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**AGREEMENT**

between

**THE WINDOW CLEANING  
EMPLOYERS ASSOCIATION**

and

**LOCAL NO. 32BJ  
(S.E.I.U.-AFL-CIO)**

**Effective March 1, 2002**

**Expires February 28, 2005**



AGREEMENT  
Between  
WINDOW CLEANING  
EMPLOYERS ASSOCIATION  
and  
LOCAL 32BJ  
(S.E.I.U.-AFL-CIO)

AGREEMENT made on this 26th day of March, 2002, between THE WINDOW CLEANING EMPLOYER'S ASSOCIATION, hereinafter referred to as the "Association," and the LOCAL 32BJ (S.E.I.U.-AFL-CIO), hereinafter referred to as the "Union" and members of the Association, signatories hereto.

The association and the employer members of the Association recognized the Union as the sole and exclusive collective bargaining representative of all non-supervisory window cleaners in the employ of such employers in the five boroughs of New York City, Nassau, Suffolk, Westchester, Rockland and the Putnam Counties in New York, and Fairfield County, Connecticut.

In order to more efficiently apply the principles of *collective bargaining*, to stabilize trade and labor practices in the window cleaning industry and to maintain fair wages, hours and the working conditions for the members of the Union and in consideration of the mutual covenants hereinafter set forth, the parties hereto agree as follows:

## Section 1 UNION SHOP AND CHECK-OFF

### (a) Union Shop

It shall be a condition of employment that all employees of any employer covered by this Agreement who are members of the Union in good standing on the effective date shall remain members in good standing and those who are not members on the effective date of this Agreement shall, no later than the thirty-first day following the effective date of this Agreement, become and remain members in good standing of the Union. It shall also be a condition of employment that all employees covered by this Agreement and hired on or after its effective date shall, not later than the thirty-first day following the beginning of such employment, become and remain members in good standing of the Union.

In the event of a vacancy or need for additional employment, the Employer agrees to notify the union of same

(b) The employer agrees that continuance of employment of an employee beyond the 30th day following the beginning of employment without evidence of membership in the form of a working card, or other written indication by the Union of such membership, shall subject the employer to pay liquidated damages of \$75.00 for each successive thirty day period beyond the first thirty days. Where employer has given to the Union the notice of the hire in accordance with Section 2, of this Agreement, the Union will make a reasonable effort to notify the employer of failure of the employee to become a member of the Union pursuant to this Section.

**(c) Check-off**

The Employer agrees to deduct the Union's monthly dues and all assessments from the pay of each employee from whom it receives written authorization and will continue to make such written deductions while the authorization remains in effect.

Such deductions will be made from the first full pay period worked by each employee following receipt of the employees' dues deduction authorization and thereafter will be *made on the first pay day each month and forwarded to the Union not later than the second Friday in each and every current month.* The dues deduction shall constitute trust funds while in the possession of the employer.

If a signatory does not revoke the authorization at the end of the year following the date of authorization, or at the end of the current contract, whichever is earlier, it shall be deemed a renewal of authorization, irrevocable for another year, or until the expiration of the next succeeding contract, whichever is earlier.

The union agrees to indemnify and save such employer and the Association harmless from any liability incurred by reason of such deductions.

The Employer shall be responsible for the cost of *arbitration and attorney fees and any other damages suffered* by the Union for willful failure to deduct and remit to the Union, union dues from employee(s) wages.

The Employer agrees to deduct from the employee, COPE contributions, when it receives written authorization, and will continue to make such deduction while the authorization remains in effect.

## **Section 2 NOTICE OF HIRING**

Each employer covered by this Agreement shall notify the Union of new employees hired by such employer within forty-eight hours after such hiring. This notification shall be in writing.

## **Section 3 FAILURE TO GIVE NOTICE OF HIRING**

(a) Employers who fail to notify the Union of the hiring of new employees pursuant to Section 2 of this Agreement shall be required to pay liquidated damages in the sum of \$20.00 for each person so employed for whom the required notice was not given for the first offense, and \$40.00 for each person so employed for whom the required notice was not given for the second offense. Should the employer be found to have violated for a second time any of the provisions of this Agreement at any time during the term hereof or at any time within one year from the date of its expiration, he shall be deemed a second offender and the provision hereof in this respect shall survive the Agreement.

(b) In the event the failure of such notification extends beyond thirty days after the employment of such new employee, the liquidated damages shall be \$75.00 for each

person so employed for whom the required notice has not been given. For each successive 30 day period there will be an additional liquidated damages of \$75.00.

(c) Such damages as assessed or awarded are to be paid within ten days from the date of assessment or award.

(d) Such damages as assessed or awarded are to be paid to the Union.

(e) In connection with any inquiry under this Section which may be conducted by the Grievance Committee or Board of Arbitration, the employer may be required to produce and upon demand shall produce compensation payroll records. Failure to produce such records when required hereunder shall be deemed presumptive evidence of the truth of the charges filed against it. Any damages awarded to the Union, payment of which has been temporarily waived or suspended, shall be collectible in the event of further violation within a period of one year beyond the expiration date thereof.

#### **Section 4 DISCRIMINATION**

No window cleaner shall be discriminated against or deprived of employment because of race, color, creed, sex, age, national origin or union membership.

## **Section 5 HOURS OF WORK**

Forty hours shall constitute a week's work. The hours of work shall be from 7:00 a.m. until 4:00 p.m. from Monday to Friday of each week. Employees shall report at the employer's office at 7:00 a.m. ready to work and at 4:00 p.m. after work. In the event that earlier starting hours are consented to by the Union, the requirement that employees report to the employer's office at 7:00 a.m. shall be waived. Should circumstances so require, employees with the consent of the Union, may work from 6:00 a.m. to 3:00 p.m. Employees shall receive the hour between 11:00 a.m. to 12 noon for lunch and no employee shall substitute part of the lunch hour for any part of the regular working day. Employees shall not be required to work on Saturdays, Sundays or Holidays hereinafter enumerated, except under conditions hereinafter set forth.

## **Section 6 WAGES**

### **(a) General wage increases**

Effective March 1, 2002, all employees shall receive an increase of \$24.71 per week

Effective March 1, 2003, all employees shall receive an increase of \$25.28 per week.

Effective March 1, 2004, all employees shall receive an increase of \$26.27 per week

**(b) Minimum:**

Effective March 1, 2002 minimum wages for window cleaners shall be \$821.88 per week.

Effective March 1, 2003 minimum wages for window cleaners shall be \$847.36 per week.

Effective March 1, 2004 minimum wages for window cleaners shall be \$873.63 per week.

**(c) Cost of Living**

Effective March 1, 2003, in the event that the percentage increase in the cost of living (Consumer Price Index for the City of New York-Metropolitan area [New York-New Jersey] Urban Wage Earners and Clerical Workers) from November 2002 to November 2003 exceeds 6<sup>1</sup>/<sub>2</sub>%, then in that event, an increase of \$.10 per hour for each full 1% increase in the cost of living in excess of 6<sup>1</sup>/<sub>2</sub>% shall be granted effective March 1, 2003. In no event shall said increase pursuant to this provision exceed \$.20 per hour. In computing increases in the cost of living above 6<sup>1</sup>/<sub>2</sub>%, less than .5% shall be ignored and increase of .5% or more shall be considered a full point. Any increases hereunder shall be added to the minimum.

