

9/1/02 - 8/31/07

K 8216  
2,500 workers

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MASTER AGREEMENT COVERING OPERATING  
ENGINEERS  
IN THE STATE OF HAWAII

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106 pp.

THIS AGREEMENT is made and entered into by and between:

OPERATING ENGINEERS LOCAL UNION NO. 3  
of the International Union of Operating Engineers, AFL-CIO

(hereinafter referred to as the "Union")

AND THE

GENERAL CONTRACTORS LABOR ASSOCIATION

AND THE

LABOR ASSOCIATION OF THE BUILDING  
INDUSTRY ASSOCIATION OF HAWAII

(each of whom is hereinafter referred to as the "Association")

for and on behalf of those persons, firms, corporations or other entities who are or who become members of either of the above-listed Associations and who authorize said Association to represent them with respect to Employees covered by this Agreement

(each such person, firm, corporation, or other entity  
being hereinafter referred to as either  
"Contractor" or as "Individual Contractor")

AND

ANY OTHER PERSON, FIRM, CORPORATION OR OTHER ENTITY  
THAT, PURSUANT TO THE PROVISIONS OF SECTION 03.03.00, (Recognition)  
HEREOF, BECOME SIGNATORY HERETO

(each such signatory also being hereinafter referred to  
as "Contractor" or as "Individual Contractor")

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## AGREEMENT

**THIS AGREEMENT**, made and entered into this 1st day of September, 2002, by and between General Contractors Labor Association, Labor Association of the Building Industry Association of Hawaii ("Employer") and OPERATING ENGINEERS LOCAL UNION NO. 3 of the International Union of Operating Engineers, AFL-CIO ("Union").

### **01.00.00 WAGES AND CLASSIFICATIONS**

**01.01.00 Employees Covered.** On all work covered by this Agreement when performed, and in all instances in which equipment used in the performance of work covered by this Agreement is operated, regardless of when the work was bid or let, such work shall be performed and such equipment shall be operated by Employees obtained in accordance with the provisions of the Job Placement Regulations of this Agreement, in the classification and at the hourly wage scales as follows:

### **01.02.00 Classifications and Rates**

#### **A. STRAIGHT TIME HOURLY WAGE RATE AND EFFECTIVE DATES**

##### **Group 1**

	<u>03/04/02</u>	<u>09/01/02</u>	<u>09/01/03</u>	<u>08/30/04</u>	<u>08/29/05</u>	<u>09/04/06</u>
	\$28.19	\$28.59	*	*	*	*
2980	1. Fork Lift (up to and including 10 tons)					
5383	2. Partsman (heavy-duty repair shop parts room when needed)					
6161	3. Repairman Helper					

##### **Group 2**

	<u>03/04/02</u>	<u>09/01/02</u>	<u>09/01/03</u>	<u>08/30/04</u>	<u>08/29/05</u>	<u>09/04/06</u>
	\$28.30	\$28.70	*	*	*	*
4601	1. Conveyor Operator (handling building materials)					
3701	2. Hydraulic Monitor					
4843	3. Mixer Box Operator (concrete plant)					

##### **Group 3**

	<u>03/04/02</u>	<u>09/01/02</u>	<u>09/01/03</u>	<u>08/30/04</u>	<u>08/29/05</u>	<u>09/04/06</u>
	\$28.47	\$28.87	*	*	*	*
0913	1. Brakeman**					
2146	2. Deckhand**					
2863	3. Fireman**					
5171	4. Oiler**					
5154	5. Gradechecker**					
7121	6. Signalman**					
7671	7. Switchman**					
3611	8. Highline Cableway Signalman**					
0523	9. Bargeman					
0853	10. Bunkerman					
6851	11. Concrete Curing Machine (self-propelled, automatically-applied unit on streets, highways, airports and canals)					

**Group 3 (continued)**

	<u>03/04/02</u>	<u>09/01/02</u>	<u>09/01/03</u>	<u>08/30/04</u>	<u>08/29/05</u>	<u>09/04/06</u>
	\$28.47	\$28.87	*	*	*	*
3717	12. Hy-Ram** (refer to Group 2 wage rate)					
4003	13. Leveeman					
6351	14. Roller (5 tons and under)					
8541	15. Tugger Hoist					

\*\*All of these classifications are "Assistant To Engineer"

On any given project, when an Assistant To Engineer machine is not working, the Contractor may have the Assistant To Engineer operate small equipment (small loaders/tractors, concrete pumps, forklifts, bobcats, etc.), for the remainder of the shift.

**Group 4**

	<u>03/04/02</u>	<u>09/01/02</u>	<u>09/01/03</u>	<u>08/30/04</u>	<u>08/29/05</u>	<u>09/04/06</u>
	\$28.74	\$29.14	*	*	*	*
0761	1. Boom Truck or Dual Purpose "A" Frame Truck (5 tons or less)					
1821	2. Concrete Placing Boom (building construction)					
2321	3. Dinky Operator (Assistant To Engineer required)					
2581	4. Elevator Operator					
4541	5. Hoist and/or Winch (one drum)					
7571	6. Straddle Truck (ross carrier, hyster, and similar)					
6311	7. Rodman or Chainman note: (upgraded from Group 3)					

**Group 5**

	<u>03/04/02</u>	<u>09/01/02</u>	<u>09/01/03</u>	<u>08/30/04</u>	<u>08/29/05</u>	<u>09/04/06</u>
	\$29.05	\$29.45	*	*	*	*
2893	1. Asphalt Plant Fireman					
3131	2. Compressors, Pumps, Generators, and Welding Machines ("Bank" of 9 or more, individually or collectively)					
1781	3. Concrete Trailer Pump or Pumpcrete Guns					
4417	4. Lubrication and Service Engineer (grease rack)					
6791	5. Screedman					

**Group 6**

	<u>03/04/02</u>	<u>09/01/02</u>	<u>09/01/03</u>	<u>08/30/04</u>	<u>08/29/05</u>	<u>09/04/06</u>
	\$29.70	\$30.10	*	*	*	*
0771	1. Boom Truck or Dual Purpose "A" Frame Truck (over 5 tons)					
1371	2. Combination Loader/Backhoe (up to and including 3/4 cu. yd.)					
1601	3. Concrete Batch Plant (wet or dry)					
1841	4. Concrete Cutter, Groover, and/or Grinder (self-propelled unit on streets, highways, airports, and canals)					
1842	5. Concrete Truck Pump Boom or equipment mounted					
1611	6. Conveyor or Concrete Pump (truck or equipment mounted)					
2441	7. Drilling Machinery (not to apply to waterliners wagon drills, or jack hammers) (Assistant To Engineer required)					
2941	8. Fork Lift (over 10 tons)					

**Group 6 (continued)**

	<u>03/04/02</u>	<u>09/01/02</u>	<u>09/01/03</u>	<u>08/30/04</u>	<u>08/29/05</u>	<u>09/04/06</u>
	\$29.70	\$30.10	*	*	*	*
4131	9.	Loader (up to and inc. 3-1/2 cu. yds.)				
4401	10.	Lull High Lift (under 40 feet)				
4391	11.	Lubrication and Service Engineer (mobile)				
4451	12.	Magginnis Internal Full Slab Vibrator (on airports, highways, canals, and warehouses)				
4471	13.	Man or Material Hoist				
4671	14.	Mechanical Concrete Finisher (large clary johnson, bidwell, bridge deck, and similar)				
2001	15.	Mobile Truck Crane Driver				
5731	16.	Porta Shotblast Concrete Cleaning Machine				
5751	17.	Portable Boring Machine (under streets, highways, etc.)				
5741	18.	Portable Crusher				
5861	19.	Power Jumbo Operator (setting slip forms etc., in tunnels)				
6361	20.	Roller (over 5 tons)				
6911	21.	Self-Propelled Compactor (single engine)				
5501	22.	Self-Propelled Pavement Breaker				
4073	23.	Skidsteer Loader with attachments				
7241	24.	Slip Forms Pump (power-driven by hydraulic, electric, air, gas, etc., lifting device for concrete forms)				
7301	25.	Small Rubber-Tired Tractor				
8381	26.	Trencher (up to and including 6 feet) (Assistant To Engineer required)				
8611	27.	Underbridge Personnel Aerial Platform (50 feet of platform or less)				
5851	28.	Power Sweeper				

**Group 7**

	<u>03/04/02</u>	<u>09/01/02</u>	<u>09/01/03</u>	<u>08/30/04</u>	<u>08/29/05</u>	<u>09/04/06</u>
	\$30.02	\$30.42	*	*	*	*
2071	1.	Crusher Plant Engineer				
2121	2.	Dozer (D-4, Case 450, John Deere 450, and similar)				
2471	3.	Dual Drum Mixer				
2781	4.	Extend Lift				
3671	5.	Hoist and/or Winch (2 drums)				
3971	6.	Levee Foreman				
4161	7.	Loader (over 3-1/2 cu. yds. up to and including 6 cu. yds.)				
4691	8.	Mechanical Finisher or Spreader Machine (asphalt) (barber greene and similar) (screedman required)				
4751	9.	Mine or Shaft Hoist				
4901	10.	Mobile Concrete Mixer (over 5 tons)				
5621	11.	Pipe Bending Machine (pipelines only)				
5651	12.	Pipe Cleaning Machine (tractor propelled and supported)				
5681	13.	Pipe Wrapping Machine (tractor propelled and supported)				
6381	14.	Roller Operator (asphalt)				
6971	15.	Self-Propelled Elevating Grade Plane				
7271	16.	Slusher Operator				
7431	17.	Tractor (with boom) (D-6 or similar)				
8401	18.	Trencher (over 6 feet and less than 200 H.P.) (Assistant To Engineer required)				
8821	19.	Water Tanker (pulled by euclids, t-pulls, DW-10, 20, 21, or similar)				
9021	20.	Winchman (stern winch on dredge)				

**Group 8**

	<u>03/04/02</u>	<u>09/01/02</u>	<u>09/01/03</u>	<u>08/30/04</u>	<u>08/29/05</u>	<u>09/04/06</u>
	\$30.13	\$30.53	*	*	*	*
0191	1. Asphalt Plant Operator					
0551	2. Barge Mate (seagoing)					
1121	3. Cast-In-Place Pipe Laying Machine					
1571	4. Concrete Batch Plant (multiple units)					
1901	5. Conveyor Operator (tunnel)					
2201	6. Deck Mate					
2131	7. Dozer (D-6 and similar)					
2791	8. Finishing Machine Operator (airports and highways)					
3221	9. Gradesetter					
2433	10. Horizontal Directional Drill (HDD) Locator					
3691	11. Hydraulic Backhoe (over 1/2 cu. yd. up to and including 3/4 cu. yd.) (Assistant To Engineer required)					
3941	12. Kolman Loader (and similar)					
5101	13. Mucking Machine (crawler-type)					
5111	14. Mucking Machine (conveyor-type) (Assistant To Engineer required)					
5141	15. No-Joint Pipe Laying Machine					
5771	16. Portable Crushing And Screening Plant					
5791	17. Power Blade Operator (under 12)					
6701	18. Saurman Type Dragline (up to including 5 yds.) (Assistant To Engineer required)					
7551	19. Stationary Pipe Wrapping, Cleaning, and Bending Machine					
7641	20. Surface Heater And Planer Operator					
7951	21. Tractor (D-6 and similar)					
8421	22. Tri-Batch Paver					
8571	23. Tunnel Badger (Assistant To Engineer required)					
0821	24. Tunnel Mole and/or Boring Machine Operator					
8621	25. Underbridge Personnel Aerial Platform (over 50 feet of platform)					

**Group 9**

	<u>03/04/02</u>	<u>09/01/02</u>	<u>09/01/03</u>	<u>08/30/04</u>	<u>08/29/05</u>	<u>09/04/06</u>
	\$30.24	\$30.64	*	*	*	*
1391	1. Combination Mixer and Compressor (gunite)					
2351	2. Do-Mor Loader and Adams Elegrader					
2141	3. Dozer (D-7 or equal)					
8941	4. Wheel and/or Ladder Trencher (over 6 feet and 200 to 749 H.P.) (Assistant To Engineer required)					

**Group 9A**

	<u>03/04/02</u>	<u>09/01/02</u>	<u>09/01/03</u>	<u>08/30/04</u>	<u>08/29/05</u>	<u>09/04/06</u>
	\$30.47	\$30.87	*	*	*	*
2361	1. Dozer (D-8 or similar)					
3201	2. Gradesetter (When working from drawings, plans or specifications without the direct supervision of a Foreman or Superintendent.)					
3761	3. Instrument Man (upgraded from group 7)					
6081	4. Push Cat					
6741	5. Scraper (up to and including 20 cu. yds.)					
7011	6. Self-Propelled Compactor With Dozer					

**Group 9A (continued)**

	<u>03/04/02</u>	<u>09/01/02</u>	<u>09/01/03</u>	<u>08/30/04</u>	<u>08/29/05</u>	<u>09/04/06</u>
	\$30.47	\$30.87	*	*	*	*
6981	7.	Self-Propelled, Rubber-Tired Earthmoving Equipment (up to and including 20 cu. yds.) (621B and similar)				
7021	8.	Sheep's Foot				
8061	9.	Tractor With Boom (larger than D-6, and similar)				

**Group 10**

	<u>03/04/02</u>	<u>09/01/02</u>	<u>09/01/03</u>	<u>08/30/04</u>	<u>08/29/05</u>	<u>09/04/06</u>
	\$30.53	\$30.93	*	*	*	*
1241	1.	Chicago Boom				
1340	2.	Cold Planers				
3401	3.	Heavy Duty Repairman or Welder				
3681	4.	Hoist and/or Winch (3 drums)				
3851	5.	Hydraulic Scooper (koehring and similar)				
4191	6.	Loader (over 6 cu. yds. up to and including 12 cu. yds.)				
6731	7.	Saurman Type Dragline (over 5 cu. yds.) (Assistant To Engineer required)				
6991	8.	Self-Propelled, Rubber-Tired Earthmoving Equipment (over 20 cu. yds. up to and including 31 cu. yds.) (637D and similar)				
7461	9.	Soil Stabilizer (P&H or equal)				
7581	10.	Sub-Grader (Gurries or other automatic type) (Assistant To Engineer required)				
8051	11.	Tractors (D9 or similar)(all attachments)				
8181	12.	Tractor (Tandem Scraper)				
8871	13.	Watch Engineer				

**Group 10A**

	<u>03/04/02</u>	<u>09/01/02</u>	<u>09/01/03</u>	<u>08/30/04</u>	<u>08/29/05</u>	<u>09/04/06</u>
	\$30.68	\$31.08	*	*	*	*
0671	1.	Boat Operator				
1961	2.	Cable-Operated Crawler Crane (up to and including 25 tons) (Assistant To Engineer required)				
5981	3.	Cable-Operated Power Shovel, Clamshell, Dragline, and Backhoe (up to and including 1 cu. yd.) (Assistant To Engineer required)				
3141	4.	Gradall (up to and including 1 cu. yd.) (Assistant to Engineer required)				
0321	5.	Hydraulic Backhoe (over 3/4 cu. yd. up to and including 2 cu. yds.) (Assistant To Engineer required)				
4911	6.	Mobile Truck Crane Operator (up to and including 25 tons) (Mobile Truck Crane Driver required)				
6861	7.	Self-Propelled Boom-Type Lifting Device (center mount) (up to and including 25 tons) (grove, drott, p&h, pettibone, and similar)				
8402	8.	Trencher (over 6 feet and 750 H.P. or more) (Assistant To Engineer required)				
8875	9.	Watch Engineer (steam or electric)				

**Group 11**

	<u>03/04/02</u>	<u>09/01/02</u>	<u>09/01/03</u>	<u>08/30/04</u>	<u>08/29/05</u>	<u>09/04/06</u>
	\$30.83	\$31.23	*	*	*	*
0311	1.	Automatic Slip Form Paver (concrete or asphalt) (Gradesetter, Screedman, and Assistant To Engineer required)				

**Group 11(continued)**

	<u>03/04/02</u>	<u>09/01/02</u>	<u>09/01/03</u>	<u>08/30/04</u>	<u>08/29/05</u>	<u>09/04/06</u>
	\$30.83	\$31.23	*	*	*	*
0461	2.	Band Wagon (in conjunction with wheel excavator)				
1991	3.	Cable-Operated Crawler Crane (over 25 tons but less than 50 tons) (Assistant To Engineer required)				
0963	4.	Cable-Operated Power Shovel, Clamshell, Dragline, and Backhoe (over 1 cu. yd. up to 7 cu. yds.) (Assistant To Engineer required)				
1301	5.	Chief of Party (upgraded from Group 10)				
2431	6.	Directional Drill Operator				
2401	7.	Dozer D10 (or similar) (upgraded from Group 10)				
3151	8.	Gradall (over 1 cu. yd. up to 7 cu. yds.) (Assistant to Engineer required)				
2501	9.	DW-10, 20, etc. (tandem)				
6681	10.	Earthmoving Machine (multiple propulsion power unit and 2 or more scrapers) (up to and including 35 cu. yds. "struck" m.r.c.)				
3581	11.	Highline Cableway				
0331	12.	Hydraulic Backhoe (over 2 cu. yds. up to and including 4 cu. yds.) (Assistant To Engineer required)				
4011	13.	Leverman				
4031	14.	Lift Slab Machine				
4221	15.	Loader (over 12 cu. yds.)				
4481	16.	Master Boat Operator				
4921	17.	Mobile Truck Crane Operator (over 25 tons but less than 50 tons) (Mobile Truck Crane Driver required)				
6011	18.	Pre-Stress Wire Wrapping Machine				
6871	19.	Self-Propelled Boom Type Lifting Device (center mount) (over 25 tons m.r.c.) (Assistant To Engineer required)				
6921	20.	Self-Propelled Compactor (with multiple-propulsion power units)				
7151	21.	Single Engine Rubber-Tired Earthmoving Machine (with tandem scraper)				
7731	22.	Tandem Cat				
8361	23.	Trencher (pulling attached shield) (Assistant To Engineer required)				

**Group 12**

	<u>03/04/02</u>	<u>09/01/02</u>	<u>09/01/03</u>	<u>08/30/04</u>	<u>08/29/05</u>	<u>09/04/06</u>
	\$31.19	\$31.59	*	*	*	*
1345	1.	Clamshell or Dipper Operator				
2261	2.	Derrick (Assistant To Engineer required)				
3461	3.	Drill Rig (Assistant To Engineer required)				
5081	4.	Multi-Propulsion Earthmoving Machine (2 or more scrapers) (over 35 cu. yds. "struck" m.r.c.)				
5211	5.	Operators (derricks, piledrivers and cranes)				
5941	6.	Power Shovel and Dragline (7 cu. yds. m.r.c. and over) (Assistant To Engineer required) (An additional Assistant To Engineer is required if the Shovel or Dragline is electrically powered.)				
6691	7.	Self-Propelled, Rubber-Tired Earthmoving Equipment (over 31 cu. yds.) (657B and similar)				
8961	8.	Wheel Excavator (up to and including 750 cu. yds. per hour) (Assistant To Engineer required)				
8991	9.	Wheel Excavator (over 750 cu. yds. per hour) (2 Operators and 1 Assistant To Engineer is required) (Any additional assistance shall be by an Assistant To Engineer)				

**Group 12A**

	<u>03/04/02</u>	<u>09/01/02</u>	<u>09/01/03</u>	<u>08/30/04</u>	<u>08/29/05</u>	<u>09/04/06</u>
	\$31.55	\$31.95	*	*	*	*
2363	1.	Dozer (D-11 or similar or larger)				
3701	2.	Hydraulic Excavators (over 4 cu. yds.) (Assistant To Engineer required)				
4033	3.	Lifting Cranes (50 tons and over) (Assistant To Engineer required)				
5601	4.	Pioneering Dozer/Backhoe (Initial clearing and excavation for the purpose of providing access for other equipment where the terrain worked involves 1 to 1 slopes that are 50 feet in height or depth. The scope of this work does not include normal clearing and grubbing on usually hilly terrain nor the excavation work once the access is provided.)				
5812	5.	Power Blade Operator (Cat 12 or equivalent or over)				
7573	6.	Straddle Lifts (over 50 tons)				
7881	7.	Tower Crane, Mobile (Assistant To Engineer required)				
8353	8.	Traveling Truss Cranes				
8721	9.	Universal, Liebherr, Linden, and similar types of Tower Cranes (in the erection, dismantling and moving of equipment there shall be an additional Operating Engineer or Heavy Duty Repairman.)				
9063	10.	Yo-Yo Cat or Dozer				

	<u>03/04/02</u>	<u>09/01/02</u>	<u>09/01/03</u>	<u>08/30/04</u>	<u>08/29/05</u>	<u>09/04/06</u>
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**Group 13**

8491	1.	Truck Driver (Utility, Flatbed, etc.).....	\$28.47	\$28.87	*	*	*	*
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**Group 13A**

2451	1.	Dump Truck, 8 cu. yds. & under (water level) .....	\$28.74	\$29.14	*	*	*	*
8851	2.	Water Truck (up to and including 2,000 gallons).....	\$28.74	\$29.14	*	*	*	*

**Group 13B**

8861	1.	Water Truck (over 2,000 gallons) ..	\$29.05	\$29.45	*	*	*	*
7732	2.	Tandem Dump Truck, over 8 cu. yds. (water level).....	\$29.05	\$29.45	*	*	*	*

**Group 13C**

8431	1.	Truck Driver (Semi-trailer, Rock Cans, Semi-Dump, or Rolls Offs) .....	\$29.70	\$30.10	*	*	*	*
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**Group 13D**

8461	1.	Truck Driver (Slip-In or Pup).....	\$30.02	\$30.42	*	*	*	*
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**Group 13E**

2601	1.	End Dumps, Unlicensed (Euclid, Mack, Caterpillar or similar) .....	\$30.13	\$30.53	*	*	*	*
8011	2.	Tractor Trailer (Hauling Equipment) (Assistant to Engineer required when Hydraulic Ramp is not being used).....	\$30.13	\$30.53	*	*	*	*
8471	3.	Tandem Trucks hooked up to Trailer (Hauling Equipment) .....	\$30.13	\$30.53	*	*	*	*

**B. APPRENTICES**

(Apprentice's Hourly Wage Rate Based on percentage of Group 9A wage rate.)

**1. Wages For Apprentices in the Construction Equipment Operator Branch**

	<u>03/04/02</u>	<u>09/01/02</u>	<u>09/01/03</u>	<u>08/30/04</u>	<u>08/29/05</u>	<u>09/04/06</u>
<u>1st Period Apprentice</u>						
1 to 1,000 hours of properly-reported on-the-job training hours - 50% .....	\$15.24	\$15.44	*	*	*	*
<u>2nd Period Apprentice</u>						
1,001 to 2,000 hours of properly-reported on-the-job training hours - 55% .....	\$16.76	\$16.98	*	*	*	*
<u>3rd Period Apprentice</u>						
2,001 to 3,000 hours of properly-reported on-the-job training hours - 60% .....	\$18.28	\$18.52	*	*	*	*
<u>4th Period Apprentice</u>						
3,001 to 4,000 hours of properly-reported on-the-job training hours - 70% .....	\$21.33	\$21.61	*	*	*	*
<u>5th Period Apprentice</u>						
4,001 to 5,000 hours of properly-reported on-the-job training hours - 80% .....	\$24.38	\$24.70	*	*	*	*
<u>6th Period Apprentice</u>						
5,001 to 6,000 hours of properly-reported on-the-job training hours - 90% .....	\$27.42	\$27.78	*	*	*	*

**2. Wages For Apprentices in the Heavy Duty Repairman & Welder Branch**

	<u>03/04/02</u>	<u>09/01/02</u>	<u>09/01/03</u>	<u>08/30/04</u>	<u>08/29/05</u>	<u>09/04/06</u>
<u>1st Period Apprentice</u>						
1 to 1,000 hours of properly-reported on-the-job training hours - 50%.....	\$15.24	\$15.44	*	*	*	*
<u>2nd Period Apprentice</u>						
1,001 to 2,000 hours of properly-reported on-the-job training hours - 55% .....	\$16.76	\$16.98	*	*	*	*
<u>3rd Period Apprentice</u>						
2,001 to 3,000 hours of properly-reported on-the-job training hours - 60% .....	\$18.28	\$18.52	*	*	*	*
<u>4th Period Apprentice</u>						
3,001 to 4,000 hours of properly-reported on-the-job training hours - 70% .....	\$21.33	\$21.61	*	*	*	*
<u>5th Period Apprentice</u>						
4,001 to 5,000 hours of properly-reported on-the-job training hours - 80% .....	\$24.38	\$24.70	*	*	*	*
<u>6th Period Apprentice</u>						
5,001 to 6,000 hours of properly-reported on-the-job training hours - 85% .....	\$25.90	\$26.24	*	*	*	*

	<u>03/04/02</u>	<u>09/01/02</u>	<u>09/01/03</u>	<u>08/30/04</u>	<u>08/29/05</u>	<u>09/04/06</u>
<u>7th Period Apprentice</u>						
6,001 to 7,000 hours of properly-reported on-the-job training hours - 90% .....	\$27.42	\$27.78	*	*	*	*
<u>8th Period Apprentice</u>						
7,001 to 8,000 hours of properly-reported on-the-job training hours - 95% .....	\$28.95	\$29.33	*	*	*	*

**3. Fringe Benefit Contributions For Apprentices in the Construction Equipment Operator Branch**

	<u>Pension/Annuity Contributions Per Hour</u>	<u>Vacation/Holiday Contributions Per Hour</u>
<u>1st Period Apprentice</u>		
1 to 1,000 hours of properly-reported on-the-job training hours .....	\$ .00	\$ .00
<u>2nd Period Apprentice</u>		
1,001 to 2,000 hours of properly-reported on-the-job training hours .....	\$1.00	\$ .50
<u>3rd Period Apprentice</u>		
2,001 to 3,000 hours of properly-reported on-the-job training hours .....	\$2.00	\$1.00
<u>4th Period Apprentice</u>		
3,001 to 4,000 hours of properly-reported on-the-job training hours .....	\$3.00	\$1.50
<u>5th Period Apprentice</u>		
4,001 to 5,000 hours of properly-reported on-the-job training hours .....	\$4.00	\$2.00
<u>6th Period Apprentice</u>		
5,001 to 6,000 hours of properly-reported on-the-job training hours .....	\$4.65	\$2.30

**4. Fringe Benefit Contributions For Apprentices in the Heavy Duty Repairman & Welder Branch**

<u>1st Period Apprentice</u>		
1 to 1,000 hours of properly-reported on-the-job training hours .....	\$ .00	\$ .00
<u>2nd Period Apprentice</u>		
1,001 to 2,000 hours of properly-reported on-the-job training hours .....	\$1.00	\$ .50
<u>3rd Period Apprentice</u>		
2,001 to 3,000 hours of properly-reported on-the-job training hours .....	\$2.00	\$1.00
<u>4th Period Apprentice</u>		
3,001 to 4,000 hours of properly-reported on-the-job training hours .....	\$3.00	\$1.50

5th Period Apprentice

4,001 to 5,000 hours of properly-reported  
on-the-job training hours..... \$4.00 \$2.00

6th Period Apprentice

5,001 to 6,000 hours of properly-reported  
on-the-job training hours..... \$4.65 \$2.30

7th Period Apprentice

6,001 to 7,000 hours of properly-reported  
on-the-job training hours..... \$4.65 \$2.30

8th Period Apprentice

7,001 to 8,000 hours of properly-reported  
on-the-job training hours..... \$4.65 \$2.30

NOTE 1: An Apprentice who is currently receiving a higher rate of pay or trust fund contributions will NOT suffer a reduction in his wage rate by reason of the implementation of the above wage schedule. Instead, said Apprentice shall be "frozen" at his/her present wage rate (not percentage) until such time as he/she is advanced to a period of training under the above schedule in which the rate of pay specified for that period of apprenticeship exceeds his/her present wage rate.

NOTE 2: Except for the regular contribution to the Operating Engineers Health & Welfare Trust Fund, no other Trust Fund or other contributions shall be made for or on behalf of an Apprentice during said Apprentice's First Period of Apprenticeship (first one thousand [1,000] hours of his/her employment as an Apprentice). After the first one thousand (1,000) hours, the above contributions will be made in addition to the Health & Welfare Trust Fund.

**C. HELICOPTER WORK**

	<u>03/04/02</u>	<u>09/01/02</u>	<u>09/01/03</u>	<u>08/30/04</u>	<u>08/29/05</u>	<u>09/04/06</u>
1. Pilot of Helicopter used on work covered by this Agreement .....	\$32.36	\$32.76	*	*	*	*
2. Co-Pilot of Helicopter used on work covered by this Agreement .....	\$32.19	\$32.59	*	*	*	*
3. Airborne Hoist Operator for Helicopter used on work covered by this Agreement.....	\$32.05	\$32.45	*	*	*	*

**D. AQUA LUNG DIVING (Scuba Diver)**

Divers/Underwater Construction Workers—Handle all diving incidental to undersea cables/pipes or outfalls/force mains/rockwalls and dredging.

	<u>03/04/02</u>	<u>09/01/02</u>	<u>09/01/03</u>	<u>08/30/04</u>	<u>08/29/05</u>	<u>09/04/06</u>
1. Stand-By Divers.....	\$33.50	\$33.90	*	*	*	*
2. †Scuba Divers (Wet) (up to 30 feet) .....	\$42.88	\$43.28	*	*	*	*
3. †Scuba Divers (Wet) (over 30 feet) .....	\$52.25	\$52.65	*	*	*	*

†Diver shall receive no less than a minimum of eight (8) hours at this hourly rate when diving. Includes dressing and undressing, regardless of how many times the diver comes to the surface. Furnishing of gear by Diver or by Contractor to be at Contractor's option. If furnished and used by Diver, said Diver to receive thirty-five dollars

(\$35.00) per shift for use of said gear plus the cost of refilling the Diver's tanks. The following items are not considered gear or special equipment and shall be provided by the diver:

- wetsuit, dry suit or diving dress
- 10" and 12" crescent wrenches
- knife
- fins or boots
- depth gauge
- gloves
- weight belt & weights to the surface
- harness
- mask
- regulator
- 4-pound hammer
- chafing gear

Divers subject to ambient pressure of the depths listed will not be required to remain on the bottom for a total bottom time longer than the time limits set below:

<u>DEPTHS (FSW)</u>	<u>TIME</u>
40'.....	200 minutes
50'.....	100 minutes
60'.....	60 minutes
70'.....	50 minutes
80'.....	40 minutes
90'.....	30 minutes
100'.....	25 minutes
110'.....	20 minutes
120'.....	15 minutes
130'.....	10 minutes
140'.....	10 minutes
150'.....	5 minutes
160'.....	5 minutes
170'.....	5 minutes
180'.....	5 minutes
190'.....	5 minutes

These total bottom times for dives to depths of 99 FSW or less will not be exceeded within a twelve (12)-hour period. These total bottom times for depths of 100 FSW or greater will not be exceeded within a twelve (12)-hour period.

**E. DIVING OTHER THAN AQUA LUNG** (Surface Supplied Diving)

The terms and conditions which shall apply to Employees performing diving and tending work other than Aqua Lung are as set forth in Exhibit "D" (Diving Other Than Aqua Lung).

**F. BOOMS AND/OR LEADS**

1. The Operator of a crane (under fifty [50] tons) with a boom of eighty (80) feet or more (including jib) or of a crane (under fifty [50] tons) with leads of one hundred (100) feet or more shall receive a per hour premium for each hour worked on said crane (under fifty [50] tons) in accordance with the following schedule:

Booms of 80 ft. up to but not including 130 ft or Leads of 100 ft. up to but not including 130 ft. ....	\$ .50 per hour
Booms and/or Leads of 130 ft. up to but not including 180 ft .....	\$ .75 per hour
Booms and/or Leads of 180 ft. up to and including 250 ft.....	\$1.15 per hour
Booms and/or Leads over 250 ft. ....	\$1.50 per hour

2. The Operator of a crane (50 tons and over) with a boom of one hundred and eighty (180) feet or more (including jib) shall be paid per hour premium for each hour worked on the crane (50 tons and over) in accordance with the following schedule:

Booms of 180 ft. up to and including 250 ft .....	\$1.25 per hour
Booms over 250 ft.....	\$1.75 per hour

3. In the application of the above, the length of the boom shall be measured from the center of the heel pin to the center of the boom or jib point sheave.
4. For purposes of computing overtime for said Operator, the aforementioned premium rate shall be treated as a part of the Employee's regular straight time rate (i.e., the hourly overtime rate shall be computed at one and one-half times [or two times, as the case may be] the Employee's total straight time rate, including the premium).
5. The above premium covering Booms and/or Leads shall also apply to the Assistant To Engineer assigned to said rig (or to the "Front End Man" on Mobile cranes). The above premium covering Booms shall not apply to the Assistant To Engineer assigned to said rig, except in such cases where the Contractor requires the Assistant To Engineer to climb the Boom in which case the Assistant To Engineer shall be paid the boom pay for that day.

**G. HEAVY DUTY REPAIR LEADMAN**

Where two (2) or more Heavy Duty Repairmen are employed, and there is no Heavy Duty Repair Foreman or Master Mechanic employed by the Contractor, then one (1) of the Heavy Duty Repairmen will be selected by the Contractor as a Working Leadman at twenty-five cents (\$.25) per hour above the regular Heavy Duty Repairman Group 10 wage rate.

