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National Service and Maintenance Agreement

Effective January 1, 2001–August 1, 2005



NATIONAL SERVICE AND MAINTENANCE AGREEMENT

Effective January 1, 2001 – August 1, 2005

UNITED ASSOCIATION OF JOURNEYMEN AND
APPRENTICES OF THE PLUMBING AND PIPE FITTING
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TABLE OF CONTENTS

	<u>PAGE</u>
ARTICLE I – Recognition	
Paragraph 2	1
ARTICLE II – Non-Discrimination Clause	
Paragraphs 3-4	1
ARTICLE III – Management Rights	
Paragraphs 5-6	2
ARTICLE IV – Union Security	
Paragraphs 7-8	2
ARTICLE V – Union Representation and Access to Jobs	
Paragraph 9	2
ARTICLE VI – Geographical Territory and Trade Jurisdiction	
Paragraph 10	2
ARTICLE VII – Scope of Service, Maintenance and Operations Work	
Paragraphs 11-12	3
ARTICLE VIII – Building Trades Work	
Paragraph 13	3
ARTICLE IX – Classification of Employees	
Paragraphs 14-17	3
Paragraph 18	4
ARTICLE X – Hiring and Use of Employees	
Paragraphs 19-23	4
Paragraphs 24-29	5
ARTICLE XI – Subcontracting	
Paragraphs 30-31	6
ARTICLE XII – Wages, Benefits and Hours of Work	
Paragraphs 32-36	6
Paragraphs 37-45	7
Paragraphs 46-47	8
ARTICLE XIII – Temporary Shift Work Conditions	
Paragraphs 48-50	8
ARTICLE XIV – Permanent Shift Work Conditions	
Paragraphs 51-53	8

ARTICLE XV – Safety	
Paragraph 54	9
ARTICLE XVI – Uniforms and Tools	
Paragraphs 55-57	9
ARTICLE XVII – Travel and Subsistence	
Paragraphs 58-60	9
Paragraphs 61-62	10
ARTICLE XVIII – No Strike, No Lockout	
Paragraphs 63-64	10
ARTICLE XIX – Local Negotiation Waivers	
Paragraph 65	10
ARTICLE XX – Grievance Procedure and Arbitration	
Paragraphs 66-68	11
Paragraphs 69-71	12
ARTICLE XXI – Schedule “A” to the National Service and Maintenance Agreement	
Paragraph 72-74.....	13
ARTICLE XXII – Savings Clause	
Paragraphs 75-76.....	13
Paragraphs 77-78	14
ARTICLE XXIII – Mechanical Service Contractors of America	
Paragraphs 79-83	14
ARTICLE XXIV – Duration and Termination	
Paragraphs 84-88	15
ARTICLE XXV – Joint UA/MSCA Labor Committee	
Paragraph 89	15
ARTICLE XXVI – New Construction, Installation and Remodel of Ammonia, Cryogenic and Supermarket Refrigeration Systems and Ice Rinks	
Paragraph 90.....	15
Paragraphs 91-98	16
SIGNATURE PAGE.....	18
APPENDIX – UA/MCAA Statement on Workplace Substance Abuse Testing and Treatment	19
INDEX.....	20

1. This amended Agreement is entered into this 1st day of January 2001, by and between the Mechanical Contractors Association of America, Inc., and its department, the Mechanical Service Contractors of America, hereinafter called the "MSCA;" and on behalf of contractors who qualify and become signatory to this Agreement, hereinafter called "Employer", and the United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada, AFL-CIO, hereinafter called the "United Association," "UA," or "Union."

WHEREAS, the Employer is a contractor engaged in activities within the scope of work defined by this Agreement;

WHEREAS, the Employer has employed, now employs and will employ employees, represented by the Union for the performance of such work, hereinafter called "Employees;"

WHEREAS, the parties recognize that local or area agreements have been or will be entered into and such agreements will provide wage rates and fringes for work covered under the scope of this Agreement; and

WHEREAS, the parties desire to provide for the training of Employees represented by the Union in the service and maintenance field and to establish stable and harmonious labor relations to the end that essential service and maintenance functions will be performed without interruption for the industry and the public;

NOW, THEREFORE, the parties to this Agreement, in consideration of the promises and covenants set forth in this Agreement, agree as follows:

ARTICLE I Recognition

2. The Employer and the MSCA recognize the Union as the sole and exclusive bargaining representative for all Employees of the Employer performing work covered by this Agreement or an approved Schedule "A," other than supervisors as defined in the National Labor Relations Act, with respect to wages, hours, and other terms and conditions of employment, on any work in the service and maintenance industry described in this Agreement. The parties recognize the MSCA as the exclusive bargaining agent for all Employers signatory to this Agreement.

ARTICLE II Non-Discrimination Clause

3. The Employer and the Union agree there shall be no discrimination against any Employee because of race, color, religion, sex, national origin, age or disability.
4. Wherever any words are used in this Agreement in the masculine gender, they shall be construed as though they were also used in the feminine gender in all situations where they would so apply.

ARTICLE III Management Rights

5. The management of the Employer's business including, but not limited, to the direction of the working force, the right to hire, to plan, direct, control and schedule all operations (including the scheduling of the work force), the right to establish, eliminate, change or introduce new or improved methods, machinery, quality standards or facilities is the sole and exclusive prerogative and responsibility of the Employer. The need for, designation of and the determination of the number of Employees and foremen, if any, is solely the responsibility of the Employer. The Employer's salaried personnel may handle all dispatching and assignment of duties. All rights not specifically nullified by this Agreement are retained by the Employer.
6. The Employer is vested with the right to relieve Employees from duty because of lack of work or other legitimate reasons, to promote, suspend, demote, transfer, discipline, or discharge for just cause in line with this Agreement.

