

## AGREEMENT

This Agreement is entered into between representatives of labor and management. The representative of labor is the Pointers, Cleaners and Caulkers Subordinate Union Local 52 of the International Union of Bricklayers and Allied Craftworkers, AFL-CIO ("Local 52" or the "Union"). The representative of management is the Tuck Pointing Contractors Association, Inc. (the "Association"), for and on behalf of the contractors named in Exhibit A, attached to and forming a part of this Agreement, and such contractors as may subsequently join the Association (all contractors will be called collectively the "Employers" or each called singularly the "Employer").

### ARTICLE I AREA COVERED BY THIS AGREEMENT

#### 1.1

This Agreement shall cover the geographical area of jurisdiction of District Council No. 1 of Illinois, including but not limited to Cook, Lake, DuPage, Kane, Will, McHenry, DeKalb, Kendall and Grundy Counties of Illinois, and such additional territory as the Union may be awarded by the International Union of Bricklayers and Allied Craftworkers, AFL-CIO, and as approved by the Association.

### ARTICLE II EFFECTIVE DATE AND DURATION

#### 2.1

This Agreement shall be effective from June 1, 2006, through and including May 31, 2010.

### ARTICLE III UNION SECURITY

#### 3.1

All employees now included in the bargaining unit represented by the Union and having membership therein must, during the term hereof, as a condition of employment, maintain their membership in the Union. All other employees covered by this Agreement shall as a condition of employment, become members of the Union after the seventh day but not later than the eighth day following the beginning of such employment, or the effective date of the Agreement, whichever is later and they shall maintain such membership as a condition of continued employment.

3.2

Upon receipt of a written notice from the Union that an employee has not acquired membership in the Union, or has not maintained his membership in the Union, or has not maintained his membership in good standing therein, as provided for in this section, the Employer shall discharge such employee and such employee shall not be re-employed during the life of this Agreement, unless or until he or she complies with the provisions of this section.

3.3

Each Employer must report to the Union office, the name and address of all employees employed in work coming within the occupational jurisdiction covered by this Agreement, who are employed seven days or more and who have not become members of the Union.

ARTICLE IV  
BARGAINING UNIT AND RECOGNITION

4.1 Bargaining Unit

The Bargaining Unit shall consist of all employees engaged in work covered by the occupational jurisdiction of the Union as described in Article IV, Section 4.3, entitled "Scope of Work."

4.2 Union Recognition

The Employer recognizes the Union as the sole and exclusive bargaining agent for all employees performing work within the Union's occupational jurisdiction.

4.3 Scope of Work

This Agreement shall apply to work classifications as follows: pointing, stripping, grouting, polymer and sealant injection, caulking, cleaning, restoration and repair of all types of masonry and other building facing materials including concrete, steel, aluminum, porcelain, enamel and window frames constructed thereof and any other substance which may be used in the construction of building of any type, nature or description; all grinding and cutting out on such granite work, sandblasting, steam cleaning and hand washing; the pointing, cleaning and weatherproofing of all buildings, grain elevators and chimneys, all such structures or part of structures, built traditionally or contractually to members of the Union and all servicing or work relating to the processes described above and below, whether new construction, maintenance, or restoration work.

The work covered by this Agreement includes but is not limited to the following:

## CAULKING OF JOINTS

Installation of backer rods, bond breaker tape, fireproofing material, priming joints, mixing caulking, loading bulk guns, caulking masonry and concrete, expansion, deck and control joints, window perimeters, door frames, access panels, louvers, top of masonry walls and steel ceiling deck or steel beams or concrete beams, all E.I.F.S. material, fireproof back-up on expansion and control joints, tooling joints, performing all clean-up.

## RE-CAULKING (ADDITIONAL ASSIGNMENTS)

Cutting out old material, cleaning, grinding, scraping joints, priming, packing, and re-caulking.

## SCAFFOLDING

The assembly and hanging of all types of scaffolding, including setting up the guard rails, electric motors, wire or rope cable, rope falls, electric cables and other miscellaneous swing scaffold equipment; installation of C-hooks, out riggers, beams, counter weights, parapet clamps and the like; all rigging and safety tie backs; installation of life lines and other fall-arrest procedures and equipment; all moving and relocation of swing scaffolding; daily inspection of rigging and swing scaffolding equipment; operation of man-lifts and other hydraulic scaffolding and aerial lifts; set up pipe scaffolding; and set-up, moving and tearing down of creeper (smokestack) scaffolding. Members of the Bargaining Unit may also perform the rigging, tear down, and moving of all scaffolding on which members of the Union work.

## RESTORATION OF ALL STRUCTURES

Building inspections and surveys, chemical cleaning, water blasting, steam cleaning, other types of power washing and hand cleaning; dry cleaning, sand blasting, power cleaning with limestone dust and crushed glass, etc.; installation and operation of all systems that collect any materials after use; paint striping, chemical or mechanical; cutting out joints by power or hand method, mixing mortars, pointing, re-pointing, scrub; Manchester grouting, stripping, drilling, pinning, anchoring masonry material; selective captured demolition for replacement with same or like materials, rebuilding of masonry, cutting of steel and welding operations; brick and stone removal and replacement - Dutchman, torch cutting and welding as related to masonry repairs, shelf angle and Lintel replacement, flashing and anchoring, epoxy anchoring; brick and stone patching - including all preparatory work, chipping,

sawing, clean-up and coating; masonry and concrete chimney and smoke stack repair, terra cotta repairs and replacement, toothing of brick and stone, application of clear repellent waterproofing, application of cement base or acrylic coating; mold making and fabrication of specialty masonry and stone items; and installation of fiberglass, plastic gypsum, reinforced concrete and vinyl substitutes, operating chipping guns or hammers, electric power tools and other equipment necessary. In addition, members of the Bargaining Unit may handle and move terra cotta.

## CONCRETE WATERPROOFING & RESTORATION

Re-point and restore all concrete buildings, blast tracking, cement finishing, plastering, sandblasting, hydro-blasting, etching and other abrasive methods of preparing the substrate; captured demolition of concrete debris, sawing, chipping, cleaning, removal of deteriorated reinforcing rods, epoxy injection, drilling and installing ports; performance of minor structural repairs, coating and welding where required, install forms, pour material and finish, grouting - hand and power.

Patching with concrete and other various patching compounds, all gunite or shotcrete preparation and application, mixing patching material, application of epoxy or other chemical coatings and non-slip aggregates; application of three-part coatings used for pedestrian or aesthetic value, trowel, roll and spray decorative deck topping including the broadcasting of sand or silica; and coating of all joints, cutting and recaulk, waterproofing the substrate of exterior surface by whatever method, operate power equipment, chipping guns, air hammers, power tools and other tools necessary, including epoxy and foam injection pumpers, all preparation for gunite or shotcrete work.

Installation of all forms and patching of precast concrete products of any sort.

## WATERPROOFING

The application of waterproofing materials by brush trowel or spray on applications.

## OTHER PRODUCTS AND WORK

The application of air barrier products by spraying, rolling, and brushing on masonry construction.