Effective March 1, 2004, in the event that the percentage increase in the cost of living (Consumer Price Index for the City of New York-Metropolitan area [New York-New Jersey] Urban Wage Earners and Clerical Workers) from November 2002 to November 2003, exceeds 6%, then, in that event, an



increase of \$.10 per hour for each full 1% increase in the cost of living in excess of 6% shall be granted effective March 1, 2004. In no event shall said increase pursuant to this provision exceed \$.20 per hour.

In computing increase in the cost of living above 6%, less than .5% shall be ignored and increase of .5% or more shall be considered a full point. Any increase hereunder shall be added to the minimum.

#### **(d) Cash Payments**

Employees shall be paid in cash on Friday of each week and the amount due each employee is to be marked on his pay envelope which shall indicate the name of the employer, the date of payment, the number of straight time hours, the number of overtime hours, all deductions, including Social Security and withholding taxes, and net pay.

Payment may be made by check provided means, time and place for cashing checks are provided before 3:00 p.m. on Friday. For payroll purposes only, the five-day work week shall be deemed to end on Thursday.

If a holiday falls on the employee's regular payday, the employee shall be paid on the day prior to the holiday.

#### **(e) Scaffold or Boatswain Work**

Employees required to work on any type of scaffold or devices or Boatswain chairs shall receive additional compensation of \$13 per day. This rate is above the regular scale paid to such employees called for in the Schedule of Wage Rates.

**(f) High Ladder**

An employee in a one-person shop required to work on high ladders shall be paid for such time so employed at scaffold rates for all such hours in excess of one. (See Schedule of Wage Rate.)

**(g) Substitutes**

All substitutes shall be paid at the minimum wage rates as set forth in this Agreement. (See Schedule of Wage Rates.)

Employers shall only be permitted to engage substitutes on actual days when one of their regular employees is absent from his duties because of illness or voluntary absence on the employee's part, notice of which illness or absence must be immediately reported to the Union by the employer. Provided the employer makes immediate request of the Union for a substitute, the substitute shall receive the minimum rate per day until the regular employee returns to work. Thereafter for each day the substitute shall continue to work in order to make up for work time lost because of the regular employee's absence, the substitute shall be paid at the rate received by the regular employee who had been absent. Violation of the provisions of this Section by the employer shall subject it to the payment of liquidated damages of \$10.00 for each violation and payment of different wages.

A substitute shall become a steady employee if and when the Employer requires a steady employee while substitute is in the shop.

### **(h) Extra Persons**

Extra persons shall be considered all employees who are to be employed for less than two consecutive weeks' duration in the shop. All extra persons shall be paid at the rate indicated in the Schedule of Wage Rates. No employee shall be considered an extra person if hired by the employer to fill a steady position.

### **(i) Voluntary Increases**

The employer shall not deduct voluntary increases heretofore or hereinafter granted without the Union's consent, as applied to the individual employee involved unless such increases shall be declared illegal by a duly constituted authority.

## **Section 7 OVERTIME**

### **(a) General**

Overtime, except as hereinafter provided, shall be paid at the rate of time and one-half.

### **(b) Saturday, Sunday or Holiday Work**

No work shall be performed on Saturdays, Sundays or holidays unless the employee has first, in advance thereof, advised the union of the names of his regular employees he desires to employ for such work. Should the employer wish to have work performed on any of said days by other than regular employees, it shall first obtain the Union's consent therefor. All work performed on a Saturday shall be paid for at the rate of time and a half. All work performed on a Sunday shall be paid for at double time. Work on any of the holidays

enumerated in Section 8 hereof shall be paid for at the rate of time and one half in addition to the regular day's pay when said holidays occur during a work week. In the event any said holidays fall on a Saturday and the employee works on that Saturday, he/she shall be entitled to double time in addition to a regular day's pay.

**(c) Minimum Overtime**

Employees requested to work on Saturdays, Sundays or one of the holidays enumerated in Section 8, shall receive a minimum guarantee of four or eight hours pay at the prescribed rates.

**(d) Rotation of Overtime**

All overtime work in the employer's shop shall be rotated amongst all window cleaners employed so as to equitably and fairly distribute such available overtime work.

**Section 8  
HOLIDAYS**

**(a)** Employees shall be paid for and not required to work on any of the following legal holidays as set forth on page 12 "Schedule of Contract Holidays."

No employee, other than an extra person, shall be deprived of pay for holidays during a week including one of the following mentioned holidays, provided that the employee has worked for such employer at least two days during said week.

Sunday holidays that are observed on Monday shall be paid for at the same basis as any other holiday. No new employee is to be paid for any holiday which occurs prior to the date on which said employee commenced employment with the employer.

**(b) Birthday**

Effective 03/01/99 the employee's birthday shall be exchanged for a personal day.

**SCHEDULE OF HOLIDAYS**

	2002	2003	2004	2005
New Year's Day	Jan. 1	Jan. 1	Jan. 1	Jan. 1
Martin Luther King	Jan. 21	Jan. 20	Jan. 19	Jan. 17
President's Day	Feb. 18	Feb. 17	Feb. 16	Feb. 21
Good Friday	Apr. 29	Apr. 18	Apr. 9	Mar. 25
Memorial Day	May 27	May 26	May 31	May 30
Independence Day	July 4	July 4	July 4	July 4
Labor Day	Sept. 2	Sept. 1	Sept. 6	Sept. 5
Columbus Day	Oct. 14	Oct. 13	Oct. 11	Oct. 10
Thanksgiving Day	Nov. 28	Nov. 27	Nov. 25	Nov. 24
Day After Thanksgiving	Nov. 29	Nov. 28	Nov. 26	Nov. 25
Christmas Day	Dec. 25	Dec. 25	Dec. 25	Dec. 25

(c) In the event a holiday falls on Saturday or Sunday, window cleaners shall receive an extra day's pay.

## **Section 9**

### **WORKING CONDITIONS**

#### **(a) Tools**

Employees shall not be required to take to their homes any ladders, pails or other tools or equipment.

#### **(b) Boatswain and Scaffold Work**

Any job requiring use of boatswain chair or scaffold must be handled by at least two window cleaners. Should a working employer be one of such workers, the employer shall perform the same work as fellow workers.

#### **(c) Safety Devices**

Employers shall provide employees with standard safety devices approved by the New York State Department of Labor and/or jurisdiction over safety rules for window cleaners. No employer shall permit work to be done under conditions which are substandard or violative of any law, order or regulation of New York State Department of Labor and/or any other governmental agency which has jurisdiction over safety rules for window cleaners.

#### **(d) High Ladders**

It is agreed that no window cleaner shall be required to work on or carry more than three pieces of ladders and that no less than two window cleaners shall be sent on a job requiring the use of more than three pieces of ladder aggregating eighteen feet or more in length. Under no circumstances, shall any window cleaner be required to work on a job calling for more than six pieces of ladder aggregating thirty-one feet in length. An extension ladder shall be used at a height over 31

feet. If the top of a window is more than 35 feet above the ground, no ladder shall be permitted. All ladders shall be provided by the employer with means to prevent slipping. With respect to the use of extension ladders beyond 35 feet at the top of the window, this section shall not preclude an application by an employer to the New York State Department of Labor for a variation due to practical difficulties or unnecessary hardship in accordance with Section 30 of the Labor Law, provided that the Union is given reasonable notice of such application by certified mail.

