NCMA

National Construction and Maintenance Agreement

National Construction and Maintenance Agreement

NABTU North America's Building Trades Unions

THE ASSOCIATION of UNION CONSTRUCTORS

Built with the strength of North America's Building Trades Unions in partnership with The Association of Union Constructors

Pledge to the Industry

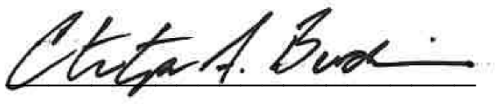
This Agreement is intended to serve as the framework for tri-partite success on construction and maintenance sites across the United States.

Strong partnerships between labor and management make that success possible.

Recognizing that this success depends upon that cooperation, we, the undersigned, pledge our support for the signatory parties, the customers this Agreement serves, the craft workers represented under it, and the Union Construction and Maintenance Industries as a whole.



North America's Building Trades Unions (NABTU)



The Association of Union Constructors (TAUC)

SAMPLE

This Agreement, in cooperation with North America's Building Trades Unions (herein referred to as NABTU) and The Association of Union Constructors (herein referred to as TAUC), is entered into _____, by and between

_____
(Employer)

of _____,
(City and State)

and the National and International Unions signatory hereto (hereinafter referred to as Union(s)), for the purpose of maintenance and new construction work performed by the Employer.

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ARTICLE I – RECOGNITION

1. The Employer recognizes each Union as the sole and exclusive bargaining representative for the Union's craft employees now employed and employed in the future by the Employer, at projects of the Employer covered by this Agreement within the geographical jurisdiction of each Union. This Agreement does not apply to general superintendents, superintendents, assistant superintendents, office and clerical employees, watchmen or other professional or supervisory employees as defined in the National Labor Relations Act, as amended.

2. It is agreed between the Unions and the Employer that this Agreement is applicable to work that is primarily within the recognized and traditional jurisdiction of the Unions and shall be performed in accordance with the terms of this Agreement.

3. The Employer is required to conduct a pre-job conference, including craft work assignments, for each project performed under this Agreement. Written craft work assignments will be distributed to the appropriate Unions, not to exceed ten (10) working days after the pre-job conference. Pre-job conferences may be performed virtually or via teleconference. It is the responsibility of the Employer to notify the appropriate NABTU Building Trades Council having jurisdiction, as well as all Unions, of the time and place of the pre-job conference. A pre-job conference outline can be obtained from the NCMAPC office and/or any participating Union. Failure to hold a pre-job conference is a grievable offense and a monetary penalty, payable to a designated NCMAPC fund, shall be assessed of one-thousand five-hundred dollars ($1,500) for the first (1st) offense, two-thousand dollars ($2,000) for a second (2nd) offense, and two-thousand five-hundred dollars ($2,500) for a third (3rd) and each subsequent offense. An expedited grievance hearing may be requested by any signatory party for an alleged failure to hold a pre-job conference and said hearing may be held virtually.

4. For short-term (less than five (5) working days) or weekend projects, the Employer may contact the appropriate crafts via telephone or e-mail regarding work assignments. For projects of longer duration, the Employer shall convene a pre-job conference, upon sufficient notice so that all appropriate crafts have an opportunity to participate.

5. During the existence of the Agreement, there shall be no strikes, lockouts, work stoppages, or picketing arising out of any jurisdictional dispute. Work will continue as originally assigned, pending resolution of the dispute.

6. The Employer agrees to assign work in accordance with and be bound to the terms and conditions of the Plan for the Settlement of Jurisdictional Disputes in the Construction Industry, and any other plan or method of procedure that may be adopted in the future by NABTU for the settlement of jurisdictional disputes in the construction industry (the Plan). All jurisdictional disputes between or among the Unions and the Employer shall be settled and adjusted in accordance with the Plan. Decisions rendered shall be final, binding, and conclusive on the Employer and Unions. The Unions agree that the assignments of the Employer shall be followed until the jurisdictional question is resolved in accordance with this Section. A copy of the Plan may be acquired from the NCMAPC and NABTU websites.

7. The Employer shall not be subject to disputes regarding work assignments made by its subcontractors. However, the Employer must ensure that its subcontractors are signatory to this Agreement and are performing work under the terms and conditions of this Agreement, and are following the procedures of this Article.

ARTICLE II – UNION SECURITY AND DUES CHECK-OFF

1. All employees covered by this Agreement and members of the Unions now in the employ of the Employer shall remain members in good standing in their Union during the term of this Agreement.

2. All employees hired by the Employer shall, as a condition of employment, become and remain members in good standing of their Union within eight (8) days following the date of their employment.

3. Any employee, who is a member in good standing of any signatory Union, shall be considered in compliance with the Union Security Article in this Agreement, so long as the employee maintains good standing in the Union.

4. Sections 1 through 3 of this Article shall not apply where they are prohibited by law.

SAMPLE

5. The Employer shall deduct from each employee's wages all uniform dues and working assessments the employee has voluntarily authorized in writing be deducted and the Employer shall forward the same to the Union or its applicable local union, as directed by the Union.

ARTICLE III – NONDISCRIMINATION

1. The Unions and the Employer agree to comply with all applicable Federal and State equal employment opportunity and nondiscrimination in employment laws.

ARTICLE IV – SCOPE OF WORK

1. This Agreement covers all work assigned by the Owner to the Employer and performed by the employees of the Employer covered by this Agreement, except as otherwise set forth in this Article.

2. This Agreement covers maintenance and new construction work performed by the Employer. New construction work will have unique provisions that are only applicable to new construction.

a. New construction is:

i. Work performed at a location where there is either no existing facility or no ongoing operation existing at the time the Agreement is requested, or;

ii. Work performed at an existing and operational facility, plant or site, that is not maintenance in nature, as defined below (for example, adding a new unrelated process such as a data center on the site of a power plant).

b. Maintenance work is repair, replacement, renovation, expansion, or modernization of an already existing or operational facility, plant, or site.

c. A question as to whether a project is new construction or maintenance will be determined by the Work Scope Determination Subcommittee as outlined in the NCMAPC Book of Decisions.

