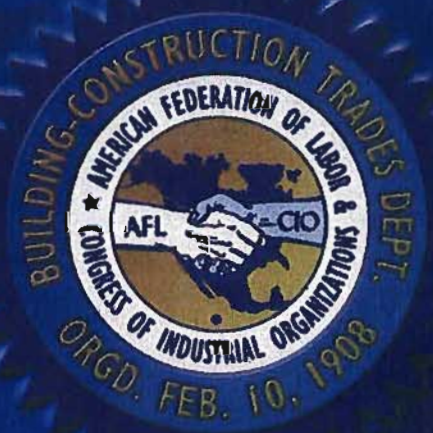


# The National Construction Agreement



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## **THE NATIONAL CONSTRUCTION AGREEMENT**

### **PREAMBLE**

The Agreement entered into this first day of August, 2002, between the North American Contractors Association, hereinafter referred to as the "Association", on behalf of its member companies who become signatory hereto, hereinafter referred to as the "Employers" or individually as the "Employer"; and the Building and Construction Trades Department, AFL-CIO, the National and International Unions, who become signatory hereto, hereinafter referred to as the "Unions" or individually as the "Union", and those local unions affiliated with such National and International Unions who accept the terms of this Agreement by virtue of accepting the benefits of the Agreement on specific projects covered by the Agreement and/or by referring employees to work on such projects.

The Agreement shall be binding on the member companies or member divisions only, and shall apply to parents, affiliates, subsidiaries or other divisions of a member company or Division only after signature by such parent, affiliate, subsidiary, or other division of a member company or Division.

Each Employer shall alone be liable and responsible for his own individual acts and conduct and for any breach or alleged breach of this Agreement. Any alleged breach of this Agreement by an Employer or dispute between the signatory Union(s) and an Employer respecting compliance with the terms of this Agreement shall not affect the rights, liabilities, obligations and duties between the signatory Union(s) and each other Employer party to this Agreement.

Furthermore, each Union and/or its local unions shall alone be liable and responsible for its own individual acts and conduct and for any breach or alleged breach of this Agreement. Any alleged breach of this Agreement by a signatory Union or its locals shall not affect the rights, liabilities, obligations and duties between the signatory Employer and other Unions (or their locals) party to this Agreement.

WHEREAS, the Employer is engaged in the construction of industrial operating and/or manufacturing facilities, and

WHEREAS, The Unions have in their membership and in their local unions throughout the United States, competent, skilled and qualified workers possessing the skills and abilities required to perform the work incidental to the effective accomplishment of such construction work, and

WHEREAS, the Employers and the Unions desire to mutually establish wages, hours and working conditions for the workers employed on construction projects by the Employers, and further, to encourage close cooperation between the Employers and the Unions to the end that a satisfactory, continuous and harmonious relationship will exist between the parties to this Agreement.

NOW, THEREFORE, the Employers and the Unions in consideration of the mutual promises and covenants herein contained, mutually agree as follows:

## **ARTICLE 1**

### **PURPOSE**

Section 1-1. The purpose of this Agreement is to promote efficiency of construction operations on all projects covered by this Agreement and provide for peaceful settlement of labor disputes without strikes or lockouts thereby promoting the public interest in assuring the timely and economical completion of the work.

Section 1-2. It is also the Intent of the parties to set out standard working conditions for the efficient prosecution of said construction work, herein to establish and maintain harmonious relations between all parties to the Agreement, to secure optimum productivity and to eliminate strikes, lockouts, or delays in the prosecution of the work undertaken by the Employer.

## **ARTICLE 2**

### **RECOGNITION**

Section 2-1. The Employer recognizes the Building and Construction Trades Department and the signatory International Unions as the sole and exclusive bargaining representatives for its craft employees employed on the jobsite covered by this Agreement. Unions signatory to this Agreement will have recognition on the approved project of the Employer.

## **ARTICLE 3**

### **SCOPE OF AGREEMENT**

Section 3-1a. It is the intent of the parties that this Agreement be utilized as a construction agreement throughout the United States.

Section 3-1b. This Agreement and its addendums and interpretations shall apply to projects that meet the criteria established by the North American Contractor Association (NACA) and the Building and Construction Trades Department (BCTD) and approved in accordance with Section 4.1.

Section 3-2. This Agreement shall not apply to executives, engineers, draftsmen, supervisors, assistant supervisors, timekeepers, messengers, office workers, guards, or other non-manual employees.

Section 3-3. This Agreement represents the complete understanding of the parties and none of the provisions in any local, regional/area or national collective bargaining agreement shall apply to the project unless specifically incorporated in this Agreement. It is understood that this is a self-contained stand alone Agreement and that by virtue of having become bound to this Agreement, neither the Employer nor its subcontractors or sub-tier subcontractors will be obligated to sign any other local, regional or national agreement. Where a conflict exists over the intent of this Agreement, it shall be submitted to the Joint Administrative Committee as outlined in Section 4-3.

## **ARTICLE 4**

### **APPLICATION AND ADMINISTRATION OF AGREEMENT**

Section 4-1. The National Construction Agreement shall apply to projects meeting the scope of the Agreement. Employer requests for the Agreement will be submitted by electronic means to the office of the BCTD. The BCTD shall, within ten (10) business days or less following the receipt of the request, inform the Employer whether the Agreement may be applied to the Employer's Project. Approval shall not be unreasonably withheld if the project meets the criteria established by the NACA and the BCTD.