**(e) Inspection of Premises**

A duly authorized officer or representative of the union shall have access to the place where the work of window cleaning is done, or at the employer's place of business, at any time provided the customers of the employer shall permit the officer or representative to enter; and further provided the employee shall be on premises.

**(f) Working Employers**

No member of any employer firm, or corporation whether a partner, officer, stockholder, director, agent or foreperson shall engage in the work of window cleaning when the firm employs three or more window cleaners. No more than one member of any firm or corporation, whether partner, officer, stockholder, director, agent or foreperson, employing less than three window cleaners, shall be permitted to work during any one week and for not more than forty hours per week. The name of the person desiring to work during any work week shall be filed with the Union in writing at least

forty-eight hours before the time of commencement of work. A working employer in a one-person shop shall perform the same work as the fellow worker on all jobs requiring three or more hours to complete. In all shops employing two persons the working employer must perform the same type of work as the employee, irrespective of the duration of the job and *without regard to the work available.*

Any employer working in violation of this provision shall pay liquidated damages as follows:

\$25 for the first offense.

\$50 for the second offense.

\$100 for the third and each succeeding offense.

Such damages as are assessed or awarded are to be paid to the Union within ten days from the date of assessment or award.

#### **(g) Sanitary Facilities**

Employers shall provide in their office or shop, proper, adequate and sanitary facilities for employees to wash and change clothes before and after work and appropriate lockers *for storage of workers' clothes.*

#### **(h) Crossing Picket Lines**

No window cleaner shall be required by the employer to pass the picket line established by another local of the Service Employees International Union.



**(i) Rainy and Snowy Days**

Rainy and snowy days shall be paid for. Window cleaners shall perform work reasonably assigned to them on rainy and snowy days. Window cleaners shall not be required to work on a sill on which there remains an accumulation of snow or ice or other slippery substance.

**Section 10  
DISCHARGES**

**(a)** Employees who have worked for a member of the Association for a period of more than one week shall not be discharged without just cause, which just cause is subject to review as hereinafter provided, and such discharges may not be effectuated, excepting by agreement between the Union and the employer or the Association, or until after either the Grievance Committee or the Board of Arbitration has finally disposed of the matter. However, intoxication on the job, fraudulent conduct, physical assault upon an employer, a co-worker or customer, diverting business from an employer or performing work for himself or herself during scheduled hours shall constitute justification for immediate discharge (hereinafter referred to as "peremptory discharges"); provided, however, that discharges for any such specified causes shall likewise thereafter be subject to review as hereinafter provided and in any such cases the Grievance Committee or the Board of Arbitration shall include in any award a provision that the employee reinstated by direction of the Grievance Committee or the Arbitration Board shall receive back pay

for the period of the discharge, subject, to deduction for withholding taxes and Social Security as well as monies that may have been earned by such employee on another job, or unemployment compensation payments, if any, received by such employee.

The employer must notify the Association and the Union in writing immediately of a peremptory discharge and the reason therefor. Review of peremptory discharge must be initiated through presentation of a grievance by the Union in writing addressed to the Association and the employer at their respective addresses within forty eight hours after the written notice of discharge is received by the Union.

(b) Employees discharged by the employer at the Union's request pursuant to the provisions of the Agreement shall not, in the event such discharge continues for more than two weeks, be reemployed by the employer, unless the employer, in its sole discretion, so decides.

## **Section 11**

### **DISPUTES AND ARBITRATION**

#### **(a) General**

Any grievance or dispute between the parties under this Agreement shall be settled in the following manner:

(1) Between the employer and the Union represented, in the first instance, by the shop chairperson, next by its duly designated representative, it being provided, however, that any

settlement reached as aforesaid shall not be in violation of any of the provisions of this Agreement;

(2) By a Grievance Committee hereinafter referred to.

(3) By arbitration before the Board of Arbitration hereinafter referred to.

If a party, after due written notice, defaults in appearing before the Arbitrator, the award may be rendered upon testimony of the other party. Due written notice means mailing by certified mail, telegraphing or hand delivery to the party's last known address.

If any employer fails to comply with an award of the Grievance Committee or Board of Arbitration within thirty days from the date of the service of a copy of the award, the collective bargaining Agreement may be cancelled with respect to such employer by agreement between the Union and the Association in writing, unless a proceeding is commenced in a court of competent jurisdiction within such thirty-day period challenging such award.

#### **(b) Grievance Committee**

The Grievance Committee referred to herein, shall consist of two representatives designated by the Association and two representatives designated by the Union. The committee shall meet alternately at the offices of the Association and the Union.

**(c) Board of Arbitration**

Bernard Young, John Anner, Robert Herzog and Marilyn M. Levine are designated as Contract Arbitrators.

The Arbitrators shall hear arbitration on a rotational basis. Should an Arbitrator be unavailable, the next Arbitrator on the list shall hear the matter.

**(d) Procedure**

(1) An employer and the Union failing to resolve a dispute which has arisen under this Agreement shall refer the matter for adjustment to the Grievance Committee, which committee shall act upon said grievance or dispute within seventy-two hours after receipt of notice said dispute from one of the affected parties. Should said Grievance Committee fail to adjust said dispute within one week, or should any part refuse or fail to comply with the decision of the Grievance Committee, the matter shall be submitted to the Board of Arbitration for final disposition.

(2) With respect to grievances involving preemptory discharges, the procedure shall be as follows:

a. The Grievance Committee shall hear such grievance within twenty-four hours after receipt of the Union's written notice presenting the grievance.

b. Should the Grievance Committee fail to adjust said dispute within such twenty-four hours, the matter shall be heard by the Board of Arbitration within forty-eight hours thereafter and the speediest possible determination shall thereafter be made by the Board.

**(e) Computation of Time**

In the computation of the periods of time herein provided, Saturdays, Sundays and holidays shall be excluded from such periods.

**(f) Extension of Time**

The time limitations contained in the Section may be extended for any particular dispute by agreement between the Association and the Union.

**(g) Disqualification**

A complaint filed by the Union or Association affecting, directly or indirectly, any member of the Grievance Committee or Board of Arbitration, shall automatically disqualify said member from serving in that dispute.

**(h) No Strike or Lockout**

During the pendency of any dispute and until a final determination by the Grievance Committee or Board of Arbitration, under Section 11 of this Agreement, there shall be no lockout or discharge of the affected employees, except in the case of a "peremptory discharge," nor stoppage of work or strike. Each party pledges itself to discipline its respective members who may violate this Agreement.

No cessation of work of any kind shall be deemed an act of the Union unless authorized in writing by the President of the Union who is hereby acknowledged as the exclusive agent of the Union.

**(i) Complaint**

The complaining party in any dispute shall file a written copy of complaint with the Grievance Committee and/or Board of Arbitration and a copy thereof shall be mailed to the other party to said dispute.

**(j) Complaints by Employers**

Any employer, signatory to an Agreement with the Union, whether he/she be a member of the Association or not, or the Association itself, may in writing, request the Union to file grievance charges against any other employer signatory to a contract with the Union for an alleged breach of the Agreement. In the event that the Union shall fail to initiate such proceeding within three days, the requesting employer or the Association, if he/she be a member thereof, may initiate such proceeding. Where the complaint is directed against an employer at the request of or by another employer or the Association, requesting such proceeding shall be entitled to participate in said hearing before the Contract Arbitrator.

