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AGREEMENT
between
AN INDEPENDENT EMPLOYER
and
**CEMENT AND CONCRETE
WORKERS**

Comprised of:
LOCAL NO. 6-A
LOCAL NO. 18-A
LOCAL NO. 20
and
THE EMPLOYER

Effective on or after July 1, 2002
to June 30, 2005



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COLLECTIVE BARGAINING AGREEMENT

The Collective Bargaining Agreement ("Agreement") is made as of July 1, 2002 by and between the DISTRICT COUNCIL OF CEMENT AND CONCRETE WORKERS, comprised of Local No. 6-A, Local No. 18-A, and Local No. 20, maintaining its principal offices at 30-56 Whitestone Expressway, Flushing, New York 11354 affiliated with the Laborers International Union of North America ("Union") and the undersigned Employer ("Employer") and extends the previous Agreement as herein provided.

ARTICLE I (Region)

Section 1. The agreement shall apply on all jobs within the scope of the Agreement and within the territorial jurisdiction of the Union which at present is as follows: the five (5) counties of New York City within its established boundaries.

ARTICLE II (Objectives)

Section 1. The Employer obligates itself and its agents and others controlled by it, directly or indirectly, to perform in good faith all provisions of the Agreement; the Union obligates itself to live up in good faith to all the provisions of the Agreement.

Section 2. The Agreement is entered into to establish and maintain wages, fringe benefits, hours and working conditions for the work covered by the Agreement in the territory to which it applies; to prevent strikes and lockouts; to bring about stable conditions in the cement and concrete industry; to foster, promote and develop the growth of the cement and concrete industry; to insure the peaceable adjustment and settlement of grievances; and to assure the continued existence of a union environment in the cement and concrete industry *within the trade and geographic jurisdiction of the Union.*

ARTICLE III (Other Contracts)

Section 1. (a) No Employer shall enter into a contract with another person, corporation, company, partnership, or any other business entity including joint venture or sole proprietorship to perform bargaining unit work on the same job site, unless such other person, corporation, company partnership, or any other business entity including joint venture or sole proprietorship has signed an agreement with the union or is a member of an association which has signed an agreement with the Union.

(b) The Employer must not subcontract bargaining unit work unless the subcontractor receiving the subcontract has an agreement with the

Union. In the event the subcontractor is delinquent in the payment of contributions to Cement & Concrete Workers District Council Fringe Benefit Funds ("C&CWDC Fringe Benefit Funds") comprised of Cement & Concrete Workers District Council Pension Fund ("C&CWDC Pension Fund"), Cement & Concrete Workers District Council Welfare Fund ("C&CWDC Welfare Fund"), and Cement and Concrete Workers District Council Annuity Fund ("C&CWDC Annuity Fund"), or the Cement League Industry Advancement Program ("CLIAP"), or the New York Plan For The Construction Industry ("NYPFTCI"), Cement and Concrete Workers Training and Apprenticeship Fund ("C&CW Training and Apprenticeship Fund"), the New York State Laborers-Employers Corporation and Education Trust ("NYSLECET"), Laborers National Health and Safety Fund ("LNHSF") or the Building Trades Employers' Association Promotion Fund ("BTEAPF"), then C&CWDC Fringe Benefit Funds shall give written notice thereof to the Employer, who shall then be required to withhold any sums due to the subcontractor. In addition, the Employer agrees to pay such delinquency directly to C&CWDC Fringe Benefit Funds to the extent that such withheld sums are satisfactory. The Employer shall contact C&CWDC Fringe Benefit Funds weekly to ascertain whether the subcontractor has contributed all required monies to the C&CWDC Fringe Benefit Funds before the

Employer makes further of final payment to the subcontractor.

(c) The Employer shall notify the Union within fifteen (15) days of an award and prior to the start of work on any job or project that a subcontract necessitating employment of Cement and Concrete Workers ("Employees" or "Employee") covered by the Agreement has been let. Included in said notification shall be the name and address of the contractor, subcontractor and owner as well as the location of the job or project.

(d) (i) The Employer agrees that it will not subcontract any work covered by the Agreement to any of its employees in order to circumvent the payment of wages, contributions to C&CWDC Fringe Benefit Funds, CLIAP, NYPFTCI, NYSLECET, LNHSF, BTEAPF, New York State Laborers' Political Action Committee ("NYSLPAC"), working dues checkoffs, organizer checkoff, and/or compliance with the working conditions provided for in the Agreement.

(d) (ii) Once an award is made by the Employer to a subcontractor, then the Employer shall not permit the resubcontracting of the same award to another subcontractor.

(e) When the Employer subcontracts or sublets any work of any type or kind whatsoever coming within the jurisdiction of the Union, the Employer shall be responsible for the subcontractor

complying with all provisions of the Agreement. After due notification, any Employer who subcontracts or sublets any work of any type or kind whatsoever coming within the jurisdiction of the Union shall be responsible for the payment of wages, contributions to C&CWDC Fringe Benefit Funds, CLIAP, NYPFTCI, NYSLECET, LNHSF, BTEAPF, NYSLPAC, and working dues checkoffs and organizer checkoff by such subcontractor.

(f) The Employer agrees that the Agreement will run to and for the benefit of any other corporation or company which may now or hereafter exist or be formed or in which the Employer may have any interest, if such subsidiary is engaged in any work covered by the Agreement.

Section 2. If the Employer covered by the Agreement or any such owner or principal forms or acquires by purchase, merger or otherwise, an interest, whether by ownership, stock, equitable or managerial, in another corporation, company, partnership, or any other business entity, including joint venture or sole proprietorship, performing bargaining unit work within this jurisdiction, the Agreement shall cover such other operation and such other bargaining unit Employees shall be considered an accretion to the bargaining unit.

Section 3. In order to protect and preserve, for the Employee 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 of the type covered by the Agreement, under its own name or under the name of another, as a corporation, company, partnership, or any other business entity, including joint venture or sole proprietorship, and the two (2) enterprises have substantially identical management, business purpose, operation, equipment, customers, supervision and/or ownership, wherein the employer exercises either directly or indirectly any significant degree of ownership management or control, the terms and conditions of the Agreement shall be applicable to all such work.

Section 4. No Employee shall work for any Employer which is not a signatory to an Agreement with the Union or does not comply with the Union or does not comply with the terms and conditions of employment in said Agreement.

Section 5. In order to protect and preserve, for the Employees 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 on-site construction work of the type covered by the Agreement, under

its own name or under the name of another, as a corporation, company, partnership, or any other business entity, including a joint venture, and 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, the terms and conditions of the Agreement shall be applicable to all such work. In determining the existence of the aforementioned criteria, the presence of the requisite control of commonality only at the top level of management shall be deemed to satisfy those criteria.

Section 6. Should the Employer establish or maintain such other entity within the meaning of Article III, Section 3 and 5, the Employer is under an affirmative obligation to notify the Union of the existence and nature of the work performed by such entity and the nature of the work performed by such entity and the nature and extent of its relationship to the signatory Employer. The supplying of false, misleading, or incomplete information (in response to a request by the Union) shall not constitute compliance with this section.

ARTICLE IV

(Recognition and Union Security)

Section 1. The Union claims, and the Employer acknowledges and agrees that a majority of its Employees have authorized the Union to

represent them in collective bargaining. The Employer recognizes the Union, its agents, representatives or successors, as the exclusive collective bargaining representative and agent of all Employees employed by the Employer party to the Agreement on all present and future job sites within the jurisdiction of the Union, unless and until such time as the Union loses its status as the Employees' exclusive representative as the result of a National Labor Relations Board election requested by the Employees. The Employer agrees that it will not request a National Labor Relations Board election and expressly waives any right it may have to do so. The Employer also expressly waives any right it has to condition its recognition of the Union upon the Union's certification by the National Labor Relations Board as the Employees' bargaining representative following a National Labor Relations Board election. The term "Employee" includes, without limitation, all persons employed on work within the trade and geographic jurisdiction of the Union. The term "Employee" as used in the Agreement includes, without limitation, all persons who perform work as described in Article VI of the Agreement or as provided by jurisdictional grants of the International Union.

Section 2. All Employees who are members of the Union at the time of the signing of the Agreement, shall continue membership in the Union. All other Employees must become members

of the Union after the seventh (7th) day following the beginning of employment or the effective date of the Agreement, whichever is later, and must maintain their membership in good standing in the Union as a condition of continued employment. If the provisions for Union Security clauses are modified by Congress during the term of the Agreement, this Union Security clause shall be automatically modified to conform to such changes.