**H. WORKING SUSPENDED (YO-YO-CAT)**

1. The Operator of a rig who is required to work suspended by ropes or cables or to perform work on a Yo-Yo Cat shall receive a premium of one dollar and twenty-five cents (\$1.25) per hour for each hour worked on said rig.
2. For purposes of computing overtime for said Operator, the aforementioned premium rate shall be treated as a part of the Employee's regular straight time rate (i.e., the hourly overtime rate shall be computed at one and one-half [1 ½] times or two [2] times, as the case may be) the Employee's total straight time rate, including the premium.

**I. WAGE/FRINGE OPTION**

1. Effective as of the dates specified below, the amounts listed below shall be subject to allocation to any one or more of the following:

- |                                |                               |
|--------------------------------|-------------------------------|
| (a) Wages                      | (e) Vacation & Holiday        |
| (b) Health & Welfare           | (f) Apprenticeship & Training |
| (c) Pensioned Health & Welfare | (g) Stabilization Fund        |
| (d) Pension/Annuity Option     |                               |

Effective: September 1, 2002 .....	\$1.00 per hour*
Effective: September 1, 2003 .....	\$1.00 per hour*
Effective: August 30, 2004 .....	\$1.30 per hour*
Effective: August 29, 2005 .....	\$1.40 per hour*
Effective: September 4, 2006 .....	\$1.40 per hour*

2. Said allocation shall be made by mutual agreement of the parties hereto and shall be made at least 90 calendar days prior to the applicable effective date.

\*The Union may allocate the increases to wages and/or fringe benefits during the term of this Agreement. Any increase in wages and/or fringe benefits in 2003 shall be effective September 1, 2003. Any increase in wages and/or fringe benefits in 2004 shall be effective August 30, 2004. Any increase in wages and/or fringe benefits in 2005 shall be effective August 29, 2005. Any increase in wages and/or fringe benefits in 2006 shall be effective September 4, 2006.

**02.00.00 COVERAGE**

**02.01.00 Geographical Area Covered.** This Agreement shall cover and apply to the State of Hawaii.

**02.02.00 Employees Covered.** The Employees covered by this Agreement shall be as follows:

**02.02.01** all Employees of the Contractor employed in the State of Hawaii in the classifications listed in Section 01.00.00, *Classification And Hourly Wage Schedule*, Exhibit "C", *Underground Work*, and Exhibit "D", *Diving Other Than Aqua Lung*, including any additional classifications that may be added thereto pursuant to the provisions of Section 11.05.00, *Additional Work Or Classifications* of this Agreement, and

**02.02.02** all Employees of the Contractor in the State of Hawaii who perform or who assist in the performance of the work covered by this Agreement as set forth in Section 02.05.00, below.

**02.03.00** Specifically excluded from coverage under this Agreement are: superintendents, assistant superintendents, general foremen, and other supervisors as defined in the National Labor Relations Act, as amended, professional or office engineering personnel, draftsmen, estimators, field office workers, timekeepers, messengers, guards, confidential Employees, office personnel, inspectors, and other persons specifically excluded elsewhere in this Agreement.

**02.04.00** The provisions of this Agreement shall apply equally to all Employees of the Contractor and to all applicants, without regard to race, color, religion, sex, national origin, age, disability, or for being a disabled veteran or a veteran of the Vietnam Era.

**02.05.00 Unit Work Covered.**

**02.05.01 General Provisions.** The work covered by this Agreement shall include, but shall not be limited to:

- (1) the work covered by those classifications listed in Section 01.00.00, *Classification and Hourly Wage Schedule*, Exhibit "C" (Underground Work), Exhibit "D", *Diving Other Than Aqua Lung*, and Exhibit "I", *Dredging—Clamshell—Dipper And Hydraulic Suction*, including any additional classifications that may be added thereto pursuant to the provisions of Section 11.05.00, *Additional Work Or Classifications* of this Agreement, and
- (2) the operating, monitoring, controlling, maintaining, repairing, modifying, assembling, erecting, and servicing of power-operated equipment of the type and kind used in the performance of such work or other work which falls within the recognized jurisdiction of the Union or which is otherwise covered by this Agreement, regardless of whether such equipment is mechanically, electrically, electronically, hydraulically, automatically, or remotely controlled.

**02.06.00 On-Site Work.** This Agreement shall cover and apply to all activities of the Contractor in the State of Hawaii which fall within the recognized jurisdiction of the Union done or to be done at the site of the construction, alteration, painting, or repair of a building, structure, or other work (including building, heavy, highway, and engineering construction) as well as demolition and site-clearing activities, and mining, stripping, and exploratory operations in connection with mines.

**02.07.00**      *Maintenance And Repair Activities.*

**02.07.01**      This Agreement shall also cover and apply to all of the Contractor's maintenance and repair shops.

**02.07.02**      When the Contractor uses his/her own Employees to perform jobsite repair and/or maintenance work on equipment and/or vehicles, said work shall be performed by Employees covered by this Agreement. Jobsite maintenance and/or repair of equipment and/or vehicles done at the site of construction, alteration, repair, or demolition of a building, structure or other work shall otherwise be performed exclusively by an Employee or by Employees covered by a collective bargaining agreement with the Union; provided, however, that if the Contractor has a written contract of warranty covering the equipment, work covered by such warranty may be performed at the jobsite. In emergencies, and pending notification of the Union, the Contractor may use the field services of a permanently established Commercial shop. Contractors shall upon request, provide copies of any warranty to the Union.

**02.08.00**      *Off-Site Production Activities.* This Agreement shall also cover and apply to the operation, maintenance, and repair of equipment covered by this Agreement, including any additional classifications that may be added thereto pursuant to the provisions of Section 11.05.00, *Additional Work Or Classifications* used in the off-site production by the Contractor of imported borrow, rip-rap, rock, sand, gravel, and aggregates of all kinds, concrete (excluding cements), and asphalt, macadam, and other road surfacing materials (excluding oil) which is to be incorporated into a job or project of said Contractor so long as such material is actually being produced for and delivered to such job or project; provided, however, that this shall not apply to any such work where the Contractor has a bona fide written Collective Bargaining Agreement with the Union covering said work.

**03.00.00**      **RECOGNITION**

**03.01.00**      *Recognition Of Union.* The Association and each Contractor covered hereby recognizes the Union as the exclusive collective bargaining representative of all Employees covered by this Agreement.

**03.02.00**      *Recognition Of Association.*

**03.02.01**      The Union recognizes the Association as the sole and exclusive collective bargaining representative of its members who have authorized the Association to represent them with respect to Employees covered by this Agreement. In the event the Association disbands, changes its name or ceases to exist, this Agreement shall continue to apply under the doctrines of the NLRB in effect at that time and binds any successor organization.

**03.02.02**      A list of Contractors who have so authorized the Association to represent them with respect to Employees covered by this Agreement has been furnished to the Union. The Association agrees to immediately notify the Union whenever any such authorizations are canceled or any new authorizations have been executed.

**03.02.03**      This Agreement shall be binding upon each Contractor who has so authorized the Association to represent said Contractor with the same force and effect as if the Agreement were entered into by each such Contractor individually. Said Contractor shall be and shall continue to remain liable under this Agreement for and during its entire term irrespective of whether such Contractor shall resign from the Association or otherwise cancel the aforementioned authorization prior to the expiration of this Agreement and such liability shall be deemed to have survived said resignation or cancellation and shall remain in force for and during the remaining term of this Agreement.

**03.02.04**      Each Contractor who has authorized the Association to represent said Contractor with respect to Employees covered by this Agreement shall confirm such Contractor's coverage under this Agreement by signature of the "Certification Of Receipt And Acceptance" form, a copy of which is attached hereto as Exhibit "G" and made a part hereof.

**03.03.00**      *Additional Contractor Signatories.* Any Contractor who, as of the execution date of this Agreement, has not authorized the Association to represent him with respect to Employees covered by this Agreement, shall become a Contractor covered by this Agreement by either:

**03.03.01** signature and Union countersignature of the "Certification of Receipt And Acceptance" form, a copy of which is attached hereto as Exhibit "G" and made a part hereof, OR

**03.03.02** by becoming a member of the Association and authorizing the Association to represent said Contractor with respect to Employees covered by this Agreement, in which case, such Contractor shall also sign the aforesaid "Certification of Receipt And Acceptance" form.

**04.00.00. MUTUAL OBLIGATIONS AND RESPONSIBILITIES**

**04.01.00** By ratification of this Agreement, the Contractor guarantees that said Contractor will pay specified wage rates, make certain contributions toward Employee benefits, and provide certain terms and conditions in return for the services and labor of Employees covered hereby.

**04.02.00** In consideration of the above, each Employee covered by this Agreement has a definite obligation and responsibility to better their efficiency, to upgrade their skills and to perform a full eight (8) hours of productive work each and every workday.

**04.03.00** In line with this, the Union and the Association hereby commit themselves to cooperate with one another in the development of ways, means, and programs that will make for a more efficient, productive, and responsible work force.

**04.04.00** Also, it is the desire of the Union and the Contractor to maintain a harmonious working relationship between themselves and to cooperate to the extent possible in attempting to resolve mutual problems that face Hawaii's Construction Industry.

**05.00.00 UNION SECURITY**

**05.01.00** For on-site work, each Employee covered by this Agreement shall, as a condition of continued employment, become a member of the Union not later than the eighth (8<sup>th</sup>) day following the date of their employment or the execution date of this Agreement, whichever is later, and the Employee shall thereafter maintain such membership in good standing by continuing to tender dues to the Union for the duration of this Agreement.

**05.02.00** For off-site work, each Employee covered by this Agreement shall, as a condition of continued employment, become a member of the Union not later than the thirty-first (31<sup>st</sup>) day following the date of his/her employment or the execution date of this Agreement, whichever is later, and he/she shall thereafter maintain such membership in good standing by continuing to tender dues to the Union for the duration of this Agreement.

**05.03.00** The Union agrees to consider for membership all present and future Employees who apply for membership. If an applicant is denied membership by the Union, the applicant shall not be required to comply with the provisions of this Section.

**05.04.00** Upon written notice from the Union of failure on the part of any individual to complete membership in the Union as required above, or of failure to continue payment of dues to the Union, the Contractor shall, within five (5) working days of such notice, discharge said Employee.

**06.00.00 WORK PRESERVATION**

**06.01.00** *Purpose And Intent.* The purpose and intent of this Section is to preserve and protect the work of, and the employment opportunities and the economic terms and conditions of employment of, all Employees covered by this Agreement to the maximum extent permitted by law.

**06.02.00** *Definition Of Subcontractor.* A subcontractor is any person, firm, corporation, or other entity (other than an Employee covered by this Agreement) who agrees orally or in writing to perform, or who in fact performs, for or on behalf of a Contractor, or a subcontractor of a Contractor, any part or portion of the work covered by this Agreement.

**06.03.00** *Subcontractor Who Is Signatory To A Collective Bargaining Agreement With The Operating Engineers Local Union No. 3.* The Provisions of this Section shall not apply to a subcontractor of any tier who is signatory to, or otherwise covered by, a collective bargaining Agreement with the Operating Engineers Union.

**06.04.00** *Subcontracting Of On-Site Work.*

**06.04.01** On-site work is work done at the site of the construction.

**06.04.02** *Work covered by this Agreement.* Contractors agree that neither they, nor any of their subcontractors on the job site, will subcontract on-site work covered by this Agreement except to a subcontractor which is party to a valid, existing collective bargaining Agreement with the Operating Engineers Local Union No. 3. Provided that, Contractors and their subcontractors on the job site may subcontract work covered by this Agreement to be done at the site of the construction to subcontractors which as of November 15, 1983, had a valid, existing collective bargaining agreement with another union which performed work covered by this Agreement.

**06.04.03** *On-site repair, lubrication, servicing and maintenance of equipment.* On-site repair, lubrication, servicing and maintenance of equipment covered by this Agreement shall not be subcontracted to any person or individual if such person or individual performs the work himself.

**06.05.00** *Subcontracting Of Off-Site Work.*

**06.05.01** Off-site work is to be performed off the site of construction as recognized by the National Labor Relations Board.

**06.05.02** *Off-site work covered by this Agreement.* Off-site work covered by this Agreement shall be subcontracted only to a subcontractor who:

- (1) agrees that the persons performing such work shall work in accordance with the schedule of hours, and shall received not less than the monetary value of the wages and economic benefits, provided in this Agreement; such economic benefits shall include health and welfare, pension, pensioned health and welfare, holiday, vacation, annuity and overtime contributions or benefits or their equivalent, and any other economic programs or benefits, (the subcontractor shall pay its Employees a total wage and benefit package which will equal the total wage and benefit package under the Union Agreement, but shall not include add-on items for the benefit of management, if any); and
- (2) agrees to submit any grievance or disputes concerning its performance or compliance with such undertaking of providing these wages and economic benefits to the procedures set forth in Section 23.00.00, *Grievance Procedure and Arbitration* of this Agreement; and
- (3) agrees to turn over as soon as possible, but not later than thirty (30) days, to the Contractor and the Union, certified payroll records applicable to the job in question, on request by either. (The Union and the Contractor shall agree on a sample certified payroll form.)

**06.06.00** *Notices Regarding Subcontracting.*

**06.06.01** *Notice to Union.* Contractors shall give written notice to the Union of any subcontract to a non-signatory contractor, involving the performance of work covered by this Agreement, and exceeding fifty thousand dollars (\$50,000) in value, within thirty (30) days of entering into such subcontract, and shall specify the name and address of the subcontractor.

**06.06.02** *Subcontract Documents.* The Contractor shall set forth the applicable requirements of this Agreement in subcontract documents, for each subcontractor, regardless of the amount of the subcontract.

**06.06.03** *Contractor not Liable, When.* A Contractor who has met the notice requirements set forth above, shall not be liable for any delinquency by the subcontractor in the payment of any amounts required herein, except as provided in the section entitled Delinquencies, below.

**06.07.00** *Delinquencies.* If the Union gives written notice to the Contractor and the subcontractor specifying the nature and amount of the subcontractor's delinquency in fulfilling its obligations under this Agreement, the Contractor shall withhold the amount claimed to be delinquent out of any sums due and owing by the Contractor to such subcontractor.

**06.07.01** If such subcontractor does not dispute the existence or amount of such delinquency, the Contractor shall forthwith pay from amounts withheld from the subcontractor the amount of such delinquencies to the person(s) entitled to receive such amount(s). Any dispute as to the existence or amount of such delinquency shall be settled by the Union and subcontractor as provided in Section 23.00.00, *Grievance Procedure and Arbitration* hereof. Should such a grievance result in finding that delinquencies exist, the Contractor shall forthwith pay the amount of such delinquencies. All checks shall be forwarded to the Union for processing, made out in the name of the person(s) entitled to receive such amount(s). Should amounts withheld by the Contractor be insufficient to cover the amount found owing, the subcontractor shall directly pay the shortfall.

**06.07.02** If the Union gives written notice to the Contractor and the subcontractor of the subcontractor's failure to turn over certified payroll records applicable to the job in question within thirty (30) days of demand, the Contractor shall withhold any and all payments to the subcontractor, until the subcontractor provides those records.

**06.07.03** If the subcontractor a second time fails to either turn over certified payroll records promptly, or a second time fails to pay an Employee the standard wage, then the Contractor shall thereafter, for a period of one (1) year, do no business with that subcontractor.

#### **07.00.00** *AUTHORIZED DEDUCTIONS*

**07.01.00** If an Employee signs proper authorization forms (sample copies of which are attached hereto as Exhibits "E" and "F"), the Contractor shall deduct from the wages of said Employee all Union dues, Union initiation fees, Union assessments, and Credit Union payments which are due from said Employee.

**07.02.00** In requesting deductions for "assessments," the Union shall restrict such request to assessments assessed on all members of the Union employed by the Contractors covered hereby or signatory thereto on a uniform basis as an incident of membership in the Union.

**07.03.00** All monies deducted pursuant to this Section shall be transmitted by the Contractor to the Union and/or to the Credit Union, as the case may be, within fifteen (15) calendar days after the deduction is made. Said transmittal shall be by way of check drawn to the order of the Union and/or Credit Union, as the case may be.

**07.04.00** Upon issue of such check(s) and the transmission of same to the Union and/or Credit Union, as the case may be, all responsibility on the part of the Contractor shall cease with respect to any amount so deducted so long as such check(s) is honored on being presented for payment. The Union hereby undertakes to indemnify and hold the Contractor harmless from any claims that may be made upon said Contractor for or on account of any such deductions from the wages of any Employee.

#### **08.00.00** *NO STRIKE OR LOCKOUT*

**08.01.00** The parties hereto agree that during the term of this Agreement there shall be no lockout by the Contractor nor any strike, stoppage of work, or slowdown on the part of the Union or its representatives or on the part of any Employee covered by the terms of this Agreement, except as provided under Sections 08.02.00 and 08.03.00 below.

**08.02.00** Nothing in this Agreement shall be construed as giving a Contractor the right to require said Contractor's Employees to cross a legitimate picket line. A legitimate picket line is one that is not in violation of the law. Any Employee who refuses to cross a legitimate picket line as herein defined shall not lose his/her status as an Employee of the Contractor.

**08.03.00** If a Contractor fails to make timely payment to any of the trust funds provided for in this Agreement, OR if such Contractor fails to make timely transmittal of amounts deducted for Union dues, initiation fees, assessments and/or Credit Union payments as provided for under Section 07.00.00, *Authorized Deductions*, and

so long as either of these conditions continue, it shall not be a violation of this Agreement for the Union to withdraw its members from the performance of work for said Contractor. In each case, the Union shall give written notice to the Contractor involved of its intent to withdraw such Contractor's Employees, and the Contractor shall be given five (5) working days from receipt of said notice in which to make necessary full payment. If such full payment is not made within said five (5) day period, the Union shall then be free to withdraw said Contractor's Employees and to continue said withdrawal until full payment is made.

**08.04.00** In the event a Contractor fails to man a particular piece of equipment in accordance with the hiring and referral provisions as set forth in Section 27.00.00, *Referral And Hiring* or in accordance with the manning provisions as set forth in Section 01.00.00, *Classification & Hourly Wage Schedule* and Section 28.00.00, *Manning*, the Union shall have the right to file an Expedited Grievance to the State Joint Board as provided for under Section 23.00.00, *Grievance Procedure and Arbitration*. If the failure to man the particular piece of equipment is not a bona fide jurisdictional dispute under the provisions of Section 25.00.00, *Jurisdictional Disputes*, then the Union, after giving twenty-four (24) hour notice to an officer of the Contractor, shall be free to shut down the particular piece of equipment by withdrawing the operator of said equipment until such time as the hiring or manning violation is corrected. If the Contractor feels that the withdrawal of the Employee was not in accordance with the provisions of this Agreement, it shall be free to file an Expedited Grievance, to the State Joint Board as provided for under Section 23.00.00, *Grievance Procedure and Arbitration* and seek appropriate damages from the Union.

**08.05.00** Any Employee who is withdrawn from performing work pursuant to the provisions of Section 08.04.00, above, shall not lose his/her status as an Employee of the Contractor. If an arbitrator finds or if it is otherwise found that the Contractor has violated the Agreement, the applicable wages and fringe benefits shall be paid to each Employee so withdrawn for all time lost.

**08.06.00** It is mutually understood and agreed that neither the Association, any Contractor, nor the Union shall be liable for damages caused by the acts or conduct of any individual or group of individuals who are acting or conducting themselves in violation of the terms of this Agreement, provided that such action or conduct has not been specifically authorized, participated in, fomented, or condoned by the Association, any Contractor, or the Union, as the case may be.

**08.07.00** In the event of any unauthorized violation of the terms of this Agreement, responsible and authorized representatives of the Union, the Association, or the Contractor, as the case may be, shall promptly take such affirmative action as is within their power to correct and terminate such violation for the purpose of bringing such unauthorized persons into compliance with the terms of this Agreement. Such individuals acting or conducting themselves in violation of the terms of this Agreement shall be subject to discipline, up to and including discharge.

#### **09.00.00 DISCIPLINE OR DISCHARGE**

**09.01.00** Employees shall be subject to discipline or discharge for just cause.

**09.02.00** If the Contractor takes action under this Section which the Employee or the Union believes is not for just cause, either the Employee and/or the Union shall have the right to process such grievance through the grievance procedure as provided under Section 23.00.00, *Grievance Procedure and Arbitration*.

**09.03.00** No Employee shall be disciplined, discharged, or discriminated against for legitimate Union activity; provided, however, that such activity shall not interfere with the Contractor's operations, nor be conducted during working hours.

**09.04.00** The Contractor shall be the sole judge of an Employee's qualifications for the equipment to be operated and the work to be performed and may on such grounds terminate the services of any Employee.

#### **10.00.00 APPRENTICESHIP AND TRAINING**

**10.01.00** *Joint Apprenticeship Committee*. The parties agree to continue the Joint Apprenticeship Committee composed of equal Contractor and Union representation to program and operate a system of apprenticeship and training in conformance with Hawaii and Federal laws. Such Committee shall have the authority to act for and on behalf of the Contractor and the Union. The parties will comply with any recommendation made by the Committee.

**10.02.00** *Training And Disciplining Of Registered Apprentices.* The education, training, and disciplining of Registered Apprentices shall be governed by the Joint Apprenticeship Committee pursuant to the "Standards Of The Joint Apprenticeship Program For Operating Engineers In The State Of Hawaii" and the "Rules, Regulations, And Procedures Applicable To Registered Operating Engineer Apprentices In The State Of Hawaii" as adopted and revised from time to time by the Joint Apprenticeship Committee.

**10.03.00** *Ratio Applicable To The Employment Of Apprentices.*

**10.03.01** The Contractor shall employ Apprentices in accordance with the following schedule:

<u>Number of Journeymen Operating Engineers Employed by the Contractor (Company-Wide Basis)</u>	<u>Number of Apprentices That Must be Employed</u>
5-19	1, but not more than 1
20-29	2, but not more than 2
30-39	3, but not more than 3
40-60	4, but not more than 4

Thereafter: Follow same progression (i.e., one [1] additional apprentice for every twenty [20] Journeymen Operating Engineers employed).

**10.03.02** In making the aforementioned count of Journeymen Operating Engineers, Assistant to Engineer (Oiler), Superintendent, and all Truck Drivers will not be counted.

**10.03.03** It is understood that the apprentice is not an "extra" man and will be required to perform work in conjunction with his/her on-the-job training.

**10.03.04** It shall be the Union's responsibility to notify the Contractor in writing of any violation of Section 10.03.00 above. The Contractor will have three (3) days to comply after receipt of notice. Failure to comply within three (3) days will subject the Contractor to a penalty of the applicable daily wage rate of a sixth (6<sup>th</sup>) period apprentice per day (from date notice received) for each day of non-compliance. Payments will be made to the Operating Engineers and participating Employers, Pre-Apprentice, Apprentice, and Journeyman Affirmative Action Trust Fund for Hawaii.

**11.00.00** *WAGES*

**11.01.00** *Wage Schedule.* Wages are as set forth in Section 01.00.00, *Classification And Hourly Wage Schedule* which shall be effective for the term of this Agreement.

**11.02.00** *Payment Of Wages.*

**11.02.01** Each Employee covered by this Agreement shall be paid not later than quitting time on Friday of each week; provided, however, that in no event shall more than one (1) calendar week's wages be withheld at any one time. In the event Friday falls on any holiday (whether recognized under this Agreement or not) on which local banks will be closed, the Contractor shall provide the Employee(s) with their paychecks by Thursday of that week.

**11.02.02** Unless due to an emergency situation or other verifiable circumstances acceptable to the State Joint Board, where a Contractor does not have his/her Employees' paychecks available for pick up by Friday (by Thursday if Friday is a holiday), the Employee or Employees affected shall be entitled to a lump sum penalty payment of twenty dollars (\$20.00) for each working day that said paycheck(s) is not available (to include the day by which payment was due). The Contractor shall also pay or reimburse an Employee for any finance charges, penalties, and other direct costs (such as checking account overdraw charges, late payment charges, interest penalties and the like) that are charged to an Employee as a result of a late paycheck or a paycheck "bouncing" due to insufficient funds. The Contractor shall also reimburse the Employee for the cost of any long-distance telephone calls relating to the matter as may be made by the Employee.

**11.02.03** When an Employee is laid off for lack of work, said Employee shall be paid all wages earned and due as of the time of separation. If the Employee's separation paycheck is drawn in an incorrect amount due to the Employee leaving work early, being a "no show" on one of the Employee's scheduled workdays during that week, or for other cause for which the Employee is responsible, then the Employee's separation check, as corrected, shall be paid to him/her no later than the working day following the date of layoff.

**11.02.04** When an Employee is discharged for cause, said Employee shall be paid all wages due at the time of discharge. However, if the discharge occurs at a time and under conditions which prevent the Contractor from making immediate payment, then all wages due must be paid to the Employee no later than the working day following the discharge.

**11.02.05** When an Employee quits, said Employee shall be paid all wages due no later than the next regular pay day either through regular pay channels or, if requested by the Employee, by mail. However, if an Employee gives at least five (5) working days' notice of his/her intention to quit, the Contractor shall pay all wages earned and due to said Employee at the time of separation.

**11.02.06** Inasmuch as the provisions of Sections 11.02.04 and 11.02.05, above, are requirements of State law, it is incumbent upon the Contractor to develop and maintain appropriate procedures for payment of same.

**11.02.07** *Wages on Day of Injury.*

- (a) Whenever an Employee sustains an industrial injury or illness covered under the State of Hawaii Workers' Compensation Law, the Employee shall be paid for the same number of hours as worked on that day by other Employees in said Employee's same crew, but not to exceed eight (8) hours at said Employee's applicable rate of pay; provided, however, that said Employee provides the Contractor with a physician's statement verifying said Employee's treatment and disability for the remainder of the day. The Employee shall be allowed to go to a physician of said Employee's choice.
- (b) If the Employee requires transportation in securing the aforesaid medical treatment, such transportation shall be provided by the Contractor.
- (c) Employees who are assigned light duty work due to doctor's orders shall be assigned work in compliance with the limitations established by the doctor.

**11.03.00** *Records And Requests.* Each Contractor shall provide a proper means for registering time, working time, and quitting time. In the event of a dispute over time, wages, or fringe benefit payments, such records will be promptly accessible to the Business Representatives of the Union during working hours.

**11.04.00** *Work On Pacific Ocean Islands Outside The State Of Hawaii.* If an Employee who has been hired and is otherwise an Employee of the Contractor in the State of Hawaii and is required by the Contractor to report to work on any Pacific Ocean Islands outside the State of Hawaii, said Employee shall be paid at no less than the wage rates specified in Section 01.00.00, *Classification And Hourly Wage Schedule*. The Contractor shall also make payments to the Health & Welfare Trust Fund, the Pension Trust Fund, the Pensioned Operating Engineers Health & Welfare Trust Fund, the Affirmative Action Trust Fund, the Annuity Trust Fund, and to the Vacation And Holiday Pay Plan and any other fund that may be established during the term of this Agreement on behalf of said Employee.

**11.05.00** *Additional Work Or Classifications.*

**11.05.01** This Agreement contemplates that as and when equipment and other means and methods of operating equipment not presently in use in the area covered by this Agreement is or are about to be introduced on a jobsite, the Association and the Union will promptly negotiate an appropriate rate, classification, and working rule for the equipment's operation and for the other means or methods of operating equipment not presently in use.

**11.05.02** Such rate, classification and working rule shall be established at a job conference ten (10) days prior to the time the equipment or means or methods of operating equipment not presently in use are introduced on a jobsite, and if it is not settled at such a conference, the matter may be referred to a standing committee consisting of three (3) representatives each of the Union and the Association to conduct such negotiations.

**11.05.03** Such committee will meet within ten (10) days after written request of the Contractor intending to operate such equipment or use such means or methods of operating equipment not presently in use accompanied by photographs and pertinent catalog or other data on the equipment or means or methods of operating equipment not presently in use and agree to a straight-time hourly wage rate for each classification required and working rule within fifteen (15) days from the date of notice unless the parties mutually agree to extend the time, which rate and classification and working rule shall be added to Section 01.00.00 (Classification And Hourly Wage Schedule) as of the date of the initial introduction of the equipment or such means or methods of operating equipment not presently in use on a jobsite.

**11.05.04** Until such rate or rates, classification or classifications and working rule is established, the Contractor may operate the equipment or use such means or methods of operating equipment not presently in use at a temporary rate or rates, classification or classifications and working rule for thirty (30) calendar days only from the initial introduction of the equipment or means or methods of operating equipment not presently in use on a jobsite, provided that such thirty (30) calendar-day period may be extended by mutual agreement of the Committee provided in Section 11.05.02 above. In the event the Committee is unable to reach an agreement within the negotiating period, or any extension(s) thereof, either party may refer the disagreement to the State Joint Board provided for in Section 24.00.00. In the event the matter is taken to arbitration, the Arbitrator shall establish the appropriate group wage classification and manning provisions for said piece of equipment at not less than the group wage classification and manning provision as established by the Union in California for said piece of equipment. The permanent rate, classification and working rule, when established, shall be paid retroactively to the date of initial introduction of the equipment on a jobsite.

**11.05.05** The foregoing shall also apply when work under pressure is undertaken or when nuclear devices, laser beams or other devices to move earth not specifically covered in Section 01.00.00, *Classification And Hourly Wage Schedule* are used, or to be used.

**12.00.00** ***HOURS AND OVERTIME***

**12.01.00** *Workweek. (five [5] days).*

**12.01.01** The standard workweek shall be Monday through Friday, inclusive.

**12.01.02** Where weather conditions render it desirable for make-up time on Saturday, such Saturday make-up time day may be scheduled by the Contractor at straight time. Where the Contractor schedules Saturday as a make-up time day, the Employee shall have a choice to accept or reject to work the make-up time day.

NOTE: At the present time, Section 12.01.02, would be applicable ONLY on PRIVATE and FEDERAL jobs. The law would have to be changed in order for said paragraph to be applicable on State or County projects.

**12.01.03** The Contractor may, by written mutual agreement with the Union, schedule:

- (1) four (4) consecutive ten (10) hour days during the period from Monday through Thursday which shall be paid for at the regular straight time hourly rate, or
- (2) four (4) nine (9) hour days (Monday through Thursday) plus four (4) hours on Friday, all of which hours shall be paid for at regular straight time hourly rates.
- (3) In either of such events, Friday will be the scheduled make-up day under the same conditions as set forth in Section 12.01.02, above. Saturday may be scheduled as a make-up in lieu of Friday but only if Employees volunteer to work the Saturday make-up day under the same conditions as set forth in Section 12.01.02, above.
- (4) The provisions of Section 12.01.03, Paragraphs (1) and (2), above, are not intended to be implemented or administered in such a manner wherein Employees will be re-scheduled from a workday of one duration to another on a daily basis.
- (5) A work week of four (4) ten (10)-hour days on weeks where a holiday is observed which shall be paid for at the regular straight time hourly rate.

NOTE: At the present time, Section 12.01.03, Paragraphs (1), (2) and (5) above would be applicable ONLY on PRIVATE and FEDERAL jobs. The law would have to be changed in order for said paragraph to be applicable on State or County projects.

**12.02.00**        *Workday.*

**12.02.01**        Except where shift work or night work is scheduled, the normal workday for an Employee covered by this Agreement shall begin at 7:00 a.m.

**12.02.02**        However, if a State law, local ordinance, job specification, or written instruction of the Owner or his/her representative requires that work commence at a later hour, it shall be at the Contractor's discretion as to whether the starting time as provided in Section 12.02.01, shall apply or whether the starting time as imposed by State law, local ordinance, job specification, or by the aforementioned written instruction shall apply, in either case without payment of overtime or other premium rate. In such situation, the Contractor shall nevertheless afford the affected Employees with eight (8) straight time hours of work opportunity (exclusive of meal periods), or pay for same unless the Employee quits, voluntarily lays off, or is suspended or discharged prior to the completion of said eight (8) hour period, or the Contractor is unable to provide such work due to weather conditions, equipment breakdown, power failure, accident, suspension of work by written order of the contracting agency, or other reason outside of his/her control.

**12.02.03**        Except as provided in Sections 12.02.01 and 12.02.02 above, other starting times, also without payment of overtime or other premium may be established by mutual written agreement between the Contractor and the Union.

**12.03.00**        *Overtime.*

**12.03.01**        Overtime at one-and-one-half (1 ½) times the Employee's regular straight time rate shall be paid for:

- (1) All work performed in excess of eight (8) straight time hours in any one day, OR
  - [a] in excess of ten (10) straight time hours in any one (1) day where a work week of four (4) consecutive ten (10)-hour days has been scheduled by mutual written agreement between the Contractor and the Union pursuant to Section 12.01.03, Paragraphs (1) and (5), OR
  - [b] in excess of nine (9) straight time hours, Monday through Thursday, and four (4) hours on Friday where such a workweek has been scheduled by mutual written agreement between the Contractor and the Union pursuant to Section 12.01.03, Paragraph (2).
- (2) All work performed by an Employee before his/her scheduled shift provided the Employee commenced work at the scheduled start time of the shift and worked the entire shift.
- (3) All work performed on Saturdays, except where such Saturday has been scheduled as a make-up day by the Contractor pursuant to Section 12.01.02 in which case overtime shall be paid after the Employee's completion of eight (8) straight time hours of work on said Saturday make-up day.
- (4) All hours an Employee works in excess of twelve (12) hours in a workday shall be paid at two (2) times the regular straight time rate.
- (5) Work performed on Sundays and holidays, shall be paid at two (2) times the regular straight time rate.
- (6) All hours an Employee works in excess of eight (8) in a twenty-four (24) hour period shall be paid at the appropriate overtime rate. Employees shall receive eight (8) consecutive hours off for rest during a twenty-four (24) hour period.