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d. Work covered by the following agreements is excluded from the scope of work covered by this Agreement unless the Union(s) signatory to the agreements below agree to perform the work under this Agreement:

i. CURE Solar Agreement (California only)
ii. IBEW Local Outside Line Agreement
iii. IUEC's National Agreement
iv. LiUNA and IUOE Tunnel Agreement
v. National Distribution Agreement (Pipe Line)
vi. National Heavy Highway Coalition Agreement
vii. National Pipe Line Agreement
viii. Tri-Trade Solar Agreement (Every state other than California)

e. With respect to the exclusion for work covered by the Tri-Trade Solar Agreement, outside of California, as set forth in section 2.d(vi) above, the following owners may use this Agreement for new solar construction notwithstanding such exclusion:

i. Alliant Energy
ii. Ameren Corporation (Missouri only)
iii. American Electric Power
iv. Consumers Energy
v. DTE Energy Services
vi. First Energy Corporation
vii. Geronimo Power
viii. Invenergy
ix. Nexamp
x. NIPSCO
xi. Savion Power
xii. Trajectory Energy

3. The Unions and the Employer understand that the Owner may choose to perform directly, subcontract, or purchase any part or parts of the work necessary on the project with due consideration given to achieving the highest standards and harmonious working conditions herein.

4. It is the intent of the parties that in-plant employees of the Owner will not be assigned to work directly with the employees of the Employer on the portion of the work assigned to the Employer by the Owner. However, this section does not preclude in-plant employees of the Owner from performing work that has not been assigned to the Employer while the employees of the Employer are present and working.

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5. This Agreement shall have application only to the work agreed upon between the Employer and the Union(s).

6. **(Bricklayers & Allied Craftworkers Only)** Refractory work of any nature shall be performed pursuant to the terms of the National Refractory Agreement.

ARTICLE V – SUBCONTRACTING

1. All subcontracting of work at any tier covered by this Agreement shall be performed under this Agreement, or the following agreements as applicable, or any other agreement approved as compatible by the NCMAPC:

a. Boilermaker's National Transient Division Agreement (NTD)
b. Boilermaker's National Specialty Agreement (as it applies to welding)
c. Industrial Agreement for Instrument and Control Systems Technicians
d. National Agreement for Silos
e. National Refractory Agreement
f. National Stack/Chimney Agreement
g. Natural Draft Cooling Tower Agreement
h. UA National Specialty Agreement (as it applies to welding)

2. The Employer acknowledges and agrees that any Union signatory to this Agreement may bring a grievance under Article VI to enforce this subcontracting provision, and that monetary damages for lost wages and fringe benefits may be awarded for failure to subcontract work to employers signatory to this Agreement, or any Compatible Agreement.

3. **(United Association Only)** There shall be no restriction on the Owner for the purchase or subcontracting of offsite fabrication or assembly unless specifically identified in this Agreement. For new construction only, all piping fabrication work, including but not limited to fabrication of piping spools and pipe formations and related preparatory work in the control of the employer signatory to this agreement, that is self-performed by the Employer, shall be performed utilizing one of the two following options:

• Option A: Signatory Employer may self-perform the work off-site utilizing a National Fabrication Agreement approved by the United Association International Union

• Option B: Signatory Employer may self-perform the work off-site and shall pay its workforce in accordance with the wage and fringe benefit rates not less than those set forth in the local labor agreement in effect where the fabrication for the project is located.

SAMPLE

a. To the extent a Signatory Employer possesses the right to control fabrication work and subcontracts such fabrication work to a company who is not a party to this Agreement or to a National Fabrication Agreement, such subcontractor shall agree to pay their employees wage and fringe benefit rates not less than those set forth in the local labor agreement in effect where the fabrication for the project is located.

b. In the event that the options listed in this section cannot meet requirement of the job; the Employer will identify the prefabrication affected and any reason(s) why said work cannot be performed in accordance with the listed options. The United Association, in turn, agrees to work with the Employer to provide mutually acceptable and appropriate relief of the affected prefabrication with regard to the requirement of performing the work under the fabrication clause of this Agreement to ensure the Employer can meet project schedule requirements.

ARTICLE VI – GRIEVANCES

1. Except for jurisdictional disputes and those involving general wage rates, all disputes and grievances arising out of work performed under this Agreement involving the meaning or interpretation of any provision in this Agreement, or involving the meaning or interpretation of any provision in any other agreement incorporated by reference in this Agreement shall be resolved in the following manner:

a. All grievances shall be filed within ten (10) calendar days after the complained of event arose. Grievances shall be appealed to steps two (2) and three (3) within ten (10) calendar days after the meeting in the lower step. Settlement of grievances may be made at any step of the grievance procedure and shall be final and binding on the Union and Employer.

Step 1. Between the Employer's Supervisor and the Local Union Steward at the job site.

Step 2. Between the Business Representative and the Employer's Supervisor at the job site.

Step 3. Between the International Union Representative and the Supervisor or Labor Relations Manager.

Step 4. If the parties are unable to settle or resolve any grievance or controversy, the matter shall be submitted to the NCMAPC for a decision to become effective immediately (parties should refer to NCMAPC Grievance Procedures, as amended, at this step).

SAMPLE

Step 5. Failure of the NCMAPC to reach a decision shall constitute a basis for a submittal of the question by the affected parties to the American Arbitration Association for a binding decision. In such instances, the affected parties to the dispute shall appoint an arbitrator to review the matter and render a binding decision. If the parties are unable to agree upon an arbitrator, the American Arbitration Association shall appoint one. The affected parties to the arbitration shall equally share in the costs, including printing and publication of any record of such arbitration.

b. The Arbitrator shall only have jurisdiction and authority to interpret, apply or determine compliance with the provisions of this Agreement. Any award of the Arbitrator shall be final and binding upon the Employer and the Union. The Arbitrator shall submit a copy of the award to the NCMAPC after the award is rendered.

