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**TRADE AGREEMENT
BETWEEN THE
MASON TENDERS' DISTRICT COUNCIL OF GREATER NEW YORK
AND
THE CEMENT LEAGUE**

**Effective on and after July 1, 2008
to June 30, 2011**

2008-2011

AGREEMENT

This Collective Bargaining Agreement (hereinafter "Agreement") is entered into by and between the undersigned THE CEMENT LEAGUE, (hereinafter referred to as the "Association") on behalf of its constituent employers (hereinafter "Employer(s)") and the MASON TENDERS' DISTRICT COUNCIL OF GREATER NEW YORK, affiliated with the Laborers International Union of North America (hereinafter referred to as the "Union") for its constituent Local Unions Numbers 78 and 79.

ARTICLE I

Section 1.-

The Employer recognizes the Union as the exclusive collective bargaining agent for all employees covered by this Agreement. The term "Mason Tender" as used in this Agreement includes all employees who perform work as described in Article IV of this Agreement.

Section 2.-

This Trade Agreement is effective on all jobs in Greater New York City within its established boundaries. The Union claims, and the Association and any and all Employers acknowledge and agree, that a majority of employees have authorized the Union to represent them in collective bargaining. The Association and Employers hereby recognize the Union as the exclusive bargaining representative under Section 9(a) of the National Labor Relations Act for all employees of who perform work covered by Article IV of this Agreement on all present and future job sites in the five boroughs of New York City.

ARTICLE II

Section 1.—

No Employer shall enter into a contract or subcontract with any other person, firm, partnership, corporation or joint venture employing Mason Tenders to perform bargaining unit work as defined in Article IV (hereinafter "bargaining unit work") on the same job site, unless such other person, firm, partnership, corporation or joint venture is bound by an Agreement with the Union.

Section 2.--

The Employer shall not subcontract "on site" bargaining unit work as defined in Article IV unless the employer receiving the subcontract has an Agreement with the Union. In the event that a subcontractor of the Employer is delinquent in the payment of fringe benefits contributions on behalf of employees who performed "on-site" bargaining unit work subcontracted by the Employer, and the Fringe Benefit Funds set forth in Article VI of this Agreement give written notice thereof to the Employer, which notice shall specify only monies owed to the Fringe Benefit Funds on behalf of employees who performed "on-site" bargaining unit work subcontracted by the Employer ("Delinquent Amount") and exclude monies owed by the subcontractor to the Fringe Benefit Funds as a result of other work, the Employer shall withhold from any payments it would make to the subcontractor an amount equal to the Delinquent Amount, and pay such money to the Funds. The subcontractor, by this Agreement, authorizes the withholding of these sums and further authorizes the Employer to pay such delinquent amounts directly to the Fringe Benefit Funds. In the event the delinquent subcontractor makes a legal claim against the Employer for the payment of monies otherwise owed to the subcontractor but that were withheld and paid to the Fringe Benefit Funds under the terms of

this Agreement, the delinquent subcontractor shall indemnify the Employer for all legal costs and fees incurred in defending against the legal claim; provided, however, that the delinquent subcontractor shall not be required by this provision to indemnify the Employer for legal costs or fees incurred defending against other claims by the subcontractor in the same action or any other action. The Employer shall contact the Fringe Benefit Funds to ascertain whether the subcontractor has contributed all required monies to the Fringe Benefit Funds before the Employer makes final payment to the subcontractor.

Section 3.--

The Employer agrees that it will not subcontract any work covered by this Agreement in order to circumvent the payment of wages and fringe benefits and the working conditions provided for in this Agreement.

Section 4.--

If an Employer covered by this Agreement, or any of its owners or principals that have a controlling interest in the Employer, forms or acquires by purchase, merger or otherwise, a controlling interest, whether by ownership, stock, equitable or managerial, in another company performing bargaining unit work within this jurisdiction, this Agreement shall cover such other operation and such other bargaining unit employees shall be considered an accretion to the bargaining unit.

Section 5.--

If an Employer covered by this Agreement, or any of its owners or principals that have a controlling interest in the Employer, forms or acquires by purchase, merger or otherwise, a controlling interest, whether by ownership, stock, equitable or managerial, in another company performing bargaining unit work within this jurisdiction, this Agreement shall cover such other operation and the Employer and such other company shall be jointly and severally liable for each other's obligations under this Agreement.

ARTICLE III

Section 1.--

a) It shall be a condition of employment that all employees of the Employer who perform work covered by Article IV of this Agreement shall become or remain members in good standing of the Union or shall pay uniform initiation and agency fees on or after the eighth day following the date of execution of this Agreement, or after the eighth day following the beginning of covered employment. The Union agrees that all employees will be accepted to membership or its roster of eligible laborers on the same terms and conditions generally applicable to other members or laborers on its roster of eligible laborers and, further, that the Employer will not be requested to discharge an employee for reasons other than such employee's failure to tender the periodic dues or fees uniformly required.

b) The Union shall have the right to collect a reasonable fee for inclusion on the roster of eligible laborers from all persons who are not members in good standing of the Union or are not tendering uniform initiation and agency fees uniformly required. Such fee shall be collected to cover the reasonable cost of maintaining the roster of eligible laborers. At the earliest date permitted by law, a person who has paid a fee to be included on the roster of

eligible laborers and is referred to an Employer shall tender to the Union upon acceptance for employment by the Employer the uniform initiation and agency fees uniformly required.

c) The Employer agrees to discharge, on seven days' written notice, signed by the Secretary-Treasurer of the Union, any employee who has failed to tender uniform initiation and agency fees uniformly required, provided that the notice is also provided to the employee and the employee does not pay the required initiation and agency fees within seven days of the date of the notice. The Union shall indemnify and hold the Employer harmless for any financial liability arising from the Employer's compliance with such notice.

Section 2.--

a) The Employer shall notify the Union by facsimile transmission of all jobs for which it is the successful bidder, as soon as the Employer is notified of its successful bid. The Employer shall, at least 48 hours prior to commencement of a job, notify the Union by facsimile transmission of the job. The Employer shall notify the Union, by facsimile transmission, at least 48 hours in advance of any subcontractor commencing work on that job site.

Any failure by the Employer to comply with the notice provisions of this section shall require the Employer to comply with the provisions of Article II, Section 2 of this Agreement. The parties shall meet prior to the commencement of the job to discuss Mason Tenders work on the job and/or any other matters arising under the collective bargaining agreement between the parties.

The first Mason Tender on any job site shall be selected by the Employer. The second Mason Tender on a job site shall be a Shop Steward appointed by the Union. The next six Mason Tenders shall be selected by the Employer. Commencing with the ninth Mason Tender on a job site, 50% of all Mason Tenders shall be furnished and referred by the Union to the Employer from the roster of eligible laborers and 50% shall be selected by the Employer. The Employer will make a good faith effort to employ more than the required minimum number of Mason Tenders from the hiring hall. As of July 1, 2008, Employers shall employ apprentices. The fifth Mason Tender on the site, and each fifth Mason Tender on the site thereafter, (i.e., fifth, tenth, fifteenth and so on), shall be an apprentice. However, the Employer may request that either the third or fifth Mason Tender on any job site be an apprentice, with the approval of the Union. When the Union approves an apprentice as the third Mason Tender on the job site, the tenth Mason Tender on the job site, and each fifth Mason Tender thereafter, shall be an apprentice. It is understood that the Employer shall hire whomsoever it sees fit, and that the Employer shall at all times be the sole judge as to the work to be performed and whether such work performed by the Mason Tenders is satisfactory. All Mason Tenders hired by the Employer shall become or remain members in good standing of the Union or shall pay uniform initiation and agency fees at the earliest date permitted by law. With notification to the Union, the Employer shall be permitted to reject a Shop Steward for cause if the Shop Steward was previously employed by the Employer or to discharge a Shop Steward for cause.

b) For interior work on job sites where more than five Mason Tenders are employed from the start by the Employer, the first Mason Tender on the job site shall be selected by the Employer. The second employee on the job site shall be a working shop steward appointed by the Union. The next three employees on a job site shall be selected by the Employer. Commencing with the sixth employee on a job site, 50% of all employees shall be furnished and referred by the Union to the Employer from the Out of Work List and 50% shall be selected by

the Employer. All employees hired by the Employer shall be listed on the roster of eligible laborers.