ARTICLE IV Union Security

7. All members of the Union now in the employ of the Employer shall remain members in good standing in the Union during the term of this Agreement. Employees in all classifications covered by this Agreement and hereinafter employed by the Employer shall become members of the Union on the earliest date provided by applicable federal law after their employment, or the date of signing of the contract by the Employer, whichever is later. This article shall be effective to the extent permitted by applicable state and federal laws.
8. In interpreting good standing, the Employer shall not discharge an Employee for non-membership in the Union: (a) if it has reasonable grounds for believing that such membership was not available to the Employee on the same terms and conditions generally applicable to other members; or (b) if it has reasonable grounds for believing that membership was denied or terminated for reasons other than failure of the Employee to tender the periodic dues and initiation fee uniformly required as a condition of acquiring or retaining membership.

ARTICLE V Union Representation and Access to Jobs

9. Authorized representatives of the Union shall have access to the work where Employees covered by this Agreement are employed, providing they do not unnecessarily interfere with the Employer's employees or customers' employees or cause them to neglect their work and, further provided, such Union representative complies with customer requirements.

ARTICLE VI Geographical Territory and Trade Jurisdiction

10. All questions relating to the geographical territory and trade jurisdiction of a local union or local unions, or questions relating to open territory shall be decided by the Union.

ARTICLE VII
Scope of Service, Maintenance and Operations Work

11. This Agreement shall apply to and cover all work performed by the Employer, and all its subsidiaries and branches in the United States, which is necessary to keep facilities and existing systems within those facilities operating in an efficient manner. This work shall include the inspection, service, maintenance, start-up, testing, balancing, adjusting, repair, modification and replacement of mechanical, refrigeration or plumbing equipment and related controls and piping including all other service, maintenance and operations work as assigned by the customer. Temporary systems are to be considered service work.
12. For the purpose of instruction and training, non-bargaining unit employees of the Employer or the Employer's vendors or contractors may perform work of a technical nature related to testing, monitoring and diagnosing problems.

ARTICLE VIII
Building Trades Work

13. Any other work in the control of the Employer signing this Agreement that falls in the jurisdiction of the Union, but not in the scope as outlined in Article VII or Article XXVI, shall be done in accordance with the prevailing building trades agreement of the local union having jurisdiction for that type of work.

ARTICLE IX
Classification of Employees

14. Service Journeymen must be skilled craftsmen in their trade, with a minimum of five (5) years actual, practical working experience. They may be required to pass an examination as to their skills. They shall be allowed to perform all of the work covered under this Agreement.
15. Servicemen must have practical working experience in their trade. They may be required to pass an examination as to their skills. Their scope of work shall include all work necessary to keep existing systems of any type operating in an efficient manner. Servicemen may assist Journeymen in the repair of centrifugal and absorption machines, open-drive screw chillers and ammonia systems for the purpose of further developing their technical skills. Servicemen may attain Journeymen status with sufficient training and work experience. A Serviceman's duties can be modified through an approved Schedule "A."
16. Service Apprentices shall be governed by the local apprenticeship committee and shall be allowed to perform all work in the service and maintenance field limited only by their capabilities. They shall be under the direction of a Serviceman or Service Journeyman.
17. Tradesmen shall be allowed to perform routine maintenance and inspections on all existing systems, including:
 - a) Systems operations under contract with customer
 - b) Filter changing
 - c) Oiling and greasing
 - d) Belt adjusting or replacement

- e) Cleaning of cooling towers, coils, evaporator and condenser tubes
- f) Water treatment
- g) General housekeeping
- h) Truck driving including pick-up and delivery of parts or equipment
- i) Indoor Air Quality (IAQ) related work
- j) Installation and replacement of all residential single unitary heating, air conditioning and plumbing systems
- k) Drain and sewer cleaning

The assignment of Tradesmen duties, including facility management, may be adjusted to meet local conditions through an approved Schedule "A."

- 18. No Employee shall receive any change in classification as defined in Article IX or any reduction in basic wage rate or fringes as a result of this Agreement or any approved Schedule "A."

ARTICLE X Hiring and Use of Employees

- 19. For the purpose of this Agreement the words "Home Local Union" shall mean the local union having jurisdiction in the area of the Employer's place of business, and therefore, the local union which referred the Employee to the Employer.
- 20. The Employer will first request the home local union for qualified personnel. The local union, upon such request, agrees to furnish at all times to the Employer duly qualified Employees, including Journeymen with special skills where applicable, in a sufficient number, as determined by the Employer, to properly execute all work covered by this Agreement. The Employer shall retain the right to reject any applicant referred by the union.
- 21. In the event the local union having jurisdiction is unable to supply the requested number of qualified and competent Employees, the Union, upon request by the Employer, agrees to notify its other local unions of the availability of work and will request these local unions to refer such qualified Employees to the Employer.
- 22. If neither the home local union nor the Union is able to supply competent and skilled Employees satisfactory to the Employer within forty-eight (48) hours, the Employer may hire such persons wherever available, subject to the provisions of Article IV, and train such persons to perform the work required. It is understood that consideration for such employment and training shall be given to Employees with previous experience in the service and maintenance industry.
- 23. The Employer may, with mutual agreement of the local union, hire Probationary Service Employees for a period not to exceed six months, for the purpose of evaluating the capabilities of the Employee.

