

STANDARD AGREEMENT

of the

INTERNATIONAL UNION OF OPERATING
ENGINEERS LOCAL 478 AND ITS BRANCHES AFL -
CIO

PERMANENT SHOPS

Effective April 1, 2019 through March 31, 2022

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PERMANENT SHOPS

THIS AGREEMENT is entered into by and between the “Employer” as herein defined and referred to as such and the INTERNATIONAL UNION OF OPERATING ENGINEERS LOCAL 478 and its branches, AFL-CIO, hereinafter referred to as “Union.”

PREAMBLE

SECTION 1. This Agreement is entered into to facilitate the adjustment of grievances and disputes between Employer and employees, and to bring about stable conditions in the industry, and to establish necessary procedures for the amicable adjustment of all disputes, which may arise between Employers and employees. This Agreement is intended to establish the wages, hours and conditions of employment for employees represented by the Union and employed by Employers subject to this contract and to protect the work jurisdiction of the Union.

SECTION 2. The conditions of this contract are separate and apart from any and all contracts and the breach of this contract by any Employer will not be imputed to or will it cause any other Employer to be responsible therefore. There shall be no stoppage of work, strike, or picketing by the Union, nor any coercive method used, against any Employer because of any breach of this contract by any other Employer unless an Employer becomes an ally of another Employer involved in a work stoppage with the Union because of a breach of this contract by such other Employer.

SECTION 3. When an employee normally covered by the terms of this Agreement works on work covered by provisions of the Heavy and Highway Agreement, as negotiated in 2019 between the Union and the Association, the employee shall be subject to the provisions contained in said Agreements concerning the wages, hours and working conditions applicable to such work. The provisions of this Agreement, other than wages, hours and working conditions, shall continue to apply to such employees on such work.

SECTION 4. There shall be no discrimination in the referral, hiring, placement, classification, upgrading, layoff or termination of employment of any person by reason of race, color, religious creed, age, sex, sexual orientation, marital status, national origin, ancestry, disability including learning disability, past or present history of a mental disorder, physical disability, genetic background, or prior conviction of a crime, unless the provisions of Section 46a-60(b), 46a-80(b), or 46a-81(b), of the Connecticut General Statutes are controlling or there is a bona fide occupational qualification excluding persons in one of the above protected groups, reasonable accommodation to disabilities under the Americans with Disabilities Act, concerted activities and membership or non-membership in the Union. The Union agrees to assist the Employer in the development of an Affirmative Action Program as required by law. Neither party may commit the other to any Affirmative Action Program affecting employees covered by this Agreement without prior agreement with the other on all phases connected with any such program. The Employer may decline to arbitrate grievances dealing with the above matters, unless the parties and the employee(s) enter into an agreement which provides (1) that the Employer shall not discriminate, (2) that statutory issues are covered by this Agreement and will be arbitrated and (3) that employee(s) are waiving their right to go to an administration agency or court and further, this agreement results in the arbitration hearing being final and binding.

ARTICLE 1 **RECOGNITION**

SECTION 1. The “Employer” as hereinafter defined recognizes and acknowledges the Union, its duly authorized agents, representatives or successors, as the exclusive bargaining agent for all of the employees of such Employers who are employed by such Employers at establishments or sites of work within the scope of this Agreement.

SECTION 2(a) The term “Employee” as used in this Agreement shall mean any employee who performs work for the Employer within the scope of this Agreement whether employed as a regular, probationary or temporary employee or on a full-time or part-time basis.

SECTION 2(b) The term “Association” as used in this Agreement shall mean the Connecticut Construction Industries Association.

SECTION 3(a) The term “Employer” as used in this Agreement shall mean any independent Employer who has executed a copy of this Agreement and any affiliated operation and/or entity.

An “affiliated operation and/or entity” shall be deemed covered by this Agreement where such operation and/or entity is commonly owned or controlled or managed, and:

(1) There is any interchange of employees and/or equipment subject to and governed by this Agreement between the Employer and such operation and/or entity performing work subject to and governed by the terms of this Agreement, or

(2) There is any use by the Employer of any material or product produced by such other operation performing work subject to and governed by this Agreement and/or entity except where the employees of such affiliate performing such work are subject to a written labor agreement with a bona fide labor organization.

SECTION 3(b) The parties will not participate in any plan, scheme or device, which circumvents, avoids or evades the provisions of this Agreement.

SECTION 3(c) In the event any party to this Agreement claims that any Employer bound hereby is circumventing, avoiding, or evading the provisions of this Agreement, such claim must be reduced to writing and processed in accordance with the Grievance and Arbitration Procedure set forth in Article 17 of this Agreement, except the time limits thereof shall not apply.

SECTION 3(d) If such claim involves an allegation that the Employer hereafter establishes a subsidiary, auxiliary or affiliated company engaged in the work referred to in Article 3 hereof, for the purpose of circumventing, avoiding or evading the provisions of this Agreement and said claim reaches either the Arbitration Board shall have the right and power to determine whether the alleged subsidiary, auxiliary or affiliated company is established by the Employer for the purpose of circumventing, avoiding or evading the provisions of this Agreement. The time limits of the grievance procedure shall not be applied to claims processed hereunder.

SECTION 3(e) The Arbitrator shall have the authority to grant such remedy as may be deemed appropriate with respect to any grievance brought before it and may, in addition, pursuant to this Section, provide money damages and direct and order a party to perform or cease performing any act or conduct deemed contrary to the Agreement. Should the Employer or the Union violate any provision of this Agreement where it is difficult or impossible for the Arbitration Committee to ascertain the specific amount of damages suffered by the Employer, the employees or the Union, then the Employer or the Union shall be liable for liquidated damages. In fixing these damages, there shall be taken into account any advantage gained by the Employer through its violation, any deprivation of earning suffered by employees, including loss of contributions to the funds herein and overtime, loss of dues and initiation fees and other such factors as are fair under the circumstances. If the Union and the Employer are unable to agree upon the amount of liquidated damages, the matter shall be treated as a grievance under this Article. The proceeds of any such liquidated damages shall be paid to the Union or the Employer as the case may be.

SECTION 4. The Employer agrees not to enter into an agreement or contract with its employees individually or collectively, or negotiate or bargain with them unless it is through the duly authorized representatives of the Union. There shall be no individual agreements with employees covered by this Agreement and any such agreements or contracts shall be null and void. Employees paid on a salary basis must be paid the equivalent of the contractual rates specified in this Agreement for all hours worked in any week including overtime and contributions for fringe benefits as provided herein.

SECTION 5. The parties agree that the Employer shall not sell or otherwise transfer its business to another Employer unless the new Employer agrees to assume this collective bargaining agreement as part of the sale or transfer agreement. The Union may enforce this clause by seeking an injunction to block the sale or transfer or by suing the Employer for damages for breach of this contract.

SECTION 6. The Parties agree that they will not sponsor or promote, financially or otherwise, directly or indirectly any group or labor organization, for the purpose of undermining the other, nor will it interfere with, restrain, coerce, or discriminate against any of its employees in connection with their membership or non- membership in the other, or in connection with any activities on behalf of the other.

ARTICLE 2 **SCOPE OF AGREEMENT**

SECTION 1. This Agreement shall apply to and be effective on all work performed or to be performed within the work jurisdiction of the Union by employees of the Employer in permanent shops located within the State of Connecticut.

SECTION 2. Shops set up and established outside a presently-established plant, adjacent to a Heavy and Highway project or Building construction job to service such project, shall be covered under the Heavy and Highway Agreement between the Union and the Association or the Building construction agreement between the Association and the Union as the case may be, and shall not fall within the scope of this Agreement.

SECTION 3. The Employer, at its option, may provide assistance to factory employees who are working on product liability and warranty work.

SECTION 4. The effective dates of any wage rate and benefit contribution changes in this Agreement shall be the first Sunday of the month changes are effective. Such effective dates shall be specified

in the relevant wage rates and benefit and other contribution rates provisions of the respective collective bargaining agreements. After the ratification of the new collective bargaining agreement occurs, the Employer shall pay any retroactive pay increases back to April 1, 2019, in the first pay check after ratification and the Employer shall pay any retroactive increases in benefit or other contributions back to April 1, 2019, within the time specified in Articles 9, 9A, 10 and 11.

ARTICLE 3 **TRADE JURISDICTION**

SECTION 1. The Employer agrees that the Union shall be the exclusive representative of all employees performing work usually and customarily performed by employees represented by the Union including but not limited to.