Commencing with the fifth Mason Tender on the job site, each fifth Mason Tender thereafter shall be an apprentice. However, the Employer may request an apprentice as the third Mason Tender on the job site, with the approval of the Union. In such cases, the fifth, tenth, and every fifth Mason Tender selected for the job site thereafter shall be an apprentice.

c) The Employer shall have the absolute right to reject any job applicant referred by the Union, with the exception of the Shop Steward, who can only be rejected pursuant to the procedure set forth in subsection 2 (a) of this Article III. In the event of such rejection, the Union will refer another applicant to the Employer.

d) In the event that any applicable statute is enacted or any decision rendered by a court or administrative agency having jurisdiction thereof, which statute or decision permits union security or hiring provisions more favorable to the Union than those contained herein, then the parties hereto shall meet and negotiate concerning the amendment of this Agreement.

e) In the Borough of Richmond the handling of Lathers materials and the tending of Plasterers is the work of the Mason Tenders.

f) There shall be a Joint Apprenticeship Training Committee ("JATC") charged with direction of the Apprentices. The Employer agrees to and shall be bound by all terms and conditions of the JATC documents creating the JATC and by any rules or by-laws adopted by the JATC, as they may be amended from time to time. Further, there shall be a Mandatory Apprenticeship Program pursuant to which all Mason Tenders on any job shall either be credited as Journeymen by the JATC, or designated and enrolled as Apprentices in the JATC-administered program, consistent with the rules and regulations of the JATC and New York State Department of Labor. The Employer hereby agrees to abide by all rules and regulations and amendments thereto, of the Union and the JATC concerning the implementation and maintenance of the Mandatory Apprenticeship Program and the employment of apprentices on job sites. In addition, the Association agrees, at the request of the Union, to appoint Employer representatives to participate in a Joint Committee to oversee and monitor the implementation of the Apprenticeship Program by Association members.

Section 3.--

The Employer and the Union agree there will be no discrimination against any employee or applicant for employment, with respect to race, creed, color, national origin, sex, age, handicap, marital status, sexual orientation, affectional preference, veteran status, concerted activity or union membership in all employment decisions, including but not limited to recruitment, hiring, compensation, training and apprenticeship, promotion, upgrading, demotion, downgrading, transfer, layoff and termination, and all other terms and conditions of employment except as provided by law.

ARTICLE IV

Section 1.--

The Employer shall exclusively employ Mason Tenders to perform the following work:

- a) The cleaning and sweeping of sidewalks or their maintenance, and the maintenance of safety equipment, barricades and flags, from the inception of the job to its completion.
- b) Jacking up of trailer offices or the erection and dismantling of shanties on the job site, and the opening and closing of windows on the job.
- c) Installation and maintenance of temporary heat other than electric heat in trailers, shanties, or temporary toilet facilities on the job site, and the heating of masonry materials for installation during the winter.
- d) Installation and maintenance of fire preventive equipment, including fire extinguishers on the job site.
- e) Assist the Project Engineers, if required, at the inception of the job to perform the marking of locations for the placement of temporary facilities and signs.
- f) Tending Masons or Bricklayers on construction jobs of every nature and description including bridges, tunnels and sewer jobs.
- g) Mixing and placing concrete in the foundations for masonry bearing walls and foundations for stone buildings, according to the International Union ruling of January 28, 1948, including placing steel forms, wooden forms, or any other forms for concrete foundations on such jobs.
- h) Wheel or carry materials in or about the job site and assist in the preparation of masonry materials to be used by mechanics, whether such preparation is by hand or by other process, or supply, convey, stock pile, clean, load or unload material which has not been awarded to other trades, whether by hand or any other mechanical device, including fork lifts when used to hoist equipment or materials to levels not in excess of nine feet.
- i) Clean or scrape mortar or plaster or spackle or debris of any kind or type from windows, door bucks, or window frames, and do rough cleaning, and clean floors of refuse and deposit it in chutes or in trucks, and remove debris resulting from the cleaning and removal of protection from the porcelain and china bath fixtures. The cleaning described in this subparagraph shall be assigned exclusively to Mason Tenders in those portions of a building until they have received a temporary certificate of occupancy or have been turned over to the Owner.
- j) Moving, placing, removing, installing, maintaining and stocking of temporary sheeting of floors or runways or scaffolds, and the application, maintenance and removal of all protective materials used to protect finished surfaces of elevators, door bucks, window frames, doors etc., during construction, (except the protective materials applied prior to delivery to the

job site) although the removal of debris resulting from the removal of protective materials applied prior to delivery to the job site is the work of the Mason Tender.

k) Erect or remove scaffolds and runways for the use of Bricklayers, Masons or Mason Tenders and erect or remove planking on the scaffolds.

l) Hanging centers for the use of Bricklayers, where hollow tile or brick arches are used, and pour rough concrete on Republic or Kahn Arches.

m) Work hand pumps for all work covered by this Agreement when the Employer elects to do the pumping by hand.

n) Operate mortar or concrete mixers other than those driven by steam or compressed air, for work covered by this Agreement.

o) Alteration work, including but not limited to the removal of partitions, ceilings, walls, all floors, floor coverings, fixtures and ducts, any of which are not to be re-used, and the removal of walls which have been erected by Bricklayers or Plasterers.

p) Cleaning and removal of all combinations of masonry rubbish in remodeling or alteration work.

q) Cutting or opening walls of any thickness.

r) When Mason Tenders pour concrete, Mason Tenders shall strip all forms and cut concrete, whether performed by hand or machine.

s) Loading or unloading materials for Bricklayers and materials for Mason Tenders to and from trucks at the job site, except that the driver may assist such loading and unloading.

t) Tearing down work, demolishing and removing all debris on all alteration or remodeling projects.

u) Tending and maintaining temporary heat devices of every description, except where the tending and maintenance of such devices have traditionally been performed by Plumbers, Engineers, Electricians, Concrete Laborers, Sheet Metal Workers, or Steamfitters. The work shall include the unloading, stockpiling, distribution, tending and relocation of the devices as directed by the Employer and shall be given the broadest possible interpretation to ensure the maximum amount of work involved with and incidental to temporary heat devices is assigned to Mason Tenders.

v) Mason Tenders shall be employed as bell ringers on four pole material hoists. There shall be at least two Mason Tenders so assigned. One shall be stationed at the platform to assist in the safe operation of the hoist. The Employer may assign the Mason Tender on the platform to assist in the operation of a second four pole material hoist, provided such assignment is consistent with the safe operation of the second hoist. Other Mason Tenders shall be assigned to floors where material is being loaded or unloaded. There shall be a Mason Tender assigned to work on the floor for each hoist in operation. Mason Tenders shall assist in loading or unloading all material onto and from the hoist and shall be in sole charge of signaling

the engineer for hoisting such materials, when necessary, whether by bell, radio or other methods and shall be in absolute control of the signaling rope for raising or lowering the hoist from floor to floor.

w) Mason Tenders shall also continue to do all the work which they have performed in the past.

x) Tending and assisting the erection, construction or installation of prefabricated masonry panels.

y) All cleaning and removal of debris, rubbish and refuse of any type and kind for all trades on all jobs, except the trades that have traditionally piled their debris may continue to pile their debris for eventual removal by Mason Tenders.

z) Unloading, handling and assisting in the setting of precast sills and coping where mechanical equipment is not used.

aa) Mason Tenders shall continue to have exclusive jurisdiction regarding the servicing of Bricklayers.

bb) Opening and closing of a construction site for the purpose of providing access to the job site or work areas for deliveries of material, equipment and machinery. When a Mason Tender is otherwise employed on the job site and is called in to perform his or her normal duties covered by this Agreement this work shall include, but not be limited to the opening and closing of all fences, gates, chains, temporary doors, barricades, barriers or other devices used to control general access, but shall not include the opening and closing of gates or doors reserved exclusively for personnel and controlled by supervisory personnel.

Section 2.--

The Employer shall exclusively employ Mason Tenders to perform the following work:

The removal, abatement, encapsulation or decontamination of asbestos, lead and other toxic and hazardous waste or materials which shall include but not necessarily be limited to: the erection, building, moving, servicing and dismantling of all enclosures, scaffolding, barricades, decontamination units, negative air machines, walls, ceilings, floors, etc.; the operation and servicing of all tools and equipment normally used in the removal or abatement of such waste or materials; the labeling, bagging, cartoning, crating, packaging and movement of such waste or materials for disposal; the clean up of the work site and all other work incidental to the removal, abatement, encapsulation or decontamination of such waste or materials.