Section 4-2. The parties to this Agreement shall establish a National Construction Agreement Joint Administrative Committee (JAC). The BCTD and NACA shall each be responsible to determine the number of individuals to be appointed to represent each organization on the Joint Administrative Committee.

Section 4-3. The Joint Administrative Committee shall establish procedures for its operation and responsibility, and shall meet not less than once each year to review the operation of this Agreement. The JAC shall monitor all projects, and shall be empowered to resolve any dispute over the intent of this Agreement.

## **ARTICLE 5**

### **MANAGEMENT RIGHTS**

Section 5-1. The Employer retains and shall exercise full and exclusive authority and responsibility for the management of its operations, except as expressly limited by the terms of this Agreement.

## **ARTICLE 6**

### **REFERRAL OF EMPLOYEES**

Section 6-1. The Employer shall have the unqualified right to select and hire directly all supervisors it considers necessary and desirable without such persons being referred by the Unions and/or their respective local unions. Applicants for the various classifications covered by the Agreement required by the Employer on its projects, shall be referred to the Employer by the Unions and/or their respective local unions. The Employer shall have the right to determine the competency of all employees, the right to determine the number of employees required, and shall have the sole responsibility for selecting the employees to be laid off consistent with Section 6-4. The Employer shall also have the right to reject any applicant referred by the Unions and/or their respective local unions. This Section is subject to the provisions of Article 18, Section 18-2, and Article 3, Section 3-2.

Section 6-2. The Unions represent that their local unions administer and control their referrals and it is agreed that these referrals will be made in a nondiscriminatory manner and in full compliance with Federal, State and local laws and regulations which require equal employment opportunities and non-discrimination. Referrals shall not be affected in any way

by the rules, regulations, by-laws, constitutional provisions or any other aspect or obligation of Union membership, policies or requirements.

Section 6-3. In the event the referral facilities maintained by the local unions do not refer the employees as requested by the Employer within a forty-eight (48) hour period after such requisition is made by the Employer (Saturdays, Sundays and Holidays excepted), the Employer may employ applicants from any source.

Section 6-4. The Employer agrees to be bound by the referral rules in a local area not inconsistent with the terms of this Agreement provided that, where the referral rules that prevail in a local area are on other than an exclusive basis, such rules shall be applicable if not in violation of either State or Federal law.

Section 6-5. The Unions and their respective local unions shall not knowingly refer employees currently employed by a signatory Employer to other employment.

Section 6-6. The Unions and their respective local unions will exert their utmost efforts to recruit sufficient numbers of skilled employees to fulfill the manpower requirements of the Employers.

Section 6-7. The signatory Employer shall have the right to assign key employees to the approved project. Key employees are defined as employees who possess special skills or abilities and are not readily available in the area. The number and type of key employees to be assigned to a project shall be determined by the Employer and the Union with such resolution directed toward obtaining maximum management effectiveness for the signatory Employer.

Section 6-8. Where governmental agencies impose equal employment obligations on the Employer's project, referral procedures shall be subordinate to such obligations.

## **ARTICLE 7**

### **ABSENTEEISM**

Section 7-1. The Employers and the Unions agree that chronic and/or unexcused absenteeism is undesirable and must be controlled. Employees that develop a record of such absenteeism shall be identified by the Employer to the appropriate referral facility and the Employer shall support such action with the work record of the involved employee. Any employee terminated for such absenteeism shall not be eligible for rehire on that project for a period of no less than ninety (90) days.

## **ARTICLE 8**

### **HOURS OF WORK, OVERTIME, SHIFTS AND HOLIDAYS**

Section 8-1. The standard work day shall consist of eight (8) hours of work between 7:00 a.m. and 5:30 p.m. with one-half hour designated as an unpaid period for lunch. The standard work week shall be five (5) consecutive days of work commencing on Monday. Nothing herein shall be construed as guaranteeing any employee eight (8) hours of work per day or forty (40) hours of work per week.

Section 8-2. It is recognized by the parties to this Agreement that the standard work week may not be desirable or cost effective for some projects, and other arrangements for hours of work will be considered. Such proposed modifications to the standard work week shall be worked out between the Employer and the BCTD. Project schedule, manpower requirements, the geographic locations of the project and other appropriate factors, will be taken into consideration by the parties in reaching an understanding on work schedules.

Section 8-3. Any employee reporting for work and for whom no work is provided, except due to inclement weather or other conditions beyond the control of the Employer, shall receive two (2) hours pay at the regular straight time hourly rate. Any employee who starts to work and works beyond the two (2) hours will be paid for actual time worked. Whenever minimum reporting pay is provided for employees they will be required to remain at the project site available for work for such time as they receive pay, unless released sooner by the Employer's principal supervisor or designated representative. The provisions of this Section are not applicable where the employee voluntarily quits or is off by reason of a strike, or as provided in Section 8-5 of this Agreement, in which case he shall be paid for the actual time worked.

Section 8-4. The first two (2) hours performed in excess of the standard work day Monday through Friday, shall be paid at the rate of time and one-half. Compensation for Saturday will be time and one-half. There shall be no pyramiding of overtime pay. All work performed on Sundays and in excess of ten (10) hours a day shall be paid the overtime rate as stated in the appropriate local agreement, but not to exceed double the straight time rate of pay.

Section 8-5. It will not be a violation of this Agreement when the Employer considers it necessary to shut down to avoid the possible loss of human life because of an emergency situation that could endanger the life and safety of an employee. In such cases, employees will be compensated only for the actual time worked. In the case of a situation described above whereby the Employer requests employees to wait in a designated area available for work the employees will be compensated for the waiting time.

