a) In the event that any applicable statute is enacted or any decision rendered by a court or administrative agency having jurisdiction thereof, which statute or decision permits union security or hiring provisions more favorable to the Union than those contained herein, then the Agreement shall be re-opened as to the affected union security or hiring provisions only and the parties hereto shall meet to negotiate concerning the benefits permitted by such statute or decision. Such re-opener and negotiations shall not operate to waive or suspend the effect of any provisions of this Agreement regarding the Union's right to withdraw laborers from the Employer's job site.
- (b) The job referral system set forth in this Article of the Agreement will be operated in a non-discriminatory manner and in full compliance with Federal, State, and Local laws and regulations which require equal employment opportunities and non-discrimination. All of the foregoing hiring procedures, including related practices affecting training will be operated so as to facilitate the ability of the Employer to meet any and all equal employment opportunity/affirmative action obligations imposed by state or federal law.

## **Article V**

### **MANAGEMENT RIGHTS**

1. The management of the job and the direction of the working force, including but not limited to the right to hire, suspend or discharge employees other than the Shop Steward for just cause and the right to relieve Employees

from duty because of lack of work or other reasons, is vested exclusively in the Employer, subject to the provisions of this Agreement.

2. No limitation shall be placed upon the amount of work which an Employee shall perform during the work day, nor shall there be any restriction against the use of machinery or labor-saving devices.

## **Article VI**

### **PRE-JOB CONFERENCE**

1. There shall be a mandatory pre-job conference which shall be held at least 48 hours prior to the commencement of any work on the subject project. However, when the Employer itself receives less than 48 hours' notice of a job's start time, the pre-job conference shall be held as soon as reasonably possible. This and the same shall apply to any and all subcontractors.

2. The Employer shall provide information at the pre-job conference including, but not limited to the job locations, the date the job is to commence, the type of work to be performed, the expected duration of the job, the expected number of laborers to be employed, how many shifts, the hours of each shift, the name of the person at the job site to whom employees are to report, and the name of the general contractor on the job site. The Union will designate a Shop Steward at the pre-job conference.

3. In the event that an Employer violates this Article, the Union may serve a three (3) day notice of its intention to strike on such Employer. If the Employer does not comply within three (3) days, the Union may strike such Employer without such action being a violation of this Agreement.

4. Where a subcontractor has not had a pre-job conference, the three (3) day notice shall also be served on the prime contractor.

## **Article VII**

### **UNION RIGHTS**

1. It shall be a condition of employment that all employees of the Employer who perform work covered by this Agreement shall become or remain members in good standing of the Union or shall pay uniform initiation and agency fees on or after the eighth (8th) day following the date of execution of this Agreement, or after the eighth (8th) day following the beginning of covered employment. The Union agrees that all employees will be accepted to membership or to its roster of eligible laborers on the same terms and conditions generally applicable to other members or laborers on its roster of eligible laborers and, further, that the Employer will not be requested to discharge an employee for reasons other than such employee's failure to tender the periodic dues or fees uniformly required.

2. The Employer agrees to discharge, seven days after receiving written notice signed by the Secretary-Treasurer of the Union, any employee listed in the notice as having failed to tender initiation and agency fees uniformly required, provided that said written notice is also given to the employee and that the employee has not paid the required initiation and agency fees within seven (7) days after receipt of the written notice. The Union shall indemnify and hold the Employer harmless for any financial liability arising from the Employer's compliance with such notice.

3. It is agreed that on each job the Union Business Manager shall appoint a working Shop Steward. On projects with five or fewer laborers, the Union shall select a working Shop Steward from the employees on the project that are certified Shop Stewards. On jobs where there is no certified Shop Steward or more than five laborers, the Steward shall be the second employee hired and the last worker laid-off on the project. The Laborers' Steward will be employed at all times that any laborers are employed by the General Contractor on the project and will be paid for all time lost due to not having been notified by the Employer or

the Employer's agent to report to work. He or she will be allowed sufficient time to perform his or her duties and will not be discharged, laid off, or transferred for any reason without prior approval of the Business Manager. The Union shall have the right to remove or replace any Shop Steward at anytime. The Shop Steward is a working steward and shall not use his or her position as Shop Steward to avoid performance of his or her duties as an employee.

4. The Steward shall be notified prior to any hiring or lay-off. In the event a subcontractor is performing work on a project during a regularly scheduled shift, and the General Contractor does not have any employees on the job, a Shop Steward shall be appointed by the Union for the subcontractor, in accordance with the provisions set forth in Section 4 above. This shall not apply to overtime work performed by a subcontractor when a general contractor is not present on a job site.

5. All Shop Stewards must be certified by the Union before they may serve in this capacity. The requirements for certification will be established and maintained by the Union, in.

6. The working Shop Steward is not authorized to add or subtract from the terms of the Agreement or interpret the Agreement or take any other action that may cause the Agreement to be in violation of any federal/state laws or regulations.

7. Authorized representatives of the Union shall be allowed to visit jobs during working hours to communicate with the Employer and the employees but in no way shall such person or persons interfere with or hinder the progress of the work.

8. (a) Employees injured at work shall be paid for the time spent going to the doctor's office for treatment at the time of injury. If the doctor certifies in writing that the employee is unable to return to work that day, the injured employee shall be paid for the balance of that working day.

