

PROVINCIAL AGREEMENT COVERING:

COMMERCIAL, WATER & SEWER

BETWEEN

SAINT JOHN CONSTRUCTION ASSOCIATION, INC.

ON BEHALF OF ITS AUTHORIZED SIGNATORY CONTRACTORS

AND

INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL #946

2010 – 2013

## INDEX

ARTICLE		PAGE
1	PURPOSE	1
2	DURATION	1
3	RECOGNITION AND UNION SECURITY	1
4	MANAGEMENT RIGHTS AND APPLICATION	4
5	CRAFT JURISDICTION	5
6	JURISDICTIONAL DISPUTES	6
7	SAFETY, SHELTER AND SANITATION, TOOLS AND EQUIPMENT SAFETY	7
8	DISCRIMINATION	9
9	HOURS OF WORK AND OVERTIME	10
10	REPORTING TIME AND INCLEMENT WEATHER	13
11	ROOM, BOARD AND TRAVEL	14
12	TRUST FUNDS	15
13	HOLIDAYS AND SHUT DOWNS	18
14	VACATION PAY	19
15	PAYMENT OF WAGES AND LAY-OFF	20
16	STRIKES AND LOCKOUTS	21
17	GRIEVANCE PROCEDURE	21
18	ARBITRATION	22
19	BUSINESS REPRESENTATIVE AND STEWARDS	24
20	GENERAL PROVISIONS	25
21	MANNING CLAUSE	25
22	APPLICATION OF COLLECTIVE AGREEMENT	28
23	DEFINITION OF WORK COVERED BY THE INDUSTRIAL AGREEMENT	28
24	SAFETY CLAUSE	29
25	APPRENTICESHIP AND TRAINING	29
26	CLASSIFICATIONS AND WAGES	30
27	ENABLING CLAUSE	32
	SUMMARY OF WAGE SHEETS AND BENEFITS	33

(1)

## **ARTICLE 1 – PURPOSE**

- 1.01 The general purpose of this Agreement is to establish mutually satisfactory relations between the Employer and Employees provide machinery for the prompt settlement of grievances and maintain satisfactory working conditions, hours of work and wages for those employees covered by this Agreement.
- 1.02 The geographical area of this Agreement shall be the Province of New Brunswick.

## **ARTICLE 2 – DURATION**

- 2.01 This Agreement shall be effective August 3, 2010 and shall remain in effect until the 30<sup>th</sup> day of June, 2013 and shall continue in force from year to year thereafter unless either party shall furnish the other with notice of proposed revision of this Agreement not more than ninety (90) days and not less than thirty (30) days before the 30<sup>th</sup> day of June , 2013, or in a like period in any year.

## **ARTILE 3 – RECOGNITION AND UNION SECURITY**

- 3.01 The Employer and the Saint John Construction Association on behalf of its authorized Contractors, recognizes the International Union of Operating Engineers, Local 946 as the sole collective bargaining agent for all Employees coming within the jurisdiction of the Union and employed within the area of this Agreement.
- (a) It is hereby agreed between the Union, Employer, Association, that this Agreement can be amended on specific target projects prior to tender closing by special meeting called by the Union and Employer. Any decision reached must then be valid for all contractors bidding the Project.
- (b) The schedule appendixes attached form part of this

(2)

Agreement.

- 3.02 The Employer agrees to employ only members of the Union to perform such work and the Union must be given preference in supplying men to the Employer. The Employer further agrees to notify the Union office when he requires employees covered by this Agreement and the employer may name hire all employees. If the Union is unable to supply the personnel required from Local 946 or other locals of the International Union of Operating Engineers, within forty-eight (48) hours excluding Saturdays, Sundays and Holidays, the employer may hire elsewhere, provided such personnel hired shall make application for membership and sign an authorization for deduction of initiation fees, (if new employee is a non-member) and Union dues before commencing work. This may be done through the Business Representative, Union Steward or Union office. All employees must maintain their membership in good standing in the Union during the term of this Agreement.

The Employer may recall through the Local any former employee previously in the Employer's hire and who has been subject to a temporary

- 3.03 Prior to commencing work all Employers must notify the Union.
- 3.04 When equipment is under the care and control of a signatory contractor, and falls within the jurisdiction of the Union is being moved from place to place under its own power, only members covered by this Agreement shall be used to move and repair such equipment.

(3)

- 3.05 Equipment under the care and control of the Employer and which comes under the jurisdiction of this Union that must be repaired onsite, shall have these repairs or service work performed by mechanics of Local 946. Vehicles under the care and control of the Employer and normally used on site that can be repaired onsite, they shall have these repairs performed by mechanics of Local 946.

This clause is subject to the provisions of Article 5.01.

- 3.06 A member of Local 946 who is or becomes an owner-operator or employer-operator shall be signatory to this Agreement.
- 3.07 When an owner-operator or employer-operator supplies two (2) or more pieces of equipment (rents or leases) to the Employer on a particular job site, once the second piece of equipment is simultaneously utilized, then said owner or employer must hire a member from Local 946 to man each additional piece of equipment.
- 3.08 **CHECK-OFF:** The Employer agrees to deduct monthly dues, annual assessment, and initiation fees on written authority from the employee. Monthly dues are to be submitted to the Financial Secretary of the Union Office before the Fifteenth (15<sup>th</sup>) day of each month and shall be accompanied by a list of the employees from whom the deductions were made. If the above mentioned remittance is not received by the Financial Secretary, ten (10%) percent penalty of the amount due shall be paid by the Employer each month delay. The penalty shall apply to all remittances due to the Union and not received by the Financial Secretary after five (5) days grace period.
- 3.09 If an employee does not become or remain a member in good

(4)

standing with the Union, the employee shall be replaced forthwith on written request of the Union, indicating the grounds for dismissal if proper grounds exist. A notice of dismissal shall be given by the Employer to take effect at the end of the shift of the employee concerned.

