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Title: **Independent Building Agreement and Empire State Regional Council of Carpenters, United Brotherhood of Carpenters & Joiners of America (UBC), Local Unions 11, 964 (2001)**

K#: **8568**

Employer Name: **Independent Building Agreement**

Location: **NY**

Union: **United Brotherhood of Carpenters & Joiners of America (UBC)**

Local: **11, 964**

SIC: **1540**

NAICS: **23622**

Sector: **P**

Number of Workers: **3200**

Effective Date: **05/01/01**

Expiration Date: **04/30/04**

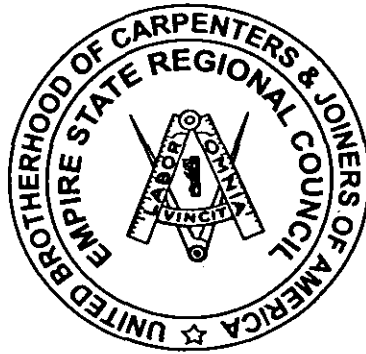
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K8568
3,200 workers



10 pgs

UNITED BROTHERHOOD OF CARPENTERS & JOINERS OF AMERICA, LOCAL 964 — ROCKLAND COUNTY
LOCAL 11 — WESTCHESTER COUNTY
PUTNAM COUNTY
EMPIRE STATE
REGIONAL COUNCIL OF CARPENTERS

AGREEMENT

RESIDENTIAL, COMMERCIAL, INDUSTRIAL, HEAVY-HIGHWAY & BRIDGES

ON BEHALF OF ITS LOCAL UNION 11 AND LOCAL UNION 964

MAY 1, 2001 TO APRIL 30, 2004

AGREEMENT entered into this 1st day of May, 2001, by and between EMPIRE STATE REGIONAL COUNCIL OF CARPENTERS, UNITED BROTHERHOOD OF CARPENTERS & JOINERS OF AMERICA, BY AND ON BEHALF OF ITS LOCAL UNIONS 11 & 964 hereinafter referred to as the "Union" of 10 Saw Mill River Road, Hawthorne, N.Y. 10532; 11 Kay Fries Drive, Stony Point, N.Y. 10980; and 270 Motor Parkway, Hauppauge, N.Y. 11788 and the ^{LOCAL 11} ^{LOCAL 964 + 42} ^{LOCAL 7 & HQ} hereinafter referred to as the "Association."

WITNESSETH:

WHEREAS, the parties hereto agree that harmonious relations and intelligent working arrangements are essential to improve the relationship between the construction contractor or employer, the public and the Union, and that all concerned must benefit by industrial peace and by the establishment and maintenance of fair contractual terms, conditions and provisions, and by the establishment and use of proper and fair methods of adjusting differences and of settling grievances, and

WHEREAS, the parties hereto have negotiated the terms, provisions and conditions of a successor Labor-Management Agreement for the ensuing thirty-six (36) months, to follow the previous Agreement and this successor Agreement, which shall, by its terms, expire on the 30th day of April, 2004.

NOW, THEREFORE, in consideration of the mutual promises and covenants hereinafter set forth, the parties stipulate and agree as follows:

SECTION 1. RECOGNITION

A. Recognition of Union

The Association and any employer that becomes a signatory to this Collective Bargaining Agreement, but is not a member of the Association, hereby acknowledge that the Union has claimed and demonstrated, and the Association or signatory employer is satisfied and hereby acknowledges, that the Union represents a majority of the Association members' carpenters or said signatory employer's carpenters in an appropriate bargaining unit for purposes of collective bargaining. The Association and its members, as well as said signatory employer, accordingly recognize the Union as the exclusive bargaining agent under Section 9(a) of the National Labor Relations Act for all employees within the contractual bargaining unit herein collectively referred to as "Carpenters" with respect to wages, hours and working conditions. The Association and any employer that becomes a signatory to this Collective Bargaining Agreement who is not a member of the Association further agrees that any dispute concerning its obligation to recognize the Union as sole and exclusive bargaining agent for the carpenters will be resolved solely under Section 22 herein.

The Council and all individual employers who sign or agree to be bound by this Agreement agree to establish and recognize a single multi-employer collective bargaining unit through an Association to be designated as the Association's agent, also referred to as the "Association". In such case, each employer, by signing or agreeing to be bound by this Agreement, thereby authorizes the Association to act as its collective bargaining representative for all matters pertaining to this Agreement for subsequent negotiations covering this multi-employer bargaining unit, and thereby expresses its unequivocal intention to be bound by group rather than individual action in collective bargaining, whether or not it joins the Association.

The employer agrees that, if it performs any service or work covered under this Agreement in the State of New York or the City of New York, it shall be bound by all the terms and conditions of the Trade Agreement applicable to the location where said service or work is being performed for the period of time that said service or work is being performed in said location in the same manner as if it were a direct signatory to the applicable Trade Agreement.

This Agreement is binding upon each individual employer regardless of whether or not he or it changes the name or style or address of his or its business. Each individual employer shall give notice in writing to the Union of any intent to change the name, style or address of his or its business or to perform business under more than one name or style or more than one address, prior to the adoption of a new or different name, style or address, or the addition of new names or styles or addresses, as specified herein. Failure to provide such information shall constitute a material breach of the Agreement and the Union shall have the right to exercise all those lawful means to remedy any such violation.

The parties hereby waive any right that they may have to repudiate this Agreement during the term of the Agreement or during the term of any extension, modification or amendment to this Agreement, or during the negotiation thereof.

B. Members of the Bargaining Unit

The following constitute the members of the bargaining unit who are covered by this Agreement.

1. All journeymen, apprentice carpenters and pre-apprentices.
2. Foremen are deemed to be Lead Men, and are not management representatives. Foremen and General Foremen now holding the positions in the present bargaining unit covered by this Agreement, and those to be hired in the future for these positions, are not Management Personnel or "Supervisors" as defined in the National Labor Relations Act.
3. In no event can a crew be comprised of more than twenty (20) carpenters for each Foreman.
4. A General Foreman must be designated by the contractor when there are three (3) or more Foremen employed on the job. At no time may he supervise his own crew.
5. Party Chiefs are designated Foremen in line and grade work. A Party Chief supervises and directs carpenters on any one job. He is directly responsible for the layout, from specifications and plans to the direction and actual performance of the layout. He reads plans and specifications, makes sketches for performance of the layout of buildings, develops and maintains survey records, does the necessary computations, controls the layout on the job and must be able to do the required duties of any carpenter. A Party Chief shall direct two (2) instrument men and two (2) rod men in his crew. At no time shall he be required to direct more than four (4) men.
6. An Instrument Man performs layout and runs the instrument in a party under the direction of a Party Chief. He shall be able to set up, operate, and make minor adjustments to surveying instruments, read plans and sketches, and keep surveying records. An Instrument Man shall receive the pay of a journeyman carpenter and must also know the duties of a rod man.
7. A Rod Man holds the rod and generally assists a carpenter (Party Chief, instrument man). He can be an apprentice and assist in doing layout.
8. Nothing in this Agreement shall prevent a carpenter from performing the duties in any other category when not engaged in line and grade work.

