

K# 9798

ORIGINAL

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LABOR AGREEMENT



BETWEEN

**CEMEX Construction Materials South, LLC
Camp Verde and Prescott**

AND

International Union of Operating Engineers

Local No. 428

Term: April 1, 2015 – March 31, 2019

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LABOR AGREEMENT

THIS AGREEMENT, made and entered into on, by and between, CEMEX Construction Materials, LLC Camp Verde/Prescott, hereinafter referred to as the "Company" or "Employer;" and the Operating Engineers Local No. 428 of the International Union of the Operating Engineers, AFL-CIO, hereinafter referred to as the "UNION".

ARTICLE 1 INTENT AND PURPOSE

The purpose of this Agreement is to establish an agreement between the signatory parties hereto covering rates of pay, hours of work and conditions of employment to be observed between the parties hereto covering the bargaining unit work of employees at the Camp Verde Plant located at 3600 Old Highway 279 and the Prescott Plant located at 13531 East Highway 89A and satellite locations at Chino Valley, Arizona.

ARTICLE 2 SAVINGS CLAUSE - CHANGE IN LAWS

Should any part hereof or any provision herein contained be rendered or declared invalid by reason of any existing legislation or by any decree of a court of competent jurisdiction, such invalidation of such part or portion of this Agreement, shall not invalidate the remaining portions hereof, and they shall remain in full force and effect. The parties further agree that this Agreement may be reopened by either party upon thirty (30) days written notice for negotiations regarding only the provisions invalidated. In the event that agreement regarding the provisions invalidated cannot be reached, the contract will continue in force without change until the expiration of the Agreement.

ARTICLE 3 UNION RECOGNITION

- A. The Employer hereby recognizes the Union as the exclusive bargaining representative for the employees in the following seven (7) classifications at the Camp Verde and Prescott Valley Arizona Plants: (1) operator trainee; (2) operator journeyman; (3) plant operator trainee; (4) plant operator; (5) mechanic trainee; (6) mechanic; and (7) helper. Camp Verde and Prescott exclusions are as follows: managerial employees, dispatchers, foremen, guards, office and clerical workers, professional employees and supervisors as defined in the National Labor Relations Act. Employees in the above named classifications, other than those heretofore excluded, constitute the "Bargaining Unit" and all provisions of this Agreement shall apply to such employees, unless otherwise specifically set forth herein.
- B. If the Company transfers employees in the classifications listed in paragraph A from the

Camp Verde/Prescott plants to any newly acquired plants and the transferred employee make up a majority of employees in said classifications at the new plants then the Company shall recognize the union as the representative of the employees at the new plants and this agreement shall apply at such plant.

ARTICLE 4 UNION/COMPANY RELATIONS AND BASIC EXPECTATIONS OF EMPLOYEES

- A. The Union agrees to cooperate with the Company in efforts: (i) to improve the economy and efficiency of operations; (ii) to prevent accidents; and (iii) to strengthen goodwill between the Company, the employees, the customers and the public.
- B. All employees shall report for work on time, cooperate with management and co-employees in carrying out the functions and purposes of the business, and, consistent with safety requirements, perform all work assigned.
- C. All employees assigned vehicles or equipment will be responsible for daily cleanup of said vehicle or equipment, inside and outside, during normal working hours. The Company will set acceptable standards for the appearance of the equipment.

ARTICLE 5 EMPLOYMENT TERMINATION

- A. Employment shall be lost in the event of any of the following:
 - 1. The employee quits or retires;
 - 2. The employee is discharged for just cause and such discharge is not reversed through the grievance procedure;
 - 3. The employee fails to report his or her absence from work within two (2) consecutive workdays to the supervisor to which the employee reports;
 - 4. If the employee is off work on a leave of absence or sickness or injury for more than three (3) +days and fails to furnish the Company with a doctor's note when requested.
 - 5. Fails to report to work after being recalled from layoff within seventy-two (72) hours.
 - 6. Absence for on-the-job injury for a period longer than twelve (12) consecutive weeks.
 - 7. Absence for non-occupational illness (certified by a physician) for twelve (12) weeks.

There shall be no discrimination on the part of the Employer against any employee nor shall any employee be discharged by reason of any Union activity not interfering with the

proper performance of his work. The Employer shall also not discriminate, including discharge, against any employee because of race, religion, sex, color, age, national origin, disability or veteran's status, nor because the employee has demanded the wages overtime or other benefits to which he is entitled under this Agreement or under law. With these exceptions, the Employer may discharge an employee only for just cause but will not be required to carry the burden of just cause in any arbitration over such discharge.

- B. The Company may reprimand (verbally or in writing), suspend or discharge for just cause an employee. The Company shall follow the principle of progressive discipline, but, depending on the severity of the infraction, the Company may issue an accelerated step of discipline, including discharge, without having previously issued a lower step of discipline.
- C. The Employer shall furnish and complete termination forms for all employees when terminated, providing one to the employee, to the Union and retaining one for the Company records.
- D. The Employer shall have thirty (30) calendar days from the date of an incident to issue a warning or disciplinary notice for incidents other than those involving accidents or property damage. For incidents involving accidents or property damage, the Employer shall conduct a proper and thorough investigation. When a proper and thorough investigation cannot be completed within thirty (30) calendar days, the Company will so notify the Union. If necessary, a warning or disciplinary notice will be issued at the conclusion of the investigation. Upon receipt the employee will have the opportunity to sign and date the notice and be given a copy with the original being placed in his personnel file.
- E. In the event of a discharge that is arbitrated, the Company shall reinstate the employee with or without back pay pursuant to an arbitrator's decision.

