

**2003**

74.09  
30,000 WORKERS

**Apartment Building  
AGREEMENT**

BETWEEN

REALTY ADVISORY BOARD  
ON LABOR RELATIONS  
INCORPORATED

AND

Service Employees  
International Union, Local 32BJ  
AFL-CIO

EFFECTIVE APRIL 21, 2003  
TO APRIL 20, 2006



103 pages

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AGREEMENT made as of the 21st day of April, 2003, by and between the REALTY ADVISORY BOARD ON LABOR RELATIONS, INCORPORATED, herein called the "RAB," acting on behalf of various owners of apartment buildings and other employers who become signatory to this agreement, herein severally referred to as "Employer," and the SERVICE EMPLOYEES INTERNATIONAL UNION, LOCAL 32BJ, AFL-CIO, herein referred to as the "Union," acting on behalf of its members and other building service employees to whom this agreement applies and for whom it is the collective bargaining agency.

## **ARTICLE I**

### **Union Recognition and Union Security**

1. The Union is recognized as the exclusive collective bargaining representative of all classifications of service employees at each apartment building in New York City, Nassau, Suffolk, Dutchess, Sullivan, Putnam, Rockland and Westchester counties in New York, Connecticut and New Jersey from Route 195 north, which is committed to this Agreement.

Work performed pursuant to the terms of this collective bargaining agreement shall not be performed by persons not covered by the bargaining agreement except as provided in Article II.



2. This Agreement shall apply to all classifications of service employees employed by the Employer. Article II of this Agreement shall also apply to employees of cleaning and maintenance contractors who employ employees in any building committed to this Agreement working in any job category covered by this Agreement.

3. There shall be a Union Shop throughout the term of this Agreement in every building where there was a Union Shop under the 2000 Apartment House Agreement and in other buildings whenever it is agreed or determined that a majority of the employees in such buildings are members of or have applied for membership in the Union.

The "Union Shop" requires membership in the Union by every employee in the building as a condition of employment after the thirtieth day following employment or the execution date of this agreement, whichever is later, or in the case of newly organized buildings, after the thirtieth day following agreement or determination that a majority of the employees in such buildings are members of or have applied for membership in the Union, and requires that the Union shall not ask or require the Employer to discharge or otherwise discriminate against any employee except in compliance with law.

In the event the Union security provision of this agreement is held to be invalid, unenforceable or of no legal effect generally or with respect to any building because of interpretation or a change of federal or state statute, city ordinance or rule or decision of any government administrative body, agency or subdivision, the permissible Union security clause under such statute, decision or regulation shall be enforceable as a substitute for the Union security clause provided for herein.

4. Whenever the Union files with the RAB and the Employer a claim that a majority of the employees in a building are members of or have made application for membership in the Union, the Union Shop requirement shall be made effective within fifteen (15) days thereafter, unless the Employer or the RAB within ten (10) days, notifies the Union that it requires a determination of that claim.

5. Upon receipt by the Employer of a letter from the Union's Secretary-Treasurer requesting any employee's discharge because he has not met the requirements of this Article, unless the Employer questions the propriety of so doing, he shall be discharged within fifteen (15) days of said notice if prior thereto he does not take proper steps to meet said requirements. If the Employer questions the propriety of the discharge, he shall immediately submit the matter to grievance, and if not thus settled, to

the Arbitrator for final determination. If it is finally settled or determined that the employee has not met the said requirements, he shall be discharged within ten (10) days after written notice of the final determination has been given to the RAB and the Employer.

The Employer shall be responsible for unpaid dues after receipt of notice provided for in this section and exhaustion of contractual remedies. The Employer's obligation shall begin fifteen (15) days after such notice or, if the Employer questions the discharge, after the final determination of the arbitrator.

6. The Union will hold the Employer harmless from any liability arising from a discharge asked by the Union pursuant to this Article provided the Employer has done nothing to cause or increase its own liability concerning removal of employees.

7. No building service employee may be employed in any building, except within a tenant's apartment, save by the Employer, without the consent of the Union.

8. During any period in which it is not established that a majority of the employees in a building are members of, or have made application for membership in the Union, it is agreed that all employees who, upon the date this agreement is signed for their building, are members of the Union in good standing in

accordance with the Constitution and By-Laws of the Union, and all employees who thereafter become members shall, as a condition of employment, remain Union members in good standing during the life of the agreement.

9. Upon execution of this Agreement the Employer shall furnish the Union and the RAB with a complete list of the names, social security numbers and home addresses and job location of all employees covered by this Agreement and shall notify the Union and the RAB of the names and social security numbers and home addresses and job location of each new employee thereafter employed.

The Employer shall notify the Union and the RAB in writing, as soon as a cancellation of an account becomes effective where Union members are employed and the Employer shall notify the Union when he acquires a new building service job.

10. The Union shall have the right to inspect the Employer's Social Security reports and all payroll records (except the salary of the nonunion Supervisors) in order to determine if this agreement is being complied with. The Union shall have the right to expedited arbitration in the event an Employer fails to comply with this right of inspection. Inspections may also be made by the Union or the Arbitrator at the request of the RAB. The

RAB may join the Union at all times, when such examination is made. All Benefit Trust Funds established under this agreement shall have the same right to inspect as the Union but shall also have the right to inspect Supervisor's payroll records where Supervisors are covered by such Funds.

11. Each Employer agrees to deduct the Union's monthly dues, initiation fees, and all legal assessments from the pay of each employee from whom it receives written authorization and will continue to make such deductions while the authorization remains in effect.

The Employer hereby agrees to deduct voluntary political contribution deductions based upon authorizations signed by the employees in accordance with applicable law.

Such deductions will be made from the pay for the first full pay period worked by each employee following the receipt of the authorization, and thereafter will be made the first pay day each month, and forwarded to the Union not later than the twentieth day in each and every current month. Such deductions shall constitute trust funds while in the possession of the Employer.

If the Employer fails to remit to the Union the dues deducted in accordance with this section by the twentieth day, the Employer shall pay

interest on such dues at the rate of one percent per month beginning on the twenty-first day, unless the Employer can demonstrate the delay was for good cause due to circumstances beyond its control.

If a signatory does not revoke the authorization at the end of a year following the date of authorization, or at the end of the current contract, whichever is earlier, it shall be deemed a renewal of authorization, irrevocable for another year, or until the expiration of the next succeeding contract, whichever is earlier.

The Union agrees to indemnify and save such Employer and the RAB harmless from any liability incurred by reason of such deductions.

12. Nothing in this Article shall be construed as an admission that the Employer or his employees in any particular building are engaged in interstate commerce, in an activity affecting interstate commerce, in the production of goods for interstate commerce, or that any particular building is covered by the provisions of the Labor-Management Relations Act, as amended.

13. In keeping with the extension of Article 1, Section 1, to include New Jersey, Connecticut, Nassau, Suffolk, Dutchess, Sullivan, Putnam, Orange, Rockland and Westchester counties in New York and the geographic jurisdiction of the Union, the RAB and the

Union will establish a joint industry committee comprised of at least 6 representatives from all sectors of the commercial and residential industry to meet on an ongoing basis, but not less than quarterly. The committee shall review and analyze prevailing market conditions, including wage and rental rates, and develop procedures for resolving union organizational and representation disputes to minimize disruption and conflict, and to promote stable and efficient labor relations and labor conditions.

## **ARTICLE II**

### **Coverage of Agreement**

#### **Sub-Contracting**

1. The Employer shall not make any agreement or arrangement for the performance of work and/or for the categories of work heretofore performed by employees covered by this agreement except within provisions and limitations set forth below.

2. The Employer shall give advance written notice to the RAB and the Union at least three (3) weeks prior to the effective date of its contracting for such services, or changing contractors, indicating the name and address of the contractor.

3. The Employer shall require the contractor to retain all bargaining unit employees working

at the location at the time the contract was awarded and to maintain the existing wage and benefit structure. The Union may reject any contractor where the contractor has not made proper payments to the Health, Pension, Training, Legal and Supplemental Retirement and Savings (SRSP) Plan Funds or has habitually failed to comply with labor agreements with the Service Employees International Union (SEIU) covering other buildings in New York City in the industry. A rejection of a contractor shall not be arbitrary.

The Employer agrees that employees then engaged in the work which is contracted out shall become employees of the initial contractor or any successor contractor, and agrees to employ or re-employ the employees working for the contractor when the contract is terminated or cancelled. This provision shall not be construed to prevent termination of any employee's employment under other provisions of this agreement relating to illness, retirement, resignation, discharge for cause, or layoff by reason of reduction of force; however, a contractor may not reduce force or change the work schedule without first obtaining written consent from the union, which shall not be unreasonably withheld.

If the contractor fails to comply with any agreement with the Union covering the work which was contracted out, the Employer shall



be liable severally and jointly with the contractor for any and all damages relating to unpaid Health, Pension, Training, Legal and SRSP contributions. The Employer's liability shall commence the date it receives written notice from the Union or the RAB of the contractor's failure to so comply.

4. This Article is intended to apply to all employees employed in any building committed to this Agreement and to categories of employees to the extent that such categories of employees are "fairly claimable" by the Union, within existing National Labor Relations Board case law. In the event that the application of this Article, or any part thereof, is held to be in violation of law, then this Article, or any part thereof, shall remain applicable to the extent permitted by law.

### **ARTICLE III**

#### **Wages, Hours & Working Conditions**

1. The wages, hours, terms and conditions of employment set forth in Article XV of this agreement are hereby made part hereof.

2. Except as otherwise provided herein, the wages set forth in Article XV shall be effective as of April 21, 2003, and all its other terms and conditions shall become effective on the payroll date nearest to April 21, 2003. As to all

buildings later adopting this agreement, it shall take effect upon acceptance by the Union.

3. No provision of this agreement shall be construed so as to lower any employee's wage. If employees in any building have in effect a practice of terms or conditions better than those provided for herein, applicable generally to them for wages, hours, sick pay, vacations, holidays, relief periods, jury duty, or group life insurance, such better terms or conditions shall be continued only for employees who have had such conditions. The Arbitrator may relieve the obligations in the preceding sentence if enforcement would work an undue hardship, injustice or inequity upon the Employer.

A change of schedules or duties, so long as required relief and luncheon periods are reasonably spaced, shall not violate this Section, provided the employee, the Union and the RAB are given at least one (1) week's advance written notice and such change is reasonable. The notice for shift changes *i.e.*, change in work hours or days off, shall be three (3) weeks. However, where as of April 21, 2003, an employee (other than a Working Superintendent) regularly received consecutive days off, the practice shall continue, and if any such employee leaves his position for any reason whatsoever, his replacement shall also receive consecutive days off.

## **ARTICLE IV**

### **Management Rights**

1. The Union recognizes management's rights to direct and control its policies subject to the obligations of this agreement.

2. Employees will cooperate with management within the obligations of this agreement to facilitate efficient building operation.

3. Any employee who is discharged shall be furnished a written statement of reason(s) for such discharge no later than five (5) working days after the date of discharge.