Section 3. The Union or its representatives shall not discriminate against any Employee. Maintenance or membership in the Union shall be evidenced by a current working card, which shall indicate that current dues have been paid to the Union.

Section 4. All Employees covered by the Agreement shall have the privilege of working for whomsoever they see fit, in accordance with the terms of the Agreement, and the Employer is to be at liberty to employ or discharge whomsoever it sees fit, in accordance with terms of the Agreement.

Section 5. Employees covered by the Agreement shall not refuse to work with any Employees who, after seven (7) days employment, have complied with the Union Security provisions of the Agreement. However, Employees covered by the Agreement are not required to work with Employees who do not comply with the Union Security provisions of the Agreement. It is

understood that all additional Employees hired by the Employer shall comply with the requirements of Union membership set forth herein.

Section 6. 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 provision more favorable to the Union than those contained herein, then the parties hereto shall meet within those thirty (30) days from the date of such enactment and amend the Agreement so as to give the Union the maximum benefits permitted by such statute or decision.

Section 7. On any job site an Employee will not be permitted to work for any other Employer while remaining on the payroll of his original Employer, except for emergencies.

ARTICLE V (Apprenticeship)

Section 1. New applicants for membership who cannot provide proof of four thousand hours or more of employment as Construction Craft Laborer (or, alternatively, cannot demonstrate equivalent skills in a placement examination administered by the Joint Apprenticeship and Training Committee (JATC) shall, whenever possible, enter the Apprenticeship Program. Any person entering but failing to maintain and complete his or her

Apprenticeship shall not be employed by the Employer as a Journey Worker under this agreement. The failure to any Apprentice to maintain his or her Apprenticeship status shall obligate the Employer to discharge such person upon notice from the Union.

Section 2. The Apprenticeship and training Standards approved by the Federal Bureau of Apprenticeship and Training or State Apprenticeship Committee are hereby incorporated by reference as part of this agreement.

Section 3. The Apprentice wage rates:

Hours of Credit	Wage Rates
0-999	50% of Journey Worker
1,000-1,999	65% of Journey Worker
2,000-2,999	75% of Journey Worker
3,000-3,999	85% of Journey Worker
Over 4,000	Journey Worker

This is to include 144 hours of Training at each level.

Section 4. The Employer may pay a higher rate at its option. However, the Apprentice must meet his or her commitments to the Joint Apprenticeship and Training Committee (JATC) regardless of level being paid.

Section 5. The Employer shall pay the fringe benefit package for the Apprentice as described.

(a) Annuity

<u>Hours of Credit</u>	<u>Rates</u>
0-999	50% of Journey Worker
1,000-1,999	65% of Journey Worker
2,000-2,999	75% of Journey Worker
3,000-3,999	85% of Journey Worker
Over 4,000	Journey Worker

(b) Pension

<u>Hours of Credit</u>	<u>Rates</u>
0-999	No Pension Contribution
1,000-4,000 and over	Journey Worker

(c) Welfare

<u>Hours of Credit</u>	<u>Rates</u>
0-4,000 and over	Journey Worker

All other Fringe Benefits are paid at Journey Worker Rates

Section 6. The Employer will participate in the Apprenticeship Program by accepting Apprentices for employment upon referral by the Union. The Employer is not obligated to accept more than one (1) Apprentice for every four (4) Journey Workers

commencing with the Fifth (5) Journey Worker employed. This ratio will continue throughout the duration of the job. The Apprentice will not count against the 50%-50% ratio, as the Apprentice is not prevalent to the same hiring procedures as a Journey Worker.

Section 7. a) The Employer shall have the absolute right to reject any job Apprentice or Apprentices referred by the Union. In the event of such rejection, the Employer shall notify the Union. The Union may then refer another Apprentice to the Employer until the Employer employs the correct ratio of Apprentices.

b) The Employer shall have the absolute right to at any time discharge any Apprentice except that after initially employing an Apprentice referred by the Union, such Apprentice shall be given a minimum of two (2) hours employment. Further, whenever the Employer discharges an Apprentice referred by the Union, the Union shall be notified. The Union then may refer a replacement Apprentice to the Employer in order to maintain the ratio that is required to be employed by the Employer.

Section 8. An Apprentice should, whenever possible, be rotated by the Employer through different types of work so as to become trained in a variety of operations and work skills. Where the

employer is unable to provide the Apprentice in the full range of craft skills, the JATC may request the District Council to reassign the Apprentice to other employment in order to provide that experience. For so long as the Employer is able to provide the necessary range of employment experience, the Employer may choose to retain the Apprentice from job to job but shall notify the District Council and JATC of all reassignments.

Section 9. An Apprentice shall not work on a job site unless supervised by a Journey Worker. The Apprentice shall not be used to replace Flagman or Coffeeman.

Section 10. An Apprentice shall not be laid off for taking off from work to attend site training. Apprentices shall be paid for hours worked.

Section 11. The Cement League and the Union shall meet as needed at any time during the term of this agreement to re-evaluate the requirement for the hiring of Apprentices, the wages of Apprentices, fringe benefits and other contributions for Apprentices and other provisions relating to Apprentices as shall be determined. These requirements as signed by both parties shall be part of this agreement and shall be available from both the Union and Cement League offices.

ARTICLE VI

(Hiring)

Section 1. The Employer shall notify the Union as to the location of new jobs and the date when each job is to begin.

Section 2. If an Employer requests the Union to send Employees to a job, he shall state the number of Employees required and the hour when they shall report. The Union shall supply each Employee sent in reply to such requests from the Employer with a slip identified by the Local Union, the address of the job and the date and hour the Employee is to report. Employees, not exceeding the number requested by the Employer who report to the job and present such slips to the representative of the Employer on time, or Employees who report, under orders received from an Employer or his responsible representative, shall be given employment by the Employer for at least two (2) hours, except when it is beyond the control of the Employer to proceed with the work. An Employee requested as above and not put to work by the Employer until after the lunch period shall receive seven (7) hours pay.

Section 3. Any Employee represented by the Union shall be permitted to seek employment on any job of an Employer where an employment office is not maintained on the job. If an

employment office is maintained, the Working Foreman or hiring agent of the Employer shall be conveniently accessible to applicants for work at least once each day.

Section 4. Employees are urged to reserve those jobs not requiring full vigor for the employment of older Employees.

ARTICLE VII (Work Covered)

The Employees in the bargaining unit shall perform all of the following work:

Section 1. The handling and wheeling of unmixed or dry concrete material, the mixing wheeling, spreading, leveling, placing and ramming of concrete and cement mortar, the handling of all types and manner of form lumber or forms in connection with buildings and reinforcing steel: the hanging of all joists and the striking of centers and stripping of forms on all work enumerated in Article VII hereof.

Section 2.

- (a) Reinforced concrete walls, footings and piers on all buildings.
- (b) All reinforced concrete structures.
- (c) Concrete floor arch construction, cellar floors and sidewalks on all buildings.

- (d) Concrete used for fireproofing purposes.
- (e) *Monolithic gypsum floor and roof slabs.*
- (f) Concrete and cement mortar used in paving work.
- (g) Hydrolithic waterproofing.
- (h) Finished cement or composition floors.
- (i) Floor and roof fill.
- (j) Sleeper fill (except where the sleepers are placed over tile or brick arches).
- (k) *Concrete roads, curbs, concrete retaining walls and miscellaneous concrete, including pump and equivalent foundations, within the confines of a building site.*
- (l) Concrete in piles, pile caps and grade beams on all buildings.
- (m) Concrete conduits, vault lights, concrete pipe trenches and tunnels connecting buildings.
- (n) Cement mortar applied under pressure by a "Cement Gun" or any other pressure machine, such as "Guniting" (operation of nozzle not included).
- (o) Spreading of porous fill to depth of twelve inches (12") under concrete slabs on all buildings.
- (p) Concrete swimming pools and transformer vaults.

Section 3. Employees represented by the Union shall also be employed on the following work when done in connection with the work enumerated in Section 2 of this Article VII hereof.