**12.03.02**        *Reckoning Of Overtime Hours.* Overtime hours shall be reckoned to the nearest hour and half hour. This provision is intended to allow the Contractor to ease bookkeeping requirements and to comply with Federal Wage and Hour Standards.

**12.03.03**        *No Pyramiding.* Whenever two or more overtime or premium rates are applicable to the same hour or hours worked, there shall be no pyramiding or adding together of such rates and only the higher of the applicable rates shall be applied.

**12.03.04**        *Assignment of Overtime Work.* If overtime work is to be assigned, the work shall be assigned to the members of the crew (to the extent needed) or to the operators of the equipment required who, during the regular workday, have been performing the particular work involved.

**12.04.00**      *Meal Period.*

**12.04.01**      An Employee covered by this Agreement shall be afforded a meal period of at least thirty (30) minutes to begin within the period from the fourth (4th) through the fifth (5th) hour of a shift. If an Employee is required to work more than five (5) hours without starting a meal period, said Employee shall be paid at one-and-one-half (1-1/2) times said Employee's regular straight time rate of pay for all time worked after said fifth (5th) hour until such time as said Employee is afforded the opportunity to eat on the Contractor's time.

**12.04.02**      The meal period established for Heavy Duty Equipment Repairmen and Servicemen may be different from that established for other classifications.

**12.04.03**      If an Employee is directed to operate such machines as compressors, refrigeration plants, pumps, or cement or pumpcrete guns during the scheduled meal period, he/she shall be paid for said meal period at the applicable overtime rate.

**12.04.04**      If the Employee is already being paid at the time-and-one-half rate by reason of Saturday work, he/she shall receive two (2) times his/her regular straight time rate for all time worked after said fifth (5<sup>th</sup>) hour until such time he/she is afforded the opportunity to eat on the Employer's time. Sunday or holiday work shall be paid at two and one half (2 ½) times the regular straight time rate for all time worked after said fifth (5<sup>th</sup>) hour.

**12.04.05**      Whenever overtime work exceeds two-and-one-half (2 ½) hours past the quitting time of their shift, Employees will be afforded a meal period of at least one-half (½) hour at the end of said two-and-one-half (2 ½) hour period of overtime work. Said meal period shall not be paid for or counted as time worked. If overtime work continues for four (4) hours after the conclusion of said meal period, the Employees will be afforded a similar meal period at the end of said four (4) hour period and at the end of each similarly measured four (4) hour period thereafter.

**12.04.06**      If the Employee is not afforded a meal period as provided for in Section 12.04.05, said Employee shall be paid at two (2) times the Employee's regular straight time rate of pay for all time worked after the applicable period of overtime work until such time as said Employee is afforded the opportunity to eat.

**12.05.00**      *Show-Up Time.*

**12.05.01**      Employees or qualified applicants ordered to report to work at jobsite for whom no employment is provided shall be entitled to two (2) hours pay unless prevented from working for reasons beyond the control of the Contractor (including inclement weather).

**12.05.02**      In the event the Contractor requires an Employee to remain on the job for thirty (30) minutes past the Employee's normal starting time pending possible abatement or cessation of inclement weather or other cause which has prevented work from starting, said Employee shall be entitled to show up time of two (2) hours pay unless such Employee quits, voluntarily lays off, or is suspended or discharged prior to the completion of said two (2) hour period. Said waiting time (i.e., "standby time") shall not be considered as hours worked for purposes of making Contractor contributions to the various Trust and other Funds as provided for in this Agreement; provided, however, that if, after standing-by, said Employee is put to work, then said waiting time (standby time) shall be counted as hours worked for the purpose of making Contractor contributions to the various Trusts and other Funds as provided for in this Agreement.

**12.05.03**      In the event the Employee starts work, but such work is subsequently shut down by reason of inclement weather, equipment breakdown, power failure, or accident, said Employee shall be paid for actual time worked, but in no case shall that payment be less than two (2) hour's pay at the Employee's regular straight time rate of pay.

**12.06.00**      *Shift Work.*

**12.06.01**      *Two (2) Shift Operation.* Where a two (2) shift operation is scheduled, an Employee's first (1<sup>st</sup>) eight (8) hours of work per day on his/her shift (exclusive of meal period) shall be paid for at said Employee's regular straight time rate; provided, however, that where a two (2) shift operation is scheduled on the basis of a workweek

of four (4) consecutive ten (10) hour days, then the straight time rate shall be paid for the Employee's first (1<sup>st</sup>) ten (10) hours of work per day on his/her shift (exclusive of meal period).

**12.06.02**      *Three (3) Shift Operation.*

- (1) Where a three (3) shift operation is scheduled, the first (1<sup>st</sup>) shift shall consist of eight (8) hours of work (exclusive of meal period) for which eight (8) hours shall be paid; the second (2<sup>nd</sup>) shift shall consist of seven and one-half hours (7 ½) of work (exclusive of meal period) for which eight hours shall be paid; and the third (3<sup>rd</sup>) shift shall consist of seven (7) hours of work (exclusive of meal period) for which eight (8) hours shall be paid.
- (2) Payments to the Trust and other Funds as provided for in this Agreement on behalf of second (2<sup>nd</sup>) and third (3<sup>rd</sup>) shift Employee's who work a full shift shall be at eight (8) hours.

**12.06.03**      *Applicable To Both Two (2) Shift and Three (3) Shift Operations.*

- (1) On two (2) or three (3) shift operations, the first shift shall begin at 7:00 a.m. except where starting times are established in accordance of the provisions in Section 12.02.00, *Workday*.
- (2) On shift work, Employees working a shift who come off work on Saturday morning are to be considered working Friday; Employees working a shift who come off work on Sunday morning are to be considered working Saturday; and Employees working a shift coming off work on Monday morning are to be considered working Sunday.

**12.06.04**      No Employee shall work more than one (1) shift at straight time in any consecutive twenty-four (24) hours. No arrangement of shifts shall be permitted that prevents any Employee from securing eight (8) consecutive hours of rest in any consecutive twenty-four (24) hours. Such twenty-four (24) hours shall be computed from the start of the Employee's assigned shift.

**12.07.00**      *Night Work.*

**12.07.01**      Where night work is scheduled Monday through Friday, an Employee's first (1<sup>st</sup>) eight (8) hours of work per day on said work (exclusive of meal period) shall be paid for at the Employee's regular straight time rate; provided, however, that where such work is scheduled on the basis of a workweek of four (4) consecutive ten (10) hour days, Monday through Friday, or on the basis of four (4) nine (9) hour days, Monday through Thursday, plus four (4) hours on Friday, the straight time rate shall be paid in accordance with that schedule.

**12.07.02**      By use of the notification form attached hereto as Exhibit "H" (or by other written means which provides the same information as that set forth in Exhibit "H"), the Contractor will notify the Union whenever he/she schedules night work pursuant to the above provisions.

**12.08.00**      *Emergency Call-Out.*

**12.08.01**      Any Employee called out to perform emergency work and who so reports at the time specified, shall be paid at the applicable overtime rate for all hours worked on such emergency call-out. Such Employee shall receive a minimum of three (3) hours' work, or if three (3) hours' work is not furnished, a minimum of three (3) hours' pay; provided, however, that such three (3) hour minimum shall not apply if the Employee quits, voluntarily lays off, or is suspended or discharged prior to the completion of said three (3) hour period. Said three (3) hour minimum shall also not apply if the emergency work for which said Employee is called out continues up to said Employee's normal starting time, in which event the Employee shall be paid at the overtime rate only for actual number of hours worked (and would not include travel time) up to said Employee's normal starting time.

**12.08.02**      In computing time spent on emergency call-out, such time shall include time spent in traveling from the Employee's home or place from which the Employee was called, as the case may be, directly to the jobsite, but shall not include the return trip.

**12.08.03**      Section 12.04.01 shall apply to Employees who are performing Emergency Call-Out Work.

**12.09.00** *Listing Material.* If an Employee covered by this Agreement is required by the Contractor to list material from the plans, specifications, or any other document and said work is to be performed either before or after his/her regular working hours, said Employee shall be paid at one-and-one-half (1 ½) times his/her regular straight time rate for all time so spent either before or after his/her regular working hours.

**12.09.01** *Holidays.* The following days shall be considered holidays and work performed on such days shall be compensated for at two (2) times the Employees regular straight time rate:

New Year's Day	Labor Day
Presidents' Day	Discoverers' Day
Memorial Day	Veterans' Day
Kamehameha Day	Thanksgiving Day
Fourth of July	Christmas Day

**12.09.02** *Holidays Falling On Saturday Or Sunday.* In the event any of the above holidays falls on a Saturday, the preceding Friday shall be considered the holiday. In the event any of the above holidays falls on a Sunday, the following Monday shall be considered the holiday.

**12.09.03** *Labor Day.* No work shall be performed on Labor Day except in case of emergency.

**12.09.04** *"Switching" And/Or Substitution Of Holidays.*

(a) Whenever any of the holidays listed below falls on a Tuesday, Wednesday, or Thursday, said holiday may, at the Contractor's option and discretion, be "switched" to either Monday or Friday:

•Kamehameha Day                      •Thanksgiving Day                      •Fourth of July

(b) The Contractor shall also have the option, at such Contractor's discretion, of substituting the Day After Thanksgiving as a holiday in place of Veterans' Day, in which case, however, he/she will not be able to simultaneously exercise said Contractor's option of "switching" Thanksgiving Day to Friday so as to observe two (2) holidays on the same day.

NOTE: At the present time, Sections 12.09.04, Paragraphs (a) and (b), above, are applicable ONLY to PRIVATE and FEDERAL projects. The law would have to be changed in order for said paragraphs to be applicable on State or County projects.

(c) By use of the notification form attached hereto as Exhibit "J" (or by other written means which provides the same information as that set forth in Exhibit "J"), the Union, as well as the Employees affected, will be notified in writing at least five (5) working days prior to the effective date of any "switch" and/or substitution of holidays as may be made pursuant to Paragraphs (a) and (b), above.

### **13.00.00** *TEMPORARY TRANSFER*

**13.01.00** If an Employee covered by this Agreement works in more than one (1) classification during his/her workday (including overtime), his/her pay for all hours worked on that day shall be computed on the basis of the wage rate applicable to the highest classification that he/she worked in during said day.

**13.02.00** The Contractor shall not assign an Assistant to Engineer to perform the work of an Operating Engineer and the Contractor shall not assign an Operating Engineer to perform the work of an Assistant to Engineer, except with the express consent of the Union. The foregoing shall not preclude transfers for brief emergency or relief periods.

**13.03.00** An Employee covered by this Agreement shall not be transferred from his/her assigned equipment more than three (3) times during his/her shift.

**14.00.00 EMPLOYEE BENEFITS AND CONTRACTOR PAYMENTS**

**14.01.00 General Provisions.**

**14.02.00** *Payment To Be Made Only For Actual Hours Worked.* Contractor payments to the various Trust and other Funds as specified in this Agreement shall be made for actual hours worked except where shift work of less than eight (8) hours is scheduled under the provision of Section 12.01.09, then contributions shall be required for eight (8) hours. Time which is paid for, but not worked, such as time paid for under Section 11.02.07, *Wages On Day Of Injury*, waiting/stand-by time as provided under Section 12.03.00, *Show-Up Time*, as well as "driving time hours" as provided for under Section 18.00.00, *Transportation* shall not be counted as hours worked for purposes of making Contractor payments to the various Trust and other Funds as provided for in this Agreement.

**14.03.00** *Payments To Trust Funds.*

**14.04.00** *Payable On Behalf Of Each Employee Covered By This Agreement.* The Contractor shall pay the specified per-hour amount of contribution as set forth below to each of the Trust Funds as listed below for each hour worked by or paid to each Employee covered by this Agreement, except as set forth in Section 14.03.00, above. Said payments shall be made in the manner as set forth in Section 14.13.00, *Contractor Payments*.

**14.05.00** *Hawaii Health & Welfare Trust Fund For Operating Engineers.*

\$5.80 per hour	—	Effective 9/02/02
* per hour	—	Effective 9/01/03
* per hour	—	Effective 8/30/04
* per hour	—	Effective 8/29/05
* per hour	—	Effective 9/04/06

**14.06.00** *Operating Engineers Pension Trust Fund.*

**14.06.01** The Contractor shall pay five dollars and thirty-nine cents (\$5.39) per hour effective September 2, 2002, for each hour worked or paid for Employees' retirement plans. Those payments shall be made to the Hawaii Operating Engineers' Annuity Trust Fund and to the Operating Engineers' Pension Trust Fund as provided below.

**14.06.02** Effective September 2, 2002 four dollars and thirty-nine cents (\$4.39) per hour will be paid to the Operating Engineers' Pension Trust Fund and one dollar (\$1.00) per hour will be paid to the Hawaii Operating Engineers' Annuity Trust Fund.

**14.06.03** Each Employee shall select one of the following options concerning the Contractor contributions to those Funds:

- Option 1: \$ 4.39 per hour to the Pension Fund  
\$ 1.00 per hour to the Annuity Fund
- Option 2: \$ 1.00 per hour to the Pension Fund  
\$ 4.39 per hour to the Annuity Fund

**14.06.04** Employees shall select an option within thirty (30) days after the Agreement is executed. The option the Employee selects shall remain in effect for one (1) year (with an additional amount included as negotiated or allocated), and shall apply to each Contractor the Employee works for during the year. Employees may change their option every year.

**14.07.00** *Pensioned Operating Engineers Health & Welfare Trust Fund.*

\$1.29 per hour	—	Effective 9/02/02
* per hour	—	Effective 9/01/03
* per hour	—	Effective 8/30/04
* per hour	—	Effective 8/29/05
* per hour	—	Effective 9/04/06

**14.08.00**      *Operating Engineers And Participating Employers Pre-Apprentice, Apprentice, And Journeyman Affirmative Action Trust Fund For Hawaii.*

\$ .60 per hour	—	Effective 9/02/02
* per hour	—	Effective 9/01/03
* per hour	—	Effective 8/30/04
* per hour	—	Effective 8/29/05
* per hour	—	Effective 9/04/06

**14.09.00**      *Benefit Payments For Foremen, Shifters, And Heavy Duty Master Mechanics.* The provisions of Section 14.03.00, *Payments To Trust Funds*, immediately above, as well as the provisions of Section 14.12.00, *Vacation And Holiday Pay Plan* of this Section, shall apply to Foremen, Shifters, and Heavy Duty Repairman Foremen, and Master Mechanics in the same amount and in the same manner as they apply to all other Employees covered by this Agreement.

**14.10.00**      *Benefit Payments For Supervisory Personnel Above The Rank of Foreman.* A Contractor at such Contractor's option may cover said Contractor's supervisory personnel above the rank of Foreman in the Hawaii Health & Welfare Trust Fund For Operating Engineers, the Operating Engineers Pension Trust Fund, and the Pensioned Operating Engineers Health & Welfare Trust Fund by paying into the aforesaid Trusts monthly on the basis of one hundred sixty-eight (168) hours (regardless of the number of hours worked by such persons during the month) at the per-hour rate of contribution as set forth in this Section. Having made one such payment on behalf of said person, the Contractor shall continue to make such payments as long as said person is in said Contractor's employ.

**14.11.00**      *Trust Agreements.* Each of the Trust Agreements applicable to the above Trust Funds are, by reference, incorporated herein and each Contractor covered hereby or signatory hereto agrees that he/she shall be bound by all of the terms and conditions of said documents and any future amendments. Each said Contractor further agrees to the appointment of the Trustees of said Funds as designated by the Association and hereby designates said Contractor Trustees to serve as his/her representatives and to act as his/her agent in all matters concerning the Funds.

**14.12.00**      *Vacation and Holiday Pay Plan.*

**14.12.01**      Each Contractor shall participate in the Operating Engineers Vacation And Holiday Pay Plan (hereinafter referred to as the "Vacation And Holiday Pay Plan") under the terms and conditions as set forth in Exhibit "B", *Vacation And Holiday Pay Plan* of this Agreement.

**14.12.02**      Effective as of the date listed below, the Contractor shall contribute to the Vacation And Holiday Pay Plan for each hour worked by or paid to each Employee covered by this Agreement (except as provided in Section 14.02.00, above) the following amount:

\$3.55 per hour	—	Effective 9/02/02
* per hour	—	Effective 9/01/03
* per hour	—	Effective 8/30/04
* per hour	—	Effective 8/29/05
* per hour	—	Effective 9/04/06

**14.12.03**      All taxes due from each Employee by reason of payments under this Vacation and Holiday Pay Plan shall be deducted by each Contractor from each Employee's wages and such total tax deductions, together with the amount payable under this Vacation and Holiday Pay Plan, shall be separately noted on the Employee's paycheck.

**14.12.04**      Payment of Vacation And Holiday Pay benefits to Employees covered by this Agreement shall be made in accordance with the provisions of Exhibit "B", *Vacation And Holiday Pay Plan* of this Agreement.

**14.13.00**      *Contractor Payments.*

**14.13.01**      *Transmittal Of Contributions.*

- (1) Contractor contributions to the various Funds as specified and provided for above shall be paid or postmarked by the fifteenth (15<sup>th</sup>) day of the month immediately following the month for which the contributions are due, but a Contractor shall not be deemed delinquent if full payment of amounts due is made or postmarked and mailed by the twenty-fifth (25<sup>th</sup>) day of said month.
- (2) A consolidated transmittal and report form as provided by the Administrative Office, showing, among other things, the monthly total of hours worked by each Employee covered by this Agreement, shall be submitted each month and accompany such payment, if any.
- (3) The consolidated transmittal form must be submitted or postmarked by the twenty-fifth (25<sup>th</sup>) day of the month immediately following the month being reported even if no Employees were employed by the Contractor.

**14.14.00**      *Information and Audit.* Each Contractor shall provide the appropriate Trustees or their authorized representative(s) with information and records necessary to carry out the purposes of and in connection with the proper administration of the various Funds and shall permit an audit of the Contractor's payroll records by authorized representative(s) of the Administrative Office or the Trustees to ascertain whether all contributions due have been paid. Every Contractor shall maintain records in the State of Hawaii with respect to each of the Contractor's Employees covered by the collective bargaining agreement sufficient to determine the benefits due or which may become due to such Employees.

**14.15.00**      *Delinquent Contributions and Collections.*

**14.15.01**      When any Contractor's contributions to any of the Trust Funds provided for under this Agreement are not paid or postmarked and mailed by the twenty-fifth (25<sup>th</sup>) day of the month immediately following the month for which the contributions are due, such contributions are delinquent and the Contractor shall be deemed to be in violation of this Agreement and the aforementioned Trust Agreements. The Trustees, on behalf of the Trust Funds, are authorized to bring whatever legal action deemed necessary to recover delinquent Trust Fund contributions, liquidated damages and interest including but not limited to the institution of any action against a Contractor, surety or co-obligor to recover monies owed by the delinquent Contractor to the Trust Funds and to the assertion, perfection and foreclosure of any lien rising from the providing of labor by Employees of the delinquent Contractor. A Contractor responsible for such delinquent contributions shall pay to each respective Fund:

- (1) the unpaid contributions,
- (2) interest on the unpaid contributions at the rate of twelve percent (12%) per annum or the rate prescribed under Section 6621 of the Internal Revenue Code of 1954, whichever is greater, provided, however, that should such delinquent Trust Fund contributions be paid in a timely fashion as provided for herein, no interest shall be charged. Interest shall be computed from the first (1<sup>st</sup>) day following the month for which Trust Fund contributions are owed,
- (3) an amount equal to the greater of:
  - (i) interest on the unpaid contributions, or
  - (ii) liquidated damages in the amount of twenty percent (20%) of such delinquent and unpaid contributions due to each respective Fund or twenty dollars (\$20.00) whichever is greater, for each and every delinquent monthly contribution.
- (4) all audit and collection costs, and
- (5) if the delinquency is turned over to an attorney for collection, reasonable attorney's fees and costs of the action as provided for by the Employee Retirement Income Security Act, as amended, together with all other reasonable expenses incurred in connection with such suit or claim including any appellate proceedings therein.

**14.15.02** The amount specified in Section 14.15.01, Paragraph (3) (ii) above, shall be due and payable to each respective Fund upon the day immediately following the date such contribution becomes delinquent and shall be in addition to the total amount of the delinquent contributions. Said amount is payable as and for liquidated damages, and not as a penalty, in that the failure of the Contractor to make the required timely payment of contributions imposes additional burden and expenses upon the Trustees in the collection thereof; in the administration of the Trust Funds, including but not limited to the processing of late contribution reports, correspondence and other communication with said Contractor; and, in addition thereto may cause a loss of benefits to Employees, and loss of benefit of the use of the amounts required to be paid, all of which are difficult to accurately ascertain.

**14.16.00** *Weekly Reports And Payments By Delinquent Contractor.* Any other provision to the contrary notwithstanding, a Contractor who is responsible for delinquent contributions may be required by the Trustees of the various Funds to make and submit weekly detailed reports and payments for current contributions no later than the Friday immediately following the end of each and every week until such time as all delinquent accounts due and payable to each of the respective Funds are brought current. In the event Friday falls on any holiday on which local banks will be closed, the report and payments shall be made and submitted by Thursday of that week. In the event a subcontractor is deemed delinquent by the Trust Funds, the Contractor agrees to issue checks payable jointly to subcontractor and the Funds for the subcontractor's fringe benefit contributions.

**14.17.00** *Bond Or Cash-In-Escrow By Delinquent Contractor.* If the delinquent contributions, liquidated damages, interest, attorney's fees, and costs due to any respective Fund are not paid within thirty (30) calendar days after the due date, the delinquent Contractor, to secure the payment of future contributions, may be required to post with the Trustees of each respective Fund within five (5) working days thereafter and for a period of up to one (1) year from the date of delinquency a surety bond or cash-in-escrow in an amount equal to the last three (3) months contributions or five thousand dollars (\$5,000.00), whichever is greater.

**14.18.00** *Application/Non-Application of Section 23.00.00 (Grievance Procedure And Arbitration).* All matters involving the payment, collection, and enforcement of Contractor contributions, liquidated damages, and/or interest due to the various Funds provided for in this Agreement shall be handled by and in the manner prescribed by the Trustees of the various Funds in accordance with the Trust Documents establishing said Funds and shall not be subject to the provisions of Section 23.00.00, *Grievance Procedure and Arbitration*; provided, however, that any questions relating thereto as may arise pursuant to a Union action under Section 08.00.00 of this Agreement and any questions relating to whether a particular person or group of persons are Employees as defined under Section 02.00.00, *Coverage of this Agreement* for whom contributions are due shall be subject to the provisions of Section 23.00.00, *Grievance Procedure and Arbitration*.

**14.19.00** *Relationship To Section 08.03.00.* Nothing in Section 14.00.00 shall be construed as being in conflict with the provisions of Section 08.03.00 of this Agreement, nor shall anything in Section 14.00.00 be deemed a condition precedent to any action that the Union may take under the provisions of Section 08.03.00.

**14.20.00** *Supplemental Dues.* With respect to Vacation and Holiday Pay benefits in Section 04.00.00 of this Master Agreement, the amount of twenty-five cents (\$.25) per hour for each hour paid for or worked shall be deducted from the Vacation and Holiday Pay Plan as Supplemental Dues effective for all work performed on and after September 2, 2002; twenty-five cents (\$.25) per hour effective for all work performed on or after September 1, 2003; ten cents (\$.10) per hour effective for all work performed on or after August 29, 2005 and ten cents (\$.10) per hour effective for all work performed on or after September 4, 2006. Upon the execution of a proper authorization as required by law, the amount set forth shall be transmitted from the Vacation-Holiday benefit of each Employee performing work or being paid under this Agreement and shall be remitted directly to the Union. The amount of the Supplemental Dues transmittal shall be specified on a statement sent to the Employees. Such remittance shall be made to the Union monthly. Supplemental Dues are specifically part of the uniform monthly dues of each Employee, as specified in the provisions of Section 05.00.00, *Union Security*, of this Agreement. The Employees shall be obligated to make such payment directly to the Union on a monthly basis if the dues authorization provided for herein is not executed, under such terms and conditions as from time to time may be prescribed to the Union.

**15.00.00 OTHER FUNDS**

**15.01.00 Hawaii Construction Industry Improvement Program.**

**15.01.01** Each Contractor covered hereby shall contribute three cents (\$.03) per hour to the Hawaii Construction Industry Improvement Program for each hour worked by each Employee covered by this Agreement. Said payments shall be made in the same manner as set forth in Section 14.14.00 of this Agreement.

**15.01.02** In accordance with the documents establishing said Program, said funds and program shall be under the general control of a Governing Board composed of representatives appointed by each of the various participating associations. Each Contractor covered hereby or signatory hereto agrees to the appointment, as said Contractor's representatives of the members of said Governing Board, as well as the Trustees and/or Directors appointed by each participating association with respect to those funds which are distributed to it, and hereby designates said Governing Board and said Trustees and/or Directors to act as said Contractor's agent in all matters concerning the Fund.

**15.01.03** Said funds shall be used for purposes, programs, and staffing in matters and areas which are designed to improve the Construction Industry such as construction education, market development and improvement, safety, pollution control, public relations, research, and the like. It is specifically understood and agreed that said funds shall not be used to promote or encourage Open Shop (non-union) construction.

**15.01.04** The above is a Management add-on item (that is, it was added by Management after settlement of the wage and benefit "package" as contained in this Master Agreement). It therefore does not in any way constitute a deduction from or loss to any Employee covered by this Agreement. In that light, the Associations acting in concert shall have the right at any time and at their discretion to increase or decrease the rate of contribution to the Fund or to discontinue said Fund; and upon notice to the Union of any such action, the provisions of this Section 15.01.00 shall be deemed as automatically amended (or deleted, as the case may be) from this Agreement.

**15.02.00 Administrative Fee Covering The Negotiation And Administration Of The Collective Bargaining Agreement**

**15.02.01.** In order that the various provisions of this Agreement may be properly interpreted and administered and grievances or alleged grievances relating thereto may be processed in an expeditious manner, and in order that Management participation in and monitoring of the Employee Benefit Trust Funds as provided under Section 14.00.00 of this Agreement (namely: Health And Welfare Fund, Pension Fund, Affirmative Action Fund, Vacation And Holiday Pay Plan, Pensioned Health & Welfare Fund, and Annuity Fund) may be economically, competently, and centrally coordinated, each Contractor signatory to this Agreement shall pay to the General Contractors Labor Association for the negotiation and administration of the Agreement on their behalf a fee of six and one-half cents (\$.065) per hour for all hours worked by Employees covered by this Agreement (A fee of five cents (\$.05) per hour shall be paid to the Building Industry Labor Association by those signatories who are members of that Labor Association).

**15.02.02** It is specifically understood and agreed that funds generated from the above fee shall not be used to promote or encourage Open Shop (non-union) construction.

**15.02.03** Each Association shall have the right at any time and at its discretion to increase or decrease the cents-per-hour amount of said fee or to discontinue said fee; and upon notice to the Union of any such action, the provisions of this Section 15.01.00 shall be deemed as automatically amended (or deleted as the case may be) from this Agreement.

**Operating Engineers Industry Stabilization Fund.** Contribution to the Operating Engineers Industry Stabilization Fund is as follows:

\$ .59 per hour	—	Effective 9/02/02
* per hour	—	Effective 9/01/03
* per hour	—	Effective 8/30/04
* per hour	—	Effective 8/29/05
* per hour	—	Effective 9/04/06

**16.00.00 WORKING RULES**

**16.01.00** *Drinking Water.* An adequate supply of fresh, water cooled by ice shall be available to Employees at convenient locations on all jobsites at the start of each work day, but in no event any later than one-half (1/2) hour after the start of the shift. When water is supplied in containers, said containers shall be clean and the Contractor shall furnish paper cups or have an OSHA (Occupational Safety & Health Administration) approved type of drinking fountain with rim guard to prevent the possible spread of disease.

**16.02.00 Tools.**

**16.02.01** The Contractor shall provide on each jobsite a secure place where the Contractor's Heavy Duty Equipment Repairman may keep his/her tools. If all or part of a Heavy Duty Equipment Repairman's kit of working tools is lost by reason of the failure of the Contractor to provide such a secure place, or fire, floods, or theft involving forcible entry while in a secure place designated by the Contractor, the Contractor shall reimburse such Heavy Duty Equipment Repairman for any such loss over fifty dollars (\$50.00). In order to obtain the benefits of this Section a Heavy Duty Equipment Repairman must provide the Contractor with an inventory of his/her tools at the time the Employee commences work and an additional inventory once annually and the Contractor must approve such inventory. The Heavy Duty Equipment Repairman's tools shall be subject to periodic check by the Contractor and/or the Contractor's authorized representative.

**16.02.02** *Heavy Duty Equipment Repairmen.* Shall furnish their own tools, but special tools shall be furnished by the Contractor as needed, such as: Pin Presses, Spanner Wrenches, Air or Electric Wrenches, testing and measuring devices other than a hand rule, Gear and Bearing Pullers, Electric Drills, Reamers, Taps and Dies, Oxy-acetylene Hoses, Gauges, Torches and Tips, twenty-four-inch Pipe Wrenches or Socket Wrenches, and Sockets requiring over three-quarter-inch drive.

**16.02.03** If a Heavy Duty Equipment Repairman has lost his/her working tools by reason of fire or theft by forcible entry as referenced in Section 16.02.01, and the Contractor does not allow the Heavy Duty Equipment Repairman to work without such tools or any part of them, then the Contractor shall allow such Heavy Duty Equipment Repairman a reasonable amount of paid time during working hours to obtain replacement tools. Failure thereupon or failure on the part of the Heavy Duty Equipment Repairman for any other reason to have the required tools on the job shall subject him/her to discipline including discharge.

**16.02.04** All power tools and their accessories as required by the Contractor shall be supplied by the Contractor.

**16.02.05** There shall be no restrictions on the full use of tools or equipment and no rule, custom, or practice shall be permitted that limits production or increase the time or number of Employees required to do any work.

**16.03.00 Safety And Protective Devices.**

**16.03.01** Except for construction hard hats and footwear which each Employee shall secure on his/her own as part of the tools of his/her trade, the Contractor shall furnish all other safety and protective equipment as may be required by applicable State and/or Federal safety regulations for the work being performed.

**16.03.02** Where a special type or color of hardhat is required either by State or Federal safety regulations or by the Contractor, said the special color of hardhat shall be supplied by the Contractor.

**16.03.03** Employees shall use and shall properly care for and maintain such safety and health equipment as is issued or assigned to them, and they shall return same to the Contractor upon completion of its use.

**16.03.04** Safety and health equipment which is new or has previously been issued to an Employee and returned to the Contractor shall be inspected by the Contractor and/or a representative of said Contractor prior to its reissuance to another Employee to insure the integrity of said equipment.

**16.03.05** When respirators are used, the Contractor shall provide an adequate supply of proper replacement filters on hand at the jobsite at which such respirators shall be used, and said Contractor shall sanitize respirators prior to their reissuance to another Employee.

**16.03.06** The Contractor shall conduct safety meetings a minimum of once a month for all Employees covered hereunder and may be attended by a representative of the Union. Additionally, safety meetings shall also be held the day after a fatality occurs on the jobsite. Such mandatory meetings will be conducted on paid time. Attendance at such meetings is mandatory, and Employees who do not attend may be subject to disciplinary action.

**16.03.07** For jobs on elevations exceeding six thousand five hundred (6,500) feet and the weather requires it, the Contractor shall supply suitable over clothing to all Employees working at that elevation.

**16.03.08** The Contractor agrees to provide and maintain safe-working conditions for each Employee covered hereby in accordance with Federal and State safety and health laws and regulations.

**16.03.09** Employees shall perform their duties in such a manner as to promote safe and efficient operation of each particular duty and of any job as a whole.

**16.03.10** In cases involving severe accidents which required an ambulance or hospitalization, the Contractor shall notify the Union as soon as possible but no later than one (1) working day (Monday through Friday) after the accident occurred.

**16.03.11** A copy of any accident report(s) required by the State of Hawaii or Federal Government to be completed by the Contractor shall be made available by the Contractor to the Union upon request by the Union.

**16.03.12** As required by the State of Hawaii's Occupational Safety and Health standards, the Contractor will provide and maintain adequate first aid equipment on each job. The Contractor shall also arrange for adequate and prompt medical attention in case of injury. This may be accomplished by:

- (a) on-the-job facilities or proper equipment for prompt transportation of injured Employees to a physician, or
- (b) a communication system for contacting a doctor or ambulance or a combination of these that will avoid unnecessary delay in treatment.

**16.03.13** As required under the State of Hawaii's Occupational Safety and Health standards, suitable, adequate, and sanitary toilet facilities shall be provided on all jobs. The facilities shall be serviced and maintained on a regular basis and shall be located in a readily accessible area which should not interfere with active project operations.

**16.03.14** No Employee shall be required to perform jobsite work after sunset or before sunrise unless another Employee accompanies the Employee, except Service Truck Operators.

**16.03.15** Employees shall not be required to operate or to work with or about equipment which has been found unsafe by an authorized representative of the State of Hawaii Division of Occupational Safety and Health. An Employee who believes that his/her equipment is unsafe shall immediately report the situation to the Contractor. If the Contractor determines the equipment is safe to operate but the Employee still disagrees, the Union Business Agent shall be called in and a joint determination shall be made on the safety of the equipment. No Employee shall be required to operate a piece of equipment that the Employee and the Business Agent believes to be unsafe. This provision is for the safety of the Employee and is not to be used as a method to harass the Contractor. If an Employee refuses to operate a piece of equipment and the equipment is subsequently found to be safe by an appropriate official, the Contractor shall have the right to file a grievance with the State Joint Board and seek appropriate payment for all losses plus twenty-five percent (25%) of the total amount as liquidated damages for the damages suffered by the Contractor.