24. The selection of applicants for referral to jobs shall be on a nondiscriminatory basis and shall not be based on, or in any way affected by, union membership, bylaws, rules, regulations, constitutional provision or by any other aspect or obligation of union membership, policy or requirement; no distinction in treatment will be made based on religion, color, age, national origin, sex, disability or on any other basis prohibited by law.
25. The Employer may use an Employee from its regular work force for initial start-up of newly installed systems, provided it has notified the local union having jurisdiction in that area, and also provided the working hours, fringes, conditions and rate of pay is adhered to for this type of work as stipulated in the master construction agreement of the local union having jurisdiction where the work is being performed. When the Employer dispatches Employees from their home local union area for new start-up work, Employees shall be permitted to work with the tools, and if they should need any extra help, shall obtain such help from the local union having jurisdiction, if qualified help is available.
26. The Employer may at its discretion, for work covered under Article VII of this Agreement, assign the first three Employees from the Employer's regular work force to work on a job within the territorial jurisdiction of another local union. The next two Employees shall be from the local union jurisdiction where the work is being performed, with one Employee at a time being assigned, as needed. Thereafter, additional Employees shall be hired on an alternating basis from the Employer's regular work force and the local union jurisdiction, to a maximum of five from the Employer's regular work force, unless a larger number is agreed to in writing between the Employer and the local union where the job is being performed.
27. Any Employee performing work in the jurisdiction of a local union, other than his home local union, for a period of more than eight (8) hours, shall notify the local union in whose jurisdiction the work is being performed. These Employees shall pay working assessments and/or travel card dues, if any, only to their home local union unless the Employee is scheduled to work in this area for a period exceeding thirty (30) consecutive working days or the job duration is scheduled for more than thirty (30) days.
28. The Employer shall be permitted a ratio of one Service Apprentice for each Service Journeyman and/or Serviceman. All Service Apprentices shall be under the supervision of their home local union Joint Apprentice Committee until their training is satisfactorily completed.
29. The parties to this Agreement recognize the need to provide a drug-free and alcohol-free workplace. Therefore, if the local union, in the jurisdiction where the Employer is performing work, has in place a negotiated drug and alcohol policy with the recognized contractor group which is consistent with the model plan recommended by the United Association/Mechanical Contractors Association of America, Inc. ("MCAA") (see Appendix to this Agreement), this policy shall apply. Where the local union has no drug and alcohol policy in effect in the jurisdiction where the Employer is performing work, or where the policy is not consistent with the UA/MCAA model drug policy, the Employer may implement a drug and alcohol policy consistent with the model plan recommended by the UA/MCAA. A copy of any drug and alcohol policy, including testing procedures, shall be furnished to the local union in the jurisdiction where the Employer is performing work.

ARTICLE XI Subcontracting

30. In order to protect wages and working conditions of Employees working for the Employer under this Agreement, the Employer shall make every reasonable effort to utilize Employees covered by this Agreement; however, the Employer reserves the right to subcontract any or all work referred to herein, after reasonable documented effort has been made to perform the work with Employees covered by this Agreement or the local agreement.
31. The Union and the Employer understand the customer may, at his discretion, choose to perform or directly subcontract for any part or parts of the work herein described. The Employer's obligation under this Agreement refers only to work that the Employer has contracted to perform.

ARTICLE XII Wages, Benefits and Hours of Work

32. Eight (8) consecutive hours per day shall constitute a standard work day with a flexible starting time between 6:00 a.m. and 10:00 a.m. Forty (40) hours per week, five (5) consecutive days, Monday through Saturday, shall constitute a week's work or as mutually agreed to by the Employer and local union.
33. The Employer shall determine for any Employee the starting and quitting time of a normal established work-day of eight (8) hours with an unpaid lunch period not to exceed one (1) hour.
34. All time worked before and after the established work day of eight (8) hours, Monday through Saturday, and all non-scheduled emergency work performed on Sundays shall be paid at a rate not to exceed time and one-half. All scheduled time worked on Sunday and all work on a holiday within the jurisdiction where the Employee is working shall be paid at a rate not to exceed double time.
35. For all Employees covered by this Agreement wage rates, contributions or deductions for fringe benefit plans, programs, or funds, union dues, vacations, holidays, sick pay, International Training Fund (ITF) contributions and industry promotion contributions shall be in accordance with the established local agreement covering service pursuant to paragraph 11. However, if the provisions of said local agreement are in conflict with this Agreement, this Agreement shall prevail; and provided further, that all payments and contributions to the MSCA shall be in accordance with the provisions of Article XXIII of this Agreement, without regard to the provisions of any local agreement.
36. In agreeing to pay fringe benefit funds for Employees established in local agreements, the Employer hereby adopts and agrees to be bound by the written terms of such legally established local trust agreements and the ITF trust agreement specifying the detailed basis on which payments are to be made into, and benefits paid out of, such trust funds. The Employer authorizes the parties to such local and ITF trust agreements to appoint Trustees and successor Trustees to administer the trust funds and hereby ratifies and accepts the Trustees so appointed as if made by the Employer. Nothing contained in this paragraph is intended to require the Employer to become a party to, or be bound by, the local collective bargaining agreement

except for the fringe benefit fund contributions and other monetary payments and conditions as required herein, nor is any signatory Employer required hereby to assign its bargaining rights or become a member of any employer group or association as a condition for making such contributions.