- (a) Fine grading, if preceding the placing of concrete on earth. Hand pumping casual rain water on all buildings.
- (b) The hanging of tarpaulins to protect concrete from weather (with the exception of any rigid or semi-rigid frame to support same) and the covering and wetting down and coating of completed concrete and finished surfaces for curing or protective purposes on all buildings.
- (c) The handling of all cement and concrete debris and refuse derived from material used by the carpenters, cement masons and wire lathers on construction site. Final cleaning of all types of cement and concrete debris on all buildings shall be performed solely by Employees.
- (d) Handling and tending any type of salamanders and all propane, diesel, kerosene or solid (coke, coal, etc.) used for winter protection of cement and concrete work; also the moving of salamanders, and propane, diesel, kerosene or solid (coke, coal, etc.) from floor to floor and from position to position. This also includes any electric devices used for winter protection of cement and concrete work or any other device that becomes available in the future.

Two (2) Cement and Concrete Workers shall be used to tend salamanders when seven (7) or more salamanders are used, regardless of who performs the work.

- (e) The cleaning and preparation of concrete floors to receive cement finish. Also all materials used within the process of elevator saddle patching, rat patching, flash patching, gypsum, and self-leveling cement shall be unloaded, mixed, distributed by the employee as well as the handling of all refuse and debris derived from this work.
- (f) Cutting of concrete where cement finish is not to be applied, cutting openings in concrete wall and floors and other concrete cutting not incidental to other trades.
- (g) All labor in connection with cement and concrete work not specifically provided for under the Agreement, except where same has been officially awarded, after due hearing, to another trade group.
- (h) Fire watching when required by Employers.
- (i) Tending of cement masons, lathers and carpenters on concrete construction, including handling of reinforcing steel and lumber and materials for all types of form work.
- (j) Tending of carpenters on fences and temporary protection work on concrete buildings.

- (k) Erection of scaffolds up to fourteen feet (14') in height which are to be used by Employees, lathers and cement masons, and the planking of all scaffolds for concrete work.
- (l) On alteration jobs, the removal of wooden partitions, wood and concrete floors and rubbish connected therewith, is to be done by Employees.
- (m) When concrete is poured by mason tenders as per McAgnon Decision, the tending of cement masons, carpenters and lathers is to be done by Employees.
- (n) Stripping of all concrete forms shall be done as follows: stripping of all columns, beam sides and beam bottoms, wall and footing forms, flat arch forms of all types and construction, in fact all concrete forms on building construction shall be performed with an equal number of Employees and carpenters under the supervision of the carpenter foreman (Stripping of Concrete Forms Agreement between New York District Council of Carpenters and the Union dated May 31, 1956).
- (o) All concrete planks being set by hand shall be set by Employees.
- (p) With regard to concrete cylinders, where an Employer has contracted with a testing

laboratory to break cylinders and the Employer itself is to take the cylinders, store them in a curing box and load them on a truck for transportation to the testing laboratory, the Employee will continue to perform the services of taking the concrete from the truck to the cylinders, filling the cylinders, rodding the cylinders, placing them in the curing box and loading them on the truck for delivery to the testing laboratory. When an Employer has a contract with a testing laboratory to take and break cylinders for compressive strength, the Employee will take the material from the concrete truck and deliver it to the inspector for placing in the cylinders, and the cylinders will be under the care and protection of the testing laboratory's employee.

- (q) The erection, maintenance and use of safety equipment, safety nets, barricades and flagmen where cement and concrete work is involved shall be performed by Employees.
- (r) The unloading of all lumber, reinforcing steel and concrete used in the erection of all buildings shall be performed solely by Employees.
- (s) Employees shall also continue to do all work which they have performed in the past.
- (t) All materials that are used within the spectrum of the Cement and Concrete Workers

jurisdiction that are to be hoisted or to be moved with the use of any form of crane, shall be prepared by Cement and Concrete Workers when Cement and Concrete Contractor controls the crane.

- (u) All work performed in the past with reference to the erection, jumping, jacking and dismantling of a crane controlled by the employer shall continue to be performed by the employee.

Section 4. The union shall have jurisdiction over all reinforced concrete in all jobs, including alteration jobs, foundation building jobs and steel structures.

Section 5. When five (5) or more Employees are employed on a job site, an Employee will be designated or appointed by the Business Agent to handle coffee and lunch orders. When such Employee is not performing these duties, he will perform any assigned duties of an Employee assigned to him by the Foreman. With reference to discharge, Article IV, Section 4 shall apply.

ARTICLE VIII (Hours and Overtime)

Section 1. a) Seven (7) hours shall constitute a day's work between the hours of 8:00 A.M. and 3:30 P.M. with one-half (1/2) hour to be taken for

lunch between 12:00 noon and 12:30 P.M.

When working with dockbuilders on pile cap forms, Employees shall work the eighth (8th) hour at straight time. In the second year of the current Agreement, the parties will meet to discuss the implementation of an 8 hour day.

b) 8 Hour Day. For work below street level to the top of the foundation wall, not to exceed 2 ft. or 3 ft. above the sidewalk (brick shelf), when the Employer does both the foundation and the structure.

c) Flextime. Start at 7:00 A.M. or 8:00 A.M. with full crew, for men working with Local 46 metal lathers union. No other restrictions.

d) On all site work (which includes curbs, sidewalks and retaining walls) shall be an eight (8) hour day.

Section 2. No work shall be performed on Saturday, except in case of necessity or emergency, in which event notice shall be given to the Union before two (2:00) P.M. on the previous Friday, stating the number of Employees required to work and the job site of building where work is to be performed. Emergency work involving danger to life and/or property may be performed without the above notice being given.

Section 3. The following days shall be known as Holidays on which there shall be no performance

of any work except as set forth herein: New Year's Day, President's Day, Good Friday, Memorial Day, Independence Day, Labor Day, Columbus Day, Election Day (in Presidential election years only), Thanksgiving Day and Christmas Day.

If the Employees work the last regular work day before Christmas Day, or the last regular work day before New Year's Day, the work day will end at twelve (12:00) noon, but the Employees will be paid for a full seven (7) hour day. If the Employees are required to work after twelve (12:00) noon, they will be paid at overtime rates. The Employer is required to pay fringe benefit contributions to C&CWDC Fringe Benefit Funds, CLIAP, NYPFTCI, NYSLECET, LNHSF, BTEAPF, NYSLPAC and to deduct required working dues checkoff and organizer checkoff with respect to the three (3) hours of paid holiday time.

Section 4. Two (2) or three (3) shifts may be employed at rates as provided for in Article IX, Section 1. Where Employees are employed on shifts, the hours of employment must be broken up to allow time for meals. Where two (2) shifts are employed, one (1) of the shifts must be worked the established hours of the regular workday.

Section 5. Whenever Employees are required to work during the lunch hour break between twelve (12:00) noon to twelve-thirty (12:30) P.M., they shall be paid time and one-half for such work.

In that event, such Employees shall be provided with a twenty (20) minute lunch break within a reasonable time period.

Section 6. Double time shall be paid for work on Sundays and on Holidays as stated in Article VIII, Section 3.

Section 7. Time and one-half shall be paid for all overtime work performed before or after the first seven (7) regular hours of work in any twenty-four (24) hour day, except as otherwise provided herein and for all work on Saturdays.

(a) On shift work (work extending over a twenty-four (24) hour period), time and one-half shall be paid only for work performed on Saturdays and double time for work performed on Sundays and Holidays. Whenever an Employee works on more than one (1) shift in a twenty-four (24) hour day, he shall be paid at overtime rates after first seven (7) hours of work in accordance with the rates specified in this Article.

(b) Single time shall be paid for work tending salamanders. Such work performed between twelve (12:00) midnight Friday and twelve (12:00) midnight Sunday and on Holidays, however, shall be paid at time and one-half. Whenever an Employee works more than seven (7) hours on each shift tending salamanders, he shall be paid time and one-half for the additional work.

ARTICLE IX (Wages)

Section 1. The existing contract Agreement between the parties shall be amended as listed below and be effective from July 1, 2002 to June 30, 2005.