- (b) The injured employee shall be allowed four (4) hours' time from work for additional visits to the doctor for injuries sustained while in the Employer's service without loss of pay. It shall be understood, however, that such visits during working hours shall be made only when no other arrangements can be made and an affidavit is received from the doctor stating the necessity for each visit.
- (c) The injured workman shall, if at all possible, be given preference to any light work, if the same is available, that may be performed on the job provided, however, that he is still in the employ of the Employer where the injury occurred and the doctor certifies in writing that the employee can do the work to which he is to be assigned.

## Article VIII WORKING CONDITIONS

1. Tools, boots, gloves, rain gear, respirator and other safety gear or implements, other than those customarily furnished by Employees, shall be supplied by the Employer. Wearing apparel and/or safety gear upon issue to Employees, the Employees will then be responsible for turning in such equipment. When replacement of wearing apparel and/or safety gear is necessary through negligence, a fair charge upon the Employee will be made. A suitable ventilated and heated shelter house shall be supplied by the Employer in which Employees can partake of their lunch and hang their clothing. Said shelter house to be provided with a substantial lock, the key to which shall be in the custody of the job Steward. Such tools and clothing during working hours shall be deemed to be in the care of the Employee and shall not be the responsibility of the Employer as to burglary. In case of fire on the job, the Employer shall be held responsible for the loss of the

Employee's tools or clothing lost in such fire and shall replace them in kind. If an Employee's tools or clothing are stolen from the above-mentioned suitable place, outside of working hours, the Employer shall replace them in kind. Any claim for loss from fire or burglary must be made on the Employer by the Employee not later than seventy-two (72) hours after such alleged loss and in no case shall claim be made for less than \$25.00. Claims must be itemized and notarized by the claimant.

2. Unless otherwise provided for, by arrangement between the Employer and the Union, Employees shall be paid weekly by check on the Employer's normal pay day. The Employer agrees to pay the Union a penalty of \$100.00 per Employee each week the Employee is not paid as provided herein. An exception to the penalty provided for herein will be made when the delay has been due to conditions beyond the control of the Employer or through the fault of the Employee.

3. If an employee is discharged or released from employment by the Employer (or his or her representative), the Employee shall be paid on the next normal payday as set forth in section 2 above, subject to the penalty for late payment. If an Employee who has not been otherwise notified reports for work and is released before performing any work, he shall be paid two (2) hours' pay. No employee may be discharged except for just cause. Upon request by the Employee or the Union, the Employer shall inform the Employee in writing as to the specific reason for discharge.

4. All payroll deductions and a record of hours of work shall be itemized on a detachable check or payroll envelope stub which may be retained as a receipt by the Employee. A copy of the stub shall be retained by the Employer for six years. Failure to provide such a stub shall entitle the Union to collect an accounting fee of \$10.00 per week per Employee.

5. When five (5) or more Employees are employed on a job site, a Foreman shall be employed. Additional

Foremen on a job site shall be at the option of the Employer. The rate of the Foreman will be \$1.00 per hour above the Laborer and a General Foreman, if employed, shall be paid 10% more than a Foreman, but this shall not restrict the right of the Employer from paying above this rate. The Employer shall have the option of selecting his own Foreman, provided, however, that the Foreman shall be hired under the provisions of Article IV. The Employer may request the Union to refer a prospective Foreman. In the event an Employer makes such a request, the Union shall dispatch in accordance with its referral rules for Shop Stewards.

6. On a contract where more than one (1) Foreman is employed, a General Foreman shall be required. A Foreman or General Foreman, when employed, will be paid on the basis of actual hours worked. It is understood and agreed that such Foreman or General Foreman will be required to stay on the job for the full time he is being paid, and it is also agreed that the pay of the Foreman or General Foreman will stop at the termination of the specific job at which he is working. When a Labor Foreman is employed, the assignment of employment shall be by the Labor Foreman.

7. It shall not be a violation of this Agreement for Employees to refuse to cross a picket line to perform work in any instance when the picket line has been established by a Building Trades Union. Neither shall it be a violation for Employees to refuse to cross a picket line that is established and maintained by a labor organization other than the Building Trades and over which the Trades have no control.

8. As soon as reasonably possible after the execution of this Agreement, each Employer shall supply the following to the Union in a form adequate to be inspected upon request by the representatives of the Union. In addition, if there should be any changes regarding the same, information regarding such changes shall be given to the Union as soon as it is reasonably possible after the change, as follows:

- (a) Proof that the Employer has secured adequate Worker's Compensation Coverage.

- (b) The identification number issued by the State of New York for Unemployment Insurance Compensation and the necessary information indicating that such Employer either has an adequate policy for sickness and disability coverage under New York State Law or has received permission from the State of New York to be self-insured.

9. When an Employee is eligible under the New York State Statutes, and either the insurance company or the state fund fails to pay him his benefits within four (4) weeks, the most recent Employer shall pay and the Employee shall execute an assignment of his benefit entitlement to that Employer. The Union agrees to guarantee reimbursement to that Employer of any duplicated benefit payments.

10. Special conditions relating to blast furnace chimney building and coke ovens. A pre-job conference must be held at least a week before the starting of such jobs in relation to working conditions, starting and quitting time, transportation, parking and wash-up time and any other conditions of employment.

## **Article IX**

### **HOURS OF WORK AND HOLIDAYS**

1. The following legal holidays shall be observed: New Year's Day, Decoration Day, July 4, Labor Day, Thanksgiving Day and Christmas Day.

- 2. (a) Forty hours shall constitute the normal week's work. The normal week's work shall be Monday through Friday. Eight hours shall constitute a normal day's work regardless of the agreed-on working hours of any other craft. Starting time shall be 8:00 a.m. and quitting time 4:30 p.m. with the exception of mortar mixer, whose regular hours shall be from 7:30

a.m. to 4:00 p.m. The regular paid lunch period should be from 12:00 noon to 12:30 p.m.