Section 3.--

The Employer shall exclusively employ Mason Tenders to perform the following work:

Complete demolition, including the dismantling, remodeling or alterations of entire buildings or structures, in whole or in part, of any size, type, or purpose, or the complete demolition of any portion of all buildings or structures. This work shall include, but not be limited to, the following:

a) all manual work involving the tearing down, breaking away, disposal of, and/or removal from, the building or structure of any and all building materials, whether debris or salvaged materials, used in the construction of all buildings or structures (concrete, terra cotta, brick, mortar, plaster, structural and ornamental lumber, roofing materials of any type, natural or manufactured stone, ornamental iron, lath, reinforcing rods, floors and flooring materials), and structural components (wood, steel or beams of any material);

b) the complete removal of one or more stories from a building or structure when the building or structure is to be shortened in height, except where the Employer assigns precision cutting and power rigging to the Ironworkers; the gutting of the interior of a building or structure by the removal of a partition and/or flooring; the demolition of any wall or walls of any building or structure, regardless of whether and/or where the walls are to be rebuilt, the removal of partitions and arches, or parts thereof, from one or more floors in any building, or structure, which is being renovated or remodeled; the removal of brick or concrete walls or walls to be rebuilt in their original position; and the removal of concrete walls which are to be rebuilt in a different position for the purpose of shortening the length or width of a building when said brick or concrete walls are to be rebuilt;

c) the breaking away, cleaning and removal of all masonry and wood or metal fixtures for salvage or scrap; all loading and unloading of materials carried away from the sight of wrecking; all cleaning, storing, stockpiling or handling of materials; all tearing down of work, removal of all debris, clean-up, burning, back-filling and landscaping of the site of the wrecked structure;

d) the use of any and all tools and/or equipment necessary to perform this work including, without limitation, shovels, picks, bars, hammers, sledge hammers, chisels, electrically powered, battery powered and pneumatically powered hand tools (jack hammers, all saws and cutting tools, including reciprocating and skill saws, chipping guns, drills, spaders, etc.);

e) the use of all manually operated equipment used to raise, lower, or hoist any and all equipment, tools or materials used to perform this work or to remove any and all debris or salvaged materials; all cutting of any metal material, salvage or debris on the job site, whether by manual, mechanical, or the use of acetylene and oxygen burning equipment;

f) any and all hazard protection work used to protect Mason Tender employees, equipment, tools and materials and other employees on the job site, and/or the public from any damage or injury, or threat thereof, resulting from the performance of any of the work in this paragraph;

g) all work involving the providing of temporary heat of any kind for any purpose for the continuance of Mason Tenders to work on the job on demolition work;

h) all foul weather protection to permit the continuance of work for Mason Tenders or other employees on the job site, to include the removal of ice and snow, when necessary on the job;

i) the cleaning and maintaining of all sidewalks, bridges, and public access areas; and

j) all work involving the erection, maintaining, and dismantling of all scaffolding, including the unloading and removal of all scaffolding material on and off the job.

Section 4.--

Mason Tenders shall also continue to perform all other work traditionally performed for Employers by members of former LIUNA Locals 30 and 95.

Section 5.--

If any other work is awarded or assigned to the Union by agreement, award or act of the Laborers International Union of North America or the AFL-CIO, the Association and the Union will meet to negotiate over including such work within the jurisdiction of this Agreement.

Section 6.--

If any other labor organization affiliated with the New York City Building Trades Council claims jurisdiction over any work required by this Agreement to be performed by Mason Tenders, the parties agree to follow and be bound by the New York Plan for the Settlement of Jurisdictional Disputes. Pending the resolution of the dispute, the Employer shall assign Mason Tenders to perform the work in question, even if any contractor subcontractor refuses to comply with its obligations.

ARTICLE V

Section 1.--

a) The provision of temporary heat on masonry work shall, at the option of the Employer, commence work one hour before the commencement of the regular shift and shall not perform any work other than work related to the provision of temporary heat, for so long as temporary heat is provided. The Employer may change the start time on a job, provided such new start time shall remain in effect for at least five days. There shall be no staggered shifts.

b) With written notification to the Union, the Employer shall have the option to increase the length of the regular work day from seven hours in a twenty-four hour period to eight hours in a twenty-four hour period, not to exceed forty hours a week. If the Employer exercises the option to increase the regular work day to eight hours such increase must remain in effect for a minimum of five days.

c) Mason Tenders tending a hoist may be scheduled to start ten minutes before the regular hour. The same consideration shall be allowed to these Mason Tenders at quitting time. Five minutes shall be allowed to Mason Tenders before 1:00 P.M. for tempering of mortar left in the tubs during the noon hour.

d) When conditions beyond the control of the Employer, such as severe weather, widespread power failure, fire, natural disaster, etc., prevent the operation of the job on one or more work days during the regular work week, the Employer may schedule the Saturday of that calendar week during which work was prevented, as a make-up day at straight time to the extent that the total hours worked by an individual Mason Tender during the week of work do not exceed forty hours. All hours worked in excess of seven or an agreed upon eighth hour or in excess of forty hours for the week shall be paid at the rate of time and a half. When a holiday falls on a Saturday, then the make-up day rate shall be time and a half. In order to utilize a day "terminated" for one of the reasons listed above, no later than 10:00 A.M. of the day that work

"terminated" the Employer must notify the Union that the work day has been "terminated", and the Employer must further notify the Union of its desire to work a make-up day by noon of the Friday preceding the make-up day. Mason Tenders employed by the Employer on the day so "terminated" shall have the right to work on the make-up Saturday, but those Mason Tenders shall also have the right to decline work on a make-up Saturday. The number of employees working on a make-up Saturday shall not exceed the number of employees working on the day that work "terminated". If Mason Tenders are needed to work a make-up Saturday, other than those already working on the job, the Employer shall call the Union for Mason Tenders. A make-up Saturday shall be a guaranteed seven hour day or, at the option of the Employer, an eight hour day. In the event work is terminated for one of the reasons listed above on the make-up Saturday, the employee shall be paid for a seven hour day or, an eight hour day.

e) When it is not possible to conduct alteration work during regular working hours in a building occupied by tenants, the work shall proceed on a straight time basis; however, when an individual Mason Tender works over eight hours in any twenty-four hour period, the time after eight hours shall be considered overtime. In the event of the existence of any such condition, proper notice shall be given to the Union of the facts and circumstances requiring the performance of the work outside of regular working hours.

Section 2.-

The Employer may schedule additional shifts of Mason Tenders to commence work after the regular hours of employment with written notification to the Union. Mason Tenders working additional shifts shall receive eight hours pay for seven hours work at the straight time wage rate. All hours worked in excess of seven hours shall be paid at the rate of time and one half. All fringe benefit contributions shall be paid on the first eight hours paid; fringe benefit contributions shall thereafter be paid on the basis of hours worked. An Employer shall not work a second shift unless there is a first shift of normal size and shall not work a third shift unless there are first and second shifts of normal size. The second shift shall not commence before the first shift is concluded and the third shift shall not commence before the second shift is concluded. A Shop Steward shall be appointed for all shifts pursuant to Article VIII, Section 1.

Section 3.-

The following days shall be known as Holidays on which there shall be no performance of any work: Sundays, New Year's Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day. At the option of the Employer, these Holidays may be changed to the following Holidays, on which there shall be no performance of any work: Sundays, New Year's Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, the Day after Thanksgiving and Christmas Day, regardless of the day on which the holiday is actually observed.

Section 4.-

No work shall be performed on Sundays or Holidays unless notification is provided to the Union.

Section 5.-

The period for lunch shall, as nearly as possible, be uniform with that established with the other trades.

ARTICLE VI

Section 1.-

Effective July 1, 2008, the wages of Mason Tenders shall be \$31.75 per hour during regular working hours.

Subject to the Union's right of allocation/reallocation as hereinafter provided in this section, and effective January 1, 2009, wages and/or fringe benefit contributions shall be increased by \$1.20 per hour.