- 3.10 The Employer agrees to employ sub-contractors who are in contractual agreement with Local 946 to perform only that work covered by this Agreement. However, if the sub-contractor is not in contractual agreement with the Union, he shall become signatory to this Agreement before he commences work. The Employer further agrees that only members in good standing with Local 946 shall operate equipment which falls under the jurisdiction of this Agreement, as outlined in Schedules.

If asphalt and concrete are not available in the immediate area from a unionized contractor, then the Employer may sub-contract elsewhere.

#### **ARTICLE 4 – MANAGEMENT RIGHTS AND APPLICATION**

- 4.01 The Union recognizes the right of the Employer to operator and manage its business in all respects subject to the terms of this Agreement.
- 4.02 The Union acknowledges that it is the exclusive function of the Employer to hire, promote, demote, transfer and suspend employees and also the right of the Employer to discipline or discharge any employee for just cause, but subject to the provisions of this Agreement. In recognition of the fact that presently no formal certification program exists, the Employer may inquire as to the previous work experience and/or training of any employee referred by the Local.

(5)

- 4.03 The Employer has the exclusive right to appoint a foreman at the foreman's hourly rate of wages as required by the provisions of this Agreement. Should any dispute arise of the job over the appointment or demotion of a foreman, the employees must remain on the job and at work until such dispute is settled under the grievance and arbitration procedure.
- 4.04 The Employer has the exclusive right to appoint and determine the number of general foremen and supervisors required at any place from time to time for any and all operations subject to the terms of this Agreement.
- 4.05 The Union shall be made aware of all promotions and demotions in writing from the Company not later than two (2) working days after such promotion or demotion has occurred.

#### **ARTICLE 5 – CRAFT JURISDICTION**

- 5.01 The Craft Jurisdiction in this Agreement shall be the operating, repairing, maintenance and servicing of all equipment coming within the jurisdiction of the Union. This shall not preclude equipment companies from performing job site service, guarantee work or repairs of a special nature that cannot be performed by the regular mechanical staff. It is agreed that the crew (the operator and/or oiler of the machine) and mechanic of the Union will not lose time by the use of equipment company personnel and will assist in the said job site repairs create an extended shut-down of the equipment involved for more than two (2) working days, the Employer will make every effort to place the crew (the operator and/or oiler of the machine) and the mechanic affected at other work coming within the Craft Jurisdiction of the Union.
- 5.02 The Craft Jurisdiction also applies to all new or update equipment being put into use on the Industry, subject to agreement of the Union, Employer.

**ARTICLE 6 – JURISDICTIONAL DISPUTES**

- 6.01 It is agreed by both parties that there will be no stoppages of work on account of jurisdictional disputes, which may occur between or among two (2) or more Unions or groups of employees. All parties to this Agreement must adhere to the procedural rules of the Green Book. It is agreed that the employees will continue working pending the settlement of such disputes on the following basis:
- (a) The employees who have been performing the work under dispute as allocated by the Employer will continue to do so until a satisfactory settlement to all parties to the dispute is reached, providing that the assignment is in accordance with past decisions of record of the Impartial Jurisdictional Disputes Board.
  - (b) If none of the parties to the dispute have been performing the work in question on the particular job involved, the Employer will decide which group of employees shall do the work pending a satisfactory settlement.
  - (c) If a Union is aggrieved by a direction or an assignment made, recourse may be had to the Impartial Jurisdictional Disputes Board or any successor agency of the Building and Construction Trades Department. If, however, the Impartial Jurisdictional Disputes Board becomes defunct and fails to create a successor organization and/or fails to render a decision on a dispute brought before it within thirty (30) calendar days, recourse may be sought by the parties before



the Construction Panel of the New Brunswick Industrial Relations Board.

(d) If and when a settlement is made, or the various groups of employees have reached agreement on the dispute, the decision will be implemented by the Employer. Both parties agree that Jurisdictional Disputes within their respective organizations arising from this Agreement or on jobs on which this Agreement applies shall not interfere in any way with the orderly, expeditious and economic progress of the work. There shall be no strike, work stoppage or slow down of any kind by the Union or the employees as a result of jurisdictional disputes.

**ARTICLE 7 – SAFETY, SHELTER AND SANITATION, TOOLS AND EQUIPMENT SAFETY**

- 7.01 On all projects, provisions of the Occupational Health and Safety Act will be adhered to by both parties.
- 7.02 Any employee, as a condition of employment, shall wear an approved safety helmet on the job site and shall own and wear his own safety helmet on the job site and shall own and wear his own protective footwear and clothing required in the normal course of his work.
- 7.03 Job Stewards shall bring to the attention of the Safety Officer or the Employer Representative any unsafe conditions, unsafe acts or violations of safety regulations. Job Stewards and Foremen shall acquire a basic knowledge of first aid under such arrangements as may be agreed.
- 7.04 An Employee shall not be required to perform work where the conditions are unsafe and the Employee may leave the unsafe area, but nothing herein shall give an employee the right to leave the job site during working hours until the unsafe conditions are reported to the Employer, and the Employer authorizes the employee to leave the job site.

(8)

- 7.05 The Employer shall ensure that any employee injured at his place of work and / or in need of medical attention shall receive immediate transportation to and from a hospital or a physician.
- 7.05 **SHELTER AND SANITATION**: An Employer on any job shall provide a sanitary and separate place of shelter where employees may change clothes and eat their lunch. Sufficient tables and benches shall be provided and the shelter shall be adequately heated during the cold weather, there shall be no responsibility for lost clothes unless placed in the custody of the Employer and under his lock and key.
- 7.06 An Employer shall provide adequate and sanitary toilet and washroom facilities, equipped with wash basins, soap and cloth or paper towels, and supplied whenever possible with hot and cold water.
- 7.07 An Employer shall and provide adequate, cool and sanitary drinking water with ice daily.
- 7.08 The obligations expressed above must be undertaken by the Employer or the Employers in common.
- 7.09 When required, tarps shall be provided to mechanics, welders or service persons who perform work outside the confines of the shop.
- 7.10 Where employees are required to be transported in company vehicles in cold weather, such vehicles shall be adequately heated.
- 7.11 **TOOLS AND EQUIPMENT**: The Employer shall supply a suitable secure building for employees to store their tools and is responsible for compensation for the present replacement value of tools destroyed or damaged by fire, lost or by

(9)

theft when in the place of storage and under the Employer's lock and key. Liability under this clause shall relate only to tools on the list of tools filed by the employee on the commencement of or during the course of his work. Tools listed will include the brand name, serial number, product number, etc.. A claim must be filed within two (2) working days of the loss, damage or destruction unless good reason can be shown for not having done so.