**(k) Hearings of Non-Association Members**

As provided for in the Agreement executed by the Union and non-Association members, all disputes unresolved between the Union and the Employer shall be arbitrated before the Contract Arbitrator. The Association may have a representative present at any such hearing as an observer and the Association shall receive in each said cases, a copy of the Contract Arbitrator's decision and award.

**(l) Expenses**

The fee of the Contract Arbitrator and all reasonable expenses involved in his/her functions in cases involving Association members shall be borne equally by the Association and the Union. In cases involving non-Association members, these costs as well as expenses incurred by the Union shall be paid in full by the employer.

**(m) Form of Award**

All decisions and awards of the Board of Arbitration shall be in writing and in such form as to permit the filing thereof in the appropriate County Clerk's Office in order that the affected party or parties may apply, if necessary, for a confirmation and enforcement of said award before a Justice of the Supreme Court of the State of New York.

In the event the matter before the Board of Arbitration involves an award of back pay for wage claims, overtime, holidays and vacations, such award shall not be retroactive for more than ninety days prior to the initial formal complaint to the employer. However, the Board of Arbitration shall have the authority to make the award retroactive beyond or before the above period in any situation where, in the opinion of the Board of Arbitration, the equities demand.

**(n)** The provisions of this Section pertaining to non-Association contracts shall be included by the Union in all individual contracts.

(o) Bernard Young is designated as Arbitrator and Marilyn M. Levine, John Anner and Robert Herzog are designated as Alternate Arbitrators.

Any successor or temporary substitute shall be chosen by the Union and the Association. If they are unable to agree on a successor, the Chairman of the New York State Employment Relations Board shall appoint a successor after the consultation with the parties.

## **Section 12 GENERAL WELFARE**

It is further agreed between the respective parties hereto, that the Union and the Association shall endeavor to mutually promote the general welfare of the members of the respective parties of this Agreement and shall work for the stabilization of the industry and the establishment of wholesome working conditions.

## **Section 13 SUB-CONTRACTING**

There shall be no sub-contracting without the consent of the Union.

## **Section 14 CHANGE OF OWNERSHIP**

Where there is a change of ownership or control, the Union must be given thirty (30) days' notice prior to the date of change by certified mail, return receipt requested.



The seller must, as a condition of the sale, require the purchaser to adopt this agreement in full and hire the existing working force. Anyone failing to abide with the provisions above shall, in addition to damages as may be found by the Arbitrator, pay six month's wages for the benefit of the employees.

The whole agreement shall be made binding for the length of term upon any purchaser or its successor in the title or possession, and it must be provided that any purchaser of business which is under contract with Local 2 must be bound by its terms for the length of the contract.

### **Section 15** **BUILDING SENIORITY PROVISION**

Where current employees covered by this agreement are employed on a full time 40 hours per week basis, the employer shall retain the employees except where, through a change in job specifications or the customer's requirements, there is a decrease in the work load.

The employer shall furnish to the Union details of the revised specification to demonstrate that there is a valid reduction of work. In the event there is a decrease in the work load, the employer shall be obligated to retain any excess employees in accordance with the collective bargaining agreement. Notwithstanding the foregoing, an employer acquiring a new new job, shall not be required to employ any existing employee who has been employed in the building for less than six months. Any employee having less than six

months building seniority shall remain employed by the predecessor employer and shall bump the employee of the predecessor employer with the least company seniority.

The employees employed by a new employer shall retain all their seniority rights as provided for in the collective bargaining agreement.

### **Section 16 NOTICE OF CANCELLATION**

The Employer shall immediately notify the Union, in writing, by certified mail, return receipt requested, as soon as a cancellation or reduction of services of an account becomes effective where Union members are employed. The Employer shall immediately notify the Union when it acquires a new job.

### **Section 17 COMPENSATION INSURANCE**

Members of the Association shall carry compensation insurance for each and every window cleaner employed and no employees covered by this contract shall work for an employer who has not provided compensation insurance. Employers shall, on demand, furnish to the union, proof that compensation insurance coverage is carried for all employees. The listing, on a compensation payroll report, or on the employees' payroll records, or in any other report used by the employer, as a window cleaner, of a person who should be a member of the Union under this agreement, shall be deemed prima facie evidence of a non-union window cleaner.

In the event that any member of the Association fails to carry compensation insurance, the Association and the employer shall be liable for any loss of wages occasioned to employees covered hereunder for the first two weeks employees are prevented from working by reason thereof.

An employer failing to carry compensation coverage as required herein, shall be liable for the full loss of wages sustained by said employee as a result of an accident compensable under the Compensation Laws in addition to any other liability imposed upon it by the laws of New York State.

### **Section 18**

## **TRANSPORTATION**

No window cleaner shall be permitted to use his/her own automobile in connection with the employer's work unless the employer authorizes the window cleaner to do so in writing.

### **Section 19**

## **ASSOCIATION MEMBERS**

#### **(a) Notice to Union**

Should any member of the Association be expelled or resign, the Association agrees to notify the Union to that effect within forty-eight hours of the time that the said member ceases its connection with the Association, and the Association agrees that it will notify the Union of all new members accepted into the Association within forty-eight hours.

**(b) Association Liability**

The Association shall remain liable for any damage, fine or assessment which may be found against any of its members after the expulsion or resignation of said Association member provided that the act out of which the dispute arose occurred prior to said expulsion or resignation.

In the event that any member of the Association is expelled or resigned from the Association such Association and the employer is by the terms hereof, made liable for any loss of wages to window cleaning employees pending final determination of the matter by the Grievance Committee or contract Arbitrator.

The Association shall not be liable for any award against any employer with respect to whom this collective bargaining Agreement has been cancelled pursuant to Section 11(a) of this Agreement.

**(c) Expelled or Resigned Members**

The Union agrees that it will not grant an individual contract or collective bargaining agreement to any contractor who has been expelled or resigned from the said Association until the payment by said contractor of any damage, fine or assessment which may be outstanding and due to the Union by reason of any award granted by the Grievance committee or Contract Arbitrator under the terms of this Agreement.

It is agreed by and between the parties hereto that the undersigned members of the Association must remain such members in good standing in the Association during the term of this Agreement. Upon notice in writing from the Association to the Union that any such employer is being thereafter deprived of the privileges of this Agreement, copy of which is hereto annexed, as though such individual Agreement were signed by this collective Agreement and such employer losing its good standing in the Association shall be required to make the same deposit with the Union as is required of comparable signatories of individual agreements.

**(d) Security**

If an employer's financial ability is of a doubtful nature and is not meeting its financial obligations under the collective bargaining agreement which, in addition to wages, holiday and vacations payments, including welfare and pension payments, the Union shall have the right to request security for the payment of these obligations up to the sum of \$500.00 for each employee of the Employer, which security shall be held by the Union.

**Section 20  
INDIVIDUAL WORKING AGREEMENTS**

**(a)** No Employer shall enter into individual employment or working agreement with any window cleaner, nor shall any employee be required to give any security for any reason whatsoever.

(b) No employee in the employ of any of the contractors signatory to the Agreement shall solicit or contract for himself/herself any window cleaning work of a commercial nature ordinarily performed by a window cleaning contractor.