**16.03.16** The Union agrees on behalf of itself and each Employee covered hereby that Employees shall use the provided health and safety equipment. Employees' proper use of safety and health equipment issued by the Contractor shall be mandatory, and failure to do so will be cause for disciplinary action (including discharge).

**16.04.00** *No Piece Work, Contract Work, Or Moonlighting.*

**16.04.01** *No Piece Work Or Contract Work.*

- (1) No Employee shall perform work covered by this Agreement on a "piece-work" or contract basis, nor shall any Employee perform work within the jurisdiction of this Agreement except as an Employee of the Contractor.
- (2) No Contractor shall allow any Employee to perform work covered by this Agreement on a "piece-work" or contract basis, nor shall any Contractor allow any Employee to perform work within the jurisdiction of this Agreement except as an Employee covered by this Agreement.

**16.04.02** *No Moonlighting.*

- (1) No Employee covered by this Agreement shall do any moonlighting of work covered by this Agreement.
- (2) No Contractor shall allow any moonlighting of work to be done for him/her.
- (3) For purposes of this Section, "moonlighting" shall be defined as an Employee performing work covered by this Agreement, with or without compensation, after hours, on weekends or holidays, or during periods of vacation for someone other than the Contractor by whom he/she is employed, without the specific knowledge and approval of said Contractor and the Union.

**16.04.03** *Violations Of This Subsection.*

- (1) Each occurrence of an alleged violation of Sections 16.04.01 and/or 16.04.02, above, by either a Contractor signatory to this Agreement or an Employee covered under this Agreement shall be processed under Section 23.03.00, *Grievance Subject To An Expedited Hearing*. Should the State Joint Board find that a violation of Sections 16.04.01 and/or 16.04.02 has in fact occurred, the violator shall be subject to the following fines:

First (1 <sup>st</sup> ) Offense.....	A fine of \$ 500.00
Second (2 <sup>nd</sup> ) Offense.....	A fine of \$1,000.00
Third (3 <sup>rd</sup> ) Offense and Thereafter.....	A fine of \$1,500.00

- (2) An Employee found to be in violation of Sections 16.04.01 and/or 16.04.02 above, may, in addition to the aforementioned fines, be subject to the provisions of Section 09.00.00, *Discipline Or Discharge* by the Contractor for whom such Employee is working.

**16.05.00** *Clean-Up Time And Tool Pick-Up Time.* Heavy Duty Equipment Repairmen and/or the Registered Apprentices servicing same shall be entitled to a tool pick-up time before the end of each shift, which shall not be less than five minutes or more than ten minutes.

**17.00.00** *PRE-JOB CONFERENCE*

**17.01.00** Upon the request of either party, a Pre-Job Conference will be held prior to the start of work on any job or project where the estimated or agreed-upon price to be paid to the Contractor for work covered by this Agreement is five million dollars (\$5,000,000) or more.

**17.02.00** All understandings reached at such Pre-Job Conference shall be within the scope and terms of this Agreement and shall be reduced to writing and signed by the Contractor and the Union.

**18.00.00** *TRANSPORTATION*

**18.01.00** *Transportation.*

**18.01.01** Employees covered by this Agreement shall report to work at their scheduled starting point (either the Contractor's shop, permanent yard, staging area, or the jobsite as scheduled by and at the Contractor's option) and shall be ready to begin work at their scheduled starting time.

**18.01.02** For Employees who are scheduled to report to a jobsite for which public transportation is not conveniently available (bus runs less than once every thirty minutes during hours of going to and returning from work and discharges passengers more than two thousand (2,000) feet from the project), the Contractor will, as a convenience to said Employees, provide suitable transportation from the Contractor's shop, permanent yard, staging

area or other central convenient pickup points en route to the jobsite to those Employees who wish to avail themselves of it. Such transportation will leave the Contractor's shop, permanent yard/staging area/pickup points in sufficient time to permit said transportation to arrive at the jobsite in time for Employees to start work at their scheduled starting time.

**18.01.03** Time traveled from the Contractor's shop/permanent yard/staging area/pickup points to the jobsite shall not be considered as time worked and shall not be included as part of the eight (8) hour workday, except for the driver.

**18.01.04** Transportation from the jobsite back to the Contractor's shop/permanent yard/staging area/pickup points will also be furnished by the Contractor to those Employees who wish to avail themselves of it. Time traveled in returning to the Contractor's shop/permanent yard/staging area/pickup points will not be considered as time worked, nor shall it be included as part of the eight (8) hour workday, except for the driver.

**18.01.05** Time spent outside of an Employee's regularly scheduled eight (8) hour workday as the driver of the Contractor's trucks and/or other vehicles used in providing the aforementioned transportation from the Contractor's shop/permanent yard/staging area/pickup points to the jobsite and from the jobsite back to the Contractor's shop/permanent yard/staging area/pickup points shall be paid for at said Employee's applicable rate of pay. Such "driving time," however, shall not be considered as hours worked for purposes of making Contractor contributions to the various Trust and other Funds as provided for in this Agreement.

**18.01.06** Employees who wish to avail themselves of the aforementioned transportation shall so notify the Contractor in sufficient time for said Contractor to make necessary arrangements.

**18.01.07** If the Contractor does not provide suitable transportation available from the his/her shop/permanent yard/staging area/pickup points to the jobsite pursuant to the provisions of Sections 18.01.02 and 18.01.04, above, then the Employee or Employees who drive their own vehicles to the jobsite will be entitled to a mileage allowance of thirty-four and one-half cents (34.5¢) per mile for miles traveled to the jobsite, computed from the Employee's home or from the Contractor's shop/permanent yard, whichever distance is shorter. If during the term of this Agreement the U. S. Internal Revenue Service (I.R.S.) increases the allowable mileage allowance above the thirty-four and one-half cents (34.5¢) per mile, then the mileage allowance provided above shall be increased by the same amount as the I.R.S. increase effective as of the first Monday of the second month following the date on which the I.R.S.'s announcement of the increase is published in the Federal Register.

**18.01.08** Any question as to whether the Contractor is or is not meeting the requirements of this Section 18.00.00 *Transportation* shall be processed and determined through the grievance procedure as provided under Section 23.00.00, *Grievance Procedure And Arbitration*.

**18.02.00** *Bad Road Transportation.* At or within a job or project, where the access road to where the work is to be performed is unsuitable and no parking facilities are provided within a five (5) minute walk to said work area, the Contractor will transport the Employee(s) from the parking area to and from where the work is being performed.

**18.03.00** *Other.*

**18.03.01** When the Contractor transports Employees between the Contractor's yard and jobsite, or between jobsites, or within a jobsite, or to and from power lines or pipelines, said Contractor shall provide safe (as required by law) and suitable transportation.

**18.03.02** No Employee shall be required to furnish transportation between the Contractor's yard and jobsite, or between jobsites, or within a jobsite, or to and from power lines or pipelines to transport the Contractor's tools, materials, equipment, or personnel, or for any other purpose as a condition of employment.

**18.04.00** *Applicable To The Islands Of Hawaii and Maui.* When an Employee is to report to a job or project which is located more than ten (10) miles from the reference points listed below, the Contractor shall either provide safe (as required by law) and suitable transportation which Employees may accept or refuse at pickup spots which will be designated en route from the Contractor's permanent yard (from the Union's office if there is no permanent yard) to the jobsite in sufficient time to permit said transportation to arrive at the site in time for the Employees to

start work at the normal starting time or, if transportation is not provided, the Contractor shall pay a round-trip mileage allowance of thirty-four and one-half cents (34.5¢) per mile for each road mile the job or project is located outside the ten (10) mile radius from the reference point listed below. If, during the term of this Agreement, the U.S. Internal Revenue Service (IRS) increases the allowable mileage allowance above the current thirty-four and one-half cents (34.5¢) per mile, then the mileage allowance provided above shall be increased by the same amount as the IRS increase effective as of the first Monday of the second month following the date on which the I.R.S.'s announcement of the increase is first published in the Federal Register. The reference point used for mileage calculation will be that point closest to the job or project site:

<u>Island</u>	<u>Reference Point</u>
Hawaii	Hilo Post Office
Hawaii	Kailua-Kona Post Office
Maui	Kahului Post Office

(Reference maps which delineates the ten (10) mile radius from the reference points listed above are available at the Union's dispatching office on each island. Contractors can obtain such maps through the Hawaii Employers Council.)

**19.00.00      *PARKING EXPENSES***

**19.01.00**      If there is no free parking available within two thousand (2,000) feet of said jobsite, then the Contractor shall reimburse Employees at the lowest parking rate available within said two thousand (2,000) foot area, provided that the Employee presents a signed and dated receipt for each parking expenditure. The Contractor, may, however, at his/her option, furnish transportation from a designated parking area where parking is free to and from the jobsite, rather than reimburse the Employees for such parking expenditure.

**19.02.00**      In the event receipts are not available for parking expenses, the Union and the Contractor shall meet prior to the commencement of the project to work out alternative, mutually agreed provisions to take care of parking expenses. It was also agreed that suitable parking means that Employees should have appropriate ingress and egress from such parking when completing work.

**20.00.00      *SUBSISTENCE AND TRAVEL***

**20.01.00      *Subsistence And Travel.***

**20.01.01**      When an Employee is required to leave the island on which he/she resides to report to work on a neighbor island project, the Contractor will provide transportation to and from said island.

**20.01.02**      Employees shall be reimbursed for travel expenses as approved by the Contractor which are incidental to the trip.

**20.01.03**      While traveling to and from said island on a regular workday, the Employee will receive his/her regular straight time rate of pay not to exceed eight (8) hours in any one twenty-four (24) hour period, including time worked. If work is not provided for the Employee at the time of his/her arrival at his/her destination, he/she shall nevertheless be paid eight (8) straight time hours.

**20.01.04**      If required by the Contractor to travel to and from said island on a non-work day, the Employee shall receive a minimum of two (2) hours' pay at one-and-one-half (1 ½) times his/her regular straight time rate of pay.

**20.01.05**      Transportation of any personal baggage (exclusive of tools required by the Contractor) in excess of the weight and size that is included in the normal fare shall be paid for by the Employee, unless he/she receives express permission from the Contractor to take excess baggage.

**20.01.06**      If an Employee is required to remain on the neighbor island for one (1) calendar week or less, the Contractor shall make arrangements to provide for meals and lodging of good quality (no more than two (2) persons to a room\*) at facilities designated by the Contractor. The Employee may, however, request to receive either a meal allowance or subsistence allowance in the same manner as specified in Section 20.01.07, Paragraphs (2) and (3),

below, in lieu of the arrangements offered by the Contractor. If an Employee wishes to exercise this option, the Employee must indicate his/her choice at the time he/she is notified of neighbor island travel and must sign an appropriate form. The determination of whether to provide meals and lodging or the applicable allowance rests with the Contractor.

**20.01.07** If the Employee is required to remain on the neighbor island for more than one (1) calendar week, the Contractor shall be required to provide either:

- (1) meals and lodging of good quality (no more than two [2] persons per room\*), OR
- (2) lodging of good quality (no more than two [2] persons per room\*) plus pay a meal allowance in the following amount:

\$26.00	—	Effective September 2, 2002
\$28.00	—	Effective September 1, 2003
\$31.00	—	Effective August 30, 2004
\$31.00	—	Effective August 29, 2005
\$31.00	—	Effective September 4, 2006

- (3) OR, pay a subsistence allowance in the following amount:

\$47.50	—	Effective September 2, 2002
\$49.50	—	Effective September 1, 2003
\$52.50	—	Effective August 30, 2004
\$52.50	—	Effective August 29, 2005
\$52.50	—	Effective September 4, 2006

\*The term "room" as used in Section 20.01.07, Paragraphs (2) and (3), above shall NOT include the living room, but shall include an enclosed den which may be used by one Employee provided it affords the same degree of privacy as a bedroom.

**20.02.00** Except as provided in Section 20.02.01, immediately below, the Employee may request to receive a subsistence allowance as specified in Section 20.01.07, Paragraph (3), above, in lieu of meals and lodging to be provided by the Contractor. If an Employee wishes to exercise this option, the Employee must give the Contractor advance written notice.

**20.02.01** Where a camp set-up which meets County and State Department of Health standards is being made available, the Employee must utilize those facilities. If the Employee does not, he/she shall not be entitled to any meal allowance or subsistence allowance. A Camp Committee shall be established with representatives from each trade to set-up camp rules and to coordinate recreational and/or other activities.

**20.02.02** Meals and lodging or the applicable allowance, as the case may be, shall be provided for seven (7) days a week; provided, however, that an Employee who is absent from work without the approval of the Contractor shall pay the applicable subsistence allowance as specified above for the cost of meals and lodging or shall have the applicable allowance deducted from his/her meal allowance pay or subsistence allowance pay, as the case may be, for each day of absence.

**20.02.03** Meals and lodging or the applicable allowance, as the case may be, shall automatically cease in the event the Employee refuses to work, or is suspended or discharged for cause prior to the completion of the work project. If an Employee is suspended or discharged for cause (including failure to pay Union dues), the Contractor will not pay or reimburse the Employee for his/her return transportation, and for the return travel time. Unless determined under the Grievance Procedure to have been a "constructive discharge," an Employee who quits or otherwise refuses to work shall pay his/her own return transportation and shall also not be paid for return travel time.

**20.02.04** In the event of death or serious illness or injury involving an Employee's immediate family (spouse, child, brother, sister, parents, mother-in-law, or father-in-law), the Contractor shall pay for the cost of an Employee's return transportation to his/her home island.

**20.02.05** In the event an Employee is injured or becomes ill and a duly licensed medical physician certifies that said Employee's condition requires that he/she be returned to his/her home island, the Contractor shall pay for the cost of said return transportation. This shall not apply, however, to an Employee whose injury or illness is caused by his/her own misconduct while off duty.

**20.02.06** This Section shall not apply to bona fide residents of the Island on which the work is being performed.

**20.03.00** *Application Of Subsistence To Bona Fide Residents Of Neighbor Islands Who Are Required By Contractor To Live Away From Home On The Same Island.*

**20.03.01** When an Employee who is a bona fide resident of any Neighbor Island is required by the Contractor to live away from home elsewhere on the same Island for one (1) calendar week or less, the Contractor shall make arrangements to provide for meals and lodging of good quality (no more than two (2) persons to a room\*) at facilities designated by the Contractor. The Employee may, however, request to receive either a meal allowance or subsistence allowance in the same manner as specified in Section 20.01.07, Paragraphs (2) and (3), above, in lieu of the arrangements offered by the Contractor. If an Employee wishes to exercise this option, the Employee must indicate his/her choice at the time he/she is notified of the travel requirements and must sign an appropriate form. The determination of whether to provide meals and lodging or the applicable allowance rests with the Contractor.

**20.03.02** If an Employee who is a bona fide resident of any Neighbor Island is required by the Contractor to live away from home elsewhere on the same Island for more than one (1) calendar week, the Contractor shall be required to provide either:

- (1) meals and lodging of good quality (no more than two [2] persons per room\*), OR
- (2) lodging of good quality (no more than two [2] persons per room\*) plus pay a meal allowance in the same amount as specified in Section 20.01.07, Paragraph (2), above, OR
- (3) pay a subsistence allowance in the same manner as specified in Section 20.01.07, Paragraph (3), above.

\*The term "room" as used in Section 20.01.07, Paragraphs (2) and (3), above, shall NOT include the living room, but shall include an enclosed den which may be used by one Employee provided it affords the same degree of privacy as a bedroom.

**20.03.03** Except as provided in Section 20.03.04; immediately below, the Employee may request to receive a subsistence allowance as specified in 20.01.07, Paragraph (3), above, in lieu of meals and lodging to be provided by the Contractor. If an Employee wishes to exercise this option, the Employee must give the Contractor advance written notice.

**20.03.04** Where a camp set-up which meets County and State Department of Health standards is being made available, the Employee must utilize those facilities. If the Employee does not, he/she shall not be entitled to any meal allowance or subsistence allowance. A Camp Committee shall be established with representatives from each trade to set-up camp rules and to coordinate recreational and/or other activities.

**20.03.05** Such meals and lodging or the applicable allowance, as the case may be, shall be provided for five (5) days a week, provided, however, that where said Employee is required by the Contractor to work a six (6)- or seven (7)-day workweek, said Employee shall receive meals and lodging or the applicable allowance, as the case may be, for said six (6) or seven (7) days. Where the work is scheduled by the Contractor on the basis of four (4) nine (9)-hour days (Monday through Thursday) plus four (4) hours on Friday, then meals and lodging or the applicable allowance, as the case may be, shall be provided for four (4) days (Monday through Thursday) plus fifty percent (50%) of the meal allowance amount specified in Section 20.01.07, Paragraph (2), above, to cover the Employee's breakfast and lunch on Friday.

**20.03.06** If the Employee requires transportation in returning to and from home for the weekend, the Contractor will provide or arrange for said transportation.

**20.03.07** An Employee absent from work without the approval of the Contractor shall pay or shall have the applicable allowance deducted from his/her meal allowance pay or subsistence allowance pay, as the case may be, for each day of absence.

**20.03.08** Such meals and lodging or the applicable allowance, as the case may be, shall automatically cease in the event the Employee quits, refuses to work, or is suspended or discharged for cause prior to the completion of the work project.

**21.00.00 ACCESS TO COMPANY PREMISES**

**21.01.00** The Business Representatives of the Union shall have access to the Contractor's jobsites for purposes of investigating grievances that have arisen and ascertaining whether or not this Agreement is being observed. Such representatives shall make every reasonable effort to advise the project superintendent or such project superintendent's authorized representative of the Business Representative's presence on the project, and the Contractor shall assist the Business Representative in securing identification badges, security clearances, or other entry identification for projects located on or within airports, prisons, military bases, etc., when required. Such visits shall be exercised reasonably and shall not interfere with the conduct of the Contractor's operations or cause Employees to neglect their work.

**22.00.00 UNION JOB STEWARD**

**22.01.00** The Union may select a Job Steward for each Contractor covered by this Agreement. Where the number and/or location of a Contractor's projects makes it appropriate, the Union may appoint additional Job Stewards. The Union shall give written notice to the Contractor of the name(s) of the Job Steward(s) so selected. Said Job Steward(s) shall be given reasonable time during working hours to perform his/her duties as set forth in Section 22.02.00, below. On the islands of Kauai, Molokai and Lanai the Union may also select an Island Job Steward. The Island Job Steward shall not perform his/her duties pertaining to Union business involving other Contractors during work time of his/her Contractor.

**22.02.00** The duties of the Union Job Steward(s) shall be limited to and shall not exceed the following:

**22.02.01** Reporting of any violations or alleged violations of this Agreement to his/her Business Representative, and

**22.02.02** Reporting to his/her Business Representative of any Employee covered by this Agreement who, during his/her shift, leaves the jobsite without giving the Contractor prior notice.

**22.03.00** Said Union Job Steward(s) shall be allowed to attend and participate in grievance meetings held on the project on which he/she is working, and he/she shall suffer no loss of pay as a result of such participation.

**22.04.00** The Job Steward(s) shall not:

**22.04.01** Stop the Contractor's work for any reason.

**22.04.02** Tell any workers, or any Employee covered by this Agreement, that he/she cannot work on the job.

**22.04.03** Leave the project to which he/she has been assigned in order to perform his/her Job Steward(s) duties.

**22.05.00** Infraction of either of the three rules set forth in Section 22.04.00, above, shall be cause for immediate discharge of the Job Steward(s) without any prior notice to either the Job Steward(s) or the Union.

**22.06.00** The Contractor shall not discharge or discriminate against the Union Job Steward(s) or any other Employee for presenting a grievance or giving evidence with respect to an alleged violation of this Agreement. When the Union Job Steward(s) or any other Employee alleges a violation of this Agreement, the complaint will be processed as provided under Section 23.00.00, *Grievance Procedure And Arbitration*.

**22.07.00** It is recognized by the Contractor that the person appointed Job Steward(s) remain on the job as long as there is work available which he/she is qualified to perform. A Job Steward who is laid off from a project (and is not sent back to the Job Placement Center) shall be recalled before any other Employee on the same project if he/she is qualified to perform the work the Contractor needs to be performed.

**22.08.00** In the event the Union Job Steward(s) is to be laid off for lack of work, the Contractor shall notify the Union at least one (1) working day before the layoff is to be made.

**23.00.00** **GRIEVANCE PROCEDURE AND ARBITRATION**

**23.01.00** *General Provisions.*

**23.01.01** The term "grievance" as used in this Agreement shall mean:

- (1) a complaint filed by the Union or by any Employee covered by this Agreement alleging a violation of a specific provision of this Agreement, and
- (2) a complaint filed by any Contractor or by the Association (for itself or on behalf of any Contractor) alleging a violation of Section 08.00.00 *No Strike Or Lockout* or a refusal by the Union to refer Employees to the Contractor in accordance with the provisions of Section 26.00.00 *Referral, Hiring and Employment* to a Contractor who is not delinquent in the payment of Trust Fund or other financial obligations under this Agreement.

**23.01.02** The following shall not be subject to the Grievance Procedure or to Arbitration:

- (1) Those Trust Fund matters as set forth in Section 14.19.00 (*Application/ Non-Application* of Section 23.00.00),
- (2) Section 25.00.00, *Jurisdictional Disputes.*

**23.01.03** Except for grievances which are subject to an Expedited Hearing (as provided for under Section 23.03.00, below), grievances shall be presented to the Contractor (or to the Union, as the case may be) allegedly at fault within twenty (20) working days after the alleged violation occurred or first became known to the grieving party; provided, however, that in cases of discharge, the grievance shall be submitted within ten (10) working days of the discharge. Failure to so present the grievance shall be deemed as a waiver of remedy.

**23.01.04** If, however, the grievance involves nonpayment or partial payment of wages and/or nonpayment or partial payment of amounts due under Section 20.00.00, *Subsistence And Travel* and such nonpayment or partial payment was not raised as a grievance by reason of the promise of the Contractor to make full payment at a later date but which promise was not fulfilled, then said grievance shall be recognized.

**23.01.05** By mutual agreement of the parties, any step in the grievance procedure as hereinafter provided may be waived and/or any of the time limits within any step may be extended. Any such waiver and/or extension shall be confirmed in writing.

**23.01.06** Pertinent and relevant information in the possession of any party to the grievance which is needed by the other party to investigate and process a grievance shall be accessible to the requesting party within three (3) working days of the request for such information.

**23.02.00** *Grievance Procedure.* Except for grievances which are subject to an Expedited Hearing (as provided for in Section 23.03.00, below), the complainant shall follow the procedure hereinafter set forth in submitting the grievance and having it investigated and the merits thereof determined:

**23.02.01** *First (1<sup>st</sup>) Step (Jobsite Supervisor).* A grievance shall first be presented to the Jobsite Supervisor who has authority to review and adjust grievances.

**23.02.02** *Second (2<sup>nd</sup>) Step (Contractor's President/General Manager Or His/Her Authorized Representative).* If the matter is not settled through informal discussion between said Supervisor and the Union within three (3) working days after presentation to said Supervisor, the complainant, if he/she or it wishes to pursue the grievance further, shall submit it to the Contractor's President/General Manager or his/her authorized representative. Such submittal must be made in writing no later than five (5) working days after expiration of the initial three (3) working day period as specified above. Such written submittal shall specify the nature of the grievance, the specific Section(s) or provision(s) of the Agreement allegedly violated, and the remedy being sought. A copy of said submittal shall be sent to the respective Association(s), c/o Hawaii Employers Council.

**23.02.03**      *Third (3<sup>rd</sup>) Step (State Joint Board).*

- (1) If the matter is not settled through informal discussion between the Union and the Contractor's President/General Manager (or his/her authorized representative) within five (5) working days after receipt by said President/General Manager (or his/her authorized representative) of the aforementioned written presentation, the complainant, if he/she or it wishes to pursue the matter further, shall submit the grievance, as previously set forth in writing, to the State Joint Board. Such submittal to the State Joint Board must be made no later than five (5) working days after expiration of the five (5) working day period as specified above in which the Contractor's President/General Manager (or his/her authorized representative) has to review the grievance.
- (2) The State Joint Board shall convene within seven (7) working days after it receives the written submission of a grievance. The State Joint Board shall convene on the second Friday of each month at 9:30 a.m. at a mutually agreed place. All outstanding grievances at the State Joint Board level shall be heard at that time. If there are no outstanding grievances, the meeting shall be canceled. Expedited grievances, may, by mutual agreement be held until the regularly scheduled meeting time. Otherwise, special meetings shall be scheduled in accordance with the provisions of Section 23.03.00 Grievances Subject To An Expedited Hearing.
- (3) In the event a member of the State Joint Board (or his/her Company) is a party to the grievance, he/she shall be replaced by an Alternate.
- (4) The State Joint Board shall have three (3) working days from the date it convenes to arrive at a decision. Any decision made by the State Joint Board shall be reduced to writing and a copy thereof shall be transmitted to each of the parties involved. Any such decision shall be final and binding upon all parties and there shall be no right of appeal to that decision.
- (5) If, however, the Board is unable to arrive at a majority decision within three (3) working days from the date it convenes, then the complainant, if he/she or it wishes to pursue the grievance further, shall submit the grievance to arbitration as hereinafter provided. Notification of intent to present the grievance to arbitration must be made in writing within five (5) working days after receipt of the State Joint Board's report that it is unable to render a decision.

**23.02.04**      *Fourth (4<sup>th</sup>) Step (Arbitration).*

- (1) Within three (3) working days after receipt of the aforementioned written notification of intent to arbitrate, an authorized representative of the Association and an authorized representative of the Union shall confer to mutually select an Arbitrator. If the aforementioned representatives of the Union and the Association are unable to mutually agree on the name of an Arbitrator within the aforementioned three (3) working day period, then the Arbitrator shall be selected from amongst the following five persons: Ted Tsukiyama, Thomas Angelo and Edward Parnell plus two others (one to be named by the Union and one to be named by the Association). From that list, one Arbitrator shall be chosen as follows: the Union and the Association shall each strike two names from said list, each striking alternately, the first to strike to be determined by lot. The Arbitrator whose name remains shall serve in the case.
- (2) All decisions of the Arbitrator shall be limited expressly to the terms and provisions of this Agreement, and in no event may the terms and provisions of this Agreement be altered, amended, or modified by the Arbitrator. The Arbitrator shall receive for his/her services such remuneration as, from time to time, shall be acceptable to him/her and agreed upon by the parties. All decisions of the Arbitrator shall be in writing, and a copy thereof shall be submitted to each of the parties hereto. All fees and expenses of the Arbitrator shall be borne equally by the Union and the Contractor. Each party shall bear the expenses of the presentation of its own case.
- (3) All decisions of the Arbitrator under this Section 23.00.00 shall be final and binding upon the parties.
- (4) The retroactive application of any remedy of the Arbitrator shall be limited to twenty (20) working days from the time the Contractor had notice of the grievance; provided, however, that in grievances involving the situation mentioned in Section 23.01.04, above, the Arbitrator is empowered to grant full restitution of unpaid

amounts, subject, of course, to the applicable State of Hawaii Statute Of Limitations. In cases involving suspensions or discharge, if the Arbitrator finds that a discharge or suspension was not for just cause, such discharge or suspension may be set aside, reduced, or otherwise changed by the Arbitrator. If the penalty is set aside, reduced, or otherwise changed, the Arbitrator, may at his/her discretion, award back pay to compensate the Employee, wholly or partially, for any wages (including Contractor payments to the various Trust and other Funds as provided in this Agreement) lost because of the discharge or suspension. If a back pay award is made, wages received from any other employment or any sums received as unemployment compensation while the discharge or suspension was in effect shall be deducted by the Arbitrator in determining the amount of the award.

**23.03.00** *Grievances Subject To An Expedited Hearing.*

**23.03.01** The following grievances shall be subject to an Expedited Hearing:

- (1) a complaint filed by the Union alleging a violation of Section 08.00.00, *No Strike Or Lockout*, Section 06.00.00, *Work Preservation*, and
- (2) a complaint filed by a Contractor or by the Association (for itself or on behalf of any Contractor) alleging a violation of Section 08.00.00, *No Strike Or Lockout* or a refusal by the Union to refer Employees to the Contractor in accordance with the provisions of Section 26.00.00, *Referral, Hiring and Employment* to a Contractor who is not delinquent in the payment of Trust Fund or other financial obligations under this Agreement.

**23.03.02** Grievances subject to an Expedited Hearing may, at the complainant's option, be submitted directly to the State Joint Board. Such submittal to the State Joint Board shall be made in writing and must be submitted within twenty (20) working days after the alleged violation occurred or first became known to the complainant. Said written submittal shall specify the nature of the grievance, the specific Section(s) or provision(s) of the Agreement allegedly violated, and the remedy being sought.

**23.03.03** The State Joint Board shall convene within two (2) working days after it receives the aforementioned written submittal.

**24.00.00** *STATE JOINT BOARD*

**24.01.00** *Appointment Of Representatives.*

**24.01.01** There is hereby established a State Joint Board (hereinafter referred to as "Joint Board" and/or "Board") to be composed of:

- (1) three (3) persons appointed by the Union, and
- (2) three (3) persons appointed by the Associations for and on behalf of the Contractors covered hereby.

**24.01.02** Alternates may be selected by each of the appointing parties to serve when regular members are or will be absent.

**24.02.00** *Scope and Authority.*

**24.02.01** The State Joint Board shall have the authority:

- (1) to review, hear, and make decisions on grievances submitted to the Board pursuant to the provisions of Section 23.00.00, *Grievance Procedure And Arbitration*, and
- (2) to review and make recommendations with respect to problem areas or other matters of mutual concern that are referred to it, or which it takes upon its own volition, and

- (3) in the case of complaints, problems, and/or allegations that a Contractor has misused or abused the provisions of Sections 12.01.08 and 12.01.09 (relating to the scheduling of a workweek of other than five (5) eight (8) hour days), the Board shall, on a Contractor's second upheld charge before the Board involving the same or similar matter, be empowered to impose a fine or other penalty on said Contractor, including an order that said Contractor pay the applicable overtime rate to the Employees affected for the work performed. If a fine is imposed, it shall be paid as set forth in Paragraph 4, below.
- (4) In the case of grievances subject to an Expedited Hearing, namely: alleged violation of any of the provisions listed in Section 23.03.00, *Grievances Subject to An Expedited Hearing*, to impose a fine or other penalty (the amount of which shall be reasonably related to the nature and extent of the violation) on the Contractor, the Union, or any Employee who was found to have violated the specified Sections indicated, unless the violation was caused by reasons beyond the control of the party found to be in violation. If imposed, any such fine or penalty shall be paid to the Apprenticeship Fund.

**24.02.02** It is specifically understood and agreed that all decisions and recommendations of the Joint Board shall be within the scope of this Agreement, and that said Joint Board shall not have authority to alter, amend, or modify the terms of this Agreement in any way. Should a problem arise in which the Joint Board recommends that the Agreement be amended, said recommendation will be referred to the Union and the Association for review and appropriate action.

**24.03.00** *Rules Of Procedures.* Except as herein provided, the Joint Board shall determine its own rules of procedure and all other details necessary to carry out the business for which it was appointed.

**24.04.00** *Quorum.*

**24.04.01** A quorum at any meeting of the Joint Board shall consist of at least two (2) Union Board members and two (2) Contractor Board members. Unless a quorum is present, no business shall be transacted.

**24.04.02** The Board may act in writing without a meeting upon any matter which may properly come before it, provided such action has the affirmative concurrence in writing of at least two (2) Contractor Board members and two (2) Union Board members, and provided further that a copy of such written concurrence shall be forthwith mailed to each non-participating Board member.

**24.05.00** *Voting.*

**24.05.01** A quorum being present, all matters coming before the Joint Board for consideration shall be decided by a majority vote of the Board members and/or Alternates present and eligible to vote. If any member of the Board requests it, said voting shall be conducted by secret ballot.

**24.05.02** It is understood that the number of Board members eligible to vote shall be governed by the lesser number of Contractor or Union Board members present so that the total number of votes cast by the Contractor members may not exceed the total number of votes cast by the Union members and vice versa.

**24.06.00** *Rights Of Board.* The Board may summon, question, and examine any party to this Agreement, or their representatives or agents, in connection with any question or matter over which the Joint Board may act. The Joint Board may also have the books and accounts of any party covered by or signatory to this Agreement examined by an independent certified public accountant as to payroll records, payments made to Employees covered by this Agreement, and payment of fringe benefits.

**24.07.00** *Expenses.* Each party shall bear the costs and expenses of its own representatives to the Joint Board. All expenses which are incurred by the Joint Board shall be divided equally between the parties.

**24.08.00** *Matter Involving Non-Association Contractor Signatory To This Agreement.* In the event a matter is presented to the Joint Board involving a Contractor who is not a member of the Association, but who is signatory to this Agreement or its counterpart, then and in that event, such Contractor, upon receipt of notice by Certified Mail, may elect to designate one representative to serve as a member of the Joint Board in lieu of one of the regularly designated representatives. Such Non-Association Contractor shall have the right to be present or to be represented at the meeting or meetings during which this matter is to be heard and shall have the right to present evidence and

testimony on his/her behalf. In the event such Contractor fails or refuses to designate a representative to serve as a member of the Board or fails or refuses to appear at the scheduled meetings, then in that event the Joint Board, as regularly constituted, may proceed in the same manner as if the Contractor were present and represented as herein prescribed.

**24.09.00**      *Limitation of Liability.* No member of the State Joint Board shall be liable to anyone (including the parties hereto, any Contractor signatory to this Agreement, any Employee covered by this Agreement, any other Unions or Associations, or any other person, firm, corporation, or other entity) as a result of decisions or acts made in the performance of his/her duty under this Agreement.