ARTICLE VII – UNION REPRESENTATIVE

1. A Steward shall be a qualified craftsperson appointed by the Business Agent and confirmed in writing to the Employer. The Steward shall be the last employee to be laid off, provided the Steward is qualified to perform the remaining work to be done at the job. The Steward shall not be terminated or laid off, except as the last employee, without prior notice to the Union.

2. Union representatives shall have reasonable access to jobs operated within the site locations subject to Employer and Owner regulations.

ARTICLE VIII – WAGES

1. Wage rates shall be those as set forth in the current labor agreement of the affiliated local union where the work is to be performed and shall be paid to all employees under the terms of this Agreement. Unless otherwise modified by the NCMAPC, wages shall be paid weekly by electronic direct deposit, check, or other legal tender.

2. When zone type wage structures are provided for in local labor agreements and are otherwise applicable in the area where the work is to be performed, the wage rate will be considered as if it was within the area of the base zone rate.

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3. **(Operating Engineers Only)** Where the Operating Engineers' Local Union Building Agreement provides for a guaranteed work week on certain jobs or equipment, such guarantee shall be applicable under the terms of this agreement provided the job is of five (5) days or more duration, notwithstanding Article XII herein. Such guarantee shall not apply when the commencing week is less than five (5) work days or when the Operating Engineers are terminated during the work week. The parties understand such guarantee is applicable during the scheduled work week as defined in the agreement, relevant bulletin, or any amendment thereto. All time worked outside of the defined work week, including make up days, shall be of the applicable overtime rate of pay. It is understood that those craft workers receiving guarantee may, at the discretion of the employer, be required to remain on the job.

4. **(Operating Engineers Only)** Where the Operating Engineers Local Union Building Agreement provides for Boom Length and/or Crane Operator Certification premiums, such premiums shall be applicable and paid under the terms of this Agreement.

5. **(Operating Engineers Only)** Those classifications historically represented by the local union having jurisdiction in the area where the project exists shall perform the work under the terms of this Agreement.

ARTICLE IX – BENEFITS AND OTHER MONETARY FUNDS

1. The Employer shall contribute to the NABTU-TAUC Labor Management Cooperation Committee Trust (LMCC Trust) the amount of ten cents ($0.10) per hour for each hour worked by each individual employee covered by this Agreement. Payment shall be forwarded quarterly to the LMCC Trust. The applicable contribution instructions are set forth in NCMAPC Policy Decision No. IX – 8 “Labor Management Cooperation Committee Trust Instructions”

2. Welfare Funds, Pension Funds, Apprentice Training Funds and other monetary funds required by the local union or district council labor agreement shall be paid in accordance with the local labor agreement, except that no funds shall be paid that exceed the straight-time and overtime provisions of this Agreement.

3. The Employer agrees to be bound by all legally constituted trusts which have been established between local unions of the Unions and recognized bargaining agencies of employers in the area.

4. Industry Advancement or Promotion Funds required by the local labor agreement may be paid at the discretion of the Employer. However, if approved by the NCMAPC, these funds must be paid in accordance with the local labor agreement.

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a. For new construction, if approved by the NCMAPC, these funds must be paid in accordance with the local labor agreement unless otherwise provided for in an addendum approved by the NCMAPC Labor Section.

5. Once an Employer is legally notified that it is delinquent in its contributions to the fringe benefit funds, apprenticeship fund, dues check off or any other contractually required contribution, and does not respond positively by forwarding said contributions to the appropriate place of receipt within three (3) business days, the provisions of Article XXII shall not apply and the Union may legally withhold services. However, it is understood that such action, consistent with Article XXII, does not allow said craft to establish any picket line.

6. An Employer who has been properly notified of delinquent benefit funds will not be allowed to submit any site extension requests until all obligations are current.

7. **(Operating Engineers Only)** The Employer agrees to contribute ten cents ($0.10) to the IUOE National Training Fund (NTF) for all Operating Engineer hours worked. Should the IUOE local union having geographical jurisdiction of the covered project negotiate a National Training Fund (NTF) contribution into their local labor agreement, the Employer shall pay the lesser of the ten cents ($0.10) and that contribution called for in the local labor agreement.

8. **(Laborers Only)** A signatory employer may satisfy its obligations under this Agreement to make pension, health and welfare, training, and other benefit fund contributions for Laborers by submitting its payments through the Laborers-Employers Benefit Plan Collection Trust (LEBPCT).

a. A signatory employer may satisfy its obligations under this Agreement to pay withheld union dues for Laborers to the appropriate local unions by submitting its payments through the LEBPCT.

b. A signatory employer that elects to submit payments referenced in Sections 8 or 8a of this Article shall execute the LEBPCT Participation Agreement (a copy of which can be obtained by contacting the LIUNA Construction Department at 202-942-2335, constmail@liuna.org).

ARTICLE X – COMPENSATION INSURANCE

1. For all employees covered by this Agreement, the Employer shall provide Workers' Compensation Insurance, Social Security and other protective insurance as may be required by law, and also furnish satisfactory proof of such to the Union(s).

SAMPLE

2. In an effort to enhance the competitive position of the Employer and to provide greater work opportunities for members of the Union(s), the Employer and local unions are encouraged to negotiate and implement alternative dispute resolution procedures to resolve workers' compensation claims disputes when and where permissible and/or legal. Such alternative dispute resolution procedures when implemented will be final and binding on the parties and shall be made a part of this Agreement to the extent permitted by law.

ARTICLE XI – HOLIDAYS

1. For purposes of uniformity, the following holidays shall be observed and, if worked, shall be paid at the rate applicable in the appropriate local labor agreement not to exceed double time:

New Year's Day
Presidents' Day (Federal)*
Memorial Day
Independence Day
Labor Day
Thanksgiving Day
Christmas Day

2. If any of these listed holidays fall on Sunday, the following Monday shall be observed as the holiday. If any of the listed holidays fall on Saturday, the preceding Friday shall be observed as the holiday.

3. *Presidents' Day (Federal) may be considered a floating holiday and may be celebrated on an alternate day. Should the building trades council that encompasses the geographical jurisdiction where work is being performed under this Agreement, desire to celebrate Presidents' Day on an alternate work day, authorization must be obtained in writing from the NCMAPC office.