Section 8-6. Shifts may be established when considered necessary by the Employer.

(a) Shift hours and rates will be as follows:

First Shift      Eight (8) hours pay for eight (8) hours worked plus one-half (½) hour unpaid lunch period.

Second Shift    Eight (8) hours pay for seven and one-half (7½) hours worked plus one half (½) hour unpaid lunch period.

Third Shift      Eight (8) hours pay for seven (7) hours worked plus one-half (½) hours unpaid lunch period.

(b) Shifts shall be established and continued for a minimum of three (3) consecutive work days.

(c) If only two shifts are to be worked, the Employer may regulate starting times of the two shift operations to permit the maximum utilization of daylight hours.

Section 8-7. Recognized holidays shall be as follows: New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, Day after Thanksgiving and Christmas Day. Under no circumstances shall any work be performed on Labor Day except in cases of emergency involving life or property. In the event a holiday falls on Sunday, the following day, Monday, shall be observed as such holiday. There shall be no paid holidays. If employees are required to work on a holiday, they shall receive the appropriate rate; but in no case shall such overtime rate be more than double the straight time rate.

Section 8-8. Holidays in lieu of those in Section 8-7 above may be established by agreement between the Employer and the BCTD.

## **ARTICLE 9**

### **SECURITY OF MATERIAL, EQUIPMENT AND TOOLS**

Section 9-1. Security procedures for the control of tools, equipment and materials shall be solely the responsibility of the Employer. The Employer will be responsible to cover the costs of the full prior agreed inventory of employee tools lost because of fire, flood or theft. Tools broken or damaged in the course of employment will be replaced or reimbursement will be made by the Employer upon the presentation of satisfactory evidence. The inspection of incoming shipments of equipment, apparatus, machinery and construction materials of every kind shall be performed at the discretion of the Employer by individuals of his choice.

Section 9-2. All employees will comply with the security procedures established by the Employer.

## ARTICLE 10

### WAGE SCALES AND BENEFITS

Section 10-1. The Employer agrees to pay base hourly wage rates for those classifications outlined in Appendix A covering the signatory International Unions.

Section 10-1a. The Employer and the Unions agree that wage premiums, such as those based on height of work, type of work or materials, special skills, etc. impose unreasonable costs on construction, are considered contrary to the best interest of the Industry, and shall not be paid on the approved project of the Employer. Exception: Does not apply to Cooling Tower and Stack Work because of unique construction format.

Section 10-1b. Base hourly wage rates other than those established in bona fide local collective bargaining will be settled between the Employer and the local Unions.

Section 10-2. The Employer agrees to pay employees benefit contributions as outlined in Appendix A.

Section 10-2a. The Employer and the Unions agree that only bona fide employee benefits as accrue to the direct benefit of the employee (such as pension, health and welfare, vacation, apprenticeship and training funds) shall be included in Appendix A and paid by the Employer on the approved project. Industrial promotion or administrative funds which do not accrue to the direct benefit of employee are not considered benefits for the purposes of this Agreement and need not be paid by the Employer on the approved project.

Section 10-2b. The Employer adopts and agrees to be bound by the written terms of legally established trust agreements 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 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 Section is intended to require the Employer to become a party to nor be bound by a local collective bargaining agreement except for the employee benefit fund contributions as required herein, nor is the Employer required to become a member of any employer group or association as a condition for making such contributions.

Section 10-2c. In order to assure the payment of all applicable fringe benefits, the subcontractor(s) shall submit with each request for progress payment to the Employer, a letter from each respective Union(s) Fringe Benefit Fund Office stating that all fringe benefits have been paid in full. If the subcontractor(s) does not submit a letter from each respective Union(s) Fringe Benefit Fund Office stating that all fringe benefits have been paid in full, the Employer will not make the progress payment.

Section 10-3a. The parties agree to participate in the NACA-BCTD Labor-Management Cooperation Trust Fund, established under the authority of Sec (6b) of the Labor-Management Cooperation Act of 1978, 29 U.S.C. Sec. 175(a) and Sec 302(c)(9) of the Labor-Management Relations Act, 29 U.S.C. Sec. 186(c)(9).

Each NACA member Employer performing work on a project covered by this Agreement shall contribute to The NACA-BCTD Labor-Management Cooperation Trust (LMCT) the amount of two cents (\$0.02) per hour for each hour worked by each individual employee covered by this Agreement up to one million hours on the project covered by the Agreement. The

contribution rate will be reduced to one cent (\$.01) per hour for each hour worked by each employee covered by this Agreement for all hours worked in excess of one million hours.

All subcontractors or lower tier subcontractors, shall contribute the amount of one cent (\$.01) per hour for all hours worked on a project covered by this agreement to the LMCT regardless of hours worked on the project.

Payment shall be forwarded monthly to the LMCT in a form and manner to be determined by the Trustees. The Trust Fund is formed and created for the purpose of:

- a) developing/introducing new workplace technologies and practices;
- b) creating joint Employer/Union approaches to resolving issues affecting the construction industry;
- c) implementing the purposes of the Labor Management Cooperation Act of 1978;
- d) developing a productive dialogue with users of construction services;
- e) exploring ways of increasing productivity of both labor and management, and eliminating problems which reduce competitiveness and economic development in the construction industry;
- f) collecting and disseminating technical data on matters of concern to the construction industry, including but not limited to upcoming projects, hours worked and accidents;
- g) implementing programs to attract additional workers, including minorities and women, to the construction industry;
- h) exploring ways to improve the skills and number of construction workers through apprenticeship and journeyman training;
- i) developing innovative approaches to providing workers' compensation coverage; and
- j) investigating construction industry accidents for causes and ways to prevent similar accidents in the future.