ARTICLE 6 MANAGEMENT RIGHTS

- A. All rights customarily and traditionally exercised by the Company to operate its business and direct its employees are hereby reserved by and to the Company. These rights include, but are not limited to, the rights to: determine production volume; to drop or add products; to increase, decrease or discontinue operations in whole or in part; to sell, merge, consolidate, or lease the business, or any part thereof; to establish, revise, or continue policies, practices or procedures for the conduct of business, and from time to time, to change or abolish such policies, practices, or procedures within fifteen (15) days prior written notice to the Union, to determine and from time to time re-determine, the number, location, relocation, and types of operations, and the methods, processes, and materials to be employed; to discontinue processes or operations and to discontinue their performance by employees and/or subcontract same as per the Agreement (Article XX – Subcontracting), to determine the number of hours per day and per week operations shall be carried on; to select employees for promotion to supervisor, bargaining unit leadman,

or other management positions; to establish, modify, or change work schedules; to add to or reduce the number of shifts or the schedule or number of straight time or overtime hours being worked, it being understood that the Company will, to the extent practicable, provide reasonable notice of overtime to employees; to select and assign work to employees in accordance with the requirements determined by Management; to define its jobs; to determine the content of any jobs and the qualifications necessary for such jobs; to institute, establish, adjust, and to determine work standards, including production goals for either present or future operations; to require physical examinations and substance abuse screening of employees under conditions established by the Company; to determine the existence or lack of work; to make and enforce reasonable rules for the maintenance of discipline or efficiency; to grant or discontinue bonuses, gifts, or incentives not defined in this Agreement; to suspend, discharge, or otherwise discipline employees; to adopt and from time to time modify, rescind or change safety and work rules not inconsistent with the terms of this Agreement and to enforce such rules and impose discipline for violations thereof, including the right of suspension and discharge, to select and assign such duties as it deems appropriate to supervisory and other categories of employees excluded from the Agreement as specified in Article 3 (Union Recognition) hereof; to relocate, move, sell, close, liquidate, or consolidate operations in whole or in part; and to take such measures a Management may determine to be necessary for the orderly, efficient, profitable operations of the business. When it is necessary to add to or reduce the workforce, qualifications, skills, abilities and seniority shall be the determining factors, and the Company shall have the sole discretion to determine the need to hire or layoff. The listing of specific rights in this Agreement is not intended to be, nor shall it be considered, restrictive or a waiver of any rights of Management not listed.

- B. The Company, should it fail to exercise any of its rights or exercise them in a particular way, shall not be deemed to have waived such rights or be precluded from exercising such rights in some other way.

ARTICLE 7 JURISDICTIONAL DISPUTES

All jurisdictional disputes shall be determined in the manner and by the procedure established by the International Disputes Settlement Plan between the International Union of Operating Engineers, the International Brotherhood of Teamsters and the International Laborers Council.

ARTICLE 8 SAFETY

- A. The Employer and the Union will comply with all applicable health and safety laws and regulations and agree to cooperate toward the objective of eliminating accidents and health hazards. The Employer will continue to make reasonable provisions for the safety and health of its employees during the hours of their employment.
- B. The Company and the Union agree to continue to cooperate in administering the current rules for substance abuse testing. Guidelines for the substance abuse drug screen will

be those as specified in the "Company Policy and Standards of Enforceability". The Company will continue its current practice of paying for all time required to take substance abuse screens related to accidents, injuries, and reasonable suspicion.

- C: The guidelines for administering the physical qualifications and examinations will be those outlined by the Company. The examination will also include substance abuse testing.
- D. All new hires, and employees subject to DOT regulations shall be required to submit to a DOT physical and NIDA drug screen. The employee will not be compensated for this activity. For the DOT required bi-annual physicals (not the new hire physicals), the Employer reserves the right to select its own medical examiner or doctor and the Union may, if it believes an injustice has been done to an employee, have said employee reexamined at the employee's expense. If the two (2) doctors disagree, the Employer and the Union shall mutually agree upon a third (3rd) doctor within ten (10) working days, whose decision shall be final and binding on the Employer, the Union and the employee. Neither the Employer nor the Union will attempt to circumvent the decision of the third (3rd) doctor and the expense of the third (3rd) doctor shall be equally divided between the Employer and the employee.
- E. In the event the Company requires an employee to undergo random screening for controlled substance and alcohol under DOT regulations at off-site location, the employee will be paid for actual time spent from the plant to the time they leave the testing facility.
- F. The Employer shall be held responsible for overweight, over height, and defective equipment citations, unless the employee has acted contrary to the instruction of the Employer, and the Employer shall pay all fines levied for such violations or citations.

If the Employer fails to pay said fines, and the employee is arrested and or incarcerated because of said failure, the employee shall receive the applicable hourly rate for the first eight (8) hours and the applicable overtime rate for all hours over eight (8) hours, until released from custody. The Employer is not responsible for any fines or for arrest or incarceration for failure to pay said fines if those fines were levied as a result of violations not the responsibility of the Employer.

ARTICLE 9 PHYSICAL EXAMINATIONS

Where an employee requests an accommodation under the Americans with Disabilities Act (ADA), the Company may require medical certifications and/or physicals only to the extent required under the ADA.

Where there is a reason to doubt an FMLA certification, the Company may take those measures which are permitted under the FMLA and applicable regulations.

The Company may require a certification from an employee's treating physician or other medical professional if the employee is returning to work after a leave of three (3) days or more due to an

illness or injury. The Company retains the right to require a medical examination where the employee's fitness for duty is an issue.