If any employee [other than a Working Superintendent covered in Article XVI] is unjustly discharged, he shall be reinstated without loss of seniority or rank and without salary reduction. The Joint Industry Grievance Committee or the Arbitrator may determine whether, and to what extent, the employee shall be compensated by the Employer for time lost.

## **ARTICLE V**

### **Grievance Procedure**

There shall be a Joint Industry Grievance Committee and a grievance procedure:

1. To try to decide all issues not covered by, and not inconsistent with, any provision of this

agreement and which are not required to be arbitrated under its terms.

2. To try to decide without arbitration, any issue between the parties which, under this agreement, they must submit to the Arbitrator.

3. The grievance may first be taken up between a representative of management and a representative of the Union. If it is not settled, it may be filed for arbitration.

4. All Union claims are brought by the Union alone and no individual shall have the right to compromise or settle any claim without the written permission of the Union.

5. Any matter submitted to arbitration shall be simultaneously submitted to Joint Industry Grievance Committee.

6. The Committee shall be composed of representatives of the Union and the RAB, who may be present at any meeting. If the Committee meeting is not held before the arbitration date, the meeting will be cancelled.

It shall be the function of the Committee to seek and encourage the settlement of all disputes brought before it.

7. Any grievance, except as otherwise provided herein and except a grievance involving basic wage violations and Pension, Health, Training, Legal and SRSP contributions

shall be presented to the RAB in writing within 120 days of its occurrence, except for grievances involving suspension without pay or discharge which shall be presented within 45 days, unless the Employer agrees to an extension. The Arbitrator shall have the authority to extend the above time limitations for good cause shown.

## **ARTICLE VI**

### **Arbitration**

1. A Contract Arbitrator shall have the power to decide all differences arising between the parties to this agreement as to interpretation, application or performance of any part of this agreement, and such other issues as are expressly required to be arbitrated before him, including such issues as may be initiated by the Trustees of the Funds.

2. A hearing shall be initially scheduled within two (2) to fifteen (15) working days after either the Union or the RAB has served written notice upon the Office of the Contract Arbitrator, with copy to the other party, of any issue to be submitted. The Arbitrator's oath-taking, and the period, and the requirements for service of notice in the form prescribed by statute are hereby waived. A written award shall be made by the Arbitrator within ten (10) days after the hearing closes. If an award is not

timely rendered, either the Union or the RAB may demand in writing of him that the award must be made within ten (10) more days. If no decision is rendered within that time, either the Union or the RAB may notify the Arbitrator of the termination of his office as to all issues submitted to him in that proceeding. By mutual consent of the Union and the RAB the time of both the hearing and decision may be extended in a particular case. If a party, after due written notice, defaults in appearing before the Arbitrator, an award may be rendered upon the testimony of the other party.

No more than one adjournment per party shall be granted by the Arbitrator without consent of the opposing party.

There shall be an expedited arbitration procedure where the contract so provides which shall require the Arbitrator to hear and determine the matter within four (4) weeks after the demand for arbitration is filed.

Due written notice means mailing, telegraphing or hand delivery to the address of the Employer furnished to the Union by the RAB.

In the event that the Union appears at an arbitration without the grievant, the Arbitrator shall conduct the hearing, provided it is not adjourned. The Arbitrator shall decide the case

based upon the evidence adduced at the hearing.

3. The procedure herein with respect to matters over which a Contract Arbitrator has jurisdiction shall be the sole and exclusive method for the determination of all such issues, and the Arbitrator shall have the power to award appropriate remedies, the award being final and binding upon the parties and the employee(s) or Employer(s) involved. Nothing herein shall be construed to forbid either party from resorting to court for relief from, or to enforce rights under, any award. In any proceeding to confirm an award of the Arbitrator, service may be made by registered or certified mail, within or without the State of New York, as the case may be.

4. Should either party fail to abide by an arbitration award within two (2) weeks after such award is sent by registered or certified mail to the parties, either party may, in its sole and absolute discretion, take any action necessary to secure such award including but not limited to suits at law. Should either party bring such suit it shall be entitled, if it succeeds, to receive from the other party all expenses for counsel fees and court costs.

5. Grievants attending grievances and arbitrations shall be paid for their regularly scheduled hours during such attendance.

6. If a grievant requires an employee of the building to be a witness at the hearing and the Employer adjourns the hearing, the employee witness shall be paid by the Employer for his regularly scheduled hours during attendance at such hearing. This provision shall be limited to one employee witness.

7. The RAB shall be deemed a party to any proceeding under this article.

8. The parties have agreed to an Office of the Contract Arbitrator-Building Service Industry. The Union and the RAB have appointed the following Panel of Arbitrators:

John Anner	Robert J. Herzog
Stuart Bauchner	Theodore H. Lang
Noel Berman	Marilyn M. Levine
Nicholas Cooney	Randi Lowitt
John Dorsey	Earl Pfeffer
Howard C. Edelman	Bernard Young

Upon thirty (30) days written notice to each other, either the Union or the RAB may terminate the services of any Arbitrator on the panel. Successor or additional Arbitrators shall be appointed by mutual agreement of the Union and the RAB. In the event of the removal, death or resignation of all of the Arbitrators, the successors or temporary substitute shall be chosen by the Union and the RAB. If the parties are unable to agree on a successor, then the



Chairman of the New York State Employment Relations Board shall appoint a successor after consultation with the parties.

The cost of the Office of the Contract Arbitrator shall be shared in a manner determined by the Union and the RAB.

## **ARTICLE VII**

### **Reduction of Force**

1. The Employer shall have the right to reduce its work force in the following circumstances, provided that it can establish that the changes listed below eliminate an amount of work similar to the proposed reduction in worker hours:

(a) A change in work specifications or work assignment which results in a reduction of work

(b) Elimination of all or part of specified work

(c) Vacancies in building

(d) Reconstruction of all or part of building

(e) The tenant performing the work himself

(f) Introduction of technological advances

(g) Change in the nature or type of occupancy

2. If the Employer desires to reduce its work force he is required, in addition to their accrued vacation credits and termination pay, if any, to give employees employed for one (1) year or more one (1) week's notice of layoff or discharge, or in lieu thereof, an additional week's pay. The Employer shall give four (4) weeks written notification to the Union and the RAB.

The Employer shall include in such notification the following:

(a) Reason for reduction, specifying whether the reduction is being made pursuant to one or more of the reasons set forth in Section 1 or Section 5 of this Article.

(b) If other work, notification should include the precise work to be eliminated, setting forth the work hours spent on each task to be eliminated and the change in schedules and duties of remaining employees resulting from the reduction in force.

(c) If the reduction is due to technological advances, the notice shall describe the technological advance; how it will reduce the work, the number of work hours or reduced work and the change in schedules and duties of remaining employees resulting from the reduction in force.

(d) If the reduction in force is proposed to be implemented pursuant to Section 5 of this

Article, the notice shall so state. It shall include a detailed description of the work being performed by those allegedly working at an unusually slow pace or having idle time; a description of additional work that such employees should be performing within their normal working hours; the proposed reduction of force in work hours; change in schedules and duties of remaining employees resulting from the reduction in force. The notice shall include both present and proposed work specifications and schedules.

3. In the event that a reduction in the work force is effected and the reason for the reduction in the work force ceases to exist, then the Employer shall reinstate the work force that existed prior to the reduction in force.

4. If the Union grieves or arbitrates a dispute pursuant to this provision, the following shall apply:

(a) The arbitration shall be expedited and in no event shall be scheduled and heard later than seven (7) calendar days after the Union's request for arbitration.

(b) The Employer shall affirmatively demonstrate that it has eliminated an amount of work similar to the reduction in worker hours.

(c) The arbitrator shall issue his award within seven (7) calendar days after the close of the hearings.

(d) There shall be no adjournments granted without mutual consent.

5. In addition to the reasons provided for in paragraph 1 above, the Employer shall have the right to reduce the work force where in those exceptional cases it can demonstrate to a Special Committee consisting of the President of the Union or his designee and the President of the RAB or his designee, that an employee has idle time or is working at an unusually slow pace. In the event the Employer claims such an exceptional case, it shall give the notice required pursuant to this provision and the date required by paragraph 2 hereof.

At the conclusion of the four (4) week notice period provided for in paragraph 2, the matter shall be referred to the Special Committee. Such Committee shall act within four (4) weeks after the Employer has given notice to the Committee. If the Committee deadlocks or if the Committee fails to act within said four (4) week period, the Employer may refer the matter to arbitration pursuant to the arbitration provisions of the contract. The matter shall be heard within four (4) weeks after it is

submitted, and a decision shall be rendered within four (4) weeks of the close of the hearing. No adjournments shall be granted without mutual consent.

The Employer may not reduce the work force as proposed prior to the arbitrator's award, provided, however, that if the arbitrator fails to issue his award within the prescribed period, the Employer may reduce the work force as proposed, subject, however, to the ultimate determination of the arbitrator.

6. In the event that the four (4) weeks notice provided for herein is not given and the Employer lays off employees pursuant to this provision, the Employer shall pay an amount equal to the laid off employees' wages and fringe benefits (including, but not limited to Pension, Health, Training, Legal and SRSP Fund Contributions, Holidays, Vacation, Sick Pay and Premium Pay) for the period beginning with the layoff until four (4) weeks after the Employer notifies the Union or the issuance of a final arbitration award, whichever is sooner, but in no event less than four (4) weeks even if the layoff is upheld by the arbitrator.

The fact that payment of employees' wages and fringe benefits are provided for herein shall in no way be construed as a limitation of the arbitrator's power and authority under other provisions of this Agreement.

Where an Employer has more than one (1) case under subparagraph 5, in a building, it may consolidate such cases for purposes of proceeding before the Special Committee and/or the Arbitrator.

## **ARTICLE VIII**

### **No Strikes or Lockouts**

1. There shall be no work stoppage, strike, lockout or picketing except as provided in Sections 2, 3, and 4 of this Article. If this provision is violated, the matter may be submitted immediately to the Arbitrator.

In the event of an alleged violation of this Article, the RAB or the Union may, by telegram, request an immediate arbitration. The Office of the Contract Arbitrator shall schedule a hearing on the alleged violation within 24 hours after receipt of said telegram. The Arbitrator shall issue an award determining whether or not said alleged strike or lockout is in violation of the collective bargaining agreement and award appropriate remedy. This is a procedural provision intended only to bring the arbitration on more quickly.

2. If a judgment or Arbitrator's award against the Employer for Health, Pension, Training, Legal and SRSP Fund payments or wages or an award or judgment against a

contractor for these or other payments is not complied with within three (3) weeks after such award is sent by registered or certified mail to the Employer or contractor at his last known address, the Union may order a stoppage of work, strike or picketing in the building involved to enforce the award or judgment, and it may also thereby compel payment of lost wages to any employee engaged in such activity. Upon compliance with the award and/or judgment and payment of lost wages, such activity shall cease.