37. If the Employer fails to make contributions to the trust funds set forth in Article XII, the Employer shall be liable for all costs of collecting the payments together with legal and audit fees, interest at the highest rate permitted by the state in which the delinquency occurred, and such late payment fees and liquidated damages as may be assessed by the trustees. If an Employer fails to make contributions to any of the Funds set forth in Article XII, such failure shall be grounds for termination of this Agreement with sixty days written notice.
38. Service Journeymen - Rate of pay, fringes and benefits as specified in the local agreement for Service Journeymen.
39. Servicemen – Rate of pay, fringes and benefits as negotiated per Schedule “A.”
40. Service Apprentices -- Rate of pay, fringes and benefits as specified in the local agreement for Service Apprentices or as negotiated per Schedule “A.”
41. Tradesmen – Rate of pay, fringes and benefits as negotiated per Schedule “A.” The Employer may carry all such Employees on a health/welfare plan from an alternate source as approved by the Union.
42. Probationary Service Employees – Pursuant to paragraph 23, the Employer is free to establish the rate of compensation for each individual Probationary Service Employee based on experience and training.
43. Pay day shall be once each week no later than the fifth day following the end of the Employer's weekly payroll period. However, if mailed, Employers will mail such checks no later than the third working day following the end of the Employer's weekly payroll period. Employees are to be paid at the option of the Employer and signed permission of Employee in either cash or negotiable payroll check or by electronic or automatic direct deposit. When Employees are laid off or discharged, they shall be immediately paid all wages due. However if payment comes from a central facility, and it is permitted by state law, payment may be sent via U.S. Priority Mail within three working days of last day worked.
44. When an Employee is assigned to work service outside his home local union for more than eight hours in a standard work week within any one jurisdiction, and when the hourly wage rate in the jurisdiction where the Employee is working differs from that of his home local union, the higher rate shall apply after the first eight hours of work. All of the legally negotiated fringe benefit contributions or deductions under the Employee's home local union's agreement, shall be paid only to the Trustees of the Fringe Benefit Funds of the home local union.
45. When an Employee reports for work during the regular work day and is not given the opportunity to work, and was not notified before completing the previous day's work, the Employee shall be paid two (2) hours reporting time.

46. If on-call time is required and the rate of pay is not covered by a local agreement, the rate of pay for on-call time will be agreed to by the Employer and the Employee and approved by the local union.
47. Should a Project Maintenance Agreement ("PMA") or a Project Labor Agreement ("PLA") be entered into by the United Association or its local union, which contains wages and working conditions more advantageous than set forth in this Agreement, an Employer performing work covered by this Agreement shall be eligible for these more advantageous terms for work performed at the applicable PMA or PLA job site. The sole purpose of this paragraph is to put the Employer on equal footing with local union contractors in bidding work for PMA and PLA job sites. This paragraph shall have no applicability for work performed which is not covered by a specific PMA or PLA job site.

ARTICLE XIII

Temporary Shift Work Conditions

48. When so elected by the Employer, multiple eight (8) hour shifts may be worked on a temporary basis. When two (2) or three (3) shifts are worked, the first eight (8) hour shift shall be the day shift and shall be paid at the straight time hourly rate of pay. The second and third eight (8) hour shifts shall each be paid at a rate not to exceed 15% above the straight time hourly rate of pay. Temporary shifts shall be for a minimum of five (5) consecutive days.
49. All time worked before and after the regularly established shift hours in any twenty-four (24) hour period, Monday through Saturday inclusive, shall be at a rate not to exceed time and one-half of the Employee's regular shift rate of pay. Time worked on Sundays and holidays shall be paid at a rate not to exceed double time the Employee's regular shift rate of pay.
50. When work cannot be performed during the normal established work day, special temporary working hours can be established by mutual agreement between the Employer and local union.

ARTICLE XIV

Permanent Shift Work Conditions

51. For plants, complexes and/or projects, a shift system may be utilized when work is performed on a seven (7) day continuing basis. The names of those men employed on permanent shifts will be published, showing shift rotation and the working shift or the day off for each man, for a period of at least three (3) months.
52. The shift rate premium for the second shift shall not exceed 10% of the first shift rate and the shift rate premium for the third shift shall not exceed 15% of the first shift rate.
53. The standard workday under permanent shift working conditions shall be eight (8) hours of continuous employment. Forty (40) hours per week shall constitute a week's work. All time worked in excess of eight (8) hours per day and all time worked on either one of the two scheduled days off shall be paid at a rate not to exceed time and one-half.

ARTICLE XV Safety

54. Employers, Employees and the Union recognize the importance of working in a safe environment. It is to the benefit of all parties to provide safety training and to comply with all safety regulations and policies.

ARTICLE XVI Uniforms and Tools

55. All Employees shall keep themselves clean and neat. When special uniforms are required by the Employer, the Employer shall supply such uniforms.
56. Employees shall keep equipment and company-owned vehicles, within their control, in a neat, clean and safe condition.
57. Employees doing service or maintenance work may be required to furnish their own hand tools. Pipe threading and pipe cutting tools, vises, welding torches, power tools and instruments for measuring temperatures, pressure, air velocities, voltage and amperages shall not be deemed hand tools and shall be furnished by the Employer. Employees' tools that are broken or damaged shall be repaired or replaced by the Employer. Employees shall be responsible for tools, equipment, vehicles and instruments supplied by the Employer, provided mutual security arrangements are made. Establishment of carelessness or negligence on the part of the Employee shall make the Employee liable for replacement of lost or stolen tools.

ARTICLE XVII Travel and Subsistence

58. Employees referred to jobs shall report to a location designated by the Employer. When requested to stay away from home overnight, the Employee shall be reimbursed for meals and lodging at reasonable rates which, when not previously established, will be substantiated by receipts.
59. The Employer shall provide Employees with a company vehicle when necessary in the performance of their duties. However, Employees covered by this Agreement are permitted, on a temporary basis, to use their personal vehicles for transportation from home location to job and from one job to another during the work day and may transport tools and materials. Under such circumstances Employees shall receive the current IRS Auto Mileage Allowance per mile for the use of their vehicle. Where there is a local agreement clearly defining mileage rate for use of personal vehicles for service and maintenance work, the local provisions shall prevail.
60. All Employees who drive company vehicles will be required to maintain a valid driver's license and maintain a safe driving record, consistent with the Employer's safety program and insurance requirements, as a condition of continued employment. The Employer shall have the right to check the validity of such driver's license at their discretion in accordance with the Employer's policies.

61. All travel time, in excess of reasonable commuting time, before and after an Employee's normal work hours shall be paid for at straight time, and such travel shall not be considered hours worked and the pay therefore shall not be considered as pay for hours worked.
62. Reasonable commuting time shall be that time required for Employees to travel to and from job assignments within a 50 mile radius or one hour drive time of their established residence (normally the Employer's local office or a designated point to which the Employee is permanently assigned).