Section 10-3b. The LMCT shall function in accordance with, and as provided in, the Agreement and Declaration of Trust creating the fund, and any amendments thereto, and any other of its governing documents. Each Employer performing work covered by this Agreement approves and consents to the appointment of the Trustees designated pursuant to the Trust Agreement establishing the LMCT and hereby adopt and agrees to be bound by the terms and provisions of the Trust Agreement.

Section 10-3c. Employers who fail to pay contributions or other payments owed to the LMCT within thirty (30) days of the date when such contributions or other payments are due shall be liable to the Trust for all costs of collection incurred by the Trust, including attorneys' fees and court costs. The Trustees are empowered to initiate proceedings at law or equity, and to take any other lawful action necessary to collect contributions and all other payments due.

Section 10-4a. Each Employer performing work on a project covered by this Agreement shall contribute to The North American Contractors Association Contract Administration Trust Fund ("Contract Administration Fund") the amount of one-half cent (\$.005) per hour for each hour worked or paid by each individual employee covered by this Agreement not to exceed a maximum contribution on any single project for all employees covered by the Agreement of two thousand five hundred dollars (\$2,500.00). Payment shall be forwarded monthly to the North American Contractors Association in a form and manner to be determined by the Trustees. The Contract Administration Fund is an Employer-established trust formed and created for the purposes of establishing, implementing and administering uniform labor relations policies and for the negotiation and administration of the provisions of this Agreement. The Contract

Administration Fund is administered solely by a Board of Trustees selected by the Employers in accordance with the Trust Agreement. The Union shall have the right, not more than once per year, to independently audit the Contract Administration Fund.

Section 10-4b. The Contract Administration Fund shall function in accordance with, and as provided in, the Agreement and Declaration of Trust creating the fund, and any amendments thereto, and any other of its governing documents. Each Employer performing work covered by this Agreement approves and consents to the appointment of the Trustees designated pursuant to the Trust Agreement establishing the Contract Administration Fund and hereby adopts and agrees to be bound by the terms and provisions of the Trust Agreement.

Section 10-4c. Employers who fail to pay contributions or other payments owed to the Contract Administration Fund within thirty (30) days of the date when such contribution or other payment are due shall be liable to the Trust for all costs of collection incurred by the Trust, including attorneys' fees and court costs. The Trustees are empowered to initiate proceedings at law or equity, and to take any other lawful action necessary to collect contributions and all other payments due.

## **ARTICLE 11**

### **APPRENTICES-TRAINEES/HELPERS/SUBJOURNEYPersons**

Section 11-1. Recognizing the need to maintain continuing support of programs designed to develop adequate numbers of competent employees in the construction industry, the Employer will employ apprentices in the respective crafts to perform such work as is within their capabilities and which is customarily performed by the craft in which they are indentured.

Section 11-2. An Employer may employ pre-apprentices, trainee/helpers and/or subjourneypersons for Unions recognizing such classifications to perform such work which is customarily performed by their craft. The pre-apprentices, trainee/helper and/or subjourneypersons will not be a currently registered apprentice. The rate of pay and the number of employees to be employed in such classification shall be established for the project as outlined in Appendix A. It is understood by all parties that, however, those Unions who have not recognized such classification shall agree to furnish the Employer a sufficient number of apprentices to allow the Employer to be competitive for the project. The required ratio of apprentices for this specific project shall be established in accordance with Appendix A.

Section 11-3. Trainees/helpers and/or subjourneypersons may be reclassified to journeyperson status or to a registered Apprentice Classification, or a formal training program, as appropriate, when they have demonstrated their qualifications for such reclassification to the mutual satisfaction of the Employer and the local union involved.

## **ARTICLE 12**

### **PAYMENT OF WAGES-CHECKING IN AND OUT**

Section 12-1. Wages will be paid weekly by check on a designated day during working hours and in no case shall more than five (5) days pay be held back in any one payroll week.

Section 12-2. The Employer may utilize brassing, time clocks or other systems to check employees in and out. Each employee must check himself in and out. The Employer will provide adequate facilities for checking in and out in an expeditious manner.

## **ARTICLE 13**

### **GRIEVANCE ADJUDICATION PROCEDURE**

Section 13-1a. It is specifically agreed that in the event any disputes arise out of the interpretation of this Agreement, excluding questions of jurisdiction of work or violation of Article 20, the same shall be settled by means of the procedure set out herein. No such grievance shall be recognized unless called to the attention of the Employer by the Union or to the attention of the Union by the Employer within five (5) calendar days after the alleged violation was committed, or if the violation was not ascertainable within five (5) calendar days of first knowledge of the facts giving rise to the grievance.

Section 13-1b. Grievances shall be settled according to the following procedure:

Step 1: The dispute shall be referred to the Business Representative of the local union involved or his designated representative and the Project Superintendent and/or the Employer's representative at the construction project.

Section 13-1c.

Step 2: In the event that the Business Representative of the local union and the Project Superintendent and/or the Employer representative at the construction site cannot reach agreement within five (5) calendar days after a meeting is arranged and held, the matter shall be referred to the International Union and the Labor Relations Representative of the responsible Employer.