SECTION 2. JURISDICTION

A. Geographical Jurisdiction and Coverage

1. The Union has jurisdiction over all work for all purposes as defined in this Agreement as performed in the territory described as follows: All of Rockland County, all of Westchester County and all of Putnam County

2. Lathing Jurisdiction.

Lathing work is the jurisdiction of Carpenters Union 964 in Rockland County. The work is defined as 1 1/2 black channel, don bar, nail bar, hung with and described wire or rods; includes wire lath or any mesh or lath of composition materials, used to receive plaster, cement or any substitute thereof, related in the past or future to the plastering industry but not limited thereto. Wire mesh and rod work (re-bar) shall be part of this category.

The work herein described is covered by this Agreement with regard to wages, fringe benefits, and working conditions and all enforcement procedures specified in this Agreement. These conditions do not limit the carpenters from doing other work as so noted in this contract.

Ceiling wires for runners, channels, one and 1/2 inch black iron and other material are to be cut to length on site. Clips or any other devices used will be installed on site. It is mutually agreed between the parties that no violation of this contract exists should carpenters refuse to install this material if it comes on site pre-cut or pre-assembled.

Violation of this provision shall be a breach of this Agreement.

B. Work and Trade Jurisdiction

The work jurisdiction covered by this Agreement includes, but is not limited to: heavy-highway and bridge work; commercial and industrial construction work; recovery/recycling plants; all carpentry work related to residential home-building and housing construction work; the handling, milling, fashioning, joining, assembling, erecting and/or dismantling of materials of wood, metal, plastic fiber, or of any substitute material or materials; the laying of all cork or composition flooring, rubber tile, mastic tile, cork tile, all backer board, (dens-shield or similar), linoleum; the application of all asphalt or fiberglass shingles, strip, roll roofing, roll formed canopy and roofing systems, or all asbestos (fiberglass) shingles; the erection and the dismantling of machinery; the erection of modular homes; the manufacture of all wood and substitute materials where the skill, knowledge and training of a carpenter are required, either by the operation of machinery or hand tools; the unloading and handling of all materials, including but not limited to: drywall, ceiling panels, and/or all materials associated with ceiling systems; the building of all wall forms, footing forms, setting anchor bolts, leveling, aligning and setting of precast concrete pieces; the manufacture and/or production of all concrete pieces made by precasting, prestressing or by prestressing; the erection, fitting, plumbing, leveling, aligning and/or setting of all windows and metal studding; the unloading, handling and installation of store fixtures; the unloading, handling and placing of all refrigerated cases, fume hoods and/or boxes; the installation of drapes, venetian blinds, shades, and all polyethylene, plastic laminate, corian, solid phenolic, poly-marble H.D. dressing and toilet compartments, screens and dividers and any other similar material. (Included is the installation of wood framed solar panels or panels requiring wood bracing.)

The following trades and work performed by employees in such categories constitute the exclusive work of the carpenters covered by this Agreement.

1. Carpenters and joiners, reed and rattan workers, railroad carpenters, ship carpenters, caulkers and joiners, tile, marble and terrazzo, bench hands, cabinet makers, stair builders, floor layers, millwrights, boxmakers, furniture workers and assembly, bridge, dock and wharf carpenters, shipwrights and boat-builders, car-builders, saw filers, divers, tenders and all workers engaged in operating woodworking machinery, the laying of all canvas roofs and decks, and all insulation workers, including asbestos removal, lead abatement and protection, and any and all additional work agreed upon between the parties, orally or in writing. Also included is the installation of electronic locking systems card or key operated, such as Inn-loc, Corbin Futuralok, Intellis Schlage systems, Sargent Systems #45, (as examples).
2. Construction, erection, dismantling and stripping of all forms, concrete or otherwise, and in the building of runways, elevator shafts, hoists, scaffolds, platforms and setting of bolts and all templates. The fabrication on the job site of all barricades, signs, highway and road dividers and the erection of same. The use of prefabricated concrete forms is prohibited, except for Universal forms. All work, except as specifically excepted in this Agreement, must be performed on the job site by carpenters covered by this Agreement.
3. Setting, plumbing and bracing of all steel and aluminum sash on open walls and wherever such sash is fastened to wood.
4. Welding is an adjunct to the trade. The welding torch, the electric welder, and any other type of welding instrument, are tools of the trade. Goggles, gloves and all protective clothing is supplied by the contractor. Carpenters who perform welding or burning duties shall be paid an additional twenty-five (\$.25) cents per hour.
5. Instruments such as transit, level, theolite and laser when used as an instrument, piezometer when instrumented, and lathometers are used by carpenters in the course of their work.
6. Where substitutes are utilized, replacing the materials normally

used by carpenters and requiring the skill and tools of carpenters, the same shall be handled, erected, placed and/or installed only by carpenters. All power tools, leads or any special tools shall be supplied by the contractor hiring the carpenter.

7. All work in connection with the installation, erection and/or application of all materials and component parts of walls and partitions regardless of their material composition or method or manner of their installation attachment or connection, including, but not limited to, the following items: all floor and ceiling runners, studs, stiffeners, cross bracing, fire blocking resilient channels, furring channels, doors and windows, including frames, casing, molding, base, accessory trim items, drivit, stowe, gypsum, drywall materials, laminated gypsum systems, backing board, finish board, fire-proofing of beams and columns, fire-proofing of chase, sound and thermal insulation materials, fixture attachments including all layout work, preparation of all openings for fitting, air vents or other purposes and all other necessary or related work in connection therewith. All work includes layout with or without the use of a transit.

8. Unloading and loading furniture and assembly is the work of unit carpenters.

The operation of winches and jacks whether operated manually or operated mechanically by portable operating devices used to handle material to be installed or erected by carpenters and all tagging and signalling incidental to the trade.

9. When concrete is being poured into forms, a carpenter must be employed at such location at all times during such pouring.

10. Tunnel Work.

Form building-bracing, shoring and all work pertaining to carpentry on tunnels is the work of the carpenter. Tunnel work, inside or outside, whether it be for underground power houses, generating plants, reactors, recovery and recycling plants, utilities or similar facilities, is the work of the carpenter.

11. The contractor agrees to recognize the jurisdictional claims of the United Brotherhood of Carpenters and Joiners of America that have been established by agreements with other crafts, awards contained in the Green Book or as a result of decisions by the National Joint Board for the Settlement of Jurisdictional Disputes, or which are recognized as being the jurisdiction of the United Brotherhood, and further agrees to assign all such work to carpenters.

The General Contractor in his awards to all subcontractors shall assign work according to trade and area practice. Carpenters shall erect all scaffolding. Assignment of pipe scaffolding, free standing scaffolds or any scaffolding shall be assigned as noted above. The General Contractor will be responsible for all scaffolding on the job site. It is expressly understood and agreed by the General Contractor that this clause can not be superseded by any provision in any other Union agreement and the General Contractor agrees to be bound by area and trade practices, as well as any past or future agreements or decisions handed down by the National Joint Board for Settlement of Jurisdictional Disputes.