ARTICLE XVIII

No Strike, No Lockout

63. Neither the Union nor any of the Employees covered by this Agreement will collectively, concertedly or individually induce, engage or participate, directly or indirectly, in any strike, picketing, slowdown, stoppage or other curtailment or interference with the Employer's operations, or interfere with the flow of materials or persons in or out of places where the Employer is doing business. In the event of the termination of a local agreement and a subsequent work stoppage, the Employer and Employees working under that collective bargaining agreement shall recognize this work stoppage, except in the performance of service, maintenance and operations work as defined in Article VII, paragraph 11 of this Agreement. All Employers working Employees under conditions of this paragraph shall be bound by the terms of the local agreement to the extent it is incorporated into this Agreement on a day-by-day basis that was in effect just prior to the work stoppage and all Employees so ~~worked are to be bound by the terms of the newly negotiated~~ agreement. The Union agrees to exert every effort through its international and local officers and representatives to end any unauthorized interruption of work. The Employer will not lock out any of the Employees covered by this Agreement.
64. The parties agree that, in the manner set forth in Article XX, they will submit to arbitration all grievances and disputes that may arise between them and any misunderstandings to the meaning or intent of all or any part of this Agreement. However, the Employer shall not be required to resort to the grievance and arbitration procedures prior to resorting to other remedies in the event of violation of this Article. In the event of a lockout, or a strike, slowdown, work stoppage, or other curtailment or interference with the Employer's operations the parties agree that any claims for relief, including damages, are to be immediately submitted to arbitration following the grievance procedure as set forth in Article XX. However, under these circumstances, the grievance procedure shall commence with Step 4b, specified in Article XX, Paragraph 68.

ARTICLE XIX

Local Negotiation Waivers

65. The ability to continue to work in the event of a local work stoppage, pursuant to paragraph 63, shall not apply to a signatory company or to an Employee working under the provisions of this Agreement if they are a member of the negotiating committee for a local agreement covering service pursuant to paragraph 11. However, if agreed to by the Joint UA/MSCA Labor Committee in writing, the first sentence of this paragraph may be waived in order to allow such signatory company or Employee to be a member of the local negotiating committee without being subject to any work stoppage. Such waiver request must be received

by the Union or MSCA national office at least 30 days prior to the start of local negotiations. Contact the Union or MSCA national office for specifics on the established waiver procedure.

ARTICLE XX

Grievance Procedure and Arbitration

66. Where a disagreement exists between the Employer and a local union concerning whether or not a given provision of the local agreement should apply, or regarding the intent, meaning, application or compliance with the terms of this Agreement, it shall be resolved in accordance with the grievance procedure covered in this article. Such disagreement shall be submitted for resolution within ten (10) days from the date of the occurrence or from the date it reasonably could have been discovered by the parties involved in accordance with the grievance procedure covered in this article. There shall be no work stoppage during arbitration or grievance procedures.
67. There shall be established an Arbitration Board consisting of equal representation by the Union and by the MSCA. Either party shall have the right to appoint alternates for its representatives. Within thirty (30) days after the signing and execution of this Agreement, the MSCA and the Union shall notify each other of their respective appointments to the Arbitration Board. The Board shall elect a chairman and a secretary from its members. Two representatives of the Arbitration Board shall constitute a quorum provided there is at least one representative appointed by the Union and one representative appointed by the MSCA present at such meeting. No action shall take place unless a quorum is present. At all meetings the Union representatives and the MSCA representatives shall have equal voting strength.
68. When a dispute arises, the resolution and/or settlement shall proceed as follows:
- Step 1: On a local basis between the local union and the local contractor involved. If this dispute is not settled within five (5) working days, proceed to:
 - Step 2: The grievance shall be settled between Union representatives of the national office and the Employer. If not settled within thirty (30) working days, proceed to:
 - Step 3: The grievance shall be settled between Union representatives of the national office and representatives of the MSCA. If not settled within thirty (30) working days, proceed to:
 - Step 4: The grievance shall be reduced to writing in terms of the issue(s) to be arbitrated and shall be filed with the chairman of the Arbitration Board. The chairman shall notify the other members of the Arbitration Board, within five (5) days, of a time and place for a hearing to be held within thirty (30) days after the filing of request for arbitration. If the Arbitration Board is unable to reach a majority decision within seven (7) days after the hearing, proceed to Step 5.

Step 4b: (This step of the grievance procedure applicable ONLY to any grievance involving a lockout or any strike, picketing, slowdown, stoppage or other curtailment or interference with the Employer's operations, or interference with the flow of materials or persons in or out of places where the Employer is doing business.) The grievance shall be reduced to writing in terms of the issue(s) to be arbitrated and shall be filed with the chairman of the Arbitration Board. The chairman shall notify, within twenty-four (24) hours, the other members of the Arbitration Board of a time and place for a hearing to be held within forty-eight (48) hours after filing of request for arbitration. By agreement of the parties, the hearing may be conducted by telephone conference call.

If the Board is unable to reach a majority decision within twenty-four (24) hours after the hearing, proceed to Step 5.

Step 5: The matter shall be promptly submitted to an impartial arbitrator whose decision shall be rendered in writing and be binding on all parties. If agreed to by both parties, the use of the Industrial Relations Council shall be allowed as an alternative to the use of the impartial arbitrator under this step.

If required, one-half of the expense of the Arbitration Board and the impartial arbitrator, shall be borne by the Union and the other half shall be borne by the MSCA and/or the Employer as determined by the MSCA.