3 year Agreement – July 1, 2002 to June 30, 2005

Money Package – 1st year – \$2.00;

2nd year – \$2.00;

3rd year – \$2.00.

a) Subject to the Union's right of allocation as provided in Article IX, Section 1 (d) hereof, and effective July 1, 2002 wages shall be thirty-one dollars (\$31.00) and contributions to C&CWDC Fringe Benefit Funds shall be fourteen dollars and fourteen cents (\$14.14) per hour.

b) Subject to the Union's right to allocation as provided in Article IX, Section 1 (d) hereof, as effective July 1, 2003, wages and/or contribution to C&CWDC Fringe Benefit Funds shall be increased by two dollars (\$2.00) per hour.

c) Subject to the Union's right to allocation as provided in Article IX, Section 1 (d) hereof, and effective July 1, 2004, wages and/or contribution to C&CWDC Fringe Benefit Funds shall be increased two dollars (\$2.00) per hour.

d) The Union shall have discretion to allocate any of the above increases either to wages or to any C&CWDC Fringe Benefit Funds, except that the Union must comply with any request from the Trustees of C&CWDC Welfare Fund and/or C&CWDC Pension Fund to increase contributions to such Fund or Funds.

Section 2. a) Working Foremen shall be employed on a weekly basis except at the inception of employment.

b) The Employer is not restricted from paying a Working Foreman a higher wage rate, but the minimum wages for a Working Foreman shall be as follows: Effective July 1, 2002 the wage for Working Foreman and Assistant Foremen (Deputies) shall be \$31.00 per hour based on 35 hours plus overtime an additional \$60.00 per week and \$31.00 per hour based on 35 hours plus overtime plus an additional \$35.00 per week, respectively, with any subsequent increases equal to the increases of the prescribed rate for Cement and Concrete Workers.

c) Increments shall be identical to those specified in Article IX, Sections 1(b) and 1(c), and shall be allocated and/or reallocated by the Union.

Section 3. Any Employer who does not pay wages, overtime or double time or contributions to C&CWDC Fringe Benefit Funds, CLIAP,

NYPFTCT, NYSLECET, LNHSF, BTEAPF, NYSLPAC, or working dues checkoffs, and organizer checkoff as required by the Agreement, must employ only Employees referred from the Union.

Section 4. If during the term of the Agreement, wage controls are enacted in any form and any portion of wages are deferred, deleted or cut back, the Union reserves the right to allocate and/or reallocate, in whole or in part, any portion of such wages into C&CWDC Fringe Benefit Funds to the extent permissible under law.

Section 5. a) Wages shall be paid weekly on the job before three-thirty (3:30) P.M. on Fridays. The Employer shall make payment of all wages due in lawful currency. Payments shall be made in sealed envelopes and plainly marked showing the Employer's name and address printed or stamped, Employee's name, social security number, hours worked, amount earned and deductions required by law, and the net amount due. Any deductions from wages now or hereafter required by law shall be marked on the face of the envelope. The Employer or its representative(s) shall not be permitted to give any advance wages to Employees, nor shall it be permitted to lend money to Employees.

b) When wages are paid in lawful currency, they shall be due and payable during working hours

on Friday for work done up to quitting time of the preceding Tuesday. Should Friday be a bank holiday, wages shall be due and payable during working hours on Thursday for work done up to quitting time of the preceding Monday. If for any reason Employees are not working on pay day, the Employer shall make every reasonable effort to pay these Employees before twelve (12:00) noon. The Employer must pay wages before three-thirty (3:30) P.M. If the Employer finds that to pay off jobs on Friday is an undue hardship, upon request it shall be permitted to pay specified jobs on Thursday. The day designated, as the first payday in such instances shall be the prescribed payday until completion of the job.

c) Notwithstanding anything herein contained, the Employer shall have the right to make weekly payment of wages by check, provided:

- (i) all legal requirements are complied with;
- (ii) written notice by certified mail shall be given to the Union of an election to pay by check;
- (iii) payment shall be made by check bonded to guarantee against forgery;
- (iv) checks shall be delivered to Employees at least one (1) day preceding a banking day; and
- (v) in the event a wage check is not honored by the bank on which drawn for any

reason whatsoever, then the Employee affected thereby shall receive an extra two (2) days' pay for waiting time and such nonpayment shall be justification for withdrawal of members of the Union and shall be an exception to the provisions of the Agreement prohibiting the withdrawal of workers.

d) Where Employees are not on the job, for any reason for which the Employer is not responsible, when the paymaster is paying off the Employees, they may be sent to the main office for their pay but without allowance for the time spent in going to and from the office, but where the Employees are not on the job because of any reason for which the Employer is responsible, they shall be allowed one (1) hour with pay in going to the office for their pay. If the Employees are not paid as specified above, double time shall be paid for Friday between the hours of three-thirty (3:30) P.M. and five-thirty (5:30) P.M., and single time for waiting time thereafter until paid, not exceeding fourteen (14) hours, provided, however, that the Employees report to and remain on the job during the said fourteen (14) hours of waiting time.

e) Employers paying by check shall provide reasonable check-cashing facilities permitting the Employees to cash the check free of charge and without any loss of working time. Any Employer not now paying wages completely by check shall

give notice in writing to the Union at least two (2) weeks prior to the commencement of payment by check, such notice to include the proposed check-cashing arrangements. If such arrangements are not satisfactory to the Union they shall not be put into effect.

Section 6. An Employee who is discharged or laid off shall be given one-half (1/2) hour notice and shall be paid, in cash, at the Employer's time shanty. This does not apply to any temporary suspension of work during any pay week for reasons beyond the control of the Employer. An Employee who stops work of his own volition shall receive his pay on the following pay day, either on the job or at the Employer's office, at the Employer's discretion.

Section 7. Each Employer shall exhibit on demand by the Union satisfactory evidence that he is protected by Worker's Compensation Insurance.

ARTICLE X **(Checkoff and Political** **Action Committees)**

Section 1. a) The Employer shall deduct from the gross wages, subject to payroll taxes, of each Employee who has signed an Employee assignment authorizing the deduction of working dues checkoffs conforming to federal law, the sum of

(\$1.50) per hour as dues, and forty cents (\$.40) per hour for the Organizer fund which the Union has specified, or any additional sums per hour hereafter specified by the Union, and then transmit such sums to the Union (or to any agency designated by the Union for the collection of said sums), not later than one (1) week after said deduction. The sums transmitted shall be accompanied by a statement, in a form specified by the Union, reporting the name of each person whose working dues checkoffs and Organizer Fund checkoffs are being paid and the number of hours each Employee has been paid.

b) It is mutually agreed that the Employee assignments authorizing the deduction for working dues checkoffs shall be in blanket form conforming to federal law and filed with the Union. The Union agrees to indemnify and hold harmless the Employer from any and all claims and for actions arising out of such deduction provided that the working dues checkoffs have been paid over by the Employer to the Union.

Section 2. The Employer shall deduct five cents (\$.05) per hour for all hours worked, including overtime and double time hours, by Employees, including Working Foreman, from the gross wages, subject to payroll taxes, of each Employee who has signed to Joint Payroll Checkoff, conforming to all federal law, authorizing the deduction for contributions to the NYSLPAC, or

such other amount as specified in the Employee's Joint Payroll Checkoff authorization. The contributions shall be used for political purposes, including but not limited to, the support of candidates for Federal, State and Local office. Such sums deducted by the Employer shall be transmitted to the Union (or to any agency designated by the Union for collection of said sums), not later than one (1) week after said deduction. Such sums transmitted shall be accompanied by a statement, in the form specified by the Union, reporting such information as the Union shall require from time to time including a list of the names of those Employees for whom such deductions have been made and the amount deducted for each such Employee. The authorization and contributions by the Employee shall be voluntarily made and are not conditions of membership in the Union or of employment by the Employer. An Employee may contribute more or less than guideline amount suggested, or not at all, and shall not be favored or disadvantaged by the Union for doing so. The Employee assignment authorizing the deduction of wages as aforesaid may be revoked by an Employee in writing at any time.

ARTICLE XI

(Fringe Benefit Contributions)

Section 1. a) Subject to the Union's right to allocate all or part of the increases as provided in

Article IX, Section 1, hereof, the Employer shall pay \$5.61 per hour for all hours worked, including overtime and double time hours, by Employees, including Working Foremen, to the C&CWDC Welfare Fund for the purpose of providing medical, surgical, hospitalization, death and such other forms of group benefits for eligible Employees and the eligible dependents as the Trustees may determine. In addition, the Trustees shall provide coverage to conform with the New York State Disability Insurance law for all eligible Employees. Disability Insurance premiums shall not be deducted from the wages of any Employee.

b) Elected full-time officers of the Union and its constituent Local unions, and full-time employees of the Union, constituent Local Unions and the C&CWDC Fringe Benefit Funds shall be considered participants in the C&CWDC Welfare Fund and shall be eligible for all benefits provided contributions, as may be determined, are paid on their behalf.