SECTION 3. GENERAL CONTRACTORS - CONTRACTORS - SUB-CONTRACTORS RESPONSIBILITIES AND OBLIGATIONS

A. This Agreement shall bind the parties hereto and any and all subcontractors employed by the contractor and any contract entered into with said subcontractor shall contain a stipulation binding the said subcontractor to the conditions and covenants of this Agreement. The contractor shall be responsible for any claims against any of subcontractors relating to wages and contributions due to the Welfare, Pension, Vacation, Annuity, Labor Management Cooperation, Charitable Scholarship and the Apprentice Training Committee Trust Funds or other Fringe Benefit Funds enumerated herein. Every employer party to this Agreement shall notify the Council of the awarding of any contract on which carpenter work is to be performed, whether by contractor or subcontractor. Said notice shall include location of the job and the name and address of the contractor or subcontractor involved. To the extent permitted by law, failure to comply with this section shall be a breach of the Agreement and shall authorize the Union to remove its members from any job on which said contractor or subcontractor is working until they are in compliance with said notice. Said notice shall be within thirty (30) days of contract award and, in any event, no less than seventy-two (72) hours before the start of work.

B. The contractor bound to this Agreement agrees not to accept any subcontract from any General Contractor, Construction Manager, Project Manager, Builder, Site Manager, Broker or other entity, unless the said entity has signed an Agreement with the Council or provides at least the wages and working conditions set forth in this Agreement, and provided that the entity is a construction employer and it employs carpenters.

This provision shall not be unreasonably and/or arbitrarily applied, and it shall not be implemented without the approval of the Business Manager and the approval of the Association.

C. A contractor acting in the capacity of a Construction Manager agrees that it or any of its subcontractors will not contract or subcontract carpentry work to be done at the site of construction, alteration, or repair of the building or structure, except to a person, firm or corporation party to a current labor agreement with the Council.

D. The General Contractor, Construction Manager, Prime Contractor, Builder or Owner shall furnish the names of all carpenter subcontractors to the Council in whose geographic jurisdiction the job is located, on forms supplied by the Union, before subcontractors start work, when requested by the Union.

E. It is agreed that the word "contractor" or "employer" as used herein means not only a contractor or employer which is signatory hereto, but also means and shall include any other firm (whether a corporation, partnership or other business entity) engaged in the construction and/or carpentry industry in which an officer, a partner or single proprietor of the signatory contractor or employer hereto is also an officer, a principal stockholder, partner or single proprietor of such other firm, where the intent and effect or consequence thereof of such association undermines terms and obligations of the signatory contractor to this Agreement. Management Consultants, Construction Managers, Developers, and Owner/Builders will be also considered as employers for the purposes of this Agreement. Further, any person or entity performing any of the following services will be considered an employer: the solicitations of bids from subcontractors, the consideration of proposals submitted by subcontractors, the coordination of work performed by subcontractors, and the supervision of the construction of the project.

F. No employer shall sublet, piece or lump out carpentry labor or any part thereof, nor shall any employee represented by the Union work for any employer who takes labor contracts or pieces or lumps his work.

G. The General Contractor shall be responsible for collecting the pay and fringes for all carpenters for all lost hours if any work is performed by the subcontractor who performs work without reporting same to the Union before starting.

H. If, as a result of violations of this Section, it is required by applicable law for the Union and/or Trustees of the Funds to institute a court action to enforce the rights hereunder, the employer shall pay all costs of such action, including attorney's fees.

I. Should any contractor violate the provisions of the preceding subparagraphs of the Section, the Union, as an alternative to paragraph (H), may invoke expedited arbitration. The procedures of Section 22 Grievances, Disputes and Arbitration shall govern to the extent applicable, except that the arbitration hearing shall be held within three (3) working days after the Union notifies the contractor of the claimed violation. If a violation is found, then, in addition to any other relief, the arbitrator may award liquidated damages of no more than three thousand (\$3,000.00) dollars, which shall be divided equally between the Welfare and Pension Funds of the Union. Such arbitration proceeding may be instituted by any party to this Agreement. Any contractor may utilize the arbitration provision of this Agreement to compel enforcement of this paragraph by the Union.

J. Contractors shall call the Union office and advise them of the job location prior to the start of work. Notification by job foreman shall be sufficient.

SECTION 4. UNION SECURITY

It shall be a condition of employment that all employees of the contractor, who are members of the Union in good standing on the effective date of this Agreement, shall remain members in good standing, and those who are not members of the Union on the effective date of this Agreement, shall, on the eighth (8th) day following the effective date hereof, become and remain members in good standing in the Union. It shall also be a condition of employment that all employees covered by this Agreement, and hired on and after its effective date, shall, on the eighth (8th) day following the beginning of such employment, become and remain members in good standing in the Union. The contractor agrees, upon written notice from the Union, to discharge any carpenter who has not become or remained a member in good standing in the Union as hereinabove set forth, provided the Union certifies in writing that such membership was available to the carpenter on the same terms and conditions generally applicable to other members and/or certifies in writing that membership was not denied or terminated for reasons other than the failure of the carpenter to tender periodic dues and the initiation fees uniformly required as a condition of acquiring or retaining membership.

SECTION 5. WAGES

A. Carpenters shall be paid not less than the wage rates set forth on Schedule "A" annexed hereto (and any amendments thereto) and made part of this Agreement.

B. Foremen are guaranteed full weekly pay. They are guaranteed 40 hours weekly as follows: \$2.50 per hour over journeyman scale plus fringes. Overtime at their scale plus fringes. General Foremen - weekly 40 hours as follows: \$3.50 per hour over journeyman scale plus fringes. Overtime at their scale plus fringes.

C. General Foremen are guaranteed full weekly pay.

D. Carpenters must be paid no later than quitting time on Friday of each week and no more than two (2) days pay shall be held back at any time, including weekends. Should the contractor pay later than quitting time, he shall pay employees at the regular wage for all time after quitting time which they may be required to wait for their wages, except during severe weather, widespread power failure, fire or other natural disaster.

E. The Council retains the exclusive right to allocate, or to reallocate, all wages and contributions to those Fringe Benefit Funds determined by the Council.

SECTION 6. HOURS OF LABOR, OVERTIME AND REPORT - IN-DAY - MAKE-UP DAY

A. A regular work week consists of five (5) days, Monday through Friday, inclusive. A regular work day consists of eight (8) hours performance between the hours of 7:00 a.m. and 3:30 p.m. or 8:00 a.m. and 4:30 p.m. Work shall not be performed on any other days, or during any other hours, without permission from the Union.

B. All work performed outside of the regular work week or work day constitutes overtime and shall be paid at one and one-half (1/2) times the hourly rate. Work performed on Sundays or recognized holidays shall be paid at twice the hourly rate, for both wages and fringe benefits.

C. In commercial and/or industrial work or construction, all carpenters reporting for work shall be guaranteed two (2) hours report-in-pay, if they are prevented from working for any reason whatsoever, other than for inclement weather. When carpenters report to work, they shall remain on the job site unless directed to leave by the contractor. Should any carpenter commence work, he shall receive no less than four (4) hours pay. Should he commence work after the lunch period, he must be paid for a full day.

D. In heavy and highway work, two (2) hours report-in-pay shall be paid to carpenters reporting for work who are prevented from working for any reason whatsoever. Should a carpenter commence work, he shall receive no less than four (4) hours pay. Should he commence work after lunch period, he must be paid for a full day. Stewards on heavy-highway construction work are guaranteed a daily day's pay regardless of weather.