**ARTICLE 10
NO STRIKE - NO LOCK OUT**

- A. The Union and employees covered by this Agreement agree that there will be no strike, picketing, boycott, sympathy strike or other stoppage of work during the term of this Agreement or any extension of this Agreement.
- B. In the event of a breach of Paragraph A, the Union shall immediately instruct the involved employees that their conduct is in violation of the contract, that they may be disciplined up to and including discharge and instruct all such persons to quit the offending conduct and take all reasonable means to end the breach.
- C. The Employer will not lock out its employees during the term of this Agreement.
- D. If the Employer elects to pursue any remedies it may have as a result of a breach of Paragraph A of this Article in any court of competent jurisdiction, the court and not the arbitrator shall determine whether or not Paragraph A of this Article has been breached.
- E. It shall not be a violation of this Agreement or an unfair labor practice, and it shall not be a cause for discharge or discipline, if any employee or employees refuse to cross a lawful primary picket line established by the Operating Engineers Union for the purpose of picketing a 3rd party employer at the Company's facilities party to this Agreement
- F. Notwithstanding the foregoing, bargaining unit employees will not be transferred to or asked to perform work at any CEMEX facility, other than the facilities covered under this Agreement, where the CEMEX Employees are on strike.
- G. It shall not be a violation of this Article if the Union withdraws the employees of the Employer because of failure to pay contractually agreed upon fringe benefits as outlined in Article 11 of the Agreement.

**ARTICLE 11
HEALTH AND WELFARE**

- A. Effective on the date listed below, the Employer shall pay the sum indicated for each hour worked by employees covered hereunder to the Trustees of Operating Engineers Local No. 428 - Health and Welfare Trust Fund:

April 1, 2015	\$4.10
April 1, 2016	\$4.20
April 1, 2017	\$4.30
April 1, 2018	\$4.40

- B. If additional monetary increases are deemed necessary, they will be designated by the Union as to dates and amounts, and will be taken from other economic areas herein. The Union can revise the economic package so long as the combined total of the wages, health and welfare and apprenticeship does not exceed the economic package figure herein. It is agreed that the Union will give the Employer sixty (60) days advance notice, in writing, of proposed changes to the contribution rate.
- C. The said payments by the Employer shall discharge its obligation hereunder, and any increase in cost to be deducted from the employee's wage rate. Any dispute arising in the administration of said Fund shall not be deemed to be a dispute hereunder and shall not be subject matter of the grievance procedures contained in this Agreement hereof and shall not be deemed to be a dispute concerning wages, hours and working conditions.
- D. The parties shall cause the said Trustees to execute any and all documents necessary and required to continue in full force and effect the Agreement and Declaration of Trust dated the 29th day of September, 1959, and as amended thereafter, creating the said Operating Engineers Local No. 428 Health and Welfare Trust Fund, for the duration and terms of this collective bargaining Agreement.
- E. The Employer agrees to the appointment, as its representatives, the Trustees designated by the Contractor Associations as Employer representatives and further agrees that he shall be bound by all the terms and conditions of said Agreement and Declaration of Trust dated September 29, 1959, and as amended thereafter, and to all amendments thereto during the term hereof.
- F. The Company shall provide for \$25,000 term life insurance for regular full-time employees while the Company employs them.
- G. The Company shall provide the options for both short-term and long-term disability plans for all employees covered under this Agreement. These options, if utilized, shall be paid for by the employee.

ARTICLE 12 HOLIDAYS

- A. The following are recognized as paid holidays: New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day, the day after Thanksgiving Day, Day before Christmas, Christmas Day and New Year's Eve Day.
- B. When one of the above days falls on Sunday, the following Monday shall be observed as the holiday. Appropriate holidays will be celebrated in accordance with the Federal Monday Holiday Act. When the holiday falls on a Saturday, the holiday will be observed

on the Friday immediately preceding the holiday.

- C. Employees who have been continuously employed a minimum of thirty (30) days immediately prior to the above named holidays, and who have worked their regularly scheduled workday both preceding and following the above named holidays, unless excused by the Employer, or unless prevented from working because of illness or accident, properly and sufficiently vouched for, shall be paid eight (8) hours pay at their regular straight-time rate for each of the named holidays and no work shall be performed for such holiday pay.
- D. In addition to holiday pay as provided above, employees who are required to work on a holiday shall receive time and one-half (1 1/2) pay for all hours worked. No work shall be required on Labor Day or Christmas Day except in case of extreme emergency where life or property is endangered.
- E. Any employee who has agreed to work on a holiday, but who fails to report for work, unless for reasonable cause acceptable to the Employer, shall not receive pay for the holiday as provided above.
- F. An employee shall not be denied holiday pay for any recognized holiday falling within his scheduled vacation period, provided that employee is otherwise qualified for such holiday pay.
- G. For overtime calculations, hours paid, as holiday pay will be considered as hours worked for the week.

ARTICLE 13 VACATIONS

- A. During an employee's first year of employment, if he is laid off or terminated after completion of ninety (90) days continuous service, he shall be paid a pro-rata vacation based on the number of hours worked in the calendar year divided by 1200 hours times his applicable vacation from his date of hire to the date of layoff or termination.
- B. A new employee hired in a calendar year shall be eligible for one week (40 hours) of vacation effective January 1 of the subsequent year regardless of when hired in the year. Thereafter vacation shall be granted on January 1 provided the employee has worked 1200 hours and if not a pro-rata vacation shall be earned. Vacation pay shall be calculated as forty (40) hours pay at the classification rate at which he/she worked for the majority of hours in the week prior to the vacation.
- C. After an employee has completed one year continuous service but who is then laid off or terminated, he shall be paid a pro-rata vacation based on the number of hours worked in the calendar year divided by 1200 hours times his applicable vacation per the years of service.
- D. The year in which an employee achieves three (3) years continuous service in the