3. Except as otherwise provided in this Article, should either party fail to abide by an arbitration award within three (3) weeks after such award is sent by registered or certified mail to the parties, either party may, in its sole and absolute discretion, bring an action at law to enforce such award. Should either party commence such suit it shall be entitled, if it succeeds, to receive from the other party all reasonable expenses for counsel fees and court costs. Should either party fail to abide by an arbitration award and fail to commence an action in court to vacate such award within three (3) weeks after such award is served as provided above, the aggrieved party shall have the right to strike and compel payment of lost wages to any employee engaged in strike activity or lockout without affecting the other terms and conditions of the Agreement.

4. The Union may order a work stoppage, strike or picketing in a building where work previously performed by members of the Union or within the Union's jurisdiction is being performed by persons outside of the bargaining unit anywhere in the building, provided that 72 hours written or telegraphic notice is given to the Employer and the RAB of the Union's intention to do so.

5. The Union shall not be held liable for any violation of this Article where it appears that it has taken all reasonable steps to avoid and end the violation.

**ARTICLE IX**  
**Signatory Buildings**  
**Multi Employer Bargaining**

This Agreement may be adopted by any apartment building in New York, at any time on or before June 30, 2003, by filing with the Union through the RAB its written assent to this agreement, except that the Union may refuse any assent if the building is already bound by reason of an existing agreement with the Union.

1. If there is a bona fide sale or other transfer of title of any member building, or a change of control through a lease, or in the case of a



noncorporate ownership, if any person or persons completely divest themselves of ownership or control by any arrangement, the successors in ownership or control may, unless they have otherwise indicated their intention not to be bound by this agreement, join the RAB and adopt the contract within forty-five (45) days after such acquisition, provided:

(a) The building is not already bound by another agreement.

(b) Written notice is given to the Union within five (5) days after joining the RAB. Notice shall be given by hand delivery or postmarked not later than the fifth business day.

(c) If the building was covered by any agreement, (1) during such period there is no layoff or change in wages, hours, terms or conditions of employment therein; (2) the new owner or transferee recognizes employee seniority and vacation status; (3) all obligations to employees, and those pursuant to the Health, Pension, Training, Legal and/or SRSP Funds, are fully paid up to the transfer date; and (4) provision is made to pay retroactively any wage underpayments resulting from the building's improper classification under Article XIV. Any adoption by the Employer shall be deemed to be effective on the date of sale.

(d) A building being converted to cooperative or condominium ownership shall be treated as a newly acquired building upon the effective date of the declaration of the cooperative or condominium plan or transfer of title, or upon the transfer of shares to the first cooperative owners or the sale of first condominium unit, whichever is later.

(e) Any Employer signatory to an agreement with the Union other than this Agreement shall remain bound to the terms of that agreement until its expiration date. If such Employer joins the RAB it may adopt the RAB contract and be fully covered by the terms of the RAB Agreement after expiration of its other agreement and before execution of a new contract provided:

(1) Notice in writing is given to the Union of such adoption prior to the expiration of the other contract,

(2) Such Employer is not in default under the other contract, and

(3) The RAB approves such membership.

2. With respect to newly organized, newly constructed buildings, or remodeled buildings that are tenant occupied, the Employer shall have forty-five (45) days to file a commitment to this Agreement after the Union serves a representation notice on the Employer with a

showing of majority status of the existing employees, with a copy to the RAB.

Where the time limits provided for in this Article are not complied with, this Agreement shall not be applicable to such building unless the Union agrees to same in writing.

3. This Article notwithstanding, the Union may refuse to accept any building: (a) until it represents a majority of the building service employees; (b) where contributions for Pension, Health, Legal, Training and SRSP Funds are in default for three (3) months or more from the date payment was due; (c) where an award of the Arbitrator has not been complied with; (d) the Employer is in violation of an existing labor agreement with the Service Employees International Union elsewhere in the City of New York; or (e) where during the term of this or the preceding Collective Bargaining Agreement, the Employer has taken a building whose employees are represented by the Union and in which building it has not retained the employees and/or existing conditions of employment. The right of refusal shall not be exercised in order to require the building to become a party to any other agreement. Before so refusing any building or taking any further action, the Union shall notify the RAB in writing.

The Union shall not refuse or reject an assent to this Agreement pursuant to any provisions of this Article unless and until the President of the Union or his designee and the President of the RAB or his designee have conferred in an effort to resolve any concerns with respect to the pending assent.

4. In the event an Employer intends to terminate his employer-employee relationship under this Agreement, then the Employer shall give the Union and the RAB reasonable written notice prior to the effective date thereof and upon the request of the Union, the Employer shall meet with the Union to negotiate the impact of such termination upon the employees involved. The obligation to negotiate shall be subject to arbitration but failure to agree on the impact shall not be subject to arbitration.

In the event of a change of Employer in a building, the RAB shall use its best efforts to have the succeeding Employer join the RAB and become bound by the terms of this Agreement.

The RAB shall also use its best efforts to encourage all its members who are signatory to this Agreement to adopt this Agreement for each of their buildings located within the City of New York (except for the Bronx).

In the event an Employer terminates an employee or employees because of a change in ownership, operation, or control of a building or buildings, and such employee(s) are not offered employment or are not employed by the succeeding Employer in the building or buildings at the then existing wages, hours and working conditions, the terminated employee(s) shall receive severance pay in the amount of six (6) months' pay, in addition to any other accrued payments due under this Agreement.

Nothing herein contained shall be deemed to limit or diminish in any way the Union's right to enforce this Agreement against any transferee pursuant to applicable law concerning rules of successorship or otherwise; nor limit or diminish in any way the Union's or any employee's right to institute proceedings pursuant to the provisions of State or Federal labor relations laws, or any statutes or rules which may be applicable.

5. In the event that the Union enters into a contract, or contracts, or enters into renewals or modifications of a contract, or contracts with any Employer(s) covering apartment buildings which contain new or revised economic terms or other conditions which are effective on or after April 21, 2003, which economic terms or conditions are more favorable to such Employer(s) than the terms contained in this Agreement, the RAB and all its member

buildings shall be entitled to and may have the full benefit of any and all of such more favorable terms, upon notification to the Union. This provision may be waived in writing for good cause shown by the President of the RAB or his designee and the President of the Union or his designee.

In buildings where wage rates under the category of "others" prior to April 21, 2003, were lower than those provided for in the 2000 Apartment Building Agreement, wage increases agreed to by the Union and the Employers covering said buildings on or after April 21, 2003 shall not be construed as "more favorable" within the meaning of this Article unless the percentage increase in wages of "others" category is lower than that provided for in this Agreement. This provision shall not apply to:

- (a) Newly organized buildings during their first contract period;
- (b) Buildings in bankruptcy;
- (c) Buildings in receivership;
- (d) Employees who are solely and exclusively security guards;
- (e) One person buildings; and
- (f) Hardship buildings granted relief in accordance with the terms of this Agreement.

The Union shall furnish the RAB a list of present agreements which are more favorable to the Employer than this Agreement.

Any Employer claiming financial hardship in operating a building may request a hearing before a Special Committee consisting of the President of the Union or his designee and the President of the RAB or his designee. At such hearing, the Employer shall present proof of financial hardship, including, without limitation, financial statements. The Committee may grant or deny in whole or in part relief from the provisions of this contract. This provision shall not be subject to grievance and arbitration.

## **ARTICLE X**

### **Health, Pension, Training, Legal and SRSP Funds**

#### **A. HEALTH FUND**

1. The Employer agrees to make payments into a health trust fund, known as the "Building Service Health Fund," to cover employees covered by this agreement who work more than two (2) days in each workweek, including such employees of other Employers in or connected with the industry for whom contributions are paid, with health benefits under such provisions, rules and regulations as may be determined by the Trustees of the Fund, as provided in the Agreement and Declaration of

Trust; provided, however, that the Employer may, by making the required payments into the Fund, cover such other of his employees as he may elect, and provided such coverage is in compliance with law and the Trust Agreement.

Employees who are on workers' compensation or who are receiving disability benefits or disability pension shall be covered by the Health Fund until they may be covered by Medicare or thirty (30) months from the date of disability whichever is earlier.

In no event shall any employee who was previously covered for Health Benefits lose such coverage as a result of a change in this provision and the Employer shall be obligated to make contributions for such employees.

2. The Employer shall contribute to the Fund \$6214.64 per year for each employee, payable when and how the Trustees determine, to cover employees and their dependent families with health benefits as agreed by the collective bargaining parties, and under such provisions, rules and regulations as may be determined by the Trustees.

Effective January 1, 2004 the rate of contribution to the Fund shall be increased to \$6734.64

3. Except as qualified by Article III, Section 3 of this agreement with respect to group life



insurance, any Employer who has a plan in effect prior to the effective date of this agreement which provides health benefits, the equivalent of, or better than, the benefits provided for herein, and the cost of which to the Employer is at least as great, may cover his employees under its existing plan or under this Fund. If the Trustees decide the existing plan does not provide equivalent benefits, but does provide health benefits superior to one or more types of health benefits under this Fund, the Employer may participate in the Fund wholly, or partially for hospitalization and/or surgical coverage, and make his payments to the Fund in the amount determined by the Trustees uniformly for all similarly participating Employers.

If any future applicable legislation is enacted there shall be no duplication or cumulation of coverage and the parties will negotiate such changes as may be required by law.

4. If during the term of this agreement, the Trustees find the payment provided herein is insufficient to maintain benefits, and adequate reserves for such benefits, they shall require the parties to increase the amounts needed to maintain such benefits and reserves. In the event the Trustees are unable to reach agreement on the amount required to maintain benefits and reserves, the matter shall be referred to arbitration.

## B. PENSION FUND

1. The Building Service 32B-J Pension Fund shall continue in force and effect in accordance with its provisions, which include the power of its Trustees to revise the amounts of the pension benefits and the conditions under which benefits will be paid, and to continue to cover such employees of other Employers in or connected with the industry for whom contributions are paid, provided such coverage is in compliance with law and the Trust Agreement.

Employees unable to work and who are on disability benefits or workers' compensation shall continue to accrue pension benefits during the periods of disability up to six (6) months or the period of the disability whichever is sooner.

2. The Employer shall pay into the Fund the sum of \$42.15 per week for every regular employee as defined in the Building Service Pension Plan, as it may be amended, except as provided in Section 4 hereof.

3. Effective January 1, 2004, the Employer shall pay into the Fund the sum of \$43.75 per week for every regular employee.

4. If the Employer has in effect a pension and retirement plan which has been determined to provide benefits equivalent or superior to those provided under the Building Service 32B-J Pension Plan, it may continue such plan

provided it continues to provide retirement benefits equivalent or superior to the benefits that are provided under the Building Service 32B-J Pension Plan during the term of this agreement, and it shall be relieved of any obligation to make payments into the Fund.

5. If the Employer has an existing plan as referred to above, it shall not discontinue or reduce benefits without prior Trustee approval and shall remain obligated to the employee(s) for whatever benefits they may be entitled.