Subject to the Union's right of allocation/reallocation as hereinafter provided in this section, and effective July 1, 2009, wages and/or fringe benefit contributions shall be increased by \$1.20 per hour.

Subject to the Union's right of allocation/reallocation as hereinafter provided in this section, and effective January 1, 2010, wages and/or fringe benefit contributions shall be increased by \$1.20 per hour.

Subject to the Union's right of allocation/reallocation as hereinafter provided in this section, and effective July 1, 2010, wages and/or fringe benefit contributions shall be increased by \$1.25 per hour.

Subject to the Union's right of allocation/reallocation as hereinafter provided in this section, and effective January 1, 2011, wages and/or fringe benefit contributions shall be increased by \$1.25 per hour.

The Union, in its sole and absolute discretion, reserves the right to allocate/reallocate any portion of the foregoing increases to any of the fringe benefit funds.

The rate for Foremen and for Assistant Foremen (Deputies) shall be \$35.00 per day and \$25.00 per day, respectively, above the prescribed rate for Mason Tenders.

Section 2.--

Except as specified in Article IV, Section 1(x) and Article V, Section 1(d), all work performed outside of the regular work day (seven or eight hours at the Employer's option) and on Saturdays shall be paid for at the rate of time and one-half. All work performed during Sundays, lunch hours and on the legal holidays set forth in Article V, Section 3 shall be paid for at the rate of double time.

Section 3.--

Each Employer shall deduct \$1.67 per hour or such other amount as the Union may from time to time designate in writing to the Employer as dues from the wages of all Mason Tenders who authorize such deduction in writing and then promptly pay over such sums to the Union not later than the tenth day of the month after said deduction, which sum constitutes part of each employees' Union Dues, and shall remit the same to the Union. The employee assignments authorizing the aforementioned Union Dues shall be in blanket form and filed with the Union. The Union shall indemnify and hold harmless the Employer from any and all claims and/or actions arising out of such deduction providing that the dues shall have been paid over to the Union.

Section 4.--

Effective for the period July 1, 2008 to December 31, 2011, and subject to the Union's right to allocate/reallocate future increases as provided in Section 1 of this Article, the Employer shall pay monthly to the Trustees of the Mason Tenders District Council Welfare Fund \$7.88 per hour for all hours worked by Mason Tenders, Mason Tender Foremen and Mason Tender Assistant Foremen, for the purpose of providing benefits for death, accident, health, medical and surgical care, hospitalization and other such forms of group benefits for Mason Tenders, their spouses, and their eligible children, as the Trustees may, in their sole and absolute discretion, determine and, in addition, out of said monies the Trustees of the Welfare Fund shall provide coverage to conform with the New York State Disability Insurance Law for all Mason Tenders for the period of this Trade Agreement, the cost of which shall be borne by such Welfare Fund. No contributions shall be required on the premium portion of wages.

Welfare coverage shall also be provided for all eligible employees of the Mason Tenders' District Council, its constituent Local Unions and the Mason Tenders' District Council Fringe Benefit Funds provided contributions are made to the Fund on their behalves in the same amounts as are paid by other Employers.

Section 5.--

Effective for the period July 1, 2008 to December 31, 2008 and subject to the Union's right to allocate/reallocate future increases as provided in Section 1 of this Article, the Employer shall pay monthly to the Trustees of the Mason Tenders' District Council Pension Fund \$5.60 per hour for all hours worked by Mason Tenders, Mason Tender Foreman and Mason Tender Assistant Foremen. Contributions to the Pension Fund shall be utilized for the purpose of providing Pension and other Benefits for the eligible Mason Tenders as the Trustees may, in their sole and absolute discretion, determine. No contributions shall be required on the premium portion of wages.

Pension coverage shall also be provided for all eligible employees of the Mason Tenders' District Council, its constituent Local Unions and the Mason Tenders' District Council Fringe Benefit Funds provided contributions are made to the Fund on their behalves in the same amounts as are paid by other Employers.

Section 6.--

Effective for the period July 1, 2008 to December 31, 2008, and subject to the Union's right to allocate/reallocate future increases as provided in Section 1 of this Article, the Employer shall pay monthly to the Trustees of the Mason Tenders' District Council Annuity Fund \$5.50 per hour for all hours worked by Mason Tenders, Mason Tender Foremen and Mason Tender Assistant Foremen. Contributions to the Annuity Fund shall be utilized for the purpose of providing annuity and other benefits to eligible Mason Tenders as the Trustee may, in their sole and absolute discretion, determine. No contributions shall be required on the premium portion of wages.

Annuity Fund coverage shall also be provided for all eligible employees of the Mason Tenders' District Council, its constituent Local Unions and the Mason Tenders' District Council Fringe Benefit Funds provided contributions are made to the Fund on their behalves in the same amounts as are paid by other Employers.

Section 7.--

Effective for the period July 1, 2008 to December 31, 2008, and subject to the Union's right to allocate/reallocate future increases as provided in Section 1 of this Article, the Employer shall pay monthly to the Trustees of the Mason Tenders Training Program Fund \$0.50 per hour for all hours worked by Mason Tenders, Mason Tender Foremen and Mason Tender Assistant Foremen. Contributions to the Training Program shall be used for the purpose of providing education and training in general construction skills, medical awareness courses, the handling of asbestos and hazardous waste and materials, New York City Fire Department Certificate of Fitness courses, and such other purposes as may be contained in the Fund Plan. No contributions shall be required on the premium portion of wages.

Section 8.--

Effective for the period July 1, 2008 to December 31, 2008, and subject to the Union's right to allocate/reallocate future increases as provided in Section 1 of this Article, the Employer shall pay monthly to the authorized agent of the New York State Laborers-Employers Cooperation and Education Trust Fund \$0.10 per hour for all hours worked by Mason Tenders, Mason Tender Foremen and Mason Tender Assistant Foremen. No contributions shall be required on the premium portion of wages.

Section 9 --

Effective for the period July 1, 2008 to December 31, 2008, and subject to the Union's right to allocate/reallocate future increases as provided in Section 1 of this Article, the Employer shall pay monthly to the authorized agent of the Greater New York Laborers-Employers Cooperation and Education Trust Fund (GNY LECET) \$0.24 per hour for all hours worked by Mason Tenders, Mason Tender Foremen and Mason Tender Assistant Foremen. No contributions shall be required on the premium portion of wages.

Section 10.--

Effective for the period July 1, 2008 to December 31, 2008, and subject to the Union's right to allocate/reallocate future increases as provided in Section 1 of this Article, the Employer shall pay monthly to the authorized agent of the New York State Health and Safety Trust Fund \$0.05 per hour for all hours worked by Mason Tenders, Mason Tender Foremen and Assistant Foremen. No contributions shall be required on the premium portion of wages.

Section 11.--

Effective July 1, 2008 and subject to the Union's right to allocate/reallocate future increases as provided in Section 1 of this Article, the Employer shall pay monthly to the authorized agent of the Vacation Account of the Mason Tenders District Council Welfare Fund (the "Vacation Account") \$0.50 per hour for all hours worked by Mason Tenders, Mason Tender Foremen and Mason Tender Assistant Foremen. No contributions shall be required on the premium portion of wages.

Section 12.--

The Employer agrees to deduct and transmit to the Mason Tenders District Council Political Action Committee (MTDC PAC) \$0.10, or such other amount as the Union may designate, for each hour worked from the wages of those employees who have voluntarily authorized such contributions on the forms provided for that purpose by the Union. These transmittals shall be accompanied by a list of the names of those employees for whom such deductions have been made, and the amount deducted for each such employee.

Section 13.--

All employers who are members of the Association and not members of any other Association that collectively bargains with the Union, shall contribute \$0.20 per hour for each hour of employment of Mason Tenders directly to the Cement League Industry Advancement Fund, and the Union shall have no obligation or responsibility for the collection of these contributions. It is understood that \$0.02 per hour of such contribution shall be forwarded by the Cement League Industry Advancement Fund to the Building Trades Employers Association

Section 14.--

a. All Fringe Benefit Funds provided for by the Agreement shall be jointly administered by appointees of the employers and the Mason Tenders District Council in accordance with applicable law.