- (b) Notwithstanding the provisions of 2(a), the Employer has the right to flex starting time between 6:00 and 8:00 a.m. for the duration of work on job site on notice to the Union Business Manager or his or her designee, and with permission of said Business Manager or designee, which shall not be unreasonably withheld.
3. (a) In the event all the basic trades of employed on the same job site adopt and implement a flex lunch period, a makeup day and a four-day, ten-hour schedule, the Employer shall have the right to implement the same for laborers at that job site, as follows:
- i. The Employer may institute a floating lunch period to be scheduled between 11:30 a.m. and 1:30 p.m., with no overtime pay for such floating lunch period. However, if a lunch period is not scheduled between 11:30 a.m. and 1:30 p.m. the Employer will provide a lunch period of at least one-half hour with pay after 1:30 p.m. at the overtime rate.
  - ii. Where the Employer has scheduled four ten-hour days on Monday, Tuesday, Wednesday and Thursday, but there is a necessity for a makeup day because of inclement weather only, then the Employer may designate Friday as the make-up day at straight-time rate.
  - iii. Where the Employer has designated four ten-hour days on Tuesday, Wednesday, Thursday and Friday and there is a need for a makeup day because of inclement weather, then the Employer may designate Saturday as the makeup day.

4. During overtime work which extends beyond 7:00 p.m., the Employer will provide a thirty-minute lunch period with pay at 6:00 p.m.

5. Time and one-half shall be paid for all overtime over forty hours in a work week. Time and one-half shall be paid over eight hours on any day, except during the designated four ten-hour days provided, however, that on a Saturday makeup day, on such schedule time and one-half shall be paid for the entire Saturday hours. Double time shall be paid for all work performed on the holidays provided for in 1 above. When a holiday falls on Sunday, both parties recognize as the holiday the day on which it is legally celebrated. All work performed on Saturdays or Sundays shall be at time and one-half. During any overtime, fringe benefits shall be paid for at the straight-time rate.

6. The Employer may schedule shift work or four ten-hour days provided, however, that notice is given to the Union Business Manager or his/her designee.

7. (a) If shift work is scheduled, the day shift shall be from 8:00 a.m. to 4:30 p.m., the second shift shall be from 4:30 p.m. to 12:00 midnight and if a third shift is necessary, it shall be scheduled from 12:00 midnight to 7:00 a.m. A lunch period of at least thirty minutes shall be provided during each shift during approximately the middle of each shift. Shifts may be scheduled from 8:00 a.m. Monday to 7:30 a.m. Saturday.

Each shift shall be at the regular rate of pay, provided, however, eight hours pay will be paid for all work on each shift. On second and third shift work, fringe benefits shall be contributed on an hours paid for the first eight hours.

No Employee shall be scheduled to work more than one of those shifts during a calendar 24-hour period, however, an Employee may be assigned overtime directly before or directly after this shift, and provided, further, if

assigned Employees fail to show up for work on any one of the shifts, then the Employer in such emergency shall be permitted to work the same number of Employees as the number who failed to show up for work for more than one shift.

- (b) Where the Employer's customer mandates conditions that limit the Employer with respect to the hours during which services may be rendered, then special work time provisions may be arranged between the Employer and the Union Business Manager or his designee.

8: When an Employee is ordered out or recalled for work at the request of the Employer, he shall be either put to work or shall be guaranteed two hours' pay except in the case of inclement weather where the Employee will be paid in accordance with Article VII, Section 9, of this agreement and in the case of discharge for just cause, the Employee shall receive two hours' pay.

- 9. (a) The following provisions are agreed to in order to implement the purpose and objective of the parties to prevent unnecessary and avoidable delays in construction, to promote productivity in the industry and, as far as possible, to provide continuous employment with labor and economic gains to the Employees as a result.
- (b) When any Employee reports to the job as directed by the Employer and begins to perform services, and thereafter during any period of inclement weather on that job during the balance of the shift, he is directed to stop performing services because of the inclement weather, then such Employee shall not be sent home but he shall be required to remain on the job site for a period of up to two hours during which time he shall be paid. This two-hour period during which he shall be required to remain on the job site may be allocated in one-

half hour positions or multiples thereof. At the end of any such two-hour period or the half-hour portions thereof, if the weather is then suitable to work, then he shall be returned to the performances of work on that job. If at the end of those two hours work has resumed but later encounters inclement weather, the Employee shall remain on the job and be paid for an additional two hours. If after this two-hour period work again resumes, he shall be paid for his actual hours worked over and above the four hours of inclement weather pay, except as provided below.

- (c) When an Employee reports to the job at designated starting time and is not put to work, he shall be paid for all waiting time thereafter.
- (d) No Employee shall be sent home from any job where the Employee is servicing persons in another trade, where such other persons are not also sent home. Any Employee servicing another trade, who, due to inclement weather, is moved to another assignment not exposed to the inclement weather will be guaranteed eight hours' pay for that day.
- (e) An Employee reporting, as directed, to the job prior to starting time and due to inclement weather cannot start work, shall be paid up to the starting time at the regular overtime rate.

10. The Job Superintendent, or his representative, and the Shop Steward, shall have the complete authority to determine whether or not conditions are so hazardous as to be injurious to the Employees' health and safety. If the Superintendent and Steward cannot come to any agreement, then they will contact the Union Business Manager or his designee who shall decide whether or not such conditions exist.