**25.00.00**      ***JURISDICTIONAL DISPUTES***

**25.01.00**      The parties hereto agree that there shall be no lockout by the Contractor, nor any strike, stoppage of work, or slowdown on the part of the Union or its representatives or on the part of any Employee covered by this Agreement over jurisdictional disputes.

**25.02.00**      In the event a jurisdictional dispute over any work being performed or to be performed and involving any union, the Union, the Contractor, the Association, and the other union or unions involved shall meet within three (3) working days of the date of the dispute first coming to the attention of any of the parties hereto to amicably resolve the dispute.

**25.03.00**      If the parties aforementioned cannot or do not resolve said dispute within two (2) working days after the aforesaid meeting, then the dispute will be referred to the respective International Unions for resolution. Any determination and decision as made by said International Unions shall be reduced to writing and signed by their respective Presidents or other authorized representatives. The Contractor and the Union shall be and are bound by such determination and decision and shall promptly comply with it. The Contractor shall promptly correct the misassignment, if any is found.

**25.04.00**      In the interim period during which the dispute is sought to be resolved, the work shall proceed as originally assigned by the Contractor and shall continue until a final settlement or adjudication is rendered. Should the dispute have the effect of slowing down or stopping any part of the Contractor's work, the Contractor shall be free to exercise any appropriate course of action (including the initiation of proceedings with the National Labor Relations Board) to settle the dispute and restrain those who are responsible for the job disruption and nothing in this Agreement or in this Section shall be deemed as a condition precedent to any such action that the Contractor would be lawfully entitled to take.

**25.05.00**      In the implementation of any decision that is made pursuant to this Section, the parties recognize that the awarded work, by itself, may not efficiently and productively involve a full day's work. In such instances, where the work has been awarded to the Union and an Employee is assigned to perform that work, said Employee shall also be assigned to perform other work by the Contractor so that said Employee will be efficiently and productively employed on full-day basis and said Employee shall within the scope of this Agreement perform all work assigned him/her.

**26.00.00**      ***REFERRAL, HIRING AND EMPLOYMENT***

**26.01.00**      *Notification Of Employee Termination And/Or Recalls.*

**26.01.01**      The Contractor shall notify the applicable Job Placement Center (Honolulu) on a Form supplied by the Job Placement Center of the names of Employees who have been recalled, or who have quit, been laid off for lack of work, or otherwise terminated during the week.

**26.01.02**      Such Form shall be mailed to the applicable Job Placement Center not later than Monday of the week following the week in which such action was taken.

**26.01.03**      In the case of quits and other terminations, the Contractor shall indicate on the Form the reason(s) for termination (i.e., quit, reduction in force, termination of job, discharged for cause, not qualified, etc.) and also whether the Employee is eligible for rehire.

**26.01.04** Any person or Employee who, in any one twelve (12) month period, is terminated by three (3) different Contractors by reason of not being qualified on the particular piece of equipment for which he/she is dispatched, shall not be eligible to sign the out-of-work list for a period of one (1) year unless he/she satisfactorily completes a course of training as directed by the Joint Apprenticeship Committee. Said person or Employee shall be entitled to a fair and impartial hearing before the Joint Apprenticeship Committee before implementation of the above action; and if he/she requests it, he/she shall also have the right to process the matter under the provisions of Section 24.00.00, *State Joint Board* of this Agreement.

**26.02.00** *Referral And Hiring.*

**26.02.01** All hiring shall be subject to and be in accordance with the Job Placement Regulations of this Agreement as set forth in Exhibit "A," attached hereto and made a part hereof. Any person or Employee who is not hired in accordance with said Job Placement Regulations shall be subject to immediate termination of employment.

**26.02.02** When making requests to the Job Placement Center, the Contractor will provide all information as is necessary for the Job Placement Center to fully complete the dispatch slip, including the classification code number and make and model of the equipment to be operated. Any applicant for employment so dispatched who does not possess the qualifications to perform the work for which he/she is dispatched shall not be eligible for show-up pay.

**26.02.03** No Employee shall, as a condition of employment, be required to sign any form relating to his/her medical history unless required by law or government regulation.

**26.03.00** *Transfer Of Employees.*

**26.03.01** No Employee shall be transferred from one Contractor's payroll to another Contractor's payroll except in accordance with the Job Placement Regulations.

**26.03.02** When a Contractor transfers a crew consisting of a Foreman and Employees from one Job Placement Center area to another, such contractor shall notify the Job Placement Center involved within twenty-four (24) hours of such transfer. This Section shall not apply to Employees assigned to maintenance or repair work, or to transfers of five (5) working days duration or less.

**26.04.00** The Job Placement Center will dispatch only members who are U. S. citizens or aliens authorized to work in the United States. The Union will be responsible for complying with the provisions and procedures of the Immigration Reform and Control Act of 1986 (IRCA). The responsibilities and obligations of the Union are outlined in a letter from T. J. Stapleton, addressed to the General Contractors Labor Association dated May 14, 1987.

**27.00.00** *MANNING*

**27.01.00** *Assistant To Engineer.* The Employer may assign an Assistant to Engineer to operate equipment if the Assistant to Engineer is qualified. The Assistant to Engineer shall be paid the applicable rate of pay while operating the equipment and shall be paid the highest rate of pay for an entire shift. The Assistant to Engineer shall not displace any Journeyman Operator. No other Employee shall do the Assistant to Engineer's work while the Assistant to Engineer is operating equipment. The Employer shall not assign an Operating Engineer to perform the work of an Assistant to Engineer.

**27.02.00** *Assistance.* All equipment shall be manned as set forth in Section 01.00.00, *Wages and Classifications* of this Agreement. Whenever an Engineer requires any assistance in addition to that which is required under the aforementioned Section 01.00.00 said assistance shall be provided by an Employee covered by this Agreement.

**27.03.00** *Start-Up And Warm-Up Of Equipment.* Only an Employee covered by this Agreement shall start and warm up equipment.

**27.04.00** *Portable Asphalt Plant Crew (Jobsite).* A portable Asphalt Plant Crew shall consist of: (1) a Plant Engineer, (2) a Bunkerman, (3) a Fireman, (4) an Assistant To Engineer, and (5) where a crane is used, a Crane Operator. The Plant Engineer shall be in charge of the entire plant. In the case of an automatic asphalt plant, the minimum crew shall consist of a Plant Engineer and one (1) additional Employee.

**27.05.00** *Portable Concrete Batch Plants (Jobsite).* On a multiple concrete batch plant (regardless of power), the crew shall consist of one Group 8 Employee plus one Group 3 Employee.

**27.06.00** *Signals.* The necessity for the use of an Employee to give signals to Employees covered by this Agreement shall be determined by the Contractor. When used, he/she shall be an Employee covered by this Agreement, but not a Registered Apprentice.

**27.07.00** *Compressors, Pumps, Generators, And Welding Machines.*

**27.07.01** Where the number of compressors (excluding compressor house), pumps, generators, and welding machines, individually or collectively, operate, serviced, or maintained by the Contractor on any one (1) project exceeds eight (8), then the Contractor shall employ one Group 5 Employee to start, stop, service, maintain, and repair said "bank" of units.

**27.07.02** The use of an Employee to operate, service, and maintain a "bank" of less than nine (9) such units shall be determined by the Contractor. If an Employee is so employed, he/she shall be an Employee covered by this Agreement.

**27.08.00** *No Restrictions On Production.* There shall be no restrictions on the full use of tools or equipment and no rule, custom, or practice shall be permitted that limits production or increases the time or number of Employees required to do any work.

**27.09.00** *Transportation Of Self-Powered Equipment.* The transportation by means of its own power of equipment operated by Employees covered by this Agreement shall be performed by Employees covered by this Agreement.

**27.10.00** *Field Survey Work.*

**27.10.01** The classifications herein referred to shall apply only to Employees covered hereby regularly employed in field survey work, excluding Contractor, executive, administrative or supervisory personnel, professional or office engineering personnel, draftsmen, estimators, timekeepers, messengers, guards, clerical help or field office help, and excluding the use of survey instruments normally used by any other Employees in the performance of their duties.

**27.10.02** Licensed surveyors and the setting of control points, bench marks or property lines shall not be covered by this Agreement. All other on-site surveying work, except for building layout, performed by the Contractor, shall be performed by crews made up by Employees covered by this Agreement.

**27.10.03** For any field survey work beyond the direct control of the Contractor, the referred to classifications and conditions shall not apply. This Agreement shall also not apply to on-site work performed by commercial engineering, surveying or soil testing firms; provided, however, that when on-site work is performed by such firms on a subcontract basis under direct control of the Contractor, the provisions of Section 06.00.00, *Work Preservation* of this Agreement shall apply. This Agreement shall also not cover inspectors.

**27.10.04** The Union will cooperate with the Contractor in the placing of student engineering trainees, so long as it does not materially affect the normal employment of regular Employees.

**27.10.05** When an Instrument Man is required by the Contractor to work from drawings, plans or specifications without the direct supervision of a Party of Chief, he/she shall be paid at the Chief of Party rate.

**27.10.06** A party consisting of three (3) or more Employees shall include a Chief of Party.

**27.10.07** On a large project using several small parties and having a Chief of Party on the job site and in charge of the small parties, each small party shall have an Instrument Man or Chief of Party as one of the members of the small party.

**28.00.00** ***SPECIAL PROVISIONS COVERING FOREMEN, SHIFTERS, HEAVY DUTY REPAIR FOREMEN, AND MASTER MECHANICS***

**28.01.00** *General Provisions.* The provisions of this Section 28.00.00, to the extent that they may differ from any other provision of this Agreement, shall supersede and be controlling over such provision.

**28.02.00** *Number And Their Selection.* The Contractor shall employ a Shifter or Foreman to supervise its Employees when it employs six (6) or more Journeymen on a jobsite to operate individually manned pieces of earthmoving equipment including shovels (not individually manned), or individually manned pieces of equipment directly supplemental thereto or any combination thereof on a shift. The Contractor shall employ a Working Foreman to supervise its Employees when it employs three (3) to five (5) Journeymen on a jobsite to operate individually manned pieces of earthmoving equipment including shovels (not individually manned), or individually manned pieces of equipment directly supplemental thereto or any combination thereof on a shift.

**28.03.00** *Not Subject To Job Placement Regulations.* Foremen, Shifters, Heavy Duty Repair Foremen, and Master Mechanics shall not be considered as Employees as that term is defined and used in Exhibit "A" (Job Placement Regulations) of this Agreement, and they shall therefore not be subject to said Job Placement Regulations (i.e., they may be hired directly by the Contractor); but they shall be considered as Employees covered by this Agreement for all other purposes, including the provisions of Section 05.00.00, *Union Security*.

**28.04.00** *Operation Of Equipment By Foremen.* A Foreman or Shifter shall not operate any equipment or perform any work in any of the classifications covered by this Agreement, except in the event of an on-the-job emergency or in the event the regular Operator of said equipment or the Employee who regularly performs the work involved is absent. If it is anticipated that the absence will be of more than one (1) working day's duration, the Job Placement Center will be notified and requested to dispatch a replacement. A Working Foreman may operate equipment and may perform any work covered by this Agreement.

**28.05.00** *Overtime Work For Foremen and Shifters.* When a Foreman's or Shifter's crew works overtime the Foreman or Shifter shall be afforded the opportunity to work the overtime.

**28.06.00** *Overtime Work By Heavy Duty Repair Foremen And Master Mechanics.* When Heavy Duty Repairmen are performing shop work on an overtime basis, the Heavy Duty Repair Foreman or Master Mechanic who was in charge of the preceding straight time work shall be afforded the opportunity to work said overtime, including Saturdays, Sundays, and Holidays.

**28.07.00** *Benefit Payments.* The provisions of Section 14.03.00, *Payments To Trust Funds*, as well as the provisions of Section 14.13.00, *Vacation And Holiday Pay Plan*, of this Agreement shall apply to Foremen, Shifters, Heavy Duty Repair Foremen, and Master Mechanics in the same amount and in the same manner as they apply to all other Employees covered by this Agreement.

**28.08.00** *Rate Of Pay.* A Working Foreman shall be paid one dollar and twenty-five cents (\$1.25), effective September 1, 2002 above the Group 12 wage rate, and one dollar and fifty cents (\$1.50), effective September 1, 2006 above the Group 12 wage rate. Foremen, Shifters, Heavy Duty Repair Foremen, and Master Mechanics shall be paid two dollars and twenty-five cents (\$2.25), effective September 1, 2002 above the Group 12 wage rate, and two dollars and fifty cents (\$2.50), effective September 1, 2006, above the Group 12 wage rate. They shall be paid by the day, except for overtime which shall be paid by the hour and half hour.

**29.00.00** ***SERVICING OTHER CRAFTS***

**29.01.00** When Operating Engineers are employed to service a Specialty Craft or crafts (Man and/or Material Hoist Operators and Elevator Operators excluded, except when servicing Specialty Craft seventy-five percent (75%) of the time), they shall receive the wage scale and working conditions, including travel time and subsistence, of the Specialty Craft of crafts (welfare, pensions, vacation payments of the Specialty Craft or crafts excluded) if such

wage scale and working conditions, including travel time and subsistence when added together, are in excess of the provisions contained in this Agreement.

**29.01.01** Assistants to Engineer are excluded from the wage provisions but are entitled to all other working conditions of the Specialty Craft or crafts (welfare, pensions, vacation payments of Specialty Craft or crafts excluded).

**29.01.02** Employees on a particular project who are assigned to work with a Specialty Craft or crafts temporarily shall not be entitled to any of the conditions of the Specialty Craft or crafts. Temporarily shall be interpreted as meaning any work performed in a single day of four (4) hours or less.

**29.01.03** When Employees covered by this Agreement are employed on a job or project where another craft or crafts works a short day or short week, such Employees shall be afforded the opportunity to earn an amount equal to a full shift, full day, or full week, as the case may be, at the applicable straight-time wage rate. This Section shall not apply to normal curtailment of work.

**29.01.04** When Employees perform work covered by this Agreement in conjunction with another craft employed by the Contractor that is receiving overtime for the work being performed, said Employees shall be compensated on the same basis.

**30.00.00 GENERAL SAVING CLAUSE**

**30.01.00** It is not the intent of either party hereto to violate any laws, rulings, or regulations of any governmental authority or agency having jurisdiction of the subject matter or of this Agreement, and the parties hereto agree that in the event any provisions of this Agreement are finally held or determined to be illegal or void as being in contravention of any such laws, rulings, or regulations; nevertheless, the remainder of the Agreement shall remain in full force and effect, unless the parts so found to be void are wholly inseparable from the remaining portions of this Agreement. The parties agree that if and when any provisions of this Agreement are finally held or determined to be illegal or void, they will then promptly enter into negotiations concerning the substance thereof, it being understood that the provisions of Section 08.00:00, *No Strike Or Lockout*, shall continue to remain in full force and effect.

**31.00.00 MODIFICATION OF AGREEMENT**

**31.01.00** This Agreement shall not be modified except by written document signed by the parties hereto.

**31.02.00** No oral or written agreement which conflicts or is inconsistent with this Agreement or any amendments thereto, shall be entered into between any Contractor and any Employee covered by this Agreement.

**32.00.00 REPRESENTATIONS**

**32.01.00** This document contains the entire agreement of the parties and neither party has made representation to the other which are not contained herein.

**33.00.00 DURATION**

**33.01.00** This Agreement shall be binding upon the respective parties effective September 1, 2002 to and including August 31, 2007, and shall be considered as renewed from year to year thereafter unless either party hereto shall give written notice to the other of its desire to modify, amend, or terminate the same. Any such notice must be given by the party desiring to modify, amend, or terminate the Agreement at least one hundred eighty (180) calendar days prior to the expiration date, but not more than two hundred ten (210) calendar days prior to the expiration date. In the event such notice is given, and only in such event, negotiations for a new agreement shall commence as soon as possible. If such notice shall not be given, the Agreement shall be deemed to be renewed for the succeeding year.



## EXHIBIT "A" JOB PLACEMENT REGULATIONS

### **01.00.00        GENERAL PROVISIONS – DEFINITIONS**

**01.01.00**        The term this Agreement as used herein shall mean the Master Agreement.

**01.02.00**        *Employee.* The term Employee as used herein shall mean any person, without regard to race, color, religion, age, sex, disability or national origin:

**01.02.01**        whose work for an Contractor in the area covered by this Agreement falls within the recognized jurisdiction of the Union, or

**01.02.02**        who operates, monitors and controls, maintains, repairs, modifies, assembles, erects, services or each or all of them, power-operated equipment, of the type or kind of equipment used in the performance of work referred to in (a) above, including helicopters used in the performance of work covered by this Agreement, regardless of whether such equipment is mechanically, electrically or electronically, hydraulically, automatically or remotely controlled, and

**01.02.03**        who assists or helps in the operation, maintenance, repairing or assembling, erecting or servicing of such power-operated equipment of the type or kind of equipment used in the performance of work referred to in (a) above, and who qualifies to register in a Job Placement Center, provided that the foregoing shall not apply to superintendents, assistant superintendents, general foremen and other supervisors as defined in the National Labor Relations Act, professional or office engineering personnel, draftsmen, estimators, field office help, timekeepers, messenger boys, guards, confidential Employees, office help, inspectors and persons specifically excluded elsewhere in this Agreement.

**01.03.00**        When a Contractor performs any work as set forth or otherwise covered in this Agreement, he/she shall hire Employees and applicants for employment in accordance with the provisions of Sections 27.00.00, 28.00.00, and Exhibit "A" of this Agreement to perform such work, including the operation of such equipment, in accordance with the provisions of this Agreement, provided, however, that not more than two (2) individually-powered pieces of earthmoving equipment shall be operated by remote control by a single operator. The remote control operator shall be an Employee covered by this Agreement.

**01.04.00**        The Contractor shall secure all Employees and applicants for employment required by Section 01.03.00 of these Job Placement Regulations of this Agreement to be employed for the performance of any work set forth or otherwise covered in this Agreement through the Job Placement Centers of the Union subject to Section 01.00.00 of this Agreement, and further subject to the limitations, exclusions and inclusions in Sections 01.00.00, 02.04.00 and 28.00.00 of this Agreement.

**01.05.00**        When making requests to the Job Placement Center, the Contractor will provide all information as is necessary for the Job Placement Center to fully complete the dispatch slip, including the classification code number and make and model of the equipment to be operated. Any applicant for employment so dispatched who does not possess the qualifications to perform the work for which he/she is dispatched shall not be eligible for show-up pay.

**01.06.00**        The placing of an order for an Assistant to Engineer the day prior to the operating of the equipment shall be compliance by the Contractor with the manning requirement of this Agreement.

**01.07.00**        Satisfactory and competent Employees/individuals will be furnished in accordance with the provisions of this Agreement within forty-eight (48) hours (not including Saturdays, Sundays and holidays) of the time they are requested if they are available and in the event they cannot be or are not furnished within such period, the Contractor may employ any person but shall arrange for a dispatch to be obtained for him/her from a Job Placement Center of the Union within twenty-four (24) hours of the commencement of such employment and such dispatch shall upon request be issued to the Employees.

**01.08.00**        In the event that the Job Placement Center servicing a job or project is unable to fill an order for an Assistant to Engineer from its lists when received, the Contractor shall be notified, the forty-eight (48) hours shall

not commence to run, and the Job Placement Centers, contacting the nearest of such other Placement Centers first and the most remote last.

**01.09.00** The Contractor shall notify the Job Placement Center prior to the employment of any individual as defined in Section 26.04.00 of this Agreement who owns his/her own equipment; and such individual, upon showing of proof of equipment ownership, shall be immediately dispatched to said Contractor. It is specifically agreed that the Contractor will not devise or put into operation any scheme, plan, or device to circumvent or defeat the terms of this provision or of the Job Placement Regulations, nor shall the Contractor enter into any arrangement with said individual for the purpose of depriving any other Employee of employment. In the event that the Contractor has available equipment on the job during the period of the repair of said individual's equipment, and for a period not to exceed forty-eight (48) hours and so long as no other Employee is laid off to provide work for such equipment, said individual may be assigned to operate equipment not furnished by him/her, but except under such circumstances said individual shall be exclusively assigned to the equipment furnished by him/her.

**02.00.00 CLASSIFICATION OF EMPLOYEES**

**02.01.00** For the purpose of these Job Placement Regulations, Employment Credit means three-hundred-fifty (350) pension hours as reported to Operating Engineers Local Union No. 3 Pension Trust Fund by reason of employment in any one or more classifications covered by this Agreement, including, but not limited to those set out in Section 01.00.00 of this Agreement on the type or kind of craft work covered by this Agreement.

**02.02.00** Subject to the limitations set out in the paragraph above: Hours worked or hours reported to another Pension Plan by reason of on-site work in the area covered by the Pension Trust Fund for Operating Engineers and which are established by any objective criteria (other pension records, letter[s] from Employers, etc.) shall be equated to three-hundred-fifty (350) pension hours as are reported to the Operating Engineers Local Union No. 3 Pension Trust Fund and as so equated shall be an Employment Credit.

**02.03.00** An Employee who has attained "B" status and enters military service shall continue to accrue Employment Credit at the rate of one (1) credit a year for each year of military service, provided he/she receives an Honorable or General Discharge.

**02.04.00** For the purpose of these Job Placement Regulations, only, the Employees shall be classified as follows:

**02.04.01** *Class A.* Persons who have earned one (1) Employment Credit or more in each of three (3) consecutive calendar years shall be classified Class A on April 1 of the calendar year immediately following the third (3rd) such consecutive calendar year.

**02.04.02** *Class B.* Persons who have earned one (1) Employment Credit or more in a calendar year shall be classified Class B on April 1 of the calendar year immediately following the calendar year in which such person has earned one (1) Employment Credit or more.

**02.04.03** *Class C.* Persons who do not meet the requirements of either Class A or Class B set out above.

**02.04.04** In each instance, for a Class A Employee, the requirement of three (3) consecutive years will not be broken for any period of:

- (a) incapacity,
- (b) military service,
- (c) full-time paid employment with the Union, Apprentice and Journeyman or other training program, the Operating Engineers Local Union No. 3 Credit Union or the International Union of Operating Engineers,
- (d) employment with a public agency on the type or kind of craft work covered by this Agreement,
- (e) employment in a supervisory capacity above the rank of foreman with a Contractor,

(f) or for any period during which he/she is transferred by an Contractor to a job or project outside of the geographical jurisdiction of the Union and is there employed by such Contractor or by a joint venture with which said Contractor is associated on the type or kind of craft work covered by this Agreement.

**02.05.00** *Loss of Classification, Class A.* A Class A Employee who does not earn one (1) Employment Credit in any period of three (3) consecutive calendar years shall lose his/her Class A status and shall, on April 1 of the calendar year immediately following the third (3rd) such consecutive calendar year, be classified as a Class B Employee.

**02.06.00** *Loss of Classification, Class B.* A Class B Employee who does not earn at least one (1) Employment Credit in any calendar year shall lose his/her Class B status and shall, on April 1 of the calendar year immediately following such calendar year, be classified as a Class C Employee.

**02.07.00** In each instance, for a Class A Employee, the period of three (3) consecutive years or for a Class B Employee one (1) year, as the case may be, will be extended for any period of

**02.07.01** incapacity,

**02.07.02** military service,

**02.07.03** full-time paid employment with the Union, Apprentice and Journeyman or other training program, the Operating Engineers Local Union No. 3 Credit Union or the International Union of Operating Engineers,

**02.07.04** employment with a public agency on the type or kind of craft work covered by this Agreement,

**02.07.05** or for any period in which he/she is transferred by an Contractor to a job or project outside Utah, Northern California, Northern Nevada, or Hawaii, and is there employed by such Contractor or by a joint venture with which said Contractor is associated on the type or kind of craft work covered by this Agreement.

**02.08.00** The Assistant to Engineer's preference is limited to Assistants to Engineer and the Operating Engineer's preference to Operating Engineers, provided that an Assistant to Engineer with a preference shall, upon becoming an Operating Engineer, carry his/her preference with him/her. For the purposes of these Job Placement Regulations, only, the term Assistant to Engineer shall include the following classifications: fireman, oiler, oiler/grade checker, truck crane oiler, signalman, switchman, brakeman, tar pot fireman, heavy duty repairman helper, partsman (heavy duty repair shop parts room), fireman hot plant, mixer box operator (concrete plant), tar pot fireman (power agitated), spreader boxman (with screeds), box operator and deckhand. For the purposes of these Job Placement Regulations, only, the term Operating Engineer shall include all other classifications. The foregoing provisions of this Section 02.08.00 shall be subject to review and modification by the Committee provided for in Section 06.00.00 of these Job Placement Regulations, subject to the approval of the parties to this Agreement.

**02.09.00** All Union Officers and Employees of the Union who are members of the Union and all Employees of Apprentice and Journeyman or other training programs, the Operating Engineers Local Union No. 3 Credit Union, or the International Union of Operating Engineers and all Employees heretofore or hereafter advanced by their Contractor to a supervisory position, shall upon returning to the employment of an Contractor as an Employee under this Agreement do so with the same preference as if they had continually worked as Employees for Contractors.

**02.10.00** Registered Apprentices, regardless of anything to the contrary, on completing their training under a Joint Apprenticeship Committee and achieving Journeyman status shall, on the day following, be classified a Class A Employee subject to the loss or change of such classification as in these Job Placement Regulations, of this Agreement. Notwithstanding any provision of these regulations, said Registered Apprentice shall NOT be eligible for dispatch in accordance with Section 05.30.00 of these Job Placement Regulations or subject to recall.

**02.11.00** A Journeyman Trainee having been discharged for just cause by two (2) Contractors in any consecutive twelve (12) month period shall be ineligible to register as a Journeyman Trainee for a period of twelve (12) consecutive months next following his/her second discharge for just cause.

**03.00.00           JOB PLACEMENT CENTER PROCEDURES**

**03.01.00**       In dispatching each Job Placement Center shall first dispatch by classification Class A Employees who may be unemployed and registered for work in the Center dispatching, and thereafter by classification Class B Employees who may be unemployed and registered for work in the Center dispatching, and thereafter by classification, applicants who have registered for employment in the Center dispatching under Section 03.04.00 of these Job Placement Regulations hereof. Provided, however, that in dispatching such applicants, those with the most experience in the trade shall be dispatched first and those with the least experience in the trade last.

**03.02.00**       When a Contractor needs key Employees/individuals there shall be a pre-job conference at which the classifications to be filled by such Employees and the number of Employees in each classification, and the times of the commencement of their employment or the operational stages of the job or project at which their employment shall commence, shall be determined. Thereafter, upon written request of an Contractor, signed by the senior representative of the Contractor on a job or project, and delivered to the Job Placement Center servicing such job or project stating that such Contractor desires that a named person or persons be dispatched in a classification or classifications agreed to at such pre-job conference, such person or persons shall be dispatched without regard to Sections 02.00.00 or 03.01.00 of these Job Placement Regulations, and the Contractor shall hire such person or persons dispatched.

**03.03.00**       By Memoranda of Understanding between the bargaining representatives of this Agreement and the bargaining representatives of other geographical areas, provision may be made for the transfer of certain key Employees of a Contractor on a nondiscriminatory basis and the Contractor may transfer in accordance with such Memoranda of Understanding. The transferring of Employees and the hiring of key Employees by a Contractor signatory to the National Pipe Line Agreement for work performed under said agreement shall be done according to the provisions of said agreement.

**03.04.00**       The Union will maintain appropriate registration facilities at each Job Placement Center for Employees and applicants for employment to make themselves available for job opportunities. The duration of the validity of the registration of Employees and the applications of applicants may be fixed for each Job Placement Center from time to time by agreement between the collective bargaining representative of the Contractor and the Union provided for in Section 06.00.00 of these Job Placement Regulations, and notice thereof shall be posted as hereinafter provided.

**03.05.00**       The Union will maintain complete records of the operation of each Job Placement Center and its registration facilities.

**03.06.00**       The collective bargaining representative of Contractor, through the manager or regularly employed assistants thereof, shall have access to and the right to inspect any and all of said records during working hours.

**03.07.00**       Upon being dispatched, the Employee or applicant shall proceed to the job at once or within the agreed time. When call is made to a Job Placement Center for Employees/individuals to report to work on day of request a reasonable time shall be allowed for Employees/individuals traveling from the Job Placement Center to jobsite as agreed by the Job Placement Center. In all cases in which an Employee or applicant fails to report to work on the shift to which dispatched, or within the time agreed to, without good cause therefore, or reporting for work on the shift to which dispatched or within the time agreed to, refuses to accept employment and go to work, such Employee or applicant shall, unless he/she has refused three (3) prior dispatches, retain his/her place on the list but shall not be eligible for dispatch for thirty (30) days from the date of the dispatch, and if such Employee or applicant has refused three (3) dispatches, his/her name shall be placed at the bottom of the list and he/she shall not be dispatched for thirty (30) days from the date of the dispatch. Where an Employee or applicant is requested by Contractor to be dispatched on the day of the request, and the Employee or applicant does report for work that same day, he/she shall be paid for his/her full shift if he/she reports during the first (1<sup>st</sup>) half (1/2) of the shift and works the balance of the shift or for the half (1/2) shift if he/she reports during the second (2<sup>nd</sup>) half (1/2) of the shift and works the balance of the shift.

**04.00.00      *NONDISCRIMINATORY OPERATION***

**04.01.00**      The Union will conduct such registration facilities and operate such Job Placement Centers without discrimination either in favor of or against Employees or applicants for employment or any of them by reason of age, religion, disability, sex, race, color, or national origin or of membership or non-membership in any union, or by reason of acting on behalf of or in opposition to any union, except to the extent that membership in the Union shall be a condition of employment as provided in these Job Placement Regulations. The Union recognizes its obligations and therefore assumes full responsibility to each Employee or applicant for employment for any loss or damage resulting from any such discrimination or other violation of law by the Union. The provisions of this Section shall govern over any conflicting provision or requirement of the Constitution of the International Union of Operating Engineers or of the Constitution, By-Laws, working rules or other rules of the Union, and selection of Employees and applicants for employment for dispatch to jobs shall be on a nondiscriminatory basis and shall not be based on, or in any way affected by, union membership, by-laws, rules, regulations, constitutional provisions, or any other aspect or obligation of Union membership, policies, or requirements, or age, religion, disability, sex, race, color, or national origin. The Contractor shall not discriminate either in favor of or against Employees or applicants for employment or any of them by reason of age, religion, disability, sex, race, national origin, color or membership or non-membership in any union, or by reason of acting on behalf of or in opposition to any union, except to the extent that membership in the Union shall be a condition of employment as provided in these Job Placement Regulations.

**04.02.00**      The Union and the Contractor, and Contractor will use their best efforts to implement and carry out an Affirmative Action Program that is or may be adopted by the State of Hawaii.

**04.03.00**      In the event any other or additional program or programs relating to or concerned with a minority problem or problems may be proposed or mandated by Law or the Contracting Agency the Union and Contractor will meet to study and determine the necessity or advisability of the same and if it is determined to be necessary or advisable any such program shall be jointly developed and operated by the Union and Contractor.

**04.04.00**      The Union will assist in the recruitment of minority race trainees into its Apprenticeship Program and assist minority race trainees in complying with the Apprenticeship Program requirements.

**05.00.00      *REGULATIONS GOVERNING JOB PLACEMENT CENTERS***

**05.01.00**      Each Job Placement Center shall maintain the following lists on which persons not currently employed in the highway, general building and heavy construction industry or on the type or kind of work covered by a Collective Bargaining Agreement with the Union may register for employment at any time during which the Job Placement Office is open.

**05.02.00**      List A for those who are classified as Class A Employees. "Preferred" registration on List A shall be permitted with respect to the following classifications:

- Compressors, Pumps, Generators and Welding Machines ..... (Group 5)
- Elevator Operator..... (Group 4)
- Hoist and/or Winch (1 drum ..... (Group 4)
- Hoist and/or Winch (2 or more drums ..... (Group 7)
- Man or Material Hoist ..... (Group 6)
- Tugger Hoist..... (Group 3)

**05.03.00**      An Employee making a preferred registration shall:

**05.03.01**      be ineligible to register and shall not register for work in any classification which is not preferred;

**05.03.02**      be fifty-five (55) or more years of age and have had at least ten (10) years of employment or availability for employment in any one (1) or more classifications set out in Section 01.00.00 of this Agreement on the type or kind of craft work covered by this Agreement in Hawaii, provided, however, that a person who does not meet such requirements, but who has a disability preventing his/her employment in any classification except one which is preferred and is a Class A Employee or acquired such disability as a result of an industrial accident while employed as an Operating Engineer, shall be permitted to so register.