Section 15.--

a) The Employer shall post and maintain a bond to ensure payment of contributions to the Fringe Benefit Funds set forth in this Article of the Agreement and remittance of dues checkoffs and MTDC PAC contributions to the Union. The minimum amount of the bond shall be determined by the number of hours of work performed by the Mason Tender employees of the employer in the prior year. The minimum amount of the bond shall be as follows:

<u>Number of Mason Tender Hours</u>	<u>Minimum Bond</u>
0 to 1,999 hours	\$ 6,000.00
2,000 to 4,999	\$15,000.00
5,000 to 9,999	\$30,000.00
10,000 to 19,999	\$40,000.00
20,000 or more	\$50,000.00

b) In the event a deficiency should be determined by an audit of the Employer's books and records, the Union in its sole and absolute discretion may require the Employer to post and maintain a bond in the amount of twice the audited deficiency within 60 days of receiving notice from the Union of the requirement to post and maintain such a bond.

c) In the event the Trustees receive payment on a bond under this Section 14 and said payment is insufficient to satisfy the entire deficiency in the payment of contributions to the Fringe Benefit Funds and in remittance of dues checkoffs and MTDC PAC contributions to the Union, then the Trustees shall make a pro rata payment to each of the Fringe Benefit Funds and to the Union in an amount equivalent to the percentage of the total deficiency received by the Trustees through forfeiture of the bond.

Section 16.--

a) The Employer shall make payment of all wages due in lawful currency, except those Employers making payment by check as per Section 16 of this Article. Payments shall be made in sealed envelopes and plainly marked, showing Employer's name and address (printed or stamped), Mason Tender's name, hours worked, amount earned and deductions required by law, and the net amount due.

b) Wages shall be due and payable during working hours on Thursday or Friday for work done up to the preceding Tuesday. The day selected as the first payday on any job shall be the designated pay date until the completion of the job. Should Thursday or Friday be a bank holiday, wages shall be due and payable not later than Thursday, for work done up to quitting time the preceding Monday. On jobs where the "Stagger System" is used the Employer shall give due notice to those Mason Tenders affected as to the time the paymaster will be at the job.

c) Where Mason Tenders are not on the job for any reason for which the Employer is not responsible when the Paymaster is paying the men, they may be sent to the main office for their pay but without any allowance for the time spent in going to and from the office; but where the men are not on the job because of any reason for which the Employer is responsible, they will be allowed one hour with pay in going to the office for their pay. Where Mason Tenders are not paid on the specified payday during working hours, they shall be paid in accordance with the provisions of d) of this section.

d) When a Mason Tender is discharged, the Mason Tender must be notified during working hours and must be paid at the job site no later than noon on the business day following the discharge, unless the making of such payment is rendered impossible by circumstances beyond the Employer's control. A violation of this rule entitles the Mason Tender to compensation at the rate provided in Section 1 of this Article for the working time that elapses between noon of the day after the date of discharge and the time the Mason Tender receives such payment or receiving his money, provided the claimant remains on the job or at the office during all working hours until he is paid. It is understood, however, that no waiting time claim in excess of fourteen hours will be considered, nor shall a claimant remain on the job for a longer time. Such payment shall not exceed 21 hours pay but shall include, in addition, the sum of \$100.00 per day for each and every day from date of discharge until payment is received by the Mason Tender, including the date of such receipt. Employees must be given termination notice of the State of New York Department of Labor, Division of Placement and Unemployment Insurance, when discharged. If this notice cannot be given to the employee on the job at the time of discharge, the Employer may mail the notice to the employee on the next full business day and this shall be deemed substantial compliance.

e) All Mason Tenders discharged between the hours of 8 A.M. and 12 o'clock noon shall be paid until 12 o'clock noon on the date of discharge. All Mason Tenders discharged between the hours of 1 P.M. and 4 P.M. shall be paid until 4 P.M. This does not apply to a layoff and does not apply to a Mason Tender who is discharged on the day on which he is first employed. Nor does it apply to Mason Tenders not on the job at starting time.

f) Should work be stopped for any cause beyond the control of either party to this Trade Agreement, no claim for lapsed time shall be made for the time of the unavoidable cessation of work. If the Mason Tenders demand their wages for the working time due, these wages shall be paid within four banking hours after the demand is made upon the Employer.

g) The Union may withdraw Mason Tenders from any job to enforce payment of wages or of contributions to the Trust Funds set forth in this Article of the Agreement. The Union may also withdraw Mason Tenders to enforce the requirement of the Agreement that Union dues be deducted from the wages of Mason Tenders or to enforce payment to the Union of Union dues already deducted from the Wages of Mason Tenders.

h) If Mason Tenders employed by the Employer are withdrawn from any job to enforce payment of wages or of contributions to the Trust Funds set forth in this Article of the Agreement, or to enforce the requirement of the Agreement that union dues be deducted from the wages of Mason Tenders or to enforce payment to the Union of Union dues already deducted, the Mason Tenders who are affected by such stoppage of work shall be paid for lost time provided that two days' notice of the intention to remove Mason Tenders from a job is given to the Employer by the Union by registered or certified mail.

i) The Employer agrees to and shall be bound by all terms and conditions of the Trust Agreement creating the Trust Funds set forth in this Article of the Agreement and by any rules, regulations or By-Laws adopted by the Trustees of the Funds to regulate said Funds, except to the extent any Funds' document contradicts the terms of this Agreement.

j) Payments by Employers to Trustees of the Trust Funds set forth in this Article of the Agreement shall be accompanied by reports furnished by the Trustees of the respective Funds, in such form and containing such data as the Trustees may from time to time determine in their discretion to be necessary.

Section 17.—

Notwithstanding anything herein contained, the Employer shall have the right to make weekly payments of wages by check provided:

- a) All legal requirements are complied with;
- b) Delivery of checks to Mason Tenders shall be at least one day preceding a banking day;
- c) Checks must indicate hours worked and rate of pay in accordance with the provisions of this Agreement;
- d) The check and the check stub shall bear the imprint and address of the signatory Employer;
- e) Checks must reflect the amounts deducted for dues check-off and MTDC PAC contributions in accordance with the provisions of this Agreement.

In the event that a salary check is returned by the bank on which drawn for any reason whatsoever, then the Mason Tender affected thereby shall be entitled to two days' extra pay for waiting time.

Section 18.--

a) The books and records of the Employer shall be made available at all reasonable times for inspection and audit by the accountants or other representatives of the Trust Funds set forth in this Article of the Agreement, including, without limitation, all payroll sheets, W-2 forms, New York State Employment Reports, Insurance Company Reports and supporting checks, ledgers, general ledger, cash disbursement ledger, vouchers, 1099 forms, evidence of unemployment insurance contributions, payroll tax deductions, disability insurance premiums, certification of workers compensation coverage, and any other items concerning payroll(s). In addition, the aforementioned books and records of any affiliate, subsidiary, alter ego, joint venture, successor or related company of the Employer shall also be made available at all reasonable times for inspection and audit by the accountants of the Trust Funds set forth in this Article of the Agreement. The Employer shall retain, for a minimum period of six years, payroll

and related records necessary for the conduct of a proper audit in order that a duly designated representative of the Trustees may make periodic review to confirm that contributions owed pursuant to this Agreement are paid in full.

b) In the event, after the Trustees have made a reasonable request, the Employer fails to produce its books and records necessary for a proper audit, the Trustees, in their sole discretion, may determine that the Employer's monthly hours subject to contributions for each month of the requested audit period are the highest number of employee hours for any month during the twelve months' audited, or during the last twelve months for which reports were filed, whichever monthly number of hours is greater. Such determination by the Trustees shall constitute presumptive evidence of delinquency. Prior to making such determination, the Trustees shall mail a final seven day written notice to the Employer advising him that such determination shall be made if the Employer does not schedule a prompt audit. Nothing herein shall mean that the Funds relinquish their right to commence legal proceedings to compel an examination of the Employer's books and records for audit.

c) If after an audit of its books and records the Employer is found to be substantially delinquent, as defined herein, in the payment of fringe benefit contributions to the Trust Funds set forth in this Article of the Agreement, the Employer shall bear the imputed cost of the audit as set forth below:

$$\frac{\text{total audited deficiency}}{150} \times \text{number of months audited} = \text{imputed cost of audit}$$