ARTICLE XII – MINIMUM PAY / REPORTING TIME AND CALL-INS

1. An employee who reports for work at the regular starting time and for whom no work is provided shall receive pay equivalent to two (2) hours at the applicable hourly rate, provided the employee at the Employer's discretion remains available for work. Any employee who reports for work and for whom work is provided shall be paid for actual time worked but not less than two (2) hours. If the Employer considers it necessary to shut down work to avoid endangering the life or the safety of its employees the Employer will not be in violation of this Agreement. In such cases, employees will be compensated only for the actual time worked. In the case of a situation described above where the Employer requests employees to remain available for work, the employees will be compensated for such time. If a project is shut down because of weather, employees who reported to work shall be paid actual time worked but not less than two (2) hours. Procedures for prior notification of work cancellation shall be determined at the pre-job conference. The provisions of

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this Section are not applicable where the employee voluntarily quits, is laid off, or is out by reason of a strike.

2. A call-in, which is defined as the notification to an employee to report for work by whatever means for work outside of his/her regular shift or on his/her regularly scheduled day(s) off or holiday, shall be paid in accordance with one of the following methods:

a. A call-in prior to and continuous with an employee's normally scheduled shift shall be paid for on the basis of hours actually worked prior to the scheduled shift, at the applicable overtime rate;

b. When an employee is called in to work at or after the established starting time on Saturday, Sunday, scheduled day off or holiday, the employee shall be paid not less than four (4) hours at the applicable overtime rate for that day, except when his/her call-in is prior to and continuous with the normal work hours.

c. Any call-in not continuous with the employee's regular work shift, will be paid a minimum of four (4) hours at the applicable overtime rate.

ARTICLE XIII – SUPERVISION

1. The designation, appointment and determination of the number of foremen and/or general foremen is the sole responsibility of the Employer. There is a requirement for initial supervision. However, the Employer shall not be unreasonably burdened with additional demands for supervision.

2. **(Operating Engineers Only)** For new construction, initial supervision will be determined by the number of Operating Engineers on the specific contractor's payroll and the language in the Operating Engineers local Building Agreement which requires initial supervision outlining the minimum requirements for the appointment of supervision as it applies to that contractor only. It is not intended to include those Operating Engineers who may be on the payroll of any subcontractor or crane rental firms that may be working for a contractor on the site.

3. When established for a craft, one (1) top hourly craft supervisor (foreman and/or general foreman) shall be guaranteed forty (40) straight-time hours per week. The forty (40) straight-time hour guarantee applies to straight-time hours, and the accumulation of overtime hours may not be considered for the purpose of applying those overtime hours to the "guaranteed forty (40) hours" provision. The forty (40) straight-time hour guarantee provision shall apply on a per Employer, per craft, per shift basis. It is understood that the individuals receiving such guarantee may, at the discretion of the Employer, be required to remain on the job.

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4. Such guarantee shall not apply when the first or commencing week of a job is less than forty (40) hours, or when the top hourly craft supervisor is terminated due to reduction in force or job completion.

ARTICLE XIV – TRAVEL AND SUBSISTENCE

1. No subsistence, travel allowance, mileage or pay for travel time is required to be paid to any employee covered by the terms of this Agreement.

ARTICLE XV – WORK HOURS PER DAY

1. Eight (8) hours per day shall constitute a day's work and forty (40) hours per week, Monday to Friday, inclusive, shall constitute a week's work. The regular starting time shall be eight (8:00) A.M., and the regular quitting time shall be four-thirty (4:30) P.M.; lunch time shall be twelve (12:00) noon to twelve-thirty (12:30) P.M.

2. When multiple shifts are required, the first (1st) shift shall work eight (8) hours at the regular straight-time rate. The second (2nd) shift shall work eight (8) hours at the regular straight-time rate, plus a per hour shift additive equal to ten percent (10%) of the employee's hourly wage. The third (3rd) shift shall work eight (8) hours at the regular straight-time rate, plus a per hour shift additive equal to ten percent (10%) of the employee's hourly wage. A thirty (30) minute lunch period shall be mutually agreed upon by the Job Superintendent and the Union Representative and shall not be considered as time worked.

3. All time worked before and after the established work day of eight (8) hours, Monday through Friday, shall be paid at the appropriate overtime rate. All work commencing with the beginning of the established work day on Saturday shall be paid at the rate of time and one-half (1 ½). All work commencing with the beginning of the established work day on Sundays and/or holidays shall be paid at the rate applicable in the appropriate local labor agreement, not to exceed double-time.

4. For new construction, all time worked beyond ten (10) hours in a single day shall be paid at double (2x) the straight-time rate of pay, provided such provision is in the applicable local labor agreement.

5. For maintenance, all time worked beyond twelve (12) hours in a single day shall be paid at double (2x) the straight-time rate of pay, provided such provision is in the applicable local labor agreement.

6. By mutual consent of the Employer and the Union(s), the starting and quitting times of any shift, including day work, may be changed for all or any portion of a particular job. For the purpose of this Article, the standard work day of eight (8) hours for the job or portion thereof to which any such change of starting time applies shall begin with such agreed starting time.

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7. Employees shall be at their posts prepared to start work at the regular starting time.

8. Local labor agreement provisions regarding minimum number of days to establish shifts or shift starts are waived for work performed under this Agreement.