Section 13-1d.

Step 3: In the event that the International Representative and the Labor Relations Representative of the Employer are unable to resolve the dispute within ten (10) calendar days after completion of Step 2, it shall be referred in writing to the General President of the Union Involved and the Home Office representative of the Employer. Any dispute over the intent of this Agreement not resolved in Step 3 shall be submitted to a Review Committee consisting of equal number of representatives appointed by NACA and the BCTD. Each member of the Committee shall have one (1) vote unless there are unequal numbers of Labor and Employer members in attendance. In that case, the under-represented members shall be entitled to cast the same number of votes as the other group's members in attendance.

Section 13-1e.

Step 4: If the dispute is not resolved within ten (10) calendar days after completion of Step 3, or, in the case of a dispute submitted to the Review Committee, ten (10) calendar days after a determination by the Review Committee, the Employer and the Union shall choose a mutually agreed upon Arbitrator for final and binding arbitration. The impartial Arbitrator shall be selected from a panel of arbitrators submitted by and in accordance with the rules and regulations of the American Arbitration Association. The decision of the Arbitrator shall be binding upon all parties. The Arbitrator shall

have no authority to change, amend, add to, or detract from any of the provisions of this Agreement. The expense of the impartial Arbitrator shall be borne equally by the Employer and the involved Union.

Section 13-2. The time limits specified in any step of the Grievance Procedure may be extended by mutual agreement of the parties initiated by the written request of one party to the other, at the appropriate Step of the Grievance Procedure. However, failure to process a grievance, or failure to respond in writing within the time limits provided above, without a request for an extension of time, shall be deemed a waiver of such grievance to the other without prejudice, or without precedent to the processing of and/or resolution of like or similar grievances or disputes.

Section 13-3. In order to encourage the resolution of disputes and grievances at Steps 1 and 2 of this Grievance Procedure, the parties agree that such settlements shall not be precedent-setting.

## **ARTICLE 14**

### **UNION SECURITY**

Section 14-1. All employees covered by this Agreement now in the employ of the Employer shall remain members in good standing in the Union during the term of this Agreement, and all employees hereinafter employed by the Employer, shall become members of the Union on the eighth (8<sup>th</sup>) day of their employment and shall remain members of the Union in good standing during the term of this Agreement. (This clause shall be effective only in those States permitting Union Security.)

Section 14-2. In interpreting good standing, an Employer shall not discharge any employee for non-membership in the Union: (a) if he or she 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) that the Employer has reasonable grounds for believing that membership was denied or terminated for reasons other than the failure of the employee to tender the periodic dues and initiation fee uniformly required as a condition of acquiring or retaining membership.

## **ARTICLE 15**

### **CRAFT JURISDICTION**

Section 15-1. The Employer(s) shall conduct a pre-job meeting for the purpose of discussing the scope and schedule of the work and intended work assignments. Except in emergency situations, final work assignments shall be made in writing no later than ten (10) days prior to the start of work.

Section 15-2. All signatory Employers on this project agree to assign work and be bound to the terms and conditions of the Plan for the Settlement of Jurisdictional Disputes in the Construction Industry. All jurisdictional questions between or among the parties to this agreement will be settled in accordance with the procedural rules and regulations of the Plan for the Settlement of Jurisdictional Disputes in the Construction Industry, effective June 1, 1984

or any successor plan and all signatory Unions agree that the assignments of the Employer(s) shall be followed until the jurisdictional question is resolved in accordance with this Section.

Section 15-3. Violations of this Article are governed by Article 20.

## **ARTICLE 16**

### **UNION REPRESENTATION**

Section 16-1. Authorized representatives of the Unions and their local unions shall have access to the projects provided they do not interfere with the work of the employees and further provided that such representatives fully comply with the visitor and security rules established for the particular project.

Section 16-2. Each Union which is a party to this Agreement, or its applicable local union, shall have the right to designate a working journeyman as a Steward. Such designated Steward shall be a qualified employee performing the work of that craft and shall not exercise any supervisory functions. Each Steward shall be concerned with the employees of the Steward's Employer and not with the employees of any other Employer.

Section 16-3. On projects where the Owner's personnel may be working in close proximity of the construction activities the Unions agree that under any and all conditions Union representatives, Stewards, and individual employees will not interfere in any manner with the Owner's personnel or with the work which is being performed by the Owner's personnel.

## **ARTICLE 17**

### **TRAVEL AND SUBSISTENCE**

Section 17-1. Travel expenses, travel time, subsistence allowance and/or zone rates shall not apply on the project of the Employer. For projects located in sparsely populated or geographically remote areas where such payments are mutually deemed in the best interest of the project, the Employer and the Union, or a Project Review Committee of the BCTD, shall negotiate the types and amounts of such payments.

## **ARTICLE 18**

### **GENERAL WORKING CONDITIONS**

Section 18-1. Employment begins and ends at each project site.

Section 18-2. The selection of craft foremen and/or general foremen and the number of foremen required shall be entirely the responsibility of the Employer, it being understood that in the selection of such foremen and/or general foremen the Employer will give primary consideration to the qualified individuals available in the local area. After giving such consideration, the Employer may select such individuals from other areas. All foremen shall take orders from the designated Employer representatives. Craft foremen shall be designated working foremen at the request of the Employer.