69. In the event that a matter is to be submitted to an impartial arbitrator, one may be selected by unanimous agreement of the Arbitration Board members: If the Board cannot agree on an arbitrator within a period of ten (10) days, then the Arbitration Board shall request the Federal Mediation and Conciliation Service to submit to the Arbitration Board a list of five persons suitable for selection as an impartial arbitrator. If the Arbitration Board cannot agree upon one of the persons named on the list, then the impartial arbitrator shall be selected by striking from the list a name alternately, until one name remains. The remaining person shall be the impartial arbitrator and shall be notified of his selection by the chairman of the Arbitration Board. At no time shall the selection of an impartial arbitrator exceed sixty (60) days from the date the time limits have expired in Paragraph 68, Step 4 or 4b, if applicable.
70. The authority of the Arbitration Board and of the impartial arbitrator shall be limited to the interpretation and enforcement of the express language of this Agreement as applied to the specific grievance or issue stated in the request for arbitration. The Arbitration Board and the impartial arbitrator shall have no authority or jurisdiction, directly or indirectly, to add to, subtract from, change, modify or supplement any of the specific provisions of this Agreement.
71. With the mutual consent of the parties, any of the time limits set forth above may be extended and any of the steps may be waived.

ARTICLE XXI
Schedule "A" to the National
Service and Maintenance Agreement

72. A Schedule "A" with "special conditions," including but not limited to wages and benefits, can be made a part of this Agreement for a specific geographical jurisdiction or project. Request for implementation of a Schedule "A" shall be made in writing to the Joint UA/MSCA Labor Committee, hereinafter called "Joint Committee," by a local union or contractor signatory to this Agreement through the MSCA or the Union. Such Schedule "A" shall be negotiated by a committee as appointed by the Joint Committee within sixty (60) days of receipt of such request. The Schedule "A" must be approved by both the Union General President and the MSCA Chairman and shall become a part of this Agreement for all Employers signed to this Agreement working in that jurisdiction.
73. A Schedule "A" can also be made part of this Agreement upon termination of or absence of a local agreement covering service. Request for implementation of such Schedule "A" shall be made in writing to the Joint Committee by a local union or contractor signatory to this Agreement through the MSCA or the Union. Such Schedule "A" shall be negotiated by a committee as appointed by the Joint Committee within thirty (30) days of receipt of such request. If such action does not resolve all issues, either or both of the parties shall promptly submit in writing the unresolved issues to the Industrial Relations Council for decision. The decision of the Joint Committee or the Industrial Relations Council shall be final and binding. There shall be no work stoppage with respect to service, maintenance and operations, as defined in Article VII, paragraph 11 of this Agreement, while any issue is pending before the Joint Committee or the Industrial Relations Council.
74. In areas where a Schedule "A" has been implemented, there shall be established an Oversight Committee, as appointed by the Joint Committee, to oversee implementation of the Agreement and Schedule "A" for that area. The Oversight Committee will meet on a regular basis to ensure all Employers and Employees working under the Agreement and Schedule "A" in that area understand its provisions and will make recommendations to the Joint Committee regarding revisions to the Schedule "A," when necessary. Following each Oversight Committee meeting, a report will be sent to the UA General President and MSCA Executive Director.

ARTICLE XXII
Savings Clause

75. Where there is a conflict in meaning, interpretation or application between this and local agreements, this Agreement shall apply
76. If any article or provision of this Agreement shall be declared invalid, inoperative or unenforceable by any competent authority of the executive, legislative, judicial or administrative branch of the federal or any state government, the Employer, MSCA and the Union shall suspend the operation of such article or provision during the period of its invalidity and shall substitute, by mutual consent, in its place and stead, an article or provision which will meet the objections to its invalidity, and which will be in accord with the intent and purpose of the article or provision in question. In such case the remainder of this Agreement shall not be affected and shall continue in full force and effect.

77. A signatory Employer of this Agreement is not required to sign any local service agreements. If requested, such signatory Employer must subscribe in writing to the local trust agreement.
78. If the Union, or any local union of the Union, has at the present time or at any time hereafter, an agreement with any Employer or association of employers engaged in work covered by this Agreement, with terms and conditions more advantageous to the Employer or association of employers than the terms and conditions provided for in this Agreement, a similarly situated Employer shall be entitled to use such advantageous terms and conditions upon notice to the Union. Any approved Schedule "A" shall not be the basis for invoking this paragraph.

ARTICLE XXIII

Mechanical Service Contractors of America

79. The Employer agrees to pay to the MSCA four cents (\$.04) per manhour for all hours of service, maintenance and operations work performed within the scope of this Agreement, as defined in Article VII, Paragraph 11, by all classifications of Employees in the employ of the Employer. This includes work both within the home local jurisdiction and work outside of the home local. The Employer agrees that it shall make said payments to the MSCA in accordance with MSCA's reporting procedures, as enacted or subsequently amended.
80. If the Employer fails to make contributions to the MSCA as required by Paragraph 79, the Employer shall be liable for all costs of collecting the payments together with legal and audit fees, interest at the highest rate permitted by the state in which the delinquency occurred, and any late payment fees and liquidated damages.
81. Money received as a result of said payments shall be administered by the Board of Managers of the MSCA for the purpose of furthering the best interests and welfare of the organized sector of the mechanical equipment service and maintenance industry. Such purposes may include, but are not limited to, meeting the expenses of operating the MSCA, expenses for industry public relations efforts, public education as applied to the mechanical equipment service and maintenance industry, expenses connected with the promotion of stability of relations between labor and management in the industry and for such other purposes as determined by the MSCA Board of Managers. The MSCA shall not use money received as a result of said payments for lobbying or publicizing legislation harmful to unions, for subsidizing Employers during a strike, for litigation against unions or for any other purpose contrary to the interests of the Union.
82. The aforesaid payments to the MSCA shall be in addition to, and not in lieu of, any payments made into any local, area or statewide industry promotion fund or similarly denominated fund in accordance with any local, area or statewide agreement, i.e., *an agreement between a Union affiliated body and contractors in the mechanical equipment service and maintenance industry.*
83. The Board of Managers shall keep true and accurate books of account and records of all their transactions, which shall be audited annually by a certified public accountant. Upon request, a statement of the results of each audit shall be forwarded to the Union, and shall at all times be available for inspection by the Union at MSCA's principal office. Upon the written request of the Union, the Board of Managers shall provide the Union with full and accurate information regarding the operation and administration of the MSCA, or any aspect thereof.