- 7.12 The Employer shall supply approved safety helmets and such other safety equipment as the employee is not required to provide and, when necessary, shall supply rain suits and rubber boots at no charge to the employee. Tools, safety equipment, coveralls (for mechanics only) and other attire furnished by the Employer shall be subject to normal wear and tear and shall be returned on the termination of employment or as the Employer may require.
- 7.13 Employees shall have a reasonable time before quitting time for the purpose of returning Employer tools and securing equipment, and for the purpose of placing employees tools under lock and key of the Employer. In no case shall it exceed ten (10) minutes in the absence of proof to the contrary.

## **ARTICLE 8 – DISCRIMINATION**

- 8.01 The Employer and the Union agree that there will be no discrimination, restriction or coercion exercised or practiced with respect to any employee by reason of race, colour, political or religious affiliation. The parties agree that this Collective Agreement is subject to the provisions of the Human Rights Code and the Industrial Relations Act of New Brunswick.

**ARTICLE 9 – HOURS OF WORK AND OVERTIME**

- 9.01 The Working hour through the area of this Agreement shall be fifty (50) hours per week, Monday to Friday, inclusive. The regular work day shall be from 7:00 a.m. to 5:30 p.m. with one-half (1/2) hour out for lunch from 12:00 noon to 12:30 p.m.. All work done in excess of these hours shall be voluntary and paid at the rate of time and one half (x1 ½) except as permitted elsewhere in this Agreement.
- 9.02 All employees must have eight (8) hours rest between shifts or overtime rates will prevail until such time as an eight (8) hour break occurs between the end of one shift and the start of the next. This shall not be reason for changing starting time of shift.
- 9.03 Time and one half (x1 ½) rates shall apply to employees who work through their meal break and shall remain on overtime rate until such time as he or she has been given a break. Double tie rates shall apply on Sundays and holidays.
- 9.04 **SHIFT WORK:** When shift work is required employees shall receive Fifteen percent (15%) above the regular rate of pay for hours worked on the second and third shift.
- 9.05 At least twelve (12) hours notice will be given to the employee prior to starting shift work; if the required notice has not been given, the shift the employee works shall be paid for at overtime rates. The hours for shift work shall be paid for at overtime rates. The hours for shift work shall be set out in Clause 9.07 and 9.03.
- 9.06 Shift work as described below is to be considered as a continuous operation for a minimum of three (3) consecutive working days exclusive of Saturday and Sunday except that,

(11)

if worked, a Saturday and/or Sunday shall be counted toward the establishment of the three (3) days, Saturdays, Sundays and Holidays are not to be considered as normal working days. In the event that shifts are of a shorter duration than three (3) consecutive working days overtime rates of pay will apply.

(a) In recognition of the unusual restrictions that are imposed on any Employer engaged in work that is subject to the ebb and flow of the tides, it is agreed the starting and quitting time of the regular work involved, subject to the following terms and conditions:

- (1) When tide work is required, employees shall receive Fifteen percent (15%) above the regular rate of pay for hours worked. The hours referred to in this Article are to be considered as consecutive hours and in no way to be applied as a split-shift.
- (2) At least twelve (12) hours notice will be given the employee prior to starting shift work; if the required notice has not been given, the shift the employee works shall be paid for at overtime rates.
- (3) The starting time for tidal work will not be any earlier than 6:00 a.m. or later than 11:00 a.m.

9.07 For employees on a two (2) shift operation, the regular shifts shall be as follows: (Subject to variation by mutual consent of the parties):

1<sup>st</sup> shift – 8:00 a.m. to 4:30 p.m. with one-half hour for lunch.

2<sup>nd</sup> shift – 4:30 p.m. to 12:00 a.m. with one-half hour for lunch.

9.08 For employees on a continuous shift operation (subject to variation by mutual consent of the parties) the regular shifts shall be as follows:

1<sup>st</sup> shift – 8:00 a.m. to 4:30 p.m. with one-half hour for lunch.

2<sup>nd</sup> shift – 4:30 p.m. to 12:00 a.m. with one-half hour for lunch.

3<sup>rd</sup> shift – 12:00 a.m. to 7:30 p.m. with one-half hour for lunch.

9.09 Lunch time shall be at 12:00 – 12:30 p.m., 8:30 – 9:00 p.m. and 4:00 – 4:30 a.m..

9.10 The time worked from 8:00 a.m. Saturday to 7:00 a.m. Monday inclusive shall be time and one half (x1 ½).

9.11 **SHIFT WORK:** it is agreed that when complementing other Trade Unions who are working regular scheduled eight (8) hours on the second shift or third shift the Operating Engineers will work eight (8) hours and receive fifteen percent (15%) above the regular rate of pay for hours worked.

9.12 When working overtime on shift work, regular overtime conditions shall be observed as per 9.01 and rates will be based on the regular hourly rates.

9.13 **COFFEE BREAKS:** A ten (10) minute paid coffee break shall be allowed close to the mid-point of each half shift subject to the Employer's operating requirements. The break shall be taken at or near the workstation of the break. Every effort will be made to ensure as little disruption of work as possible because of this clause.