6. In no event shall the Trustees or any of them, the Union or the RAB, directly or indirectly, by reason of this agreement, be understood to consent to the extinguishment, change or diminution of any legal rights, vested or otherwise, that anyone may have in the continuation in existing form of any such Employer pension plan, and the Trustees or any of them, the Union and the RAB shall be held harmless by an Employer against any action brought by anyone covered under such Employer's plan asserting a claim based upon anything done pursuant to Section 5 of this Article. Notice of the pendency of any such action shall be given the Employer who may defend the action on behalf of the indemnitee.

#### C. TRAINING, SCHOLARSHIP AND SAFETY FUND

The Employer agrees to contribute to a Fund which will be administered as part of the Thomas Shortman Training, Scholarship and Safety Fund. The rate of contributions to the Thomas Shortman Fund shall be \$145.60 per year for each employee.

#### **D. GROUP PREPAID LEGAL FUND**

The Employer agrees to contribute \$223.60 per year per employee to the prepaid Legal Fund payable as the Trustees determine.

#### **E. SUPPLEMENTAL RETIREMENT AND SAVINGS (SRSP) FUND**

The Employer shall contribute \$10.00 per week per employee into the SRSP Fund.

Effective January 1, 2005, the Employer shall contribute an additional \$10.00 per week to the SRSP for each employee upon the employee's completion of 25 years of service, provided, however, that if as a result of the 2005 Commercial Building Agreement such employees receive additional pension benefits for years of service in excess of 25, the obligation under this provision shall cease on the effective date of the commencement of such accrual.

#### **F. PROVISIONS APPLICABLE TO ALL FUNDS**

1. If the Employer fails to make required reports or payments to the Funds, the Trustees may in their sole and absolute discretion take any action necessary, including but not limited to immediate arbitration and suits at law, to enforce such reports and payments, together with interest and liquidated damages as provided in the Funds' trust agreements, and any and all expenses of collection, including but not limited to counsel fees, arbitration costs, fees and court costs.

Any Employer regularly or consistently delinquent in Health, Pension, Training, Legal and SRSP Fund payments may be required, at the option of the Trustees of the Funds, to provide the appropriate Trust Fund with a security guaranteeing prompt payment of such payments.

2. The Trustees of the Funds shall make such amendments to the Trust Agreements, and shall adopt such regulations as may be required to conform to applicable law, and which shall in any case provide that employees whose work comes within the jurisdiction of the Union (which shall not be considered to include anyone in an important managerial position) may only be covered for benefits if the building in which they are employed has a collective bargaining agreement with the Union. Any dispute about the Union's jurisdiction shall be

settled by the President of the Union and the RAB's President.

3. Employees shall have a waiting period of three months before becoming eligible to be participants in the Funds and no contribution shall be made on behalf of the employees over the three month period.

4. On or after January 1, 2005, any contributions and benefits required hereunder (except SRSP) shall be increased by any amount and in the same manner as contributions and benefits may be increased in the Commercial Building Agreement to succeed the presently effective 2002 Commercial Building Agreement, and if in said successor agreement service fees are required to be paid, the same fees shall be required to be paid hereunder.

**ARTICLE XI**  
**Disability Benefits Law**  
**Unemployment Insurance Law**

1. The Employer shall cover its employees so that they shall receive maximum weekly cash benefits provided under the New York State Disability Benefits Law on a non-contributory basis, and also under the New York State Unemployment Insurance Law, whether or not such coverages are mandatory.

2. Failure to so cover employees makes the Employer liable to an employee for all loss of benefits and insurance.

3. The Employer will cooperate with employees in processing their claims and shall supply all necessary forms, properly addressed, and shall post adequate notice of places for filing claims.

4. If the employee informs the Employer he is requesting workers' compensation benefits then no sick leave shall be paid to such employee unless he specifically requests in writing payment of such leave. If an employee informs the Employer he is requesting disability benefits then only five (5) days sick leave shall be paid to such employee (if he has that amount unused) unless he specifically requests in writing payment of additional available sick leave.

5. Any employee required to attend his Workers' Compensation hearing shall be paid for his regularly scheduled hours during such attendance.

6. Any cost incurred by the Union to enforce the provisions of this Article shall be borne by the Employer.

7. The Parties agree to establish a committee under the auspices of the Building Service 32B-J Health Fund to investigate and report on the feasibility of self-insuring disability and unemployment benefits.

## **ARTICLE XII**

### **Sickness Benefits**

1. Any regular employee with at least one (1) year of service (as defined in Section 4 below) in the building or with the same Employer, shall receive in a calendar year from the Employer ten (10) paid sick days for bona fide illness.

Any employee entitled to sickness benefits shall be allowed four (4) single days of paid sick leave per year taken in single days. The remaining six (6) days of paid sick leave may be paid either for illnesses of more than one (1) day's duration or may be counted as unused sick leave days.



The employee shall receive the above sick pay whether or not such illness is covered by the New York State Disability Benefits Law or the New York State Workers' Compensation Act; however, there shall be no pyramiding or duplication of Disability Benefits and/or Workers' Compensation Benefits with sick pay.

2. An employee absent from duty due to illness only on a scheduled workday immediately before and/or only on the scheduled workday immediately after a holiday shall not be eligible for sick pay for said absent workday or workdays.

3. Employees who have continued employment to the end of the calendar year and have not used all sickness benefits shall be paid in the succeeding January, one full day's pay for each unused sick day.

Any employee who has a perfect attendance record for the calendar year shall receive an attendance bonus of \$200.00 in addition to payment of the unused sick days.

For the purpose of this provision, perfect attendance shall mean that the employee has not used any sick days.

If an Employer fails to pay an employee before the end of February, then such Employer

shall pay one additional day's pay unless the Employer challenges the entitlement or amount due.

4. For the purpose of this Article, one (1) year's employment shall be reached on the anniversary date of employment.

Employees who complete one (1) year of service after January 1, shall receive a pro rata share of sickness benefits for the balance of the calendar year.

A "regular" employee shall be defined as one who is a full or part time employee employed on a regular schedule. Those employed less than forty (40) hours a week on a regular basis shall receive a pro rata portion of sickness benefits provided herein computed on a forty (40) hour workweek.

5. All payments set forth in this Article are voluntarily assumed by the Employer, in consideration of concessions made by the Union with respect to various other provisions of this agreement, and any such payment shall be deemed to be a voluntary contribution or aid within the meaning of any applicable statutory provisions.

## **ARTICLE XIII**

### **Building Acquisition by Public Authority**

Where a building is acquired by a public authority of any nature through condemnation, purchase or otherwise, the last owner shall guarantee the payment of termination pay and of accrued vacations due to the employees up to the date of transfer of title. The Union will, however, seek to have such authority assume the obligations for payments. If unsuccessful and the last owner becomes liable for such payments, the amounts thereof shall be liens upon any condemnation award or on any amount received by such last owner.

## **ARTICLE XIV**

### **Building Classifications**

1. (a) Class A buildings are buildings where the assessed value of the land and building, based upon the 1935 assessment, divided by the number of rooms in the building, gives an assessed value of over \$4,000 a room;

(b) Class B buildings are buildings where the assessed value of the land and building, based upon the 1935 assessment, divided by the number of rooms in the building, gives an assessed value of over \$2,000 a room, and not over \$4,000 a room;

(c) Class C buildings are buildings where the assessed value of the land and building, based upon the 1935 assessment, divided by the number of rooms in the building, gives an assessed value of \$2,000 or less a room.

(d) All non-publicly financed buildings now or in the future owned cooperatively or in condominium shall be classified Class A and wages shall be paid accordingly.

2. In classifying buildings completed and opened for occupancy after the levying of the 1935 assessment, the first year of assessment shall control. Where a building is newly erected or remodeled and opened for occupancy after April 21, 1976, and where its proper classification as finally determined indicated that the employees had been paid wages lower than required under said classification, employees shall be paid retroactively all amounts they would have received under the proper classification.

3. In calculating the number of rooms, a room shall be considered to be a rentable room enclosed by four (4) walls, with a door and with a window facing a street, court, areaway or airshaft.

4. Bathrooms shall not be counted as rooms except in apartments of three rooms or less, where bathrooms shall be counted as

halfrooms, but this provision shall not cause a revision of existing classifications.

5. Rooms occupied by the superintendent and servants, if above cellar or basement level, shall be included in the total number of rooms.

6. Where stores are on the ground floor, the number of rooms on that floor shall be considered to be the same number, less three, as on a typical floor.

7. When eighty (80) percent of a building's area and total number of units are changed to commercial and/or professional occupancy, it shall be considered a commercial building no longer covered under this agreement but shall be covered under the applicable Commercial Building Agreement.

## **ARTICLE XV**

### **Wages and Hours**

#### **A. BUILDING SERVICE EMPLOYEES OTHER THAN WORKING SUPERINTENDENTS**

1. (a) Effective April 21, 2003, each employee covered hereunder shall receive a wage increase of forty-five cents (45¢) for each regular straight-time hour worked.

(b) Effective April 21, 2004, each employee covered hereunder shall receive a wage increase of forty-seven and one-half cents

(47½¢) for each regular straight-time hour worked.

(c) Effective April 21, 2005, each employee covered hereunder shall receive a wage increase of fifty cents (50¢) for each regular straight-time hour worked.

(d) Additionally, the minimum hourly rate differentials for handypersons including all employees doing similar or comparable work by whatever title known, shall be increased by five cents (5¢), five cents (5¢) and five cents (5¢), effective April 21, 2003, April 21, 2004, and April 21, 2005, for each regular straight-time hour worked, and each such employee shall receive a wage increase in an amount necessary to bring them up to the new contract minima.

(e) Effective April 21, 2004, in the event that the percentage increase in the cost of living [Consumer Price Index for the City of New York Metropolitan Area (New York-New Jersey) Urban Wage Earners and Clerical Workers] from February 2003 to February 2004, exceeds 6½% then, in that event, an increase of \$.10 per hour for each full 1% increase in the cost of living in excess of 6½% shall be granted effective for the first full workweek commencing after April 21, 2004. In no event shall said increase pursuant to this provision exceed \$.20 per hour. In computing

increases in the cost of living above  $6\frac{1}{2}\%$ , less than .5% shall be ignored and increases of .5% or more shall be considered a full point. Any increases hereunder shall be added to the minima.

(f) Effective April 21, 2005, in the event that the percentage increase in the cost of living [Consumer Price Index for the City of New York Metropolitan Area (New York-New Jersey) Urban Wage Earners and Clerical Workers] from February 2004 to February 2005, exceeds 6% then, in that event, an increase of \$.10 per hour for each full 1% increase in the cost of living in excess of 6% shall be granted effective for the first full workweek commencing after April 21, 2005. In no event shall said increase pursuant to this provision exceed \$.20 per hour. In computing increases in the cost of living above 6%, less than .5% shall be ignored and increases of .5% or more shall be considered a full point. Any increases hereunder shall be added to the minima.