9. The Employer may establish a four (4) day, ten (10) hour shift exclusive of the thirty (30) minute unpaid lunch period at the straight-time rate. The starting time shall be between seven A.M. (7:00 A.M.) and eight A.M. (8:00 A.M.) Forty (40) hours per week shall constitute a week's work Monday through Thursday. In the event a job is down due to weather conditions, Holiday or other conditions beyond the control of the Employer, then Friday may, at the option of the Employer, be worked as a makeup day at the straight-time rate. If Friday is scheduled as a makeup day a minimum of eight (8) hours will be scheduled and worked, weather permitting. Straight-time is not to exceed ten (10) hours a day or forty (40) hours per week. Starting time will be designated by the Employer; the Union(s) will be advised of the starting time.

a. The Employer may establish two (2) - four (4) day, ten (10) hour shifts at the straight-time rate Monday through Thursday. These shifts are exclusive of the thirty (30) minute unpaid lunch period. The day shift shall work four (4) days at ten (10) hours per day at the regular straight-time rate. The second shift shall work four (4) days at ten (10) hours per day at the regular straight-time rate, plus a per hour shift additive equal to ten percent (10%) of the employee's hourly wage. In the event the job is down due to weather conditions, or a Holiday or other conditions beyond the control of the Employer, then Friday may, at the option of the Employer, be worked as a makeup day at the straight-time rate. Straight-time is not to exceed ten (10) hours a day or forty (40) hours per week.

b. Employees who inform their Employer on Thursday that they do not wish to work Friday as a make-up day will not be penalized.

c. An employee who is referred for employment and is scheduled for less than forty (40) hours of work (from the date of hire to date of termination), shall receive overtime pay for all hours worked in excess of eight (8) hours per day.

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10. Since it is recognized that the standard work week may not be appropriate or cost effective for some projects, other arrangements for hours of work can be considered. The Employer may establish flexible work schedules such as a staggered work week and the like, by submitting its request to the NCMAPC for approval as stipulated in Article XXVIII. Prior to reaching a decision, the NCMAPC shall take into consideration the project schedule, the staffing requirements, the geographic location of the project, the Owner's work schedule and other appropriate factors. Such approval will be incorporated as an addendum to this Agreement for that specific site.

ARTICLE XVI – TRANSPORTATION

1. At locations where private transportation is not permitted, the Employer shall furnish transportation that provides shelter from inclement weather from the gate to the job site and back to the gate when said distance is one-half (½) mile or more one way. When transportation is required, the Employer shall transport the employees, no later than ten (10) minutes after the end of the shift, to the point where such employees were picked up. When employees are transported to the pickup point later than ten (10) minutes after the shift, then overtime pay shall apply as provided under Article XV.

ARTICLE XVII – SAFETY

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 Owner, the Employer, this Agreement, or applicable safety laws.

2. The parties to this Agreement do hereby recognize the need to provide a drug-free and alcohol-free workplace. The parties to the Agreement agree to comply with any mandated substance abuse program. In order to produce as safe a workplace as possible, it is understood and agreed that the Employer and the employees shall abide by the rules and provisions of the implemented substance abuse program, which may include the following types of testing: pre-employment, reasonable suspicion, post-incident, and random where allowed by law. Any discriminatory practice under this Article shall be subject to the NCMAPC Grievance Procedure. All substance abuse programs shall be submitted to the NCMAPC for distribution prior to implementation.

ARTICLE XVIII – APPRENTICES

1. The Union(s) acknowledge that different apprentice ratios than those established may be needed. Therefore, the Employer and the Union(s) agree that existing ratios will be utilized but that higher ratios may be negotiated when warranted by conditions, except with respect to any project on which prevailing wages are required to be paid. Further, an Employer may employ pre-apprentice classifications for work customarily performed by a craft, provided pre-apprentice classifications are recognized in the local labor agreement.

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2. **(International Brotherhood of Electrical Workers Only)** In the hiring of apprentices, the parties agree to be bound by the Apprenticeship Standards contained in the appropriate local labor agreement.

ARTICLE XIX – HIRING AND TRANSFER OF EMPLOYEES

1. The Employer agrees to hire employees in the area where work is being performed or is to be performed in accordance with the hiring procedure existing in the area; however, in the event the local union is unable to fill the request of the Employer for employees within a forty-eight (48) hour period after such request for employees (Saturdays, Sundays and holidays excepted), the Employer may employ employees from any source. The Employer shall have the right to move qualified employees from one job assignment to another within the location where they are working.

2. The Employer shall determine the competency of all employees. The Employer shall determine the number of employees required on the project and shall select any employee or employees working under the terms of this Agreement to be laid off regardless of membership or non-membership in a Union.

3. In nuclear facilities it is agreed that applicants referred to the project under this Article shall be considered probationary employees until such time as they meet the Owners' security requirements not inconsistent with State and Federal laws.

4. This Article shall not preclude such probationary employees' rights under Article VI relative to any grievance arising under any other section of this Agreement.

5. **(Ironworkers Only)** On new construction, the Employer may hire directly up to fifty percent (50%), and on maintenance up to twenty-five percent (25%) qualified Ironworkers as required. In addition, the Employer shall have the right to move foremen between jobs and/or local union jurisdictions.

ARTICLE XX – GENERAL SAVINGS CLAUSE

1. Any provisions in this Agreement which are in contravention of any Federal, State, local or county regulations or laws affecting all or part of the limits covered by this Agreement shall be suspended in operation within the limits to which such laws or regulations are in effect. Such suspension shall not affect the operation of any such provisions covered by this Agreement to which the law or regulation is not applicable, nor shall it affect the operations of the remainder of the provisions of the Agreement within the limits to which such law or regulation is applicable.

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ARTICLE XXI – CREW SIZE

1. The crew size shall be any number of employees and supervision required to safely perform the work and shall be increased or decreased at the discretion of the Employer.

2. **(Operating Engineers Only)** Crew size listed in the local labor agreement shall not be applicable except where the local labor agreement calls for an Oiler to be assigned to a crane or other hydraulic equipment. Requirements for cranes and hydraulic equipment shall be pursuant to the Operating Engineers local building agreement applicable to the location of the work provided, pursuant to the following restrictions: No Oiler shall be required on cranes of twenty-five (25) tons capacity or under. Assignments of an Oiler to Rough Terrain Cranes (i.e., cherry pickers) of sixty-five-ton (65) ton capacity and above is agreed to when provided for in the Operating Engineers local building agreement.

ARTICLE XXII – LOCKOUT AND WORK STOPPAGE

1. During the term of this Agreement, there shall be no lockouts by the Employer and no strikes, picketing, work stoppages, slow downs or other disruptive activity for any reason by the Union(s) or by any employee. Failure of a Union, its local union, or employee to cross any picket line at the Employer's project site is a violation of this Article. Notwithstanding the foregoing, where this Agreement is limited to the scope awarded to the Employer, any Union that is not performing work on the project may picket or take other job action provided that the Union does not impede work being performed under this Agreement.