Substantially delinquent is defined as any deficiency in the payment of fringe benefit contributions to the Trust Funds set forth in this Article of the Agreement in excess of 10% of the fringe benefit contributions paid to the Trust Funds set forth in this Article of the Agreement during the period that is the subject of the audit. In the event the Trust Funds set forth in this Article of the Agreement bring an action to recover the imputed costs of audit, the Employer shall be obligated to pay the reasonable costs and attorneys' fees incurred in bringing said action.

d) In the event the Employer fails to produce the books and records necessary for an audit as set forth in subsection 17(a) of this Article of the Agreement, the Employer agrees to pay a penalty of \$400.00. In the event the Trust Funds set forth in this Article of the Agreement bring an action to obtain an audit of the Employer's books and records, the Employer shall be obligated to pay the reasonable costs and attorneys' fees incurred in bringing said action.

e) If after an audit of its books and records the Employer is found to be delinquent in the payment of fringe benefit contributions to the Trust Funds set forth in this Article of the Agreement then the Employer shall pay, in addition to the delinquent fringe benefit contributions, interest on the unpaid amounts from the date due until the date of payment at the rate prescribed under section 6621 of Title 26 of the United States Code. In the event the Trust Funds set forth in this Article of the Agreement bring an action to recover the interest on delinquent fringe benefit contributions, the Employer shall be obligated to pay the reasonable costs and attorneys' fees incurred in bringing said action.

f) In the event that formal proceedings are instituted before a court of competent jurisdiction by the Trustees of the Trust Funds set forth in this Article of the Agreement to collect

delinquent contributions to such Fund, and if such court renders a judgment in favor of such Fund, the Employer shall pay to such Fund, in accordance with the judgment of the court, and in lieu of any other liquidated damages, costs, attorney's fees and/or interest, the following:

- (A) the unpaid contributions.
- (B) interest on unpaid contributions determined by using the rate prescribed under section 6621 of Title 26 of the United States Code.
- (C) interest on the unpaid contributions as and for liquidated damages.
- (D) reasonable attorneys' fees and costs of the action.
- (E) such other legal or equitable relief as the court deems appropriate.

g) The Employer hereby agrees that in the event any payment to the Union or to the Trust Funds set forth in this Article of the Agreement by check or other negotiable instrument results in the check or negotiable instrument being returned without payment after being duly presented, the Employer shall be liable for additional damages in the amount of \$250.00 to cover such additional costs, charge and expenses. Nothing herein is intended, nor shall be interpreted, to mean that the Trust Funds set forth in this Article of the Agreement or Union waive any other liquidated damages.

Section 19.--

When a Mason Tender is sent to work by the Employer to a job outside the region where the fare to and from the job by the customary means of travel exceeds \$3.00 per day, the Employer shall pay the excess as an addition to the contract wage.

Section 20.--

If the Employer requests Mason Tenders to report on any day and such Mason Tenders report for work on that day on starting time, but are not put to work, such Mason Tenders shall be entitled to two hours' pay. However, this payment shall not be made if it is impossible to put such Mason Tenders to work because of weather, lack of materials, or other job conditions beyond the Employer's control.

ARTICLE VII

Section 1.-

The Employer shall provide for the exclusive use of the Mason Tenders on each job on which they are doing work, a suitable tool house three square feet minimum per employee in size, properly secured, heated and lit. The Employer who complies with the requirements of this Section is only responsible, upon submission of proper proof of loss, for loss of clothing due to the burning or forcible entry of the tool house. Such liability shall be limited to a sum not to exceed per man:

- \$200.00 for an overcoat;
- \$150.00 for clothing, including overalls; and
- \$100.00 for shoes.

Where the Employer requires Mason Tenders to wear clothing on the job site identifying the Employer, such clothing shall also identify the Union by appropriate insignias or other suitable markings.

Section 2.-

If Mason Tenders are required to work in inclement weather, foul weather clothing, to include boots, raincoats, and rain hats, shall be furnished without charge to all Mason Tenders.

Section 3.-

The Employer shall supply all tools on the job required by performing the work covered by this Agreement. It is agreed that the size of square point shovels shall be Size No. 2 when obtainable but in any case the weight of the shovel shall not exceed five and one-half (5 ½) pounds.

Section 4.-

Neither the Association, Employers, Mason Tenders nor the agents of any of them shall accept or give directly or indirectly, any rebate on wages, or give or accept gratuities, or give anything of value or extend any favor to any person for the purpose of effecting any change in rate of wages. The Employers or their representatives shall not be permitted to give any advance in wages to Mason Tenders, nor shall they be permitted to lend money to Mason Tenders.

Section 5.--

a) In buildings thirteen stories in height or over, an elevator shall be provided to carry Mason Tenders to and from their work during regular hours of employment after the brickwork has reached the twelfth floor. Consideration shall be given to Mason Tenders working on higher stories if elevator service is not maintained, and a reasonable time shall be allowed to and from work.

b) In order to establish a maximum weight of material and the barrow to be handled by one laborer, it is agreed that the maximum number of bricks to be placed in or upon a wheelbarrow shall be sixty. In the case of other materials or building units, it is agreed that the combined weights of the materials and the barrow shall not exceed three hundred pounds. In arriving at weights of various materials, it is agreed that a brick weighs from 4 to 4-1/2 pounds; 1 bag of Portland cement, 94 pounds; 1 bag of hydrated lime, 50 pounds. The weight of hollow tile and other building units shall be the same as set forth by the manufacturers of these products. Where the weight of palletized materials is 1500 pounds or more it shall be handled by a minimum of two Mason Tenders when moved by jacks. The height of palletized materials shall not exceed 5 feet, 6 inches in height.

c) Any 12 inch cement block raised over 5 feet shall be handled by two Mason Tenders.

Section 6.--

No provision of this Agreement shall supersede any Municipal, State or Federal law which imposes more stringent requirements as to wages, hours of work, or as to safety, sanitary or general working conditions than are imposed by this Agreement.

ARTICLE VIII

Section 1.--

a) Where Mason Tenders are employed on a job, the Local Union shall designate a Shop Steward who shall be the second Mason Tender on the job. The Shop Steward shall monitor the Employer's compliance with the terms and conditions of this Agreement. In the event the Shop Steward becomes aware of non-compliance with this Agreement by the Employer, the Shop Steward shall so inform the Local Union that appointed the Shop Steward. The Shop Steward shall retain possession of the key to the tool house and see to it that it is open in ample time at starting time and securely locked at quitting time. The Shop Steward shall perform these duties as shop steward with the least possible inconvenience to the Employer. The Shop Steward is to work as a Mason Tender and not use the position as Shop Steward to avoid performance of the Shop Steward's duties as a Mason Tender. On overtime work the Shop Steward shall always be the second Mason Tender offered employment for overtime work. If the Shop Steward is rejected or discharged, the rejection or discharge shall be grieved commencing with Step 2 of the grievance procedure set forth in Article X of this Agreement, and if any time has been lost, the Shop Steward shall be paid for all lost time up to thirty days only. The Shop Steward is to work up to the completion of the job and shall be the second-to-last Mason Tender to be discharged. Where more than one Employer does Mason Tender work on a job site, each Employer shall employ Mason Tenders exclusively to perform the work and each Employer shall employ Mason Tenders Shop Stewards. The Union shall have the right to remove and replace any Shop Steward.

b) The term "Shop Steward" as used in this Agreement shall mean those Mason Tenders who have been trained and hold a current certification by the Union to serve as shop stewards.

Section 2.--

The Business Agent, Business Manager or other designated representative of the Union shall have the right to visit and go upon the Employer's jobs during working hours and said person shall not be interfered with while making such visits.

Section 3.--

The Employer may select individuals to serve as a Mason Tender Foreman and Mason Tender Assistant Foremen. The Employer shall select whomever the Employer chooses for the positions of Mason Tender Foreman and Mason Tender Assistant Foremen without regard to the provisions of Article III, Section 2 of this Agreement. The Mason Tenders Foreman may be the first Mason Tender hired by the Employer. A Mason Tender foreman shall be required on all jobs where eight or more Mason Tenders are employed per shift. Such foreman shall be representative of the Employer and shall be in direct charge of the Mason Tenders on the job, but shall not perform the work of a Mason Tender. All Mason Tender Foremen shall be paid a weekly salary which shall not be less than \$35.00 per day above the prescribed rate for Mason Tenders in this Agreement. Mason Tender Assistant Foremen shall be paid a weekly salary which shall not be less than \$25.00 per day above the prescribed rate for Mason Tenders in this Agreement. The Mason Tenders Foreman shall take his orders from the Employer's supervisor on the job.