(g) Minimum wage rates shall be those set forth in the tables on pages 95, 96 and 97 hereof, plus applicable cost of living increases, if any.

2. (a) The standard workweek shall consist of five (5) days of eight (8) hours each, but the two (2) days off in such standard workweek

need not be consecutive, except as provided in Article III, Section 3.

Overtime at the rate of time and one-half the regular straight-time hourly rate shall be paid for all hours worked in excess of eight (8) hours per day or forty (40) hours per week, whichever is greater. A paid holiday shall be considered as a day worked for the purpose of computing overtime pay.

Every employee shall be entitled to two (2) days off in each workweek and any work performed on such days shall be considered overtime and paid for at the rate of time and one-half.

The straight-time hourly rate shall be computed by dividing the weekly wage by the number of hours in the standard workweek.

(b) Luncheon recess shall not be less than forty-five (45) minutes nor more than one (1) hour, and no employee shall be required to take time off in any workday in excess of one (1) hour for luncheon recess without having such time charged against the Employer as working time.

(c) No regular full-time employee shall have his regular work hours, as set forth above, reduced below the standard workweek in order to effect a corresponding reduction in pay.



(d) Hours of work for all full-time employees shall be consecutive each day, except for the luncheon period.

(e) Any employee called in to work by the Employer for any time not consecutive with his regular schedule shall be paid for at least four (4) hours of overtime.

(f) Any employee who spends one full week or more performing work in a higher paying category shall receive the higher rate of pay for such service.

(g) Employees required to work overtime shall be paid at least one (1) hour at the overtime rate, except for employees working overtime due to absenteeism or lateness.

(h) Any employee who has worked eight (8) hours in a day and is required to work at least four (4) hours of overtime in that day, shall be given a \$15.00 meal allowance.

(i) No overtime shall be given for disciplinary purposes. An Employer shall not require an employee to work an excessive amount of overtime.

(j) The Employer agrees to use its best efforts to provide a minimum of sixteen (16) hours off between shifts for its employees.

### 3. WORKING SUPERINTENDENTS

1. (a) Effective April 21, 2003, Superintendents covered by this agreement shall receive a \$21.00 weekly wage increase.

(b) Effective April 21, 2004, Superintendents covered by this agreement shall receive a \$21.00 weekly wage increase.

(c) Effective April 21, 2005, Superintendents covered by this agreement shall receive a \$23.00 weekly wage increase.

(d) Superintendents shall be covered under the same provision regarding cost of living increases set forth in Section A, paragraphs 1 (e) and (f) of this Article applicable to other employees.

(e) Certain special Superintendents agreements covering unusual cases, including part-time and workout Superintendents, shall be negotiated individually as heretofore.

2. (a) The standard workweek shall consist of five days (40 hours) but the two (2) days off in such workweek need not be consecutive. The Employer may reschedule the Superintendent's days off, either consecutively or non-consecutively; provided, however, that the Employer must give him at least one (1) week's notice of any change in scheduled days off.

(b) In all other respects the building's present practices as to the Superintendent's duties shall continue and, as heretofore, he shall take care of emergencies. If he is required by the Employer to perform other than emergency work on his days off, he shall receive equivalent time off during the same workweek or a day's pay at the time and one-half rate, as the case may be, by agreement between the Employer and Superintendent. Nothing herein shall be construed to affect any rights a Superintendent may have under the Fair Labor Standards Act.

(c) The Superintendent shall not be required to do work in conflict with law.

(d) When an obvious inequity exists by reason of a Superintendent's regular application of highly specialized abilities in his work, or where his work imposes special or substantial additional responsibilities, the Union may question the amount of his wage once during the term of this Agreement through grievance and arbitration.

## **ARTICLE XVI**

### **Provisions Applicable to Superintendents Only**

#### **A. JOB SECURITY AND SEVERANCE PAY FOR WORKING SUPERINTENDENTS**

1. If the building is demolished or there is a bona fide transfer of title or leasehold resulting in a substantial change in the beneficial interest in the building, the Employer will pay the Superintendent on or about the date of demolition or transfer of title the severance pay provided for below, plus accrued vacation credits, unless the Employer offers him an equivalent position in the same or in another building without loss of seniority. If the Employer does not offer him such an equivalent position and he receives severance pay, and if the new Employer continues him on the job and becomes party to this agreement, his seniority for severance pay purposes shall be computed from the date of transfer of title or change in beneficial interest.

2. If the Employer discharges the Superintendent for reasons other than those set forth in Section 5 below, he shall give him thirty (30) days' written notice by registered mail or personal service to vacate the apartment he occupies in the building. If the Superintendent does not contest his discharge, he shall receive an additional thirty (30) days to vacate his apartment. If he is required to do any work during this notice period, he shall be paid at his regular rate of pay.

If the Superintendent voluntarily vacates said apartment within thirty (30) days after notice,

(sixty (60) days if discharge is not contested) he shall receive severance pay or moving expenses on the following basis according to his length of service:

Less than 6 months.....	\$750 moving expenses
6 months but less than 2 years .....	4 weeks' pay
2 years but less than 3 years.....	5 weeks' pay
3 years but less than 4 years.....	6 weeks' pay
4 years but less than 5 years.....	7 weeks' pay
5 years but less than 6 years.....	8 weeks' pay
6 years but less than 7 years.....	9 weeks' pay
7 years but less than 8 years.....	10 weeks' pay
8 years or more. ....	11 weeks' pay

unless he deliberately provoked his dismissal, or his conduct constituted a willful or substantial violation of the obligations of his employment, but this limitation shall not apply to moving expenses.

3. The Union may question the propriety of the termination of the Superintendent's services and demand his reinstatement to his job, or severance pay, if any, as the case may be, by filing a grievance within fifteen (15) calendar days following receipt by the Superintendent of the notice to vacate, on the charge that the Employer acted arbitrarily; provided, however, that the time to file a claim for severance pay shall not be limited in a case where the Employer fails to honor an agreement with the

Superintendent or the Union to pay severance pay. If the matter is not adjusted through the grievance procedure, it shall be submitted for final determination to the Arbitrator who may sustain the termination with such severance pay, if any, as the case may be, or order reinstatement. The Arbitrator shall give due consideration to the Superintendent's fiduciary and management responsibilities and to the need for cooperation between the Superintendent and the Employer.

4. The Employer's notice to the Superintendent to vacate his apartment shall be considered held in abeyance and the effective date thereof considered postponed, if necessary, until the matter is adjusted or determined through grievance or arbitration; but the Union must exercise its right to question the Employer's action within the prescribed time and the matter must be processed with reasonable promptness.

No employer shall commence an eviction proceeding, or seek to collect use and occupancy prior to an arbitrator's award provided that the superintendent agrees in writing not to contest an eviction proceeding in the event that the arbitrator has upheld the discharge. There shall be no interruption of utilities or other essential services to the

superintendent's apartment prior to the date an arbitrator's award ordering such superintendent to vacate his/her apartment.

5. The Employer, by written notice served personally or by registered mail, may require the Superintendent to vacate his living premises immediately in exceptional cases where his continued presence might jeopardize the tenants, employees, or the building and where the proper operation of the building requires the immediate employment of a replacement. The Union may question the termination of the Superintendent's services by filing a grievance within seven (7) calendar days following the receipt by the Superintendent of the notice to vacate.

6. The provision for arbitration of discharge shall not apply for the first six (6) months of a Superintendent's employment. For grievances arising during the first two (2) months of employment, the presentation period referred to in Article V, Section 7 shall be 240 days.

7. Any Superintendent resigning or terminated because of physical or mental inability to perform his duties shall receive severance pay in addition to accrued vacation credits based upon the schedule provided in this Article.

Such a Superintendent may resign and receive severance pay if he submits satisfactory

evidence of such inability at the time of termination, unless, because of circumstances connected with his condition, he is unable to comply with this requirement.

In the event of a dispute concerning the sufficiency of the evidence, the matter shall be resolved in accordance with Article XVII, paragraph 20.

## **B. COVERAGE OF AGREEMENT**

1. All Superintendents for whom the Union is the collective bargaining agent are covered under this agreement unless they are covered by the Resident Managers Agreement.

2. Buildings with six (6) or more building service employees including the Superintendent, will be covered by the 2003 Resident Manager's Agreement for the Superintendent provided that such buildings fall within one of the following categories:

(a) The Superintendent is covered by the 2000 Resident Managers Agreement.

(b) The building is on a list which was submitted to the Union by the RAB during the course of negotiations and is specifically mentioned in the Stipulation of Agreement signed by the Union and the RAB.

(c) A newly constructed building which opens for occupancy on or after April 21, 2003



and has six (6) or more building service employees including the Superintendent or subsequently increases the work force to six (6) or more service employees including Superintendents.

(d) Buildings which had fewer than six (6) building service employees including the Superintendent, prior to April 21, 2003 and subsequently increased the work force to six (6) or more employees including the Superintendent.

3. Buildings included in Section 2 hereof shall cease to be covered by the Resident Managers Agreement and the Superintendents in such buildings shall thereafter be covered by this Agreement if during the life of this agreement the work force in such buildings drops below six (6) including the Superintendent.

4. The provisions of Section 2 hereof to the contrary notwithstanding, any building with fewer than six (6) building service employees, including the Superintendent, which was covered by the 2000 Resident Managers Agreement shall be covered by the 2003 Resident Managers Agreement for the Superintendent until one of the following occurs:

(a) Legal title of the building is transferred

- (b) There is a change in Employer
- (c) There is change in Superintendent
- (d) There is a reduction in force
- (e) There is a violation of Article I of this agreement or Article II of the Resident Managers Agreement (Subcontracting).

Immediately upon the occurrence of any of the above events, the building shall be covered by the Working Superintendents provision of the 2003 Apartment Building Agreement for the Superintendent.

If as a result of one of the above events there is a new Employer, such Employer shall not have access to the 2003 Resident Managers Agreement for the Superintendent.

5. Buildings which do not fall within any category set forth in Section 2 hereof, will be covered by the 2003 RAB Working Superintendents section of this agreement regardless of the size of the work force.

6. (a) Resident Managers will not perform the duties of apartment building employees on strike after the expiration of the 2003 Apartment Building Agreement except for:

- (1) Emergencies involving health and safety of the building.

(2) Work which the Resident Manager normally performs during non-strike periods.

(b) Violation of Section 6(a) hereof will cancel the existing Resident Managers Agreement for the building in which the violation occurs and the Resident Manager will be covered by the successor RAB Working Superintendent section of the Apartment Building Agreement for the term of such successor agreement.

7. The Union will not interfere with Resident Managers in the performance of their assigned non-bargaining unit duties. The bargaining unit referred to herein is the unit under the 2003 Apartment Building Agreement.

## **ARTICLE XVII**

### **General Clauses**

#### *1. Differentials.*

Existing wage differentials among classes of workers within a building shall be maintained. It is recognized that wage differentials other than those required herein may exist or arise because of wages above the minima required by this agreement. No change in such differentials shall be considered a violation of this agreement unless it appears that it results from an attempt to break down the wage structure for the building.