- 9.14 When the Employer asks or requires the employee to forego a coffee break, the employee will be paid straight time at the applicable hourly rate for each break not taken.
- 9.15 It is agreed that when it is necessary to work an employee beyond the completion of his regular shift each employee will be given a paid ten (10) minute break prior to commencing the overtime work. Should overtime exceed two (2) hours, then each employee will be supplied a hot meal when available, otherwise a variety of sandwiches and beverages will be provided. Each employee shall be given a paid twenty (20) minute lunch break at the completion of the regular shift hour to consume such meal. Every four (4) hours worked thereafter, a twenty (20) minute paid meal break will be taken and the Employee will be supplied a hot meal when available, otherwise a variety of sandwiches and beverages will be provided. In lieu of a meal being provided, the Employer shall pay the employee one (1) hour's pay at the straight time rate.

**ARTICE 10 – REPORTING TIME AND INCLEMENT WEATHER**

- 10.01 An employee who reports for work as usual, unless directed not to report the previous shift by his Employer, shall receive a minimum of three (3) hours pay at the applicable rate, with travel expenses and board allowances, whenever applicable. This shall also include inclement weather. The employee commences productive work prior to 11:00 a.m., he shall receive four (4) hours pay. If the employee continues to work or commences work after eleven 11:00 a.m. he shall receive

(14)

eight (8) hours pay at the applicable rate. This shall also apply to shift work and scheduled overtime.

10.02 Any employee who is called out other than his regular hours or on the weekend and reports for work shall be paid a minimum of four (4) hours at overtime rates.

### **ARTICLE 11 – ROOM, BOARD AND TRAVEL**

- 11.1 All Employees shall provide their own transportation within fifteen (15) road kms of the job site. From outside the fifteen (15) km area, Forty-two Cents (\$.42) per road km shall be paid by the Employer when an employee is required to use his own vehicle for transportation to and from the site.
- 11.2** An Employee whose permanent residence is outside of Seventy-Five (75) road kms from the main entrance to the Job Site, shall receive an allowance for room and board for days worked. The allowance shall be \$75.00\day worked. The allowance shall be paid for a day not worked due to inclement weather if the Employee reported and was available for work. The allowance shall cease should the Employee change his permanent residence and establish a permanent residence within Seventy-Five (75) road kms of the Job Site. Employers will pay reasonable hotel\motel accommodations and meals for all short term jobs of one to five consecutive days duration. **On July 1,2011 it is \$80.00 and on July 1,2012 it is \$85.00.**
- 11.3 The Room and Board Allowance as set out in 11.2 shall not apply where an Employee is accommodated at a camp, arranged for by the Employer, in which case the Employer shall pay the cost of accommodation provided.
- 11.4 There shall be no charge to the Employees who are accommodated in the camp, for the use of washers and dryers, when such facilities are provided at the campsite.



(15)

- 11.5 The Employee shall have the option of camp accommodation or the Room and Board Allowance, provided that the Employee must indicate his choice only once, and at the time of his initial assignment to the Employer.
- 11.6 All expenses for room and board and traveling allowance shall either be paid by separate cheque or be shown separately on the Employee pay cheque stub.
- 11.7 Distance to the site shall be measured as to the main entrance to the site on which the Employee is employed, from the Employees permanent residence.
- 11.8 The Union will make every effort to supply Union Members whose residence is closest to the job site.
- 11.9** The traveling allowance for persons eligible for room and board under clause 11.2 shall be Forty-two cents (\$.42) per road km payable one way at the beginning and one way at the end of employment. Return traveling allowance will only be paid if the Employee remains working on the job, a minimum of thirty (30) calendar days. Return traveling allowance will not be paid for Employees who voluntarily terminate employment within thirty (30) calendar days of being hired or who are discharged for just cause. It is agreed by all parties to this Agreement that the understanding of Room, Board and **Travel that at no time will the conditions be compounded.**

## **ARTICLE 12 – HEALTH AND PENSION TRUST FUNDS**

- 12.01 The Employer and the union confirm the establishment of the New Brunswick Operating Engineers International Union Health and Pension Trust Fund (the Trust Fund) in accordance with a Trust Agreement between the Union and Employer, and their designated Trustees (the Trust Agreement). The purpose of the Trust Fund is to provide pension benefits for Union members and to provide health and other insured benefits the Trustees, in their sole discretion, determine ( the Insured Benefits ), to Union members to the extent that the funds are available in the Trust Fund.

(16)

The Trust Fund is administered by Trustees appointed by the Union and the Employer in accordance with the Trust Agreement. The Trustees may, in their discretion in accordance with the Trust Agreement, (i) establish programs to permit employees of the Union and employees of an Employer (including the Association) to participate in one or more of the insured benefits and pension benefits, (ii) establish self payment programs for retired members of the Union to participate in one or more of the insured benefits, and (iii) permit members of another Local of the International Union of Operating Engineers (Affiliated Locals) to participate in one or more of the insured benefits and pension benefits.

Non-union employees employed under Article 3 of this Collective Agreement are not entitled to any of the pension and insured.

Employees do not have any interest in the Trust Fund or in the monies contributed by them or an employer other than a Union member's interest in his or her pension benefits. Union members are only entitled to the Insured Benefits for which they are only entitled to the Insured Benefits for which they are eligible in accordance with the plan or plans purchased by the Trustees to provide the Insured Benefits for which they are eligible in accordance with the plan or plans purchased by the Trustees to provide the Insured Benefits, and are not entitled to a refund or payment of any amount from the Trust Fund at any time or for any reason.

(17)

12.02 The employer shall pay Five Dollars and Twenty-Three Cents (\$5.23) for each hour worked under this collective agreement to the Trust Fund. From this Five Dollars and Twenty-Three cents (\$5.23), the Trustees shall pay:

- i) Twelve Cents (\$.12) to the Saint John Construction Association as a contribution to the Employers Labour Relations Trust Fund;
- ii) Three Dollars-Twenty-five (\$3.25) from each contribution for hours worked by the Union member for the acquisition of Pension benefits for that Union member; and
- iii) The remaining amount be applied to the purchase of the Insured Benefits for the Union members and to cover the costs of administration the Trust (including the education of the Trustees with respect to their obligations as Trustees).