Section 2. (a) Subject to the Union's right to allocate all or part of the increases as provided in Article IX, Section 1 hereof, the Employer shall pay \$3.26 per hour for all hours worked, including overtime and double time hours, by Employees, including Working Foremen, to the C&CWDC Pension Fund for the purpose of providing pensions and other benefits for eligible Employees

and their eligible dependents as the Trustees may determine.

b) Elected full-time officers of the Union and its constituent Local Unions, and full-time employees of the Union, constituent Local Unions and the C&CWDC Fringe Benefit Funds shall be considered participants in the C&CWDC Pension Fund and shall be eligible for all benefits provided contributions, as may be determined, are paid on their behalf.

Section 3. (a) Effective and retroactive to July 1, 2002 the C&CWDC Annuity Fund contribution rate shall be four dollars and fifty cents (\$4.50) per hour for all hours of labor worked by Employees Monday through Friday, except Holidays. Subject to the Union's right to allocate as provided in Article IX, Section 1 hereof, the Employer shall pay weekly four dollars and fifty cents (\$4.50) per hour for all hours worked, including overtime, by Employees, including Foremen, Monday through Friday for the purpose of providing annuity and other benefits to eligible Employees as the Trustees of the C&CWDC Annuity Fund may determine. For all hours worked on Saturdays, the Employer shall contribute to the C&CWDC Annuity Fund one and one-half (1½) times the regular hourly annuity contribution rate, which for the rate of \$4.50 per hour would be six dollars and (\$6.75) per hour. For all hours worked on Sundays and

Holidays, the Employer shall contribute to the C&CWDC Annuity Fund two (2) times the regular hourly contribution rate which for the rate \$4.50 per hour would be nine dollar (\$9.00) per hour.

b) Elected full-time officers of the Union and its constituent Local Unions, and full-time Employees of the Union, constituent Local Unions and the C&CWDC Fringe Benefit Funds shall be considered participants in the C&CWDC Welfare Fund and shall be eligible for all benefits provided contributions, as may be determined, are paid on their behalf.

Section 4. Training and Apprenticeship Fund. The Training and Apprenticeship Fund will be paid forty cents (\$.40) per hour on all hours worked, including overtime hours, by employees, including Working Foremen, to the Cement and Concrete Workers Training and Apprenticeship Fund for the purpose of providing training and apprenticeship and related benefits for those eligible as the Trustees may determine.

Section 5. a) Each Employer shall pay a contribution of ten cents (\$.10) per hour for all hours worked, including overtime hours, by Employees, including Working Foremen, to the New York State laborers-Employers Corporation and Education Trust (NYSLECET). Such contributions shall be paid to the Cement and

Concrete Funds office at the same time as contributions to these other Fringe Benefit Funds. The Trustees of the NYSLECET shall secure a determination of tax-exempt status under the Internal Revenue Code from the Treasury Department.

b) Each Employer shall pay a contribution of five cents (\$.05) per hour for all hours worked, including overtime hours, by Employees, including Working Foremen, to the Laborers National Health and Safety Fund (LNHSF). Said contributions shall be paid to the Cement and Concrete Funds office at the same time as contributions to these other Fringe Benefit Funds. The Trustees of the Laborers National Health and Safety Fund shall secure a determination of tax-exempt status under the Internal Revenue Code from the Treasury Department.

c) All amendments necessary to effectuate the foregoing shall be made in the trust documents, including provision that the concurrence of a majority of the Trustees of any of C&CWDC Fringe Benefit Funds shall be necessary for the approval of any action to be taken by such Trustees.

d) Benefit coverage shall also be provided by the C&CWDC Welfare Fund and the C&CWDC Pension Fund to eligible retirees.

Section 6. Each Employer shall post a surety bond to insure payment of contributions to the C&CWDC Fringe Benefit Funds as follows:

<i>Number of Members of Bargaining Unit</i>	<i>Amount of Bond</i>
Employers employing up to fifteen (15) Employees	\$50,000.00
Employers employing over fifteen (15) Employees	\$75,000.00

In lieu of a bond or as a supplement to a bond, an Employer may furnish a cash alternative in the amount of the bond required herein in full satisfaction of this bonding required.

b) When an Employer bound by the Agreement owes the C&CWDC Fringe Benefit Funds an amount greater than the face amount of its surety bond, the surety bond must be increased to cover such indebtedness. If this is not done, it shall be mandatory for the Union to remove all members in the bargaining unit from the employ of that Employer.

c) The trustees of the C&CWDC Fringe Benefit Funds shall have the right to request any Employer to increase the amount of its surety bond whenever they deem it necessary for the protection of the C&CWDC Fringe Benefit Funds.

d) Each party of a Joint Venture shall furnish the C&CWDC Fringe Benefit Funds, with a rider

from the respective surety company, confirming that their respective bond protects the C&CWDC Fringe Benefit Funds during the period of the Joint Venture.

Section 7. Whenever an Employer is in default on payments to any of the C&CWDC Fringe Benefit Funds, NYSLECET, LNHSF, BTEAPF, CLIAP, NYPFTCI, NYSLPAC or working dues checkoffs and the Organizer Fund, Training and Apprenticeship Fund, and reasonable notice of such default is given to the Employer, and if the payments are not made, the Union may remove Employees covered by the Agreements from the work of such Employer. If Employees are withdrawn from any job in order to collect contributions to any of the C&CWDC Fringe Benefit Funds, NYSLECET, LNHSF, BTEAPF, CLIAP, NYPFTCI, or to enforce the requirements of the Agreement that working dues checkoffs, the Training and Apprenticeship Fund, the Organizer Fund and/or NYSLPAC contributions be deducted from the wages of Employees, or to enforce payment over to the Union of working dues checkoffs, the Training and Apprenticeship Fund, the Organizer Fund and/or NYSLPAC contributions already deducted from the wages of Employees, the Employees who are affected by such stoppage of work shall be paid for lost time, provided that three (3) days a notice of the intention to remove Employees from a job is given to the Employer by the Union by certified mail.

Section 8. a) Payments by the Employer to the C&CWDC Welfare Fund, the C&CWDC Pension Fund, and the C&CWDC Annuity Fund and the C&CW Training and Apprenticeship Fund, NYSLECET, LNHSF, BTEAPF, CLIAP, NYPFTCI, NYSLPAC and working dues checkoffs and the Organizer Fund shall be accompanied by a reporting form provided by the C&CWDC Fringe Benefit Funds. The reporting form shall provide space for the name of the Employees, their respective social security number and number of hours worked, and such other further data as the Trustees may from time to time determine in their sole discretion to be necessary. Employer books and records shall be made available upon demand at all reasonable times for inspection and audit by, but not limited to, the accountant, outside independent auditors or other representatives of the Trustees of any of the C&CWDC Fringe Benefit Funds. The Employer shall be required to disclose upon such audits all payrolls and payroll ledgers including office payrolls, yard payrolls, New York payrolls, New Jersey payrolls, computer payroll printouts, W-2 forms, quarterly payroll tax returns (Form 941), quarterly state payroll tax returns (Forms WRS-2 and WRS-30), annual federal and state tax returns, journals, purchase journals, New York State employment records, insurance company reports, employer remittance reports, payroll and supporting checks, ledgers, vouchers 1099

forms, evidence of unemployment insurance contributions, payroll tax deductions, disability insurance premiums, certification of workers compensation coverage, checks in support of any governmental filings or tax payments, remittance reports and checks in support thereof and any other documentation concerning payment of fringe benefit contributions for hours worked by Employees remitted to multi-employer fringe benefit funds other than the C&CWDC Fringe Benefit Funds described herein, and any other items concerning payrolls. In addition, the aforementioned books and records of any affiliate, subsidiary, alter ego, joint venture or other related company of the Employer shall also be made available to all reasonable times for inspection and audit by, but not limited to, the accountants, outside independent auditors or other representatives of the Trustees of the C&CWDC Fringe Benefit Funds.