The maintenance and/or repair of all engines, boilers, machinery, and equipment, including: hydraulic, steam, gasoline, diesel, electric and compressed air, or any other type of powered equipment, stationary or portable engines utilized in general construction, pipelines or excavations; pumps (electric, gas, air, diesel, steam or otherwise powered), syphons, pulmotors, bulldozers, welding machines of all types (regardless of source of power), street rollers, power shovels, backhoes, gradalls, cable ways, orange peels, clam shell buckets, pile drivers (regardless of source of power), overhead cranes and tower cranes, derricks of all types, including stiff leg, guy and A-frame trucks, mucking machines, dinky machines, pumpcrete machines (regardless of materials being pumped), power pavement breakers, payloaders, shovel loaders, soil compacting machines (whether self-propelled or towed), temporary heat from mobile units with circulating fans; air or steam valves.

Building maintenance, cleaning, janitorial and floor sweeping work may or may not be covered by the Agreement.

SECTION 2. The Employer agrees it will assign all such work only to employees covered by and working under this Agreement.

ARTICLE 4 **TERRITORIAL APPLICATION**

This Agreement shall apply to and be effective on all work to be performed by the Employer within the Union's jurisdiction in the State of Connecticut within the scope of employment covered by this Agreement.

ARTICLE 5 **UNION SECURITY**

SECTION 1. All present employees who are members of the Union on the effective date of this Agreement shall remain members of the Union in good standing by the payment of their regular monthly dues on or before the first day of each month as a condition of continued employment. All present employees who are not members of the Union and all employees who are hired hereafter for work in the classifications specified herein, shall become and remain members in good standing by the payment of the required initiation fee and regular monthly dues on the 31st day following the execution of this Agreement or the date of employment, whichever is later, and shall thereafter maintain such good dues standing for the term of this Agreement.

SECTION 2. Promptly upon receipt of written notice from the Union, the Employer shall discharge any employee who fails to become or is not a member of the Union on the prescribed day, provided membership was available under the same terms and conditions as generally applicable to other members. Further, all employees who fail to maintain their Union membership in good dues standing shall be similarly discharged by the Employer. The Union agrees to indemnify, defend and hold the Employer harmless from any claim arising from any such discharge.

SECTION 3(a) When the Employer needs additional or new employees, the Employer shall give the Union equal opportunity with all other sources to provide suitable applicants, but the Employer shall not be required to hire those referred by the Union.

SECTION 3(b) Preference in employment shall be given to citizens and residents of Connecticut with respect to new hiring provided they are qualified to perform the available work. A person shall not be considered a resident of Connecticut unless he or she has had at least six (6) months residency at a permanent address in Connecticut. The Employer shall keep a record of addresses of all its employees and their citizenship status. Employees who falsely inform the Employer and/or the Union that they comply with residency requirements herein shall be subject to discharge without recourse upon written notice from the Union. The Union agrees to indemnify, defend and hold the Employer harmless from any claim arising from any such discharge.

SECTION 3(c) Notice of the Employer's needs shall be given to the Union at least forty-eight (48) hours written notice before the employees needed are to be employed. In the event of an emergency, notice shall be given as soon as the need is known and may be by telephone to the Union's office.

This Agreement will not prevent an Employer from recalling its regular employees. If a regular employee is recalled, the employee must notify the Union of his or her recall. In such case, the Employer need not call the Union.

ARTICLE 6 **COMPETENCY**

SECTION 1(a) The hiring of all employees shall be done without discrimination because of race, color, religious creed, age, sex, sexual orientation, marital status, national origin, ancestry, disability including learning disability, past or present history of a mental disorder, physical disability, genetic background, or prior conviction of a crime, unless the provisions of Section 46a-60(b), 46a-80(b), or 46a-81(b), of the Connecticut General Statutes are controlling or there is a bona fide occupational qualification excluding persons in one of the above protected groups, and membership or non-membership in the Union.

SECTION 1(b) All employees referred by the Union must be competent in the opinion of the Employer. The Employer shall have thirty (30) working days to judge the competency of mechanics and will be given an additional thirty (30) working days to judge competency upon notice to the Union

ARTICLE 7
BUSINESS AGENTS AND STEWARDS

SECTION 1. The Employer agrees that the Union may designate its Business Agents to inspect shops at all times. Such Business Agents shall have access to the Employer's shops during working hours for the performance of their duties, including consulting with and assisting the steward, investigating working conditions, compliance with the terms of this Agreement, collecting dues and inspecting pay checks, and, upon request, inspecting time cards of a particular employee. The Union's right of access hereunder shall not be exercised in such a way as to disrupt the Employer's operations.

SECTION 2. The Employer recognizes the right of the Union to appoint and remove a steward from among the Employer's employees in the shop to handle such Union business as may be delegated to them from time to time and to see that the terms of this Agreement are complied with by the Employer and the employees. A steward shall not have authority to take any strike action or any other action interrupting the Employer's operation or business. There shall be no non-working stewards. There shall be no discrimination against any steward for the performance of his or her duties or enforcing compliance with this Agreement.

SECTION 3. A steward's duties for which the steward shall be allowed a reasonable amount of time without loss of pay are the following:

- (a) Examination of dues books of all employees in the shop to determine their good standing as provided herein.
- (b) Interview all newly employed or assigned employees before they start work.
- (c) Adjustment of complaints or grievances with the employee and supervisor as provided by this Agreement, and if unable to do so, to call the Business Agent for assistance.

SECTION 4. A steward shall be the last person laid off from the shop, provided he or she is qualified to do the remaining available work, and will not be transferred to any other shop without approval of the Business Agent. The Employer shall give the Union at least forty-eight (48) hours notice of its intention to lay off the steward in all cases.

SECTION 5. Where overtime is to be worked at a shop or quarry with one or more operations employing five (5) or more Class I employees covered by this Agreement working overtime, a steward, if available, shall be employed to perform such work if qualified, if any, but the steward shall not be entitled to replace any employee working overtime that day.

ARTICLE 8
PAYMENT OF WAGES

SECTION 1(a) Wages shall be paid weekly in currency, coin, by check or by direct deposit if agreed to by both the Employer and the employee at the shop where employees covered by this Agreement are employed on or before quitting time on the Employer's pay day. If the employee is discharged during the week, he or she shall be paid in full at once (that is when he or she is discharged he or she shall collect wages for waiting time, for such hours during the regular work week while he or she awaits full payment). All employees shall be given an itemized statement with their pay or check showing their rate of pay,

hours of work, deductions made, and net pay. If more than three (3) employees are either laid off or discharged at the same time, they shall be paid on the regular payday and shall not collect waiting time.

SECTION 1(b) If the Employer's check is not honored by the bank upon which it is drawn, the Employer may be required to pay all employees and the various funds in cash or by bank check with a pay envelope giving all the information required above.

SECTION 2. All employees laid off or discharged shall be given the required Unemployment Separation Package with their pay.

SECTION 3. If the regular payday shall be Friday, the Employer shall make provision for the employees to cash all checks on said payday. If a holiday falls on Friday, employees shall be paid no later than the last working day preceding the holiday.

SECTION 4. If, after seventy-two (72) hours written notice to the Employer, the Employer shall willfully fail to pay any wages due employees under the terms of this Agreement, then, any other provisions notwithstanding, the Union shall have the right to have the employees of the Employer cease work, and such employees shall be made whole for any wages and fringe benefits lost as a result of such work stoppage. A dispute regarding classifications and rates of wages to be paid therefore shall not be considered willful non- payment and shall be subject to arbitration. Failure to pay cash wages when required pursuant to Section 1(b) above, or payment by a check that is not honored by the bank upon which it is drawn, shall be prima facie evidence of willful non-payment of wages.

ARTICLE 9 **HEALTH BENEFITS FUND**

SECTION 1. The Employer hereby accepts and agrees to the terms of the Agreement and Declaration of Trust dated May 3, 1951, as amended, entered into between the Connecticut Labor Relations Division of the New England Road Builders Association (the predecessor to the Association) and the Union, and each Employer, in accordance with the terms thereof, and shall pay into such Health Benefits Fund known as the International Union of Operating Engineers Local 478 Health Benefits Fund, created and administered under said Agreement and Declaration of Trust, the following per hourly contributions for each payroll hour worked (excluding holiday hours and vacation hours) by an employee (whether he or she be a regular, temporary, probationary, full-time or part-time employee), but such contributions shall not be payable for more than 1800 hours to be computed on a calendar year basis commencing January 1st.

	<u>4/7/19</u>	<u>4/5/20</u>	<u>4/4/21</u>
Health	\$12.75	\$13.00	\$13.15

SECTION 2. Payments shall be made to the Health Benefits Fund office monthly, not later than the 20th day following the month earned, at the Fund office, 1965 Dixwell Avenue, Hamden, Connecticut 06514.