- employ of the Employer at a plant covered by this Agreement, each employee, on January 1, shall be entitled to two (2) weeks annual vacation provided he has worked 1200 hours, otherwise the employee shall be entitled to a pro-rata vacation as outlined above. Vacation pay shall be calculated as eighty (80) hours at the classification rate at which he/she worked for the majority of hours in the week prior to the vacation.
- E. The year in which an employee achieves ten (10) years continuous service in the employ of the Employer at a plant covered by this Agreement, each employee, on January 1, shall be entitled to three (3) weeks annual vacation provided he has worked 1200 hours, otherwise the employee shall be entitled to a pro-rata vacation as outlined above. Vacation pay shall be calculated as one hundred twenty (120) hours at the classification rate at which he/she worked for the majority of hours in the week prior to the vacation.
- F. The year in which an employee achieves fifteen (15) years continuous service in the employ of the Employer at a plant covered by this Agreement, each employee, on January 1, shall be entitled to four (4) weeks annual vacation provided he has worked 1200 hours, otherwise the employee shall be entitled to a pro-rata vacation as outlined below. Vacation pay shall be calculated as one hundred sixty (160) hours at the classification rate at which he/she worked for the majority of hours in the week prior to the vacation.
- G. For the purposes of this Article, continuous service is understood to include all employment not interrupted by a layoff over sixty (60) days for an employee qualifying for vacation.
- H. Vacations shall be scheduled after January 1 and on dates, which are satisfactory to the Employer and employee. Vacations will be taken in the year following the year earned. Thirty (30) days' notice is required for vacation scheduling. The Company will provide a reply to the Employee's request within seven (7) working days from date of receipt of request. Vacation pay shall be included in the normal payroll check cycle.
- I. Employees may choose to split their vacation into whole day increments by notifying the Employer thirty (30) days prior to vacation time. Dates shall be mutually satisfactory to the Employer and the employee. Pay for such increments shall be included in the employee's next regularly scheduled paycheck.
- J. If employment of the employee is terminated for any cause after a vacation is earned, but before vacation is scheduled, the employee shall be granted his vacation pay at the time his employment is terminated.
- K. After an employee has completed ninety (90) days of continuous service, in the event of an occupational injury not to exceed twelve (12) weeks, an employee off work for this reason, shall receive a pro rata vacation based on the number of hours worked in the calendar year divided by 1200 hours times his applicable vacation per the years of service

The period of vacation shall run from January 1 through December 31 of each year. Employees shall be eligible to take all vacation time earned in the previous year during this time. To be eligible for a full vacation, an employee must work twelve hundred (1200) hours in the previous calendar year. An employee that works less than 1200 hours shall receive a pro-rata vacation. Such proration to be calculated by dividing actual hours worked by 1200 and multiplied by the number of vacation hours applicable to length of service for the employee.

An employee will be eligible to cash out up to forty (40) hours of vacation one time each year in increments of eight (8) hours

ARTICLE 14 GRIEVANCE AND ARBITRATION

A. A grievance shall be defined to mean any dispute, controversy or disagreement as to the application or interpretation of any of the terms and provisions set forth in this Agreement

Step 1 Any employee having a grievance shall, with or without the aid of a Union Representative, first meet with the employee's immediate supervisor, who shall attempt to resolve it. If a resolution satisfactory to the employee is not reached, a grievance shall be submitted in writing (containing details of the nature of the grievance and the Articles of Agreement allegedly violated) as promptly as possible, and in no case in excess of fourteen (14) calendar days from the date of the occurrence of the incident and or knowledge which led to the grievance.

Step 2 The Employer shall call an authorized Union Representative within five (5) calendar days of the receipt of the written grievance. The Employer shall have five (5) calendar days from the time of the call to respond in writing. Participants in this step shall be the Union Representative and an Employer Representative who shall have ten (10) calendar days to settle the grievance.

Step 3 If the grievance remains unsettled, the parties within fifteen (15) calendar days shall engage in non-binding mediation. The mediator will be one of the Commissioners from the Arizona office of the Federal Mediation and Conciliation Service.

Step 4 If no settlement or agreement is reached in Step 3, then within ten (10) calendar days of the Step 3 mediation meeting, the matter may be referred to arbitration. A request for arbitration shall be presented to the Employer in writing and shall contain a complete outline of the nature of the complaint. Within ten (10) calendar days of receipt of a request for arbitration, the parties shall:

1. Meet to mutually select an arbitrator.
 2. If unable to select an arbitrator at the meeting, then the moving party shall within five (5) calendar days, request a panel of seven (7) arbitrators from the Federal Mediation and Conciliation Service.
 3. Upon receipt of the panel of seven (7) arbitrators, each party shall strike three (3) names alternately with the remaining arbitrator authorized to hear the case.
- B. No grievance shall be submitted to arbitration under Step 4 unless the time limits in Steps 2 and 3 have been complied with. If the Union fails to meet the time limits required above, the grievance shall be deemed dropped. If the Company fails to meet the time limits described above at Steps 1 and 2, the grievance shall be deemed denied and advanced to the third (3rd) step of the grievance procedure. All the time limits may be extended by mutual written consent.
- C. The arbitrator may not change, modify or alter any of the terms and provisions of the Agreement. Accordingly, in arriving at a decision, the arbitrator's opinion shall be confined to the interpretation of the provision or provisions of the Agreement at issue between the Company and the Union. Further, the arbitrator shall have no authority to consider more than one grievance unless the parties mutually agree to the contrary.
- D. In the event of a grievance concerning action taken by the Company to suspend, discipline, or discharge for just cause, transfer, promote, layoff or recall any employee, the arbitrator shall only reverse the action or decision of the Company if he finds that the action taken violates a term or terms of this Agreement, or that, based on a preponderance of the evidence, the Company has acted arbitrarily. The arbitrator may rely on past practice and bargaining history if the legal standards for consideration of such evidence are satisfied.
- E. The decision of the arbitrator shall be in writing and final and binding upon the parties hereto and upon the employee or employees concerned; provided, however, that the arbitrator shall make no award outside the scope of his authority outlined herein, or effecting a change, modification or addition to this Agreement, and shall confine himself to the facts submitted in the hearing, the evidence before him, the statutes and legal precedent, and provision of this Agreement. The findings of the arbitrator shall be rendered within thirty (30) days of the date of hearing.
- F. The expenses of the arbitrator and the hearing shall be borne equally by both parties.