b) The Employer shall retain, for a minimum period of six (6) years, payroll and related records necessary for the conduct of a proper audit in order that a designated representative of the Trustees may make periodic review to confirm that contributions owed pursuant to the Agreement are paid in full. 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 weekly hours subject to the

contributions for each month of the requested audit period are the highest number of Employee hours for any month during the twelve (12) preceding months audited, or paid, or during the last twelve (12) months for which reports were filed, whichever monthly number of hours is greater. If the hours reported by Employees exceed such amount, the hours reported by such Employees shall be used as the criterion of delinquency. Such determination by the Trustees shall constitute presumptive evidence 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 the C&CWDC Fringe Benefit Funds relinquish their right to commence legal proceedings to compel an examination of the Employer's books and records for audit.

c) When auditors are sent to audit the books and records of the Employer and a definite appointment is scheduled and the auditor cannot start at the appointed time and date and must return, or when complete payroll records required herein are not furnished, then the Employer shall be penalized and shall pay to the C&CWDC Fringe Benefit Funds the sum of three hundred dollars (\$300.00) per auditor to cover the expense of the auditor(s).

d) It shall be a violation of the Agreement for any Employer to fail to furnish proper books and records when requested for the purpose of completing an audit. The Union shall have the right to remove all its members from the different Employer, provided that three (3) days notice of the intention to remove Employees from a job is given to the Employer by the Union by certified mail. If such members who are removed remain on the job site during regular working hours, they shall be paid for lost time.

e) The President, Vice President, Secretary-treasurer, individual partner, employee of the partnership, officer, stockholder, proprietor or employee of the corporation, company, joint venture or proprietorship acknowledges that he or she is vested with the authority and control over the submission of reports and/or payment of contributions to the C&CWDC Fringe Benefit Funds and acknowledges that he or she shall be personally or individually obligated to submit the required reports and/or pay the required contributions to the C&CWDC Fringe Benefit Funds for all work performed by Employees.

f) In the event the Employer does not make timely payments of contributions to the C&CWDC Fringe Benefit Funds required herein, it is agreed that the Employer shall be liable for the payment of such contributions and dues checkoffs with interest of eighteen percent (18%) per annum plus

liquidated damages of twenty percent (20%) of the amount owing and all costs including, but not limited to, reasonable audit and accounting expenses, witness cost, attorney's fees and court costs. The Employer acknowledges and understands that the above liquidated damages are cumulative and are required to protect the fiscal integrity of the C&CWDC Fringe Benefit Funds. Where collection of payment is made pursuant to a judgement against the Employer, the Employer recognizes the Trustees' right to receive liquidated damages, interest, costs of attorneys' fees provided for pursuant to the civil enforcement provisions of the Employee Retirement Income Security Act, as amended. The Employer shall be liable for any of the above listed liquidated damages, interest, cost of fees for which its subcontractor may be liable.

g) Where payment is made or an audit is conducted pursuant to a judgment or court order, the Employer recognizes the right of the Trustees of the C&CWDC Fringe Benefit Funds to have the court enter an order permanently enjoining the Employer and its agents, representatives, directors, officers, stockholders, employees, successors and assigns, for the remaining term of the Agreement from failing, refusing or neglecting to submit the required employer remittance reports and/or to pay the required contributions to the C&CWDC Fringe Benefit Funds and requiring the Employer to cooperate in an audit in accordance with the

provisions of the Agreement. In consideration of the Agreement, the Employer represents and warrants that it will not raise any defense, counterclaim or offset to the Trustees' application for this order.

h) The Employer recognizes that when a payment of contributions to the C&CWDC Fringe Benefit Funds pursuant to the Agreement is made by check or other negotiable instrument which is returned uncollected, the C&CWDC Fringe Benefit Funds incur additional cost and expense. The Employer hereby agrees that in the event any payment to the C&CWDC Fringe Benefit Funds by check or other negotiable instrument results in the check or negotiable instrument being returned without payment after being duly presented, the Employer shall be liable for additional damages in the amount of one hundred (\$100.00) dollars to cover such additional costs, charges and expenses. Nothing herein is intended, nor shall it be interpreted, to mean that the C&CWDC Fringe Benefit Funds or the Union waive any other liquidated damages required to be paid pursuant to the Agreement in the event the Employer's contributions to the C&CWDC Fringe Benefit Funds are not paid in full or at the time required.

i) Any Employer who is delinquent in paying its weekly contributions to the C&CWDC Fringe Benefit Funds shall pay nine percent (9%) interest on all late payments and/or any other rate of

interest or amount as may be determined by the Trustees of the C&CWDC Fringe Benefit Funds.

j) Any Employer whose account with any of C&CWDC Fringe Benefit Funds is found upon regular or special audit ordered by the Trustees of any of the C&CWDC Fringe Benefit Funds to be substantially delinquent, may be charged the full cost of such audit and the Trustees of the various C&CWDC Fringe Benefit Funds shall be empowered to charge interest on delinquent contributions at such rate as they in their discretion may determine.

k) All payments of contributions to the C&CWDC Fringe Benefit Funds, unless otherwise provided in the Agreement, shall be paid on a weekly basis for the week immediately preceding in one (1) check to be allocated to the C&CWDC Fringe Benefit Funds in accordance with the terms of Agreement.

l) Any delinquent Employers shall be required to pay all contributions to the C&CWDC Fringe Benefit Funds on a weekly basis. Such requirements shall be determined by the Trustees of the C&CWDC Fringe Benefit Funds.

m) The Union shall not permit Employees to work for any Employer or any person who as an individual, partner or employee of a partnership, or as an officer, stockholder, or employee of a corporation owes wages to Employees or

monies payable to the C&CWDC Fringe Benefit Funds, NYSLECET, LNHSF, BTEAPF, CLIAP, NYPFTCI, and/or NYSLPAC or working dues checkoffs, Training and Apprenticeship Fund and Organizer Fund payable to the Union as provided in the Agreement and who thereafter seeks to employ of another partnership or as an officer, stockholder or as an employee of another corporation or as a joint venturer.

ARTICLE XII

(Industry Advancement Funds)

Section 1. The Employer shall pay a contribution of twenty cents (\$.20) per hour for every hour worked by the Employees to CLIAP. Such contribution shall be paid to the C&CWDC Fringe Benefit Funds.

Section 2. The Employer shall pay a contribution of thirty (\$.30) cents for every hour worked by the Employees to the Cement and Concrete Workers District Council (C&CWDC) Fringe Benefit Funds for administrative cost of the trust fund. This contribution will be increased to forty (\$.40) cents on July 1, 2003 and increased to fifty (\$.50) cents on July 1, 2004.

Section 3. The Employer shall pay a contribution of one cent (\$.01) per hour for every hour worked by the Employees to NYPFTCI. Every Employer covered by the Agreement shall

contribute one cent (\$.01) per hour for every hour worked by the Employees to the BTEAPF. Such contributions shall be paid to the C&CWDC Fringe Benefit Funds.

Section 4. The Employer hereby agrees to be bound by the Agreements and Declarations of Trust establishing CLIAP, and NYPFTCI, BTEAPF respectively, as though it had actually signed the individual documents and further agrees to be bound by all actions taken by the Trustees of BTEAPF, CLIAP and NYPFTCI pursuant to the Agreements and Declarations of Trust, as they may be amended from time to time, and their respective Plans, and by all by-laws, rules and resolutions adopted to regulate BTEAPF, CLIAP and NYPFTCI.

Section 5. All Employer contributions to BTEAPF, CLIAP and NYPFTCI shall be remitted weekly to the office of the C&CWDC Fringe Benefit Funds. The C&CWDC Fringe Benefit Funds shall deliver all such contributions received to BTEAPF, CLIAP, and NYPFTCI, verifying that the amount of each such contribution has been correctly computed by the Employer. The C&CWDC Fringe Benefit Funds shall advise the Union and the Trustees of BTEAPF, CLIAP and NYPFTCI, respectively, whenever an Employer shall be in default in the payment of contributions due to CLIAP and/or NYPFTCI under the Agreement.