## **Section 21 OTHER AGREEMENTS PROHIBITED**

It is agreed that the Association will not, during the life of the Agreement, either directly or indirectly, enter into any contract of whatsoever kind, nature or description, dealing with the hiring of Union help or labor with any association or corporation claiming to be a labor union in the window cleaning industry, and that this Contract shall supersede any and all existing contracts which either the Association or its members may have with any other association or corporation claiming to be a labor union in the window cleaning industry, and the union agrees that it will enter into no contract with any employer operating with offices in the five boroughs of New York City, Nassau, Suffolk, Westchester, Rockland and Putnam Counties in New York and Fairfield County in Connecticut, with terms more favorable to the employer than those herein contained. Provisions of this Section shall not apply to contracts which may be offered to open shops but all contracts shall provide for group insurance with at least equivalent coverage and cost as provided in Section 40 hereof.

The Union agrees that it will not sign an agreement with an employer who is not bona fide. For the purposes of this agreement, a bona fide employer shall be one who has purchased a business or part of a business from an established concern or one who has developed its own business over a span of one year.

## **Section 22**

### **DIVISION OF WORK AND LAYOFFS**

In the event that an Employer has insufficient work for all the window cleaners in its employ, then, and in that event, the work may be distributed equally among its employees insofar as is practical and with the knowledge and consent and approval of the union and employer, but if due to such a lack of work, it is agreed by and between the Union and the employer that it reduce the number of window cleaners in its employ, then, in such an event, the order of layoffs shall be by the rule of seniority, i.e., the last person hired shall be the first person to be laid-off, except that in cases of layoff no apprentice shall have seniority over a regular journeyman window cleaner. Laid-off employees who have one or more years of service, shall be entitled to a preference for a six month period, over all others in the event the employer shall require additional help any time during that period.

In the event that the employer and the Union are unable to agree to a reduction in the number of window cleaners occasioned by a lack of work, the matter may be submitted to arbitration.

The arbitrator may grant a reduction in force provided that the employer demonstrates by a preponderance of the evidence that there is a reduction in work equivalent to the reduction in force. The arbitration shall be held within seven days of the written request therefor and no reduction in force shall be implemented by the employer until or unless directed by the arbitrator.

If an employer does not have full time work for one person, his/her contract may be cancelled by the Union, provided it can be established that the employer thereafter obtained business during the reduced work period which the employer was not requested to service.

### **Section 23**

#### **RE-EMPLOYMENT AFTER ACCIDENT OR ILLNESS**

(a) It is hereby agreed that employees who meet with accidents arising out of their employment as window cleaners or become ill, shall be re-employed by the Employer by whom the employee was employed at the time of such accident or illness, if, and when, such employee is in physical condition to resume work, and his/her ability to work shall be determined by the certificate of a duly licensed physician. The employee shall, in such circumstances, give the employer twenty-four hours notice of his/her intention to return to work. In the event that an employer challenges the validity or the content of the physician's certificate, the employee shall be returned to the job but will be required to submit within twenty-four hours to an examination by an impartial physician approved by the



parties. The certificate of the impartial physician shall determine the issue of ability to resume work. The provisions of this paragraph shall survive the expiration of this contract.

(b) Seniority credit shall be given for time worked before and after, but not for the time that the employee is absent due to sickness or accident off the job. With respect to Worker's Compensation absences, there shall be no loss of seniority.

#### **Section 24**

### **DISABILITY BENEFITS LAW-UNEMPLOYMENT INSURANCE LAW**

(a) The Employer shall cover its employees so that they shall receive maximum weekly benefits provided under the New York State Disability Benefits Law, whether or not such coverage are mandatory.

(b) Failure to so cover employees makes the Employer liable for all loss of benefits and insurance.

(c) The Employer will cooperate with employees in processing their claims and shall supply all necessary forms, properly addressed, and shall post adequate notice of places for filing claims.

#### **Section 25**

### **SICKNESS BENEFITS**

(a) Any regular full time employee having at least ONE (1) Year of Service (as defined in Section (e) below) shall receive in a calendar year from the Employer ten (10) paid sick days for a bona fide illness.

Effective March 4, 1996, any employee entitled to sickness benefits shall be allowed four (4) single days of paid sick leave. The remaining six (6) days of paid sick leave may be paid either for illness of more than one (1) day's duration or may be counted as unused sick leave days.

The employee shall receive the above sick pay whether or not such illness is covered by the New York State Disability Benefits Law or the New York State Worker's Compensation Act, however, there shall be no pyramiding or duplication of Disability Benefits and/or Workmen's Compensation Benefits with sick pay.

(b) An employee absent from duty due to illness only on a scheduled workday immediately before and/or only on the scheduled workday immediately after a holiday shall not be eligible for sick pay for said absent workday or workdays.

(c) Employees who have continued employment to the end of the calendar year and have not used all sickness benefits shall be paid in the succeeding January for all unused sick leave.

(d) An employee who is entitled to and receives a payment of ten (10) days unused sick days pay shall for such an attendance record also receive a \$125.00 bonus.

(e) For the purpose of this Article, one (1) year's employment shall be reached on the anniversary date of employment.

(f) Employees who complete one (1) year of service after January 1, shall receive a pro-rata share of sickness benefits for the balance of the calendar year.

(g) If the employee informs the Employer he is requesting worker's compensation benefits then no sick leave shall be paid to such employee unless he specifically requests, in writing, payment of such leave. If an employee informs the Employer he is requesting disability benefits, then only five days sick leave shall be paid to such employee (if he has that amount unused) unless he specifically requests, in writing, payments of additional available sick leave.

(h) Any employee required to attend his Workers' Compensation hearing shall be paid for his regularly scheduled hours during such attendance, with a maximum of one day per accident.

## Section 26 MEDICAL VISIT

(a) Every regular full time employee who has been employed for one year or more shall be entitled, upon one (1) week's notice to the Employer, to take one (1) day off in each calendar year at straight-time pay for a medical visit. Said employee shall receive a second day off with pay for a medical visit if proof from a doctor is furnished that such a second visit was required. To receive payment for such day or days the employee shall provide a signed statement from his/her physician.

(b) Should an employee be required to visit a physician on more than two (2) occasions, such employee may use his/her sick days for that purpose.

### **Section 27**

### **DEATH IN THE FAMILY**

A regular, full-time employee with at least one (1) year of employment shall not be required to work for a maximum of three (3) days immediately following the death of his/her parent, grandparents, brother, sister, spouse, child, parent-in-law, son or daughter-in-law, and shall be paid regular straight-time wages for any of such three days on which he/she was regularly scheduled to work or entitled to holiday pay.

### **Section 28**

### **LEAVE OF ABSENCE**

1. All employees employed by the Employer for four (4) years or more shall be granted a leave of absence for a period of four (4) months a year, including vacation time, at intervals of three (3) years, without loss of employment, seniority and/or vacation accruals. If a holiday should occur during the above mentioned vacation, the employee shall receive a normal day's pay for said holiday, but the period of leave of absence shall be reduced by one day for each holiday occurring during said vacation period.

2. Notice shall be given to the Employer of the employee's request for a leave of absence in the following manner:

(a) If leave of absence is to be taken at the same time of the employee's vacation, by ten (10) days' written notice to the Employer from the Union, or ten (10) days' written notice by certified mail from the employee to the Employer and the Union.

3. The maximum number of employees entitled to a leave of absence in a given year shall not exceed forty (40%) percent of the total number of employees in the employer's shop and shall be granted in accordance with shop seniority.