E. Should a contractor discharge or lay off any carpenter, either temporarily or permanently, such carpenter must be given one (1) hour's notice, prior to discharge, in order to put his tools into shape. At the expiration of such hour, the carpenter must be paid in full, or the contractor shall pay for waiting time at the regular hourly rate, for all hours waited. Carpenters can only be discharged at quitting time, weather permitting.

F. After commencing work, should a carpenter become injured or disabled while performing his duties, he shall nevertheless receive a full day's wage for that day. Also, he shall be rehired when he can return to his duties, provided there is still work available.

G. Should the Union remove any carpenters from employment with any contractor for a violation of Section 3 hereof, the carpenters shall be entitled to payment for time lost because of such violation by the contractor, not to exceed three (3) days pay at the regular time rates. Such payments must be made by the contractor prior to the resumption of work by any members of the unit.

H. Carpenters shall not work more than the hours set forth in Section 6, Paragraph A, unless written permission has been secured from the Business Manager or his designee, except when concrete is poured into forms during the regular working hours and during the regular working week. In such event, a carpenter must be employed during any overtime work.

Carpenters on shift work will receive stamps or vouchers with their pay as negotiated: (Example) Work eight (8) hours, paid for ten (10) hours with stamps. Any implementation by an employer of shift work without a pre-job conference first will subject the shift to cease and will subject the job to time and one-half wages and fringes as set forth in Paragraph A.

I. Saturday Make-Up

When conditions beyond the control of the employer, such as severe weather, widespread power failure, fire, natural disaster, etc., prevent the operation of the job on one or more normal working days, the employer may, with the permission of the Union, schedule the Saturday of that calendar week during which work was prevented, as a make-up day at straight time. All hours worked in excess of eight (8) hours shall be paid for at the rate of time and one-half (1 1/2). When a holiday falls on a Saturday, then the make-up rate shall be time and one-half (1 1/2) for the first eight (8) hours of work performed and shall be paid at double the rate as set forth in Section 6,

Paragraph B, for all work performed thereafter. In order to utilize a Saturday as a make-up date, the employer must declare a regular work day "terminated" for one of the reasons listed above, no later than 10:00 a.m. of the day terminated, and must notify the Union of its desire to work a make-up day by noon of the day preceding the make-up day. If men are needed to work a make-up Saturday, other than those already working on the job, the employer shall hire 50% of its carpenters through referral from the Union, and it will use 50% of carpenters employed by it on other job sites. A make-up Saturday shall be a guaranteed eight (8) hour day with a guarantee of eight (8) hours pay, with one-half (1/2) hour off to eat, charged to the eight (8) hours worked.

Only employers in good standing, meaning those signatory contractors who are paid-up (wages and fringe stamps), will be considered for a Saturday make-up day and permission will not unreasonably be withheld for a Saturday make-up.

J. Shift Differential

1. For all alteration and repair shifts performed in a building: The employer may work two shifts, with the first shift working either 7:00 a.m. to 3:30 p.m. or 8:00 a.m. to 4:30 p.m. at the straight-time wage rate. The second shift starting time may be a flexible starting time between the hours of either 3:30 p.m. and 11:30 p.m. or 4:30 p.m. to 12:30 a.m. and receive ten (10) hours pay for eight (8) hours work at the straight time wage rate. In addition, members of the second shift shall be allowed one-half (1/2) hour to eat, with this time included in the eight (8) hours of work. In order to work the second shift, there must be a first shift of eight (8) hours.

2. Work must be for a minimum of five (5) days duration. All hours worked in excess of eight (8) hours shall be paid at the double-time rate. The employer shall notify the Union seven (7) calendar days in advance of beginning the shift schedule, subject to the approval of the Union. There shall be a pre-job conference with the Union before the commencement of any shift work.

3. Pre-job Conference. Any contractor, subcontractor, construction manager, if signatory to this Agreement jointly prior to the commencement of any activity on the job site, shall be required to meet with an authorized representative of the Union for the purpose of establishing labor relations dealing with expediting their project along craft lines.

SECTION 7. HOLIDAYS

A. The following are recognized as holidays: New Year's Day, President's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, the day after Thanksgiving and Christmas Day. To perform work on a holiday, the contractor must secure permission from the Union. No work shall be performed on Labor Day.

B. Carpenters engaged in heavy and highway work, or work on powerhouses, disposal plants, recovery, recycling, hi-lines, sub-stations, dams, reservoirs, filtration plants and similar installations, who are employed during any pay week in which any of the foregoing holidays fall, shall be paid for such holidays at regular rates, regardless of the day of the week on which the said holiday falls, in addition to the wages earned by them during such week as a result of their labor. Where a holiday falls on a Sunday, it shall be observed on the Monday immediately following. When carpenters are required to work on such holidays, and when permission to do so had been secured from the Union, the following holidays shall be paid with fringes as follows: if worked, New Year's Day, Memorial Day, Independence Day, Thanksgiving Day and Christmas Day shall be paid at the triple time rate and straight time fringes. President's Day (in place of Lincoln's and Washington's Birthday) if worked, shall be paid at the double time rate and straight time fringes. No work shall be performed on Labor Day.

SECTION 8. UNION REPRESENTATIVES RIGHT OF VISITATION AND JOB STEWARDS

A. All Union Representatives have the right to visit any job or project of the contractor in the performance of his duties, and to see that there is full compliance with the provisions of this Agreement. He may discuss with the contractor, or the latter's representative, any grievances or complaints whether the Job Steward is present or not. The Union may appoint one of its members as Job Steward on the Prime Contractor's payroll immediately upon the commencement of any activity adjunct to the trade jurisdiction defined in Section 2, Paragraph B, of this Agreement.

B. The Union will appoint a Job Steward for each contractor signatory to the Agreement, who shall have superseniority, and who must be employed on the job at all times that any work covered by this Agreement is being performed and until the completion of such job. Should the contractor challenge the competence of the Job Steward in the performance of his work, he shall notify the Union Representative in writing and request that he be replaced. The Job Steward shall not be laid off, or discharged, without the consent of the Union Representative. He shall be the last man laid off on the job, and must be the first man recalled. Until the appointment of a Job Steward, the first carpenter on the job shall act in such capacity, and shall notify the Union Representative as soon as possible of the existence of such job, and its location, and that he is acting as Job Steward pro tem. No carpenter shall be required to work on a job without a Job Steward present thereon, unless the Union Representative waives such requirement. The Job Steward must be employed during the pouring of concrete.

C. The contractor shall permit the Job Steward to perform his duties as such steward, under the Union Representative's direction, without harassment or discrimination by such contractor or agents. The Job Steward may request cessation of violations of this Agreement by the contractor, or the correction of any improper working conditions that may exist. The Job Steward is not considered an agent of the Union and does not have authority to bind the Union by his actions or his failure to act, nor does he have the right to waive, change or modify any of the terms conditions and provisions of this Agreement. The Job Steward is required to see that the contractor supplies drinking water, in accordance with New York State law, and that a sufficient supply thereof is available at all times. The Shop Steward will not act or be safety officer, of any project or contractor.

D. Because of the complexity and size of any job, the Union Representative may appoint a sub-steward who shall work under the direction of and aid the Job Steward. In the absence of the Job Steward, the sub-steward shall assume the full responsibility as Job Steward.