Section 6. a) The third Cement and Concrete Worker shall be selected by the Employer and the fourth Cement and Concrete Worker shall be referred to the Employer by the Union. Thereafter, for each additional Cement and Concrete Worker selected by the Employer, one Cement and Concrete Worker shall be referred by the Union in the event additional Cement and Concrete Workers are required so that a balance shall be maintained from that point forward of fifty (50%) percent of the Cement and Concrete Workers selected by the Employer and fifty (50%) percent referred to the Employer by the Union.

b) The Employer shall have the absolute right to reject any job applicant or applicants referred by the Union. In the event of such rejection, the Employer shall notify the Union. The Union may then refer another applicant or applicants to the Employer until the number of Cement and Concrete Workers required to maintain the 50% - 50% balance are employed by the Employer.

c) The Employer shall have the absolute right at any time to discharge any Cement and Concrete Workers except that after initially employing a Cement and Concrete Worker referred by the Union, such Worker shall be given a minimum of two (2) hours of employment. Further, whenever the Employer discharges a Cement and Concrete Worker referred by the Union, the Union shall be notified. The Union may then refer a replacement

applicant to the Employer in order to maintain the 50% – 50% balance pursuant to Section 5 (b) above.

d) Notwithstanding any of the provisions of this Article XII, when the Employer's work force is reduced to four (4) Cement and Concrete Workers (the Shop Steward and three (3) other Cement and Concrete Workers), the 50% – 50% balance shall no longer apply and the Cement and Concrete Workers shall be selected solely by the Union. In the event that the work force is again increased, the 50% – 50% ratio will be applied.

Section 7. Neither the Union nor the Trustees of C&CWDC Fringe Benefit Funds shall have any obligation of responsibility for the collection of such Employer contributions.

ARTICLE XIII

(Working Foreman, Shop Stewards, Job Referral Procedures and Union Representatives)

Section 1. When eight (8) or more Employees are employed on a job, one (1) Employee shall be designated as the Working Foreman who shall be a member of the Union as selected by the Employer.

a) Reasonable time is allowed for morning and afternoon coffee breaks.

Section 2. When a Working Foreman is employed, the Working Foreman shall have the

right to hire and discharge Employees.

Section 3. The Working Foreman shall be the agent of the Employer and shall not be tried for any act as the Working Foreman without due notice of a trial accompanied by a written statement of the charges against him by being given to the Joint Trade Arbitration Board.

Section 4. To effect the observance of the Agreement, each job shall have a Shop Steward appointed as follows: the second Employee on every job shall be appointed by the Union. The Shop Steward shall attend to the interests of the Union. Reasonable time shall be permitted for the performance of such duties. At other times, he shall perform the work assigned to him. The first Laborer on the job site shall be referred by the Employer. There shall be a Job Steward who will be appointed by the Union or its Representatives to attend to the interest of the Union, and for the performance of such duty, the Employer shall allow reasonable time. When the Shop Steward has completed his work on behalf of the District Council, he shall perform any work within his trade assigned to him by the Employer.

Section 5. The Shop Steward shall determine that all Employees on the job are employed in accordance with the Agreement. The Shop Steward shall see that the classification of trade as defined

herein is observed and that other all terms of the Agreement are complied with. The Shop Steward shall perform his duties as Shop Steward with the least inconvenience to the Employer as possible. The Shop Steward shall be one (1) of the last two (2) Employees on the job site, including the Foreman, and shall always be the second Employee employed for overtime and double time work. There shall be no discrimination by the Employer against an Employee because of his duties as Shop Steward.

Section 6. The President of the Union, Business Managers and Field Representatives of the constituent Local Unions shall not be interfered with for any reason whatsoever when visiting any operation where Employees are employed. The Union's representatives shall comply with all general conditions of the job regarding passes, entrances to be used, etc.

Section 7. No Shop Steward or Employee shall be discharged for inquiry regarding the Union cards of the Employees working on any job.

Section 8. All Employees shall be employed in accordance with the Agreement. If any Shop Steward shall be wrongfully discharged for performing his duties as provided in the Agreement and such discharge is determined to have been unjustified, the Shop Steward shall be paid for all lost time.

ARTICLE XIV **(Working Conditions)**

Section 1. Where an Employee works on more than one (1) job for an Employer during the same day, the Employer shall reimburse the Employee his carfare to travel between jobs or shall supply the transportation. Any Employee transferred from one (1) job to another during working hours shall be paid for time actually spent traveling.

Section 2. a) The Employer is to provide a shanty satisfactory to the Joint Trade Arbitration Board in every new building or alteration subject to their control, on which they are doing work.

b) A satisfactory shanty shall have the door hung in such a way that the hinges cannot be taken off while the door is closed, without breaking the door. The lock must be a mortise or a safety hasp which covers all screws; in any case it must be impossible to open the door without breaking it or the lock. Keys to said shanty shall be provided which shall not be master-keyed to other locks belonging to the Employer. One (1) of these keys shall be held by the Job Steward, one (1) by the Foreman in charge of the Employees and one (1) by the Employer or his designated agent.

c) An Employer who has complied with the requirements of this Section is only responsible for loss of clothing due to the burning, storm or forcible entry of the shanty and such liability shall be limited to a sum not to exceed:

\$150.00 for overcoat

\$150.00 for clothing and

\$100.00 for shoes

Upon the submission of proper proof of loss to the Joint Trade Arbitration Board.

Section 3. The Employer shall supply on the jobs all tools, including overshoes or boots, and raincoats, if required in performing the work covered by this Agreement. The employee shall be responsible for work clothes, work boots, and hard hats.

Section 4. Scoop shovels shall not be used in handling concrete, cement mortar, gravel or broken stone.

Section 5. The Employer agrees to furnish an adequate supply of potable drinking water on all jobs.

Section 6. Wheelbarrows or concrete carts used in handling concrete shall not have their sides extended or built up. A Lansing F-4½ wheelbarrow and a Lansing K-1 or K-4 concrete cart (or any

similar make of wheelbarrow or cart of equal capacity) shall be considered standard. In the handling of concrete mixtures, etc., in concrete carts, the amount carried shall not exceed the rated capacity of the cart. In the handling of cinder concrete, in wheelbarrows, same shall not be loaded in excess of 4½ cubic feet.

Section 7. Whenever a platform hoist is used on a job for hoisting lumber, reinforcing steel and all cement and concrete materials, the Employer shall be required to employ two (2) Cement and Concrete Workers to ring signal bells.

Section 8. While concrete is being placed, all individual sections of concrete runs shall be handled by Employees working in pairs.

Section 9. *Neither party during the life of this Agreement is to adopt any by-law or attempt to enforce any working rule or regulation which is contrary to any of the clauses in this Agreement. Neither party shall attempt to enforce any working rules which have not been approved by the Joint Trade Arbitration Board.*

Section 10. The Employer, the Employees, or the agents of either shall not accept or give directly or indirectly any rebates on wages or give or accept gratuities or give anything of value or extend any favor to any person for the purpose

of effecting any change in rate of wages. The Employer or its agents shall not be permitted give any advance in wages to the Employees, nor shall they be permitted to lend money to the Employees.

Section 11. It is agreed that the rates of wage and the hours to be worked each day, to be established by agreement, for one (1) and two (2) family house construction, shall in no way affect the terms of the Agreement.

Section 12. The consumption of intoxicating beverages or drugs on a job site is prohibited and violation of this rule is sufficient reason for dismissal.

Section 13. The Employer shall make reasonable provision for the safety of all Employees during working hours and at the place of their employment. The Employer shall comply with the regulations and rules of the Department of Labor of the State of New York, of the Building Department of the City of New York, of the Occupational Safety and Health Administration of the United States of America and of all other federal and state governmental bodies.

Section 14. The amount of work that an Employee represented by the Union may perform shall not be restricted by the Union, nor the representatives, officers or members of the Union, nor

shall the use of machinery, tools, appliances or methods be restricted or interfered with. This Agreement is based on the principle that the Employer is entitled to seven (7) hours work for seven (7) hours pay. Any unreasonable failure to work these hours gives the Employer the right to pay only for the hours worked.

ARTICLE XV **(Strikes and Lockouts)**

Section 1. The Union may call or sanction a strike for the Employer's failure to comply with any term or condition of this Agreement. No Employer shall lock out any members of the Union working under the jurisdiction of this Agreement. The Union shall not be responsible for any unauthorized strike or its result.

Section 2. When the Union, upon investigation, finds that the Employees on any job are being paid less than the rate of wages prescribed in the Agreement, they shall, provided that three (3) days notice of the intention to remove Employees from a job is given to the Employer by the Union by certified mail, be entitled to withdraw the Employees from such job. No damages of any kind or nature shall be awarded or allowed against the Union, its constituent Local Unions, or any officer or member thereof by reason of the withdrawal of members of the Union from a job.