However, in the event that an Employer is delinquent in the payment of contributions, the Trustees may require that contributions to the funds be made weekly and that such weekly contributions may be required for a period of up to twelve (12) months. A delinquent Employer shall be notified in writing twenty one (21) days prior to the start of any period of time during which contributions will be required on a weekly basis. If the Employer continues to be delinquent, the Trustees may require weekly contributions to be made for additional periods of time. The Trustees may also require that

Employers who are based outside the state of Connecticut make contributions on a weekly basis, without regard to the payment history of any such out of state Employers.

ARTICLE 9A
ANNUITY FUND

SECTION 1. The Employer hereby accepts and agrees to the Agreement and Declaration of Trust establishing the International Union of Operating Engineers, Local 478 Annuity Fund, adopted January 26, 1988, and each Employer, in accordance with the terms thereof, shall pay into such Annuity Fund the following per hour contributions for each payroll hour worked or paid to an employee (whether he or she be a regular, temporary, probationary, full-time or part-time employee):

	<u>4/7/19</u>	<u>4/5/20</u>	<u>4/4/21</u>
Annuity	\$2.65	\$2.65	\$2.90

SECTION 2. Payments shall be made to the Annuity Fund office weekly, not later than the 20th day following the month earned, at the Fund office, 1965 Dixwell Avenue, Hamden, Connecticut 06514.

However, in the event that an Employer is delinquent in the payment of contributions, the Trustees may require that contributions to the funds be made weekly and that such weekly contributions may be required for a period of up to twelve (12) months. A delinquent Employer shall be notified in writing twenty one (21) days prior to the start of any period of time during which contributions will be required on a weekly basis. If the Employer continues to be delinquent, the Trustees may require weekly contributions to be made for additional periods of time. The Trustees may also require that Employers who are based outside the state of Connecticut make contributions on a weekly basis, without regard to the payment history of any such out of state Employers.

SECTION 3. Effective January 1, 2003, the Employer agrees to deduct from employees' wages such contributions to the Local 478 Annuity Fund 401(k) Feature as are authorized in writing by the employee and to remit such deductions at least weekly to the Fund. Such contributions shall be made from the employee's pretax earnings. The Employer shall be held harmless and shall not be deemed fiduciaries under the Fund for such deductions that are remitted to the Fund.

ARTICLE 10
PENSION FUND

SECTION 1. The Employer hereby accepts and agrees to the terms of the Agreement and Declaration of Trust dated May 7, 1958, as amended, entered into between the Connecticut Labor Relations Division of the New England Road Builders Association (the predecessor to the Association) and the Union, and each Employer, in accordance with the terms thereof, and shall pay into such Pension Fund, known as International Union of Operating Engineers Local 478 Pension Fund, created and administered under said Agreement and Declaration of Trust the following per hourly contributions for each payroll hour worked (excluding holiday hours and vacation hours)

by an employee (whether a regular, temporary, probationary, full-time or part-time employee), but such contributions shall not be payable for more than one thousand eight hundred (1800) hours to be computed on a calendar year basis commencing January 1st.

	<u>4/7/19</u>	<u>4/5/20</u>	<u>4/4/21</u>
Pension	\$7.15	\$7.40	\$7.50

SECTION 2. Payments shall be made to the Pension Fund office monthly, not later than the 20th day following the month earned, at the Fund office, 1965 Dixwell Avenue, Hamden, Connecticut 06514.

However, in the event that an Employer is delinquent in the payment of contributions, the Trustees may require that contributions to the funds be made weekly and that such weekly contributions may be required for a period of up to twelve (12) months. A delinquent Employer shall be notified in writing twenty one (21) days prior to the start of any period of time during which contributions will be required on a weekly basis. If the Employer continues to be delinquent, the Trustees may require weekly contributions to be made for additional periods of time. The Trustees may also require that Employers who are based outside the state of Connecticut make contributions on a weekly basis, without regard to the payment history of any such out of state Employers.

SECTION 3. Should there be a need to increase Pension or Health Benefits and Insurance Fund contribution rates during the term of the Agreement to an amount greater than the amount specified in the Agreement, the parties agree to execute amendments to reduce the wage rates and increase the benefit fund contribution rate by such amount after adequate notice to Employers.

ARTICLE 11
APPRENTICESHIP TRAINING AND
SKILL IMPROVEMENT FUND

SECTION 1. The Employer hereby accepts and agrees to the terms of the Agreement and Declaration of Trust dated December 28, 1972, as amended, and the Labor Relations Division of the Associated General Contractors of Connecticut, Inc., and the Union and each Employer, in accordance with the terms thereof, shall pay into such Apprenticeship Training and Skill Improvement Fund, created and administered under said Agreement and Declaration of Trust, the following per hourly contributions for each payroll hour worked (excluding holiday hours and vacation hours) by an employee (whether a regular, temporary, probationary, full-time or part-time employee), but such contributions shall not be payable for more than one thousand eight hundred (1800) hours to be computed on a calendar year basis commencing January 1st.

	<u>4/7/19</u>	<u>4/5/20</u>	<u>4/4/21</u>
Apprenticeship	\$0.65	\$0.65	\$0.65

SECTION 2. Payments shall be made to the Apprenticeship Training and Skill Improvement Fund office monthly, not later than the 20th day following the month earned, at the Fund office, 1965 Dixwell Avenue, Hamden, Connecticut 06514.

However, in the event that an Employer is delinquent in the payment of contributions, the Trustees may require that contributions to the funds be made weekly and that such weekly contributions may be required for a period of up to twelve (12) months. A delinquent Employer shall be notified in writing twenty one (21) days prior to the start of any period of time during which contributions will be required on a weekly basis. If the Employer continues to be delinquent, the Trustees may require weekly contributions to be made for additional periods of time. The Trustees may also require that Employers who are based outside the state of Connecticut make contributions on a weekly basis, without regard to the payment history of any such out of state Employers.

SECTION 3. The parties shall agree to an apprentice training program to consist of approximately six thousand (6,000) hours and to provide for apprenticeship wage rates and other details.

SECTION 4. The parties agree that the “Joint Apprentice Training Committee” shall meet to establish the appropriate guidelines for the utilization and placement of Operating Engineer apprentices in the construction industry. All signatory constructors shall be obligated to comply with the guidelines that have been promulgated.

SECTION 5. IUOE NATIONAL TRAINING FUND. The Employers signatory to and bound by this agreement hereby agree to make contributions to the International Union of Operating Engineers National Training Fund in the amount of \$.05 (five cents) per hour for each hour worked or paid to all employees whose compensation is covered by this agreement.

Each Employer agrees to transmit and pay the amount of contributions due to the National Training Fund to the local union fringe benefit fund administrator, under the same terms and at the same time as the other local union fringe benefit fund contributions are made under this agreement.

Each employer signatory or otherwise bound to this agreement agrees to become party to the current Agreement and Declaration of Trust Establishing the International Union of Operating Engineers National Training Fund and further agrees to be bound by the Agreement and Declaration of Trust and any amendments adopted thereto. Each Employer further agrees to be bound by all rules, regulations and procedures adopted by the Board of Trustees of the International Union of Operating Engineers National Training Fund, together with all actions taken by the Board of Trustees within the scope of its authority. Each Employer also authorizes the parties to the Agreement and Declaration of Trust to appoint trustees and successor trustees and hereby ratifies and accepts the trustees so appointed.

IUOE National Training Fund:

Effective: 4/7/19 4/5/20 4/4/21
 \$0.05 \$0.05 \$0.05

ARTICLE 12

REGULATION OF PAYMENTS TO FUNDS

SECTION 1. Contributions required under Article 9, 10 and 11 shall be made for each payroll hour worked in the jurisdiction of the Union. Contributions shall not be required for holiday hours or vacation hours paid. The contributions to the health, pension and apprenticeship funds shall be capped at one thousand eight hundred (1800) hours per calendar year. Contributions required under Article 9A and

Article 11 shall be made for each payroll hour worked or paid in the jurisdiction of the Union.

SECTION 2. When the Trustees of the Health Benefits Fund, Annuity or Pension Funds established hereunder request the opportunity to have an independent accountant and/or auditor examine payroll records of any Employer to secure compliance with the provisions of this Agreement, upon five (5) working days written notice to the Association and the Employer from the Trustees of such Fund, such payroll and related records shall be made available to the accountant and/or auditor at the Employer's office. The Trustees shall have all powers with respect to the audit of appropriate payroll records. The Employer shall be required to maintain and make available such records that are necessary for the completion of payroll audits.