#### 4.4 Performance of Work

All of the above-described work, shall be performed only by employees covered by this Agreement, except where performance of specific tasks by such employees is made permissive by inclusion of the word “may” in specific portions of Section 4.3.

### ARTICLE V WORK WEEK AND PAYMENT OF WAGES

#### 5.1

The regular workday shall consist of eight hours between the hours of 6:00 a.m. and 4:30 p.m., with a half hour permitted for lunch to begin no later than 12:30 p.m.

#### 5.2

- (a) Regular Rate - Employees shall be paid the regular rate of pay for the first eight hours of work between the hours stated in Section 5.1 above, Monday through Friday.
- (b) Time and One-Half Rate - Employees working more than eight hours in a day, Monday through Friday, shall be paid time and one-half for those hours worked in excess of eight hours, and employees shall also be paid time and one-half for all work performed Monday through Friday outside of the hours described in Section 5.1 as the regular work day, except as provided in Article V, Section 5.5. All work on Saturday is paid at time and one-half except that during the period from November 1 through April 30, Saturday may be used as a make-up day at straight time if a day of work was lost during the week as the result of inclement weather only. Work on Saturday during a holiday week is paid at time and one-half, except that during the period between November 1 and April 30, up to the first eight hours of work on Saturday during the regular work hours may be paid at straight time if work was lost during that week because of inclement weather. Work over 40 hours in a week is paid at time and one-half.
- (c) Double Time - Employees are paid double time for work before 6:00 a.m. and after 4:30 p.m. on Saturdays, and for all work performed on Sundays and Legal Holidays. Any work beyond eight hours on a Saturday will be paid double time.

### 5.3 Legal Holidays

Legal Holidays shall consist of the following: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

### 5.4 Notice to Union of Overtime Work

The Employer shall notify the Union not later than 4:00 p.m. on the preceding Friday, if its employees are to perform any work on Saturdays, Sundays or Holidays, furnishing the Union with the name of the employees and location where the work is to be performed.

### 5.5 Shift and Night Work

Shift and night work shall consist of scheduled work where four hours or more of the work is performed between 4:31 p.m. and 5:59 a.m. Such work may be performed only with the permission of the Union, and unless such permission is obtained the normal premium rates for work outside the hours of the regular workday shall apply. The method for the Employer to obtain such permission is for the Employer to inform the Union in writing of the shift or night work it seeks to perform, including details as to the schedule and location. Permission will be deemed to have been granted unless the Union transmits to the Employer, within one business day of its receipt of the permission request, notice of any objection. If the Union does transmit such an objection, the Employer will not be permitted to utilize this provision. When shift or night work is performed, the workday will consist of eight hours, paid at the regular rate, but that period of eight hours will include a one-half hour paid lunch period. Employees will be paid double time for any work beyond this eight hours. If shift or night work is performed at a location for at least two consecutive days on which all the work is performed between Monday and Friday, the Employer may schedule shift or night work to begin and end at the same time on a consecutive day at that location and will not be required to pay the premium rate for any portion of the shift that is worked on a Saturday or Sunday but if these conditions are not met, the time and a half or double time rate will apply to any such hours.

### 5.6 Transportation Costs

The Employer shall not be required to pay or reimburse employees for transportation costs or be required to furnish transportation for employees performing work within the following territorial limits: on the North, Wisconsin State line; on the West, Route 47; on the South, a line 10 miles south, parallel to Rt. 30; and on the East, Lake Michigan and Indiana State Line.

For all work performed outside of the above territorial limits, the employee shall have the option of:

(a) returning to his home each night, in which case he shall receive an additional hour of pay at the regular rate for each day in which he works in such area, as reimbursement for transportation costs (paid on a separate check) or

(b) remain out-of-town overnight, in which case he shall be paid, in addition to his wages, \$70.00 per day or \$350.00 per week and an amount equivalent to a round trip (bus fare) to and from such place of employment. The employee will not be paid for the time in transit, if it occurs on a Saturday or Sunday. On all other days, he shall be paid at the regular rate for all time spent in transit.

#### 5.7 Show-Up Pay

Employees reporting for work upon order, expressed or implied by the Employer and not put to work for any reason, except weather conditions, fire, accident, failure of scaffold partner to show up for work or unavoidable causes, shall receive two hours pay.

#### 5.8 Payment

Employees shall be paid at least once each week. Payday shall be the third working day following the termination of the workweek. Paychecks shall be on the job site by noon of the payday. If the Employer fails to have sufficient funds in the bank to meet all paychecks issued to its Bargaining Unit employees, he shall pay on account of each defaulted check in addition to the face amount thereof, a sum equal to the costs incurred in collecting that amount, including attorney's fees, if any, and in addition, the Employer shall be deprived of the right to pay by check. All payroll checks must have a detachable stub recording the total hours of employment and show all amounts deducted for each purpose. By agreement between the Employer and any employee, such employee may receive his or her pay through an electronic payment system, in which case the employer will provide the employee a statement recording the total hours of employment and showing all amounts deducted for each purpose.

#### 5.9 Termination of Employment

##### Involuntary Dismissal

(a) By discharge - An Employer may discharge any employee at any time of any working day, provided he tenders in hand to the employee on the job, immediately, all wages

due to him and including a full day's pay for the day of discharge, except that if an employee is discharged for good cause, he shall be paid only for those hours worked and receive his pay on the next regular payday. The parties agree that the payment procedure upon discharge as outlined above is a condition precedent to a lawful discharge.

(b) By Lay-off - When employees are laid off due to lack of work, they shall immediately be paid all wages due them to date, but the employee may grant the Employer's request that the employee accept all wages due on the next regular payday.

#### Voluntary Dismissal

When employees quit of their own accord, they shall wait until the next regular payday for the wages due them, except at the discretion of the Employer, they may be paid at any time before the next regular payday.

### ARTICLE VI WAGES AND FRINGE BENEFIT FUND CONTRIBUTIONS

#### 6.1 Journeymen's Rates

- A. Effective June 1, 2006 to May 31, 2007, the wages and rates will be:
- |  |          |
|--|----------|
| Wages.....   | \$ 35.65 |
| Health & Welfare Fund .....  | 5.26     |
| Tuckpointers Local 52 Pension Plan.....                                | 4.09     |
| Tuckpointers Local 52<br>Defined Contribution Annuity Trust Fund ..... | 3.00     |
| Tuckpointers Apprentice Trust .....                                    | .40      |
| International Masonry Institute.....                                   | .38      |
| Chicagoland Construction Safety .....                                  | .01      |
| Tuckpointers Promotional Fund .....                                    | .09      |
| Bricklayers and Trowel Trades International Fund .....                 | .25      |
| District Council #1 of Illinois Dues Check Off.....                    | .138     |
- B. Effective June 1, 2007 to May 31, 2008  
\$3.00 increase, to be allocated by the Joint Negotiating Committee.
- C. Effective June 1, 2008 to May 31, 2009  
\$3.10 increase, to be allocated by the Joint Negotiating Committee.



- D. Effective June 1, 2009 to May 31, 2010  
\$3.10 increase, to be allocated by the Joint Negotiating Committee.