If a particular shop is manned by one employee, said employee will be entitled to the leave of absence.

If a particular shop is manned by two employees, only one employee may receive the leave of absence at a time.

4. (a) The employee shall receive service credits for the full period of the leave of absence for pension, vacation, seniority and all other time purposes under the Agreement.

(b) There shall be no contributions made by the Employer to the Pension Fund for the period of a leave of absence with respect to employees taking such leaves. However, if such leaves of absence or any part thereof, the Employer shall make contributions to the Pension Fund for such replacements during the period of such replacements.

5. The Employer shall cover the employee on the leave of absence with health benefits, provided that the employee requests same and reimburses the Employer in advance the cost of health benefits for the full period of the absence.

6. Employees on leave of absence as provided for herein shall not be entitled to claim New York State Unemployment Insurance for the period of said leave.

7. It is further agreed by the Employer that any member of the Union who shall be elected or appointed to any office or position within the local Union which requires absence from the service of the company for any period of time, shall receive leaves of absence for said periods until the expiration of the term of office or position or responsibility. The employee's seniority shall not be affected by such leaves of absence.

### **Section 29 DAMAGE OR BREAKAGE**

It is further agreed that the employees shall not be held liable for any damage or breakage occasioned by them in the course of their employment or for the damage or loss of equipment unless negligence in cases of damage or loss of equipment is established.

### **Section 30 NON-UNION WORK**

Should the employer request the Union to remove the pickets and permit its members to clean premises on which the work up to that time had been performed under non-union

conditions, on the grounds that the work is to be performed by it under union conditions, and should the Union thereafter ascertain that the employer was not a bona fide contractor employed for that purpose, the matter shall be subject to review by the Grievance Committee herein provided for and should said Grievance Committee or Contract Arbitrator provided for under the plan for the determination of disputes, find the employer not to have held a bona fide contract or agreement for the cleaning of said premises, it shall pay liquidated damages of \$100.00.

### **Section 31 VACATIONS**

(a) New employees who have worked for the employer or its predecessors seven months shall be entitled to one week's vacation with full pay in each calendar year. Such new employee who completes seven months of employment at a time after the regular vacation period but by December 31st in that year, shall receive either one week's vacation or one week's pay in lieu thereof.

(b) Window cleaners who have been employed by the employer or its predecessors for a continuous period of one year or more shall be entitled to and receive two weeks vacation with pay in each calendar year.

(c) Window cleaners who have been employed by the employer or its predecessors for a continuous period of five years or more shall be entitled to and receive three weeks' vacation with pay in each calendar year.

(d) Window cleaners who have been employed by the employer or its predecessors for a continuous period of fifteen years or more shall be entitled to and receive four weeks' vacation with pay each calendar year.

(e) Window cleaners who have been employed by the employer or its predecessors for a continuous period of twenty one years shall be entitled to and receive twenty one days vacation, twenty two years – twenty two days vacation, twenty three years – twenty three days vacation, twenty four years – twenty four days vacation.

(f) Window cleaners who have been employed by the employer or its predecessors for a continuous period of twenty-five years or more shall be entitled to and receive five weeks' vacation with pay for each calendar year.

(g) The date of each window cleaner's vacation shall be selected by the employee in each shop according to the employee's shop seniority and shall be determined by said employees at least two weeks before the commencement of the vacation period, hereinafter provided. The vacation period shall be at any time during the calendar year on the consent of the employer and on notice to the Union. In no event may an employee receive more than one vacation period or its equivalent in any calendar year, regardless of the number of



Employers who employed the employee. Vacation pay shall be payable in advance of the commencement of each employee's vacation time. The vacation dates may be changed by mutual agreement.

(h) Part time employees shall receive annually a vacation equivalent to the average number of days worked weekly.

(i) Should an employee take vacation during a week in which a holiday enumerated in Section 8 occurs, such employee shall receive either an extra day's vacation with pay or an extra day's pay.

(j) Any window cleaner, including a part-time window cleaner, who has been employed for one year or more and whose employment terminates for any reason, shall be entitled to a vacation accrual allowance. Such allowance shall be computed on the employee's length of service as provided in the vacation schedule, based on the elapsed period from the last day of his/her previous vacation to the date of termination. However, any employee who has received a vacation during the year and whose employment terminates during the next year shall be entitled to full vacation accrual allowances instead of on the basis of the elapsed period from the previous vacation. Any window cleaner who leaves a position voluntarily without giving one week's termination notice (no later than Monday of that week), shall not receive accrued vacation allowances hereunder.

(k) In order to avoid a winter layoff, the employer at the request of the Union, shall require each employee in the shop to use one week's vacation, during the months of January, February and March.

**Section 32**  
**NON-UNION CONTRACTORS**

*An employer shall not share offices or telephone service with a non-union contractor or window cleaner, nor shall it become interested or connected with, directly, or indirectly, in any non-union shop, either as an officer, director, stockholder or in any other way whatsoever.*

**Section 33**  
**TRADE NAMES**

*The employer shall register by filing, with the Union, at the time of signing of this contract or at any time prior to adoption and use, each and every trade name, firm or corporate name under which it proposes to do business and it shall not operate or engage in business under any other name, firm, or corporation. An employer failing to register a trade name used by it shall pay liquidated damages of \$25.00 for each offense.*

**Section 34**  
**EMPLOYERS' MEMBERSHIP IN  
UNION PROHIBITED**

*An employer shall not become a member of any union of window cleaners and if he/she be a member presently of any such union, he/she shall resign his/her membership within thirty days of the execution of this contract.*

**Section 35**  
**NON-UNION EMPLOYEE**

(a) Upon receipt of written notification from the Union, an employer shall discharge any employee who has not become a member of the Union in good standing within the time prescribed in Section 1 hereof.

Such written notification shall relieve the employer and the Association of all further liability to the employee or to the Union.

(b) The Union agrees to indemnify and hold harmless the Association and each of its member employers affected from any liability incurred by reason of discharge under this section.

**Section 36**  
**MILITARY SERVICE**

Drafted or enlisted employees shall, on their discharge, be re-employed without loss of seniority rights. Seniority shall accumulate while an employee is in military service.

**Section 37**  
**SCRAPING**

On all new construction work where windows must be scraped, employees doing such scraping shall be paid \$8.00 per day over and above their regular wage rate.

Contractors engaged in such scraping work shall report to the union in writing the site of each operation within 24 hours after commencement of each job.

**Section 38**  
**OTHER ASSOCIATIONS PROHIBITED**

The Union agrees that during the term of this Agreement, it will make no collective agreement with any other association or group of employers with respect to grievances, or terms or conditions of employment except for the purpose of providing group insurance.

**Section 39**  
**NOTICE OF INTENTION TO LEAVE**

Any employee shall give his/her employer and the Union one week's notice of intention to leave the employ of the employer but in no event shall such notice be given later than the Monday of the week in which said employee intends to leave. Such notice shall be signed by the employee when requested to do so. If any employee leaves the employer without giving one week's notice, he/she shall be required to return to said employer and continue to work until proper notice is given.

## Section 40 GROUP INSURANCE

The Employer shall continue to contribute to the Local 2 Health Fund through June, 2002 in the amount of \$1,397.64 per quarter on behalf of each employee.

Effective July 1, 2002 the Employer shall cover all its employees under the Building Service 32B-J Health Fund under such provisions, rules and regulations as may be determined by the Trustees of the Fund.