SECTION 3. The Employer may be required by the Union to provide a security bond to guarantee payment of at least three (3) months average contributions under Articles 8, 9, 9A, 10 and 11. In no event, shall the bond be less than twenty-five thousand dollars (\$25,000.00). Such bond shall be deposited with the Administrator of the Health Benefits Fund as Trustee for the employees involved and shall be returned or terminated upon the completion of the job or project by the Administrator when he or she is satisfied that all moneys due employees or the Funds have been paid. Any such bond shall be maintained by that company until they have made timely payment of benefit contributions for a period of time not less than one (1) year.

SECTION 4. Failure by any Employer to contribute to either the Health Benefits, Annuity Fund, Pension Fund or Apprenticeship Training and Skill Improvement Fund shall be a violation of the Agreement by that particular member in default. In no event shall it be construed as default by the other members of the Association. Any such violation may subject an Employer to an immediate shutdown, notwithstanding other provisions of this Agreement, when the Employer fails to obtain the bond or is delinquent beyond the value of the existing bond. When an Employer is seven (7) days in default, the Union shall give him ten (10) days written notice of its intention to take economic action against him, with a copy of said notice to the Association. In the event that the Employer disputes the Union's contention that it is in default, then the said Employer shall, within said ten (10) day period so advise the Union and the Association and request arbitration. In the event that said Employer makes a request for arbitration, there shall be no strike, slowdown, or work stoppage, unless the Employer refuses to comply with the decision of the Arbitration Board as set forth herein. If no dispute is registered by the Employer in default by the expiration of the above-mentioned ten (10) day period, then the Union shall be free to take economic action against that Employer, and the employees of such Employer shall be made whole for any wages and fringe fund contributions lost as a result of such work stoppage. A delinquent Employer who does not request arbitration under this clause, or after a decision of the Permanent Arbitration Committee holding it delinquent, fails to make payment, shall be liable for all costs of collection including attorney's fees.

SECTION 5. Nothing in this Agreement, the Trust Agreements, the plans of benefits, or any other document shall be construed to impose upon the Employer or other contributor any liability or obligation to contribute or make any other payments to any Fund named in Articles 9, 9A, 10 and 11 toward the cost of benefits or the cost of administration or funding of the Plan beyond the obligation of the Employer to make contributions and pay expenses of collection as specified in Articles 9, 9A, 10, and 11 above. Except to the extent that the Association and the Union may participate in the selection of Trustees, neither the Association, nor the Union, nor any Employer shall be responsible for the operation or administration of the Funds. In no event shall the Association, the Union, or any Employer be liable for any action or failure to act of any Trustee. It is agreed and understood that this Section shall serve as a defense to any allegation or cause of action brought by any individual or entity which might jeopardize the Employer's or other contributor's position that its liability is strictly limited as stated herein.

SECTION 6. Notwithstanding any other provision of this Agreement, the Union may repudiate this Agreement in the event the Employer fails to pay contractual wage rates and/or fails to make the contractual fringe benefit contributions but such action shall not relieve the Employer of any obligation incurred prior to the date of the repudiation.

SECTION 7. The Union shall have the option to divert money from fund to fund or from wages to any of the funds provided for in this Agreement upon sixty (60) days prior written notice to the Association.

SECTION 8. It is recognized that the policies and procedures promulgated by the Trustees with regard to matters concerning the payment and collection of contributions may change. Signatory Employers hereby agree to be bound to such policies and procedures and changes set by the Trustees unless in conflict with this Agreement.

At the discretion of a Fund's Trustees, an Employer determined to be delinquent in its payments as required may be held liable for all contributions due to the Funds, liquidated damages, interest, reasonable attorney's fees, court costs, audit fees and other expenses incurred in the collection of contributions due to the Funds, including a reasonable rate of interest.

In accordance with Section 5.02 (g) of ERISA, as amended, the Trustees establish the rate of interest to be paid by the Employer under the Internal Revenue Code at twelve percent (12%) per annum; and further, liquidated damages in an amount of twenty percent (20%) of the amount of the delinquency, plus reasonable attorney's fees and costs of the action.

ARTICLE 13 **ACCESS TO JOBS, RECORDS AND TIME**

SECTION 1. A daily time record shall be maintained by the Employer for all employees.

SECTION 2(a) In the event the Union and/or an employee claims that the itemized statement the Employer is required, pursuant to this Agreement, to give each employee concerning his wages, hours, rate of pay, etc., is incorrect, the matter will be processed in accordance with the Grievance Procedure of this Agreement. If the matter is submitted to the Arbitration Committee, prior to the hearing, the Union may require the Arbitration Committee to request the Employer to produce at the hearing on the matter, the payroll record and time card of the employee for the week involved. If so requested by the Arbitration Committee, the Employer will be required to submit the payroll records and time cards of all the employees involved for the periods specified, to the Arbitration Committee for use at the hearing on the matter. If the Employer fails to comply with the request of the Arbitration Committee, it shall be deemed a willful non-payment of wages under Article 8, Section 4, hereof.

SECTION 2(b) If at any such arbitration, the Board determines the employee has knowingly accepted wages from the Employer at a rate less than that specified herein, the Union may demand the discharge of such employee and he or she may not be re-employed by the Employer within a three (3) month period. The Union shall indemnify, defend and hold the Employer harmless from any claim arising from any such discharge.

ARTICLE 14

PROTECTION OF RIGHTS

SECTION 1. It shall not be a violation of this Agreement and it shall not be cause for disciplinary action in the event an employee refuses to go through any lawful primary picket line including a lawful primary picket line established by this Union, and including lawful primary picket lines at the Employer's places of business, jobs, projects, plants or operations.

SECTION 2. It shall not be a violation of this Agreement, and it shall not be a cause for discharge or disciplinary action, if any employee refuses to perform any services which his Employer undertakes to perform for another Employer or person whose employees are on strike, and which service, but for such strike, would be performed by the employees of such other Employer or person involved in the labor dispute.

This shall not prevent a general contractor from completing the contract of its subcontractor on the general contractor's job site.

ARTICLE 15

SAFETY

SECTION 1. The Employer shall supply hard hats, eye protection and hearing protection, rain gear, welding goggles and helmets when required. Such items shall be signed for by the employee when received, shall at all times remain the property of the Employer, and shall be returned to the Employer when not in use or upon leaving its employ. Should the employee fail to return such items, the cost thereof shall be deducted from the wages of the employee to reimburse the Employer for the cost of replacement.

SECTION 2. The Employer shall make reasonable provisions for the health and safety of its employees during their working hours, as required by applicable state laws and regulations.

SECTION 3. No employee shall be required to drive or operate any vehicle or piece of equipment, which is not equipped with all safety devices prescribed by law. The employee must report all defects in equipment in writing on forms supplied by the Employer as promptly as such is discovered so that the Employer may correct such defects as promptly as possible.

SECTION 4. The Employer shall at all times be responsible for obtaining all permits for overweight and oversized equipment, and if an employee is required to appear in court and/or pay any fine because of the Employer's violation of this Section, the Employer shall be held responsible for such fine or damages and attorney's fees and any work opportunity lost.

SECTION 5. Any employee involved in any accident shall immediately report the accident and/or the personal injuries sustained, if any, in writing to the Employer. The employee shall make out an accident report, in writing, on the forms supplied by the Employer on company time. Such report shall include the names of all witnesses to the accident.

SECTION 6. Any employee, who violates any safety regulation of the Employer, shall be subject to discharge without recourse.

SECTION 7. When an employee is required to appear in court for the purpose of defending himself or herself because of an accident the employee may have been involved in while acting within the scope of his or her employment, involving the Employer's equipment, or testifying at the request of or on behalf of the Employer, he or she shall be reimbursed in full by the Employer for all earning opportunity lost and for reasonable meals and transportation costs and attorney's fees because of such appearance or testimony.

SECTION 8. Employers may conduct drug and alcohol testing of applicants and employees in accordance with state and federal laws.

SECTION 9. Employees shall be prohibited from the unauthorized use of cell phones or other electronic devices while on work time.

SECTION 10. Any employee who knowingly or on his own initiative violates any safety regulation, environmental regulation, or has his CDL license or any other required license(s) suspended or revoked, shall be subject to discharge without recourse. However, where the allegation involves a claim that the employee was directed to violate a safety or environmental regulation, such case shall be scheduled for expedited arbitration and, if such arbitration orders reinstatement with full back pay and all his contractual fringe benefits, where applicable.

Employees refusal to work because of unsafe conditions must be justified.