## 6.2 Stack Work

Where stack work requires the positioning of creeper (bracket) scaffolding at various levels, employees shall be paid \$.50 per hour over scale. Such premium pay shall be limited to the area included within the boundaries designated in Article I, Section 1.

## 6.3 Clothing Allowance

Employees sandblasting, or steam cleaning, high-pressure water cleaning, sponging and brick cleaning where acid or caustic soda agents are used shall be paid a clothing allowance of \$.25 per hour.

# ARTICLE VII DUES CHECK-OFF

## 7.1

The Employer shall deduct from the wages of each employee who has signed a check-off authorization form and pay to the Union (or to any agencies designated by the Union for the collection of such money), the sum for each hour paid which the Union has specified, or specifies from time to time and so advises the Employer in writing, as the portion of each employee's dues subject to check-off, made payable to the Union, Illinois District Council No. 1, its International Union or any other affiliate of its International Union, as designated from time to time by the Union. The sums transmitted shall be accompanied by a statement, in the form specified by the Union, reporting the name of each person whose dues are being paid and the number of hours such employee has been paid.

## 7.2

The Union agrees to indemnify and hold harmless the Employer against any and all claims, demands, suits or other forms of liability that shall arise out of or by reason of the deduction and transmittal of dues pursuant to this Article, provided, however, that the Union's total liability thereunder shall be limited to the amount of dues transmitted by the Employer to the Union pursuant to this Article during the time period covered by the claim.

## ARTICLE VIII BENEFIT FUNDS

### 8.1 Employer Obligation

The Employer agrees to be bound by the Agreements and Declarations of Trust establishing the Trusts described in this Article, as well as any amendments thereto, and agrees to be bound by all actions taken by the Trustees of those Trusts, pursuant to those Agreements and Declarations of Trust, except that, in the event of any conflict between the terms of an Agreement and Declaration of Trust and this Agreement, the terms of this Agreement shall control. Notwithstanding any other provisions to the contrary in this Agreement or in such Agreements and Declarations of Trust, contributions shall be due and payable as provided in this Article.

### 8.2 Health and Welfare Contributions

The Employer shall contribute for health and welfare purposes the amount specified in the applicable wage and rate provisions of this Agreement per hour for work performed by all employees covered by this Agreement. Such payments shall be made to the Chicago Area Joint Welfare Committee for the Pointing, Cleaning and Caulking Industry, a Health and Welfare Trust Fund, in accordance with the Agreement and Declaration of Trust establishing that fund.

### 8.3 Local Pension Contributions

The Employer shall contribute for local pension purposes the amount specified in the applicable wage and rate provisions of this Agreement per hour for work performed by all employees covered by this Agreement. Such payments shall be made to the Tuckpointers Local #52 Pension Plan, a Pension Trust Fund, in accordance with the Agreement and Declaration of Trust establishing that fund.

### 8.4 Annuity Fund Contributions

The Employer shall contribute for annuity purposes the amount specified in the applicable wage and rate provisions of this Agreement per hour for work performed by all employees covered by this Agreement. Such payments shall be made to the Tuckpointers

Local #52 Defined Contribution Annuity Trust Fund in accordance with the Agreement and Declaration of Trust establishing that fund.

#### **8.5 International Pension Fund Contributions**

The Employer shall contribute for international pension purposes the amount specified in the applicable wage and rate provisions of this Agreement per hour for work performed by all employees covered by this Agreement. Such payments shall be made to the Bricklayers and Trowel Trades International Pension Fund in accordance with the Agreement and Declaration of Trust establishing that fund.

#### **8.6 International Masonry Institute Contributions**

The Employer shall contribute for international promotion, development, and training purposes, the amount specified in the applicable wage and rate provisions of this Agreement per hour for work performed by all employees covered by this Agreement. Such payments shall be made to the International Masonry Institute Promotion Trust Fund in accordance with the Agreement and Declaration of Trust establishing that fund.

#### **8.7 Apprenticeship Fund Contributions**

The Employer shall contribute for apprenticeship and training purposes the amount specified in the applicable wage and rate provisions of this Agreement per hour for work performed by all employees covered by this Agreement. Such payments shall be made to the Tuckpointers Local #52 of Illinois Apprenticeship Trust in accordance with the Agreement and Declaration of Trust establishing that fund.

#### **8.8 Promotion Fund Contributions**

The Employer shall contribute for promotion fund purposes the amount specified in the applicable wage and rate provisions of this Agreement per hour for work performed by all employees covered by this Agreement. Such payments shall be made to the Tuckpointing Industry Promotional Trust in accordance with the Agreement and Declaration of Trust establishing that fund. Increases in the contribution rate to the fund as authorized by the trustees will not be taken from the total increases provided in Article VI, but will be in addition to such increases.

## 8.9 Safety Council Contributions

The Employer shall contribute for safety program contribution purposes, the amount specified in the applicable wage and rate provisions of this Agreement per hour for work performed by all employees covered by this Agreement. Such payments shall be made to the Chicagoland Construction Safety Council Fund in accordance with this Agreement

## 8.10

All of the contributions stated above shall be forwarded to each of the Funds on monthly report forms at the Funds' common address and be postmarked not later than the 20<sup>th</sup> day of the following month for all hours worked for the preceding month and the monthly reports will provide a method which the Employer must use to identify each employee as a Journeyman, apprentice, or Improver, and to list the total number of Journeymen, Apprentices and Improvers.

## 8.11

An Employer becomes delinquent upon failure to make timely payments of contributions as is required in Section 8.10 above. If contributions, in full, are not mailed and postmarked by the 20<sup>th</sup> day of the following month for all hours worked for the preceding month, the Employer shall pay in addition to the aforesaid hourly contributions: (a) 10% of the amount due as liquidated damages for failure to pay in accordance with this Agreement and (b) interest on all outstanding balances computed at the prime rate on the day the delinquency occurred and (c) all reasonable legal, auditor and other charges incurred in effectuating payment. At the Trustees' discretion, a 10 day grace period may be extended. THESE PROVISIONS WILL BE STRICTLY ENFORCED.

## 8.12

If a delinquency continues uncured for thirty (30) days after written notice of such delinquency is mailed or delivered to the delinquent Employer, that Employer shall be liable for claims to the extent of benefits to which the employee would have been entitled if the Employer had made the required contributions, and for all contributions and liquidated damages due, plus all reasonable legal fees incurred by any of the Trust Funds in enforcing the payment thereof.

## 8.13

It shall be considered a violation of this Agreement for any Employer to fail to pay or comply with any provision of this Article, or any rule of regulation made by the Trustees administering any of the Trust Funds. If the Union receives written notice, from the person or entity administering any of the Trusts designated by the Trustees for that purpose, that the Employer has failed to pay in full any sum due and that failure continues for thirty (30) days,

the Union shall withdraw its employees from such Employer's employment until all sums due from the Employer under this Article have been paid in full. This remedy shall be in addition to all other remedies available to the Union and the Trustees and may be exercised by the Union, anything in the Collective Bargaining Agreement to the contrary notwithstanding. Such withdrawal of employees in order to collect contributions shall not be considered a violation of this Agreement on the part of the Union, and shall not be subject to arbitration.