Section 18-3. There shall be no limit on production by employees nor restrictions on the full use of tools or equipment. Employees using tools shall perform any of the work of the

trade and shall work under the direction of the craft foremen. There shall be no restrictions on efficient use of manpower other than as may be required by safety regulations.

Section 18-4. Employees shall be at their place of work at the starting time and shall remain at their place of work performing their assigned functions under the supervision of the Employer until quitting time. The parties reaffirm their policy of a fair day's work for a fair day's wage.

Section 18-5. All equipment assigned to a project shall be under the control of the Employer. The Employer shall have the right to determine how many pieces of equipment an individual employee shall operate. In an emergency, foremen shall operate any equipment assigned by the Employer, and there shall be no restriction on foremen in the use of the tools of his craft in such emergency. The foremen shall be from the craft normally operating the equipment. In accordance with currently recognized craft jurisdiction, the Employer shall determine the assignment of employees to start, stop, and maintain small portable construction equipment. Such work may be assigned to craft employees within a reasonable distance of their primary duties or an employee may be assigned full time to start, stop and maintain the Employer's small, portable equipment on the job site. There shall be no over manning of this type of equipment.

The number of employees assigned to rigging and scaffolding operations shall be at the sole discretion of the Employer.

The ratio of journeyman to welders shall be determined solely by the Employer.

Section 18-6. The Employer may utilize the most efficient methods or techniques of construction, tools or other labor saving devices to accomplish the work. Practices not a part of the terms and conditions of this Agreement, stand by crews and feather bedding practices will not be recognized.

Section 18-7. It is recognized that specialized or unusual equipment may be installed and/or serviced by individuals who have special training, skill, or qualifications and are not covered by this Agreement. Testing, inspection, or service performed on plant equipment under warranty may be performed by the vendor's personnel.

Section 18-8. Neither the Union nor its local unions shall coerce or in any way interfere with the Owner's personnel, operation or facilities at the plant site. The Owner's right to contract directly with other companies for work at the plant site shall not be limited, and the Union shall cooperate and not interfere with the Employer's operations.

Section 18-9. It is agreed that overtime is undesirable and not in the best interest of the industry or the employees; therefore, except in unusual circumstances, overtime will not be worked. Where unusual circumstances do exist, however, the Employer will have the right to assign specific employees and/or crews to perform such overtime work as is necessary to accomplish the job.

Section 18-10. There will be no rest periods, organized coffee breaks or other non-working time established during working hours.

Section 18-11. Individual seniority shall not be recognized or applied to employees working on projects under this Agreement.

Section 18-12. The Employer shall establish such reasonable project rules as the Employer deems appropriate. These rules will be reviewed at the pre-job conference and posted at the project site by the Employer, and may be amended thereafter as necessary.

## **ARTICLE 19**

### **SAFETY**

Section 19-1. The employees covered by the terms of this Agreement shall at all times while in the employ of the Employer be bound by the safety rules and regulations as established by the Employer in accordance with the Construction Safety Act and OSHA.

These rules and regulations will be published and posted at conspicuous places throughout the project.

Section 19-2. In accordance with the requirements of OSHA, it shall be the exclusive responsibility of each Employer on a jobsite to which this Agreement applies, to assure safe working conditions for its employees and compliance by them with any safety rules contained herein or established by the Employer. Nothing in this Agreement will make the Unions or any of their local unions liable to any employees or to other persons in the event that injury or accident occurs.

## **ARTICLE 20**

### **WORK STOPPAGES AND LOCKOUTS**

Section 20-1. During the term of this Agreement there shall be no strikes, sympathy strikes, picketing, work stoppages, slow downs, interference with the work or other disruptive activity for any reason by the Union, its applicable local Union or by any employee and there shall be no lockout by the Employer. Failure of any Union, local union or employee to cross any picket line established at the Employer's project site is a violation of this Article.

Section 20-2. The Union and its applicable local union shall not sanction, aid or abet, encourage or continue any work stoppage, strike, picketing or other disruptive activity at the Employer's project site and shall undertake all reasonable means to prevent or to terminate any such activity. No employee shall engage in activities which violate this Article. Any employee who participates in or encourages any activities which interfere with the normal operation of the project shall be subject to disciplinary action, including discharge, and if justifiably discharged for the above reasons, shall not be eligible for rehire on the same project for a period of not less than ninety (90) days.

Section 20-3. Neither the Union nor its applicable local union shall be liable for acts of employees for which it has no responsibility. The International Union General President(s) will immediately instruct, order and use the best efforts of his office to cause the local union(s) to cease any violations of this Article. An International Union complying with this obligation shall not be liable for unauthorized acts of its local union. The principal officer or officers of a local union will immediately instruct, order and use the best efforts of his office to cause the employees the local union represents to cease any violations of the Article. A local union complying with this obligation shall not be liable for unauthorized acts of employees it

represents. The failure of the Employer to exercise its right in any instances shall not be deemed a waiver of its right in any other instance.

Section 20-4a. The Union(s) agrees that if any union or any other persons, whether parties to the Agreement or otherwise, engage in any picketing or work stoppage, the signatory Unions shall consider such work stoppage or picketing to be illegal, and refuse to honor such picket line or work stoppage.

Section 20-4b. In the event of any work stoppage, strike, sympathy strike, picketing, interference with the work or other disruptive activity in violation of this Article, the Employer may suspend all or any portion of the project work affected by such activity at the Employer's discretion and without penalty.