SECTION 11. During the term of the parties' collective bargaining agreement (April 1, 2019 through March 31, 2022), the union may designate no more than 10 percent of each company's employees as Workplace Peers. Workplace peers are trained through the International Union of Operating Engineers and are a part of Local 478's Members Assistance Program which assists members in crisis when dealing with substance abuse disorders, suicide prevention and behavioral health issues. The employer agrees, upon written notice from the Business Manager of at least 14 days prior to the leave, to grant such designated employee (s) one week unpaid leave of absence without benefit contributions per year to attend Workplace Peer Training. The company may request that the training date be rescheduled if the employee is working on a special project, or if the employer has other pressing operational needs.

ARTICLE 16 **MAINTENANCE OF STANDARDS**

SECTION 1. The Employer agrees that it will not require as a condition of employment that any employee furnish or provide a truck, other vehicular equipment, or power tools. The Employer agrees to replace employees' tools broken in the course of performance of his duties, and will replace tools lost by fire or as a result of theft from a breaking and entering if kept in a company-controlled shop, providing a list of tools shall have been submitted to the Employer prior to loss. If, after the Employer gives notification to its employees, an employee removes any tool from the Company repair shop or service vehicle for any purpose not within the course of his or her employment, the Employer need not replace said employee's tools broken in the course of performance of his or her duties.

SECTION 2. The Employer agrees to provide insurance for employees' tools carried in a company service vehicle being used in the pursuit of his employment. Such insurance shall have a deductible of not more than one hundred dollars (\$100.00) and shall apply only to losses resulting from fire, forced entry, or acts of God. There will be no coverage for such loss if the employee was negligent or if the employee failed to submit a list of the tools carried in the company service vehicle in addition to the tools listed as in the company shop prior to the loss. The employee shall revise these lists as tools are added or

eliminated.

SECTION 3. The Employer agrees that all conditions of employment, including those relating to wages and hours of work shall be maintained at not less than the highest standards in effect at the time of the signing of this Agreement, and such conditions of employment shall be improved wherever specific provisions for improvement are made elsewhere.

ARTICLE 17 **GRIEVANCE AND ARBITRATION PROCEDURE**

SECTION 1. The Union or the Employer may file and process a grievance. Should differences arise between an Employer and the Union as to the meaning, interpretation or application of this Agreement, such differences or claims shall be considered a grievance. When a grievance arises, an earnest, good faith effort shall be made by each party to this Agreement to settle such differences or claims immediately and in accordance with the following procedure.

SECTION 2. Step One. Not later than five (5) working days after the event giving rise to the grievance occurs or five (5) working days after the employee knew or should have known of the event giving rise to the grievance, whichever is later, the employee and/or the Shop Steward shall file a grievance and discuss it with the supervisor involved. The involved supervisor shall orally respond to the Shop Steward not later than five (5) working days thereafter.

SECTION 3. Step Two. If the grievance is not settled at Step One, the Shop Steward, not later than five (5) working days after receipt of the involved supervisor's answer at Step One, may file a written appeal of that answer to the Employer. Not later than five (5) working days after receipt of the written appeal, the Employer shall meet with the employee, the Shop Steward and a designated and authorized Union Business Agent. The Employer shall give its written answer to the grievance within ten (10) working days after such meeting to the Steward with a copy by fax to the Union, which answer shall be final and binding on the employee, the Union and the Employer, unless it is timely appealed to Arbitration by the Union in accordance with the procedures set forth herein. In cases involving a discharge, a grievance may be filed directly to Step Two.

SECTION 4. Within ten (10) calendar days from the date the Employer's Step Two answer is received by the Union, the Union, if it desires to submit the grievance to arbitration, must file notice of its intention to proceed to arbitration with the Employer by fax or certified mail.

SECTION 5. Unless mutually agreed to the contrary, when a grievance is appealed to arbitration, the matter will be submitted to a panel consisting of one representative of the Association, one representative of the Union, and the neutral arbitrator (hereinafter called the "Arbitrator") chosen from the panel provided by the Alternative Dispute Resolution Center, Inc. (ADRC) which shall administer the arbitration provisions of this collective bargaining agreement.

SECTION 6. The Arbitrator shall render his decision within thirty (30) calendar days following the conclusion of the hearing unless the parties agree otherwise. The written decision rendered by the Arbitrator shall be final and binding on the parties to this Agreement and shall be enforceable in any court of competent jurisdiction. The Arbitrator shall have no authority to modify, add to, or delete any provision of this Agreement.

SECTION 7. The costs for the Arbitrator and related arbitration hearing expenses shall be divided equally between the Union and the Employer. Each party shall, however, bear the costs associated with the presentation of their respective cases.

SECTION 8. Unless otherwise mutually agreed upon by the parties, no arbitrator shall consider more than one (1) grievance in any one (1) arbitration proceeding unless multiple grievances are filed arising out of the same event or transaction.

SECTION 9(a) Unless the parties agree to an extension time in writing, failure to adhere to the time limitations set forth herein shall result in the grievance being deemed settled in favor of the non-grieving party.

SECTION 9(b) Unless otherwise agreed to by the Union and the Employer, there shall not be any court stenographers, reporters, verbatim shorthand, or mechanically-recorded notes permitted at the arbitration hearing.

SECTION 10. At all arbitration sessions, employees shall be represented solely and exclusively by the Union. The Employer and/or Union may be represented by counsel of their choosing.

SECTION 11. Nothing contained herein shall require the Union to process any Union or Employee grievance which in its opinion would be without merit, and no employee shall have the right to arbitrate his or her grievance should the Union deem it without merit.

SECTION 12. The time limits set forth herein may be extended by written agreement between the Employer and the Union.

SECTION 13. During the time that any grievances exist, the parties agree that there will be no strike, work stoppage, slowdown, picketing, or lockout, or threats thereof, but said grievances or disputes will be submitted to arbitration in accordance with this Agreement. In the event that this Section shall conflict with Article 8, Section 4, concerning willful non-payment of wages, or Article 12, Section 4, regarding failure to contribute to Health Benefits Fund, Pension, Annuity or Apprenticeship Training and Skill Improvement Funds, then in that event, the provisions of this Section shall not apply. This Section also shall not apply where there is a non-compliance with an award as provided by Section 6 hereof.

SECTION 14. The Union shall not be responsible for any strike, work stoppage, slowdown, or picketing unless the same shall be authorized or ratified by its Business Manager. No Business Agent shall call or authorize any work stoppage. It is further agreed that in all cases of an unauthorized strike, slowdown, walk-out, or any unauthorized cessation of work in violation of this Agreement, the Union shall not be liable for damages resulting from such unauthorized acts of its members. While the Union shall undertake every reasonable means to induce such employees to return to their jobs during any such period of unauthorized stoppage of work mentioned above, it is specifically understood and agreed that the Employer during the first twenty-four (24) hour period of such unauthorized work stoppage shall have the sole and complete right of reasonable discipline, short of discharge, and such employees shall not be entitled to or have any recourse to any other provisions of this Agreement. After the first twenty-four (24) hour period of such stoppage, and if such stoppage continues, however, the Employer shall have the sole and complete right to immediately discharge any employee participating in any unauthorized strike, slowdown, walk-out, or any other cessation of work, and such employees shall not be entitled to or have any recourse to any other provision of this Agreement.

SECTION 15. It is intended and agreed that the procedure herein established for the adjustment of grievances and disputes shall be the exclusive means for the determination of all grievances and

disputes whatsoever, including the arbitrability of any grievance or dispute or any claim based upon an alleged breach of the no-strike, no lockout pledges of this Agreement. Neither the Employer nor the Union shall institute any action or proceeding, in a court of law or equity, state or federal, other than to compel arbitration or to correct, confirm, vacate, modify, or secure enforcement of any award or decision of the Arbitration Board and/or Umpire. This provision shall be a complete defense to and also grounds for a stay of any action or proceeding instituted by any party contrary to this Agreement.

ARTICLE 18 **WORK STOPPAGES**

During the terms of this Agreement there shall be no strike, work stoppage, slowdown, picketing, or lockout, except as may be otherwise specifically provided herein:

- (a) Willful non-payment of wages as outlined in Article 8, Payment of Wages, Section 4.
- (b) Failure to comply with Article 17, Grievance and Arbitration Procedure, Section 6.
- (c) Failure to pay Health Benefits, Pension, Annuity or Apprenticeship Training and Skill Improvement Fund contributions in accordance with Article 13, Regulation of Payment to Funds, Section 4.

ARTICLE 19 **ASSOCIATION MEMBERSHIP**

SECTION 1. The obligation of each Employer shall be several and not joint.

SECTION 2. In the event the Employer joins and authorizes the Association to represent it in dealings with the Union; the Employer shall immediately be covered solely by the Association Agreement. Any previous Agreement referring to the work covered by this Heavy and Highway Agreement which may have been in effect between said Employer and the Union, even though unexpired, shall be suspended, and all obligations accruing thereunder shall be superseded by the terms and conditions of the Association Agreement. If the Employer ceases to be represented by the Association during the term of this Agreement, all obligations accruing under this Association Agreement shall cease and the independent agreement shall once again become effective.