ARTICLE 15 BUSINESS AGENT VISITATION

The Business Representative of the Union shall have access to the job during working hours for

the purpose of performance of his duties, and he shall advise the Area Manager, his designee, or check in at plant of his presence on the job and shall not stop or interfere with the work of any workmen without the permission of the Employer or his representative. The Business Representative shall abide by all Employer, State and Federal rules and regulations. The Business Representative must be MSHA trained and certified and shall be subject to MSHA regulations when visiting a mining operation.

ARTICLE 16 UNION STEWARDS

The Steward shall be a working employee appointed by the Union who shall perform his steward duties without unduly stopping the productivity of other employees or himself. He shall not be discriminated against in any manner by the Employer or its representatives. No job steward shall be terminated without just cause. If the Employer or its representative feels it has just cause to terminate a steward, it shall notify the Union Business Representative prior to termination.

In the event of a reduction in force, one Steward from the Camp Verde Plant and one Steward from the Prescott Valley Plant shall be the last employee laid off unless such Steward, in the judgment of the Company, is not qualified or able to do the job taking into account the factors set forth in Article 25, Section 1 (the language concerning factors taken into account for layoffs.)

ARTICLE 17 SUCCESSORS, HEIRS AND ASSIGNS

All of the terms, conditions and covenants of this Agreement shall be and are alike binding upon the successors, heirs and assigns of the respective parties.

ARTICLE 18 401 (K) SAVING PLAN

The Company agrees to implement a 401 (K) Plan as soon as possible and in no event later than January 1, 1998. The covered employees may direct up to 15% of their gross wages to the Plan, in whole percentages. The Company agrees to match the employee contribution at and on the same basis as all other salaried participants (current match, **effective April 1, 2015**, is \$.70 per \$1.00 for the first 5% of contribution) in the CEMEX Retirement Savings Plan and apply all amendments to the Plan on an equal basis.

The terms and conditions of the Plan otherwise shall be as set forth in the attached Summary Plan Description. The Employers matching contribution will vest as set forth in the SPD.

ARTICLE 19 WAGES AND CLASSIFICATIONS

Classification	Effective Date	New Hire Scale	Journeyman Scale
Operator Trainee	1-Apr-15	\$14.95	
	1-Apr-16	\$15.45	
	1-Apr-17	\$16.05	
	1-Apr-18	\$16.70	
Operator Journeyman	1-Apr-15	\$16.95	\$18.95
	1-Apr-16	\$17.45	\$19.45
	1-Apr-17	\$18.05	\$20.05
	1-Apr-18	\$18.70	\$20.70
Plant Operator Trainee	1-Apr-15	\$15.85	
	1-Apr-16	\$16.35	
	1-Apr-17	\$16.95	
	1-Apr-18	\$17.60	
Plant Operator	1-Apr-15	\$17.85	\$19.85
	1-Apr-16	\$18.35	\$20.35
	1-Apr-17	\$18.95	\$20.95
	1-Apr-18	\$19.60	\$21.60
Mechanic Trainee	1-Apr-15	\$15.10	
	1-Apr-16	\$15.60	
	1-Apr-17	\$16.20	
	1-Apr-18	\$16.85	
Mechanic	1-Apr-15	\$17.10	\$19.35
	1-Apr-16	\$17.60	\$19.85
	1-Apr-17	\$18.20	\$20.45
	1-Apr-18	\$18.85	\$21.10
Helper	1-Apr-15		\$14.65
	1-Apr-16		\$15.15
	1-Apr-17		\$15.75
	1-Apr-18		\$16.40

Note 1: All Leadmen will be paid at least \$.50 per hour above Journeyman scale.

Note 2: Trainees will receive \$.50 per hour pay increases at six (6) month intervals until they reach the Journeyman New Hire scale at which time they shall receive progression increases as a New Hire Journeyman as outlined in Note 3. If a trainee has demonstrated the requisite skill and ability, the Company may increase such.

Note 3: New Hire Journeymen will receive a minimum \$.50 per hour pay increase at six (6) month intervals until they reach the Journeyman scale.

APRIL 1, 2015	\$0.50	
APRIL 1, 2016	\$0.50	(THESE AMOUNTS REFLECTED IN THE WAGE CHART ABOVE)
APRIL 1, 2017	\$0.60	
APRIL 1, 2018	\$0.65	