8.14

If employees are withdrawn from any job as provided above in order to collect contributions to the Trusts, the employees who are affected by such stoppage of work shall be paid for lost time up to 16 hours provided that two (2) days notice of the intention to remove employees from a job is given to the Employer by the Union by witnessed hand delivery, registered mail, or other form of delivery by a third party that provides a receipt or confirmation.

8.15

The Employer shall furnish to the Trustees, upon request, such information and reports as the Trustees may require in the performance of their duties, including the following: weekly payroll journals, individual earnings records for all employees paid on an hourly basis or who are in covered employment, and quarterly withholding tax and FICA tax returns (FORM 941 and W-3). The Trustees, or any authorized agent of the Trustees, shall have the right at all reasonable times during the business hours to enter upon the premises of the Employer as may be necessary to permit the Trustees to determine whether the Employer is fully complying with the provisions regarding Employer contributions. Any Employer found delinquent through regular or special audits ordered by the Trustees shall be charged the full cost of such audit at the discretion of the Trustees.

8.16

All Employers shall annually furnish to the Trustees of said Trust, on dates determined by the respective Trustees, a statement showing whether (a) the Employer is a corporation and the names of all officers and directors of said Employer; or (b) if not a corporation, a certificate stating who are the constituent persons, composing the Employer and their respective interest in the business entity.

8.17

The contributions provided for in this Article shall accrue with respect to all hours worked by any journeyman, apprentice, foreman, and improver represented by the Union, or by any person doing any work within the jurisdiction of the Union and with respect to all hours worked by employees covered by the terms of this Joint Agreement for Employers within or without the Union's geographical jurisdiction, except when an Employer works in

an area outside the Union's geographical jurisdiction where other funds serving comparable purposes exist and the Employer makes contributions to those funds, then the Employer shall not be required to make a double contribution, provided, however, that the primary duty to make payments for work performed within the jurisdiction of the Union shall be for all Employers to pay the designated Trusts all contributions provided for in this Agreement.

#### 8.18

For purposes of Article VIII, Sections 8.2 and 8.3, the Bargaining Unit shall also include those persons in the employment of an employer who are Supervisors and Superintendents as defined in the Labor Management Relations Act, as amended; and who at one time were employee members of the Bargaining Unit on whose behalf contributions were required to be made to the Trust Funds described in Article VIII, Sections 8.2 and 8.3. For the benefit of all such persons, the Employer shall contribute to the Funds described in Article VIII, Sections 8.2 and 8.3 at the rates established, for each calendar year, at the rate of 40 hours per week commencing on each January 1<sup>st</sup> for the term of this Agreement until 1,450 hours are paid to the Health and Welfare Trust Fund and 2000 hours are paid to the Pension Trust Fund for each calendar year.

The Joint Arbitration Board is granted the authority to determine if an Employer is abusing this provision by designating more than a reasonable number of individuals as Supervisors and Superintendents and thereby avoiding the obligation to make proper contributions on behalf of those individuals to the Health and Welfare Trust Fund. The Union may initiate a grievance claiming such abuse and, pursuant to the provisions contained in this Agreement for the settlement of disputes, the claim may proceed to the Joint Arbitration Board which will have full authority to make a determination and set an appropriate remedy, including but not limited to an order that the Employer revise the number of individuals designated as Supervisors and Superintendents, make retroactive and/or prospective payments to the Health and Welfare Trust Fund based on actual hours worked by any individuals determined to have been improperly classified, or impose both of those remedies with or without additional remedies.

#### 8.19

The Union, acting solely as an employer for the purpose of making employer contributions to fringe benefit funds as an Employer under the provisions of Article VIII, of the Agreement and Declaration of Trust as amended of the Chicago Area Joint Welfare Committee for the Pointing, Cleaning and Caulking Industry, and of the Agreement and Declaration Trust of the Tuckpointers Local #52 Pension Plan, as amended, shall contribute to the funds described in Article VIII, Sections 8.2 and 8.3, at the established rate for all of its full time non-clerical supervisory employees only, on the following basis: For the

calendar year at the rate of 40 hours per week until 1,450 hours are paid to the Welfare Trust Fund and 2000 hours are paid to the Pension Trust Fund for such year.

## ARTICLE IX SUBCONTRACTING

The Employer may not sublet any work within the jurisdictional claims of the Union to any person, firm or corporation which is not in contractual relationship with the Union, provided, however, that the provisions of this paragraph shall apply only to the contracting or sub-contracting of work to be done at the site of construction, alteration or repair of buildings, structures, or other work.

## ARTICLE X JURISDICTIONAL DISPUTES

All questions of jurisdiction over work to be performed under this Agreement shall be resolved by a Joint Arbitration Board as described in Article XI, Section 1 of this Agreement or, if the Joint Arbitration Board refuses to accept the matter or does not reach a decision within the time limits described, the dispute may be referred to arbitration as described in Article XI of this Agreement. Neither the Joint Conference Board of the Construction Employers' Association and the Chicago and Cook County Building and Construction Trades Council nor any similar body shall have any authority to consider or resolve any questions of jurisdiction over work to be performed under this Agreement.

## ARTICLE XI SETTLEMENT OF DISPUTES

### 11.1

In case a dispute shall arise between an Employer and the Union, and the Employer and Union cannot resolve the dispute within 72 hours after it arises, then the dispute shall be referred to the Joint Arbitration Board for consideration in the manner hereinafter provided.

There shall be a Joint Arbitration Board consisting of two (2) representatives of the Union and two (2) representatives of the Association. The Association representatives shall be designated by the Tuckpointing Contractors Association, Inc. A quorum of the Joint Arbitration Board shall be two (2) members from the Union and two (2) members from the Association, but neither side shall cast more total ballots than the other. A decision shall require a majority vote and any such decision shall be binding on both parties. If no ruling is rendered by the Joint Arbitration Board within 72 hours of the time the dispute was presented

to it, the Joint Arbitration Board shall be deemed to have failed to have reached a decision, unless the parties to the dispute agree to an extension of time.

If either the Union or the Association notifies the other in writing of a desire to schedule a session of the Joint Arbitration Board and the other fails to appoint members to serve on the Joint Arbitration Board, or fails to cooperate in scheduling a session of the Joint Arbitration Board by not either accepting one of three dates proposed by the other side within a six-week period or offering three alternate dates within such six-week period, the matter will proceed to arbitration as provided in Article XI, Section 11.2.

#### 11.2

If a dispute has been referred to the Joint Arbitration Board and is either refused by the Board or no decision is reached by the Board within the time limits described above, either party may submit the dispute to binding arbitration by:

(a) informing the other party of such submission and requesting the American Arbitration Association to submit a panel of five (5) arbitrators available to hear and decide the issue. The party requesting such panel shall upon receipt of the five (5) names, strike one (1) name from the list and submit the remaining four (4) names to the other party, who shall strike one (2) additional name. The parties shall alternately strike names thereafter until one remains, who shall be the arbitrator.

(b) the party requesting arbitration shall then assume the responsibility of procuring the service of the arbitrator in accordance with the procedures of the American Arbitration Association. The arbitrator shall hear and decide the issue as soon as possible and shall submit the Award in the case.