ARTICLE 20 **MISCELLANEOUS**

SECTION 1. When an employee is injured on the job, the employee shall be paid eight (8) hours pay for the day of the injury. The Employer shall pay such employee injured on the job for work opportunities lost if such employee is required to visit a hospital, a doctor's office or clinic for treatment of such injury during the work day.

SECTION 2. The Employer agrees to provide a suitable bulletin board in a conspicuous place where the employees are employed for the posting of information regarding Union matters by the Union.

SECTION 3. In the event of war, declaration of a national emergency or imposition of economic controls upon wages by any federal authority during the life of this Agreement, the parties may mutually agree to reopen this Agreement for renegotiation of matters dealing with wages, hours, or other conditions of employment.

SECTION 4. No employee shall be required to own or furnish tools over 1 1/4 inches or 33 millimeters in size or over 3/4-inch drive or any powertools.

SECTION 5. Nothing in this Agreement shall prevent Employers requiring employees to take physical examinations. Such physical examinations shall be taken on the Employer's time.

SECTION 6. In the event that a tire dealer, who is a party to an agreement with the Union, is not available within one (1) hour to perform work (changing of and/or repairing tires) at the shop, the Employer will be permitted to use any tire dealer who is available.

SECTION 7. No employee covered by this Agreement shall be discharged or disciplined by the Employer unless there is just cause for such action.

SECTION 8. The Employer agrees to deduct weekly five cents (\$0.05) per hour, from the gross pay of each employee covered by this Agreement who executes appropriate lawful voluntary check off authorization form(s), to the Operating Engineers Continuing Political Committee (OECPC) the amount specified in the check off authorization form signed and dated by the employee and furnished to the current employer. The deduction shall continue for the life of this Agreement and any renewals and/or extensions thereof for each employee who assigns wages by the check off authorization, unless the employee revokes the authorization in writing. The revocation must be in writing, bear the date of the employee's signature, and be delivered to the Union, and to the Employer with whom the employee is currently employed. The Employer agrees that the deduction shall be held in trust and shall be remitted to the Operating Engineers Continuing Political Committee, c/o IUOE Local 478, 1965 Dixwell Avenue, Hamden, CT 06514 at the same time and along with the Health, Pension, Annuity and Apprenticeship Training and Skill Improvement Fund contributions. All such deductions shall be reported on one (1) form, included in one (1) check and sent along with all other funds provided for in this Agreement.

The Union agrees to indemnify and save the Employer and the Association harmless against any and all claims, suits or other forms of liability arising out of the Employer's participation in or performance of the provisions of the Article. The Employer's liability is limited solely to make lawfully authorized deductions and to remit these deductions. The OECPC assumes full responsibility for the disposition of the monies so deducted once they have been paid to the OECPC.

SECTION 9. The Local 478 IUOE Apprenticeship Program (hereinafter called the "Apprenticeship Program") approved by the State of Connecticut and the Local 478 IUOE Training and Skill Improvement Program (hereinafter called the "Training Program") adopted by the IUOE Local 478 Apprenticeship, Training and Skill Improvement Fund (hereafter called the "Apprenticeship and Training Fund") shall be available for use by the Employer and may be utilized by the Employers and their employees herein on a cooperative basis according to their needs. The Employer may refer applicants to the Apprenticeship or Trainee program(s) and such applicants shall be accepted by such program(s) if possible.

ARTICLE 21 **SUBCONTRACTING**

The Employer shall not subcontract any work covered by this Agreement.

ARTICLE 22
HOLIDAYS

SECTION 1. All employees covered by this Agreement shall receive a full day's pay at their straight time rate of pay as holiday pay for the holidays listed below, or days celebrated as such, regardless of the day of the week upon which such holiday shall fall

New Year's Day	Good Friday	Labor Day	Independence Day
Memorial Day	Thanksgiving Day	Christmas Day	

Holidays falling on Sunday shall be observed on the following day and shall be paid for as such. Holidays falling on Saturday may be observed on Saturday, or at the Employer's option on the preceding Friday, and shall be paid for as such.

SECTION 2. No employee shall be required to work on any of the above holidays or day celebrated as such, but in the event an employee works a holiday set forth above, the employee shall be paid at the rate of double time in addition to his holiday pay for at least four (4) hours and after four hours payment shall be for actual hours worked at the applicable rate.

SECTION 3(a) The above-mentioned holidays shall be paid if the employees are on the Employer's payroll within five (5) days before the holiday.

SECTION 3(b) An employee must work the working day before and the working day after a holiday, if the employee is scheduled to work, to receive holiday pay, unless his absence is due to illness supported by evidence satisfactory to the Employer or a doctor's note.

SECTION 4. When a holiday falls in a week during which an employee is on vacation, the employee shall receive an extra day of pay in lieu of the holiday, or the employee may extend his vacation by the number of holidays that fall in his vacation.

SECTION 5. In no event shall any employee be entitled to receive pay for the same holiday from more than one (1) Employer.

ARTICLE 23
VACATIONS

SECTION 1. The Employer agrees to grant paid vacations to the employees covered by this Agreement as follows:

- (a) Employees with one (1) year of service to receive one (1) week paid vacation
- (b) Employees with five (5) to ten (10) years of service to receive two (2) weeks paid vacation.
- (c) Employees with ten (10) to twenty (20) years of service to receive three (3) weeks paid vacation.
- (d) Employees with twenty (20) or more years of service to receive four (4) weeks paid vacation.

SECTION 2. One (1) week of vacation pay shall be paid on forty (40) hours straight time pay.

SECTION 3. Employees who are employed steadily for the periods enumerated, with allowance for seasonal lay-offs, shall be entitled to vacations. Employees shall not be laid off or switched for the purpose of avoiding this clause.

SECTION 4. In the event an employee is laid off, quits, or is discharged for any cause, the employee shall be paid all vacation pay earned, but not paid at the time of his final pay. In the case of the death of an employee who has earned any vacation pay, such vacation pay shall be paid to the employee's widow or estate.

SECTION 5. Vacation pay shall be based upon the employee's normal classification rate.

SECTION 6. Employees with ten (10) or more years of service shall be given one (1) week of their vacation during the period between November 1st and May 30th. All such employees must take the first two (2) weeks of vacation. The Company may establish reasonable rules to avoid more than one employee being on vacation at the same time during this period.

SECTION 7. Vacation hours paid shall be considered as hours worked for the purpose of computing overtime.

SECTION 8. It is the understanding and agreement of the parties that Section 7 above, with regard to Vacation Hours being counted toward overtime, does not require the Employer to pay overtime hours when they elect to pay accrued vacation in a lump sum on a monthly basis. For example, where the company pays accrued vacation pay of eight (8) hours in one monthly paycheck and the employee works forty (40) hours the week they received that paycheck, the eight (8) hours of vacation time will be paid at the straight time rate.

ARTICLE 24 **HOURS OF WORK AND WORKING CONDITIONS**

SECTION 1(a) Superintendents, foremen, stock and delivery clerks or storekeepers and others employed in a clerical capacity, but who do give orders to employees who are covered by this Agreement but who do not perform any manual work, shall not be members of the Union, and are not covered by this Agreement.

SECTION 1(b) Except in the case of a breakdown or other emergency when employees are not available, no superintendent or foremen shall be permitted to perform work covered by this Agreement.

SECTION 2. The stock clerks or storekeepers, mentioned in Section 1 above, whose functions are to keep records or to receive and give telephone and other orders, shall continue to be exempt from the terms of this Agreement so long as such duties constitute the main function of their employment and so long as any manual work which they may perform is only incidental, occasional, and not the normal requirement of their work assignment.

SECTION 3(a) All work done after eight (8) hours in any one day or forty (40) hours in any one (1) week shall be paid for at the rate of time and one-half. Saturday work shall be paid for at the rate of time and one-half except as provided herein, and Sunday work shall be paid for at double time. Employees reporting for work on Saturday or Sunday shall be guaranteed four (4) hours work or pay, and if they work more than four (4) hours shall be paid for the actual hours worked.

SECTION 3(b) Notwithstanding any other provision of this Agreement, the Employer may schedule four (4) ten-hour workdays at straight time rates Monday through Friday. These days shall be scheduled consecutively except for a holiday week or days lost because of conditions beyond the control of the Employer.