SECTION 9. CONTRACTOR'S OBLIGATION AND DUTIES

A. Prior to commencing any work, the contractor shall carry all required Worker's Compensation Insurance covering all carpenters with an insurance carrier licensed or authorized to do business in the State of New York. The contractor shall, at his own expense, cover carpenters under the Disability Benefits Law of the State of New York effective immediately upon the commencement of work. The contractor shall make all Social Security payments and all New York State Unemployment Insurance payments for all carpenters. The contractor shall carry any and all protective insurance, and shall make any and all social benefits payments covering the carpenters which he is required to carry or to make under any federal, state, municipal or local law, rule or ordinance.

B. The contractor shall furnish all woodworking machinery, including clamps, miter boxes, power tools, benches, drill bits taps, lags, extension cords, and all such supplies and equipment. The contractor must furnish any

the Union written notice within ten (10) days following the sending to him of a notice of Failure to Pass such examination. In the event of an appeal, the Union and the appropriate Association shall each designate one person, and the two so designated shall be deemed an Examining Committee Appeal Board, which shall re-examine the aggrieved individual by giving him a fair and comprehensive examination pertaining to the job qualifications for carpenters.

6. Except as otherwise provided herein, a fifty (50%) percent ratio of carpenters referred and supplied through the Union Referral Hall as set forth above shall be maintained throughout such job in the manner heretofore described. This shall apply to each job of each individual contractor. On all jobs having five (5) or more men, at least one (1) of said five (5) shall be a carpenter fifty-five (55) years of age or over supplied by the Referral Hall; this to apply to each succeeding five (5) carpenters on the job.

7. The Council's Referral Procedures, and any Amendments thereto, are incorporated as part of this Agreement.

8. It is the responsibility of the employer to insure the safety and health of employees referred to it pursuant to federal, state and local law or regulation, or otherwise, and that nothing in this Agreement shall make the Council or any Local Union liable to any employees or to any persons in the event an injury occurs. The employer agrees that neither the Council nor any Local Union will be held responsible for the acts or failure to act of those carpenters that it refers to a job site.

B. Mobility

1. The first person on the job shall be the Shop Steward assigned by the Empire State Regional Council of Carpenters. The second man on the job shall be the employer's foreman who must be a member of the Empire State Regional Council of Carpenters (or otherwise he would be matched, but not by the Steward).

2. The employer shall have the right to assign the balance of the workforce so long as the journeymen are from a Empire State Regional Council of Carpenters Local Union. If the employer assigns a journeyman from outside the Empire State Regional Council of Carpenters, the Council will have the right to match as per current Agreement (50/50).

3. If it is determined by the Council that the employer has violated the provisions of this Agreement (for example, not reporting jobs, failure to pay proper pay and stamps), the privilege of mobility may be suspended for up to a six (6) month period of time from the date of violation, and if a second violation occurs, this mobility privilege may be suspended for the term of the Collective Bargaining Agreement. In either case, whether a first or second violation, the Council shall immediately have the right to man any or all of the contractor's jobs on a 75% Council assignment/25% employer assignment basis. The employer shall have access to the grievance procedure to contest any alleged violation.

4. The Shop Steward shall have the right to check all employees' paychecks, on a weekly basis, to verify proper pay and stamps.

SECTION 27. BREACH OF AGREEMENT

Every employer party to this contract shall notify the Council of the awarding of any contract which includes any of the work described in this Agreement, regardless of whether said work is to be performed by said employer or a subcontractor. Said notice shall include the location of the job and the name and address of the contractor or the subcontractor involved. Failure to comply with this Section shall be a breach of this Agreement and shall authorize the Council to remove its members from any job on which said contractor or subcontractor is working until said notice requirement is complied with. The aforesaid notice shall be given within thirty (30) days of the award of the Contract.

The contractor agrees to report a job to the Council at least seventy-two (72) hours before starting. Failure to comply with this Section shall be a breach of this Agreement and shall authorize the Council to remove its members from any job on which said contractor or subcontractor is working until said breach is remedied.

SECTION 28. EXPIRATION, RENEWAL AND NOTICE

All of the provisions, conditions and terms of this Agreement shall be retroactive to the 1st day of May, 2001 and shall expire on the 30th day of April, 2004. The Agreement shall automatically be renewed from year to year thereafter, unless modified or terminated by either party giving to the other party not less than sixty (60) days nor more than one hundred and twenty (120) days written notice prior to the next termination date, of its desire to modify or terminate this Agreement. In the event this Agreement is renewed, it shall be deemed to contain all the terms and conditions of the next succeeding Agreement as negotiated between the Association and the Union.

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IN WITNESS WHEREOF, THE PARTIES HERETO HAVE CAUSED THEIR HANDS AND SEALS TO BE HERETO AFFIXED DATED THIS _____ DAY OF _____, 20____.

UNION:

**EMPIRE STATE REGIONAL COUNCIL OF CARPENTERS,
UNITED BROTHERHOOD OF CARPENTERS & JOINERS OF AMERICA**

By: _____
President

By: _____
Executive Secretary/Treasurer, Business Manager

EMPLOYER:

Signature of Principal of Company _____

Print Principal's Name _____

Print Principal's Title _____

Print Company Name _____

Street Address _____

City, State, Zip Code _____

Business Telephone: _____

Business Fax No.: _____

Workers Comp. Policy No.: _____

Carrier: _____

Unemployment Ins. No.: _____

New York State Disability No.: _____

Federal I.D. Withholding Tax No.: _____

Social Security No. of Principal: _____

special tools required to be used in the performance of any special kind of work.

C. The contractor shall provide a suitable tool house or locker for the tools of each carpenter on the job, which shall be for the use of such carpenters exclusively. The tool house shall have a stove to heat same and must have a lock thereon. The contractor shall be liable for tools lost or stolen when carpenters are not on the job, in the maximum amount of five hundred (\$500.00) dollars per carpenter. The contractor shall supply a lockup and insure it from fire and theft. Report of stolen tools must be made to the contractor within seventy-two (72) hours, or such claim will be deemed to have been waived. Under no circumstances may the contractor have a brass pick-up unless adopted by each and every trade on the job site.

D. The contractor must furnish a suitable comfort station for the carpenters. On high rise construction, a comfort station must be provided on every fourth floor and kept sanitarily to the satisfaction of the Union Representative. Unsanitary conditions will be considered a breach of this Agreement.

E. Saw Clamps, files and any other equipment needed for sharpening of saws must be furnished by the contractor. If the contractor chooses not to employ a saw filer then the saws shall be sent to a shop for filing.

SECTION 10. ALL FRINGE BENEFIT FUNDS

The contractor agrees that it is bound by and shall comply with the Agreements and Declarations of Trust and the Plans of Vacation Fund, Welfare Fund, Pension Fund, Annuity Fund, Charitable Trust Fund, Scholarship Fund, Labor Management Cooperation Fund and Apprentice Training Committee designated by the Council. The aforesaid Agreements and Declarations of Trust and Plans and the Rules and Resolutions adopted by the Trustees of the said Funds, as the same may be amended from time to time, are hereby incorporated into and made a part of this Agreement. Each employer shall pay, as specified in this Agreement, a certain sum of money for each hour or part of an hour worked by each carpenter, for work done in this area, to the Fund Office designated by the Council in either a stamp or voucher form.