2. In the event that a local labor agreement expires and a subsequent work stoppage ensues, the Employer and its employees will continue to work since the intent of this provision is to allow work to continue as a benefit to the client. The wages and fringe benefits in the expired local labor agreement or as approved by the NCMAPC will remain in effect for all work covered under the terms of this Agreement until wages and fringe benefits are agreed upon and become effective for the recognized bargaining agent of the local employers and the affected Union(s).

3. Sections 1 and 2 of this Article shall not apply if the Employer signatory to this Agreement is a member of the current local negotiating committee or if said signatory Employer actively participates in local negotiations. In such cases, when a local labor agreement expires, the affected Union may withhold services from said Employer, but shall not interrupt the work of other Unions. Moreover, said Employer shall have the right to request in writing to the appropriate Union that Section 3 of this Article be waived in order to allow the Employer to participate in local negotiations. The Union has the sole discretion to grant such waiver and will communicate its decision in writing both to the Employer and affected Owner(s).

SAMPLE

4. The Unions and their applicable local unions shall not sanction, aid or abet, encourage, or continue any work stoppage, strike, picketing or other disruptive activity which violates this Article and shall undertake all reasonable means to prevent or to terminate any such activity. No employee shall engage in activity which violates this Article. Any employee who participates in or encourages any activity which violates this Article 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. Further, if a Union is unable to provide qualified replacements for those employees who are in violation of this Article by the beginning of the next shift, the Employer is free to hire from any source.

5. Neither a Union nor its local unions shall be liable for acts of employees for which it has no responsibility. A Union will immediately instruct, order and use its best efforts to cause its local union to cease any violation of this Article. If it complies with this obligation, the Union shall not be liable for unauthorized acts of its local union. The principal officers of the local union will immediately instruct, order and use their best efforts to cause the employees of the local union they represent to cease any violation of this Article. If it complies with this obligation, the local union shall not be responsible for unauthorized acts of employees it represents.

6. In the event of any work stoppage, strike, picketing or other disruptive activity in violation of this Article, the Employer, at its discretion and without penalty, may suspend all or any portion of the project work affected by such activity.

7. Any Union or affiliated local union which initiates, participates in, or supports a work stoppage, strike, picketing or other disruptive activity in violation of this Article agrees to pay liquidated damages as a remedy for said violation, in accordance with Section 8h. of this Article.

8. After all parties and the NCMAPC have been notified of an alleged violation, a party or the NCMAPC may institute the following procedure, in lieu of, or in addition to, any other action at law or equity.

a. To invoke the procedure, a party or the NCMAPC shall notify the permanent Arbitrator under this procedure through the NCMAPC Impartial Secretary/CEO. Notice to the Arbitrator, through the NCMAPC Impartial Secretary/CEO, shall be by mail, and/or e-mail with copies of the notice to be sent to the other parties.

b. Upon receipt of said notice the Arbitrator shall schedule and hold a hearing within twenty-four (24) hours, provided the invoking party contends that the violation still exists.

SAMPLE

c. The Arbitrator shall notify the parties by mail and/or e-mail of the hearing's location. The hearing shall be completed in one session. A failure of any party to attend the hearing shall not delay the admittance of evidence or issuance of an award by the Arbitrator.

d. The sole issue at the hearing shall be whether or not a violation of this Article has in fact occurred. The Arbitrator's 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 delivery, mail, and/or e-mail.

e. The Arbitrator's award may be enforced in the following manner by any court of competent jurisdiction upon the filing of this Agreement and all other relevant documents referred to hereinabove. Mailed and/or e-mailed notice of the filing of such enforcement proceedings shall be given to all parties. In a proceeding to obtain a temporary order enforcing the award, all parties agree to waive the right to a hearing and agree that such proceedings may be ex-parte. Such agreement, however, does not waive any party's right to participate in a hearing for a final order of enforcement. The court's order enforcing the award shall be served on all parties by hand, by delivery to their last known addresses or by registered mail.

f. Any rights created by statute or law governing arbitration proceedings that are inconsistent with the above procedure or that interfere with compliance herewith are waived.

g. The fees and expenses of the Arbitrator shall be paid by the party or parties found in violation of this Article. In the event no violation of this Article is found, such fees and expenses shall be paid by the invoking party.

SAMPLE

h. If the Arbitrator determines in accordance with Section 8d. above that the Union and/or its local union has violated this Article, the Union and/or its local union shall direct all of the employees they represent at the project to immediately return to work within eight (8) hours of receipt of the award. If the employees do not return to work by the beginning of the next regularly scheduled shift following receipt of the Arbitrator's award, and the Union and/or its local union have not complied with Section 5 above, the Union and/or the local union shall pay the sum of twenty-five thousand dollars ($25,000.00) as liquidated damages to the affected owner, and shall pay an additional twenty-five thousand dollars ($25,000.00) per shift for each shift thereafter on which the employees have not returned to work. The Arbitrator shall retain jurisdiction to determine compliance with this section and Section 5.

i. If the Arbitrator determines in accordance with Section 8d above that the Employer has engaged in an illegal lockout in violation of this Article, the Employer shall notify the Union that the illegal lockout has ended within eight (8) hours of receipt of the award. If the illegal lockout is not ended by the beginning of the next regularly scheduled shift following receipt of the Arbitrator's award, then the Employer shall pay the sum of twenty-five thousand dollars ($25,000.00) as liquidated damages to the Union, and shall pay an additional twenty-five thousand dollars ($25,000.00) per shift for each shift thereafter on which the Employer continues to illegally lockout its employees covered by this Agreement. The Arbitrator shall retain jurisdiction to determine compliance with this section.

9. The procedures contained in Section 8 through 8i shall be applicable to alleged violations of this Article. Disputes alleging violation of any other provision of the Agreement, including any underlying dispute alleged to be in justification, explanation or mitigation of any violation of this Article, shall be resolved under the grievance procedures of Article VI.