SECTION 4(a) All employees who are working under this Agreement shall be guaranteed pay on a weekly basis for forty (40) hours for the regular workweek, Monday through Friday, inclusive during the entire year. The forty-hour guarantee does not apply to a day in which weather phenomena, such as hurricanes and tornadoes, or conditions beyond the control of the Employer, such as power outages and fires, result in the Employer being unable to operate. If all operations of the Employer are not shut down, those employees who normally perform the services that continue to operate shall continue to perform those services. It is understood that the forty-hour guarantee does not apply if the Employer gives the employee a layoff slip.

In addition, this guarantee shall not apply on the Monday immediately preceding a Tuesday holiday or on a Friday immediately following a Thursday holiday.

SECTION 4(b) An employee shall be guaranteed forty (40) hours work or pay for each week, Monday through Friday throughout the entire year, in which he works, provided the employee remains available for work.

SECTION 5. Overtime hours shall be used to accumulate as credit toward the guarantee of forty (40) hours. There shall be no pyramiding of overtime.

SECTION 6(a) When shop employees covered by this Agreement work on jobsites covered under the Union's Agreements covering Heavy and Highway work or Building construction work, such employees shall be paid the wage rates contained in the Heavy and Highway or Building Construction Agreement for solely the time such employees work on such jobsites, and in all other respects shall be paid and covered pursuant to the terms and conditions of this Permanent Shop Agreement.

SECTION 6(b) When Class II employees covered by this Agreement perform tasks that require less skill than possessed by a Class I mechanic, such as changing oil, replacing or tightening bolts, changing filters, winterizing equipment, changing fan belts and batteries, on jobsites covered under the Union's Agreements covering Heavy and Highway work or Building construction work, such employees shall be paid the Maintenance Engineer's wage rate contained in the Heavy and Highway or Building Construction Agreement for solely the time such employees work on such jobsites, and in all respects shall be paid and covered pursuant to the terms and conditions of this Permanent Shop Agreement.

SECTION 7(a) In the event the Employer has a three-shift operation, employees shall receive payment therefore in accordance with the following schedule:

1st shift - 8 hours regular rate pay for 8 hours work
2nd shift - 8 hours regular rate pay for 7 1/2 hours
work
3rd shift - 8 hours regular rate pay for 7 hours
work

SECTION 7(b) In the event the Employer has a two-shift operation working less than ten (10) hours each, employees shall receive payment therefore in accordance with the following schedule:

1st shift - 8 hours regular rate pay for 8 hours work and

overtime at time and one-half thereafter
2nd shift - 8 hours regular rate pay for 7 1/2 hours work and
overtime at time and one-half thereafter

SECTION 7(c) In the event the Employer has a two-shift operation with each shift working ten (10) hours or more, employees shall receive payment therefore in accordance with the following schedule:

1st shift - 8 regular rate hours pay for 8 hours work and overtime at time and one-half thereafter
2nd shift - 7 1/2 hours regular rate pay for 7 1/2 hours work and overtime at time and one-half thereafter

SECTION 8. Where a swing shift (a shift starting before the end of the first eight (8) hours of the first shift) is used to perform work which replaces the first shift employees on overtime, the first shift employees shall be entitled to overtime work opportunity equivalent to the time which the swing shift worked during the first eight (8) hours of the first shift. This shall not apply to second and/or third shift operations established and paid pursuant to the provisions of this Agreement, when the employee commences working at or after the conclusion of the first shift. Payment for such swing shift shall be as follows:

8 hours regular rate pay for 7 1/2 hours work.

SECTION 9. Overtime shall be distributed as equally as possible among the employees in the classifications involved.

SECTION 10. Any employee working on a job rated higher than his regular rate shall be paid the higher rate for actual hours up to four (4) hours and after four (4) hours, he shall receive eight (8) hours at the higher rate.

SECTION 11. Classifications The Employer shall classify his employees hereunder as follows, according to their duties:

Class I - Includes those employees who, in the opinion of the Employer are capable and highly skilled and experienced in the maintenance, repair, and rebuilding of all types of contractors' equipment and who are specialists in the maintenance, repair or rebuilding of one of the more complicated types of contractor's equipment and who do not need immediate supervision for the successful performance of their duties.

Includes those employees who, in the opinion of the Employer, can perform all types of oxyacetylene welding and cutting and electric arc welding in all positions with special reference to maintenance and repair of heavy duty construction equipment. Such an employee shall be thoroughly experienced and shall have a thorough knowledge of proper welding procedure with regard to all metals and alloys as are ordinarily found in all types of heavy construction equipment. Such an employee needs a very minor amount of supervision.

Also included in this category are employees who, in the opinion of the Employer, can operate automatic arc welding machines, who can set up, operate and maintain automatic arc welding machines for welding all kinds of equipment, including flat and round work, and needs a very minor amount of supervision.

Class II - Includes those employees who, in the opinion of the Employer are skilled in the use of tools, but lack the experience and skill necessary for the maintenance, repair and rebuilding of equipment and may help Class I employees. Also included in this category is an automatic arc welding machine operator, who, in the opinion of the Employer, has had some experience in setting up and operating an automatic

arc welding machine, or whose experience has been confined principally to operating said machine.

Also includes those employees who, in the opinion of the Employer, are skilled in the welding techniques required for the repair and maintenance of contractors' equipment, but are not as skilled as Class I employees and may require supervision and assistance.

Class III - Includes those employees who, in the opinion of the Employer, are skilled in body work and the painting of contractor's equipment; also those who are tire men.

Shop Engineer - Includes those employees who, in the opinion of the Employer, can steam clean, scrape equipment, polish equipment, chase parts, load and unload trucks, and do all other types of unskilled work including assisting the above classes to the extent of their capabilities.

Section 12. Following are the regular minimum straight-time hourly rates of pay and classifications for employees covered by this Agreement:

	4/1/18	4/7/19	4/5/20	4/4/21
Class I	\$33.77	\$34.97	\$36.22	\$37.43
Class II	\$30.29	\$31.38	\$32.52	\$33.63
Class III	\$27.91	\$28.93	\$30.00	\$31.03
Shop Engineer	\$25.95	\$26.91	\$27.92	\$28.90
New Hire Shop Engineer *	\$22.95	\$23.91	\$24.92	\$25.90

*New Hire Shop Engineer – Shop Engineers are to receive \$3.00 per hour less than the Shop Engineer wage rate until the completion of six (6) months of continuous employment with the Company; and are to receive \$2.00 per hour less than the Shop Engineer wage rate effective on the first full pay week after completion of six (6) months of continuous employment with the Company; and are to receive \$1.00 per hour less than the Shop Engineer wage rate effective on the first full pay week after they have completed twelve (12) months of continuous employment with the Company; and are to receive the full Shop Engineer wage rate effective on the first full pay week after completion of eighteen (18) months of continuous employment with the Company.

FRINGE BENEFIT FUND RATES:

Funds	4/7/19	4/5/20	4/4/21
Health Benefits and Insurance	\$12.75	\$13.00	\$13.15
Pension	\$7.15	\$7.40	\$7.50
Annuity	\$2.65	\$2.65	\$2.90
Apprenticeship Training	\$0.65	\$0.65	\$0.65

Industry Advancement Program	\$0.10	\$0.10	\$0.10
National Training Fund	\$0.05	\$0.05	\$0.05

SECTION 13. - Trainees - The Employer may employ trainees. Training programs shall be of two (2) years duration. Trainee wage rates shall start at 60% of the Class II rate and shall be increased by 10% for every six (6) months worked. The Employer must either grant the employee the 10% increases or may dismiss the employee (without recourse), or failing that must meet with the Union Business Agent for an exemption review. If at the exemption review, the Employer and the Union Business Agent do not reach agreement, the matter may be arbitrated.

The trainee shall not be prevented from obtaining his final 10% increment and attaining his full Class II status and wage rate because of the following language, which appears in Article 24, Hours and Working Conditions, Section 11, Class II: "in the opinion of the Employer," inasmuch as the trainee procedure stated in Section 13 hereinabove takes precedence.

SECTION 14. When an Employer engages in a seasonal layoff and lays off an employee (who has worked for the company for two (2) seasons or more) for the seasonal layoff, the Employer shall recall the employee when and if the identical task at the same location starts up again within six (6) months of the layoff unless the Employer, at the time of the seasonal layoff, notifies the employee and the Union that the employee will not be recalled. A "seasonal layoff" is any layoff that takes place during the period from the day before Thanksgiving to April 30th. The Employer also agrees to meet with the Union Business Agent, at the request of the employee, to discuss the matter of notice and/or recall. If this matter cannot be resolved by the Employer and the Union Business Agent, the Union may bring the matter before a four (4) member Mediation Board (consisting of two (2) representatives of the Union and two (2) representatives of the Employer) who will meet to resolve the matter. If a majority of this Mediation Board cannot agree to resolve this matter, the matter shall be deemed to be closed. It is understood that except for this Section there are no recall rights for employees under this Agreement and that if the Employer issues such notice to the employee then the employee has no recall rights under this Agreement and has no recourse against the Employer. All of the Employer's actions of layoff and recall under this entire Section are not covered by the grievance and arbitration provisions of this Agreement, and it is understood that this Section does not permit work stoppages and is specifically covered by Article 18, Work Stoppages. This clause is not to be construed, in any way, as granting seniority.