- 05.04.00** List B for those who are classified as Class B Employees.
- 05.05.00** List C for applicants for employment, persons who do not meet the tests set out in Section 05.04.00 above, and when an objective, nondiscriminatory test is developed, only those who pass the test will be permitted to register in any Job Placement Center.
- 05.06.00** Separate lists shall be kept for Assistants to Engineer on the same basis as for Operating Engineers.
- 05.06.01** Registrations on the Assistant to Engineer lists shall be limited to Employees who, as of January 1, 1964, possess A or B status as a result of employment under a collective bargaining agreement with the Union, and Employees/individuals who have registered and enrolled as Registered Apprentices under a collective bargaining agreement with the Union.
- 05.06.02** The employment of a Registered Apprentice on work covered by an Assistant to Engineer classification by a Contractor shall terminate on the Friday following notification by the Job Placement Office servicing the job or project that an A or B Assistant to Engineer who has been currently registered on its lists for at least thirty (30) days is seeking such employment.
- 05.07.00** The foregoing Section 05.06.00 shall be reviewed and amended from time to time by the Committee provided for in Section 06.01.00 of these Job Placement Regulations.
- 05.08.00** A Registered Apprentice of the fourth (4th) period, upon written consent of the applicable Joint Apprenticeship Committee, delivered to the Job Placement Center, may register in that Job Placement Center for employment on the B list as a Journeyman Trainee and Journeyman Trainee only.
- 05.09.00** Such Registered Apprentice shall be dispatched:
- 05.09.01** When no Operator is registered in the classification of Journeyman Trainee on the A or B list in that Job Placement Center, or
- 05.09.02** When every Operator registered on the A or B list in that Job Placement Center in the classification of Journeyman Trainee:
- (1) Cannot be reached within four (4) hours of the receipt of an order from a Contractor, Saturday, Sundays, and holidays excluded, or
  - (2) Refuses to accept the dispatch.
- 05.10.00** The employment of such Registered Apprentice shall, regardless of anything in this Agreement to the contrary, terminate on the Friday following notification of the Job Placement Center dispatching, and the Contractor employing such Registered Apprentice.
- 05.11.00** That the applicable Joint Apprenticeship Committee has other employment for the Registered Apprentice and has for that reason withdrawn its consent, or
- 05.11.01** An Operator who has worked in the past six (6) months as a Journeyman Trainee and who is currently registered in a Job Placement Center as a Journeyman Trainee for a period of thirty (30) or more days and is available for work shall have the absolute right to replace any fifth (5th) or sixth (6th) grade Registered Apprentice employed in place of and as a Journeyman Trainee on a job or project serviced by such Job Placement Center as of the close of any workweek; provided however, that the Registered Apprentice to be replaced has been dispatched to such job or project more than thirty (30) days prior to his/her replacement.
- 05.12.00** No Employee or applicant may register for employment as an Operating Engineer and Assistant to Engineer at the same time.
- 05.13.00** Any person who while registered for employment in a Job Placement Center accepts employment in the highway, general building and heavy construction industry other than under this Agreement or on the type or kind of work covered by a collective bargaining agreement with the Union shall notify the Job Placement Center of the Union in Honolulu in writing within forty-eight (48) hours after such acceptance to strike his/her name from the list or lists on which he/she is registered.

**05.14.00** Employees registering shall set forth their name, Social Security Number, address, telephone number, home area and classification or classifications of work sought and which they are qualified to perform and may change such classification or classifications at any time before being dispatched. Applicants registering shall set forth their name, Social Security Number, address, telephone number, home area and classification or classifications of work sought and if Class "C" their experience and may change such classification or classifications at any time before being dispatched. An Employee or applicant may change his/her home area from time to time, but in no event shall an Employee or applicant have more than one (1) home area at any time.

**05.15.00** An Employee or applicant for employment may only be registered as in home area in one district or sub-district and be eligible as in home area only in such district or sub-district where he/she last registered and must have a home area address and home area telephone number contact. An Employee or applicant for employment who violates this rule shall on the following week be ineligible to register for a period of thirty (30) days and his/her name shall be stricken from the out-of-work list.

**05.16.00** In dispatching, each Job Placement Center shall first dispatch those on List A living either permanently or temporarily in the area serviced by the office dispatching (which is the home area), so long as there are any in the classification called for by the Contractor who are registered, available for work and willing to accept a dispatch and thereafter, those on List A regardless of where they live, so long as there are any in the classification called for by the Contractor who are registered, available for work and willing to accept a dispatch and thereafter, those on List B living either permanently or temporarily in the area serviced by the office dispatching (which is the home area) so long as there are any in the classification called for by the Contractor who are registered, available for work and willing to accept a dispatch and thereafter, those on List B regardless of where they live so long as there are any in the classification called for by the Contractor who are registered, available for work and willing to accept a dispatch and thereafter, those on List C living either permanently or temporarily in the area serviced by the office dispatching (which is the home area) so long as there are any in the classification called for by the Contractor who are registered, available for work and willing to accept a dispatch and thereafter, those on List C regardless of where they live so long as there are any in the classification called for by the Contractor who are registered, available for work and willing to accept a dispatch.

**05.17.00** The foregoing is subject to special provisions governing specific Job Placement Centers as agreed to from time to time by the Committee provided for in Section 06.00.00 of these Job Placement Regulations.

**05.18.00** Employment of short duration, for the purposes of the Regulations only, shall mean employment which is terminated by the Contractor other than for just cause without such Employee having received from such employment the equivalent of forty-eight (48) hours of straight time wages.

**05.19.00** An Employee whose last employment was of short duration shall be restored to his/her original place on the list, or lists, on which he/she was registered at the time of his/her last dispatch, provided he/she notifies the respective Job Placement Center of his/her availability for work not later than noon of the day following the termination of such employment.

**05.20.00** Any Employee who refuses to accept four (4) consecutive offers to dispatch him/her shall have his/her name placed at the bottom of the list on which he/she is registered.

**05.21.00** Any person or Employee, who in any one twelve (12) month period, is terminated by three different Contractors by reason of not being qualified on the particular piece of equipment for which he/she is dispatched, shall not be eligible to sign the out-of-work list for a period of one (1) year unless he satisfactorily completes a course of training at a Training Center approved by the Contractor and the Union. Said person or Employee shall be entitled to a fair and impartial hearing before the Joint Apprenticeship Committee before implementation of the above action; and if he/she requests it, shall also have the right to process the matter under the provisions of Section 23.00.00 of this Agreement.

**05.22.00** All persons on List C shall be dispatched in accordance with their experience, i.e., the most experienced first and those without experience in the order of registration, when dispatched, their names shall be stricken from the list; provided, however, that when a nondiscriminatory test is developed and adopted, the registrant

with the highest grade shall be dispatched first and the others in descending order of these grades. In any case in which the grade of two (2) or more registrants is the same, they shall be dispatched as between themselves on the basis of their experience as last above set out.

**05.23.00** Registration on Lists A and B shall be valid for only eighty-four (84) days (twelve [12] weeks) from the date of registration. An Employee whose name in the interim has not been stricken from the list as provided in other subsections of these Job Placement Regulations, may maintain his/her place on the list by successive re-registrations. Such re-registrations must be accomplished on or before the eighty-fourth (84th) day after original registration or last re-registration, as the case may be, and each such re-registration shall be valid for an additional eighty-four (84)-day period only from the last date of re-registration. The name of an Employee who fails to exercise this right of re-registration within the time provided herein shall be stricken from the appropriate list effective as of the day following the eighty-fourth (84th) day.

**05.24.00** Registrations on List C shall be valid for one (1) calendar month only and no such registration shall be carried over to the succeeding month. Any person not dispatched during the calendar month in which he/she registers shall, if he/she desires, be available for dispatch upon new registration.

**05.25.00** A Class "A" or "B" Employee or "C" applicant who registers as a Journeyman Trainee may register only in any of those classifications applicable to individually manned pieces of earthmoving equipment and equipment supplemental thereto as an Operator, but may not register in any other classifications.

**05.26.00** A monthly fee in an amount equal to one and one quarter (1 ¼) hour of the "average wage package" in the Master Agreement shall be charged each non-dues paying registrant for Operating Engineers on Lists A, B and C, and a monthly fee of in an amount equal to one and one quarter (1 ¼) hour of the "average wage package" in the Master Agreement shall be charged each non-dues paying registrant for Assistant to Engineer on Lists A and B, upon registration, and in case of List C, re-registration, as his fair share of the cost of operating the Job Placement Center. Registrants on List A or B in order to maintain their registration shall, after their first (1<sup>st</sup>) payment on registration, pay on the first (1<sup>st</sup>) business day, but not later than the fifth (5<sup>th</sup>) business day of each succeeding calendar month such fee in order that their registration remain valid. If such payment is not made, the name of the non-paying registrant shall be stricken from the list at the close of the fifth (5<sup>th</sup>) business day of the calendar month regardless of the provisions of the first (1<sup>st</sup>) paragraph of Section 05.27.00.

**05.27.00** Only one (1) such registration fee shall be charged any such registrant in any calendar month. The official receipt for the payment of such registration fee shall be honored by any other Job Placement Center, or Centers, where presented that month.

**05.28.00** Regardless of anything in these Regulations to the contrary:

**05.29.00** Upon written request of an Contractor, signed by a senior representative of the Contractor on a job or project and delivered to the Job Placement Center servicing such job or project stating that such Contractor desires, on the basis of past satisfactory service in the industry or with the Contractor that a named Class A Employee, who either (i) has for the immediately preceding ten (10)-year period been employed or available for employment in any one or more classifications set out in Section 01.00.00 of this Agreement on the type or kind of craft work covered by this Agreement in Hawaii, or (ii) who has been employed by such Contractor within the immediately preceding five (5) years, be dispatched in a particular classification to such job or project, such Job Placement Center shall dispatch such Employee in such classification to such job or project, provided such Employee is registered in such Job Placement Center, available for work and willing to accept a dispatch at the time of the receipt of the written request and provided, further, that no Employee shall be laid off or discharged to make room for such named Employee. An Employee shall establish that he/she has had ten (10) years of such employment by any objective criteria other than a Union record. The above referenced ten-year period is not deemed to have been broken as a result of any period of:

- (a) incapacity,
- (b) military service,
- (c) full-time paid employment with the Union, Apprentice and Journeyman or other training program, the Operating Engineers Local Union No. 3 Credit Union or the International Union of Operating Engineers,

- (d) employment in a supervisory capacity above the rank of foreman with an Contractor,
- (e) or for any period during which he/she is transferred by a Contractor to a job or project outside of the geographical jurisdiction of the Union and is there employed by such Contractor or by a joint venture with which said Contractor is associated on the type or kind of craft work covered by this Agreement. The above is not applicable to Employees seeking employment in preferred classifications unless the Employee is qualified to register on the preferred registration list,
- (f) all members that have a current local address as of ratification date will be grandfathered in as it pertains to the hiring status, at their request.

If less than ten percent (10%) of the Employees are unemployed and registered with the Job Placement Center servicing the job or project for the classification which the Contractor desires to have an Employee dispatched under this Section, a Class A Employee's employment or availability for employment in Northern California, Northern Nevada or Utah shall be considered to be employment or availability for employment for the purpose of establishing eligibility for dispatch under this Section.

**05.30.00** In the event the named Employee is not registered or not available for work or not willing to accept a dispatch at the time of the receipt of a written request under Section 05.30.00 the Job Placement Center shall so notify the Contractor as soon as possible, and the forty-eight (48) hour period provided in Section 01.09.00 of these Job Placement Regulations shall not commence to run until receipt by the Job Placement Center of either a request for an unnamed Employee by classification or a further request under Section 05.30.00 of these Job Placement Regulations for a named Employee who is registered and available for work at the time of the receipt of the written request or a request under Section 05.33.00 of these Job Placement Regulations.

**05.31.00** For all purposes of employment by a joint venture on work for which a Contractor party to such joint venture is responsible to such joint venture shall be considered employment by such Contractor.

**05.32.00** Upon written request of a Contractor, signed by the senior representative of the Contractor on a project and delivered to the Job Placement Center servicing such job or project stating that such Contractor desires an Employee in a particular classification who has had either (i) a specified number of months or years (not to exceed, however, twenty-four [24] months or two [2] years) experience on a particular type of equipment, or (ii) a specified number of months or years (not to exceed, however, twenty-four [24] months or two [2] years) experience on a particular type of work, or both, the Job Placement Center shall contact, if available, the Employees in that classification registered and available for the work in the order in which they would be dispatched under Section 05.16.00 and 05.18.00 of these Regulations and inquire of the Employee as to his/her experience under (i) and (ii) and the Job Placement Center shall dispatch the first (1st) such Employee who advises the Job Placement Center that he/she has such experience and is willing to accept a dispatch.

**05.33.00** In the event no Employee with the requisite experience is available, the Contractor ordering such Employee shall not be free to hire directly an Employee to operate such piece of equipment or perform such work who has had less experience than the experience called for in the order.

**05.34.00** In the case of two (2) or more pieces of new equipment (that is, types of equipment developed to which present classifications and working rules are not fairly applicable) not previously used in Hawaii, the number of months experience on such new equipment which may be specified in the request shall be six (6) months less than the number of months the two (2) or more pieces of new equipment have been used in Hawaii.

**05.35.00** When a Contractor places an order for an Employee in a classification for which preferred registrations are permitted under Sections 05.02.00 and 05.03.00 of these Job Placement Regulations, the Job Placement Center shall endeavor to fill the request in the manner provided in Section 05.44.00 of these Job Placement Regulations hereof.

**05.36.00** Employees who are laid off because a job or project is temporarily shut down because of weather, lack of material or other reasons beyond the control of the Contractor and who do not accept a dispatch to a job other than one to which the short duration rule has applied shall, on the resumption of the job or project within six (6) calendar months of its being shut down, be dispatched to such job or project as called for by the Contractor by name.

**05.37.00** In the event such recalled Employee is on the job without a current dispatch, the Contractor shall, on the day such recalled Employee reports on the job or project, notify the appropriate Job Placement Center by mailing to it a form supplied by the Job Placement Center, signed by such Contractor or such Contractor's senior representative on the job or project, stating that the named Employee was laid off by such Contractor within the preceding six (6) consecutive calendar months and that, so far as the Contractor knows, the named Employee has not accepted a dispatch to a job or jobs, other than a job or jobs to which the short duration rule applies since the Employee's layoff.

**05.38.00** An Employee whose last employment was of short duration shall be restored to original place on the list, or lists, on which he/she was registered at the time of his/her last dispatch, provided he/she notifies the respective Job Placement Center(s) of his/her availability for work not later than noon of the day following the termination of such employment.

**05.39.00** Any Employee lawfully withdrawn or lawfully refusing to perform work on any job or project shall have the right, upon termination of the withdrawal or refusal to perform work, to return to active employment on such job or project. If withdrawn, he/she shall notify the Job Placement Center of the name of the Contractor for whom he/she is returning to work before returning to work.

**05.40.00** Key Employees/individuals in classifications agreed to in a pre-job conference shall be dispatched as requested in accordance with the agreement reached at the pre-job conference.

**05.41.00** When an Contractor rents or leases equipment, a Class A Employee of the lessor operating the equipment may be transferred to the payroll of the lessee, but shall be considered an Employee of the lessor for the purposes of these nondiscriminatory job placement procedures, and shall have been in the employ of the lessor, or a lessee of the lessor, for the five (5) working days next preceding the date of the rental of the equipment and the Job Placement Center servicing the job or project on which such equipment is to be used is notified in writing by the lessee before twelve (12) o'clock noon of the day prior to the first (1st) day such equipment is to be used on the job or project, and provided further that such Employee's employment by the lessee shall terminate upon the termination of the lease or rental of the equipment, or any replacement thereof, whichever is later.

**05.42.00** A Class A Employee or Employees, who has, or have, been on the payroll of the Contractor for the five (5) working days next preceding transfer, may be transferred by such Contractor to employment on a joint venture job or project to which such Contractor is party, provided that for the purposes of these nondiscriminatory job placement procedures such Employee or Employees shall continue to be considered employed by such Contractor while employed by such joint venture.

**05.43.00** When an order for an Employee in a recognized preferred classification is placed, the Job Placement Center shall first attempt to fill such request with an Employee who has made a preferred registration, contacting such persons in the order provided in Section 05.18.00 of these Job Placement Regulations. Then, if unable to fill the request with such an Employee, the Job Placement Center will endeavor to fill the request in the manner provided in Section 05.18.00 of these Job Placement Regulations.

**05.44.00** The Contractor may reject any Employee or applicant for employment dispatched by a Job Placement Center, provided, however, that any such Employee or applicant reporting for work at the agreed time and the designated place and rejected by the Contractor shall be entitled to show-up time in the amount provided in Section 12.03.00 of this Agreement unless such Employee or applicant is rejected because he/she reported in a condition unfit for work or because he/she has been discharged for cause by the Contractor within twelve (12) months next preceding the date of such reporting for work, or, if requested under Section 05.33.00 of these Job Placement Regulations, because he/she in fact does not have the experience specified in the Contractor's request.

**05.45.00** The Union and each Job Placement Center of the Union, in carrying out the provisions of this Agreement with respect to job placement (Job Placement Regulations of this Agreement) and the registration and dispatch of Employees and applicants will not discriminate either in favor of or against such Employees or applicants by reason of race, color, religion, age, sex, disability or national origin, or membership in or non-membership in any union or by reason of activity on behalf of or in opposition to any union, nor shall the carrying

out of the provisions of this Agreement with respect to job placement (Job Placement Regulations of this Agreement) and the registration and dispatch of Employees and applicants be based on, or in any way affected by race, color, religion, age, sex, disability or national origin, or union membership by-laws, rules, regulations, constitutional provisions or any other aspect or obligation of union membership, policies or requirements, except to the extent that membership in the Union shall be a condition of employment as provided in Section 05.00.00 of this Agreement. The Contractor shall not discriminate either in favor of or against Employees or applicants for employment or any of them by reason of race, color, religion, age, sex, disability or national origin, or membership or non-membership in any union, or by reason of acting on behalf of or in opposition to any union, except to the extent that membership in the Union shall be a condition of employment as provided in Section 05.00.00 of this Agreement.

**05.46.00** Upon being dispatched, the Employee or applicant shall proceed to the job at once. When call is made to a Job Placement Center for Employees/individuals to report to work on the day of request, a reasonable time shall be allowed for Employees/individuals traveling from the Job Placement Center to jobsite, as agreed by the Job Placement Center.

**05.47.00** In all cases in which an Employee or applicant fails to pick up his/her dispatch at the agreed-on time with the dispatcher or fails to report for work on the shift to which dispatched, or within the time agreed to, without good cause therefore, or reporting for work on the shift to which dispatched or within the time agreed to, refuses to accept employment and go to work, such Employee or applicant shall, unless he/she has refused three (3) prior dispatches, retain his/her place on the list, but shall not be eligible for dispatch for thirty (30) days from the date of the dispatch, and if such Employee or applicant has refused three (3) dispatches, his/her name shall be placed on the bottom of the list and he/she shall not be dispatched for thirty (30) days from the date of the dispatch. When an Employee or applicant is requested by Contractor to be dispatched on the day of the request and the Employee or applicant does report for work that same day, he/she shall be paid for his/her full shift if he/she reports during the first half of the shift and works the balance of the shift or for the half shift if he reports during the second half of the shift and works the balance of the shift.

**05.48.00** Any Employee or applicant for employment aggrieved by the operation of the registration facilities or Job Placement Center of the Union or these Regulations as applied to him/her has the right to submit his/her grievance to the Committee provided for in Section 06.00.00 of these Job Placement Regulations, provided that such submission is made in writing within ten (10) days after the occurrence of the grievance. The Committee shall have full power to adjust the grievance and its decision thereon shall be final and binding upon the Employee or applicant for employment and upon all other parties hereto.

**05.49.00** In the event of a deadlock, either party may request the appointment of a seventh (7<sup>th</sup>) member who shall have no business or financial connection with either party. In the event said members are unable unanimously to agree upon the identity of said seventh (7<sup>th</sup>) member, the choice shall be made by either party requesting the Federal Mediation and Conciliation Service to submit a list of five (5) arbitrators from which the said seventh (7<sup>th</sup>) member shall be chosen by each party striking two (2) names from said list, the arbitrator whose name then remains becoming the said seventh (7<sup>th</sup>) member. The matter shall then proceed to arbitration before the Committee as so composed with all due expedition. The decision of said Committee shall be determined by a majority of its members and shall be rendered within ten (10) days after such submission. Said decision shall be within the scope and terms of these Job Placement Regulations, and shall be final and binding on all parties hereto. Pending such decision, work shall be continued in accordance with the provisions of this Agreement. The expense of employing said seventh (7<sup>th</sup>) person shall be borne equally by both parties.

**05.50.00** Forms for the submission of such grievance shall be available at all times in each Job Placement Center.

**05.51.00** These Regulations, including the special provisions governing specific Job Placement Centers referred to in Section 05.17.00 of these Job Regulations, shall be posted on the bulletin board in each Union Job Placement and the bulletin board of the Contractor where notices to Employees and applicants for employment are posted.

**06.00.00 COMMITTEE**

**06.01.00** There shall be a Committee composed of three (3) members appointed by the collective bargaining representative of the Contractor and three (3) members appointed by the Union, which Committee shall operate by majority rule and shall have the authority to make such changes in the job placement procedures as from time to time may be administratively advisable, desirable, or necessary, to the end that the foregoing nondiscriminatory job placement provisions will be operated as efficiently and accurately as possible.

**07.00.00 INTERPRETATION**

**07.01.00** Disputes, complaints or grievances concerning the interpretation of any of the provisions of these Job Placement Regulations, adopted by the Union shall, at the request of the Contractor only, be subject to arbitration by the Committee provided for in Section 06.00.00 of these Job Placement Regulations, in accordance with the procedures set forth in Section 05.49.00 of these Job Placement Regulations. In such an arbitration initiated by the Contractor, the assumption of responsibility set out in Section 04.01.00 of these Job Placement Regulations shall be inoperative as to past periods by the extent that the interpretation established by the arbitration is in conflict with the interpretation contended for by the Union.

**08.00.00 HIRING AND MANNING VIOLATIONS**

**08.01.00** If a Contractor violates any hiring provision or manning provision of these Job Placement Regulations and/or its agreement with the Union, it shall pay into the Operating Engineers' Pensioned Health and Welfare Trust an amount not to exceed the wages, straight time and overtime, and fringe benefits that would have been paid by the Contractor but for the violation plus twenty-five percent (25%) of the total amount not as a penalty but as liquidated damages for the damages suffered by the Union.

**08.02.00** Any dispute over the amount due will be resolved through the grievance/arbitration procedures set forth in Section 23.00.00 (or the grievance procedure of the applicable agreement).

**08.03.00** If the Contractor fails to make any payments determined to be owing pursuant to this Section, the Union shall have the right to withdraw Employees until the Contractor makes all such payments.

**EXHIBIT "B"**  
**VACATION AND HOLIDAY PAY PLAN**

**01.00.00**      **CONTRACTOR PAYMENTS INTO THE VACATION AND HOLIDAY PAY PLAN**

**01.01.00**      Contractor payments into the Operating Engineers Vacation And Holiday Pay Plan shall be made in the amount and in the manner as specified in Exhibit "B" (Vacation And Holiday Pay Plan) and Section 14.00.00 (Employee Benefits and Contractor Payments) of this Agreement.

**01.02.00**      Upon receipt and clearance of such payment by the Bank, the Contractor shall have no other responsibility or obligation with respect to the Vacation And Holiday Pay Plan and shall be fully released from any and all obligations hereunder.

**01.03.00**      - Further, no Contractor shall be liable for the payments due from any other Contractor or for any of the expenses of administering the Vacation And Holiday Pay Plan.

**02.00.00**      **ADMINISTRATION OF THE VACATION AND HOLIDAY PAY PLAN**

**02.01.00**      The administration of the Vacation And Holiday Pay Plan shall be by and under a Fund Manager. The Fund Manager of the Operating Engineers Pension Trust Fund as provided in this Agreement shall be the Fund Manager of the Vacation And Holiday Pay Plan.

**02.02.00**      The Fund Manager shall cause all money paid into the Bank and Transit Account to be transferred to a Trustee Account to be known as "Operating Engineers Local Union No. 3 Vacation and Holiday Pay Plan" not less often than thirty (30) days after its deposit in the Transit Account.

**02.03.00**      All interest earned while funds are on deposit in the Transit Account shall be transferred by the Fund Manager to a revolving account from which the Fund Manager shall pay all expenses of every kind or nature incurred in carrying out this Vacation And Holiday Pay Plan, including the entrance fee of the Credit Union and in the event such interest shall not be sufficient to pay such expenses so much of the interest earned by the Operating Engineers Local Union No. 3 Vacation and Holiday Pay Plan Account as may be necessary to liquidate such expenses shall be transferred to the revolving account. The Fund Manager and his/her agents shall be bonded for the full amount on deposit in the revolving account at all times and such other amount as may be required by law. The cost of such bond or bonds shall be a proper expense of the Fund Manager.

**02.04.00**      The Fund Manager will maintain all records necessary to carry out this Vacation And Holiday Pay Plan and supply the Operating Engineers Local Union No. 3 Credit Union at all times with the records necessary and proper to enable it to properly and accurately credit and issue to each Employee shares in said Credit Union as is provided for in Section 03.06.00, below. The Fund Manager shall comply with all requirements of law and make and file any and all reports required by law. He/She shall be entitled to act through agents specifically authorized by him/her in writing who if they handle funds shall be properly bonded.

**02.05.00**      The Fund Manager shall collect or cause to collect any delinquent amounts which are due to the Plan in the same manner and with the same liquidated damages as specified in Section 14.16.00, *Delinquent Contributions And Collections* of this Agreement.

**03.00.00**      **PAYMENT OF VACATION AND HOLIDAY PAY BENEFITS TO EMPLOYEES**

**03.01.00**      During the months of April and October of each calendar year an Employee desirous of having his/her Vacation And Holiday Pay paid directly to him/her shall notify the Fund Manager on the form to be provided by the Fund Manager which the Employee can obtain at the office of the Fund Manager or any Job Placement Center of Operating Engineers Local Union No. 3 in Hawaii. Such form must be received at the office of the Fund Manager not later than five o'clock p.m. (5:00 p.m.) Hawaii Local Time on April 30 or October 31 of each calendar year.

**03.02.00** In addition to those notifying the Fund Manager of their desire to be paid directly as set forth in Section 03.01.00, immediately above, all Employees for whom payments of less than sixty dollars (\$60.00) have been made into this Plan and received by the Fund Manager by March 31 (February hours) or September 30 (August hours) each calendar year shall be paid their Vacation and Holiday Pay directly.

**03.03.00** On or before May 15 and November 15 of each calendar year the Fund Manager shall, as to each Employee giving the notice as set forth in Section 03.01.00, above, or who has not had sixty dollars (\$60.00) paid into the Plan and received by the Fund Manager as specified in Section 03.02.00, above, draw a check payable to each such Employee in an amount equal to the Contractor payments made into the Plan for and on behalf of such Employee plus such Employee's proportionate share of the interest earned as of March 31 and September 30 of each calendar year less expenses. These checks shall be sent postage pre-paid to the last known address of the Employee in the records of the Fund Manager, or if he/she has no such record, in the records of Operating Engineers Local Union No. 3. Principal and interest shall be separately stated on each such check.

**03.04.00** Those checks which are returned or for whom the Fund Manager has no address shall be held by the Fund Manager for such Employee for a period of six (6) years and then destroyed by the Fund Manager. A carrying charge of one percent of the annual interest earned on all sums uncalled for shall be charged and shall be applied to the payment of the expenses of this Plan.

**03.05.00** An Employee may direct the Fund Manager to transfer his/her Vacation And Holiday Pay on a current basis to his/her account in the Credit Union, but only where a request for same has been initiated by said Credit Union by reason of loan or other payments due to the Credit Union. Such direction shall be in writing and shall state the minimum term for which it shall remain in effect and shall continue thereafter until revoked by the Employee in writing.

**03.06.00** For an Employee who has sixty dollars (\$60.00) or more credited to his/her Vacation And Holiday account as of March 31 (February hours) and September 30 (August hours) of each calendar year (including interest earned as of those two dates less expenses) AND who does not request direct payment of said benefits as provided in Section 03.01.00, above, the Fund Manager shall, on or before May 15 and November 15 of each calendar year, transfer all sums due to said Employee to a special account of the Operating Engineers Local No. 3 Credit Union for the purchase of shares in the Credit Union for each such Employee. Shares as purchased shall be issued by the Credit Union to each such Employee as of May 31 and November 30 of each calendar year. Any amount less than one (1) share shall be carried to the credit of each such Employee.

**03.07.00** In the event of the death or adjudicated incompetence of any Employee, the monies credited to him/her (exclusive of interest) will, upon presentation to the Fund Manager of a certified copy of the Certification of Death or Order adjudicating incompetence, be paid over to the beneficiary as such as designated under the Operating Engineers Health & Welfare Plan, or if no such beneficiary has been designated to the authorized representative of the estate of the deceased Employee or to the guardian or conservator of the estate of the incompetent Employee or as otherwise provided in the Probate Code of the State of Hawaii.

**03.08.00** The Credit Committee of the Credit Union, not acting for the Credit Union but under this Plan, shall in emergency cases be empowered to direct the Fund Manager to immediately release the monies credited to the Employee concerned exclusive of interest, provided the total to be released is in excess of twenty-five dollars (\$25.00). Said emergencies shall be limited to the extent that an Employee will be allowed no more than two (2) withdrawals per year, one (1) in each accumulation period, on an emergency basis subject to the approval of the Credit Committee.

**EXHIBIT "C"**  
**UNDERGROUND WORK**

**01.00.00        GENERAL PROVISIONS**

**01.01.00**        Except as herein specified, all other terms and conditions as set forth in the Master Agreement Covering Operating Engineers In The State Of Hawaii shall apply to Underground Work as defined and covered by this Exhibit.

**02.00.00        DEFINITIONS**

**02.01.00**        For the purpose of this Exhibit, "tunnel," "raise," and "shaft" shall be defined as follows:

**02.01.01**        *Tunnel.* An underground excavation (lined or unlined) whose length exceeds its width and the inclination of the grade from the excavation is no greater than twenty degrees (20<sup>o</sup>) from the horizontal.

**02.01.02**        *Raise.* An underground excavation (lined or unlined) whose length exceeds its width and the inclination of the grade from the excavation is greater than twenty degrees (20<sup>o</sup>) from the horizontal.

**02.01.03**        *Shaft.* An excavation (lined or unlined) made from the surface of the earth, generally vertical in nature, but may decline up to seventy-five degrees (75<sup>o</sup>) from the vertical, and whose depth is greater than fifteen (15) feet and its largest horizontal dimension. Includes an underground silo.

**03.00.00        WORK COVERED**

**03.01.00**        The work covered by this Exhibit shall be all work and equipment involved in the excavation and initial lining, if applicable, of work undertaken below the surface of the earth (except open ditches, excavations, and jacking operations under highways, railroad embankments, etc.) including but not limited to tunnels, shafts, adits, raises, subways, chambers, and other underground installations (such as, but not limited to, underground power houses, storage facilities, offices, control centers, or surge chambers, including the lining of same) which falls within the jurisdiction of the Union or requires the operation of equipment of the kind and type covered by the Master Agreement Covering Operating Engineers In The State Of Hawaii.

**03.02.00**        Subject to the provisions of Section 28:10.00, *Field Survey Work* of the aforementioned Master Agreement, all tunnel survey work, including the use of laser beams, is work covered by this Exhibit.

**03.03.00**        Where open cut work is covered or decked, regardless of the material(s) used, and Employees are required to work under such cover, they shall work under and be paid in accordance with the terms and conditions of this Exhibit for all excavation work.

**04.00.00        PORTAL TO PORTAL**

**04.01.00**        The Contractor shall pay an Employee covered by this Agreement working within tunnels, adits, or shafts, on a portal to portal basis as follows: The hours employment of such Employee shall commence at the portal of the tunnel, adit, or shaft at which he/she is directed by the Contractor to report for work on his/her shift and shall end at such portal.

**04.02.00**        If the change house is located more than one thousand two hundred fifty (1,250) feet from a portal, adit, or shaft, then the time of work shall start and end, for pay purposes, at the change house.

**05.00.00        CHANGE HOUSE**

**05.01.00**        The Contractor shall establish and maintain a change house within a reasonable distance of each portal, adit, or shaft which shall include showers, toilet facilities, lockers and heating and drying facilities in accordance with the number of Employees/individuals in each crew. Each change house shall be so constructed to provide that all clothing will dry between shifts.

**05.02.00** The Contractor will reimburse Employees for clothing or personal belongings in an amount up to three hundred (\$300.00) in the event the change house is destroyed by fire, provided a claim form is filed as required by the applicable insurance company.

**05.03.00** This Section 05.00.00 shall not apply to short dry tunnels such as under highways or railroad embankments, nor shall it apply where the length or depth of the tunnel, adit, or shaft, the duration of the job, or other exigencies of the situation makes a change house unnecessary.

**06.00.00** ***SPECIAL CLOTHING AND SAFETY EQUIPMENT***

**06.01.00** The Contractor shall furnish Employees performing work covered by this Exhibit with necessary rubber clothing, goggles, shock proof gloves, boots, miner's hard hats, and all other safety and protective equipment as may be required by applicable State or Federal safety regulations for the work being performed. Employees shall be responsible for the proper care, use, and maintenance of such equipment as is issued or assigned to them, and they shall return same to the Contractor upon completion of its use.

**07.00.00** ***MANHAUL VEHICLES***

**07.01.00** Manhaul vehicles used for personnel transport, but not designed for this purpose, shall be provided with safe seating and side and end protection to prevent falls. Convenient means of mounting and dismounting the vehicles shall be provided. Adequate protection shall be provided during inclement weather. A bell or other means of communication with the Operator shall be installed.

**08.00.00** ***MINIMUM CREW***

**08.01.00** It is understood that there are various types and sizes of moles and mining machines which may necessitate increasing or decreasing the crew size, in which event the Contractor and the Union shall agree at the pre-job conference upon the crew size to perform the operation and repair of said equipment. If the Contractor and the Union are unable to agree upon the crew size, the matter shall be referred for resolution in accordance with the provisions of Section 11.05.00, *Additional Work Or Classifications* of the Master Agreement.