11. All time worked directly before the beginning of a scheduled shift will be at the one and one-half time rate.

12. With respect to any project that is 100% Federally funded, awarded by a Federal Agency, the payment of overtime after (8) hours will not apply. Overtime will only be required to be paid after forty (40) hours.

## Article X

### FRINGE BENEFIT FUNDS

1. (a) The Employer shall pay monthly to the Trustees of the Laborers Welfare Fund the hourly rate specified in this Agreement for all hours worked by employees covered by this Agreement, for the purpose of providing benefits for death, accident, health, medical and surgical care, hospitalization and such other forms of group benefits for employees covered by this Agreement, their spouses, and their eligible children, as the Trustees in their sole and absolute discretion, determine. It is the intention of the parties that no such contributions shall be required on the premium portion of wages, i.e. contributions shall be based upon hours worked and not upon wages paid. On second and third shift work, fringe benefits shall be contributed on an hours paid basis for the first eight hours.
  - (b) Welfare coverage shall also be provided for all eligible employees of the Union and Fringe Benefit Funds, provided contributions are made to the Funds by their employers on their behalf.
2. (a) The Employer shall pay monthly to the Trustees of the Buffalo Laborers Pension Fund the hourly rate specified in this Agreement for all hours worked by employees covered by this Agreement. Contributions to the Pension Funds

shall be utilized for the purpose of providing pension and other benefits for the eligible employees covered by this Agreement as the Trustees may, in their sole and absolute discretion, determine. It is the intention of the parties that no contributions shall be required on the premium portion of wages. On second and third shift work, fringe benefits shall be contributed on an hours paid basis for the first eight hours.

- (b) Pension coverage shall also be provided for all eligible employees of the Unions and the Fringe Benefit Funds provided contributions are made to the Funds by their employers on their behalf in amounts no less than are paid by Employers covered by this Agreement.

3. The Employer shall pay monthly to the Trustees of the Buffalo Laborers Training Fund the hourly rate specified in this Agreement for all hours worked by employees covered by the Agreement for the purpose of providing education and training in the various trades covered by the Agreement. It is the intention of the parties that no such contributions shall be required on the premium portion of wages. On second and third shift work, fringe benefits shall be contributed on an hours paid basis for the first eight hours.

4. The Employer shall pay monthly to the Trustees of the Buffalo Laborers Supplemental Unemployment Benefit Fund the hourly rate specified in this Agreement for all hours worked by employees covered by this Agreement. Contributions to the Supplemental Unemployment Funds shall be utilized for the purpose of providing benefits to eligible employees in the event of unemployment. It is the intention of the parties that no such contributions shall be required on the premium portion of wages. On second and third shift work, fringe benefits shall be contributed on an hours paid basis for the first eight hours.

5. The Employer shall pay monthly to the Trustees of the Buffalo Laborers Annuity Fund the hourly rate specified

in this Agreement for all hours worked by employees covered by this Agreement. Contributions to the Annuity Fund shall be used for the purpose of providing an annuity to eligible employees. It is the intention of the parties that no such contributions shall be required on the premium portion of wages. On second and third shift work, fringe benefits shall be contributed on an hours paid basis for the first eight hours.

6. The Union, in its sole and absolute discretion, reserves the right to allocate and/or reallocate any portion of the foregoing increases to any of the fringe benefit funds, as well as the right to reallocate any of the amounts currently allocated to wages or to the fringe benefit funds as set forth in this Agreement upon thirty (30) days notice to the Employer.

7. All Fringe Benefit Funds provided by this Agreement shall be jointly administered by Trustees designated equally between the Union and the Employers. All amendments necessary to effectuate the provisions of this Article shall be made in the trust documents.

8. The Employer agrees to contribute the amount per hour set forth in this Article only for each actual hour worked. On second and third shift work, fringe benefits shall be contributed on an hours paid basis for the first eight hours.

9. (a) The Employer shall post and maintain a bond to ensure payment of contributions to the Fringe Benefit Funds set forth in this Agreement and remittance of dues check-offs and NYLPAC contributions to the Union. The minimum amount of the bond shall be determined by the number of hours of work covered by this Agreement performed by employees of the Employer in the prior year. The minimum amount of the bond shall be as follows:

Number of Hours Worked	Minimum Bond
0 to 1,999 hours	\$5,500.00

2,000 to 4,999 hours	\$7,500.00
5,000 to 9,999 hours	\$15,000.00
10,000 to 19,999 hours	\$25,000.00
20,000 or more hours	\$35,000.00

- (b) In the event a deficiency should be determined by an audit of the Employer's books and records, the Union in its sole and absolute discretion may require the Employer to post and maintain a bond in the amount of twice the audited deficiency within 30 days of receiving notice from the Union or the requirement to post and maintain such a bond.
- (c) In lieu of a bond or as a supplement to a bond, an Employer may, at the sole discretion and upon the sole consent of the Trustees of the Local 210 Fringe Benefit Funds, furnish cash and/or collateral alternatives in satisfaction of this bonding requirement. The Union may, in its absolute discretion, require an additional increase in the amount of the bond posted by an Employer.
- (d) Each joint venturer shall furnish the Union with a rider from its respective bond Funds during the respective surety company confirming that its respective bond protects the Union and the Local 210 Fringe Benefit Funds during the period of the joint venture.
- (e) In the event the Trustees receive payment either on a bond or through forfeiture of a certificate or collateral alternative under this section of the Agreement and said payment is insufficient to satisfy the entire deficiency in the payment of contributions to the Fringe Benefit Funds set forth in this Agreement and in the remittance of dues check-offs and NYL-PAC contributions to the Union, then the Trustees shall make a pro rata payment to each

of the Fringe Benefit Funds set forth in this Agreement and to the Union in an amount equivalent to the percentage of the total deficiency received by the Trustees through forfeiture of the bond or the certificate of deposit.