Payment will be made at the designated Fund Office by certified check, cash or money order, payable to the Empire State Regional Council of Carpenters Fringe Benefit Funds, or its legal successor. Such benefits and contributions to the said Funds shall be made and paid by the employer purchasing stamps covering all such required contributions, in advance. The employer shall furnish such stamps to all carpenters in each weekly pay envelope, in accordance with the number of hours worked multiplied by the total hourly contributions required by this Agreement. The failure of the employer to comply with the requirement that stamps be in each weekly envelope shall subject the employer to those remedies available with respect to payment of wages. At the time of purchase of the stamps, the employer shall furnish the Fund Office with a statement providing such information as the said Trustees shall require on forms supplied by the Fund Office. The information shall include, but not be limited to, payroll or similar records which contain the names of the carpenters, the job project, the numbers and denominations of stamps issued to each carpenter and the date of issuance. The failure by the employer to fully supply this information shall constitute a material breach of the Agreement subject to those remedies available under this Agreement. It is understood that the employer will treat Vacation Fund and Political Action Committee Fund contributions as well as work assessments as wages so that all payroll taxes will be deducted from the gross total wages paid to the carpenter and the full contribution, net of said payroll taxes, shall be remitted. The Welfare Fund does not provide New York State Disability benefits.

It is further agreed that the Welfare, Pension, Annuity, Charitable Trust, Scholarship and Labor Management Cooperation Funds and Apprentice Training Committee in accordance with their respective Plans, Rules of Eligibility and Rules and Regulations as amended from time to time, may provide benefits to employees of the Funds, employees of the Council, employees of the affiliated Local Unions, officers of the Council and affiliated Local Unions and with respect to the Welfare Fund, retired persons.

SECTION 11. FUNDS

A. Labor Management Fund

The employer agrees to contribute the sum of \$.005 cents (1/2¢), presently, per hour for each hour or portion thereof for which a member of the unit receives pay or for which pay is due to the New York State Carpenters Labor Management Fund, heretofore established in accordance with all existing federal and state laws pertaining thereto.

It is agreed that all contributions are due and payable to the area Council's Fund Office as called for in this Agreement for the other fringe benefit Funds and the employer does hereby authorize said area Fund Office to forward said contributions to the New York State Carpenters Labor Management Fund Office in such manner as the Trustees of said Fund shall reasonably require.

The Trustees shall have the authority to have an audit of the payroll and wage records for the employer for the purpose of determining the accuracy of contributions to this Fund, and failure to make proper and timely contributions hereunder may subject the employer to the procedures set forth herein for collection delinquencies.

B. UBC Health, Safety, Training & Labor Management Education & Development Fund

The employer and the Union recognize the need for quality training of apprentices and journeymen to meet the industry's craft labor needs and to provide safety and health training and education to enable Union workers to remain healthy and productive. In addition to any contributions otherwise called for herein, the parties agree that the employer shall make a contribution of six (\$.06) cents, presently, per hour worked for each employee covered by the Agreement. This present six (\$.06) cent contribution will be divided as follows: two (\$.02) cents UBC Health and Safety Fund, two (\$.02) cents UBC Apprenticeship & Training Fund and two (\$.02) cents Labor Management Education & Development Fund. It is agreed that all contributions are due and payable to said Funds as called for in this Agreement. The employer does hereby authorize payment of this (\$.06) cents per hour to the UBC Funds as described above upon collection.

The employer hereby also agrees to be bound by the Trust Indenture Agreement as now stated or as later restated or amended applicable to each of the respective UBC Trust Funds described above.

On request, each employer and/or Union shall receive a copy of the Funds' annual reports.

SECTION 12. DUES CHECK-OFF

The employer agrees to deduct from the wages of each carpenter working under this Agreement, and to pay the Council in the manner determined by the Council, upon execution by each carpenter of an assignment form, those uniform assessments of the Council, as a condition of continued employment. This assessment shall be included as part of the stamps/vouchers purchased from the Empire State Regional Council of Carpenters Fringe Benefits Funds or other Funds designated by the Council.

SECTION 13. AUDIT OF CONTRACTORS PAYROLL RECORDS, COLLECTION PROCEDURES

A. Each contractor hereby permits an examination of its books and

records to ascertain and verify the contributions due under Section 10 of this Agreement, by an auditor designated by the Trustees of the respective Funds.

B. A notice shall be mailed to the contractor at the address given by him when this Agreement is executed, one (1) week advance at a time mutually agreed upon, informing him that an audit will take place at the time and place set forth in the notice and directing him to have his books and records available to the auditor. Where possible, audits shall be made at the contractor's place of business.

C. The contractor and the Union acknowledge that they are represented by their duly designated Trustees to administer the various Fringe Benefit Trust Funds provided for in this Agreement. Because of the various liabilities and responsibilities placed upon all parties to this Agreement, including all contractors and Union Representatives and their respectively designated Trustees, each contractor hereby agrees that the Fringe Benefit Fund Trustees shall have the necessary tools to fulfill their fiduciary obligation in order to fully protect each contractor signed to this Agreement and their employee-beneficiaries under the respective Fund plans.

Each contractor to this Agreement realizes that the failure of any contractor to make the required Fringe Benefit Fund contributions affects the liability of all contractors to this Agreement and decreases the benefits available to the carpenter employees of this contractor. Therefore, each contractor signatory to this Agreement shall make available to the Trustees of the various Fringe Benefit Trust Funds, or their designated auditing representative, all pertinent books and records required for an audit to enable said auditor to ascertain and independently verify that the proper contributions hereunder have been paid, and such records will be produced whenever deemed necessary by the Trustees in connection with the proper administration of their fiduciary responsibilities. In order to accomplish this end, it is specifically agreed that should any affiliate or subsidiary contractor, as described in Section 3 of this Agreement be involved with the business activities of this contractor, that this contractor will make available all the pertinent books and payroll records of such affiliate or subsidiary to the auditor so that a complete audit can be made. The extent of the audit and the determination as to what pertinent records are necessary to complete the audit is in the sole discretion of the Funds so that they may independently verify that all required contributions have been made, and discover the identity of all beneficiaries under the plans that they have been entrusted with for proper administration.

D. The Trustees of the respective Funds shall take appropriate legal action to collect the proper amount of contributions due, for an accounting, or for any other, appropriate relief. Should such action be required, the Trustees may utilize the procedures set forth in Section 22 hereinafter, or bring a proceeding in their own names. In any proceeding to collect monies due to the Funds, in addition to the relief enumerated in Section 22, the court or the arbitrator, as the case may be, shall award (1) interest on the unpaid contributions calculated at the maximum rate of liquidated damages in an amount not to exceed twenty (20%) percent of the unpaid contributions, whichever is the higher; and (2) reasonable attorney's fees and all costs of the action or arbitration, as the case may be, and (3) such other and further relief as may be appropriate including as otherwise set forth below in this Agreement.

E. The contractor hereby permits an examination of his books and records by an auditor designated by the Union to ascertain and verify the wage rates of this Agreement. The same procedures for said examination shall be followed as are contained in paragraphs B, C and D hereof.