**09.00.00** ***WAGE RATE FOR RAISE OR SHAFT WORK***

**09.01.00** An Employee performing work in a raise or shaft as defined and covered by this Exhibit shall receive a premium of forty cents (\$.40) per hour in addition to his/her regular straight time rate as set forth in Section 01.00.00, *Classification & Hourly Wage Schedule* of the Master Agreement Covering Operating Engineers In The State Of Hawaii.

**09.02.00** For purposes of computing overtime for said Employee, the aforementioned premium(s) shall be treated as a part of the Employee's regular straight time rate (i.e., the hourly overtime rate shall be computed at one and one-half times (1 ½) (or two [2] times, as the case may be) the Employee's total straight time rate, including the premium).

10.00.00

**WAGE RATES FOR TUNNEL WORK**

<u>Classification Grouping</u>	<u>Effective 3/04/02</u>	<u>Effective 9/01/02</u>	<u>Effective 9/01/03</u>	<u>Effective 8/30/04</u>	<u>Effective 8/29/05</u>	<u>Effective 9/04/06</u>
1	\$28.49	\$28.89	*	*	*	*
2	\$28.60	\$29.00	*	*	*	*
3	\$28.77	\$29.17	*	*	*	*
4	\$29.04	\$29.44	*	*	*	*
5	\$29.35	\$29.75	*	*	*	*
6	\$30.00	\$30.40	*	*	*	*
7	\$30.32	\$30.72	*	*	*	*
8	\$30.43	\$30.83	*	*	*	*
9	\$30.54	\$30.94	*	*	*	*
9A	\$30.77	\$31.17	*	*	*	*
10	\$30.83	\$31.23	*	*	*	*
10A	\$30.98	\$31.38	*	*	*	*
11	\$31.13	\$31.53	*	*	*	*
12	\$31.49	\$31.89	*	*	*	*
12A	\$31.85	\$32.25	*	*	*	*

\*The Union may allocate the increases to wages and/or fringe benefits during the term of this Agreement. Any increase in wages and/or fringe benefits in 2003 shall be effective September 1, 2003. Any increase in wages and/or fringe benefits in 2004 shall be effective August 30, 2004. Any increase in wages and/or fringe benefits in 2005 shall be effective August 29, 2005. Any increase in wages and/or fringe benefits in 2006 shall be effective September 4, 2006.

**EXHIBIT "D"**  
**DIVING OTHER THAN AQUA LUNG**

**01.00.00 GENERAL PROVISIONS**

**01.01.00** The provisions of this Exhibit, to the extent that they may differ from any specific provision as set forth in the main body of the Master Agreement, shall supersede and be controlling over such provision.

**02.00.00 COVERAGE**

**02.01.00** *Geographical Area Covered.* This Exhibit shall cover and apply to the State of Hawaii.

**02.02.00** *Work Covered.*

**02.01.01** Divers/Underwater Construction Workers—Handle all diving incidental to undersea cables/pipes or outfalls/force mains/rockwalls and dredging.

**02.01.02** This Exhibit shall also cover and apply to all submarine diving and tending work of any type of the Contractor, including but not limited to the wrecking of ships, construction, reconstruction, repairing, inspecting, removing, rescuing, and recovering of all objects below the surface of the water which require the use of diving apparatus. The Contractor shall be the judge in deeming where diving is necessary.

**03.00.00 CLASSIFICATIONS AND RATES OF PAY FOR DIVERS AND TENDERS**

**03.01.00** All work covered by this Exhibit and all equipment used in the performance of that work, regardless of when the work was bid or let, shall be performed and/or operated by Employees who shall be obtained exclusively in accordance with the provisions of Section 27.00.00, *Referral, Hiring, And Employment* and Exhibit "A", *Job Placement Regulations* of the Master Agreement. The Employees shall be employed in the classifications and at the wage rates as set forth below, it being understood that new or additional classifications may be added hereunder pursuant to the provisions of Section 11.05.00, *Additional Work Or Classifications* of the aforesaid Master Agreement.

	<u>3/04/02</u>	<u>9/01/02</u>	<u>9/01/03</u>	<u>8/30/04</u>	<u>8/29/05</u>	<u>9/04/06</u>
Tenders .....	\$30.47	\$30.87	*	*	*	*
Stand-By Divers.....	\$33.50	\$33.90	*	*	*	*
Divers.....	\$52.25	\$52.65	*	*	*	*

\*The Union may allocate the increases to wages and/or fringe benefits during the term of this Agreement. Any increase in wages and/or fringe benefits in 2003 shall be effective September 1, 2003. Any increase in wages and/or fringe benefits in 2004 shall be effective August 30, 2004. Any increase in wages and/or fringe benefits in 2005 shall be effective August 29, 2005. Any increase in wages and/or fringe benefits in 2006 shall be effective September 4, 2006.

**04.00.00 DIVING GEAR, AIR COMPRESSOR, AND TORCH**

**04.01.00** The furnishing of diving gear, air compressor, and/or torch by the Diver or by the Contractor shall be at the Contractor's option. For each day that Diver-furnished diving gear, air compressor, and/or torch is used, the Diver shall receive the following rental rates:

Diving Gear .....	\$75.00 per day
Air Compressor.....	50.00 per day
Torch (Contractor to maintain said torch) .....	40.00 per day

**04.02.00** The following items are not considered gear or special equipment and shall be provided by the diver:

- |                                     |                 |                          |
|-------------------------------------|-----------------|--------------------------|
| •wet suit, dry suit or diving dress | •4-pound hammer | •weight belt and weights |
| •10" and 12" crescent wrenches      | •chafing gear   | •harness                 |
| •knife                              | •mask           | •fins or boots           |
| •regulator                          | •depth gauge    | •gloves                  |

**05.00.00** *HOURS AND OVERTIME*

**05.01.00** *Divers.*

**05.01.01** Not less than eight (8) hours at the applicable wage rate shall be paid to the Diver for the work performed (including standby) on any one (1) shift, whether he/she dives or not, plus gear, torch, and compressor rental (if furnished and used).

**05.01.02** Where or when a Diver is working on a regular shift, any overtime worked before or after his/her regular shift of eight (8) hours shall be paid for at the applicable overtime rate reckoned by the hour and half-hour times the Diver's hourly wage rate.

**05.01.03** Any work performed by a Diver on Saturdays, specified in Section 12.01.20 of the Master Agreement shall be paid for at not less than eight (8) hours at one and one-half (1-1/2) times the daily diving rate as defined in Section 05.01.02, immediately above, plus gear, torch, and compressor rental, if applicable.

**05.01.04** Any work performed by a Diver between 3:30 p.m. and 7:00 a.m. (except overtime before or after a regular shift) on work other than shift work shall be paid for at not less than eight (8) hours at two (2) times the daily diving rate as defined in Section 05.01.02 above, plus gear, torch, and compressor rental, if applicable. Sundays or holidays shall be paid for at not less than eight (8) hours at two and one half (2-1/2) times the daily diving rate.

**05.01.05** Shift work and payment therefore shall be in accordance with the Master Agreement.

**06.00.00** *TENDER*

**06.01.00** Not less than eight (8) hours at the applicable wage rate shall be paid to the Tender for the work performed (including standby) on any one shift.

**06.02.00** Any work performed by a Tender before or after his/her regular shift of eight (8) hours shall be paid for at one and one-half times (1-1/2) his/her regular straight time rate.

**06.03.00** Any work performed by a Tender on Saturdays, specified in Section 12.01.20 of the Master Agreement shall be paid for at not less than eight (8) hours at one-and-one-half (1-1/2) times his/her regular straight time rate. Sundays or holidays shall be paid for at not less than eight (8) hours at two (2) times his/her regular straight time rate.

**06.04.00** Any work performed by a Tender between 3:30 p.m. and 7:00 a.m. (except overtime before or after a regular shift) on work other than shift work, shall be paid for at not less than eight (8) hours at two (2) times his/her regular straight time rate.

**06.05.00** Shift work and payment therefore shall be in accordance with the Master Agreement.

**07.00.00** *WORKING RULES*

**07.01.00** *Diving Crew.*

**07.01.01** A diving crew shall consist of not less than two (2) Employees: a Diver and a Tender.

**07.01.02** All Divers shall have the right to designate their own Tenders.

**07.01.03** While engaged in diving or decompression, the diving crew shall not perform any other work outside of actual diving, decompression, and care of gear.

**07.02.00** *Tools.* In all cases where a Diver is working, the Contractor shall furnish all underwater tools of the trade necessary to perform such underwater work except small tools such as wrenches, hammers, etc. There shall be no exceptions to this rule.

**07.03.00** *No Piecework.* No member of a diving crew shall be permitted to receive compensation on a piecework basis.

**07.04.00** *"Straight-Through" Work.* When a Diver or Tender is called upon to work straight through a job on a continuous basis, all consecutive hours worked beyond the first regularly established shift shall be paid for at the overtime rate. No Diver or Tender shall return to a straight-time pay basis under these circumstances until he/she shall have had eight (8) consecutive hours of rest.

**07.05.00** *Decompression.* Double lock decompression chambers, adequately equipped and with compressor attached, shall be furnished by the Contractor and shall be available at all times for use on all dives below seventy-five (75) feet. All time spent by Divers in decompression chambers and Tenders attending them therein shall be paid for as per Sections 05.01.00 and 06.00.00 of this Exhibit.

**07.06.00** *Salary Employment.* In cases where a Diver is employed on a semi-annual or annual basis, it shall be permissible for him/her to accept such employment as long as the monthly rate is not below the minimum wage of twenty (20) times the daily diving rate per month, plus gear, torch, and compressor rental, if applicable.

**08.00.00** **DEPTH MONEY**

**08.01.00** On any dive exceeding fifty (50) feet, the Diver shall, in addition to the amounts specified in Section 05.01.00 of this Exhibit, be paid the following amounts as "depth money":

50 feet to 100 feet

\$1.50 per foot in excess of 50 feet

100 feet to 150 feet

\$100.00 plus \$2.00 per foot in excess of 100 feet

150 feet to 200 feet

\$200.00 plus \$3.00 per foot in excess of 150 feet

Over 200 feet

The Diver shall have the right to designate his/her own rate, but in no case shall that rate be lower than the above-specified rate for depths of less than 200 feet.

**09.00.00** **ENCLOSED WORK**

**09.01.00** *Able To Stand Erect.*

**09.01.01** When it is necessary for a Diver to enter any pipe, tunnel, or other enclosure in which he/she is able to stand erect, but in which there is no vertical ascent, said Diver shall, in addition to the amounts specified in Sections 05.01.00 and 08.00.00 of this Exhibit, receive a premium in accordance with the following schedule:

<u>Distance Traveled From Entrance Of Pipe, Tunnel, Or Other Enclosure</u>	<u>Amount Of Premium</u>
5 feet to 50 feet	\$ 5.00 per day
50 feet to 100 feet	7.50 per day
100 feet to 150 feet	12.50 per day

**09.01.02** For distances in excess of one hundred fifty (150) feet, the amount of premium paid to the Diver in the pipe, tunnel, or other enclosure shall be increased an additional seven dollars and fifty cents (\$7.50) for each succeeding fifty (50) feet, and another Diver shall be stationed at the entrance to the pipe, tunnel, or other enclosure.

**09.02.00** *Unable To Stand Erect.*

**09.02.01** When it is necessary for a Diver to enter any pipe, tunnel, or other enclosure in which he/she is

unable to stand erect and in which there is no vertical ascent, said Diver shall, in addition to the amounts specified in Sections 05.01.00 and 08.00.00 of this Exhibit, receive a premium in accordance with the following schedule:

<u>Distance Traveled From Entrance Of Pipe, Tunnel, Or Other Enclosure</u>	<u>Amount Of Premium</u>
5 feet to 50 feet	\$ 5.00 per day
50 feet to 100 feet	7.50 per day
100 feet to 150 feet	12.50 per day
150 feet to 200 feet	36.75 per day
200 feet to 300 feet	1.00 per foot
300 feet to 450 feet	1.50 per foot
450 feet to 600 feet	2.50 per foot

**09.03.00** For distance greater than one hundred fifty (150) feet, the Diver In Charge shall man the work with such additional Divers, Tenders, and equipment as may be required to assure the safety of the Diver.

**10.00.00** *HELIUM OXYGEN TECHNIQUES*

**10.01.00** In the event that Contractors covered by this Exhibit wish to engage in work covered by this Exhibit utilizing helium oxygen techniques, the Union and the Association shall negotiate appropriate terms and conditions applicable to such work.

**EXHIBIT "E"**  
**AUTHORIZATION FOR DUES CHECK-OFF**  
**DUES CHECK-OFF AUTHORIZATION**  
Authorization for Check-Off of Membership Dues  
**OPERATING ENGINEERS LOCAL UNION NO. 3**  
Northern Calif., Northern Nevada, Utah, Hawaii and Mid-Pacific Islands—  
As Per Charter Issued and Dated November 20, 1948

TO:

DATE:

Commencing thirty-one (31) days after my date of employment or commencing the above date, whichever shall last occur.

I, the Undersigned, do hereby direct and authorize you to deduct from my wages the initiation fee of \$ \_\_\_\_\_, the amount certified by Operating Engineers Local Union No. 3, AFL-CIO, to you as a part of membership dues required to establish me as a member in good standing in the Union in accordance with the Union security requirements of the collective bargaining agreement. I authorize and direct you to deduct \_\_\_\_\_ of such initiation fee from each of my \_\_\_\_\_ pay checks during each of my next \_\_\_\_\_ months of employment, and to turn over such monies which are so deducted to Operating Engineers Local Union No. 3 of the International Union of Operating Engineers, AFL-CIO. (ABOVE DOES NOT INCLUDE DOWN PAYMENT.)

I, the Undersigned, do hereby direct and authorize you to deduct from my wages MONTHLY DUES in the amount certified by Operating Engineers Local Union No. 3 to you as a part of membership dues uniformly required to maintain me as a member in good standing in the Union, and to turn over such monies which are so deducted to the Financial Secretary of the Operating Engineers Local Union No. 3 of the International Union of Operating Engineers, AFL-CIO. In the event I have authorized deductions for initiation fee I authorize and direct you to deduct and to turn over such monies for monthly dues from my first (1st) pay check each month commencing \_\_\_\_\_, 20\_\_ or commencing with the first (1st) month following the month in which the last installment on my initiation fee is deducted, whichever shall be the later. In the event I have not authorized deductions for initiation fee, I authorize and direct you to deduct and to turn over such monies for monthly dues from my first (1st) pay check each month.

Authorization for Check-off of Membership Dues

This assignment, authorization and direction is irrevocable for a period of one (1) year, or until the termination of the present collective bargaining agreement between you and Operating Engineers Local Union No. 3, whichever occurs sooner. In the event I do not indicate my desire to revoke this authorization not more than twenty (20) days and not less than ten (10) days prior to the end of the above indicated period of irrevocability, this authorization shall remain in effect and be irrevocable for additional periods of one (1) year or until the termination date of the then applicable collective bargaining agreement between you and Operating Engineers Local Union No. 3, whichever occurs sooner, subject to my right to revoke this authorization not more than twenty (20) days and not less than ten (10) days prior to the end of each additional period of irrevocability.

This assignment, authorization and direction shall become operative upon execution by me and delivery thereof, and it shall constitute a revocation of any prior assignment in favor of any labor organization hitherto executed by me and delivered by you.

\_\_\_\_\_  
(Employee's Signature)

\_\_\_\_\_  
(Social Security No.)

Employer's Copy

Employee's Copy

Local 3's Copy

Contractor No. \_\_\_\_\_  
(Office Use Only)

**EXHIBIT "F"**  
**AUTHORIZATION FOR CREDIT UNION CHECK-OFF**

CREDIT UNION CHECK-OFF  
CREDIT UNION AUTHORIZATION FOR CHECK-OFF  
Operating Engineers Local Union No. 3

\_\_\_\_\_  
District

TO: \_\_\_\_\_  
Employer's Name

\_\_\_\_\_  
Employer's Main Address

\_\_\_\_\_  
Branch or Job Address

I (Print Name) \_\_\_\_\_

Payroll No. \_\_\_\_\_

a member of Operating Engineers Local Union No. 3, do hereby authorize you to deduct \$\_\_\_\_\_ from my pay each payroll period  or, from my 1st , 2nd , 3rd , 4th  payroll period of each month, and turn over such monies so deducted to the Treasurer, Operating Engineers Local Union No. 3 Credit Union, P.O. Box 2082, Dublin, California 94566.

This authorization shall become operative upon execution by me and delivery thereof, and shall remain in effect for the duration of my employment by you, subject to receipt from me of a written notice of revocation or change of address and delivered to you and to the Credit Union.

Start

Change

Cancel

Effective Date: \_\_\_\_\_

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Social Security No.: \_\_\_\_\_

**INSTRUCTIONS:** To start, change or cancel your payroll deductions for the purchase of Credit Union Shares (or Loan Payments), complete two (2) copies of this authorization, checking the appropriate boxes, and mail BOTH COPIES to the Credit Union Office, P.O. Box 2082, Dublin, California 94566. After processing, the Credit Union will forward one (1) copy to your Employer's Payroll Department.

**NOTE:** It is the Employer's option whether deductions will be made from each pay period or from one (1) pay period of each month. If you do not know which procedure your Employer uses, ask your Timekeeper, Paymaster, or contact the Credit Union Office.

**EXHIBIT "G"**  
**CERTIFICATION OF RECEIPT AND ACCEPTANCE MASTER**  
**AGREEMENT COVERING OPERATING ENGINEERS IN THE STATE OF HAWAII**

THE UNDERSIGNED CONTRACTOR hereby acknowledges receipt of the MASTER AGREEMENT COVERING THE OPERATING ENGINEERS IN THE STATE OF HAWAII as effective to and including August 31, 1997 and hereby certifies acceptance of all terms and conditions as set forth therein, with all terms and conditions to be effective as of \_\_\_\_\_, 20\_\_.

From and after the date herein above set forth, the undersigned Contractor agrees to abide by all terms and conditions in said Agreement and any amendments, modifications, changes, extension, and renewals, thereto. Any such amendments, modifications, changes, extensions, and renewals made to the Agreement hereafter shall become effective and shall remain in full force and effect only upon execution by the undersigned Union and the negotiating Associations of an appropriate written document, a copy of which (or other notice of such changes) shall be mailed to the Contractor's last-known address.

OPERATING ENGINEERS LOCAL UNION NO. 3  
of the International Union of Operating  
Engineers, AFL-CIO

\_\_\_\_\_  
John Bonilla, President

\_\_\_\_\_  
Bob Miller, Vice President

\_\_\_\_\_  
Robert L. Wise, Recording-Corresponding Secretary

\_\_\_\_\_  
Donald R. Doser, Business Manager

\_\_\_\_\_  
Harold K. Lewis, Financial Secretary

\_\_\_\_\_  
Contractor

By \_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Date of Signature

\_\_\_\_\_  
Street Address of Above Contractor:

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City State Zip Code

\_\_\_\_\_  
Mailing Address Of Above Contractor:

\_\_\_\_\_  
\_\_\_\_\_  
Zip Code

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
State of Hawaii Contractor's License No.

Contractor to sign 5 copies and mail  
(or deliver) all 5 copies to:  
Operating Engineers Local Union No. 3  
1432 Middle Street  
Honolulu, Hawaii 96819

After countersignature by Union, Union will  
distribute copies as follows:

Copy #1 -- For Union  
Copy #2 -- To Contractor  
Copy #3 -- To Trust Fund Administrative Office  
Copy #4 -- To General Contractors Labor Association  
c/o Hawaii Employers Council  
P. O. Box 29699  
Honolulu, Hawaii 96820

OR

To Building Industry Labor Association  
Improvement Fund  
P. O. Box 17659  
Honolulu, Hawaii 96817

Copy #5 -- To Hawaii Construction Industry  
c/o Group Plan Administrators  
222 S. Vineyard Street, #PH4  
Honolulu, Hawaii 96813

**EXHIBIT "H"**  
**NOTIFICATION TO OPERATING ENGINEERS' UNION**  
**REGARDING NIGHT WORK**  
(Applicable to government, As Well As Private Projects)

\_\_\_\_\_  
Date of Submittal

TO: Operating Engineers Local Union No. 3  
of the International Union of Operating Engineers, AFL-CIO  
1432 Middle Street  
Honolulu, Hawaii 96819

This is to inform you that Night Work, with a scheduled starting time of \_\_\_\_\_ and a scheduled  
quitting time of \_\_\_\_\_ has been scheduled for the following period  
\_\_\_\_\_ on the following project: \_\_\_\_\_

\_\_\_\_\_  
Name And Location Of Project

\_\_\_\_\_  
Contractor

\_\_\_\_\_  
Signature of Contractor's Representative

\_\_\_\_\_  
PRINT: Name of above Representative

\_\_\_\_\_  
Telephone Number

## EXHIBIT "I"

### **01.00.00 DREDGING--CLAMSHELL AND HYDRAULIC SUCTION**

**01.01.00 General Provisions.** The provisions of this Dredging Exhibit, to the extent they differ from any specific provision as set forth in the main body of the Master Agreement covering Operating Engineers in the State of Hawaii, shall supersede and be controlling over such provisions.

**01.02.00 Coverage Clamshell and Dipper Dredge.** This Exhibit shall cover all clamshell and dipper dredging work performed by the Contractor when operating from a barge. The term "clamshell and dipper dredging work" herein is understood to include all clamshell equipment, and the maintenance and repair on the jobsite (except for specialized requirements which would require commercial maintenance and/or repair work) and in the Contractor's yard and shop (including the operation of all power machine tools), of all the equipment the Employees operate. Clamshell or dipper dredge work removing materials from piers, bridge piers, gas, water, oil, sewer pipelines, underwater tunnels, tubes, or vehicular tubes, shall take the wage rates set forth in Section 02.00.00, and the working conditions of this Exhibit. Any classification not shown herein shall take the heavy construction rates as set forth in the current Master Agreement covering the State of Hawaii, and the working conditions as set forth in this Exhibit.

#### **01.03.00 Hydraulic Suction Dredge.**

**01.03.01** This Exhibit shall cover all hydraulic and suction dredging work carried on by the Contractor. The term "hydraulic and suction dredging work" herein is understood to include the operation of hydraulic suction operations where regular hydraulic dredge equipment is used on shore, towing dredge to and from jobsite and the maintenance and repair on the jobsite (except for specialized requirements which would require commercial maintenance and/or repair work) and in the Contractor's yard and shop, including the operation of all power machine tools, of all the equipment the Employees operate. Any classification not shown herein shall take the heavy construction rates as set forth in the current Master Agreement covering the State of Hawaii, and the working conditions as set forth in this Exhibit.

**01.03.02** When the Contractor uses anyone other than a uniformed or armed guard to perform guarding duties, he/she shall use an Employee covered by this Exhibit. The guard's duties are limited to security. Contractor retains the option whether to have the dredge guarded or to have a watchman on board.

### **02.00.00 WAGES AND CLASSIFICATIONS**

**02.01.00 Employees Covered.** On all work covered by this Exhibit, when performed, and in all instances in which equipment used in the performance of work by this Exhibit is operated, regardless of when the work was bid or let, such work shall be performed and such equipment shall be operated by Employees obtained in accordance with Section 26.00.00 *Referral, Hiring And Employment* and Exhibit "A," Job Placement Regulations of the main body of the Master Agreement for State of Hawaii, and they and each of them shall be employed in the classifications and at the wage scales as follows, including such addition as may be made in accordance with Section 11.05.00 of said Master Agreement.

#### **02.01.01 Clamshell or Dipper Dredges.**

	<u>03/04/02</u>	<u>09/01/02</u>	<u>09/01/03</u>	<u>08/30/04</u>	<u>08/29/05</u>	<u>09/04/06</u>
Clamshell or Dipper Operator.....	\$31.19	\$31.59	*	*	*	*
Mechanic or Welder.....	\$30.53	\$30.93	*	*	*	*
Watch Engineer .....	\$30.53	\$30.93	*	*	*	*
Deckmate .....	\$30.13	\$30.53	*	*	*	*
Bargemate .....	\$30.13	\$30.53	*	*	*	*
Fireman .....	\$28.47	\$28.87	*	*	*	*
Oiler .....	\$28.47	\$28.87	*	*	*	*
Deckhand .....	\$28.47	\$28.87	*	*	*	*
Bargeman.....	\$28.47	\$28.87	*	*	*	*

**02.01.02 Hydraulic Suction Dredges.**

	<u>03/04/02</u>	<u>09/01/02</u>	<u>09/01/03</u>	<u>08/30/04</u>	<u>08/29/05</u>	<u>09/04/06</u>
Leverman .....	\$30.83	\$31.23	*	*	*	*
Mechanic or Welder.....	\$30.68	\$31.08	*	*	*	*
Watch Engineer (Steam or Electric).....	\$30.53	\$30.93	*	*	*	*
Dozer Operator .....	\$30.47	\$30.87	*	*	*	*
Deckmate .....	\$30.13	\$30.53	*	*	*	*
Levee Foreman .....	\$30.02	\$30.42	*	*	*	*
Winchman (Stern Winch on Dredge).....	\$30.02	\$30.42	*	*	*	*
Fireman .....	\$28.47	\$28.87	*	*	*	*
Oiler .....	\$28.47	\$28.87	*	*	*	*
Deckhand (can operate anchor scow under direction of Deckmate) .....	\$28.47	\$28.87	*	*	*	*
Leveeman.....	\$28.47	\$28.87	*	*	*	*

**02.01.03 Derricks.**

	<u>03/04/02</u>	<u>09/01/02</u>	<u>09/01/03</u>	<u>08/30/04</u>	<u>08/29/05</u>	<u>09/04/06</u>
Operators (Derricks, Piledrivers and Cranes).....	\$31.19	\$31.59	*	*	*	*
Deckmate .....	\$30.13	\$30.53	*	*	*	*
Saurman Type Dragline (up to including 5 yds.) (Assistant to Engineer required) .....	\$30.13	\$30.53	*	*	*	*\$
Saurman Type Dragline (over 5 cu. yds.) (Assistant to Engineer required) .....	\$30.53	\$30.93	*	*	*	*
Fireman .....	\$28.47	\$28.87	*	*	*	*
Oiler .....	\$28.47	\$28.87	*	*	*	*
Deckhand .....	\$28.47	\$28.87	*	*	*	*

**02.01.04 Boat Operators.**

	<u>03/04/02</u>	<u>09/01/02</u>	<u>09/01/03</u>	<u>08/30/04</u>	<u>08/29/05</u>	<u>09/04/06</u>
Master Boat Operator.....	\$30.83	\$31.23	*	*	*	*
Boat Operator.....	\$30.68	\$31.08	*	*	*	*
Boat Deckhand.....	\$28.47	\$28.87	*	*	*	*

\*The Union may allocate the increases to wages and/or fringe benefits during the term of this Agreement. Any increase in wages and/or fringe benefits in 2003 shall be effective September 1, 2003. Any increase in wages and/or fringe benefits in 2004 shall be effective August 30, 2004. Any increase in wages and/or fringe benefits in 2005 shall be effective August 29, 2005. Any increase in wages and/or fringe benefits in 2006 shall be effective September 4, 2006.

**02.01.05** When a Clamshell or Dipper Operator having direct charge in its daily operations is used on a dredge in lieu of a Captain or Supervisor, his/her straight-time rate of pay shall be increased one dollar (\$1.00) per hour over the applicable group rate in this Section.

**02.01.06** When a Leverman (Hydraulic Dredges) having direct charge in its daily operations is used on a dredge in lieu of a Captain or Supervisor, his/her straight time rate of pay shall be increased one dollar (\$1.00) per hour over the applicable group rate in this Section.

**02.01.07** When a Deck Foreman (i.e., Deckmate having direct charge of a shift in its daily operations) is used on a Derrick Barge and/or Whirley, he/she shall receive the rate of the Head Leverman or Clamshell/Dipper Operator. This shall not apply to Derrick Barges and/or Whirleys when used as attendant equipment in dredging operations.

**02.02.00** *Booms.* The straight-time hourly wage rate of Clamshell Operators on clamshell or dipper dredges with booms over one hundred thirty feet (130'), including jib, shall be according to the following schedule and added to the straight-time hourly wage rates set out in Section 02.01.01 of this Exhibit, and such increase in the straight-time hourly rate shall apply for the full shift and all overtime work.

Booms over one hundred thirty feet (130') — \$.50

**02.03.00** When the Contractor transfers, or the Employee is required to walk the pipeline from dock to dredge and/or from shore to dredge, or from dredge to dock, or from dredge to shore, when the Employees are going to work or returning therefrom, should the normal boat time taken in transfer, or walking at the rate of three (3) miles per hour, in either direction exceed ten (10) minutes, they shall receive two dollars and twenty-five cents (\$2.25) for each fifteen (15) minutes or fraction thereof that the transfer exceeds ten (10) minutes.

**03.00.00** *WORKING RULES*

**03.01.00** The Contractor will make available to each regular Employee who is working Monday, forty (40) hours of work each week, while the dredge is on the job working, subject to the following exemptions, in which cases forty (40) hours need not be made available.

**03.01.01** Short weeks due to starting and finishing a job.

**03.01.02** Major breakdowns.

**03.01.03** Shutdowns or shorter weeks by order of the Contracting Authority; a copy of such order must be submitted to the Union.

**03.01.04** Yard or lay-up base work.

**03.01.05** When holidays specified in the Master Agreement fall within the week, in which event the workweek will be reduced by eight (8) hours for each such holiday.

**03.01.06** Shutdown due to adverse wave conditions; provided, however,

- (1) such shutdown may be for the duration of the adverse wave conditions but not more than once in any one (1) week;
- (2) if work is started and a shutdown occurs, Employees shall be paid for the entire shift.

**03.02.00** On single-shift operations from the time the dredge commences dredging until it completes the dredging, eight (8) consecutive hours between 6:00 a.m. and 4:00 p.m., including repair work shall constitute a workday at the jobsite. On mobilization and demobilization and on repair work other than at the jobsite, eight (8) consecutive hours of work (exclusive of meal period) between the hours of 6:00 a.m. and 4:30 p.m. shall constitute a workday.

**03.03.00** On a two (2) shift operation, eight consecutive hours between 8:00 a.m. and 4:00 p.m., and between 4:00 p.m. and 12:00 midnight, shall constitute a workday unless mutually agreed upon otherwise at the Pre-Job Conference.

**03.04.00** On a three (3) shift operation, eight consecutive hours between 8:00 a.m. and 4:00 p.m. and 12:00 midnight, and 12:00 midnight and 8:00 a.m. shall constitute a workday unless mutually agreed upon otherwise at the Pre-Job Conference.

**03.05.00** The full crew employed in the operation of a dredge shall all commence work at the designated starting time of the shift. When more than one (1) shift is worked, shifts shall run consecutively unless mutually agreed upon otherwise at the Pre-Job Conference. The starting time for Employees on a project under this Exhibit

shall be the same for all Employees on that project; provided, however, that an earlier starting time may be established for all the Mechanics, Welders, Mechanic/Welder Apprentices, Deckmates and Watch Engineers employed on said project or shift.

**03.06.00** When the dredge is being repaired or not operating due to weather or other conditions during the prosecution of a contract, the same wage scale shall be maintained as when the dredge is in operation.

**03.07.00** Except for watch rotation, no Employee shall work more than eight (8) hours straight time in any consecutive twenty-four (24) hour period.

**03.07.01** An Employee shall not revert to straight time unless he/she had been released from work for at least six (6) hours of rest.

**04.00.00** *WATCH ROTATIONS*

**04.01.00** When more than one watch is employed, watches shall be rotated at least twice a month, or as mutually agreed between the Union and the Contractor.

**05.00.00** *WORK STATIONS*

**05.01.00** It is understood that all Employees employed for definite stations within the operation will not be permitted to work, or to perform work, that has to do with the elimination of any classification herein embodied. When the Employees are employed in more than one classification during a shift, they shall be paid at the rate of pay of the classification receiving the higher rate, except when relieving an Employee for a meal period, they shall receive the rate of pay of their regular classification. When overtime before or after a shift is performed, Employees assigned to such work during the regular shift shall have the first choice to work the overtime.

**05.02.00** *Assistance.* No Employee dispatched to a Contractor in an Assistant to Engineer classification under the Job Placement Regulations shall be assigned by the Contractor to perform the work of an Operating Engineer, except in case of emergency and in that event not to exceed one (1) workweek; provided, however, a Registered Apprentice may perform such work as may be required under the rules adopted by the Joint Apprenticeship Committee of Operating Engineers and Participating Employers Pre-Apprentice, Apprentice, and Journeyman Affirmative Action Training Fund.

**06.00.00** *CHANGE QUARTERS*

**06.01.00** It is understood that all Employees covered by this Exhibit shall be provided with proper quarters within a reasonable distance of their work place where they may change their clothing when going to and returning from work. Said quarters shall be suitably lighted, and shall be maintained at a proper temperature and in a sanitary condition with toilet facilities provided. This shall also apply to barges presently being constructed and those to be constructed in the future.

**07.00.00** *GEAR TO BE FURNISHED*

**07.01.00** Boots, rain clothing, life jackets, hard hats, eye, hearing and hand protection shall be furnished by the Contractor when required for the performance of work, not later than the start of an Employee's second shift of employment. The Contractor shall retain as a deposit from the Employee's compensation the cost of said gear, which deposit will be refunded to the Employee when said equipment is returned at the completion of the work.

**07.02.00** The Contractor agrees to replace Employee-furnished welder leathers, hoods and goggles which become unserviceable due to use (excluding normal wear and tear) or are accidentally destroyed on the job. Lenses for hoods and goggles will be furnished by the Contractor.