10. (a) If the Employer is found to be delinquent in the payment of fringe benefit contributions to the Funds, the Employer shall pay, in addition to the delinquent fringe benefit contributions, interest on the unpaid amounts from the day due until the date of payment at the rate of 10% per annum. If the funds bring an action to recover the interest on delinquent fringe benefit contributions, the Employer is obligated to pay the reasonable costs and attorneys' fees incurred in bringing said action.
  - (b) In the event that formal proceedings are instituted before a Court of competent jurisdiction to collect delinquent contributions and a Court renders a judgment in favor of the Funds, the Employer shall pay to the Funds (i) the unpaid contributions; (ii) interest on unpaid contributions at the rate prescribed under section 6621 of Title 26 of the United States Code; (iii) interest on the unpaid contributions as and for liquidated damages; (iv) reasonable attorneys' fees; and (v) such other legal or equitable relief as the Court deems appropriate.
  - (c) The Employer agrees that in the event payment to the Union or the Funds by check results in the check being returned without payment, the Employer shall pay \$250.00 to the Union or the Funds. The Union or the Funds do not waive any right to any other liquidated damages to which they may be entitled.
11. (a) The Union may withdraw Laborers from any job to enforce payment of wages or of contri-

butions to the Fringe Benefit Funds, to enforce the requirement that Union dues be deducted from the wages of Laborers, or to enforce payment to the Union of Union dues already deducted from the wages of Laborers. The Union must provide 72 hours notice of its intention to remove Laborers from a job to the Employer by registered or certified mail.

- (b) Each employer shall furnish the Trustees of the respective funds with periodic reports as required by the Fund showing the names, social security numbers, hours worked and job location for each employee performing work covered by this Agreement.
  - (c) Subcontractors covered by this Agreement shall remit contributions on a weekly basis.
  - (d) In the event that no workers are employed during a report period, a negative report and/or a final report shall be filed.
  - (e) Monthly reports are due the 10th day of the month following the month on which contributions are being made.
12. (a) The books and records of the Employer shall be made available at all times for inspection and audit by the accountants or other representatives of the Funds including, without limitation, all payroll sheets, W-2 forms, New York State Employment Reports, Insurance Company reports and supporting checks, ledgers, general ledger, cash disbursement ledger, vouchers, 1099 forms, evidence of unemployment insurance contributions, payroll tax deductions, disability insurance premiums, certification of workers compensation coverage, and any other items concerning payroll(s). In addition, the aforementioned books

and records of any affiliate, subsidiary, alter ego, joint venture, successor or related company of the employer shall also be made available at all reasonable times for inspection and audit by accounts or other representatives of the Funds. The Employer shall retain, for a minimum period of six years, payroll and related records necessary for the conduct of a proper audit in order that a duly designated representative of the Trustees may make periodic review to confirm that contributions owed pursuant to this Agreement are paid in full. The Funds shall bear the cost of an inspection and audit, except where the audit discloses a delinquency in excess of 10% of the prior year's contribution or \$2,000.00, whichever is greater.

- (b) In the event the Employer fails to produce the books and records necessary for an audit, the Employer agrees to pay a penalty of \$400.00 per day. Nothing herein shall mean that the Funds relinquish their right to commence legal proceedings to compel an examination of the Employer's books and records for audit. In the event the Funds bring an action to obtain an audit of the Employer's books and records, the Employer shall be obligated to pay the reasonable costs and attorneys' fees incurred in bringing said action.

13. The parties to this Agreement recognize that the skills of the laborer constitute an apprenticeable trade. Whereas the NYS Department of Labor has approved apprentice standards for laborers, it is understood and agreed that the parties to this Agreement will implement, by mutual agreement, an approved Laborers Apprentice Training program.

## **Article XI**

### **WAGES AND CLASSIFICATIONS AND FRINGE BENEFITS**

1. Effective July 1, 2002, the base hourly rate of wages to be paid a Laborer, in accordance with the following schedule, shall be \$20.93 per hour, in addition to the required fringe benefits.

Effective July 1, 2003, the Laborers rate shall be increased by \$1.25.

Effective July 1, 2004, the Laborers rate shall be increased by \$1.25.

Effective July 1, 2005, the Laborers rate shall be increased by \$1.30.

Effective July 1, 2006, the Laborers rate shall be increased by \$1.30.

#### **Class A: (Basic Rate)**

Boat Safety Man; Watchman; Flagman; Security & Safety Man; Tool Room Man; Nurseryman; Demolition Worker; Top Man; Wrecker; IBC barriers except on Structures; Guard Rail; Asphalt Shovelers; Foundation Laborers over 8 ft. in depth; Hod Carriers; Plaster Tender; Plaster Scaffold Builder; Pneumatic Gas; Electric Tool Operator, including all forms of Busters, Jackhammers & Chipping Guns; Steel Burners.

#### **Class B: \$ .17 (Above Basic Rate)**

Mortar Mixer; Asphalt Smoothers; Pneumatic Gas, Electric Tool Operator including all forms of Busters, Jackhammers and Chipping Guns over 8 ft. in depth.