ARTICLE 20 HOURS OF WORK AND WAGES

- A. **Workweek** - The workweek will be Monday through Saturday. For payroll purposes only the pay week will be from Sunday to Saturday.
- B. **Overtime** - Work performed in excess of forty (40) hours per week will be paid for at the rate of time and one-half (1 1/2). Work performed on Sundays will be paid for at the rate of time and one-half (1 1/2). However, work that must be performed on Sunday due to contractual requirements or specifications is exempt from time and one-half (1 1/2) pay and will be treated as a normal workday.
- Assignment of overtime shall be first offered to the individual normally performing the work and thereafter to the most senior qualified individual.
- Overtime shall not be duplicated or pyramided under any of the terms of this Agreement.
- C. **Multi-shift Operations** - When so elected by the Employer, employees may be worked on a shift basis.
- D. **Inclement Weather** - The Employer shall make advance arrangements for exchange of information, including a call-in procedure regarding work reporting in the event of weather that would cause a customer to cancel an order. Employees will be paid only for time worked when sent home for reason of inclement weather. Nothing contained herein shall require the Employer to pay show up time to workmen who report to work and who are not ready, able and willing to work in the capacity for which they were hired.
- E. **Equipment Breakdown** - If a machine breaks down, the employee (s) operating said machine may assist in the repair work or be assigned other work within the jurisdiction of the Operating Engineers at his regular rate of pay unless the newly assigned work is of a higher rate in which case the employee will receive the higher rate for the remainder of the shift.
- F. **Intervening Rest Period** - No operator shall be required to work his/her shift without an intervening period of at least eight (8) hours from his/her previous shift without the

employee's consent. There shall be no adverse consequences to an employee who does not consent to work with less than an eight hour intervening period.

- G. **Lunch Period** - The employer may schedule a one-half (1/2)-hour lunch break between two and one-half (2 1/2) and six (6) hours after the individual's starting time or the employee may be required to work straight through. No matter which method is used, the employee will be paid for the actual time worked.

H. **Payday and Pay Check** -

All Employees shall be paid by direct deposit prior to their regular quitting time on a designated weekly payday, set by the Company. When pay day falls on a holiday, the workers will be paid on the day proceeding the holiday. The Company will make available the means to receive an electronic pay stub to the employees at the plant(s) and in an area accessible to the employees, on company time within reason. The employee's name or identification number, rate of pay, straight time hours, overtime hours, vacation hours, floating holiday hours, and 401(k) contributions, plus all deductions shall be listed separately on each check stub.

The Company will provide the employees with necessary training on the system and will maintain the equipment as needed.

- I. **Payoff upon Discharge** - Employees subject to layoff for lack of work or reduction in force or when an employee is discharged from service shall receive their final paycheck within three (3) business days (exclusive of the day of the layoff or discharge) If the employer fails to meet the above deadlines, the employer shall pay the employee eight (8) hours straight time pay for each business day elapsed between the first day the wages were due and the day on which the check is sent to the employee.
- J. **Extended Absences due to Injury or Illness** - Any employee off work, not in excess of twelve (12) weeks, due to (i) an injury on the job for which he received benefits from the Industrial Commission, or (ii) an illness (certified by a physician), shall be entitled to return to his/her regular job when he/she is released by the Company Physician to return to work, providing that employee has been employed by this Employer for at least ninety (90) days at the time of the injury or illness.
- K. **Company Furnished Tools** - All craftsmen shall be furnished all hand tools over one and one-half (1 1/2) inch opening, lenses for welding hoods and goggles. These will be

charged to the employees who are to guarantee their return in like condition, normal wear and tear excepted. No person shall be denied employment for failure to provide or furnish the tools, machines or devices specified above.

The following labor saving power tools shall be furnished by the mechanics/welders: 1/2" air impact wrench and 3/8" air drill. The Employer will repair or replace employee provided labor saving power tools, which wear out or fail due to normal use.

Mechanics/welders shall furnish all hand tools less than one and one-half (1 1/2) inch opening as required to perform equipment maintenance as specified by the employer. A new employee shall be responsible for furnishing his own cutting torch head, tip and welding gloves. The Employer shall continue its practice of replacing welding gloves and tips worn out in normal use, and of rebuilding cutting heads as necessary.

- L. **On the Job Injuries** - Employees injured on the job and unable to return to work as a result of such injury shall receive wages for the full day on the day injured. If transportation is needed on said day to transport an injured worker to the doctor or hospital and/or to his home from the doctor or hospital, transportation shall be furnished by the Employer. In the event of a serious accident or death on the job, the Employer will immediately notify the worker's family and the Union.
- M. **Safety Equipment** - The employer must furnish all clothing and equipment necessary for health and safety including but not limited to hard hats. The Company shall pay up to \$125 each year towards the purchase of a **minimum six** --inch high topped, lace up safety-toed boots. The Company shall **reimburse** up to \$125 to the employee upon presentation of the original receipt (s). For new hires, if the new hire leaves within one year of his/her date of hire, \$75 shall be deducted from his/her final check. The benefit may, or may not, be utilized at the sole discretion of the employee.
- N. **Tool Insurance** - The Company shall reimburse mechanics up to \$20,000 per occurrence for the loss of tools due to theft or fire on the Company premises or Company vehicles. The mechanic shall pay the first five hundred dollars (\$500) of such loss. To be eligible for this coverage, the mechanic:
1. On or about October 15 of each year must provide his/her supervisor with a complete inventory of his/her personal tools, and upon request allow for an inspection of those tools. A new hire mechanic must also provide such inventory at the time of hire.
 2. Must properly secure his/her tools at the end of shift, and otherwise exercise reasonable diligence in protecting his/her tools.
- At the election of the Company, the Company may choose to purchase insurance to cover such losses rather than provide direct reimbursement.
- O. **Unpaid Sick Leave** - After completion of one (1) year of continuous employment with

the Company, each regular full-time employee shall receive two (2) unpaid days for sick leave. Employees must notify his or her immediate supervisor at least two (2) hours prior to his or her starting time of intent to take unpaid sick leave. Failure to provide proper timely notice will result in the leave being unapproved and may subject the employee to disciplinary action. Approved sick day usage shall not be used in any disciplinary proceedings.