#### 11.3

If no agreement on the selection of an arbitrator is reached within one week after a panel is tendered by the American Arbitration Association, the American Arbitration Association shall designate an arbitrator to rule on the matter.

#### 11.4

Unless otherwise agreed to by the parties to the dispute, the arbitrator shall issue a ruling without written opinion within 48 hours after the dispute is submitted and the arbitrator's decision and award in the case shall be final and binding upon the parties.

#### 11.5

Except as modified by the foregoing time limitations, the arbitration shall be conducted pursuant to the American Arbitration Association's Voluntary Labor Arbitration



Rules, as amended. All expenses of the arbitration, except expenses of legal counsel, shall be borne equally by the Union and the Employer that is the party to the particular dispute.

11.6

The Joint Arbitration Board, or any arbitrator selected in accord with this Article, shall have full power to enforce this Agreement and may impose such awards, orders, damages, fines, sanctions, and other remedies as the Joint Arbitration Board or arbitrator deem appropriate.

11.7

When any matter is in dispute and has been referred to conciliation or arbitration for adjustment, the provisions and conditions prevailing prior to the time such matter arose shall not be changed or abrogated.

ARTICLE XII  
APPRENTICES

12.1 Apprenticeship Program Administration

The Joint Apprenticeship Committee shall govern the administration of the Apprenticeship Program. The apprenticeship standards adopted by that committee are incorporated by reference into this Agreement as though fully set out.

12.2 Apprentice Pay

The rate of pay for apprentices shall follow a six level schedule. An Apprentice moves from one level to the next only after he has completely satisfied the requirements of the preceding level. Hence, the wages of an apprentice shall be as follows:

Level #1 - 50% of Journeyman scale during the period required to satisfy all of the following:

- (a) six months from the date of first employment, and
- (b) completion of 700 hours of unit work, and
- (c) attendance at nine apprenticeship class sessions.

Level #2 - 60% of Journeyman scale from the date Level #1 was completed and then for the period required to satisfy all of the following:

- (a) six months from the date of completion of Level #1, and

- (b) completion of an additional 700 hours of unit work, and
  - (c) attendance at nine additional apprenticeship class sessions.
- Level #3 - 70% of Journeyman scale from the date Level #2 was completed and then for the period required to satisfy all of the following:
  - (a) six months from the date of completion of Level #2, and
  - (b) completion of an additional 700 hours of unit work, and
  - (c) attendance at nine additional apprenticeship class sessions.
- Level #4 - 80% of Journeyman scale from the date Level #3 was completed and then for the period required to satisfy all of the following:
  - (a) six months from the date of completion of Level #3, and
  - (b) completion of an additional 700 hours of unit work, and
  - (c) attendance at nine additional apprenticeship class sessions.
- Level #5 - 90% of Journeyman scale from the date Level #4 was completed and then for the period required to satisfy all of the following:
  - (a) six months from the date of completion of Level #4, and
  - (b) completion of an additional 700 hours of unit work, and
  - (c) attendance at nine additional apprenticeship class sessions.
- Level #6 - 95% of Journeyman scale from the date Level #5 was completed and then for the period required to satisfy all of the following:
  - (a) six months from the date of completion of Level #5, and
  - (b) completion of an additional 700 hours of unit work, and
  - (c) attendance at nine additional apprenticeship class sessions.

### 12.3 Information

The Employer shall furnish the Trustees of the Apprenticeship Fund with information, such as the names of the Employees, classification, social security numbers, wages and/or hours worked and such other information as may be required for the proper and efficient administration of the Apprenticeship Fund.

## 12.4 Apprentice Ratio

The Employer may employ a maximum of one Apprentice for each two Journeymen, but not to exceed three Apprentices. Employers employing more than ten Journeymen may employ one additional Apprentice for each three Journeymen employed above ten. By agreement between the Union and any Employer, different ratios may be established for any period of time but no decision by the Union to permit some Employers but not all Employers to use such different ratios shall be a violation or evidence of a violation of the Most Favored Employers provision of this Agreement. There shall be at least one Journeyman on every job site and on every scaffold. The Union shall inform the Association within ten days of agreeing with an Employer to apply a different ratio.

## 12.5 Registration

Registration as an Apprentice Candidate shall be without cost to the Candidate and without obligation to the candidate, the Employer, or the Union to establish formal participation in the Apprenticeship Program.

## 12.6 Benefits

The Employer shall pay contributions to the various benefit funds identified in Article VIII for work of Apprentices in the same manner and at the same rates as for work by Journeymen.

# ARTICLE XIII IMPROVERS

## 13.1 Classification

There will be an additional classification of Employee called Improver. An Improver already has a level of skill in the industry based on work performed and does not meet all of the qualifications to become an Apprentice under the existing program established by Tuckpointers Apprenticeship Trust. An Improver may or may not be available for Davis Bacon Certification.

## 13.2 Improver Pay

Improvers shall follow a six level pay schedule moving from one level to the next only after he has completely satisfied the requirements of the previous level. Improvers with

higher skill levels will be placed in the appropriate wage level. Hence, the wage of an Improver shall be as follows:

Improvers will start their minimum wage rate at 55% of Journeyman scale during the period required to satisfy the following:

- (a) six months from the date of the first employment, and
  - (b) completion of 700 hours of unit work, and
  - (c) attendance at nine training class sessions.
- Level 2 - 60% of Journeyman scale from the date that Level 1 was completed and then for the period required to satisfy all of the following:
  - (a) six months from the date of the completion of Level 1, and
  - (b) completion of an additional 700 hours of unit work, and
  - (c) attendance at nine additional training class sessions.
- Level 3 - 70% of Journeyman scale from the date Level 2 was completed and then for the period required to satisfy all of the following:
  - (a) six months from the date of the completion of Level 2, and
  - (b) completion of an additional 700 hours of unit work, and
  - (c) attendance at nine additional training class sessions.
- Level 4 - 80% of Journeyman scale from the date Level 3 was completed and then for the period required to satisfy all of the following:
  - (a) six months from the date of completion of Level 3, and
  - (b) completion of an additional 700 hours of unit work, and
  - (c) attendance at nine additional training class sessions.
- Level 5 - 90% of Journeyman scale from the date Level 4 was completed and then for the period required to satisfy all of the following:
  - (a) six months from the date of completion of Level 4, and
  - (b) completion of an additional 700 hours of unit work, and
  - (c) attendance at nine additional training class sessions.
- Level 6 - 95% of Journeyman scale from the date Level 5 was completed and then for the period required to satisfy all of the following:

- (a) six months from the date of completion of Level 5, and
- (b) completion of an additional 700 hours of unit work, and
- (c) attendance at nine additional training class sessions.

### 13.3 Benefits

The Employer shall pay contributions to the various benefit funds identified in Article VIII for work of Improvers in the same manner and at the same rates as for work by Journeymen.

## ARTICLE XIV FOREMEN

### 14.1

The wages of a foreman shall be a minimum \$1.00 per hour above the rate of wages for Journeyman, as provided in the Agreement. The Employer must employ a Local 52 foreman on any job in which a minimum of six (6) Bargaining Unit employees, are employed.