ARTICLE XXIII – MANAGEMENT CLAUSE

1. In the exercise of its functions of management, the Employer shall have the right to plan, direct and control the operation of all its work; hire employees and supervision; direct the working forces; assign employees and supervision to their jobs; refuse any applicant; discharge, suspend or discipline for proper cause; transfer, promote or demote employees and supervision; lay off employees and supervision because of lack of work or for other legitimate reasons; require employees and supervision to observe the Employer's rules and regulations not inconsistent with this Agreement; regulate the use of all equipment and other property of the Employer; decide the amount of equipment to be used; the number of employees needed; and contract work anywhere and decide the methods of work and the source from which material and equipment is obtained. The Employer shall not use these rights for the purpose of discrimination against any employee.

SAMPLE

These provisions do not prohibit a Union's right to the peaceful exercise of Article VI above if in its judgment the spirit and intent of this Agreement has been violated.

ARTICLE XXIV – PARTNERING

1. As manifested in the Mission Statement, the NCMAPC Program is based on its continual commitment to improve the partnering and communication between owners, employers, and the Unions. To further the goal of better dialogue and expedited problem solving, the NCMAPC Program encourages the development of local tripartite committees for a specific project or area, that are empowered to establish lines of communication, seek solutions to unique job site needs, and suggest methods and ways to continuously improve safety, productivity, and quality.

2. The initial establishment of a local tripartite committee may be implemented through the NCMAPC office. The NCMAPC office will provide the framework and oversight for effective partnering to enhance safety, productivity and quality.

ARTICLE XXV – WELDING CERTIFICATION

1. The Union(s) and the Employer agree to arrange the pretesting of welders at a mutually agreeable time and place. Such testing will be done without compensation, except that welders passing a certification test will be compensated for actual time required to take such test, not to exceed four (4) hours pay upon the employee's first employment with that Employer. However, in order to receive said compensation, the employee must remain at work on the job at least five (5) working days, or in the case of jobs of less than five (5) working days, for the duration thereof.

2. In instances where a participating Union is party to a program to provide welder certification and/or maintenance of welder certification records with objectives equal to this Article, then such program will be applicable under this Agreement.

ARTICLE XXVI – REPORTING REQUIREMENTS & ADMINISTRATIVE FEE

1. The Employer shall report all work hours performed under this Agreement on a quarterly basis or at such times as deemed necessary by the NCMAPC. The report shall include the sum total of work hours performed by each Union at each location for each quarterly reporting period. Each location shall be reported separately on the NCMAPC website at www.ncmapc.org.

2. The Employer shall remit an annual administrative fee in such an amount deemed necessary by the NCMAPC for the administration and operation of the NCMAPC Program. The administrative fee shall be payable in accordance with the terms stipulated on the NCMAPC administrative fee invoice. Administrative fees may be remitted via the NCMAPC website at www.ncmapc.org.

SAMPLE

3. As a party to this Agreement and participant in the NCMAPC Program, the Employer acknowledges its obligation to remit the annual administrative fee to the NCMAPC. Administrative fees that remain outstanding will continue to accrue a late fee on each late notice. In the event the Employer fails to remit the administrative fee after demand for timely payment, the Employer consents to the jurisdiction of the courts of the Commonwealth of Virginia in any action brought by the NCMAPC to collect the fee. The Employer further agrees that it will be liable and responsible for any costs of collection, including reasonable attorney fees and court costs, incurred in such action by the NCMAPC.

ARTICLE XXVII – ADMINISTRATIVE PROCEDURE

1. An approved Site Extension Request (SER) is required for all work performed under this Agreement. SERs shall be requested on a location-by-location basis and must be sought by the Employer for each project by requesting an SER via the NCMAPC website at www.ncmapc.org.

2. All SERs shall be approved or denied in the following manner:

a. Maintenance: All SERs for maintenance to be performed at a Yellow Card Site or Yellow Card Project will be automatically approved provided the Yellow Card designation for the site or project and the Employer are in good standing at the time the SER is requested.

i. A Yellow Card Site is a site at which an Owner has agreed to have all maintenance performed under this Agreement by employers and Unions signatory to this Agreement. The NCMAPC Labor Section shall have the sole authority to approve, deny, or rescind Yellow Card Site designations.

ii. A Yellow Card Project is a scope of work that an Owner, Employer, or Construction Manager has requested to have maintenance performed under this Agreement by employers and Unions signatory to this Agreement. The NCMAPC Labor Section shall have the sole authority to approve, deny, or rescind Yellow Card Project designations.

iii. All requests for Yellow Card designation requested by an Owner or Construction Manager shall be submitted to the NCMAPC Impartial Secretary.

iv. All Yellow Card Projects requested by a employer shall be submitted as part of the normal SER Process.

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v. All SERs for maintenance that do not have a Yellow Card Site or Yellow Card Project designation will be approved or denied by a majority vote of the Unions designated for direct hire or subcontracting by the Employer. All SERs for maintenance shall be approved or denied within nine (9) calendar days. SERs that have not been approved or denied within nine (9) calendar days shall be considered approved.

b. New Construction: All new construction shall have a Yellow Card Project designation. A Yellow Card Project is a scope of work that an Owner, Employer, or Construction Manager has requested to have new construction performed under this Agreement by Employers and Unions signatory to this Agreement. The NCMAPC Labor Section shall have the sole authority to approve, deny, or rescind Yellow Card Project designations.

i. All Yellow Card Project designations requested by an Employer limited to the scope of work awarded to the Employer shall be submitted as part of the normal SER Process. All SERs for new construction under this paragraph shall include the anticipated hours that will be worked by each craft represented by the Unions, and must include both direct hire hours and subcontracted hours. The NCMAPC shall forward each SER for new construction to NABTU for review. NABTU's review will be prompt and will not delay the ability of the NCMAPC to process a vote on the SER. All SERs for new construction will be approved or denied by the NCMAPC Labor Section and only the Unions representing the craft with anticipated hours in the SER shall vote and such vote shall be weighted based on the anticipated hours each Union's members will work. All SERs for new construction shall be approved or denied within fourteen (14) calendar days. SERs that have not been approved or denied within fourteen (14) calendar days shall be considered approved.