- P. Layover-Any employee required to layover away from his predestinated starting point shall be allotted fifteen dollars (\$15.00) per day for dinner for local travel, twenty-five dollars (\$25.00) a day for dinner for out-of-state travel, and shall be furnished Company designated/approved lodging until he returns to his predestinated starting point. In addition, the employee required by the Company to layover shall be compensated a total of eight (8) hours at this regular straight time hourly rate for said layover in a twenty-four (24) hour period.

- Q. Sanitary Facilities-Sanitary toilet facilities and sanitary drinking facilities shall be furnished and maintained by the Employer on the job. Water and ice shall be made available by the Employer at fixed plant locations from the beginning of the shift until the end of the shift during hot weather when deemed necessary by the majority of the employees on the job. Whenever practical, shade for equipment operators, heavy-duty mechanics and welders shall be furnished by the employer. Hand washing facilities shall be in place and maintained at all plant locations and portable plants.

- R. Show Up Time-When an employee reports to work at the starting point of his assigned shift and has not been previously notified by the Company not to report, and there is no work available for the employee at his regularly assigned job, and the unavailability of such work is not due to breakdowns, power failures, acts of God, strike, and machine or equipment failures, he shall be paid a minimum of two (2) hours pay at his regular straight time hourly rate, and if on a Saturday or Sunday four (4) hours pay at his regular straight time hourly rate, provided that the employee may be assigned to perform during such period any work in the plant he is able to perform. It is understood between the parties that an employee may forfeit his/her minimum pay for the day.

- S. Shift Starting Point-Employees shall be at their predesignated starting point, at a scheduled time, ready, willing, and able to work. Where the Company directs an employee to perform work at a location different than his regularly assigned starting point, he shall be compensated for all hours worked including travel time to and from the new location.

- T. Pre-Trip Inspections-The Company will make reasonable efforts to make available lighted facilities or reasonable alternatives, to perform DOT MSHA pre-trip inspections.

- U. The Company Policy on Family Medical Leave is hereby adopted in its entirety. To that end, the Company recognizes a concurrent use of FMLA with qualified paid leaves and applies such leaves on a 12 month look back basis.

**ARTICLE 21
JURY LEAVE**

Employees summoned for jury duty shall be excused from work assignments. They shall be paid their regular straight time for scheduled work days up to a maximum of ten (10) days within any calendar year, upon presentation of the Court Clerk's certification of attendance. Employees shall return to work promptly after being released from jury examination or service.

**ARTICLE 22
FUNERAL LEAVE**

- A. In the event of the death of an employee's immediate family member, a reasonable period of leave will be granted to the employee. Immediate family includes the employee's spouse, child, stepchild, sibling, parent, parent-in-law, grandparent or grandchild.
- B. In the event of the death of an employee's immediate family member as defined above and to offset the expenses associated with arranging for, or attending, a funeral, regular full-time employees will be paid eight (8) hours at their current straight-time hourly rate of pay for each scheduled work day taken off, up to a maximum of twenty four (24) hours.

**ARTICLE 23
SENIORITY AND LAYOFF**

- A. If it becomes necessary to reduce the working force in a classification and at a plant, employees will be laid-off from their classification and plant location according to the following factors:
 - 1. Experience (including machinery or equipment worked on and/or certifications);
 - 2. Individual skill and ability, including ability to perform the requirements of the job.
 - 3. Past work record, including disciplinary actions for performance and/or attendance;
and
 - 4. Physical fitness to perform the job.

When, in the judgment of the Company, the factors listed above are substantially equal the least senior employee in the impacted classification and plant shall be laid off first.

When layoffs are required they will be with temporary employees laid off first, next probationary employees and next other employees in accordance with the requirements set forth in this article under 1 through 4.

Notices of recall shall be sent by certified or registered mail, or telegrams, to the employee's last known address as shown on the Employer's records. The recall notice shall state the time and date on which the employee is to report to work. The recalled employee shall be given notice of seven (7) working days to report to work.

Seniority shall be the same date as the employee's hire date (or rehire date). Employees will not accrue seniority for any time that they are not employed within the bargaining unit. If an employee were to be advanced into management, then their seniority will be frozen until such time he returns to the bargaining unit; his time while in the bargaining unit cannot be taken from him.

- B. The Employer shall make available, upon request, a current seniority list and provide a list to the Union Steward with the hire dates and classification. The Employer will advise the Steward of all new employees in the bargaining unit classifications.
- C. When two (2) or more employees have the same original date of hire, they shall be placed on the seniority list in alphabetical order by last name. The alphabet will determine the chronology of seniority (for instance, Miller is more senior than Moore.)

ARTICLE 24 UNION DUES CHECK OFF

- A. The Employer agrees to deduct from the pay of all employees covered by this Agreement the dues, initiation fees and/or uniform assessments of the Local Union having jurisdiction over such employees and agrees to remit to the said Local Union all such deductions prior to the end of the month for which the deduction is made. The Local Union shall certify to the Employer in writing each month a list of its members working for the Employer who have furnished to the Employer the required authorization, together with the itemized statement of dues initiation fees (full or installment), or uniform assessments owed to be deducted for such month from the pay of such members, and the Employer shall deduct such amount within two (2) weeks following receipt of the statement of certification of the member and remit to the Local Union in one lump sum. Check off shall be on a monthly or quarterly basis at the option of the Union.
- B. When the Employer actually makes a deduction for dues, initiation fees and assessments, in accordance with the statement received from an appropriate Local Union, it shall remit same no later than thirty (30) days from the date such deduction was made. All monies required to be checked off shall become the property of the entities for which it was intended at the time that such check off is required to be made.
- C. The Employer will recognize authorization from deductions from wages, if in compliance with state law, to be transmitted to the Local Union or to such other organizations as the Union may request if mutually agreed to. No such authorization shall be recognized if in violation of state or federal law. No deduction shall be made which is prohibited by applicable law.