Section 3. The foregoing does not deny the right of the Union to render assistance to other labor organizations by removing members from jobs, when combined action by all trades is officially ordered, but no removal contemplated by this section shall take place until formal written notice is first given to the Employer.

ARTICLE XVI (Disputes and Trade Board)

Section 1. All complaints, disputes or grievances between the Employer and the Union or between any Employer and any Employee, involving solely questions or interpretation or application of any clause of the Agreement, except claims, disputes and demands arising out of the Employer's fringe benefit contribution obligations set forth in the Agreement, shall be referred to the Joint Trade Arbitration Board ("Joint Trade Arbitration Board") established by The Cement League ("Association") and the Union as set forth in the collective bargaining agreement between them. Should the Joint Trade Arbitration Board fail to reach a decision within three (3) weeks of the submission of the complaint, dispute or grievance, the matter shall be submitted in writing by either party to the American Arbitration Association for hearing and decision before an Impartial Arbitrator selected from the Labor Panel of the American Arbitration Association. The decision of the

Impartial Arbitrator shall be final and binding upon the parties. Costs shall be borne equally by the parties.

Section 2. The terms and conditions of the collective bargaining agreements entered into between the Association and the Union pertaining to the resolution of complaints, disputes or grievances shall be effective and binding on the Employer as if the Employer were a member of the Association.

Section 3. Any Union member of the Joint Arbitration Trade Board directly involved in any case brought before the Joint Arbitration Trade Board, shall withdraw from the Joint Arbitration Trade Board until the case is settled and an alternate shall be selected by the remaining Union members to fill the temporary vacancy.

Section 4. Until a decision shall have been rendered, neither party shall take any action of any nature as to the complaint, statement or matter in question.

ARTICLE XVII

(Trade and Jurisdictional Disputes)

Section 1. Subject to appeal by the Union to the Building Trades Department of the American Federation of Labor, disputes between trades and disputes relative to questions of jurisdiction of

trade shall be adjusted in accordance with the method set forth in the "New York Plan for the Settlement of Jurisdiction Disputes."

ARTICLE XVIII **(Validity)**

Section 1. It is further agreed by and between the parties hereto that if any Federal or State Court shall at any time decide that any clause or clauses of the Agreement is, or are void or illegal, such decision shall not invalidate the other portions of the Agreement, but such clause or clauses shall be stricken out and the remaining portions of the Agreement, but such clause or clauses shall be stricken out and the remaining portions of the Agreement shall be considered binding between the parties hereto. Nothing contained in the Agreement shall be construed to prevent any one (1) or more individual Employees from pursuing whatever civil or criminal remedies they may have under the law for the collection of their wages, or any part thereof.

Section 2. Any provisions of the Agreement herein above 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 law 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 Agreement shall immediately become and remain effective during the remainder of the term of the Agreement. The Union reserves the right to renegotiate any of the provisions of the Agreement which may be of no force or effect, or to declare the entire Agreement null and void and of no further force or effect whatsoever.

ARTICLE XIX

(Miscellaneous)

Section 1. No Employer shall enter into a contract with any other person, partnership, firm, corporation or joint venture to perform bargaining unit work on a job site unless such other person, partnership, firm, corporation or joint venture has signed an Agreement with the Union or is a member of an association which has signed an Agreement with the Union.

Section 2. If an Employer covered by this Agreement or any such owner or principal forms or acquires by purchase, merger or otherwise, an interest, whether by ownership, stock, equitable or

managerial, in another company, corporation, partnership or joint venture, performing bargaining unit work within this jurisdiction, this Agreement shall cover such other operation and such other bargaining unit Employees shall be considered an accretion to the bargaining unit.

Section 3. All Employees, at the termination of their employment, shall receive from the Employer the New York State Record of Employment Form 1-A within twenty-four (24) hours of their dismissal.

Section 4. The caption and section headings contained herein are for the purposes of convenience only and in no matter shall limit or be used to define or interpret the Agreement.

ARTICLE XX

(Retroactivity)

It is mutually agreed that all wages, contributions to C&CWDC Fringe Benefit Funds, NYSLECET, LNHSF, BTEAPF, CLIAP, NYPFTCI, NYSLPAC, working dues checkoffs and the Organizer Fund and the Training and Apprenticeship Fund and conditions provided for in the Agreement shall be retroactive to July 1, 2002.

ARTICLE XXI

(Duration)

The Agreement is effective for the period commencing July 1, 2002 and shall terminate on June 30, 2005.

ARTICLE XXII

(Renewal)

Section 1. The Agreement shall be deemed to be, and shall be automatically extended and renewed from year to year by and between the parties hereto for further one (1) year terms upon all of the above terms, conditions and covenants, unless either party gives written notice to the other not less than sixty (60) calendar days and not more than ninety (90) calendar days prior to the then expiration date of the Agreement of its desire to amend, change or terminate the Agreement on its expiration date. *In the event such notice is given, the parties shall begin negotiations within forty-five (45) calendar days. If negotiations are not completed prior to the expiration date, the Agreement shall be extended by mutual agreement of the parties.*

Section 2. All notices, requests, demands and other communications which are required to be or may be given under the Agreement shall be in writing and shall be deemed to have been duly given when delivered in person or three (3) days

after dispatch by certified mail, postage prepaid, return receipt requested, to the party to whom the same is so given or made, if to the Union, addressed to the DISTRICT COUNCIL OF CEMENT AND CONCRETE WORKERS, 30-56 Whitestone Expressway, Flushing, NY 11354 and if to the Employer, addressed to the Employer at the corporate address set forth in the Agreement, or at such other address as either parties, given as aforesaid.

ARTICLE XXIII (Complete Agreement)

Section 1. There are no representations, agreements, arrangements or understandings, oral or written, between the parties relating to the subject matter of the Agreement which are not fully expressed in the Agreement.

Section 2. The Agreement supersedes all prior agreements and understandings between the parties and constitutes the entire agreement of the parties with respect to the subject matter hereof.

Section 3. No provision of the Agreement shall be modified, amended or terminated except by a writing specifically referring to the Agreement and signed by all of the parties hereto.

Section 4. The Agreement constitutes the entire agreement between the parties and concludes

all collective bargaining negotiations for full term hereof and any automatic extensions and renewals thereof. It is agreed that all matters desired by any of the parties have been presented, discussed and incorporated herein or rejected. Accordingly, except to the extent expressly stated to the contrary in Article XXIII, Section 3 hereof, it is agreed that for the term of the Agreement, each party hereto voluntarily, unqualifiedly and irrevocably waives the right, and each agrees that the other shall not be obligated to bargain collectively with respect to any subject or matter, whether or not referred to in the Agreement.

Section 5. No agreement entered into by the Employer or any other employer and the Union or any other unions shall in any way affect, supersede or modify the Agreement.

ARTICLE XXIV

(Benefit)

The Agreement shall be binding upon and shall inure to the benefit of each party hereto, its successors and assigns, and any successor thereto resulting from a merger, consolidation or other reorganization or restructuring regardless of changes of name, style or address of the Employer. It is understood that the parties hereto shall not use any sale, transfer, lease, assignment, receivership, or bankruptcy to evade the terms of the Agreement.

ARTICLE XXV
(Effectuating Clause)

IN WITNESS WHEREOF, the parties hereto have caused the Agreement to be signed the day and year above written by their duly authorized officers and represent to each other that they were signatory to the Agreement, hereby acknowledges by its signature receipt of copies of the Amendments and Declarations of Trust of the C&CWDC Fringe Benefit Funds, NYSLECET, LNHSF, BTEAPF, CLIAP, NYPFTCI, and NYSLPAC.

ARTICLE XXVI
(Signature)

The individual signing on behalf of the Employer hereby affixes his signature in a dual capacity both on behalf of himself and on behalf of the Employer and represents by his signature his authority to bind himself, the Employer or Firm and the principals and members thereof. The person signing on behalf of the Employer also agrees to be personally bound by and to assume all obligations of the Employer provided for in this Agreement.

Employer _____

Name _____

Signature _____

Corporate Address _____

Telephone No. () _____

Fed. I.D. # _____

Individual Address _____

Telephone No. () _____

S.S. # _____

Accepted By:

DISTRICT COUNCIL OF CEMENT AND
CONCRETE WORKERS

COMPRISED OF LOCAL NO. 6-A,
LOCAL NO. 18-A AND LOCAL NO. .20

AFFILIATED WITH
LIUNA

By: _____

Barry Kaplan, President