SECTION 15. Employees shall receive one-half (1/2) hour off, each day as a non-paid lunch.

SECTION 16(a) On projects subject to a governmental agency's, a railroad's or an owner's prohibition, limitation or restriction of the schedule when work may be performed, the following shall apply:

On jobs on which work for the week starts at 5:00 p.m. or later on Sunday or starts on Monday evening, the Employer may schedule up to five working days at the straight time rate of pay, a sixth consecutive working day at time and one-half rate of pay as the sole premium and a seventh consecutive working day at double time rate of pay as the sole premium.

SECTION 16(b) Article 23 of the Permanent Shop Agreement and other applicable provisions affecting the scheduling of the job or payment of premiums shall not apply to tide work or work where the owner, governmental agency's or a railroad's prohibition, limitation or restriction affects the schedule when work may be performed.

When the regular first day starts after 6:00 PM on a Sunday, no premium pay is due for this Sunday work, and when the regular last day finishes on a Saturday, no premium pay is due for this Saturday

work.

After ten (10) hours work in a day, the employee shall receive premium pay at the applicable rate.

This shall apply to employees manufacturing or delivering products and to employees supporting these operations, such as electricians and mechanics, but shall not apply to crushing or sand plants.

SECTION 17. The Employer shall have full authority to manage the business and the work, direct the work force and decide all matters, except to the extent the Employer is specifically prohibited from doing so by the terms and conditions of this Agreement.

SECTION 18. It is understood and agreed that the Employer is not required to make contributions to the Operating Engineers Supplemental Unemployment Benefits Fund for any hours worked by employees covered by this Agreement, irrespective of whether said employees work on job sites covered by the Building or Heavy and Highway Agreement, and irrespective of whether they work there for a full eight (8) hour day.

SECTION 19. No employee covered by this Agreement shall be discharged or disciplined by the Employer unless there is just cause for said action.

ARTICLE 25 **ADMINISTRATIVE DUES**

During the term of this Agreement and in accordance with the terms of an individual and voluntary written authorization for check off of membership dues to be furnished to the Employer in a form permitted by the provisions of Section 302 (c) of the Labor Management Relations Act, as amended, the Employer agrees to deduct once each week from the wages of each employee covered by this Agreement, who signs said authorization, two percent (2%) of the sum of the gross weekly wages and the required fringe benefit contributions of said employee, as administrative dues, provided the Employer is given thirty (30) days prior notification in writing by the Union of the two percent (2%) or amount to be deducted and the percentage or amount to be deducted has been properly approved by the Union and is uniformly applicable to the employees covered by this Agreement.

All monies collected for Administrative Dues by the Employer shall be held in trust for employees and shall be paid to Local 478 International Union of Operating Engineers. The Administrative Dues that are deducted shall be paid monthly by the 20th day of the month following the month in which they were deducted.

ARTICLE 26 **CONNECTICUT CONSTRUCTION INDUSTRY ADVANCEMENT** **PROGRAM**

SECTION 1. Each Employer signatory to an agreement with the Union for work covered under this Agreement, whether by authorization to the Association or by a separate individual agreement with the Union, shall pay to the Association, a third party beneficiary under this Agreement, the sum of ten cents (\$0.10) per hour for each hour worked by or paid to each of its employees covered by the terms of this Agreement. This Article and the obligations and rights flowing from this Article may not be terminated or modified without the written consent of the Association after the Agreement has been executed.

SECTION 2. Payments to the Association are due and payable in the manner and form determined by the Association or before the 20th day of the month next succeeding the month for which the sum is payable. The Employer further agrees to pay all costs of collection, including reasonable attorney's fees and court costs, interest, and any other cost incurred by the Association in the collection of monies due the Association.

SECTION 3. The Union agrees to furnish the Association with the following: (a) a copy of any signed individual collective bargaining agreement and/or participation agreement and/or other acceptance of the terms and provisions of any collective bargaining agreement for work covered by this Agreement with any Employer not represented by the Association, hereinafter referred to as the "Independent Agreement" when the Association needs same for collection or for enforcement of this provision; and (b) up-to-date lists, no later than monthly, of the names and addresses of all Employers signatory to an Independent Agreement for the types of work covered under this Agreement.

SECTION 4. The Union agrees to propose that all the provisions contained in this Article 27, Connecticut Construction Industry Advancement Program, shall be included in every Independent Agreement. The Union further agrees that the total hourly economic cost (i.e. hourly payments required), including payments to the Association for companies covered under such Independent Agreement with any Employer for work covered under this Agreement that does not include all provisions of this Article 26, it is understood and agreed that the provisions known as Article 25, Administrative Dues (in this Agreement) shall be deleted and shall be of no force or effect in that Independent Agreement, and all obligations contained in that deleted Article shall immediately cease and terminate.

SECTION 5. If the Union accepts or is a party to any Independent Agreement with any Employer for work covered under this Agreement that does not include all provisions of this Article 26, it is understood and agreed that the provisions known as Article 25, Administrative Dues (in this Agreement) shall be deleted and shall be of no force or effect in that Independent Agreement, and all obligations contained in that deleted Article shall immediately cease and terminate.

SECTION 6. In consideration of the promises and obligations of Employers to make contributions to the Association as provided for herein and to promote work opportunities for Employers and employees working under this Agreement and in the construction industry, and in consideration of services to be directly and indirectly provided for such Employers by the Association, as determined by the Association, and for the benefit of the construction industry generally, and for other good and valuable consideration (such consideration which each Employer hereby acknowledges by being bound or signatory to this Agreement) each Employer agrees to all of the provisions of this Article 26 and acknowledges that said contractual provisions were made for the express, direct, and exclusive benefit of the Association (a third party beneficiary under this Agreement, an Independent Agreement, or any other form of agreement or understanding with any Employer for work covered under this Agreement for the term of this Agreement.)

SECTION 7. In the event an Employer elects not to contribute to the Connecticut Construction Industry Advancement Program (IAP), then an additional payment in the same amount shall be contributed to the Apprenticeship Training and Skill Improvement Fund (ATF). In the event an Employer elects to contribute to the IAP but fails to make such contributions, such contributions shall be deemed to be due and owing to the ATF. In the event the Employer fails or refuses to make the contributions to the ATF described above within 30 days after the due date, the provisions of Articles 12 and 13 of the Agreement shall

apply to such contributions. Should no election be made (or can be determined to have been made), any such contributions received timely shall be presumed to be to the IAP. An Employer may change its election of payment to or from the IAP or the ATF upon sufficient notification. Neither the Union nor its representatives may encourage or persuade any Employer to (1) not make contributions in the amount set forth in this agreement to the IAP or (2) make such contributions to the ATF rather than to the IAP.

SECTION 8. The provisions of this Article 26 shall be solely and exclusively enforced by the Association.

ARTICLE 27 **VALIDITY**

Any provision of this Agreement adjudged to be unlawful by a court of competent jurisdiction shall be termed for all purposes as null and void, but all other provisions of this Agreement shall continue in full force and effect except as provided herein, and in such event the parties hereto may jointly agree to re- open the Agreement for the purpose of negotiating with respect to the provision of this Agreement declared unlawful.

ARTICLE 28 **BEREAVMENT LEAVE**

Employees covered by this agreement shall have the right to take up to three (3) days off with pay at the straight time rate for eight (8) hours per day if a death in their immediate family occurs. Employees shall be paid only for those days lost from their work week. Immediate family is defined as mother, father, sister, brother, grandchild, domestic partner, spouse and child.

Employees shall have the right to take one (1) day off with pay at the straight time rate for eight (8) hours per day for grandparent, brother-in-law, sister-in-law and parent-in-law.

ARTICLE 29 **TERMINATION**

This Agreement shall remain in full force and effect from the date the Employer executes this Agreement through March 31, 2022, and shall then renew itself from year to year thereafter unless either party to the Agreement gives written notice to the other party, at least sixty (60) days prior to said 31st day of March, 2022, or at least sixty (60) days prior to such anniversary date in any year thereafter, of its desire to terminate this Agreement and negotiate a successor Agreement. During such negotiations, this Agreement shall remain in full force and effect until negotiations are broken off or an agreement is reached.