**ARTICLE XXIV
Duration and Termination**

84. This Agreement shall be in full force and effect commencing January 1, 2001 through August 1, 2005 and from year to year thereafter. This Agreement may, however, be terminated by either the Union or a signatory Employer by giving to the other written notice of termination by June 1st of each year (60 days notice), with such termination to be effective August 1st of the year in which such notice is given.
85. In the event that any signatory Employer has performed fewer than 2,000 hours of work subject to this Agreement in any six month period, the Union may terminate this Agreement with respect to such signatory Employer by giving sixty (60) days written notice of termination.
86. Each signatory Employer who has not terminated this Agreement pursuant to Paragraph 84 above, agrees to be bound to any amendments, modifications, changes, extensions or renewals of or to this Agreement negotiated or agreed to by the Union and the MSCA.
87. This amended Agreement as between the Union and the MSCA shall be in full force and effect commencing January 1, 2001 through August 1, 2005 and from year to year thereafter. Notice of proposed modification can be given in writing by either the Union to the MSCA or the MSCA to the Union at least sixty (60) days prior to August 1st of each year.
88. In the event a notice of proposed modification is given by either the Union or the MSCA to the other and agreement on a modified Agreement is not reached by the anniversary date, both the Union and the MSCA agree to continue to work under the terms of this Agreement.

**ARTICLE XXV
Joint UA/MSCA Labor Committee**

89. There shall be established a Joint UA/MSCA Labor Committee with representatives for the Union and for the Employer and MSCA, for the purpose of explaining the meaning and intent of the Agreement. The designated MSCA or Union representatives may at their discretion appoint, substitute or terminate the appointment of any organizations' representatives on the Joint Committee.

**ARTICLE XXVI
New Construction, Installation and Remodel
of
Ammonia, Cryogenic, Supermarket Refrigeration Systems and Ice Rinks**

90. This Article shall apply to the installation and remodel of all new or add-on ammonia refrigeration systems, cryogenic cold box systems, supermarket refrigeration systems and ice rinks including fabricating, assembling, erecting, installing, and the handling, unloading, distributing, reloading and hoisting of all piping materials, appurtenances and equipment used in connection with the installation of such systems by any method, including all hangers and supports of every description.

91. The work described in this Article must be performed in accordance with the working conditions, Employee classifications, rates of pay and fringe benefit contributions of the prevailing local agreement covering the installation work being performed. When those terms are not consistent with this Article, this Article shall prevail.
92. When an Employee is assigned to work covered by this Article outside his home local union, and when the basic hourly Building Trades Journeyman and Apprentice rates differ from those of his home local union, the higher shall apply.
93. The Employer must provide 48 hours notification prior to beginning work to the local union having jurisdiction where the work is being performed.
94. By mutual agreement between the Employer and the Union, the standard work week (Monday – Friday) can be established to consist of four consecutive ten hour days. The pay for all hours worked, as described in this paragraph, shall be at the appropriate straight time rate and not subject to overtime provisions.
95. When so elected by the Employer, multiple eight (8) hour shifts may be worked on a temporary basis. When two (2) or three (3) shifts are worked, the first eight (8) hour shift shall be the day shift and shall be paid at the straight time hourly rate of pay. The second and third eight (8) hour shifts shall each be paid at a rate not to exceed 15% above the straight time hourly rate of pay. Temporary shift shall be for a minimum of three (3) consecutive days.
96. The Employer shall be permitted, for work covered by this Article, to assign a Foreman and the first two Employees from the Employer's regular work force to installation jobs within the territorial jurisdiction of another local union. The next two Employees shall be from the local union jurisdiction where the work is being performed, with one Employee at a time being assigned, as needed. Thereafter, additional Employees shall be hired on an alternating basis from the Employer's regular workforce and the local union jurisdiction, to a maximum of five from the Employer's regular workforce, unless a larger number is agreed to in writing between the Employer and the local union where the work is being performed.
97. In agreeing to pay fringe benefits as established in the prevailing local agreement of the local union having jurisdiction where the installation work is being performed, the Employer hereby adopts and agrees to be bound by the written terms of such legally established trust agreements and the ITF trust agreement specifying the detailed basis on which payments are to be made into, and benefits paid out of, such trust funds. The Employer authorizes the parties to such local and ITF trust agreements to appoint Trustees and successor Trustees to administer the trust funds and hereby ratifies and accepts the Trustees so appointed as if made by the Employer. Nothing contained in this Article is intended to require the Employer to become a party to or a signatory of the local collective bargaining agreement, nor is any Employer required hereby to assign its bargaining rights or become a member of any employer group or association as a condition for making such contributions.
98. In areas where local conditions impede the Union and Employers from attaining work as outlined in Article XXVI, the provisions of this Article may be modified by mutual agreement of the Union and the Employer through an approved Schedule "A."