### 14.2

The Employer shall pay contributions to the various benefit funds identified in Article VIII for work of Foremen in the same manner and at the same rates as for work by Journeymen.

## ARTICLE XV NON-DISCRIMINATION

### 15.1

Neither the Employer nor the Union shall discriminate against any employee because of his or her sex, age, race, color, creed or national origin. All references to gender are understood to include men and women.

## ARTICLE XVI WORK BY CONTRACTORS

### 16.1

An individual who is a shareholder, officer or director of a corporation or who is the father, mother, son, daughter, brother, sister, husband, wife, father-in-law, mother-in-law,

son-in-law, daughter-in-law, brother-in-law or sister-in-law of such an individual, will be described for purposes of this Article as a "Contractor."

Contractor may perform Bargaining Unit work subject to the other requirements set forth in this Agreement and subject to the requirement that any Contractor who performs Bargaining Unit work must, for the purpose of reporting and paying fringe benefit contributions, be treated as performing a minimum of 145 hours of Bargaining Unit work per month for at least 10 months a year, regardless of the amount of compensation any such individual receives in a given month.

The parties recognize the requirements set forth in the previous paragraph are necessary because Contractors frequently perform both Bargaining Unit and non-Bargaining Unit work and are compensated in a way that does not permit use of the normal methods for determining the precise number of hours spent performing Bargaining Unit work and the amount of fringe benefit fund contributions required and because prior experience indicates that without requirements of this sort, there are substantial possibilities of abuse. The parties do not intend these requirements to work an unfair hardship. If any Contractor or Employer believes application of these requirements in a particular situation would work an unfair hardship, the matter may be presented to the Joint Arbitration Board which at its sole discretion and by unanimous agreement, may relieve the Contractor or Employer of certain obligations of this Article to the extent the Joint Arbitration Board considers it necessary to avoid the imposition of an unfair hardship.

## ARTICLE XVII SAFETY

### 17.1

All employees working on non-stationary scaffolds and/or man lifts shall wear and use a safety harness at all times. Failure to wear the safety harness can result in the following action by the Employer:

- |                            |   |
|----------------------------|---|
| 1 <sup>st</sup> Violation: | A warning to the employee shall be issued.  |
| 2 <sup>nd</sup> Violation: | A one day lay-off or further discipline up to and including termination can be given to the employee. |

### 17.2

No more than three persons shall be on a swing stage at one time, and then only two of such persons may be performing work.

17.3

The Union shall present, for the safety education of its members, one or more training and orientation meetings. The meetings shall be held other than during working hours. Every Bargaining Unit member working in the trade, as a condition precedent to his employment by a signatory Employer shall be required to attend a safety meeting, receiving a respirator fit test and training, and carry a current 10 Hour OSHA Construction Safety & Health Card and a City of Chicago Scaffold Training Card.

17.4

In the interest of improving job safety, full time officers or business agents of Local 52, who are qualified in industry job safety procedures, shall have the permission of Employers to enter job sites to insure compliance with the procedures described in this Article. Entry onto job sites shall be subject to the approval of the property owner or managing agent. The Union representatives may consult with the job foreman or Employer's representative on correction or improvement of safety procedures, but this consultation shall not interfere with work in progress. Where failure of safety procedures are of a blatant nature so as to immediately endanger life or health of workmen or others, the Union representative shall have the right to so advise the workmen and shall immediately advise the Employer.

17.5

All employees working under conditions which make the use of a respirator appropriate shall use such a respirator. Failure to do so can result in the following actions by the Employer:

- |                            |   |
|----------------------------|---|
| 1 <sup>st</sup> Violation: | A warning to the employee shall be issued.  |
| 2 <sup>nd</sup> Violation: | A one day lay-off or further discipline up to and including termination can be given to the employee. |

## ARTICLE XVIII ALCOHOL AND DRUG PROGRAM

18.1

The parties to this agreement seek to prevent the use of alcohol and illegal drugs on the job and to ensure that employees do not report for work while under the influence of alcohol or illegal drugs. The parties' goal is to have a productive work place where everyone will be able to return home safely every day. The parties also seek to protect the privacy right of the employees and to provide the employees with an opportunity to overcome dependence problems or other difficulties associated with the abuse of alcohol or illegal drugs.

## 18.2

There shall be no random testing of employees for alcohol or drugs. Testing may be conducted as provided in Sections 18.3 or 18.4.

## 18.3

An employee may be tested for alcohol or drugs if he or she is directly involved in an incident with potential injury or damage to property or the employee is directly involved in an accident resulting in an injury requiring medical attention or damage of property. An employee may be tested if required by the owner or controlling contractor. An employee may be tested for probable cause such as smell of alcohol, difficulty in walking, slurring of words, or erratic behavior which must be documented by more than one person on the job. The Employer shall provide notice to the Union within 48 hours of requiring an employee to take a test for probable cause.

## 18.4

Employers may require any "new employee to take an alcohol and drug test. For purposes of this provision, an employee is considered "new" if (1) he or she has not worked for the Employer within the preceding four months or (2) his or her only employment with the Employer within the preceding four months is work performed within the last week. Beginning March 1, 2007, the Employer, may require any current employee to take an alcohol and drug test one time per calendar year in addition to any testing performed under Section 18.3.

## 18.5

If testing shows the employee has a sufficient level of alcohol or illegal drugs to warrant further action, the employee shall be permitted to enter a rehabilitation program and upon successful conclusion of that program, he or she will be returned to employable status eligible to return to work and shall be allowed to remain working and be subject to random testing for a period of two (2) years.

## 18.6

If an employee refuses to take an alcohol or drug test and the required cause existed for ordering such a test, the employee shall be subject to discharge.

## 18.7

Employers may use one of the approved rapid tests available. However, any questionable results from this test will not be grounds for disciplinary action or denial of employment. Further testing by an independent, accredited laboratory, a confirmation test using gas chromatography/ mass spectrometry (GC/MS) and reviewed by a Medical



Review Officer (MRO) will be required to constitute a confirmed positive.

18.8

All testing expenses shall be borne by the Employer. If an alcohol or drug test is performed, a split urine or blood sample shall be made available to the employee so he or she can arrange for a separate test at his or her expense.

18.9

All actions under this policy and programs will be confidential and disclosed only to those with a need to know.

18.10

Employees are encouraged to seek help for an alcohol or drug problem before it becomes a disciplinary matter. If an employee voluntarily notifies his or her Employer that he or she may have a substance abuse problem, the employee shall be permitted to enter an appropriate rehabilitation program. If an employee enters such a program he or she will be considered to be on medical leave of absence and will be rehired or placed on a preferential rehire list upon successful completion of the program. An employee returning to an Employer after successful completion of such a program will be subject to random testing for a period of two (2) years.

18.11

Drug Testing will use a ten (10) panel screen with the following limits.