Where an obvious inequity exists by reason of an employee's regular application of specialized abilities in his work, the amount or correctness of the differential or wage may be determined by grievance and/or arbitration.

Notwithstanding the above, it is understood that licensed engineers covered under this Agreement shall receive the same wages and benefits as paid to engineers under the Realty Advisory Board (RAB) Agreement covering licensed engineers in New York City except that Pension, Health, Legal and Training Fund contributions shall continue to be paid under the terms of this Agreement.

## *2. Pyramiding.*

There shall be no pyramiding of overtime pay, sick pay, holiday pay or any other premium pay. If more than one of the aforesaid are applicable, compensation shall be computed on the basis giving the greatest amount.

*3. Holidays* – The following are the recognized contract holidays:

Holidays	2003	2004	2005	2006
New Year's Day		Thursday January 1	Saturday January 1	Sunday January 1
Martin Luther King Day		Monday January 19	Monday January 17	Monday January 16
President's Day		Monday February 16	Monday February 21	Monday February 20

Memorial Day	Monday May 26	Monday May 31	Monday May 30
Independence Day	Friday July 4	Sunday July 4	Monday July 4
Labor Day	Monday September 1	Monday September 6	Monday September 5
Columbus Day	Monday October 13	Monday October 11	Monday October 10
Election Day	Tuesday November 4	Tuesday November 2	Tuesday November 8
Thanksgiving Day	Thursday November 27	Thursday November 25	Thursday November 24
Christmas Day	Thursday December 25	Saturday December 25	Sunday December 25

**Elective Holiday: Select one of the following or a personal day at the option of the employee**

	2003	2004	2005	2006
Lincoln's Birthday		Thursday February 12	Saturday February 12	Sunday February 12
Good Friday		Friday April 9	Friday March 25	Friday April 14
Yom Kippur	Monday October 6	Saturday September 25	Tuesday September 13	
Eid al-Fitr	Wednesday November 26	Sunday November 14	Thursday November 3	

In the event the employee selects a personal day in accordance with the above schedule it shall be granted according to the following provision:

Employees entitled to a personal day may select such day off on five (5) days notice to the Employer provided such selection does not result in a reduction of employees in the building below 75% of the normal work staff.

Such selection shall be made in accordance with seniority.

The Employer shall post a holiday schedule on the bulletin board and it shall remain posted throughout the year.

Employees shall receive their regular straight time hourly rates for the normal eight (8) hour working day not worked, and if required to work on a holiday, shall receive in addition to the pay above mentioned, premium pay at the rate of time and one-half their regular straight-time hourly rate of pay for each hour worked with a minimum of four (4) hours premium pay. Any employee who is required to work on a holiday beyond eight (8) hours shall continue to receive the compensation above provided for holiday work, namely pay at his regular straight-time rate plus premium pay at time and one-half his regular straight-time rate.

Any regular full-time employee ill in any payroll week in which a holiday falls is entitled to holiday pay or corresponding time off (meaning one day) if he worked at least one (1) day during the said payroll week.

Any regular full-time employee whose regular day(s) off falls on a holiday, shall receive an additional day's pay therefore or at the option of the Employer, an extra workday off within ten (10) days immediately preceding or succeeding the holiday. If the employee

receives the extra day off before the holiday and his employment is terminated for any reason whatever, he shall not be required to compensate the Employer for that day.

#### *4. Personal Day.*

All employees shall receive a personal day in each contract year. This personal day is in addition to the holidays listed in paragraph 3 above. The personal day shall be scheduled in accordance with the following provision:

Employees may select such day off on five (5) days notice to the Employer provided such selection does not result in a reduction of employees in the building below 75% of the normal work staff. Such selection shall be made in accordance with seniority.

#### *5. Voting Time.*

Election Day is a recognized holiday and any employee who is required to work and who gives legal notice shall be allowed two (2) hours off, such hours to be designated by the Employer, while the polls are open. Said two (2) hours shall be included in the eight (8) hour day for which such employee receives his regular straight-time idle pay, but shall not be considered as hours actually worked for the purpose of premium pay.

## *6. Schedules.*

Overtime, Sunday and holiday work shall be evenly distributed so far as is compatible with the efficient operation of the building, except where Sunday is a regular part of the workweek.

## *7. Relief Employees.*

Relief or part-time employees shall be paid the same hourly rate as full-time employees in the same occupational classification.

## *8. Method of Payment of Wages.*

All wages, including overtime, shall be paid weekly in cash or by check, with an itemized statement of payroll deductions.

If a regular pay day falls on a holiday, employees shall be paid on the day before.

Employees paid by check who work during regular banking hours shall be given reasonable time to cash their checks exclusive of their break and lunch period. The Employer shall make suitable arrangements at a convenient bank for such check cashing.

In the event an Employer's check to an employee for wages is returned due to insufficient funds on a bona fide basis twice within a year's period, the Employer shall be required to pay all employees by cash or certified check.



The Employer may require, at no cost to the employee, that an employee's check be electronically deposited at the employee's designated bank. The Union shall be notified by the Employer of this arrangement.

*9. Leave of Absence and Pregnancy Leave.*

(a) Once during the term of this Agreement, upon written application to the Employer and the Union, a regular full-time employee (excluding a working Superintendent) employed in the building for five (5) years or more shall be granted a leave of absence for illness or injury not to exceed six (6) months.

Regular full-time employees (excluding a working Superintendent) employed for two (2) years but less than five (5) years shall be granted a leave of absence for illness or injury not to exceed sixty (60) days.

In buildings where there are more than four (4) employees, an employee shall be entitled to a two (2) week leave of absence without pay for paternity/ maternity leave. The leave must be taken immediately following the birth or adoption of the child.

(b) In cases of pregnancy, it shall be treated as any other disability suffered by an employee in accordance with applicable law.

The leaves of absence outlined above are subject to an extension not exceeding six (6) months in the case of bona fide inability to work whether or not covered by the New York State Workers' Compensation Law or New York State Disability Benefits Law. When such employee is physically and mentally able to resume work, that employee shall on one (1) week's prior written notice to the Employer be then reemployed with no seniority loss.

In cases involving on-the-job injuries, employees who are on medical leave for more than one (1) year may be entitled to return to their jobs if there is good cause shown.

Once every five (5) years, upon six (6) weeks' written application to the Employer, a regular full-time employee (excluding a working Superintendent) employed in the building for five (5) years or more shall be granted a leave of absence for personal reasons not to exceed four (4) months. Upon returning to work, the employee shall be reemployed with no loss of seniority.

Any employee requesting a personal leave of absence shall be covered for health benefits during the period of the leave provided the employee requests welfare coverage while on leave of absence and pays the Employer in advance for the cost of same.

Any employee on leave due to workers compensation or disability shall continue to be covered for health benefits without the necessity of payment to the Employer in accordance with Article X, Paragraph A, Sub-paragraph 1.

Any time limitation with regard to the six (6) weeks written application shall be waived in cases where an emergency leave of absence is required.

Any Employer who is required by law to comply with the provisions of the Family and Medical Leave Act (FMLA), shall comply with the requirements of said act.

The RAB will encourage Employers to cooperate in granting leaves of absence for Union business.

#### 10. *Vacations and Vacation Replacements.*

a. Every employee employed with substantial continuity in any building or by the same Employer shall receive each year a vacation with pay, as follows:

Employees who have worked

6 Months .....	3 working days
1 Year .....	2 weeks
5 Years.....	3 weeks
15 Years.....	4 weeks
21 Years .....	21 working days
22 Years .....	22 working days

23 Years .....	23 working days
24 Years .....	24 working days
25 Years .....	5 weeks

Length of employment for vacation shall be based upon the amount of vacation an employee would be entitled to on September 15th of the year in which the vacation is given, subject to grievance and arbitration where the result is unreasonable.

Part-time employees regularly employed shall receive proportionate vacation allowance based on the average number of hours per week they are employed.

Firemen who have worked substantially one (1) firing season in the same building or for the same Employer, when laid off, shall be paid at least three (3) days' wages in lieu of vacation.

Firemen who have been employed more than one (1) full firing season in the same building or by the same Employer shall be considered full-time employees in computing vacations.

Regular days off and contract holidays falling during the vacation period shall not be counted. If a contract holiday falls during the employee's vacation period, he shall receive an additional day's pay therefore, or, at the Employer's option, an extra day off within ten (10) days immediately preceding or succeeding his vacation.

Vacation wages shall be paid prior to the vacation period unless otherwise requested by the employee, who is entitled to actual vacation and who cannot instead be required to accept money.

Any Employer who fails to pay vacation pay in accordance with this provision where the vacation has been regularly scheduled shall pay an additional two (2) days pay for each vacation week due at that time.

When compatible with the proper operation of the building, choice of vacation periods shall be according to building seniority and confined to the period beginning May 1st and ending September 15th of each year. These dates may be changed and the third vacation week may be taken at a separate time by mutual agreement of the Employer and the employee.

The fourth and fifth week of vacation may, at the Employer's option, be scheduled, upon two (2) weeks' notice to the employee, for a week or two weeks other than the period when he takes the rest of his vacation.

Any employee leaving his job for any reason, shall be entitled to a vacation accrual allowance computed on his length of service as provided in the vacation schedule based on the elapsed period from the previous September 16th (or from the date of his employment if later employed) to the date of his leaving. Any

employee who has received a vacation during the previous vacation period (May 1st through September 15th) and who leaves his job during the next vacation period under circumstances which entitled him to vacation accrual rights, shall be entitled to full vacation accrual allowances instead of on the basis of the elapsed period from the previous September 16th. Any employee who has received no vacation and has worked at least six (6) months before leaving his job shall be entitled to vacation allowance equal to the vacation allowance provided above.

No employee leaving his position of his own accord shall be entitled to accrued vacation unless he gives five (5) working days' termination notice.

Any Employer assuming this Agreement shall be responsible for payment of vacation pay and granting of vacations required under this Agreement which may have accrued prior to the Employer taking over the building less any amounts paid or given for that vacation year. In the event that the Employer terminates its Employer-employee relationship under this agreement and the successor Employer does not have an agreement with the Union providing for at least the same vacation benefits, the Employer shall be responsible for all accrued vacation benefits.

b. A person hired solely for the purpose of relieving employees for vacation shall be paid 60% of the minimum applicable regular hourly wage rate. Should a vacation relief employee continue to be employed beyond five months, such employee shall be paid the wage rate of a new hire or experienced person as the case may be. If a vacation replacement is hired for a permanent position immediately after working as a vacation replacement, such employee shall be credited with time worked as a vacation replacement toward completion of the 30-month period required to achieve the full rate of pay under the "New Hires" provision.

In the event that the arbitrator finds that an Employer is using this rate as a subterfuge, such arbitrator may, among other remedies, award full pay from the date of employment at the applicable hiring rate.