Mechanical Contractors Association
of America, Inc. (MCAA)

United Association of Journeymen
and Apprentices of the Plumbing
and Pipe Fitting Industry of the
United States and Canada (UA),
AFL-CIO

Signed



Ronald A. Pearson
President, MCAA
Date: 6/23/00

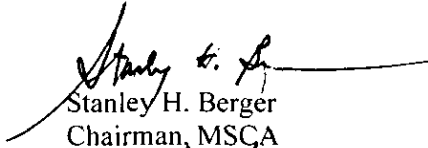
Signed



Martin J. Maddaloni
UA General President
Date: 6/27/00

Mechanical Service Contractors
of America (MSCA)

Signed



Stanley H. Berger
Chairman, MSCA
Date: 6/28/00

We, the undersigned Employer, on behalf of itself and all its subsidiaries and branches, whether in existence or operation at the time of execution hereof, or later while the undersigned Employer is signatory to this Agreement, hereby becomes signatory to this National Service and Maintenance Agreement as of this date and agrees to comply with all terms of this Agreement in fact and in intent.

Signed and subscribed to this ____ day of _____, 20 ____

Name of Company _____

By _____

(please print name)

Signature _____

Title _____

Street Address _____

City, State, Zip Code _____

Telephone No. () _____

FAX No. () _____

E-mail address: _____

Tax I.D. No. _____

Listed below, for information purposes, are the names and addresses of all the Employer's subsidiaries or branches, all of which shall become subject to this Agreement by reason of the Employer's becoming signatory hereto. (Failure to list below the names and addresses of all the Employer's subsidiaries and branches does not exclude any non-listed subsidiary or branch from the coverage of this Agreement.) If none, so state: ____ None

United Association of Journeymen and Apprentices of the Plumbing
and Pipe Fitting Industry of the United States and Canada, AFL-CIO

General President
Date:

(NOTE: Agreement only valid when signed by UA General President)

APPENDIX

UNITED ASSOCIATION/MECHANICAL CONTRACTORS ASSOCIATION OF AMERICA STATEMENT ON WORKPLACE SUBSTANCE ABUSE TESTING AND TREATMENT*

The following model substance abuse testing and treatment policy is published for consideration in local collective bargaining.

The United Association and the Mechanical Contractors Association of America believe that substance abuse testing, treatment and protection are as necessary in the skilled construction trades as they are in other high technology and safety-sensitive workplaces. Substance abuse testing and treatment measures are appropriate for all employer non-bargaining unit employees as well, including company executives and officers subject to applicable state and federal law. MCAA and the United Association also recognize that broad mandates of such policies are being issued increasingly from both public and private purchasers of construction.

MCAA and the UA regard worker safety, health and well being as integral to top quality work performance and successful project delivery. Therefore, in the mutual interests of MCAA member firms, UA-represented workers and their families, and the purchasers of construction services, MCAA and the UA jointly subscribe to and recommend the following elements of substance abuse policies for local collective bargaining.

Substance abuse policies should be developed, subject to MCAA/UA local collective bargaining, and should include the following:

- a pass-through of more stringent public and/or private owner substance abuse and testing mandates;
- prohibitions against the possession and use of illegal substances at work;
- a prohibition against impairment at work;
- testing on the bases of pre-employment, unscheduled, for-cause, post-incident and return-to-work from treatment;
- stringent controls (such as computerized selection of individuals for unscheduled testing) against abuse in selecting individuals for testing;
- testing methods using non-invasive procedures;
- thresholds for positive results shall be at least as stringent as those required by the U.S. Department of Health and Human Services; and
- treatment coverage in full accord with the latest government standards for publicly mandated policies as well as federal and state individual privacy and disability laws.

Disciplinary action under substance abuse policies should be subject to negotiated dispute resolution mechanisms or adopted owner policy requirements.

The implementation of substance abuse policies should be fully documented so that necessary and appropriate changes can be made based on experience with the program.

Approved 02/22/99

* For a complete copy of the UA/MCAA Model Collective Bargaining Agreement Provisions for Workplace Substance Abuse Testing and Treatment, contact the UA or the MSCA.

INDEX

	<u>PARAGRAPH</u>
Agreement Interpretation.....	75
Apprentice Ratio.....	28
Arbitration Board	67
Bargaining Representatives.....	2
Building Trades Work	13, 90
Commuting Time	62
Driver's License	60
Drug and Alcohol Policy.....	29
Duration and Termination	84, 85, 87
Employee Classification Change.....	18
Favored Nations	78
Gender Neutral Clause	4
Grievance and Arbitration	64, 66, 68
Hiring.....	20, 21, 22
Home Local Union	19
Hours of Work.....	32, 33
Impartial Arbitrator	69, 70
Industry Funds.....	35, 82
Initial Start-Up.....	25
International Training Fund.....	35, 36
Installation Work.....	13, 90
Invalid or Unenforceable Articles or Provisions	76
Joint UA/MSCA Labor Committee.....	89

INDEX (continued)

Local Trust Agreements	36, 77
Local Union Jurisdiction	10, 27
Management Rights.....	5, 6
Mechanical Service Contractors of America	79, 80, 81, 82, 83
Mileage Allowance.....	59
Modifications to Agreement.....	86, 88
No Strike, No Lockout	63
Non-bargaining Employees	12
Non-Discrimination	3, 24
On-Call Time.....	46
Overtime	34
Pay Day	43
Probationary Employees.....	23, 42
Project Agreements	47
Reporting Time.....	45
Safety.....	54
Schedule "A"	72, 73
Scope of Service Work.....	11
Service Classifications	
Journeyman	14
Servicemen	15
Apprentice	16
Tradesmen	17
Shift Work	
Permanent.....	51, 52, 53
Temporary	48, 49, 50

INDEX (continued)

Subcontracting.....	30, 31
Tools.....	57
Trade Jurisdiction.....	10
Travel Outside Home Local.....	26
Travel Time.....	61
Uniforms.....	55
Union Job Access.....	9
Union Membership.....	7, 8
Vehicles.....	56, 59
Wages, Fringes and Benefits.....	38, 39, 40, 41
Waivers.....	65
Work Stoppage.....	63



Mechanical Service Contractors of America

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