The rates of contribution shall be as follows:

Effective July 1, 2002, \$1449.66 per quarter on behalf of each employee, payable when and how the Trustees determine.

Effective June 1, 2003, the rate of contribution shall be increased to \$1,553.66 per quarter.

Effective March 1, 2004, the rate of contribution shall be increased to \$1,683.66 per quarter.

If, during the term of this Agreement, the Trustees find the payment provided herein is insufficient to maintain benefits, and adequate reserves for such benefits, they shall require the parties to increase the amounts needed to maintain such benefits and reserves. If the Trustees of the Health Fund order an audit made and if the employer is found guilty of a willful violation, the guilty employer shall pay the costs of the audit together with the amount found by the auditor to be due to the Health Fund. Should the employer fail to make such payments within 30 days after the finding of such violation, it shall pay an additional 15% of the amount due as liquidated damages.

The Union will have the right to terminate the Agreement with respect to any Employer who is delinquent in payments to the Health Fund for 30 days, provided that the Employer is given 10 day's notice, in writing, of such termination if it does not make good its delinquency to the Health Fund.

### Section 41 APPRENTICES

Apprentices employed on or after March 1, 1999, the following shall be the weekly wage progression:

	<b>3/1/02</b>	<b>3/1/03</b>	<b>3/1/04</b>
	<b>Rates</b>	<b>Rates</b>	<b>Rates</b>
<b>Start</b>			
Weekly:	\$599.93	\$618.53	\$637.70
Hourly:	\$ 15.00	\$ 15.46	\$ 15.94
<b>4 Months</b>			
Weekly:	\$651.48	\$671.68	\$692.50
Hourly:	\$ 16.29	\$ 16.79	\$ 17.31
<b>8 Months</b>			
Weekly:	\$692.72	\$714.19	\$736.33
Hourly:	\$ 17.32	\$ 17.86	\$ 18.41
<b>12 Months</b>			
Weekly:	\$733.96	\$756.71	\$780.17
Hourly:	\$ 18.35	\$ 18.92	\$ 19.50
<b>16 Months</b>			
Weekly:	\$775.20	\$799.23	\$824.00
Hourly:	\$ 19.38	\$ 19.98	\$ 20.60
<b>18 Months</b>			
Weekly:	\$821.88	\$847.36	\$873.63
Hourly:	\$ 20.55	\$ 21.18	\$ 21.84

The employer who is eligible to train Apprentices shall meet the qualifying requirements as set forth in the basic labor agreement, namely, for a period of 18 months from the day of employment each Apprentice shall be required to work with a journeyman window cleaner and be able to provide the necessary work experience for training.

In order for an apprentice to move to the next progression step, the apprentice must complete the required educational instruction and tests to be conducted by the Local 2 Safety and Training Fund which has been created by this Agreement.

#### **Cost of Living Clause**

(a) Effective March 1, 2003, in the event that the percentage increase in the cost of living (Consumer Price Index for the City of New York-Metropolitan area [New York-New Jersey] Urban wage-earners and Clerical Workers) from November 2001 to November 2002, exceeds 6 1/2%, then in that event, an increase of \$.10 per hour for each full 1% increase in the cost of living in excess of 6 1/2% shall be granted effective March 1, 2003. In no event shall said increase pursuant to this provision exceed \$.20 per hour. In computing increases in the cost of living above 6 1/2%, less than .5% shall be ignored and increases of .5% or more shall be considered a full point. Any increases thereunder shall be added to the minimum.

**(b)** Effective March 1, 2004, in the event that the percentage increase in the cost of living (Consumer Price Index for the City of New York-Metropolitan area [New York-New Jersey] Urban Wages Earners and Clerical Workers) from November 2002 to November 2003 exceeds 6% then, in that event, an increase of \$.10 per hour for each full 1% increase in the cost of living in excess of 6% shall be granted effective March 1, 2004. In no event shall said increase pursuant to this provision exceed \$.20 per hour.

**(c)** In computing increases in the cost of living above 6%, less than .5% shall be ignored and increases of .5% or more shall be considered a full point. Any increases hereunder shall be added to the minimum.

**(d)** The Employer shall have the right to discharge an apprentice for any reason whatsoever for a period of sixty (60) days from the date of employment. After the sixty (60) day period apprentices may only be discharged for just cause and in accordance with the terms of said Agreement.

**(e)** An apprentice who leaves the job or is discharged shall be credited with the time of employment in computing the rate of pay to which he/she will be entitled if he/she obtains another job.

**(f)** The employer who is eligible to train Apprentices shall meet the qualifying requirements as set forth in the basic labor agreement, namely, for a period of 18 months from the day of employment each Apprentice shall be required to work with a journeyman window cleaner and be able to provide the necessary work experience for training.



(g) High ladder work (over three pieces), scaffold or boatswain chair work, shall not be done by an apprentice until more than thirty days after employment.

(h) Each Employer shall have the right to employ at any one time at least one apprentice but no one employer shall have in its employ more than one apprentice for every five cleaners with experience of more than six months, provided, however, that no employer shall employ more than five apprentices at one time and that the employment of apprentices shall cease immediately after one hundred and fifty apprentices have been employed in the industry, provided, however, that if there is a shortage of apprentices this portion of the Agreement relating to the maximum of one hundred fifty apprentices shall be reopened for negotiations concerning a change in such maximum figure and, if the parties cannot agree, that issue shall go to the Contractor Arbitrator, and his/her decision and award shall be binding upon the parties. In addition, the Union and the Association shall appoint a committee to study the entire apprentice problem and if the parties as a result of such a study shall agree upon the modifications of this Agreement with respect to the apprentices, such modification, if in writing and signed by the Union and the Association, shall be deemed part of this agreement. If such committee should be unable to reach Agreement regarding the apprentice problem, then and in that event the entire apprentices problem shall be submitted to the Contract Arbitrator, for determination and his award shall be binding upon both parties and automatically be deemed part of this Agreement.

(i) The Union and the Association will embark upon a joint endeavor to teach apprentices the trade of window cleaning. If the Union and the Association do not jointly consent to a New York City Board of Education apprentices program, then the issue may be submitted to the Contract Arbitrator for determination.

(j) Subject to (d) above, an apprentice shall remain with the employer for a period of at least six months after the completion of his/her apprenticeship, unless the employer consents in writing to his/her withdrawal. This section is subject to the arbitration provisions of Section 11 hereof.

## **Section 42 PENSIONS**

(a) The Employer agrees to continue to make weekly contributions listed below for each window cleaner in The Pension Trust Fund of Window Cleaners Union Local 2:

Effective June 1, 2002 .....	\$ 87.51
Effective June 1, 2003 .....	\$ 95.68
Effective June 1, 2004 .....	\$103.85
Effective Dec. 31, 2004 .....	\$112.03

(b) With respect to substitutes, extras or other employees who work only part of the week, payments by the employer into such Pension Trust Fund shall be on proportionate basis depending upon the number of days employed. The employer shall make a daily contribution to the Pension Trust Fund with respect to any employee who works part of the day, is paid for vacations and holidays and is paid for any other day whether or not he/she worked.