- D. The Union shall defend, indemnify, and save the Company harmless against any claim or liability arising out of the administration of the check off provisions of this Agreement.

ARTICLE 25 SUBCONTRACTING

The Company shall have the right to contract out work with outside contractors or subcontractors. In so exercising this right, the Company will solicit bid proposals for work from both signatory and non-signatory entities.

When work that would normally be performed by employee's signatory to this contract is to be subcontracted out, the Company will notify the Union and the Union may request a meeting to discuss the details of the work to be subcontracted. It is not the intent of the Employer to transfer traditionally or historically performed tasks by bargaining unit employees to subcontractors; however, in an emergency situation when all active employees are engaged, the Employer may utilize the services of a subcontractor to perform such work.

Discussions of this type are appropriate for the Labor Management Committee (LMC). The LMC shall not have the authority to modify, alter or amend provisions of this agreement.

The subcontracting out of work shall not result in the layoff or reduction of hours to the then current active workforce.

ARTICLE 26 EMPLOYMENT OF WORKERS

- A. Whenever the Company needs additional employees to perform work under this Agreement, it will contact the Hiring Hall. The Parties hereto agree that the Company may, from time to time, refer workers to the Hiring Hall and the Company will require any such employee to secure a referral from the Union's Hiring Hall.

The Company agrees to abide by the following procedures when referring workers under this Article:

1. The Company will not discourage any applicant from joining the Union.
2. If asked by an applicant, the Company will refer the individual to the Union Representative for information pertaining to their rights, including:
 - a. That joining the Union is not a condition of employment
 - b. That it is the individual's choice whether to join the Union.
3. The Company will tell the applicant that it is a condition of employment for the applicant to:

- a. Go to the hiring hall.
- b. Pay the Union registration or referral fee.
- c. Return with a written referral from the hall.

In the event that the provisions of the Union's Hiring Hall Language as posted on the Union Bulletin Board at each jobsite are in conflict with the provisions of this Article, the provisions of this Article shall control the rights and obligations of the parties hereto.

- B. The Company agrees to provide standard weatherproof 4'x6' locking bulletin boards at each facility under this Agreement at the "time-clock" area for the purpose of posting of Local Union items such as:
- a) Hiring hall language
 - b) Notice of Union recreational and social activities
 - c) Official notices of Union elections, appointments, and election results.
 - d) Notices of an official meeting
 - e) Local Union newspaper items and other related union items.

The bulletin board so provided shall not be used by the Union or its members for posting political matter of any kind, or advertising for any purpose. The Chief Steward at each covered location will have sole possession of the key and be responsible for maintaining the content of the bulletin board.

ARTICLE 27 TERMINATION OF AGREEMENT

- A. This Agreement shall remain in effect from April 1, 2015 through March 31, 2019 and for one (1) year periods thereafter, unless written notice is given by either party at least sixty (60) days prior to the expiration date or on any anniversary date thereafter, notifying the other that the Agreement has been cancelled or requesting that the Agreement be amended. If amendment only is desired, it shall be so stated in such notice. During negotiations on amendments, this Agreement shall remain in full force and effect.
- B. In the event that either party notified the other of its desire to terminate this agreement, the current agreement shall remain in effect during the period of negotiation following the expiration of the agreement until either party shall give the other party thirty (30) days' notice of cancellation.

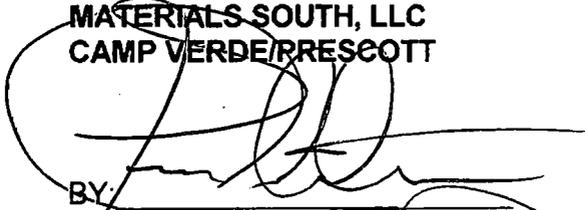
ARTICLE 28
EQUAL EMPLOYMENT OPPORTUNITY

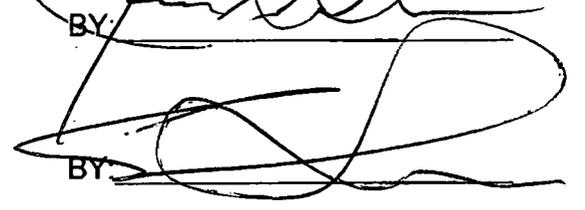
No Employee or applicant for employment covered by this Agreement shall be discriminated against because of membership in a union or activities on behalf of the Union, and the Union agrees that Employees covered thereby shall be admitted to membership without discrimination. Neither the Employer nor the Union shall discriminate for or against any Employee or applicant for employment covered by this Agreement on account of sex, race, creed, color, handicap, disability, age or religion in accordance with applicable law. Both parties agree to comply fully with all provisions of Title VII of the Civil Rights Act of 1964 (as amended), Presidential Executive Order No. 11246 of 1965, as amended, the Age Discrimination in Employment Act of 1967, the Vietnam Era Veterans Readjustment Assistance Act of 1972, as amended, the Rehabilitation Act of 1973, and the Americans With Disabilities Act of 1990.

CONTRACT SIGNATURE PAGE – CAMP VERDE/PRESCOTT

Effective Dates: April 1, 2015 – March 31, 2019

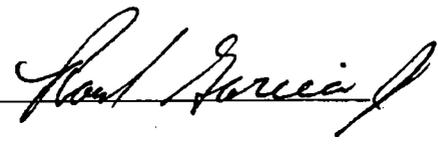
**CEMEX, CONSTRUCTION
MATERIALS SOUTH, LLC
CAMP VERDE/PRESCOTT**

BY: 

BY: 

BY: _____

**INTERNATIONAL UNION OF
OPERATING ENGINEERS
LOCAL NO. 428**

BY: 

BY: 

BY: 

BY: 