The employer shall remit the amounts to be paid under the collective agreement in accordance with the terms of this article.

12.03 The employer shall pay Thirty Cents (\$.30) for each hour worked under this collective agreement to the Operating Engineers Education and Training Fund which is jointly trusted by individuals appointed by the Union and the Association.

12.04 If directed by the Union, the Trustees shall remit (net of reasonable administrative costs if considered appropriate by the Trustees) all contributions made for or on behalf of a member of an Affiliated Local who is performing work

(18)

within the jurisdiction of the Union under the provisions of a collective agreement to the Trustees or administrator of a benefit plan by the Affiliated Local which he or she is a member.

12.05 The employer shall remit all contributions and payments for each month, appropriately identified by cheque or other means on or before the fifteen (15<sup>th</sup>) of the following month to the New Brunswick Operating Engineers International Union Health and Pension Trust Fund c/o Belmont Financial, Suite 110, Hilyard Place, 580 Main St, Saint John, N.B. , E2K 1J5, and shall provide Belmont Financial with each Employee's name, social insurance number, total hours worked during the month and the Union Local number. The employer shall use the prelist supplied by Belmont Financial on a monthly basis.

12.06 The employer shall show all deductions and remittances from an employee's wages on each employee's weekly pay stub.

### **ARTICLE 13 – HOLIDAYS AND SHUT DOWNS**

13.01 Legal Holidays shall be as follows:

Christmas Day	Thanksgiving Day
Good Friday	Labour Day
Victoria Day	Remembrance Day
Dominion Day	Boxing Day
New Brunswick Day	New Years Day

If any of these days fall on a Saturday or Sunday, the following Monday shall be the Holiday. No member shall be required to work on Labour Day or Christmas Day except emergency work.

13.02 In the event of a shut-down it is understood and agreed that:

- (1) Employees engaged in repair or maintenance may be exempt from the shut-down, whether total or partial.
- (2) During the period of the shut-down, work normally performed by employees on lay-off because of the shut-down, shall not be performed by any other person except during a condition requiring immediate action to avoid loss of life or property.
- (3) During the period of the shut-down, the Employer must call back an employee on a voluntary basis to perform emergency repairs or maintenance work.
- (4) Employees called back and employees covered by the shut-down, shall receive the regular rates of pay for all time worked during the shut-down subject to overtime, Saturday, Sunday and Holiday rates when applicable.

#### **ARTICLE 14 – VACATION PAY**

14.01 The Employer shall pay to employees vacation pay of ten percent (10%) of gross earnings during the life of this Agreement. The method of payment shall be in accordance with the Vacation Pay Act of the Province of New Brunswick.

14.02 The Employer shall show all necessary vacation pay deductions and the net amount due on the weekly pay cheque. Payment of vacation pay shall be included in the employee's pay cheque.

14.03 Employees may take an annual vacation not to exceed two (2) weeks, at a time mutually agreed by the employee and the employer and in no case shall more than ten (10) working days notice be required by either party.

14.04 **Holiday Pay** will be paid at Four Percent (4%) of Gross

Hourly Rate in accordance with the Holiday Pay Act of the Province of New Brunswick.

**ARTICLE 15 – PAYMENT OF WAGES AND LAY-OFF**

15.01 Wages to be paid weekly by cash, direct deposit or cheque in a sealed envelope.

15.02 All cheques must be negotiable at the bank nearest the job site or place of work.

15.03 The Employer shall pay each employee either by cash, direct deposit or cheque every week during the regular hours of work and no later than 4:30 p.m.. All deductions must be clearly shown. If paid by cheque or direct deposit, the Employee shall be paid on Thursday. If a holiday should fall on Friday, then the Employee shall be paid by cheque or direct deposit on Wednesday or by cash on Thursday. If cheques fail to arrive on time, then sufficient time or suitable arrangements must be provided to cash the same.

15.04 Employees working second or third shift work shall be paid on Wednesday.

15.05 **LAY-OFF:** Where employment is terminated by the Employer, the employee shall be given at least eight (8) working hours notice. He shall be paid in full and given his C.E.I.C. record of employment and vacation pay, if any within three (2) working days. He shall be paid for his regularly scheduled hours until these conditions have been met except for employees discharged for just cause who shall be paid the following working day.

15.06 When employment is terminated by the employee, he shall give eight (8) working hours notice. He will receive his earned wages in full, vacation pay, if any, and his C.E.I.C. Record of Employment, within three full working days from the time of termination.

**ARTICLE 16 – STRIKES AND LOCKOUTS**

- 16.01 In view of the grievance and arbitration procedure provided in this Agreement, it is agreed by the Union that there shall be no strike or stoppage of work and the Employer agrees that during the term of this Agreement shall be no lockout.
- 16.02 **Strike** shall be defined as in the Industrial Relations Act of the Province of New Brunswick.
- 16.03 **Lock-Out** shall be defined as in the Industrial Relations Act of the Province of New Brunswick.
- 16.04 Refusal by members of International Union of Operating Engineers to cross a legal picket line shall not be interpreted by any means or reasons as violation of this Agreement. No recourse against any member or officer shall be taken by an Employer or party.

**ARTICLE 17 – GRIEVANCE PROCEDURE**

- 17.01 Any grievance arising out of the application, interpretation or administration of this Agreement shall be settled in accordance with this Article.
- 17.02 **STEP ONE:** Within two (2) working days following the first occurrence of the event that gave rise to it, or following the first knowledge of such event, the Employee shall present his grievance through his Union Steward to his Immediate Supervisor; the grievance may be presented verbally or in writing. Failing any reply or satisfactory settlement within two (2) working days, the Employee may proceed to **STEP TWO** presenting the grievance in written form stating the Article or Articles of the Collective Agreement which is alleged are being violated or misinterpreted.