(c) This section may be enforced by the Union, the Association or the Trustees either through an action in court to enforce such contributions or through the arbitration machinery of this Agreement and in either event, enforcement of such contributions shall entitle the plaintiff to a reasonable amount as and for necessary attorney's fees and court costs. In addition, if the Trustees of the Pension Fund order an audit made and the employer is found guilty of a willful violation, the guilty employer shall bear the costs of the audit together with the amount found by the auditor to be due to the Fund. Should the employer fail to make such payments within 30 days after the finding of such violations, it shall pay an additional 20% of the amount due as liquidated damages.

Where a contributing Employer is regularly and consistently delinquent, the Trustees in their discretion may require such security as they deem necessary.

(d) All payment made into such Pension Trust Fund shall be jointly held by six Trustees, three to be designated by the Union and three to be designated by the Association. A seventh trustee, Bernie Young, is hereby designated as Impartial for the purpose of resolving any disputes in connection with the Pension Trust Fund.

(e) The Trust Agreement heretofore executed by the parties covering such Pension Trust Fund shall be deemed incorporated herein by reference and binding upon all employers who participate.

(f) Rules pertaining to the operating and administration of such Pension Trust Fund heretofore formulated and approved by the Trustees shall likewise be deemed incorporated herein by reference. Any additional rules may be formulated by the Trustees, assisted by the law firm of The Law Offices of Harry Weinberg and Raab & Sturm, and when approved by the Trustees shall be deemed incorporated herein by reference.

(g) Should any question arise regarding the making of such trust Agreement and/or such rules, it shall be resolved by the Impartial Trustee, and his/her decision shall be binding and enforceable under the laws of the State of New York.

(h) The payroll records of any employer shall be open for inspection by an *authorized representative of such Pension Trust Fund* or of the Union.

(i) Payments of the Pension Trust Fund shall be made no later than the 10th of the following month.

### **Section 43 JURY DUTY**

Employees who are required to qualify or serve on juries shall receive the difference between their regular rate of pay and the amount they receive for serving on said jury.

### **Section 44 VIOLATIONS OF MUNICIPAL, STATE OR FEDERAL LAWS**

If any provision of this Agreement is found to be in violation of any municipal, state, or federal law, such provisions shall be *deemed unenforceable where applicable* and neither the Association, and its members nor the Union shall incur any liability by reason of compliance therewith or violation thereof, provided, however, that such provision shall be reinstated and become there after enforceable, if the law applicable to such provisions is repealed or modified in such a way as to make such provisions lawful.

In the event that any provision of this Agreement is found inoperable because it is in violation of a municipal, state, or federal law, then the parties hereto shall rewrite such

provisions so as to conform to such law or laws, to the extent permitted by such laws. All other provisions of this Agreement shall nevertheless remain in full force and effect.

### **Section 45**

### **COMMON DISASTER**

There shall be no loss of pay as a result of any Act of God or common disaster causing the shut down of all or virtually all public transportation in the City of New York making it impossible for employees to report for work or where the Governor of the State of New York directs the citizens not to report to work. The Employer shall not be liable for the loss of pay for more than the first full day affected by such Act of God or common disaster. Employees shall be paid only if they have no reasonable way to report to work and employees refusing the Employer's offer of alternate transportation shall not qualify for such pay. The term "public transportation" as used herein shall include subways and buses.

### **Section 46**

### **IMPEDED INCREASES**

If because of legislation, governmental decree or order, any increase or benefit, herein provided is in any way blocked, frustrated, impeded or diminished, the Union may upon ten (10) days' notice require negotiation between the parties to such measures and reach such revisions in the contract as may legally provide substitute benefits and improvement for employees, at no greater cost to the Employers. If they cannot agree, the dispute shall be submitted to the Arbitrator.

In the event that any provision of this contract requires approval of any governmental agency, the Association shall cooperate with the Union with respect thereto.

#### **Section 47**

### **SAFETY AND TRAINING FUND**

Effective March 1, 2002, the employer contribution shall be reduce to \$.075 per hour per employee for the establishment and participation in the Fund.

If, for the period commencing March 1, 2002 through December 31, 2002, the Trustees of the Fund find the payment provided herein is insufficient to maintain benefits and adequate reserves, they shall require the parties to increase the amounts needed to maintain such benefits and reserves with a maximum contribution of \$.10 per hour on behalf of each employee. In the event the Trustees are unable to reach an agreement on the amount required, the matter shall be referred to arbitration.

Effective December 31, 2004 contribution shall be increased to \$.10 per hour on behalf of each employee.

#### **Section 48**

### **EXCLUSIVE RIGHT TO REVIEW**

In the event of a claim by the Association or any of its members that there has been a violation of any provisions of this Agreement, it is understood and agreed that the exclusive review open to the Association and its members shall be the grievance and arbitration machinery set forth in this

Agreement. It is expressly understood that neither the Association nor any of its members shall institute any suit for damages by reason of any alleged breach of this Agreement.

#### **Section 49**

### **PRODUCTIVITY PROBLEMS**

A Joint Committee shall be created to study all problems in relation to production and the question of creating standards as well as the problem of how to dispose of those cases where such standards, if created, are not met. The parties may, by mutual consent, amend this Agreement in accordance with such proposals if they deem such amendment advisable in the interests of productivity, adequate compensation for such productivity and a harmonious and stable relationship.

#### **Section 50**

### **SUPPLEMENTAL RETIREMENT AND SAVINGS PLAN**

Effective July 1, 2002 all employees shall be enrolled in the Building Service 32B-J Supplemental Retirement and Savings Fund (SRSF). The Employer shall not be required to make any contribution but shall comply with all rules and regulations of the SRSF with respect to employee contributions.

#### **Section 51**

### **LEGAL SERVICES**

Effective June 1, 2004 the Employer shall cover all employees under the Building Service 32B-J Legal Services Fund. The rate of contribution shall be \$223.60 per year on behalf of each employee.



**Section 52**  
**DURATION**

This Agreement shall be in full force and effect from March 1, 2002 through February 28, 2005. It is agreed however, that the parties will negotiate for a renewal collective bargaining agreement at the same time as the Union negotiates for a renewal of the 2002 Commercial Building Agreement with the Realty Advisory Board (RAB) and that the Union may cancel the no strike provision of this Agreement on or after midnight December 31, 2004 in the event that a renewal agreement has not been reached.

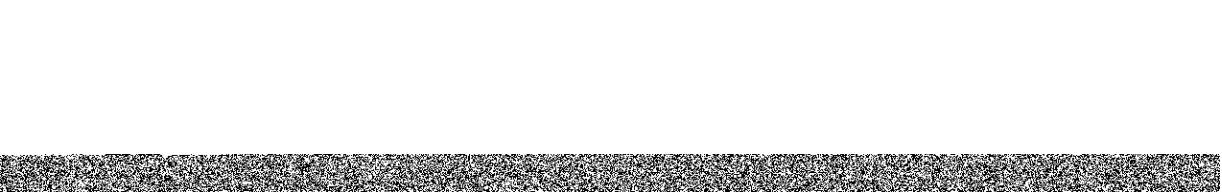
IN WITNESS WHEREOF, the parties hereto have hereunto signed this memorandum of Agreement by their respective officer and representative, duly authorized thereto, the day and year first above written.

THE WINDOW CLEANING EMPLOYERS ASSOCIATION

BY: Harry Weinberg, *President*

LOCAL No. 32BJ  
(S.E.I.U.-AFL-CIO)

BY: Kevin Doyle, *Vice President*



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