<b>Analyte</b>	<b>Initial Screening</b>	<b>Confirmatory Test</b>
Amphetamines	1000 ng/mL	500 ng/mL
Cocaine	300 ng/mL	150 ng/mL
Marijuana	50 ng/mL	15 ng/mL
Opiates	2000 ng/mL	2000 ng/mL
Phencyclidine	25 ng/mL	25 ng/mL
Barbiturates	300 ng/mL	200 ng/mL
Benzodiazepines	300 ng/mL	200 ng/mL
Methadone	300 ng/mL	200 ng/mL
Propoxyphene	300 ng/mL	200 ng/mL
MDA - Analogues (Ecstasy)	250 ng/mL	200 ng/mL

Alcohol testing will be performed in accordance with DOT (US Department of Transportation) guidelines. Screening results of 0.02 will require a confirmation test not less than 15 minutes or more than 30 minutes of initial screening. 0.04 will constitute a confirmed positive.

## ARTICLE XIX TOOLS AND EQUIPMENT

### 19.1

Employees are required to furnish a canvas bag, a line, two adjustable wrenches and socket wrenches for rigging work, two hammers (mash and claw), three chisels (flat, cape and cold), back fillers (1/4", 3/8", 1/2", 5/8", 7/8" and 1"), one margin trowel, bucket trowel, 10 inch mortar board (hawk), soft duster, and all those other hand tools customarily and usually used by Journeymen and Apprentices to perform their trade.

### 19.2

The Employer shall furnish each employee, where required, a safety harness, lanyard, rope grab, caulking guns, one pair of goggles, and hard hat. Such equipment shall remain the property of the Employer and shall be returned to the Employer at termination of employment. If an employee fails to return this equipment, the Employer shall be entitled to deduct the following amounts from the employee's last paycheck: safety harness, lanyard and rope grab - \$250.00; goggles - \$10.00; hard hat - \$6.00; bulk caulking gun - \$40.00; cartridge caulking gun - \$20.00. The Employer will provide or pay for parts that must be replaced as a result of normal use of respirators.

## ARTICLE XX STEWARDS

### 20.1 Grounds for Appointing a Steward

Subject to the action of the Joint Arbitration Board, the Union may appoint a steward on any and all of an Employer's jobs under the following circumstances:

- (1) If the Employer has not been signatory to a collective bargaining agreement with the Union for at least two years;
- (2) If the Employer's principal place of business is not within the area described in Article 1, Section 1.1 of this Agreement;
- (3) If the employer has been found by the Joint Arbitration Board or an arbitrator to have engaged in a violation of the wage or fringe benefit fund contribution provisions of this agreement or to have committed some other serious violation of this Agreement;

- (4) if the Fund office has notified the Union or Delinquency Committee that the Employer is two months or more delinquent in payment of fringe benefit fund contributions or in the filing of reports;
- (5) if the employer reports fewer hours worked under the Agreement than those hours actually worked; or
- (6) if the Union has reasonable grounds for concern that the employer is violating the wage or fringe benefit fund contribution provisions of this Agreement, is reporting fewer hours worked under the Agreement than those hours actually worked, or is committing any other serious violation of the Agreement

## 20.2 Notice and Determination of Right to Appointment

Any claim by the Union that it is entitled to appoint a steward will be resolved by a special two-member Joint Arbitration Board that exists for this purpose ("SJAB"), and that will have full power to resolve such claims. If the Union believes it has grounds to appoint a steward, the Union will provide written notice of that belief by hand delivery or fax, to the employer and to Brad Grove and William Meyers, who have been designated by the Association and the Union respectively as their permanent appointees to the SJAB, or to such other individuals as may be determined be substituted by the Association and the Union. The notice from the Union shall inform the Employer that both the Union and the Employer may provide a written statement or documentation regarding their positions as to the appointment of a steward, and must provide the Employer with the FAX numbers for the two members of the SJAB. The Union and Employer must provide for any such statement or documentation to the members of the SJAB, with copies to the other party, for receipt by each member of the SJAB no later than the end of the second business day of receipt of the initial notice by the Union. The SJAB must resolve the question of the Union's right to appoint Steward within five business days of receipt of the initial notice by the Union. The members of the SJAB are only required to provide a statement as to whether or not they find the Union is entitled to appoint a steward, but they may provide further explanation if they wish. The decision is to be transmitted by the JSJAB to the Union and the Employer. If the appointee from either the Association or the Union does not reach a decision within five business days of the initial submission, the decision will be made solely by the other appointee. If the two members of the SJAB disagree, the matter may be advanced to arbitration as provided in Article XI, Section 11.2 through 11.7.

## 20.3 Appointment of Stewards

If a steward is appointed, the Union must select the steward from the current employees of the Employer unless the Union determines, in its sole discretion, that none of the Employer's current employee's would be an appropriate appointment. In that case, the

Union may select a steward from outside the Employer's current workforce and the Employer will be required to place that individual on the job.

#### 20.4 Steward Responsibilities

The steward will be responsible for checking cards, hours and pay and policing compliance with this Agreement, and will be expected to report all relevant information to the Union. The steward's duties shall not include any matters relating to hiring, termination or discipline of employees. In addition to his or her work as an employee under the terms of this Agreement, the steward shall be permitted to perform during working hours such of his or her duties as steward as cannot be performed at other times by those duties shall be performed as expeditiously as possible and the steward shall be subject to discharge if he or she takes unnecessary time to perform those duties or if his or her performance of these duties is unnecessarily disruptive of the Employer's work.

The steward shall receive the regular rate of pay, must perform his or her work for the Employer in a competent and efficient manner, and will be subject to all obligations of an employee except for as specifically provided for here. When a steward is selected from outside the Employer's current workforce, the employer shall have three days to assess that individual's competence and may terminate the individual within that time if the Employer finds him or her to not be competent. After three days, the steward shall be deemed competent and shall remain on the job until it is completed, unless he or she violates the obligations stated here or otherwise provides the Employer with good cause for termination.

#### 20.5 Layoff or Discharge of Steward

A steward shall be one of the last four employees laid off on the job. The Employers shall have the right to discharge or discipline a steward for good cause, including but not limited to a failure to perform his or her job duties on behalf of the Employer in a competent and efficient manner or to limit the amount of working time spent performing his or her duties as steward. Any such discharge or discipline shall be subject to challenge through the procedures in this Agreement for Settlement of Disputes. The employer must notify the Union 24 hours before termination of a steward, except in the case of termination for good cause. In any case in which a steward is discharged for good cause, the Employer must notify the Union immediately after discharging the steward.

## 20.6 Replacement of Stewards

The Union may replace any steward, and shall provide the employer with written notice of the change that includes the name of the new steward. Any steward substituted by the Union shall be subject to the rights and duties set forth in this agreement

## 20.7 Steward Training

The Union will provide training on a periodic basis to stewards and potential stewards in order to make them aware of the terms of this Agreement and the responsibilities of stewards. No Employer will be required to make payments or financial contributions in connection with such training.

# ARTICLE XXI MOST FAVORED EMPLOYERS

## 21.1

If the Union grants any more favorable wages, hours, pension and welfare contributions or working conditions to any other Employer or group of Employers in the area covered by this Agreement, then the Employers signatory hereto shall have the unqualified right to immediately enjoy any such more favorable wages, hours, pension and welfare contributions and working conditions.

# ARTICLE XXII INSURANCE AND BONDING

## 22.1 Workers' Compensation Insurance

The Employer shall deposit with the Secretary of the Union a certificate attesting to his or her Workers' Compensation Insurance Coverage and shall maintain full coverage throughout the term of this Agreement.