17.03 **STEP TWO:** A grievance at **STEP TWO** shall be presented within two (2) working days of the expiration of the two (2)



days referred to in **STEP ONE**. The grievance shall be taken up with the representative of the Employer designated for the purpose. The reply to the grievance shall be given in writing. The reply or satisfactory settlement of the grievance within three (3) working days of presentation under **STEP TWO**, the grievance may be referred to arbitration by the Union by giving written notice to arbitrate.

17.04 An Employee in the presentation of a grievance may be accompanied by his Job Steward and/or Business Representative. In his consideration of a grievance, an immediate Employer supervisor or a designated Employer representative may be accompanied or assisted by two additional Employer representatives.

17.05 When a grievance arises between the Union and an Employer bound by the Agreement either party, within five (5) days of the first occurrence of the event that gave rise to it, may present the grievance in written form, setting out the Article or Articles alleged to be violated, to the other party. Representatives of the union and of the Employer not exceeding three (3) each, shall meet for discussion of the grievance within five (5) working days following the presentation. Failing the convening of a meeting within the time period or failing a satisfactory settlement of the grievance, a notice to arbitrate may be given by the party presenting the grievance within five (5) days after the expirations of such period.

## **ARTICLE 18 – ARBITRATION**

18.01 The parties shall agree on an Arbitrator within two days, failing this they will apply to the Minister for appointment of an Arbitrator under the Industrial Relations Act.

18.02 The Arbitrator shall hold a hearing within four (4) days

after the grievance is submitted to him and shall render his decision to the parties within seventy-two (72) hours after the completion of the hearing, provided that failure to make an award within the time prescribed or as extended by the parties shall not invalidate the proceeding or terminate the authority of the Arbitrator.

- 18.03 It is understood and agreed in the application of this Article and Article 17 that there is now power in the participants to a settlement to add to, subtract from or modify the terms of this Agreement. The sole function of an Arbitrator shall be to interpret the meaning of the Articles of this Agreement and to render a decision which shall be binding on the parties. The Arbitrator shall have no power to add to, subtract from or modify the terms of this Agreement.
- 18.04 Where an Employee has been discharged or disciplined unjustly or unreasonably, the Employee shall be reinstated and shall receive compensation in the amount he would have earned had he been working, or in such amount as is just and reasonable in the circumstances. If an Arbitrator determines that an Employee has been discharged or otherwise disciplined for cause, the Arbitrator may substitute such other penalty for the discharge or discipline as to the Arbitrator seems just and reasonable in all circumstances.
- 18.05 It is understood and agreed that an Employee presenting a grievance or an Employee whose presence is required in the settlement of a grievance, may, after satisfactory arrangements made with his immediate supervisor, be given time off without deduction of pay to participate in the presentation of a grievance to the extent that this presence is required during the presentation.

18.06 The times fixed by this Article and Article 17 are mandatory but may be extended by mutual agreement in writing. If a grievance or arbitration is not processed within the time allowed, the grievance or arbitration shall be deemed to have been abandoned. Saturdays, Sundays and holidays shall be excluded in the computing of the time allowed.

18.07 The costs of each Arbitrator shall be borne equally by the parties thereto.

### **ARTICLE 19 – BUSINESS REPRESENTATIVE AND STEWARDS**

19.01 The Business Manager (s) and/or Agent(s) and/or the International Representative of the Union shall have access with his vehicle to and on the job site of the Employer during working hours to investigate any matter or to discuss any matter regarding the application of this Collective Agreement.

19.02 The Employer may require that a Business Representative or International Representative seeking access to the site shall first report to a designated person or his representative before carrying out a visit and may provide an Identification Pass to be presented at an approved gate.

19.03 It is agreed that the union may appoint a job steward from among the employees of the Employer and the Employer shall be notified of the appointment in writing.

19.04 Stewards shall be allowed a reasonable time to handle on site grievances during working hours without loss of pay.

19.05 The job steward shall be the last employee covered under the terms of this Agreement to remain on the job, provided that he is qualified and capable of performing the work.

19.06 The steward, where possible, will be responsible for reporting any grievance to the Employer and to the Union so that it may be dealt with without unduly delay.

19.07 No discrimination shall be shown against any steward for carrying out his duties. Stewards shall be included in all overtime work if qualified to perform the work.

### **ARTICLE 20 – GENERAL PROVISIONS**

20.01 Any employee may be granted a leave of absence without pay for proper reasons upon written application to the Employer. Before such leave is granted, the matter will be discussed with the Business Agent and Job Steward.

20.02 An employee not reporting for work must notify the Employer before the beginning of his shift or must give a reason satisfactory to the Employer for failing to report,

20.03 An employee shall not transfer from one Employer to another within the area of this Agreement without the consent of the Union and the Employer.

20.04 All terms and conditions will become effective on signing.

### **ARTICLE 21 – MANNING CLAUSE**

21.01 All working foreman mechanics must be members of the Union and all jobs must have a working foreman mechanic where three (3) or more heavy duty equipment mechanics are employed. The working foreman mechanics shall receive Sixty Cents (\$.60) per hour above the heavy duty equipment mechanics rate.

21.02 Where the union supplies a master mechanic he shall receive One Dollar (\$1.00) per hour above the heavy duty equipment mechanic's rate.

21.03 On sites where an Employer has five (5) or more operators (excluding apprentices and front end drivers) covered by Article 26 of this Agreement, he must employ a working foreman who is a member of the International Union of Operating Engineers, Local 946; Said Foreman to receive One Dollar and Fifty Cents (\$1.50) per hour above Group A Rate. On other work, the Employer may appoint a working Foreman who shall receive the same premium.

(A) Where the Employer employs a member of Local 946 as a working foreman, all I.U.O.E. members shall take their directives and instructions from said foreman.

(B) When foremen are being appointed first consideration will be given to employees on site working for the Employer.

21.04 (a) All mobile hydraulic cranes over 35 Ton capacity shall be manned by an operator. This does not apply to self-propelled cranes.

(b) All conventional boom mobile cranes and crawler cranes (35) ton capacity and over shall be manned by an operator and an apprentice. This does not apply to self-propelled cranes.