#### **Class C: \$ .28 (Above Basic Rate)**

Worker on any Swing Scaffold; Blaster Plumbing Laborers; Wagon Drill Operator;

Bottoman (Caisson or Cofferdam); Laser  
Setter; Asphalt Rakers; Asphalt Screen Man

**Class D: \$ .75 (Above Basic Rate)**  
Stone Cutter; Curb Setter; Flag Layers

**Class E: \$1.00 (Above Basic Rate)**  
Asbestos Removal; Deleader

**Class F: \$2.00 (Above Basic Rate)**  
Hazardous Waste Worker

2. The Employer, in addition, shall contribute \$3.96 per hour to the Pension Fund, \$1.00 per hour to the Annuity Fund and \$ .58 per hour to the Training Fund and \$ .10 per hour to the Laborer Employers Cooperation and Education Trust (LECET) and \$5.96 to the Buffalo Laborers Welfare Fund.

3. Hourly dues are withheld from the basic rate.

4. During the term of this Agreement, the Employer shall deduct 6%, plus any additional sum per hour hereafter specified by the Union, as dues from the wages of all Laborers who authorize such deduction in writing and then promptly pay over such sums to the Union not later than one week after said deduction. The sum transmitted shall be accompanied by a statement, in a form specified by the Union, reporting the name of each person whose working dues check-offs are being paid and the number of hours each Laborer has been paid.

5. During the term of this Agreement, the Employer shall deduct and transmit to the New York Laborers' Political Action Committee ("NYLPAC") \$ .10 per hour, plus any additional sum per hour hereafter specified by the Union, from the wages of those employees who have voluntarily authorized such contributions on the forms provided for that purpose by the Union. These transmittals shall occur periodically and shall be accompanied by a list of the names of those employees for whom such deductions have been made, and the amount deducted for each such employee.

6. All payroll deductions and a record of hours of work shall be itemized on a detachable check or payroll envelope stub to be retained as a receipt by the Employee.

7. No Employer shall be required to pay more than the prevailing wage rate/fringes specified under federal, state or municipal specifications.

## **Article XII**

### **SUBCONTRACTING**

1. An Employer, who is a party to and/or is bound by the terms of this Agreement, shall not subcontract work covered by this Agreement to a firm, person or group where such firm, person or group is not a party to or bound by this Agreement when the subcontracted work begins. Whenever a subcontractor is engaged, not later than three (3) days before the subcontracted work begins, the Employer will notify the Union, in writing, of such subcontracting, including the following information:

- (a) The precise name and business address of the subcontractor.
- (b) The location of the job site where the work is to be performed.
- (c) The approximate time that the work subcontracted is expected to be commenced.

2. In order to protect the wages, hours and working conditions established by the Agreement, to preserve job opportunities of the Employees covered by this Agreement, the parties hereby agree as follows:

- (a) It is hereby agreed that the prime or General Contractor must stipulate in all of its subcontracting agreements that all Subcontractors engaged by the prime or General Contractor will accept all the conditions as are contained in this Agreement on construction work job site.

- (b) Further, it is understood that relative to all work, whether it be accomplished by the General Contractor or Subcontractor, that all assignments of work shall be in strict accordance with the provisions of Article XIII of this Agreement.

3. Any Employer who contracts out or sublets any work covered by this Agreement shall assume the obligations of any subcontractor for the prompt payment of employees' wages, dues check-offs, and fringe benefit contributions, including reasonable attorneys' fees incurred in enforcing the provisions hereof.

4. The Employer agrees that it will not subcontract any work covered by this Agreement in order to circumvent the payment of wages and fringe benefits and the working conditions provided for in this Agreement. The Employer and the Union hereby agree to the elimination of lumping.

5. In the event the Employer subcontracts work covered by this Agreement to a firm, person, or group that is not party to or bound by this Agreement, the Employer shall be liable for payment of all fringe benefit contributions in an amount equal to the amount due had the subcontractor been party to or bound by the terms and conditions of this Agreement.

### **Article XIII**

#### **GRIEVANCE AND ARBITRATION**

1. The parties hereto agree that if any dispute arises as to any of the terms of this Agreement during the life of same other than disputes regarding the Employer's fringe benefit contributions, dues check-off, wage, and NYLPAC obligations; the duration of this Agreement; or any jurisdictional disputes, or except as otherwise provided in this agreement, there shall be no cessation, stoppage of work or lockout for any reason whatsoever, but such matters in controversy or dispute, if any, shall be handled as follows:

(a) Should any dispute arise concerning the interpretation or application of any clause in this Agreement, directly or indirectly, other than those relating to the Employer's wage, fringe benefit, and dues check-off obligations, the duration of this Agreement, or jurisdictional disputes, the Union shall have the sole jurisdiction to decide such dispute. The decision of the Union shall be binding upon the Employer and shall be complied with by the Employer within twenty-four hours. Should any Employer fail to comply with the decision, the said Employer shall lose all rights and privileges under this Agreement. The Union, in the investigation of such a dispute, may subpoena witnesses and the books and records of the Employer. The Employer shall, at all times, keep records of all payroll, canceled vouchers and proper books showing the details of any and all operations which may affect this Agreement. The Union shall have the right to demand the production of such records at any time, whether or not a dispute exists.

(b) Whenever any Employer has been found guilty by the Union of any violation, the Union shall have the right to remove workers from such Employer's jobs until it first complies with such rules and regulations of this Agreement as have been violated. Should any Employer continue to violate this Agreement, the Union shall be free to take any action it deems necessary.