## 22.2 Unemployment Compensation

The Employer must pay contribution under the Illinois Unemployment Compensation Act regardless of the number of employees employed, and must elect to become subject to and liable for the payment of contributions thereunder.

### 22.3 Information

The Employer must advise the Secretary of the Union, in writing, the Employer's account number for the payment of F.I.C.A., Social Security contributions and Unemployment Liability Insurance and provide an affidavit as to the true owners of the business.

### 22.4 Bonding

The Employer must furnish a bond from an Insurance Company authorized to issue such bonds in the State of Illinois. The bond shall guarantee payment of wages; contributions to welfare, pension, annuity, promotional and apprenticeship funds; and all other obligations under this Agreement. The bond shall be in the amount of \$5,000.00 if the Employer has three employees or fewer working under this Agreement, in the amount of \$15,000.00 if the Employer has four to ten such employees, in the amount of \$30,000.00 if the Employer has eleven to twenty such employees, in the amount of \$45,000.00 if the Employer has twenty-one to thirty-one such employees, and shall increase \$15,000.00 for each additional ten employees.

Notwithstanding the foregoing paragraph, any Employer that, as of May 31, 2002, was party to a collective bargaining agreement with the Union, has no current delinquencies, and had incurred no delinquencies of more than 60 days in the previous two years, will be entitled to maintain a bond limited to \$10,000.00, but will be required to increase that bond to the amount provided in the foregoing paragraph if it subsequently incurs any delinquency of more than 60 days. Any Employer that posts a bond of more than \$10,000.00 and incurs no delinquencies of more than 60 days for two years may reduce the amount of its bond to \$10,000.00, subject to the requirement that it increase the bond to the full amount provided in the foregoing paragraph if it incurs delinquencies in the future.

The determination of the number of employees working under the Agreement for purposes of setting the amount of the bond will be based on the largest number of such employees within the preceding twelve month period but the Union may, subject to the right of the Joint Arbitration Board to reverse such an action by the Union, request or agree to accept a bond in a lesser amount if the Union determines that a bond in a lesser amount is reasonably likely to provide the security sought and that requiring a bond in a greater amount would present a significant burden to the Employer. The Union will notify the Association, through a mailing or facsimile communication to the office of the Association's then-current president, whenever it agrees to accept a bond in a lesser amount and if any objection is presented within 14 days by the Association, the matter will be presented to the Joint Arbitration Board for expedited resolution, and the action of the Union in accepting a bond in

a lesser amount will be overturned unless a majority of the Joint Arbitration Board votes to approve it. If the Association objects and the Joint Arbitration Board reverses the action of the Union in accepting a bond in a lesser amount than is otherwise provided under this Agreement, the Employer will be deemed not to have satisfied its obligations under this Article and Section and will be required to provide a bond in the amount stated in this Agreement or in such lesser amount as may be approved by the Joint Arbitration Board. No action by the Union in requesting or agreeing to accept a bond in a lesser amount than otherwise provided from one Employer but not from another Employer, and no action by the Association in objecting or not objecting to, or of the Joint Arbitration Board in approving or reversing such action by the Union, will be deemed to violate the Most Favored Employers provision of the Agreement.

The Union may accept a cash bond, irrevocable letter of credit, or other security instrument that it deems proper, and if such an alternate security instrument is provided and accepted, and the Union's acceptance is not reversed, all references in this Article and elsewhere in this Agreement to a "bond" shall be deemed to apply to such alternate security instrument. If the Union accepts a security instrument other than a traditional bond, it shall notify the Association and the Association will have an opportunity to object and have the matter resolved by the Joint Arbitration Board, pursuant to the same procedures as described in the previous paragraph. If the Union's acceptance of an alternate security instrument is challenged by the Association and reversed by the Joint Arbitration Board, the Employer will be deemed not to have satisfied its obligations under this Article and Section, and it will be required to provide a traditional bond in the required amount. No action by the Union in agreeing to accept an alternate security instrument from one Employer but not from another Employer, and no action by the Association in objecting or not objecting to, or of the Joint Arbitration Board in approving or reversing, such action by the Union, will be deemed to violate the Most Favored Employers provision of this Agreement.

In the event that a bond is posted, delinquencies occur, recovery is sought against the bond, and the total unpaid obligations exceed the amount of the bond, payment shall be apportioned among all obligations on a pro rata basis, whereby each obligation will be paid at the same percentage.

Notwithstanding anything to the contrary elsewhere in this Agreement, if an Employer fails to post or maintain the bond in the required form and amount, and does not correct the problem within one week of the Union providing written notice, the Union may, at its sole discretion, withdraw the employees of the Employer or take other economic action, and may publicize its dispute with the Employer regarding the obligation to post a bond. The Union's rights to engage in such actions and to take other steps as described in this Section to obtain a bond are cumulative. No decision or action by the Union to use one or more methods of

seeking to obtain a bond from one Employer but not from another Employer will be deemed to violate the Most Favored Employers provision of the Agreement.

Notwithstanding anything to the contrary elsewhere in this Agreement, the Union is not required to utilize the grievance or arbitration procedure if an Employer fails to post a bond as required, or fails to keep the bond in effect at all times. If an Employer fails to post or maintain a bond, or does not have the bond in the proper form and amount, the Union shall give the Employer one week's notice and shall then seek immediate relief in any court of proper jurisdiction. No Employer that has received notice from the Union of its obligation to provide a bond and has failed to do so within one week may perform any work that is covered by this Agreement. If the Union utilizes this provision of the Agreement to obtain an order from a court requiring an Employer to post or maintain a bond, the Union shall be entitled to recover from that Employer all reasonable legal fees and cost incurred, and shall be entitled to recover such fees and costs as a part of the legal action without resort to the grievance or arbitration procedure. The Association, acting through its then-current president, may notify the Union of an objection to the Union's failure to pursue a bond from any Employer and upon receipt of such notice, the Union will be required to send the Employer the notice described in this paragraph within one week and then to file suit within two weeks unless a bond is provided as requested or, at the Union's sole discretion, the Union may act to withdraw the employees of such an Employer rather than sending notice and filing suit.

#### ARTICLE XXIII SAVINGS CLAUSE

##### 23.1

Any provision contained herein that is contrary to or held to be in violation of the Labor Management Relations Act of 1947 or any federal law now in force or hereafter enacted or hereafter becoming effective shall be void and of no force or effect and this Agreement shall be construed as if the void provision were not a part of it, it being intended, however, that the other provision of this Agreement shall not be affected.

##### 23.2

If compliance with any federal law, amendment, order, or regulation would prohibit the carrying out of any of the provisions of this Agreement, then to the extent of such deviation or prohibition, this Agreement shall be deemed to have been automatically amended, effective on the effective date of such law, amendment, order or regulation, but any such amendment to this Agreement shall remain in effect only so long as the law, amendment, order, or regulation continues in force or until the expiration of the Agreement, whichever event shall first occur.



**Tuckpointing Contractors Association**

**Pointers, Cleaners and Caulkers Union  
Local 52 of the I.U.B.A.C.**

**By:**

**By:**