*No contribution to any Benefit Funds shall be made for a vacation relief person.*

#### *11. Day of Rest.*

Each employee shall receive at least one (1) full day of rest in every seven (7) days.

#### *12. Uniforms and Other Apparel.*

Uniforms and work clothes where they have been required by the Employer or where

necessary for the job shall be supplied and maintained by the Employer. All uniforms shall be appropriate for the season.

It is understood that where the Employer does not require uniforms, the employees shall be free to wear suitable clothing of their choice.

Employees doing outside work shall be furnished adequate wearing apparel for the purpose.

In buildings of 500,000 square feet or more, the Employer shall be required to furnish uniforms and work clothes.

#### 13. *First Aid Kit.*

An adequate and complete first aid kit shall be supplied and maintained by the Employer in a place readily available to all employees.

#### 14. *Fire and Flood Call.*

Employees on fire and/or flood call shall be reimbursed for all loss of personal effects incurred in the line of duty.

#### 15. *Eye Glasses and Union Insignia.*

Employees may wear eye glasses and the Union insignia while on duty.



16. *Bulletin Board.*

A bulletin board shall be furnished by the Employer exclusively for Union announcements and notices of meetings.

17. *Sanitary Arrangements.*

Adequate sanitary arrangements shall be maintained in every building, and individual locker and key thereto and rest room key, where rest room is provided, and soap, towels and washing facilities, shall be furnished by the Employer for all employees. The rest room and locker room shall be for the sole use of employees servicing and maintaining the building.

18. *Replacements, Promotions, Vacancies, Trial Period, Seniority and Newly Hired Employees*

a. In filling vacancies or newly created positions in the bargaining unit, preference shall be given to those employees already employed in the building, based upon the employee's seniority, but training, ability, efficiency, appearance and personality for a particular job, shall also be considered.

If a present employee cannot fill the job vacancy, the Employer must fill the vacancy in accordance with the other terms of this collective bargaining agreement.

In the event that a new classification is created in a building, the Employer shall negotiate with the Union a wage rate for that classification.

In case of layoffs due to reduction of force, departmental seniority shall be followed, except as provided in Article XVII paragraph 20 (c) below, with due consideration for the efficiency and special needs of the department.

In filling vacancies or newly created positions the wages shall be those prevailing and in force in the building for similar work, excluding extra pay attributable to years of service or special considerations beyond the requirements of the job which the replacement is not qualified to meet.

In applying the foregoing paragraphs, the judgment of the Employer shall control, subject to grievance and arbitration.

There shall be a trial period for all newly hired employees for sixty (60) calendar days except as provided for Superintendents in Article XVI paragraph 6.

Anyone employed as an "extra" or a contingent with substantial regularity for a period of four (4) months or more, shall receive preference in steady employment, other considerations being equal.

The seniority date for all positions under the agreement shall be the date the employee commenced working in the building for the agent and/or owner regardless of whether there is a collective bargaining agreement and regardless of the type of work performed by the employee.

b. A New Hire employed in the "other" category shall be paid a starting rate of eighty percent (80%) of the minimum wage rate. A New Hire employed as a "superintendent" in a building with five (5) or fewer employees may be paid a starting rate of eighty percent (80%) of the applicable contract rate.

Upon completion of thirty (30) months of employment, the new hire shall be paid the full minimum wage rate.

This provision shall not apply to any experienced employee ("Experienced Employee") who was employed in the New York City Building Service Industry ("Industry") as of April 20, 1997. Experienced employee shall be defined as a person who has worked in the Industry for a period of at least thirty (30) days within the twenty-four (24) months immediately preceding hiring (excluding employment as a vacation relief).

No experienced employee may be terminated or denied employment for the purpose of

discrimination on the basis of his/her compensation and/or benefits.

The Union may grieve such discrimination in accordance with the grievance and arbitration provisions of the Agreement (Article V and Article VI).

If the arbitrator determines an experienced employee has been terminated or denied employment because of such discrimination, the arbitrator shall:

(1) In case of termination—reinstatement the experienced employee with full back pay and all benefits retroactive to date of experienced employee's discharge.

(2) In case of failure to hire—If the arbitrator determines that an experienced employee was not given preference for employment absent good cause, he or she shall direct the Employer to hire the experienced employee with full back pay and benefits retroactive to date of denial of hire.

No contribution shall be made to the Building Service Pension Fund or to the SRSP Fund on behalf of a new hire, until the new hire has completed two (2) years of employment. Contributions shall be made for an experienced employee in accordance with the other provisions of this agreement.

19. *Recall, Job Vacancies and Agency Fee.*

(a) Any employee who has been employed for one (1) year or more in the same building and who is laid off, shall have the right of recall, provided that the period of layoff of such employee does not exceed six (6) months. Recall shall be in the reverse order of laid off employee's departmental seniority. The Employer shall notify by certified mail, return receipt requested, the last qualified laid off employee at his last known address, of any job vacancy and a copy of this notice shall be sent to the Union. The employee shall then be given seven (7) days from the date of mailing of the letter in which to express in person or by registered or certified mail his desire to accept the available job. In the event any employee does not accept recall, successive notice shall be sent to qualified employees until the list of qualified employees is exhausted. Upon re-employment, full seniority status, less period of layoff, shall be credited to the employee. Any employee who received termination pay and is subsequently rehired shall retain said termination pay and for purpose of future termination pay shall receive the difference between what he has received and what he is entitled to if subsequently terminated at a future date. Any vacation monies paid shall be credited to the Employer against the current vacation entitlement. Further, in the event an

Employer or agent has a job vacancy in a building where there are no qualified employees on layoff status, the Employer or agent shall use its best efforts to fill the job vacancy from qualified employees of the Employer or agent who are on layoff status from other buildings.

(b) Upon the occurrence of any job vacancy not filled by current employees of the Employer, or employees recalled pursuant to other provisions of this Agreement, the Employer shall notify the Union and the New York State Employment Bureau (NYSEB) two (2) weeks prior to the existence of a vacancy. Such notice shall be confirmed in writing. In the event the Employer does not have two (2) weeks notice, it shall notify the Union and the NYSEB upon notice of the vacancy. The NYSEB or the Union shall refer qualified applicants to such a vacancy within three (3) working days of the request, or shorter periods in the case of emergencies. If the NYSEB or the Union are unable to refer qualified applicants satisfactory to the Employer within three (3) working days, or such shorter period required by an emergency, the Employer shall be free to hire in the open market.

This procedure shall not be applicable if the Employer hires directly an employee experienced in the building service industry.

When the Employer has hiring procedures which substantially make available work to experienced employees in the building service industry, the parties shall waive this provision by mutual agreement. If the parties cannot agree, the matter shall be submitted to arbitration.

In the event the Union establishes a hiring hall during the life of this Agreement, appropriate substitute language shall be agreed upon.

No employee shall be employed through a fee charging agency unless the Employer pays the full fee.

#### 20. *Termination Pay.*

(a) In case of termination of employment because of the employee's (excluding a working Superintendent) physical or mental inability to perform his duties, he shall receive, in addition to accrued vacation, termination pay according to service in the building or with the same owner, whichever is greater, as follows:

Employees with:	Pay:
5 but less than 10 years.....	1 week's wages
10 but less than 12 years.....	2 weeks' wages
12 but less than 15 years.....	3 weeks' wages
15 but less than 17 years.....	6 weeks' wages
17 but less than 20 years.....	7 weeks' wages

20 but less than 25 years.....8 weeks' wages  
25 or more .....10 weeks' wages

An employee physically or mentally unable to perform his duties may resign and receive the above termination pay if he submits written certification from a physician of such inability at the time of termination. In such event, the Employer may require the employee (a) to submit to a medical examination at the Health Center at no cost to the Employer to determine if in fact the employee is physically or mentally unable to perform his duties, which determination shall be final and binding, or (b) to submit at the Employer's expense to a medical examination by a physician designated by the Employer to determine if in fact the employee is physically or mentally unable to perform his duties. If the Employer's designated physician disagrees with the physician's certification submitted by the employee, the employee shall be examined by a physician designated by the Medical Director of the Building Service Health Fund to make a final and binding determination whether the employee is physically or mentally unable to perform his duties.

(b) In case of termination of employment for any reason other than just cause or in accordance with paragraph (a) above, the



employee shall receive, in addition to his accrued vacation, termination pay according to years of service in the building or with the same owner, whichever is greater, as follows:

Employees with:	Pay:
0-5 years .....	1 week's wages
5 but less than 10 years.....	2 weeks' wages
10 but less than 12 years.....	4 weeks' wages
12 but less than 15 years.....	5 weeks' wages
15 but less than 17 years.....	7 weeks' wages
17 but less than 20 years.....	8 weeks' wages
20 but less than 22 years.....	9 weeks' wages
22 but less than 25 years.....	10 weeks' wages
25 or more .....	11 weeks' wages

(c) The right to accept termination pay and resign where there has been a reduction in force shall be determined by seniority, and notice of such an intended layoff shall be posted in the building. If no senior employee wishes to exercise his rights under this provision, the least senior employees shall be terminated and shall receive applicable termination pay.

(d) "Week's pay" in the above paragraphs means the regular straight-time weekly pay at the time of termination. If the Employer offers part-time employment to the employee entitled to termination pay, he shall be entitled to termination pay for the period of his full-time employment, and if he accepts such part-time

employment, he shall be considered a new employee for all purposes. Where an employee was placed on a part-time basis or suffered a pay reduction because of a change in his work category prior to May 21, 1967, and did not receive termination pay based upon his former pay, "week's pay" shall be determined by agreement, or through grievance and arbitration.

(e) Any employee accepting termination pay who is re-hired in the same building or with the same Employer shall be considered a new employee for all purposes except as provided in paragraph 19 of this Article (Recall).

For the purposes of this section, sale or transfer of a building shall not be considered a termination of employment so long as the employee or employees are hired by the purchaser or transferee, in which case they shall retain their building seniority for all purposes.

#### 21. *Tools, Permits, Fines and Legal Assistance.*

All tools, of which the Superintendent shall keep an accurate inventory, shall be supplied by the Employer. The Employer shall continue to maintain and replace any special tools or tools damaged during ordinary performance of work but shall not be obligated to replace "regular" tools if lost or stolen.

The Employer shall bear the expense of securing or renewing permits, licenses or certificates for specific equipment located on the Employer's premises and will pay fines and employees' applicable wages for required time spent for the violation of any codes, ordinances, administrative regulations or statutes, except any resulting from the employees' gross negligence or willful disobedience.

The Employer shall supply legal assistance where required to employees who are served with summons regarding building violations.

## *22. Military Service.*

All statutes and valid regulations about reinstatement and employment of veterans shall be observed.

The Employers and the Union will cooperate in effort to achieve the objectives of this provision. They shall also consider the institution of plans to provide training of employees to improve their skills and to enter into employment in the industry.