Section 20-5. There shall be no strikes, sympathy strikes, picketing, work stoppages, slowdowns, interference with the work or other disruptive activity affecting the project site during the term of this Agreement. Any Union or local union which initiates or participates in a work stoppage in violation of this Article, or which recognizes or supports the work stoppage of another Union or local union which is in violation of this Article, agrees as a remedy for said violation, to pay liquidated damages in accordance with Section 20-6.

Section 20-6. In lieu of, or in addition to, any other action at law or equity, any party may institute the following procedure when a breach of this Article or Article 15 is alleged, after the Union(s) and/or local union(s) have been notified of the fact.

Section 20-6a. The party invoking this procedure shall notify the individual designated by the Joint Administrative Committee, who the parties agree shall be the permanent Arbitrator under this procedure. In the event that the permanent Arbitrator is unavailable at any time, he shall appoint his alternate. Notice to the Arbitrator shall be by the most expeditious means available, with notice by electronic means or any other effective written means, to the Building and Construction Trades Department, and the involved International Union President(s) and local union(s).

Section 20-6b. Upon receipt of said notice the Arbitrator named above shall set and hold a hearing within twenty-four (24) hours if it is contended that the violation still exists.

Section 20-6c. The Arbitrator shall notify the parties by electronic means or any other effective written means, of the place and time he has chosen for this hearing. Said hearing shall be completed in one session. A failure of any party or parties to attend said hearing shall not delay the hearing of evidence or issuance of an Award by the Arbitrator.

Section 20-6d. The sole issue at the hearing shall be whether or not a violation of this Article or Article 15 has in fact occurred. The Award shall be issued in writing within three (3) hours after the close of the hearing, and may be issued without an Opinion. If any party desires an Opinion, one shall be issued within fifteen (15) days, but its issuance shall not delay compliance with, or enforcement of, the Award. The Arbitrator may order cessation of the violation of this Article, and such Award shall be served on all parties by hand or registered mail upon issuance.

Section 20-6e. Such Award may be enforced by any court of competent jurisdiction upon the filing of this Agreement and all other relevant documents referred to hereinabove in the following manner. Electronic notice of the filing of such enforcement proceedings shall be given to the other party. In the proceeding to obtain a temporary order enforcing the

Arbitrator's Award as Issued under Section 20-6 of this Article, all parties waive the right to a hearing and agree that such proceedings may be exparte. Such agreement does not waive any party's right to participate in a hearing for a final order of enforcement. The Court's order or orders enforcing the Arbitrator's Award shall be served on all parties by hand or by delivery to their last known address or by registered mail.

Section 20-6f. Any rights created by statute or law governing arbitration proceedings inconsistent with the above procedure or which interfere with compliance therewith are hereby waived by the parties to whom they accrue.

Section 20-6g. The fees and expenses of the Arbitrator shall be borne by the party or parties found in violation, or in the event no violation is found, such fees and expenses shall be borne by the moving party.

Section 20-6h. If the Arbitrator determines that a violation has occurred in accordance with Section 20-6d above, the party or parties found to be in violation shall pay as liquidated damages, the following amounts: for the first shift in which the violation occurred, \$10,000; for the second shift, \$15,000; for the third shift, \$20,000; for each shift thereafter on which the craft has not returned to work, \$25,000 per shift. The Arbitrator shall determine whether the specified damages in this Section shall be paid to the Owner or the affected Employer. The Arbitrator shall retain jurisdiction to determine compliance with this section and Section 20-3 of this Article.

Section 20-7. The procedures contained in Sections 20-6 through 20-6h shall be applicable to alleged violations of this Article and of Article 15. Disputes alleging violation of any other provision of this Agreement, including any underlying disputes alleged to be in justification, explanation or mitigation of any violation of this Article, shall be resolved under the grievance adjudication procedures of Article 13.

## **ARTICLE 21**

### **SUBCONTRACTING**

Section 21-1. The Employer agrees that it nor any of its subcontractors will subcontract any work to be done on the project except to a person, firm or corporation party to this Agreement. Any contractor or subcontractor working on a project covered by this Agreement shall as a condition to working on said project, become signatory to and perform all work under the terms of this Agreement.

## **ARTICLE 22**

### **AMENDMENTS**

Section 22-1. Amendments to this Agreement, which are required to place the Employer in a more competitive position, may be established by the Employer and the Union(s), through the BCTD or under an appropriate provision of a National Agreement which directly addresses the competitive problem. Such an agreement shall be reduced to writing and shall be considered an extension and part of this Agreement for the particular project.

Section 22-2. Any need for interpretation which might arise from the application of the terms of an amendment, established under this Agreement, shall be referred directly to the Joint Administrative Committee for resolution.

## **ARTICLE 23**

### **GENERAL SAVINGS CLAUSE**

Section 23-1. 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 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 validity and which will be in accord with the intent and purpose of the Article or provision in question.

If any Article or provision of this Agreement shall be held invalid, inoperative or unenforceable by operation of law or by any of the above mentioned tribunals of competent jurisdiction, the remainder of this Agreement or the application of such Article or provision to persons or circumstances other than those as to which it has been held invalid, inoperative or unenforceable shall not be affected thereby.

## **ARTICLE 24**

### **TERM OF AGREEMENT**

Section 24-1. This Agreement shall be effective on all projects approved in accordance with the procedures set forth in Article 4 which commence after 12:01 a.m., August 1, 2002, and until 12:01 a.m., July 31, 2005, and shall continue in full force and effect from year to year thereafter unless changed or terminated as provided for in Section 24.2 of this Article. All project agreements negotiated prior to the effective date of this Agreement shall remain in full force and effect for the duration of that project unless the parties thereto agree otherwise.