F. The employer shall retain, for a minimum period of five (5) years, payroll and related records necessary for 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 for the preceding five (5) year period. In the event, after the Trustees have made a reasonable request, the employer fails to produce its books and records necessary for a proper audit, the Trustees, in their sole discretion, may determine that the employer's monthly hours subject to contributions for each month of the requested audit period are the highest number of journeymen employees hours for any months during the twelve (12) preceding months audited or the last twelve (12) months for which reports were filed, whichever monthly number of hours is greater. If the hours reported by the journeymen employees as unpaid vacation claims exceed such amount, the vacation claims shall be used as the criterion of delinquency. Such determination by the Trustees shall constitute presumptive evidence of delinquency. Prior to making such determination, the Trustees shall mail a final ten (10) day written notice to the employer advising him that such determination shall be made if the employer does not schedule a prompt audit. Nothing herein shall mean that Funds relinquish their right to commence legal proceedings to compel an examination of the employer's books and records for audit. Necessary records shall include:

- Annual Tax returns, Employers (I.R.S. Form 940)
- Employer Quarterly Returns (I.R.S Form 941)
- New York State Unemployment Insurance Tax Returns
- Individual Employee Payroll Records
- Weekly Payroll Books
- Cash Disbursements Books
- Employee W-2 Forms
- Copies of Payroll Reports to all Carpenter Funds
- Copies of Cancelled Checks to all Carpenter Funds
- New York State Forms WRS-2

When auditors are sent to audit the books of any General Contractor, Prime Contractor, Builder, Subcontractor or other employer within the provisions of this Agreement, and a definite appointment is scheduled, and the auditor or auditors cannot start at the appointed time and date and must return, because of the fault of the employer, or when necessary records are not furnished, then the said General Contractor, Prime Contractor, Builder, Subcontractor or other employer shall be penalized and pay the reasonable sum charged by the auditors to cover the expense of the auditor or auditors.

It shall be a violation of this Agreement for any Prime Contractor, Owner-Builder, Subcontractor, or other employer bound by this Agreement, to fail to furnish proper records when requested, for the purpose of completing an audit. The Union shall have the right to remove all its members from the offending contractor upon twenty-four (24) hours notice, after making final written request for such records. The provisions of Section 14 shall be applicable herein.

In the event that the employer does not make payments of Fringe Benefit Fund contributions within thirty (30) days of the date specified in this Agreement, it is agreed that the employer may be liable for the following, in addition to the principal amount of the unpaid contributions:

- (i) Interest on the unpaid contributions at prime rate;
- (ii) An amount equal to the greater of (a) interest on the unpaid contributions at the prime rate or (b) liquidated damages equal to twenty (20%) percent of the delinquency, whichever is greater;
- (iii) Attorney's fees;
- (iv) The costs of suit (if required to obtain compliance with this Agreement); and
- (v) The costs of any required audit.

The employer acknowledges and understands that the above liquidated damages are cumulative and are required to protect the fiscal integrity of the

Fringe Benefit Funds.

The Trustees reserve the right to refuse redemption of any Fringe Benefit Stamps not documented by Weekly Payroll Reports.

SECTION 14. UNION'S RIGHT TO STRIKE DELINQUENT EMPLOYERS

The Union is granted all absolute right to strike the job of any delinquent contractor. The Union shall be under no compulsion to return carpenters to employment with such contractors until all delinquencies are completely paid in full. Where such action is the result of the delinquency of any contractor in payment of wages or any of the Fringe Benefit payments set forth elsewhere in this Agreement, such delinquent contractor shall be required to pay the striking employees wages for each day on strike, for a period not to exceed three (3) days prior to their return to employment for such contractor.

SECTION 15. INDUSTRY ADVANCEMENT FUND

A. The employer shall contribute ten (\$.10) cents per hour for each employee hour worked to the Industry Advancement Fund (I.A.E.).

B. The Industry Advancement Fund shall be administered by and in accordance with all existing federal and state laws and regulations pertaining thereto. The Recipient Association must render a report to the Union every four (4) months indicating income, expenses and programs undertaken by the Fund.

C. The programs to be financed by the Industry Advancement Fund shall include but not be limited to the following: promotion of the portion of the industry within the jurisdiction of the carpenter trade and public relation. The Fund shall not be used for the purpose of financing legal action against the Union, filing of unfair labor practice charges against the Union, or lobbying in support of and labor legislation, whether federal or state. The respective Associations agree to hold the Union harmless for all damages, including attorney's fees, from any dispute concerning collection of these contributions, and the Association acknowledges that the only responsibility of the Union to its Funds is to turn over any monies received per the mutually agreed upon arrangement.

SECTION 16. WORKING EMPLOYER

A. Stability, fairness of competition and the physical and mental well-being of workers are among the major objectives of this Agreement and, in furtherance thereof, the parties take cognizance of the existence of working employers and/or working partnerships who may become signatories hereto.

B. At the time of executing this Agreement, each working employer and/or working partnership shall furnish to the Union a complete list of all working employers and/or working partners, whichever designation be appropriate.

C. Each working employer and/or working partnership shall fully comply with the terms of this Agreement, and continued participation under the applicable Funds shall be to the extent permitted by applicable law.

SECTION 17. CONTRACTOR'S PERFORMANCE AND SURETY BOND

Prior to the commencement of any work, at the discretion of the Council, each contractor must post with the Union a surety bond obtained from a carrier licensed to do business in the State of New York. Such bond shall be in the amount of five thousand (\$5,000.00) dollars and must guarantee the payment of Welfare Fund, Pension Fund, Vacation Fund, Annuity Fund, Labor Management Cooperation Fund, Scholarship Fund, Charitable Trust Fund and Apprentice Training Fund contributions under this Agreement. Where special circumstances require lesser coverage, permission for same may be granted by the Trustees of the Funds and/or the Council.

SECTION 18. SAFETY REQUIREMENTS AND PROCEDURES - O.S.H.A.

A. All applicable federal, state, county, city, town or municipal laws, rules, regulations and/or ordinances pertaining to safety regulations shall be observed and complied with by the contractor. After due notice to the contractor and the latter's failure to correct same, the Union may consider any violation of safety regulations as a breach of this Agreement. In such case, the Union may withdraw its members until such violations have been corrected by the contractor. Should such withdrawal of workers occur, they shall not be returned to work until the contractor has complied fully with the requisite safety regulations and has corrected such violation completely. The carpenters shall be paid for loss of time, up to a maximum of three (3) days for each such occurrence.

B. Contractors must have a standard first aid kit on the premises or construction site.

C. In the event that a dispute arises over compliance with applicable safety regulations, either party may invoke immediately the grievance and arbitration machinery set forth in Section 22. Violations of accepted or mandated safety procedure shall be cause for immediate discharge. The use of alcohol or narcotics during the regular work day, including lunch, shall also be cause for immediate dismissal, provided the above is applied uniformly to all personnel including management.

SECTION 19. EQUAL TREATMENT, NON-DISCRIMINATION

The Union agrees that it will treat all contractors equally, and will not discriminate in favor of, or against any employer. The Association will not discriminate in favor of, or against, any carpenter because of his membership in the Union.