21.05 When equipment not listed in this Agreement and coming within the jurisdiction of the Union is used, it shall be classified by agreement between the Employer party and the union and shall become part of this Agreement.

21.06 Employees covered by this Agreement working on water from scows and barges, shall receive Seventy-Five Cents (\$.75) per hour premium.

21.07 Notwithstanding Article 19.07 the regular operator and/or crew of equipment listed in Classifications shall be given the first opportunity to work any overtime required by said piece of equipment.

(27)

21.08 Operators of cranes shall receive the following boom premiums:

from 100 to 150 foot of boom and jib, Thirty-Five Cents (\$.35) per hour;

151 to 199 foot of boom and jib, Fifty Cents (\$.50) per hour;

200 foot of boom and jib, Seventy Cents (\$.70) per hour, and one cent (\$.01) per foot thereafter.

21.09 Operators of tower cranes when operating from the mast or boom shall receive Eighty Cents (\$.80) per hour premium. This does not include tower crane operators who are operating from the ground by remote control.

21.10 When an Engineer is made responsible for supply air on projects where employees are working under air pressure he shall receive a premium rate of Twenty-Five Cents (\$.25) per hour over and above his normal rate of pay.

21.11 Air compressors feeding low pressure into air lock shall receive Twenty-Five Cents (\$.25) premium over group #2.

21.12 Heater attendants for forced air, gas or oil burning temporary heating units, after five (5) attendants there shall be a foreman.

21.13 Equipment operators and crew shall not be replaced by mechanics, working foreman, those above the rank of working foreman and vice versa, except during a condition requiring immediate action to avoid loss of life or property. However, under conditions when a serious disruption of work operations will result from the non-availability of a mechanic or operator beyond the control of the Employer, then the substitution may be made. Such substitution shall only continue until the manpower deficiency is eliminated in conjunction with the union Business Agent.

21.14 On request from the operator, an operator's manual shall be supplied by the Employer.

21.15 All employees who are required to work underground shall receive One Dollar (\$1.00) above their normal rate of pay as set out in “Wages and Classifications”.

21.16 Where an Employer has International Union of Operating Engineers members from a Local other than Local 946 employed, the same will be replaced when qualified members of Local 946 are available. This clause shall not apply to Local 946 members who have been dismissed for just cause.

## **ARTICLE 22 – APPLICATION OF COLLECTIVE AGREEMENT**

Companies under Agreement with the Union when working on Job Site or Projects where this Agreement applies, shall abide by the working conditions and monetary conditions etc., as set out.

## **ARTICLE 23 – DEFINITION OF WORK COVERED BY THE INDUSTRIAL AGREEMENT**

23.01 Industrial projects covered shall be defined as those listed:

- (1) heavy water plants
- (2) oil refineries
- (3) power stations
- (4) pulp mills
- (5) deep water ports or unloading docks
- (6) ore reduction plants
- (7) chemical plants
- (8) steel mills
- (9) heavy manufacturing plants
- (10) power plant\dams\tunnels
- (11) nuclear plants
- (12) bridges and wharves (over 6 million dollars)
- (13) onshore\offshore oil related projects
  
- (14) tunnels excluding road crossings

(29)

(15) others as agreed between the Parties

23.02 All other construction “not spelled out in 23.01, such as hotels, schools, hospitals, residential developments, motels, shopping centers, other commercial projects, sewer and water, road building, will be covered under the Commercial Water & Sewer Agreement and Roadbuilding Agreement. (Industrial Wages Appendix “A”).

23.03 The parties to this Agreement recognize that major projects may require agreement on special conditions that may arise at a particular location.

23.04 Wind indicators shall be placed on all major projects.

#### **ARTICLE 24 – SAFETY CLAUSE**

24.01 No operators will be required to operate equipment where safety equipment or required manufactured safety locks are defective.

#### **ARTICLE 25 – APPRENTICESHIP AND TRAINING**

25.01 The Employers agree to explore and participate in Operating Engineers Training programs. In recognition of the need of bona fide training, the parties agree to the provisions herein.

25.02 When an employee is assigned to a job for which he is not fully qualified or experienced within a higher wage classification he shall continue at his former classification rate for not more than fifteen (15) working days.

25.03 The ratio of apprentices to operators or mechanics shall be:

Three (3) to ten (10) Operators 1 Apprentice

Ten (10) to twenty (20) Operators 2 Apprentices

Twenty (20) to Thirty (30) Operators 3 Apprentices

One (1) five (5) Mechanics 1 Apprentice



Five (5) to ten (10) Mechanics 2 Apprentices

25.04 The following scheme of remuneration for apprentices shall apply:

1<sup>st</sup> 1300 hours – 55% or \$10.00 per hour, whichever is greater

2<sup>nd</sup> 1300 hours – 55% or \$12.00 per hour, whichever is greater

3<sup>rd</sup> 1300 hours – 80%

4<sup>th</sup> 1000 hours – 95%

Upon successful completion of a recognized training course, a new apprentice will be credited as entering the trade of the second 1300 hour level.

25.05 Each apprentice shall carry a book (in an approved form) which shall travel from job to job and from Employer to Employer and in which shall be recorded the apprentice's hours worked as verified by the Employer and the Union.

\* **Apprenticeship and Classification and Wages from 2010 – 2013:**

**Due to the pending changes in the Apprenticeship and Certification Act in New Brunswick regarding Heavy Equipment Operator being as a designated trade:**

**Article 25 will reflect the 2006 -2010 agreement until no later than December 31,2010 when a new appendices will follow.**

## **ARTICLE 26 – CLASSIFICATIONS AND WAGES**

Wage rates are contained in Appendix “A”

### **Group A**

Operators of Power Cranes (all attachments), overhead Cranes, Gantry Cranes, Derricks, 100 ton cap., and over, Shovels, Backhoes, Draglines, Dredges (dipper or suction) and similar equipment of 4 cu. Yds. / and over,

Heavy Duty Equipment Mechanics, Multiple Drum Hoist and Single Drum Hoist over twelve stories, Single Drum Hoist of manual friction and brake type and all similar equipment and all Tower Cranes, Helicopter Winch Operators, Stationary Engineer (chief) but no Foreman's Premium, Fine Grader Operator, Tug Boat Captains, loaders 10 cu.yds. and over. Helicopter Pilots, Divers, Work Boat Captains.