ARTICLE IX

The Employer guarantees that there will be no lockouts for any reason during the term of this Agreement and the Union guarantees that there will be no strikes during the term of this Agreement except:

a) Where the Employer, at any job site, contracts or subcontracts work covered by this Agreement to any other person, firm, partnership, corporation or joint venture that is not bound by an Agreement with the Union.

b) When the Union concludes that the Mason Tenders on any job have not been paid, are being paid less than the rate of wages prescribed in this Agreement, or the Employer is in arrears on fringe benefit contributions payable to the Trust Funds set forth in Article VI of the Agreement or in the remittance of dues checkoffs or MTDC PAC contributions to the Union as prescribed in this Agreement or in any modification of this Agreement, as hereinafter provided, provided that forty eight hours' written notice is delivered to the Association and the Employer at the last provided address for such entities.

c) It shall not be a violation of this Agreement or cause for discharge or disciplinary action for an employee to refuse to enter upon any job site involved in a primary labor dispute, or refuse to cross or work behind a lawful primary picket line established by any union.

ARTICLE X

Section 1.--

Except as herein otherwise provided in Article IX of this Agreement and except claims, disputes and demands arising out of the Employer's wages or fringe benefit contribution obligations set forth in Article VI of this Agreement or disputes concerning the termination, extension or modification of this Agreement as set forth in Article XII of this Agreement, all complaints, disputes or grievances arising between the parties hereto involving questions of interpretation or application of any clause of this Agreement, or any acts, conduct or relations between the parties or their respective members or employees, directly or indirectly shall be resolved in accordance with the procedure set forth in the balance of this Article.

Section 2.--

The steps listed below shall be followed in sequential order:

Step 1: In all grievances involving questions of interpretation or application of any clause of this Agreement, the Union Business Manager or his designee shall endeavor to meet with the Employer or his designee within 48 hours after receiving notice of the grievance, and shall use all good faith efforts to resolve the grievance within 48 hours after meeting. If the grievance cannot be resolved at such meeting, it shall be submitted to Step 2 of the grievance procedure within 48 hours after the meeting described herein.

Step 2: Upon receipt of notification that the grievance cannot be settled in the manner prescribed in Step 1, the complaint, dispute or grievance shall be submitted in writing by the party hereto claiming to be aggrieved to the other party hereto and the Joint Arbitration

Board which will consist of three representatives designated by the Union and three representatives designated by the Association. The Joint Arbitration Board shall in the first instance investigate such complaints, grievances or disputes and attempt adjustment. Decisions determining such complaints, disputes and grievances shall be arrived at within fifteen calendar days after the submission in writing in the manner above referred to of such complaint, dispute or grievance, unless such time is extended in writing by the Joint Arbitration Board. Each party will be permitted a single extension of time by the joint arbitration board of no more than seven (7) calendar days, for good cause shown. Should an Employer fail to appear at a duly scheduled joint arbitration board hearing, or to participate in any manner in the processing and determination of a grievance in this Step, the Board shall deem the grievance to be granted in all respects. Decisions rendered by a majority of the Joint Arbitration Board shall be binding on the parties hereto.

Step 3: If a complaint, dispute or grievance shall not have been settled through the foregoing procedure, then either party may within fifteen calendar days give the other party notice of its desire to submit the complaint, dispute or grievance to Arbitration. The parties hereby select a panel of two (2) arbitrators, Richard Adelman and Robert Light, to hear all complaints, dispute on grievances arising under this Agreement which the parties have been unable to resolve in Steps 1 or 2. The arbitrators will be chosen in recurring order to hear such dispute and shall make dates available promptly to conduct such hearings. The Arbitrator will follow and be bound by the rules of procedure adopted by the American Arbitration Association.

The Arbitrator shall fix a time and a place in New York, New York for a hearing upon reasonable notice to each party. After such hearing the Arbitrator shall promptly render a decision which shall be binding upon both parties but the Arbitrator shall have no power to render a decision which adds to, subtracts from or modifies this Agreement; the decision shall be confined to the meaning of the contract provision which gave rise to the dispute. The Arbitrator cannot order pay for time not worked except in cases of unwarranted suspensions or discharge.

The parties to the Arbitration shall bear equally the expenses of the Arbitrator and the rental, if any, of the place of arbitration. All other expenses attendant to arbitration will be borne by the party incurring them, including the expenses of any witnesses called by such party.

ARTICLE XI

WORKPLACE ISSUES

The Union and the Association agree that a safe and healthy workplace is of the utmost importance. The parties hereby agree to establish a Joint Advisory Committee (the "Committee") to study and make recommendations on issues affecting the workplace. Such issues shall include but not be limited to all safety and health issues as well as any other areas addressed by federal, state and local laws concerning the establishment and maintenance of a safe and healthy workplace.

The Committee shall examine any issue related to safety, health or workplace conditions its members deem appropriate.

The Committee shall establish such guidelines and procedures as it deems necessary for its operation.

A budget for the operation of the Committee shall be established by the parties as required.

All recommendations promulgated by the Committee shall be reviewed and acted upon jointly by the Union and the Association.

The Committee will have only advisory powers and will not have the authority to amend the collective bargaining agreement between the parties unless both parties agree to do so.

ARTICLE XII

Section 1.--

It is further agreed by and between the parties hereto that if any Federal or State court shall at any time decide that any clause or clauses of this Agreement is or are void or illegal, such decisions shall not invalidate the other portions of this Agreement, but such clause or clauses shall be stricken out and the remaining portion of this Agreement shall be considered binding between the parties hereto.

Any provisions of this Agreement hereinabove mentioned which provide for Union security or employment in a manner and to the extent prohibited by any law or the determination of any Governmental Board or Agency, shall be and hereby are of no force or effect during the term of any such prohibition. It is understood and agreed, however, that if any of the provisions of this Agreement which are hereby declared to be of no force or effect because of restrictions imposed by law is or are determined either by Act of Congress or other legislative enactment or by a decision of the Court of highest recourse to be legal or permissible, then any such provision of this Agreement shall immediately become and remain effective during the remainder of the term of this Agreement. The Union reserves the right to renegotiate any of the provisions of this Agreement which may be of no force or effect.

Section 2.--

The Association agrees that within forty-eight (48) hours after the execution of this Agreement, it will submit to the Union a schedule setting forth in full each member of the Association, giving the name and address. When the member of the Association is doing business under a trade name, the name of the principal shall also be given. The Association further agrees that it will immediately notify the Union in writing of any change in its membership, setting forth the names and addresses of any new members of the Association, and setting forth the names and addresses of those members which may have dropped out or been suspended from the Association.

The Employer whether as a partner, controlling officer, controlling director, controlling stockholder or controlling employee agrees to remain bound by the terms and conditions of this Agreement although doing business under another trade name, or as a partner or controlling officer, controlling director, controlling stockholder or controlling employee of another corporation or as a joint venturer.

Section 3.--

If the Employer covered by this Agreement, or any of its owners or principals that have a controlling interest in the Employer, forms or acquires by purchase, merger or otherwise, a controlling interest, whether by ownership, stock, equitable or managerial, in a firm, partnership,

corporation or joint venture employing Mason Tenders to perform bargaining unit work as defined in Article IV of this Agreement, said firm, partnership, corporation or joint venture shall be bound by and considered signatory to this Agreement and the Employer shall assume the obligation of such firm, partnership, corporation or joint venture under this Agreement and such firm, partnership, corporation or joint venture shall assume the obligations of the Employer under this Agreement.

Section 4.--

The Association and the Union agree that their efforts will be employed in the public interest to increase production and reduce costs by maintaining maximum output, and to use all machinery, tools, appliances, or methods which may be practical.

Section 5.--

The Union shall have the option to terminate this Agreement with the The Cement League should the Association merge, join, consolidate or combine with any other employer, group, organization or association.