Section 24-2. Either NACA or the BCTD, on behalf of its signatory International Unions, desiring to change or terminate this Agreement must notify the other side in writing at least sixty (60) days, but not more than ninety (90) days prior to the anniversary date of this Agreement. If notification is given by either party in accordance with this paragraph, and the parties have been unable to reach agreement on provisions of a new Agreement prior to such expiration date, the Agreement shall continue to be binding on a day-to-day basis until a new Agreement is established. Either party may treat this collective bargaining agreement as cancelled after the expiration date by giving written notice of such intent to the other party.

Section 24-3. This Agreement shall not be amended or supplemented except by mutual consent of the parties hereto, reduced to writing and duly signed by each.

Section 24-4. This Agreement shall remain in full force and effect for the duration of any project where construction work has commenced under the terms of this Agreement, or the Agreement has been approved for implementation in accordance with Article 4, Section 4.1.

**ARTICLE 25**

**PROJECT APPROVAL**

The Parties agree that this Agreement is applicable to the below specified project and shall remain in full force and effect for the duration of this project.

PROJECT: \_\_\_\_\_

LOCATION: \_\_\_\_\_

DATE APPROVED: \_\_\_\_\_ PROJECT NO. \_\_\_\_\_

EMPLOYER: \_\_\_\_\_ THE UNIONS: \_\_\_\_\_

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CONTRACTOR: \_\_\_\_\_ AUTHORIZED BY: \_\_\_\_\_

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SUBCONTRACTOR:	SUBCONTRACTOR
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AUTHORIZED BY:	AUTHORIZED BY:
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**NATIONAL CONSTRUCTION AGREEMENT**


Signed and subscribed to this 1st day of August, 2002.

National Construction Agreement  
Negotiating Committee


Building and Construction Trades  
Department, AFL-CIO



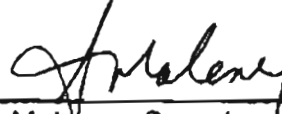
K.E. Hedman, Chairman



Edward C. Sullivan, President



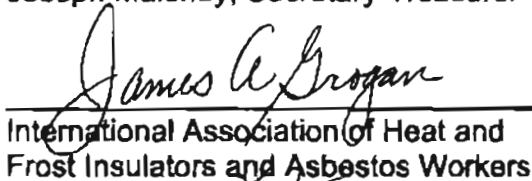
I. Caprone



Joseph Maloney, Secretary-Treasurer



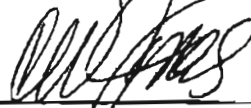
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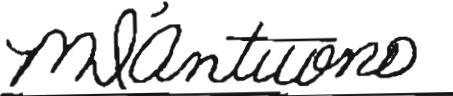
International Association of Heat and  
Frost Insulators and Asbestos Workers



R. P. Carter



International Brotherhood of Boilermakers,  
Iron Ship Builders, Blacksmiths, Forgers  
and Helpers



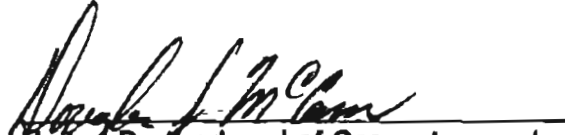
M. D'Antuono



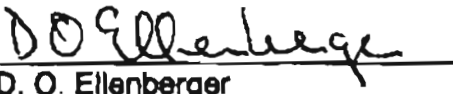
International Union of Bricklayers and  
Allied Craftworkers



G. L. Tomes



United Brotherhood of Carpenters and  
Joiners of America

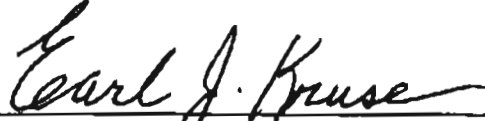


D. O. Ellenberger

**NATIONAL CONSTRUCTION AGREEMENT**



International Brotherhood of Electrical  
Workers



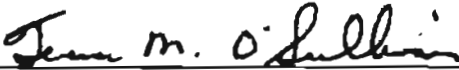
United Union of Roofers, Waterproofers  
and Allied Workers



International Association of Bridge,  
Structural, Ornamental and Reinforcing  
Iron Workers



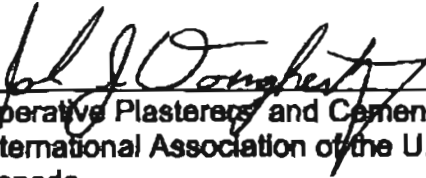
Sheet Metal Workers' International  
Association



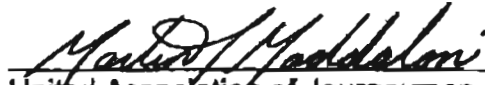
Laborers' International Union of  
North America



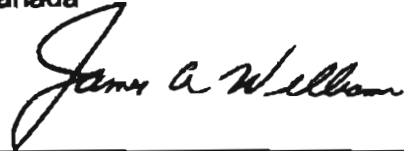
International Brotherhood of Teamsters



Operative Plasterers and Cement Masons'  
International Association of the U.S. and  
Canada



United Association of Journeymen and  
Apprentices of the Plumbing and Pipe  
Fitting Industry of the U.S. and Canada



International Union of Painters  
and Allied Trades

**North American Contractors Association**  
**Building and Construction Trades Department, AFL-CIO**