SECTION 20. UNION AS EMPLOYER

For the purpose of this Agreement, the Union, the Apprentice Training Fund, and the Council's Funds, shall be considered an employer in order to comply with the federal and state laws with respect to the Trust Agreement set up pursuant to this Agreement.

SECTION 21. ASSIGNABILITY OF AGREEMENT

All of the provisions, conditions and terms of this Agreement shall bind, apply and inure to the benefit of the parties hereto, their also egos, successors, assigns and transferees.

SECTION 22. GRIEVANCES, DISPUTES AND ARBITRATION

A. Should any dispute arise between the parties hereto regarding the interpretation or application of this Agreement, or any clause or provision or portion thereof, the parties agree to make an earnest effort to adjust, resolve and settle such dispute. Should the parties be unable to settle the matter, the dispute shall be submitted to arbitration as set forth in paragraph B hereof.

B. The party desiring arbitration shall notify the other in writing, setting forth the issues involved and the Sections of the Agreement covering same. An arbitrator shall be selected from the New York State Employment Relations Board, by the agreement of the parties.

The arbitrator shall conduct a hearing within seven (7) days from the date of his selection. Should the arbitrator be unable to conduct a hearing within said time limitation, the next arbitrator who is able to conduct a hearing within the time limitation shall be designated to hear the dispute. The arbitrator is not empowered to change or modify in any manner whatsoever any of the terms, conditions or provisions of this Agreement. In addition to any other remedy an arbitrator may specify, he shall have the

authority to require a contractor to make the Union whole for all Union dues and initiation fees which the Union lost because of the contractor's violation of the Agreement. The decision of the arbitrator shall be final and binding upon all parties to the controversy.

C. When a dispute is submitted for arbitration to a panel arbitrator and written notice thereof is given to the parties to said dispute by the selected arbitrator, such action shall be considered a final and binding submission of said dispute to arbitration by both parties hereto. Should either party to said dispute fail to attend the arbitration hearing set by the arbitrator, after due notice thereof, the arbitrator shall be empowered to proceed with such hearing in the absence of that party and shall also be empowered to render a final award binding on both parties to said dispute.

D. Unless otherwise agreed to by the parties, the party losing the arbitration shall pay for all costs of the arbitration, including the arbitrator's fee and the prevailing party's expenses for auditing and legal representation. In the case of failure to pay fringe benefits, the arbitrator must award interest at twenty (20%) percent per annum or at the prime rate (as determined by Fleet Bank) plus two (2%) percent, if legally permissible, whichever is higher. The arbitrator's award shall specify all costs and interest and the parties to whom the are paid.

E. At the discretion of the Council, disputes involving reduced journeyman's wage rates shall be arbitrated expeditiously. The issue shall be heard by an arbitrator within seventy-two (72) hours from the time the issue is submitted to him, and the arbitrator shall render an award within forty-eight (48) hours from the date of the hearing. The expenses of such arbitration shall be borne by the loser.

F. So long as the contractor is not in default in complying with the decision of the arbitrator, the Union may not engage in any strike, picketing, boycott, or walkout, except as expressly authorized to do so elsewhere in this Agreement. So long as the Union is not in default in complying with the decision of the arbitrator, the contractor may not engage in any lockout.

G. In addition to any other method authorized by law, any paper, process or notice may be served upon a party by certified mail, return receipt requested, at the address set forth in this Agreement for said party. A post office receipt shall be conclusive evidence of proper service. If certified mail is refused or not picked up, ordinary mail shall be sufficient. Mailgrams or Telegrams shall be deemed acceptable.

H. An arbitrator's award made hereunder may be confirmed in any court of appropriate jurisdiction in the State of New York or in any state where a party does business or has its principal office. The prevailing party shall be entitled to receive all court costs as well as reasonable counsel fees upon the confirmation of the arbitrator's award, any appeal therefrom, or upon any proceeding to enforce judgment in connection therewith.

SECTION 23. SEPARABILITY

Should any part or portion of this Agreement be rendered or declared illegal, invalid or unenforceable, by reason of any existing or subsequently enacted legislation, or by any decree of a court of competent jurisdiction, or by the decision of any authorized governmental agency, such invalidation of such part or portion hereof shall not invalidate the remaining part or portions of this Agreement. In such event, the parties shall meet immediately and, if necessary, negotiate substitute provisions for the illegal or invalid parts or portions. The remaining parts, portions or provisions shall remain in full force and effect. Should the parties be unable to negotiate substitute provisions, the matter shall be referred to arbitration as hereinbefore provided in Section 22 hereof.

SECTION 24. LABOR-MANAGEMENT COOPERATION FUND

The Labor-Management Cooperation Fund shall be established forthwith, in accordance with all federal and state laws and regulations thereto, and also with any subsequently enacted legislation applicable thereto. This shall be a jointly managed Trust Fund with an equal number of employer and Union Trustees to administer the same in accordance with the Declaration of Trust adopted by them. This Trust shall be funded by contributions allocated under this Collective Bargaining Agreement and such contributions shall be included in the payment of fringe benefit stamps, in the amount specified by said Agreement.

SECTION 25. MISCELLANEOUS CONDITIONS

A. All carpenters working within the jurisdiction of the aforementioned Local Unions must receive the stamp/voucher of that Local Union from the contractor they work for in full each week or prior to layoff. There are and will be no exceptions!

B. Apprentices are to be supplied to the contractor depending upon the nature of the work involved and will be transferred from time to time to comply with the regulations of the Executive Board and the Apprentice Training Committee to round out the apprentice. One apprentice for each five (5) carpenter journeymen must be referred through the Council's referral system.

C. Welders and asbestos handlers or removers are to be supplied with all equipment and clothing (gear) in order to comply with local-state-safety regulations.

D. Make-up day applies to all contractors working in housing and commercial work only.

E. Fringe stamps/voucher must be paid to carpenters in the jurisdictional area where the work is being performed until October 1, 1998, when all carpenters shall receive a stamp through the Empire State Regional Council of Carpenters.

SECTION 26. REFERRAL AND MOBILITY

A. Referral Through Council

1. Selection of applicants for referral to jobs shall be on a nondiscriminatory basis and shall not be based on, or in any way affected by, Union membership, by-laws, rules, regulations, constitutional provisions or any other aspect or obligation of Union membership, policies or requirements.

2. The contractor retains the right to reject any job applicant referred by the Referral Hall, but in the event of such rejection, the contractor shall notify the Referral Hall, setting forth the reasons for such rejection, and the Referral Hall shall then refer a new job applicant to the contractor. This process shall be repeated until the contractor retains a job applicant for employment.

3. No carpenter shall work on more than one (1) job in any twenty-four (24) hour period without written permission from Business Manager or his designee.

4. Applicants for referrals through the Referral Hall shall be sent out in rotation provided they have the necessary skill and experience to fill the job. Carpenters who have been employed for substantial periods of time, within the two (2) years prior to the date they seek employment through the Referral Hall, by any contractor who is party to this Agreement, or by any other contractor who it party to this Agreement, or by any Agreement with the Union, shall be presumed to meet the general requirements of skill and experience and shall be placed on the referral list.

5. All other carpenters must pass a fair and comprehensive examination given by the Local Union Examining Committee before they shall be placed on the job referral list. In the event that such carpenter fails to pass such examination, he shall have the right to appeal by serving upon