## **Article XIV**

### **CONSTRUCTION INDUSTRY FUND**

1. Each Employer shall on or before the fifteenth (15th) day following the end of each calendar month, pay the Construction Industry Employers Association (hereinafter referred to as the "Association") \$ .18 per hour for each hour worked during said calendar month by all Employees covered by this Agreement.

Maintenance and International Employers who do not submit contribution to the Construction Industry Fund are

required to submit \$ .18 per man hour to the Training Fund. Simultaneously with making a payment of this contribution, the Employer shall also file a written report with the Association setting forth:

- (a) The names and Social Security numbers of the Employees covered by the Agreement who have been in the employ of the Employer during such calendar month.
- (b) The number of hours worked by each Employee during such calendar month.

## **Article XV**

### **DRUG TESTING**

1. The Employer may elect to implement a pre-employment, illegal drug screening program. The Employer will notify the Union, in writing, prior to implementing a pre-employment illegal drug testing policy, of the rules by which the program will operate. The Employer will operate the pre-employment illegal drug screening program strictly in compliance with the rules it promulgates. Any changes in these rules will be provided to the Union thirty (30) days in advance of the effective date.

2. "Illegal drug" as used in this Article, of the Agreement includes only the following five (5) drugs or drug classes: marijuana, cocaine, opiates phencyclidine (PCP), and amphetamines. The Employer may only test for illegal drugs. If the Employer tests for anything other than illegal drugs as defined by this Article, the Employer will be liable for such action to the full extent of the law.

3. If an Employer establishes a pre-employment illegal drug testing policy pursuant to this Article of the Agreement, the Employer must provide each applicant with written information, prior to administering the illegal drug test, regarding the impact of drug use on job performance. Additionally, the Employer must provide the applicant with

written notice, prior to administering the illegal drug test, of the manner in which the test is conducted, the reliability of the test performed, what the test can determine, and the consequences of testing positive for illegal drug use. The applicant shall acknowledge in writing that he or she received the required notice and information. Applicants who request a second test are liable for the cost of the second illegal drug or analysis or re-analysis test if requested unless the second test is negative, in which case the Employer shall reimburse the applicant for the cost of the test.

4. If an Employer establishes either a pre-employment or post-employment illegal drug testing policy pursuant to this Article of the Agreement, the Employer shall make every reasonable effort to safeguard the privacy of each applicant or employee. All testing shall be performed by a laboratory that is licensed, inspected and in good standing with New York State. The laboratory shall confirm its suspected positive results with a scientifically accepted method, retain all positive samples for a minimum of ninety days, secure its sample against any reasonable possibility of tampering, participate in an outside proficiency testing program to monitor its quality performance, and be willing to defend its procedures with expert testimony.

5. To the extent that an Employer is required by Federal, State or Local laws, rules and/or regulations to subject its employees to illegal drug testing, the Union agrees to permit illegal drug testing of employees in compliance with the relevant law or regulation. Under no other circumstances shall any form of drug testing of employees be permitted. The Employer agrees that it will not subject any employee to illegal drug testing without first notifying the Union of the existence and terms of the Federal, State or Local laws, rules and/or regulations requiring such testing and providing the Union with a copy of the applicable provisions of said laws, rules and/or regulations.

6. If an Employer establishes a post-employment illegal drug testing policy pursuant to this Article of the

Agreement, it is required that an employee be advised that s/he must undergo a drug screen, i.e., urine test, at least seven days before the testing is administered. Employees shall be provided with written information concerning the impact of illegal drug use on job performance. In addition, the Employer shall inform the employees in writing of the manner in which the tests are conducted, the reliability of the test performed, what the test can determine, and the consequences of testing positive for illegal drug use. This information shall be provided at least seven days prior to the illegal drug test. The employee shall give a written acknowledgment of the explanation.

7. Applicants or employees whose test result is positive for illegal drugs have the right to request, within 48 hours of the notification to the employee, re-analysis of the sample. If the applicant fails to request re-analysis or, if upon re-analysis the test result is still positive for illegal drugs, the applicant may be denied employment with the Employer. The decision of whether or not to hire an applicant based upon the results of a pre-employment illegal drug testing shall be at the sole discretion of the Employer. If the employee fails to request re-analysis or, if upon re-analysis the test result is still positive for illegal drugs, the employee shall be denied employment with the Employer. However, applicants or employees whose test result is positive for illegal drugs and who are in a bona fide rehabilitation program will not be denied employment for that reason, so long as they are capable of performing their work satisfactorily.

8. Drug-related disputes that are not pre-employment pursuant to this Article of the Agreement shall be subject to the Grievance and Arbitration Procedures set forth in this Agreement. Under no circumstances will the Employer or the Union be informed, beyond a negative or positive outcome, of any illegal drug testing results unless a grievance is filed, in which case all relevant information regarding the test results, testing methods and chain of custody will be provided to both the Union and the Employer.

9. The Employer shall bear all costs associated with post-employment illegal drug testing. The Employer shall reimburse the employee for all travel expenses. Employees will be paid for all time spent submitting to the test.

10. The Employer is not permitted to establish or implement any illegal drug testing policy other than that permitted by this Article of the Agreement.

11. Any section or subsection of this Article which provides for drug testing in a manner and to an extent prohibited by any law or the determination of any Governmental Board or Agency shall be and hereby is of no force or effect during the term of any such prohibition. It is understood and agreed, however, that if any section or subsection of this Article which is declared to be of no force or effect because of restrictions imposed by laws is determined by Act of Congress or other legislative enactment, or a decision of the Court of highest recourse to be legal or permissible, such section or subsection shall immediately become and remain effective during the remainder of the term of this Agreement.