## *23. No Discrimination.*

There shall be no discrimination against any present or future employee by reason of race, creed, color, age, disability, national origin, sex, union membership, or any characteristic protected by law, including, but not limited to, claims made pursuant to Title VII of the Civil

Rights Act, the Americans with Disabilities Act, the Age Discrimination in Employment Act, the New York State Human Rights Law, the New York City Human Rights Code, or any other similar laws, rules or regulations. All such claims shall be subject to the grievance and arbitration procedure (Articles VII and VIII) as sole and exclusive remedy for violations. Arbitrators shall apply appropriate law in rendering decisions based upon claims of discrimination.

#### *24. Employees' Rooms and Utilities.*

Any employee occupying a room or apartment on the Employer's property may be charged a reasonable rental therefore. If such occupancy is a condition of his employment, the premises shall be adequate and properly maintained by the Employer in conformity with applicable law, no rent shall be charged and the Employer shall provide normal gas and electric service and pay business telephone bills.

The value of the apartment and services provided therewith such as gas, electric and business phone, shall not be treated as or included for any purpose in the wage, remuneration or other income of such employee to the extent permitted by law.

If the Employer terminates the services of an employee occupying a living space in the building the Employer shall give the employee

thirty (30) days' written notice to vacate, except where there is a discharge for a serious breach of the employment contract.

#### *25. Definitions.*

A handyperson differs from an elevator operator, porter, hall person, etc., because by training and experience he possesses a certain amount of mechanical or technical skill and devotes more than fifty (50) percent of his working time in a building to work involving such skills.

Others include elevator operators, guards, doorpersons, porters, porter/watchpersons, watchpersons, security porters, security employees, fire safety directors, exterminators and all other service employees employed in the building under the jurisdiction of the Union except Superintendents and handypersons.

All reference to the male gender shall be deemed to include the female gender.

#### *26. Required Training Programs.*

The Employer shall compensate, at straight-time pay, any employee now employed in a building for any time required for the employee to attend any instruction or training program in connection with the securing of any license, permit or certificate required by the Employer for the performance of duties in the building.

Time spent shall be considered as time worked for the purpose of computing overtime pay.

*27. Garnishments.*

No employee shall be discharged or laid off because of the service of an income execution, unless in accordance with applicable law.

*28. Death in Family.*

A regular, full or part-time employee with at least one (1) year of employment in the building shall not be required to work for a maximum of three (3) days immediately following the death of his parent, brother, sister, spouse or child, and shall be paid his regular, straight-time wages for any of such three days on which he was regularly scheduled to work, or entitled to holiday pay.

With respect to grandparents, the Employer shall grant a paid day off on the day of the funeral if such day is a regularly scheduled workday.

*29. Union Visitation.*

Any business agent or other duly authorized representative of the Union shall have access to the buildings or sites where union members are employed to determine whether the terms of this agreement are being complied with. Access shall be granted only if there is prior notice to the Employer and such access does not interfere with the work being performed at the building.

### 30. *Jury Duty.*

Employees who are required to qualify or serve on juries shall receive the difference between their regular rate of pay and the amount they receive for qualifying or serving on said jury with a maximum of two (2) weeks in each calendar year.

Pending receipt of the jury duty pay, the Employer shall pay the employee his regular pay on his scheduled pay day. As soon as the employee receives jury duty pay, he shall reimburse his Employer by signing the jury duty pay check over to the Employer.

Employees who serve on a jury shall not be required to work any shift during such day. If an employee is a weekend employee and assigned to jury duty, he shall not be required to work the weekend.

In order to receive jury duty pay, the employee must notify the Employer at least two (2) weeks before he is scheduled to serve.

If less notice is given by the employee, the notice provision regarding change in shift shall not apply.

### 31. *Identification.*

Employees may be required to carry with them and exhibit proof of employment on the premises. The RAB and the Union may appoint a committee within thirty (30) days of the

signing of this agreement to establish a system for this purpose. If such system is not timely established, either party may submit the matter to arbitration.

### *32. Service Center Visit.*

Every regular full-time employee who has been employed in the building for one (1) year or more shall be entitled, upon one (1) week's notice to his Employer, to take one (1) day off in each calendar year at straight time pay to visit the office of any one of the benefit funds for the purpose of conducting business at the benefit office.

Such employee shall receive an additional one (1) day off with pay to visit the benefit fund office if the office requires such a visit.

In the event that an employee chooses to visit any one of the benefit fund offices after having used up his entitlement pursuant to the above two (2) paragraphs, he may use any of his sick days for that purpose.

### *33. Death of Employee.*

If any employee dies after becoming entitled to but before receiving any wage or pay hereunder, it shall be paid to his estate, or pursuant to Section 1310 of the New York Surrogate's Court Procedure Act, unless otherwise provided herein. This shall not apply to benefits under Article X, where the rules and



regulations of the Health and Pension Funds shall govern.

#### *34. Government Decrees.*

If because of legislation, governmental decree or order, any increase or benefit herein provided is in any way blocked, frustrated, impeded or diminished, the Union may upon ten (10) days' notice require negotiation between the parties to take such measures and make such revisions in the contract as may legally provide substitute benefits and improvements for the employees at no greater cost to the Employer. If they cannot agree, the dispute shall be submitted to the Arbitrator.

In the event that any provision of this contract requires approval of any government agency, the RAB shall cooperate with the Union with respect thereto.

#### *35. Common Disaster.*

There shall be no loss of pay as a result of any Act of God or common disaster causing the shut down of all or virtually all public transportation in the City of New York, making it impossible for employees to report for work, or where the Mayor of the City of New York or the Governor of the State of New York directs the citizens of the City not to report for work. The Employer shall not be liable for loss of pay of more than the first full day affected by such Act of God or common disaster. Employees

necessary to maintain the safety or security of the building shall be paid only if they have no reasonable way to report to work and employees refusing the Employer's offer of alternate transportation shall not qualify for such pay. The term "public transportation" as used herein shall include subways and buses.

### *36. Rent Collection.*

No employee as part of his usual and regular duties shall be required to retain cash rent for more than twenty-four (24) hours.

### *37. Lie Detector.*

The Employer shall not require, request or suggest that an employee or applicant for employment take a polygraph or any other form of lie detector test.

### *38. Saving Clause.*

If any provision of this agreement shall be held illegal or of no legal effect, it shall be deemed null and void without affecting the obligations of the balance of this agreement.

### *39. Complete Agreement.*

This agreement constitutes the full understanding between the parties and, except as they may otherwise agree, there shall be no demand by either party for the negotiation or renegotiation of any matter covered or not covered by the provisions hereof.

#### 40. *Transportation Costs.*

The RAB will encourage its members to adopt a qualified transportation fringe benefit program pursuant to which employees may pay for certain qualified transportation costs (e.g. transit passes, qualified parking) on a pre-tax basis, to the extent permitted by law. The RAB will make information available to its members that is necessary to assist them in the adoption and implementation of the program.

41. The parties agree that all references in the Agreement to "telegram" shall be deleted and replaced with "facsimile *and also* by hand."

### **ARTICLE XVIII**

#### **Term of Agreement and Renewals**

If legislation is enacted which eliminates or reduces present state law regarding Labor Pass Along, the RAB may, upon 90 days notice to the Union, cancel this agreement.

This agreement shall continue in full force and effect up to and including April 20, 2006.

Upon the expiration date of this agreement, the same shall continue in full force and effect for an extended period until a successor agreement has been executed. During the extended period, all terms and conditions shall

be in effect and the parties shall negotiate for a successor agreement retroactive to the expiration date. All provisions and improvements in such successor agreement shall be retroactive unless such agreement shall otherwise provide.

In the event the parties are unable to agree upon the terms of a successor agreement, either party upon ten (10) days' written notice to the other party may cancel this agreement. Such cancellation shall not apply to Article IX, Section 4 for a period of six (6) months after the expiration date of the contract.

Sixty (60) days before said expiration date, the parties shall enter into direct negotiations looking towards a renewal agreement.

If fifteen (15) days before this agreement expires, the parties shall not have been able to agree upon the terms of a new agreement, both parties will thereupon confer with the New York State Employment Relations Board for the purpose of conciliating their differences.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written.

REALTY ADVISORY BOARD ON LABOR  
RELATIONS, INCORPORATED

James F. Berg  
*President*

SERVICE EMPLOYEES  
INTERNATIONAL UNION, LOCAL 32B-J,  
AFL-CIO

Michael P. Fishman  
*President*

**MINIMUM WAGE RATES FOR  
APARTMENT BUILDINGS  
(Excluding Superintendents)**

Effective  
**APRIL 21, 2003 to APRIL 20, 2004**

**(40-Hour Standard Work Week of Five 8-Hour Days)**

	Regular Hourly Rate	Overtime Hourly Rate	Weekly Wage
<b>Class A</b>			
Handyperson	\$18.6908	\$28.0362	\$747.63
Others	\$16.9658	\$25.4487	\$678.63
<b>Class B</b>			
Handyperson	\$18.633	\$27.9495	\$745.32
Others	\$16.908	\$25.362	\$676.32
<b>Class C</b>			
Handyperson	\$18.5753	\$27.8630	\$743.01
Others	\$16.8503	\$25.2755	\$674.01

**MINIMUM WAGE RATES FOR  
APARTMENT BUILDINGS  
(Excluding Superintendents)**

Effective  
**APRIL 21, 2004 to APRIL 20, 2005**

*(40-Hour Standard Work Week of Five 8-Hour Days)*

	Regular Hourly Rate	Overtime Hourly Rate	Weekly Wage
<b>Class A</b>			
Handyperson	\$19.2158	\$28.8237	\$768.63
Others	\$17.4408	\$26.1612	\$697.63
<b>Class B</b>			
Handyperson	\$19.158	\$28.737	\$766.32
Others	\$17.383	\$26.0745	\$695.32
<b>Class C</b>			
Handyperson	\$19.1003	\$28.6505	\$764.01
Others	\$17.3253	\$25.9880	\$693.01

**MINIMUM WAGE RATES FOR  
APARTMENT BUILDINGS  
(Excluding Superintendents)**

Effective  
**APRIL 21, 2005 to APRIL 20, 2006**

**(40-Hour Standard Work Week of Five 8-Hour Days)**

	Regular Hourly Rate	Overtime Hourly Rate	Weekly Wage
<b>Class A</b>			
Handyperson	\$19.7658	\$29.6487	\$790.63
Others	\$17.9408	\$26.9112	\$717.63
<b>Class B</b>			
Handyperson	\$19.708	\$29.562	\$788.32
Others	\$17.883	\$26.8245	\$715.32
<b>Class C</b>			
Handyperson	\$19.6503	\$29.4755	\$786.01
Others	\$17.8253	\$26.7380	\$713.01



**2003**

**APARTMENT BUILDING  
AGREEMENT**

**MINIMUM WAGE RATES  
2003 - 2006  
(See pages 94, 95, 96)**

**REALTY ADVISORY BOARD  
ON LABOR RELATIONS,  
INCORPORATED**

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