ii. All Yellow Card Projects requested by an Owner, Construction Manager, General Contractor, EPC Contractor, or Prime Contractor shall be submitted to the NCMAPC Impartial Secretary. Prior to requesting, the Owner or Construction Manager shall notify NABTU and the local building and construction trades council in the area and discuss the project with them. All requests for Yellow Card Projects for new construction by a Construction Manager, General Contractor, EPC Contractor or Prime Contractor shall include the anticipated hours that will be worked by each craft represented by the Unions, and must include both direct hire hours and subcontracted hours. The NCMAPC Impartial Secretary shall forward each request to NABTU for review. NABTU's review will be prompt and will not delay the ability of the NCMAPC to process a vote on the request. If an Owner is requesting and the Owner has not retained a Construction Manager, General

SAMPLE

Contractor, EPC Contractor or Prime Contractor, its request need not include anticipated hours and will be approved or denied by the NCMAPC Labor Section on a one vote per craft basis. All requests for Yellow Card Projects by a Construction Manager, General Contractor, EPC Contractor or Prime Contractor will be approved or denied by the NCMAPC Labor Section and only the Unions representing the craft with anticipated hours in the requested project shall vote and such vote shall be weighted based on the anticipated hours each Union's members will work. All requests for Yellow Card Projects for new construction under this paragraph shall be approved or denied within fourteen (14) calendar days, and if they have not been approved or denied within fourteen (14) calendar days shall be considered approved.

iii. **(Operating Engineers Only)** On all greenfield projects, The International Union of Operating Engineers (IUOE) shall not participate in the ratification or voting process. The IUOE shall become bound to this agreement with respect to any greenfield project only upon, and as a result of, the IUOE approving the applicable site extension request for that specific project.

iv. An SER for new construction may be for the entire construction project where the project contractor has agreed to have all construction performed under this Agreement by Employers and Unions signatory to this Agreement.

v. An SER for new construction may be limited to the scope of work awarded to the Employer. If the Employer's scope of work is expanded but no additional craft(s) are needed for the expanded scope, or if the Employer is taking over the expanded scope from an otherwise non-union employer, the SER may be automatically extended to cover such expanded scope. Otherwise, the Employer must apply for a new SER covering the expanded scope.

vi. For new construction, subcontractors' SERs will be automatically approved provided the Employer subcontracting the work has received an approved SER as outlined in Section 2b of this Article provided the subcontractor is in good standing at the time the SER is requested.

3. An Employer awarding work to subcontractors must ensure that the subcontractor(s) is signatory to this Agreement and has an approved SER for the work being performed.

4. An Employer delinquent in the remittance of NCMAPC administrative fees, NCMAPC LMCF hourly contributions, fringe benefit contributions, or reporting work hours under this Agreement shall be ineligible to request an SER.

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5. This Agreement is between the Employer and the Unions only and is binding upon their affiliated local unions and district councils. The NCMAPC is the only intermediary or administrative body for this Agreement and the NCMAPC is authorized to make Policy Decisions, which are contained in the NCMAPC Book of Decisions, and which are part of this Agreement. Revisions to this Agreement shall be made only by majority vote of the NCMAPC.

6. This Agreement is a stand alone agreement and none of the provisions in any local, regional, area or national labor agreement shall apply, unless specifically incorporated in this Agreement. Furthermore, this Agreement is the exclusive collective bargaining agreement for any work to which it is extended, and for such work it supersedes and overrides the terms and conditions of any and all other national, area, or local labor agreements to which the parties hereto, or either of them may be signatory.

ARTICLE XXVIII – ADDENDA

1. For maintenance work, addenda to this Agreement which are required to place the Employer in a more competitive position or address the Owner's requirements may be established by majority agreement of the Unions comprising the NCMAPC. However, any addenda attempting to modify an individual craft-specific term or condition shall be approved or denied by that individual union only.

2. For new construction, addenda to this Agreement which are required to place the Employer in a more competitive position or address the Owner's requirements may be established by weighted vote as set forth in Article XXVII, Section 2b. However, any addenda attempting to modify an individual craft-specific term or condition shall be approved or denied by that individual union only.

3. All addenda shall be reduced to writing and shall be attached hereto and made part of this Agreement for that project.

4. The Employer, Owner, or Labor Section of the NCMAPC, shall submit its request in writing to the NCMAPC outlining the various site requirements that necessitate such approval. Any request for addenda submitted by the Labor Section of the NCMAPC shall be considered and established by the Management Section of the NCMAPC.

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ARTICLE XXIX – DURATION OF AGREEMENT

1. This Agreement becomes effective upon signing, and shall continue in effect unless terminated by: (1) the Labor Section of the NCMAPC upon no less than ninety (90) days' notice to the Employer and the NCMAPC; (2) the Employer upon no less than ninety (90) days' notice to the NCMAPC, who shall notify the Labor Section of the NCMAPC; or (3) the NCMAPC upon notice to the Employer and Labor Section of the NCMAPC if the Employer is ninety (90) days or more delinquent with respect to the Administrative Fee set forth in Article XXVI. Notwithstanding any notice to terminate, this Agreement shall remain in full force and effect for the duration of any approved SER(s) unless the parties agree otherwise. Changes may be made at any time by mutual consent.

2. The parties agree to revisions to this Agreement which are formally approved by the National Construction and Maintenance Agreement Policy Committee, Inc., and of which they are notified in writing by the Committee.

FOR THE EMPLOYER:

_____

Company Name

_____

Street Address

_____

City State ZIP Code

_____

Phone Number

AUTHORIZED REPRESENTATIVE:

_____

Name (Printed)

_____

Signature

_____

Date

SAMPLE

INTERNATIONAL UNION SIGNATURE PAGE

SAMPLE



NCMA

National Construction and Maintenance Agreement

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VA 22203
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www.NCMAPC.org