12. In the event a dispute arises, legal action commences, or other damages result from any Employer activity under this Article of the Agreement, the Employer shall hold harmless and indemnify the Union for any and all liabilities that may incur.

## **Article XVI**

### **MISCELLANEOUS**

1. If the Employer, or any owner or principal forms or acquires, by purchase, merger, or otherwise, an interest, whether by ownership, stock, equitable or managerial, in another company performing bargaining unit work within the jurisdiction of this Agreement, this Agreement shall cover such other operation and such other bargaining unit employees shall be considered an accretion to the bargaining unit.

2. If the Employer or any owner or principal forms or acquires by purchase, merger, or otherwise, an interest, whether by ownership, stock, equitable, or managerial, in another company performing bargaining unit work within the jurisdiction of this Agreement, this Agreement shall cover such other operation and the Employer and such other company shall be jointly and severally liable for each other's obligations under this Agreement.

3. If any such the Employer or any owner or principal forms or acquires by purchase, merger, or otherwise, an interest, whether by ownership, stock, equitable, or managerial, in another company performing bargaining unit work within the jurisdiction of this Agreement, the Employer shall immediately notify the Union in writing, by registered mail, stating the name and address of such other entity, the nature of the work performed by such other entity, the nature of the transaction and the nature and extent of its relationship to the Employer.

4. In order to protect and preserve for the Laborers covered by this Agreement all work heretofore performed by them, and in order to prevent any device or subterfuge to avoid the protection and preservation of such work, it is hereby agreed as follows: If and when the Employer shall perform any work set forth in Article II of this Agreement, under its own name or under the name of another, as a person, company, corporation, partnership, or any other business entity, including a joint venture and/or sole proprietorship, wherein the Employer exercises either directly or indirectly any significant degree of ownership, management, or control, the terms and conditions of this Agreement shall be applicable to all such work:

- (a) where the two enterprises have substantially identical management, business purpose, operation, equipment, customers, supervision and/or ownership; or
- (b) where there exists between the Employer and such other business entity, interrelation of

operations, common management, centralized control of labor relations and/or common ownership.

In determining the existence of the aforementioned criteria, the presence of the requisite control or commonality at any level of management shall be deemed to satisfy those criteria.

5. If any Federal or State Court shall at any time decide that any clause or clauses of this Agreement is or are void or illegal, such decisions shall not invalidate the other portions of this Agreement, but such clause shall be stricken out and the remaining portion of this Agreement shall be considered binding between the parties hereto. Nothing contained in this Agreement shall be construed to deprive any one or more individual employees from pursuing whatever civil or criminal remedies they may have under the law for collection of their wages or any part thereof.

6. Any provisions of the Agreement hereinabove mentioned which provide for Union security or employment in a manner and to an extent prohibited by any law or the determination of any Governmental Board or Agency, shall be and hereby are of no force or effect during the term of any such prohibition. It is understood and agreed, however, that if any of the provisions of the Agreement which are hereby declared to be of no force or effect because of restrictions imposed by laws is or are determined either by Act of Congress or other legislative enactment, or by a decision of the court of highest recourse, to be legal or permissible, then any such provision of the said Agreement shall immediately become and remain effective during the remainder of the term of this Agreement. The Union reserves the right to renegotiate any of the provisions of this Agreement which may be of no force or effect.

## **Article XVII**

### **EQUAL EMPLOYMENT OPPORTUNITY**

The Employer and the Union mutually agree that there will be no discrimination against any employee or applicant for employment, with respect to race, creed, color, national origin, sex, age, handicap, marital status, sexual orientation, affectional preference, veteran status or union membership in all employment decisions, including but not limited to recruitment, hiring, compensation, training and apprenticeship, promotion, upgrading, demotion, downgrading, transfer, layoff, termination, and all other items and conditions of employment except as provided by law.

## **Article XVIII**

### **APPRENTICES**

If available, the eighth laborer on any job site shall be an apprentice enrolled in the Local 210 apprenticeship program. Notwithstanding the foregoing, there shall be no apprentices on any job site unless at least three (3) journeymen are working at the job site. This minimum ration of journey to apprentices shall be observed by the Employer on all job sites.

## **Article XIX**

### **DURATION**

It is agreed by both parties that all the conditions of this Agreement shall remain in full force and effect from July 1, 2002 to June 30, 2007 and during each calendar year thereafter, unless on or before the 30th day of April, 2007, or any year thereafter, written notice of change in this Agreement be served by either party upon the other party.

**WITNESSETH:** The undersigned being duly authorized officials respectively of the Employer and Local 210 do hereby assent to all provisions of the Agreement and do hereunto affix our signatures as evidence of the understanding and acceptance of its terms and conditions and we do pledge and bind our respective organizations to a strict observance of this Agreement that shall be binding upon both parties on all building and heavy construction, highway and heavy highway, tunnel and utility work in Erie County, New York, Perrysburg and the City of Gowanda in Cattaraugus County, New York.

**LABORERS  
INTERNATIONAL UNION  
OF NORTH AMERICA,  
LOCAL 210**

2750 Harlem Road  
Buffalo, New York 14225  
Tel: (716) 895-5311  
Fax: (716) 895-5282

By: \_\_\_\_\_  
William Hoffman,  
Business Manager

**EMPLOYER**

\_\_\_\_\_  
Print Firm Name

By: \_\_\_\_\_

\_\_\_\_\_  
Print Name and Title

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
Area Code, Telephone Number

\_\_\_\_\_  
Area Code, Fax Number