Section 6.--

If the Union enters into any Agreement with an independent employer ("Independent Employer") performing work set forth in Article IV which provides more favorable terms or conditions of employment to such independent employer when performing work set forth in Article IV than are provided for in this Agreement, any Employer may secure these more favorable terms and conditions of employment for employees it employs performing work specifically of the kind performed by the Independent Employer by notifying the Union in writing that it will implement the more favorable terms on a certain date and by identifying the particular project or projects where it will implement the more favorable terms and conditions; provided, however, the Union may require, by written notice to the Employer, that some or all of other terms and conditions of employment in its agreement with the Independent Employer that are related to the more favorable terms and conditions shall also be implemented.

Section 7.--

This Agreement shall be binding on the parties, regardless of any change of name by the Mason Tenders District Council of Greater New York or changes in the composition of its constituent local unions. This Agreement shall be enforceable by the Association, the Mason Tenders District Council of Greater New York, its successor, the Trust Funds set forth in Article VI of the Agreement, and any constituent local so authorized by the Mason Tenders District Council of Greater New York or its successor.

Section 8.--

On a project where the Employer is overseeing construction for an Owner or Developer and is not responsible for the selection of subcontractors working on the project, it shall notify the Union as early as practicable of such status.

ARTICLE XIII

Section 1.--

This Agreement shall become effective and binding upon the parties hereto on the 1st day of July, 2008, and remain in effect through June 30, 2011, and shall renew from year to year thereafter unless either party hereto shall give written notice to the other of its desire to

modify, amend, or terminate this Agreement on its anniversary date. Such notice must be given in writing by certified mail, postage prepaid, sixty days, but not more than ninety days, before the anniversary date of this Agreement. In the event one of the parties to this Agreement gives written notice of its desire to modify or amend this Agreement pursuant to this Article, the conditions established by this Agreement shall continue in effect during negotiations for a new Agreement.

Each Employer member of the Association and each Employer becoming a member of the Association subsequent to the effective date of this Agreement agrees to comply with and to be bound by all of the provisions of this Agreement, including, but not limited to, wage, fringe benefit contributions, dues and political action deduction obligations, for the entire term of this Agreement.

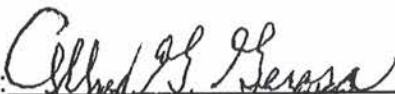
Section 2.--

In such cases of an Employer's withdrawal, resignation, suspension or termination from membership in the Association, such Employer agrees during the terms of this Agreement, to be bound by the terms of the collective bargaining agreement between the Union and independent contractors (referred to hereinafter as the "Independent Agreement"), which shall supersede any conflicting or lesser provisions. Copies of the Independent Agreement shall be furnished by the Union to the Employer signatory to this Agreement upon request.

Signed by both parties hereto as of the *1st day of July, 2008* at New York, New York.

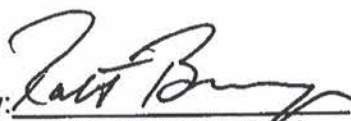
THE CEMENT LEAGUE

49 West 45th Street, Suite 900
New York, New York 10036

By: 
ALFRED G. GEROSA
EXECUTIVE CHAIRMAN OF
THE CEMENT LEAGUE

**MASON TENDERS' DISTRICT
COUNCIL OF GREATER NEW YORK
& LONG ISLAND**

520 8TH Ave. Suite 650
New York, New York 10018

By: 
ROBERT BONANZA
BUSINESS MANAGER



FILE COPY

Mason Tenders District Council

OF GREATER NEW YORK & LONG ISLAND

Robert Bonanza
BUSINESS MANAGER
rbonanza@masontenders.org

July 10, 2008

- General Building Laborers
Local 66
- Asbestos, Lead &
Hazardous Waste Laborers
Local 78
- Construction & General
Building Laborers
Local 79
- Waste Material, Recycling &
Industrial Laborers
Local 108
- Association of Professional
& Specialty Workers
Local 279
- Lay Faculty Association
Local 1261
- Laborers' International
Union of North America,
AFL-CIO
- Affiliated with:
Building & Construction Trades
Council of Greater New York
- New York City Central
Labor Council
- Building & Construction Trades
Council of Nassau,
& Suffolk Counties
- New York State AFL-CIO

Mr. Al Gerosa
The Cement League
49 W. 45th Street, Suite 900
New York, NY 10036

Dear Mr. Gerosa:

Enclosed please find an executed 2008-2011 agreement between the Cement League and Mason Tenders District Council for your records. We agree that the July 1, 2005 letter remains an attachment to the collective bargaining agreement. The MTDC does not agree, however, to modify Article IV of the agreement as you most recently proposed. This modification was never raised in any of the discussions leading up to the drafting of the final document, and appears to address an issue about which no disputes have recently arisen. Given the success of the parties in avoiding disputes over jurisdiction during the term of the last contract, we are very hopeful that leaving the language the same will yield the same result under this agreement.

Thank you for your attention to this matter.

Sincerely,

Robert Bonanza

TWR:fgm
Enc.

LABORERS' INTERNATIONAL UNION OF NORTH AMERICA

ARTHUR A. COIA
General President

R. F. VINALL
General
Secretary-Treasurer

MASON M. WARREN
Vice President

MURI O. HAINES
Vice President

MERIC MANSUETTI
Vice President

COLLEEN BARNES
Vice President

JACK WILKINSON
Vice President

GEORGE R. GUDGER
Vice President

MIKE QUELVEN, JR.
Vice President

ARMANDO SABITONI
Vice President

CARL E. BOEGER
Vice President

Assistant to the
General President

MICHAEL S. BEARSE
General Counsel

MEMORANDUM OF UNDERSTANDING
BETWEEN THE
NEW ENGLAND REGION CEMENT AND CONCRETE DISTRICT COUNCIL
AND THE
EASTERN REGION MASON TENDERS DISTRICT COUNCIL
OVER
CONCRETE WORK IN THE NEW YORK CITY AREA


Both parties agree to the following:

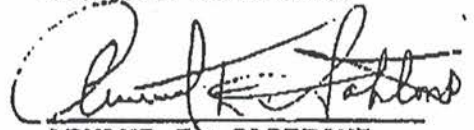
The following work shall be the Mason Tenders:

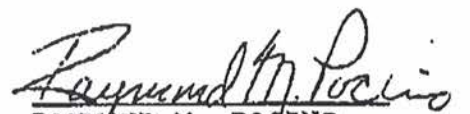
If any party to this Trade Agreement does any alteration work; removal of partitions, ceilings, walls, all floor coverings, fixtures, and ducts, any of which are not to be reused, the removal of walls which have been erected by Bricklayers or Plasterers and all floors, except reinforced concrete floors, Mason Tenders (Laborers) shall be used exclusively to perform said work.

The following work shall be the Cement and Concrete Workers:

On alteration jobs, the removal of wooden partitions, wood and concrete floors, and rubbish connected therewith, is to be done by Employees.


ARTHUR A. COIA
General President


ARMAND E. SABITONI
Vice President and New
England Regional Manager


RAYMOND M. POCINO
Eastern Regional Manager



ORIGINAL

Mason Tenders District Council

OF GREATER NEW YORK & LONG ISLAND

Robert Bonanza

BUSINESS MANAGER

rbonanza@masontenders.org

July 1, 2005

• General Building Laborers

Local 66

• Asbestos, Lead &

Hazardous Waste Laborers

Local 78

• Construction & General

Building Laborers

Local 79

• Waste Material, Recycling &

General Industrial Laborers

Local 108

• Association of Professional

& Specialty Workers

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• Lay Faculty Association

Local 1261

Laborers' International

Union of North America,

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Affiliated with:

Building & Construction Trades
Council of Greater New York

New York City Central
Labor Council

Building & Construction Trades
Council of Nassau
& Suffolk Counties

New York State AFL-CIO

Mr. Al Gerosa
The Cement League
49 W. 45th Street, Suite 900
New York, Ny 10036

Re: MTDC – The Cement League Collective Bargaining

Dear Mr. Gerosa:

I write to confirm the understanding reached as part of the recently concluded negotiations between The Cement League and the Mason Tenders District Council of Greater New York (the "MTDC") that in the event disputes arise regarding the respective jurisdictions of Local 79 and Local 20, Local 6A, and Local 18A, the MTDC will continue to endeavor to resolve the matter directly with its sister Locals and/or through LIUNA prior to commencing any dispute resolution procedures set forth in the collective bargaining agreement.

Sincerely,

Robert Bonanza

RB:fgm