### **Group 1**

Operators of Power Cranes (all attachments), Overhead Cranes, Derricks, Gantry Cranes 35 ton and under 100 to cap., Shovels, Backhoes, Excavators, Draglines 2 cu.yds.cap. and under 4 cu.yds., equipment welders, machinists, loader 5 cu.yds. and under 10 cu.yds. climbing and Skyway Type Cranes, Chimney Hoists, Side Boom Swing, Pump Crete Truck Operators, 3<sup>rd</sup> Class Engineers, Material Hoist and Multiple Drum Hoist, Single Drum Hoist twelve stories and under of manual friction brake type, Operators of premix Concrete plant, form Carrier, all Power Marine Craft engaged in construction, Grader Operators, Concrete Pumps, Mucking Machines – all types, Dozers D-8 types and over.

### **Group 2**

Operators of Power Cranes (all attachments), Overhead Cranes, Derricks, Gantry Cranes under 35 ton cap., Shovels, Backhoes, Excavators, Draglines under 2 cu. Yds. Cap., Gradalls, Caisson Boring Machines, Joy and Quarry Type drills, Barge Drills, Air Tracks, Hoist with or without tower including air hoist, Rotary Drills, Loaders under 5 cu.yds. cap., Bulldozers D-7 type and under, Tractors, Scrapers, Boom Truck Operators, Compressors 600 C.F.M. and over, Locomotive Operators, Crusher Operators, off Highway Trucks 50 ton and over, Tractor Truck units (i.e. Float, Highboy, etc.)

### **Group 3**

Operators of Asphalt Rollers, Spreaders, Wagon Drills, Operators of Batching Plants, Temporary or permanent

heating plants (boilers 15lb. Pressure and over used during construction), Well Point Systems, Concrete Mixers 1yd. Cap. And over, Bullmoose, "A" Frames, Sideloaders, Haul Pacs, Rockwagons, Forklifts, Self propelled Compaction Units, Skidders, Mechanics Helper, Servicemen and Concrete Conveyor Operators, Tandem Trucks, Ready Mix Trucks, Winch Operators for Barge and Tie-In Equipment.

**Group 4**

Oiler, Pump Operators, Conveyor Belt Operators, Compressor Operators, Mobile Crane Drivers, Heating Units, Forced Air, Gas and Oil Burning and Portable Generators, Trucks Single Axle Trucks, (excluding 1\2 ton and one ton trucks), Safety Boat Operators, Utility men, Rod and Chainmen.

Should any question arise as to the classifications of employees operating or assisting in the operations, or both, or who are directly assisting in the maintenance or repair of any technical construction machinery or equipment not specified in the said classifications, the same shall be resolved by mutual agreement.

If an Employer is tendering on a project on which he suspects Non-Union competitors are tendering at lower wage rates and benefits, then a pre-tender meeting will be held with the union to arrange special conditions, so that the competitive position of the Employer can be maintained.

**ARTICLE 27 – ENABLING CLAUSE**

- 27.01 When, in the opinion of the signatory parties to this agreement, certain work might be secured that will not permit the fulfillment of the articles of the agreement and it is found necessary and expedient that some modification of these conditions such work could be secured, the signatory parties may make amendments to govern such work and such shall not be considered a violation of this agreement. No party shall have the power to unilaterally alter this agreement.

**COMMERCIAL, WATER AND SEWER AGREEMENT:**

**WAGE PACKAGE**

**, 2010 to January 01, 2011**

	<b><u>Gr.A</u></b>	<b><u>Gr.1</u></b>	<b><u>Gr.2</u></b>	<b><u>Gr.3</u></b>	<b><u>Gr.4</u></b>
Base rate	\$ 22.20	\$ 21.54	\$ 20.82	\$ 20.08	\$ 19.24
Vac. Pay (14%)	3.11	3.02	2.92	2.81	2.69
Health & Welfare	1.98	1.98	1.98	1.98	1.98
Pension	3.25	3.25	3.25	3.25	3.25
Training	<u>0.30</u>	<u>0.30</u>	<u>0.30</u>	<u>0.30</u>	<u>0.30</u>
<b>Total Package</b>	<b>\$ 30.84</b>	<b>\$ 30.09</b>	<b>\$ 29.27</b>	<b>\$ 28.42</b>	<b>\$ 27.46</b>

**SCHEDULE "A" WAGES**

\$ .75 ON JANUARY 01, 2011 PER EACH GROUP


\$ 1.25 ON JULY 01, 2011 PER EACH GROUP

\$ 1.50 ON JULY 01, 2012 PER EACH GROUP

**THESE DISBURSEMENTS OF WAGE INCREASES WILL BE ANNOUNCED THIRTY (30) DAYS PRIOR TO EFFECTIVE DATES.**

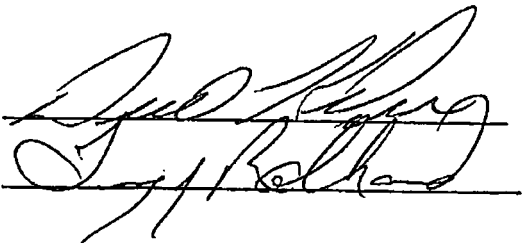
SIGNED THIS 3 DAY OF August, a.d., 2010

**SIGNED BY THE SAINT JOHN  
CONSTRUCTION ASSOCIATION ON  
BEHALF OF THE AUTHORIZED  
CONTRACTORS**

  
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**WITNESS**

**SIGNED ON BEHALF OF LOCAL 946  
OF THE INTERNATIONAL UNION OF  
OPERATING ENGINEERS**

  
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**WITNESS**

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