**07.03.00** The Contractor shall furnish all tools required by the Contractor including flashlights and batteries.

**08.00.00 MINIMUM NUMBER OF EMPLOYEES ON DREDGES (CLAMSHELL)**

**08.01.00** *Clamshell and Dipper Dredges.* The minimum crew of each shift on each clamshell and dipper dredge in clamshell dredge operations shall be as follows:

**08.01.01** The minimum crew on each shift for clamshell and dipper dredges that are spud rigs while side casting or doing levee work shall be two (2) Employees: one Fireman, Oiler, Deckhand or Bargeman, and one (1) Clamshell or Dipper Operator.

**08.01.02** The minimum crew of each shift for clamshell and dipper dredges other than spud rigs (while side casting or doing levee work) shall be three (3) Employees: one (1) Fireman, Oiler, Deckhand or Bargeman, one (1) Deckmate/Barge Mate or Watch Engineer, and one (1) Clamshell or Dipper Operator.

**08.01.03** For clamshell and dipper dredges loading dump barges, there shall be four (4) Employees: one (1) Clamshell or Dipper Operator, one (1) Deckmate/Barge Mate or Watch Engineer and two (2) of the following: Fireman, Oiler, Deckhand or Bargeman, in addition to the required manning on the barges.

**08.01.04** When operating in inland waters, there shall be two (2) Employees on manually operated dump barges, which may be any of the following: Fireman, Oiler, Deckhand or Bargeman. Where the gates are power-operated there shall be two (2) Employees which may be any of the above on the dump barge, except on power-operated dump barges where the tug and barge is pushing or tied side by side, then in such case there shall be one (1) Fireman, Oiler, Deckhand or Bargeman Employee; or when the barge is dumped by remote control, there shall be one (1) Employee, which may be any of the above.

**08.01.05** When operating outside of the boundary line of inland water, there shall be a minimum crew of two (2) Employees to a shift, which may be any of the following: Fireman, Oiler, Deckhand or Bargeman, except when the barge is dumped by remote control, there shall be no Employees. During ocean operations beyond the boundary lines of inland waters, these Employees shall remain within sheltered waters and perform barge work as assigned.

**08.01.06** If any work is performed on the barges it shall be by Employees covered under this Exhibit.

**08.01.07** The crews specified in this Section are understood to be minimum. It is recognized that considerations of safety, reasonable workload, and other factors may require that large crews be employed under particular circumstances where additional Employees are to be determined at the Pre-Job Conference and such additional Employees required shall be Employees covered under this Exhibit.

**08.01.08** When a shore crew is required on any shift, there shall be at least two (2) Employees on said shift at a jobsite.

**09.00.00 MINIMUM NUMBER OF EMPLOYEES ON DREDGES AND TUGBOATS**

**09.01.00** The minimum crew on each shift in dredging operation for dredges under ten inches (10") shall be three (3) Employees: one (1) Leverman; one (1) Watch Engineer; and one (1) other Employee.

**09.02.00** The minimum crew on each shift in dredging operation for dredges ten inches (10") up to and including sixteen inches (16") shall be four (4) Employees: one (1) Leverman; one (1) Watch Engineer; one (1) Deckmate; and one (1) other Employee.

**09.03.00** The minimum crew on each shift in dredging operation on dredges over sixteen inches (16") up to and including thirty inches (30") shall be five (5) Employees, the composition of which shall be one (1) Leverman; one (1) Watch Engineer; one (1) Deckmate; and two (2) other Employees.

**09.04.00** The minimum crew and its composition for and on dredges more than thirty inches (30") shall be determined by mutual agreement, disagreement to be subject to Section 23.00.00 of the main body of the Master Agreement for the State of Hawaii.

**09.05.00** There shall be two (2) Employees on manually operated dump barges. Where the gates are power operated, there shall be one (1) Employee on the dump barge.

**09.06.00** The minimum crew on a tugboat or working boats shall be two (2) Employees, one (1) Boat Operator and one (1) Deckhand, except when used solely for the purpose of transporting personnel in which case, a Boat Operator is not required and a crew member can operate the boat provided he/she is licensed. When more than one watch is employed, one (1) Boat Operator shall be upgraded to Master Boat Operator.

**09.07.00** The crews specified in this Section are understood to be minimum. It is recognized that considerations of safety, reasonable workload, and other factors may require that larger crews be employed under particular circumstances. Therefore, if the circumstances of a particular operation seem, in the view of the Local Union, to require a larger or a differently composed crew than that employed by the Contractor (and should such parties fail to adjust the matter to their mutual satisfaction through direct negotiation), the matter shall be subject to Section 23.00.00 of the main body of the Master Agreement for the State of Hawaii.

**09.08.00** When operating outside of the boundary line of inland water, there shall be a minimum crew of two (2) Employees to a shift, which may be any of the following: Fireman, Oiler, Deckhand or Bargeman except when the barge is dumped by remote control there shall be no Employees. During ocean operations beyond the boundary lines of inland waters, these Employees shall remain within sheltered waters and perform barge work as assigned.

**10.00.00 TRANSFER**

**10.01.00** Employees hired for service in the South Pacific Islands area may be obtained and dispatched from either the San Francisco or the Honolulu Job Placement Center, or from both, provided an understanding to that effect is reached at Pre-Job Conference.

**11.00.00 SAFETY**

**11.01.00** Life jackets, hard hats, eye, hearing and hand protection shall be worn by all Employees covered by this Exhibit as required by law or by the Contractor, and no Employee shall be required to ride in a skiff in open waters.

**11.02.00** When the dredge is manned or operating, provision must be made by the Contractor for prompt medical attention in case of serious injuries and help for a person overboard. This may be accomplished either by on-the-site facilities, proper equipment for immediate transportation of the injured person to a physician, telephone communication system for contacting a doctor, or a combination of these which will avoid unnecessary delay of treatment.

**EXHIBIT "J"**  
**NOTIFICATION TO UNION AND TO EMPLOYEES REGARDING "SWITCHING"**  
**AND/OR SUBSTITUTION OF HOLIDAYS**

This notification **MUST** be given to the Union and to the Employees affected at least five working days BEFORE the effective date of any "switch" and/or substitution of holidays.

TO: Operating Engineers Local Union No. 3 of the  
International Union of Operating Engineers, AFL-CIO  
1432 Middle Street  
Honolulu, HI 96819

\_\_\_\_\_  
Date of Submittal

This is to advise you:

**A. "SWITCHING" OF KAMEHAMEHA DAY, FOURTH OF JULY, OR THANKSGIVING DAY**  
**(Applicable Only On PRIVATE AND FEDERAL Projects)**

That the project(s) listed below will work on \_\_\_\_\_ at regular straight  
(Name of Holiday)  
time rates of pay. Said holiday will instead be observed on:  Monday  Friday,  
\_\_\_\_\_, with any work performed on that substitute day to be paid  
Date  
for at one and one-half times the Employee's regular straight time rates of pay.

\_\_\_\_\_  
Name And Location Of Project

\_\_\_\_\_  
Name And Location Of Project

**B. SUBSTITUTION OF THE DAY AFTER THANKSGIVING AS A HOLIDAY IN PLACE OF**  
**VETERANS' DAY (Applicable Only To PRIVATE And FEDERAL PROJECTS)**

That the project(s) listed below will work on \_\_\_\_\_ (Veterans' Day) at  
Day and Date  
regular straight time rates of pay.

The Veterans' Day holiday will instead be observed on Friday, November \_\_\_\_\_ (Day After  
Thanksgiving), with any work performed on said Day After Thanksgiving to be paid for at one and  
one-half times the Employees' regular straight time rates of pay.

\_\_\_\_\_  
Name And Location Of Project

\_\_\_\_\_  
Name And Location Of Project

\_\_\_\_\_  
Contractor

\_\_\_\_\_  
Signature of Contractor's Representative

\_\_\_\_\_  
PRINT: Name of above Representative

\_\_\_\_\_  
Telephone Number

**ADDENDUM I**  
**AGREEMENT COVERING DRUGS AND OTHER CONTROLLED SUBSTANCES**  
**ON CONSTRUCTION JOB SITES IN THE STATE OF HAWAII**

**WITNESSETH**

**WHEREAS**, the Union and the Company recognize that drug and alcohol abuse is a problem that affects many Employees, and wish to address this problem;

**WHEREAS**, especially in the construction industry, an Employee who is under the influence of illegal drugs or alcohol while at the workplace or is abusing controlled substances while at the workplace is a danger not only to himself or herself but to his or her fellow Employees;

**WHEREAS**, the Union and the Company wish to make the workplace a better and safer place of employment by eliminating the danger that such Employees create by being under the influence of drugs or alcohol at the workplace;

**WHEREAS**, such Employees who are under the influence of drugs or alcohol have lower productivity than Employees who are drug and alcohol free;

**WHEREAS**, the Union and the Company wish to have Employees working at normal capacity, doing an honest day's work for an honest day's pay;

**WHEREAS**, the Union and the Company wish to comply with the Federal Law known as the "Drug-Free Workplace Act of 1988," Public Law 100-0690 in order to obtain a drug-free workplace.

The Union and the Employer agree:

To maintain a safe, drug and alcohol free workplace.

To maintain the work force at maximum productive effectiveness.

To provide confidential, professional referral and treatment of those Employees who recognize they have a substance abuse problem and voluntarily seek treatment for it.

They further agree their primary goal is to refer Employees who have substance abuse problems to professional counseling in accordance with the provisions of this Employer Addendum before their job performance becomes a disciplinary problem.

**01.00.00** *Prohibition Against Alcohol and Controlled Substances At The Workplace.* Every Employee who is employed by the Company and who is covered by the Master Agreement is prohibited from unlawfully manufacturing, distributing, dispensing, possessing, using or being under the influence of a controlled substance or alcohol at the Company's workplace. Any Employee who violates this prohibition shall be subject to immediate removal from the aforesaid workplace, as well as other disciplinary action, including discharge.

**02.00.00** Use Of Over-The-Counter-Medications Or Medications Prescribed By A Licensed Physician

**02.01.00** Use of over-the-counter medications or of a medication prescribed by a licensed physician in accordance with the physician's orders, is NOT prohibited.

**02.02.00** Any Employee who is lawfully using a controlled substance at the workplace, i.e., taking prescription drugs in accordance with a doctor's order, while not subject to disciplinary action, may nevertheless be required to leave the workplace, if consumption of that medication presents a safety hazard or prevents him from being able to properly perform his/her work.

**03.00.00** *Education and Awareness Program.* To complement and foster our Joint Company and Union Policy and Program of achieving a drug-free workforce, the Company shall establish and implement a Drug Education And Awareness Program which shall include the following:

**03.01.00** Dissemination of information to Employees at least twice a year regarding the dangers of drugs in the workplace, the Company policy of maintaining a drug-free workplace; the penalties that may be imposed for drug or alcohol abuse' violations; and any available substance counseling programs and services, substance abuse rehabilitation programs, Employee assistance programs, and other community services that are available to those who have a drug or alcohol problem.

**03.02.00** In connection with the above, Employees will be encouraged to seek counseling and other assistance from these agencies on a self-referral basis if they feel they have a need for it. An Employee who voluntarily seeks help and undergoes treatment for drug or alcohol abuse prior to being required to undergo testing will NOT be subject to disciplinary action because of admitted substance abuse, provided he or she thereafter remains drug and alcohol free after commencing treatment. Assistance is available through the Addiction Recovery Program ("ARP"). Employees will be referred to ARP for evaluation and referral to the appropriate treatment and/or counseling. Failure to remain drug or alcohol free shall be considered as that Employee's First Offense and subject the Employee to the actions set forth under Section 08.01.00, Paragraph (a), below.

**03.03.00** Top Management and Supervisory Employees will be trained to assist in identifying and addressing the matter of unlawful use of alcohol or of a controlled substance by Employees, including the making of referrals to appropriate agencies.

#### **04.00.00 TESTING PROTOCOL**

**04.01.00** All tests for controlled substances other than alcohol shall be performed in accordance with all applicable standards established by the (DHHS) Department of Health and Human Services and the Substance Abuse and Mental Health Services Administration ("SAMHSA") as set forth in DOT Regulations 49 CFR-Part 40 and Part 382 or Hawaii Revised Statutes 329 B-4, 5 and 6. (Note: Controlled substance tests shall test for the drugs or classes of drugs listed in DOT regulation 49 CFR Part 40 Subpart F 40.85.)

**04.02.00** All tests for alcohol shall be performed in accordance with all applicable standards established by the United States Department of Transportation ("DOT") 49 CFR Part 40. (Note: Refer to Appendix "A", Sections 07.01.00 and 07.02.00 for positive alcohol test levels.)

#### **05.00.00 TESTING AT TIME OF DISPATCH**

**05.01.00** A Contractor may require an Employee referred from the Job Placement Center to undergo a substance abuse test at the time of dispatch as a condition of consideration of employment with the Company or prior to being approved to work at any Company facility or work area. If an Employee tests positive on a Pre-Dispatch Test with a Company, the Employee may be retested with that Company after a period of thirty (30) days of receiving the positive test result.

**05.02.00** Testing at the time of dispatch must be in place and such testing must actually be conducted before the Company can conduct Periodic and Random Testing.

**05.03.00** The Company shall have the option of putting an Employee on its payroll pending the results of the Pre-Dispatch test. If the Company elects to put the Employee on its payroll, it shall pay the Employee a minimum of eight (8) hours a day at the straight time rate of pay for the classification the Company has requested the Job Placement Center to fill. If the Company does not place the Employee on its payroll pending receipt of the test result the Employee will not lose his/her place on the out-of-work list and may accept other employment pending the test results. Each Company will notify the Union in writing whether it will place Employees on its payroll no later than thirty (30) days after this Agreement is executed. Once a Company has notified the Union, it cannot deviate from its policy for any particular Employee. Any Company which fails to notify the Union as required herein will be required to place all Employees on its payroll pending receipt of test results.

**05.04.00** Pre-Dispatch (Pre-employment) testing for Non-DOT Employees may include the use of substance abuse on-site screening tests, for controlled substances, that have been approved by United States Food and Drug Administration as stated in Hawaii Revised Statutes Chapter 329B-5.5, providing that no judgment for employment be made solely on the results of the substance abuse on-site screening test. If the substance abuse on-site screening

test indicates the presence of controlled substance or controlled substance metabolites then the same sample that produced the test result shall be submitted for a confirmatory test to a laboratory licensed or approved by the department in accordance with HRS Chapter 329B. A positive confirmatory test shall be reviewed by a medical review officer (MRO) in accordance with HRS Chapter 329B.

**06.00.00** *Additional Considerations Applicable To Companies Regulated By The U.S. Department Of Transportation.* In the event the Company is required to comply with DOT regulations regarding workplace drug testing programs, the Company and the Union agree to comply with those regulations. It is understood and agreed that compliance with the DOT regulations shall include:

**06.01.00** Pre-employment, random, reasonable suspicion (for cause) and post-accident testing of applicants and Employees subject to U.S. Department of Transportation regulation;

**06.02.00** Appointment of a Medical Review Officer ("MRO") who will be responsible for making the final decision to verify a positive test result after review of all relevant data on the testing and any explanations offered by the *individual tested*;

**06.03.00** Prohibiting Employees who are subject to U.S. Department of Transportation regulation and who have tested positive from returning to work unless they are released to return to work by the SAP (Substance Abuse Professional as defined in 49 CFR part 40);

**06.04.00** Requiring Employees who are subject to U.S. Department of Transportation regulation and who have tested positive to undergo increased, unannounced testing up to sixty (60) months, as determined by the SAP (Substance Abuse Professional); and

**06.05.00** Retention of all positive test results for five (5) years and retention of all negative results for twelve (12) months.

**07.00.00** ***IMMEDIATE REMOVAL FROM JOB/SUBSTANCE ABUSE TESTING***

**07.01.00** The Company shall have the authority to immediately remove any Employee from the workplace and to require that Employee to immediately undergo, at Company expense, (Note: All tests shall be at company expense except in the case of return to duty testing after a verified positive test result, in which case the costs shall be borne by the Employee.) drug or alcohol testing, in the manner set forth below, under the following circumstances:

**07.01.01** *For Cause:*

(1) When a reasonable, objective basis exists to believe that an Employee has engaged in the unlawful use of or is under the influence of a controlled substance or alcohol at the workplace (Note: Required observations for alcohol and/or controlled substance for cause (reasonable suspicion) testing shall be made by a supervisor or company official who is trained in alcohol misuse and controlled substance use equal to training required under DOT regulation 382.603) as evidenced by such factors as, but not limited to, the following:

- [a] Unsafe work habits or practices that endanger the Employee himself/herself and/or other Employees;
- [b] Abnormal work performance;
- [c] Physical conditions and/or symptoms, such as unstable balance, alcohol on breath, glassy or reddened eyes;
- [d] Frequent or unexplained absence from the workplace or job site during the Employee's shift;
- [e] Abnormal personal behavior and/or poor interpersonal relations on the job;
- [f] Discovery of controlled substances, alcohol, or controlled substances paraphernalia at the work area or on the job site, in the possession of or immediate proximity of an Employee; and/or
- [g] Objective evidence of unlawful use of a controlled substance or unlawful sale of a controlled substance as provided by any Federal, State, or local enforcement agency.
- [h] Causing an accident that results in, ten thousand dollars (\$10,000.00) or more in equipment or material damage, a human fatality, where the Employee receives a moving violation ticket from the accident, or any bodily injury requiring immediate medical treatment away from the scene.

- (2) In utilizing the foregoing criteria of a "reasonable, objective basis," the parties hereto expressly agree that the Federal or State Constitutional law standards of "probable cause" or "reasonable suspicion" are not applicable.
- (3) The Contractor shall complete the attached form (Appendix B) prior to sending an Employee to be tested For Cause.

**07.01.02**      *Periodic Testing.*

- (1) Periodic, routine or intermittent testing shall be conducted at different times and at different intervals for all Employees on the project to determine the use of any illegal or unauthorized drug, alcohol or other substances prohibited by this policy. All persons the Company employs including management and supervisory personnel shall be subject to periodic testing if Employees covered by this Agreement are subject to periodic testing.
- (2) Post-counseling/rehabilitation or return-to-work medical examinations and/or drug or alcohol tests may be required when an Employee returns to work after a long illness, disabling injury, extended absence, reduction in force or as a result of a condition of reinstatement upon completion of a drug and alcohol treatment or counseling program.
- (3) As part of an annual physical the Company may require testing for those Employees who are required to undergo medical examinations due to regulatory requirements of local, state or federal agencies (DOT, ICC, DOD, etc.).

**07.01.03**      *Random Testing.* Random Testing may be used at any time.

- (1) All persons the Company employs who are subject to DOT regulations including management and supervisory personnel shall be subject to random testing and will be in the same pool from which persons to be tested are randomly selected as the Company's Employees who are covered by this Agreement and who are subject to DOT regulations.
- (2) All persons the Company employs who are not subject to DOT regulations including management and supervisory personnel shall be subject to random testing and will be in the same pool from which persons to be tested are randomly selected as the Company's Employees who are covered by this Agreement and who are not subject to DOT regulations.
- (3) There shall be two (2) pools, one for those Employees who are subject to DOT regulations, and one for those who are not subject to DOT regulations.
- (4) Workplace testing may be altered or changed whenever the Employees' activities are regulated by either the U.S. Department of Transportation, U.S. Department of Defense or by contract with any other branch of government or private industry.
- (5) Random testing selection will be done on a fair and impartial basis as outlined in Appendix "A".

**07.02.00**      Urine samples will be taken only under the direction of a licensed physician designated by a Company designated medical laboratory and the "Procedures for Medical Tests of Urine Samples" as set forth in Appendix "A" attached hereto shall be followed. In case of on-site screening tests, for Pre-Employment (Pre-Dispatch) tests only, samples may be collected by a designated Employer representative that has been trained in compliance with Hawaii Revised Statutes 329B-5.5. All Chain of Custody Standards established by the Department of Health and Human Services (DHHS) and Substance Abuse and Mental Health Services Administration ("SAMHSA") shall be followed as set forth in 49 CFR Part 40 or Hawaii Revised Statutes 329 B-4, 5 and 6.

**07.03.00**      In addition, physicians and health care professionals who provide testing services for controlled substance and alcohol impairment shall adhere to the Code of Ethical Conduct For Physicians Providing Occupational Medical Services as adopted by the American Occupational Medical Association on July 23, 1976, as well as to the "Drug Screening In The Workplace Ethical Guidelines" as adopted by that same organization on July 25, 1986.

**08.01.00** The following disciplinary actions shall be taken against an Employee whose drug or alcohol test has a positive reading, as defined in Appendix "A" hereto, or who is guilty of using or being under the influence of a controlled substance or alcohol at the workplace, and hereinafter collectively referred to as an offense:

**08.01.01** *First (1<sup>st</sup>) Offense.*

- (1) *Employee Option 1.* The Employee shall be afforded the opportunity to enroll in and complete a substance abuse assistance or rehabilitation program available through the Operating Engineers Addiction Recovery Program at 842-4624. Compliance with program will be monitored by the Addiction Recovery Program. If the Employee enters such a program, his or her status as an Employee will not be affected and he/she will be allowed to return to work and to continue to work as long as he/she remains drug free, as indicated by a negative return to duty and follow-up drug or alcohol tests.
- (2) *Employee Option 2.* A first-offense Employee who does not choose to enroll in a substance abuse assistance or rehabilitation program shall be suspended for the length of time it takes to obtain a negative reading from a subsequent drug or alcohol test but in any case, no less than a two (2) week suspension. The Employee must make arrangements with his or her Company prior to undergoing drug or alcohol retesting. Should a subsequent drug or alcohol test fail to produce a negative reading within three (3) months after the first offense, then the Employee shall be considered as having committed his or her second (2<sup>nd</sup>) offense.

**08.01.02** *Second (2<sup>nd</sup>) Offense.* Suspension from work for the time it takes to obtain a negative reading from any subsequent drug or alcohol test but in any case, no less than a four (4)- week suspension from work. Also the Employee shall be evaluated by a Substance Abuse Professional (as defined in DOT regulations, 49 CFR Part 40) who shall determine what assistance, if any, the Employee needs in resolving problems associated with alcohol misuse or controlled substances use. In addition any Employee identified as needing assistance in resolving problems associated with alcohol misuse or controlled substance use by the Substance Abuse Professional shall comply with the rehabilitation program prescribed by Substance Abuse Professional before being allowed to return to work. The Employee must make arrangements with his/her company, after being released to return to work by the Substance Abuse Professional, to undergo a return to duty test. Should a subsequent test fail to produce a negative test result within three (3) months after the beginning of such suspension, then the Employee shall be considered as having committed his/her Third (3<sup>rd</sup>) Offense.

**08.01.03** *Third (3<sup>rd</sup>) Offense.* Any Employee who tests positive for the third time will be discharged and will not be eligible for re-employment by the Company for a period of three (3) years.

**08.02.00** For purposes of administering this Section 08.00.00, *Schedule Of Disciplinary Actions*, offenses shall be cumulative on a Company-wide basis. For example: An Employee commits an offense while employed on Job A. Said Employee is subsequently employed on Job B where he/she commits another offense. That offense shall be considered as his/her second offense. Also note that all tests count towards these cumulative disciplinary actions, Random, Periodic, For Cause, Return to Duty, Follow Up, Post Accident, etc. except Pre-Hire or Pre-Dispatch tests.

**09.00.00** ***SELLING OF CONTROLLED SUBSTANCES***

**09.01.00** An Employee who sells or attempts to sell a controlled substance and/or the paraphernalia of a controlled substance at the Company's workplace shall be immediately discharged from employment. In addition, any Employee who engages in such conduct and is discharged for the same, shall not be eligible for re-employment by the Company.

**09.02.00** Any such incidents shall also be reported to appropriate enforcement agencies.

**10.00.00** *Additional Considerations Applicable To Work On Federal Construction Projects.* The following additional provisions shall apply only to Employees who are employed by the Company on a work project that constitutes procurement by the Federal Government or a Federal Agency of any property or services of a value of twenty-five thousand dollars (\$25,000.00) or more.

**10.01.00** As a condition of employment, any Employee convicted of a violation of a criminal drug statute for

**07.04.00** Refusal to sign an authorization to submit to a drug, controlled substance, or alcohol test, the refusal to undergo such a test, or the refusal to permit the physician or medical laboratory to provide the test results to the Company and the Union shall constitute an act of insubordination. This aforesaid insubordination shall be just and proper cause for discipline, including discharge. The penalty for this aforesaid insubordination shall be the same as if the Employee had a positive test result (refer to Section 08.01.00 of this Agreement).

**07.05.00** An Employee shall complete the "Consent For The Release Of Confidential Information" form as set forth in Appendix "C" prior to undergoing a substance abuse test. When an Employee is tested, the Employee, the Company and the Union shall be notified of the test results. Action against the Employee shall be taken in accord with the disciplinary section herein if the Employee's drug or alcohol test results are positive, as defined in Appendix "A" hereto.

**07.06.00** The medical laboratory which performs the tests shall be Department of Health and Human Services (DHHS) and SAMHSA certified as listed in the United States Department of Health and Human Services mandatory guidelines for federal workplace drug testing program (53 FR 11970, April 11, 1988, and subsequent amendments thereto) or be licensed in the State of Hawaii to perform Substance Abuse Testing per Hawaii Revised Statutes 329 B-4, 5 and 6. The medical laboratory shall retain all positive specimens, in a frozen state, for twelve (12) months. An Employee shall have the right to have his or her sample as originally collected independently retested at his/her expense by one of the above approved laboratories. The Employee must exercise this right within fourteen (14) days from the time of the original sample collection and the Employee must select one of the approved laboratories to conduct such retesting. If the independent drug or alcohol retest results are not positive under the criteria set forth in Appendix "A": (a) the Employee shall be put back to work immediately with reimbursement of full pay and benefits and with a rescission of any discipline imposed by reason of a positive drug or alcohol test result, along with an explanation for such rescission, and (b) the Company shall also reimburse the Employee for the cost of the retest as paid for by the Employee.

**07.07.00** Where the Employee believes that the positive test result is not due to unlawful use of alcohol or a controlled substance, but due to exposure to a workplace substance, or that the accuracy of the test result was confounded by a workplace substance, he/she shall have the right, at the Company's expense to have an independent laboratory designated by the Company evaluate the specimen by mass spectrometry or other state-of-the-art technology. If the evaluation indicates that the positive test result was due to a workplace substance, or that a workplace substance confounded the result of the test: (a) the Employee will be put back to work immediately with full back pay and benefits, and with a rescission of discipline imposed along with an explanation for such rescission; and (b) the Company shall take immediate steps to insure that Employees are not exposed to such substances at levels that may produce or cause such positive results, or that may cause material impairment of health or functional capacity.

**07.08.00** An Employee who tests positive and is later allowed to return to work pursuant to Section 08.01.00, Paragraphs (a) or (b), below, shall be subject to unannounced testing by the Company until two (2) subsequent consecutive tests of this nature are negative. Such tests shall be conducted within twelve (12) months after the Employee returns to work, and in any event shall cease after the expiration of the aforesaid time period.

#### **08.00.00** *SCHEDULE OF DISCIPLINARY ACTIONS*

The manufacture, distribution, dispensation, possession, use of, or being under the influence of alcohol or a controlled substance by an Employee, the manufacture, distribution, possession or use of the paraphernalia of a controlled substance by an Employee, or the attempt to engage in any of the foregoing by an Employee, is prohibited at the Company's workplace. The violation of this aforesaid prohibition by an Employee shall constitute just and proper cause for discipline, including but not limited to discharge, as defined in the Master Agreement, and as specified in this Addendum to the Master Agreement. In the event the Employee engages in a separate act of misconduct, in addition to the violation of this Policy, (such as insubordination, fighting, etc.) or engages in conduct which results in physical injury or property damage, the Employee may also be disciplined for such conduct or misconduct in addition to discipline for the drug or alcohol offense. Such discipline shall be in accord with principles of just and proper cause.

a violation occurring in the workplace must, as required by the Federal Drug Free Workplace Act, notify the Company within five (5) days of that conviction. Failure to do so will subject the Employee to disciplinary action, including discharge.

**10.02.00** As required by the Federal Drug-Free Workplace Act, any Employee who is convicted of a violation of a criminal drug statute occurring in the workplace shall be disciplined by the Company or shall be required by the Company to participate in an approved drug abuse assistance or rehabilitation program.

**10.03.00** As required by the Federal Drug-Free Workplace Act, the Company must and will notify any Federal Contracting Agency on whose projects it is working of a workplace drug conviction within ten (10) days after receiving notice from the convicted Employee or other official source of such conviction.

**10.04.00** In compliance with the U. S. Department Of Defense Drug Free Workforce Clause (September 1988), any Employee who has been granted access to secret or classified information -- or whose position and work involves national security, health, or safety and/or a high degree of

**10.05.00** trust and confidence -- will, at Company expense, be subject to testing for the unlawful use of controlled substances and alcohol.

**10.06.00** The Company shall not engage in the unlawful manufacture; distribution, dispensation, possession, or use of a controlled substance in the performance of any work or contract.

#### **11.00.00 CONTROLLED SUBSTANCE**

**11.01.00** For purposes of this Addendum to the Master Agreement, a "controlled substance" is defined as: any drug listed in Schedules I through V of the Controlled Substances Act, at Section 202 thereof, 21 U.S.C., Section 812. These controlled substances include, but are not limited to, marijuana, cocaine, opiates, amphetamines and phencyclidine.

#### **12.00.00 APPLICATION OF GRIEVANCE PROCEDURE AND ARBITRATION PROCEDURES**

**12.01.00** Grievances of Employees covered by the Master Agreement involving, the application of the terms and conditions of employment set forth herein shall be subject to the Grievance Procedure And Arbitration provisions as set forth in the Master Agreement, with the results thereof being final and binding.

#### **13.00.00 INCLUSION OF SUBSTANCE ABUSE TREATMENT BENEFITS UNDER THE HEALTH & WELFARE PLAN.**

**13.01.00** If not already included, the parties hereto will recommend to the Trustees that substance abuse treatment benefits be included under the jointly administered Health & Welfare Plan, created under Section 302 of the Taft-Hartley Act.

#### **14.00.00 APPRENTICESHIP REQUIREMENTS**

**14.01.00** The parties hereto will also recommend that the passage of a drug test for unlawful use of controlled substances be a party of the eligibility requirements for entry into and indenture under the apprenticeship Program maintained by the Company and the Union pursuant to a trust fund created under Section 302 of the Taft-Hartley Act.

#### **15.00.00 DISCLOSURE OF INFORMATION**

**15.01.00** The Company and the Union shall be required to disclose to one another any and all information in their possession that is necessary to enforce this Addendum to the Labor Agreement. The foregoing duty to disclose information is included herein in order for the Company and the Union to comply with their respective duties to bargain in good faith under Sections 8(a)(5) and 8(b)(3) respectively of the National Labor Relations Act, as amended.

**15.02.00** The records maintained by the Company for its Employee assistance program are confidential and protected by federal law and regulations. The Company cannot disclose information identifying an Employee as a participant in its program except in the following limited circumstances:

- (a) The Employee-participants consent to the disclosure in writing as set forth in Appendix "E" attached hereto and made a part hereof;
- (b) The disclosure is required by a court order;
- (c) The information is necessary to meet a medical emergency involving the Employee participant; or
- (d) The information is required by qualified personnel for research, audit or program evaluation.

**15.03.00** The Company will provide each Employee who participates in the Employee assistance program with a written summary, as requested, of the federal law and regulations governing disclosure as set forth in Appendix "F" attached hereto and made a part hereof.

**15.04.00** An Employee's participation in the Employee assistance program will not prohibit the Company and/or Employee assistance program provider from reporting any crimes committed by the Employee-participant either at the program or against any person who works for the program or from reporting any threats to commit such crimes, to the appropriate federal, state or local authorities.

**15.05.00** An Employee's participation in the Employee assistance program will not prohibit the Company and/or Employee assistance plan provider from reporting any information about suspected child abuse or neglect under state law to the appropriate state or local authorities.

**15.06.00** All positive test results from any Company drug or alcohol test will be reported to the Operating Engineers Addiction Recovery Program at 842-4624 and shall be considered confidential information.

**16.00.00** ***ADDITIONAL DEFINITIONS***

As utilized herein, the following terms have the following meanings:

**16.01.00** The term "conviction" means the finding of guilt (including a plea of nolo contendere or no contest) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of Federal or State criminal drug statutes;

**16.02.00** The term "criminal drug statute" means a criminal statute involving manufacture, distribution, dispensation, use, or possession of any controlled substance;

**16.03.00** The term "Federal Agency" means an agency as that term is defined in Section 552(1) of Title 5, United States Code;

**16.04.00** The terms "unlawful use of a controlled substance," "illegal use of a controlled substance," or "illegal use of drugs" means the use, consumption or ingestion of any controlled substance under any circumstances except when directed by a physician or dentist;

**16.05.00** The term "workplace" means any site for the performance of the work of the Company or any location where the Employee may be during paid Company time or when the Employee is under the care, control, and custody of the Company; and

**16.06.00** The terms "drug" or "drugs" mean a controlled substance as defined herein.

**17.00.00** ***ENTIRE AGREEMENT***

**17.01.00** This document contains the entire agreement and no other substance abuse testing shall be allowed unless by written agreement between the parties.

## APPENDIX A

### PROCEDURES FOR MEDICAL TESTS OF URINE SAMPLES

Subject to the restrictions on medical tests contained in the foregoing Addendum to the Master Agreement, urine samples shall be handled in the following manner:

**01.00.00** Collection shall be by a physician or health care professional. Except in the case of on-site screening tests, for Pre-Employment (Pre-Dispatch) tests only, samples may be collected by a company designated Employer representative that has been trained in compliance with Hawaii Revised Statutes 329B-5.5. The presence of a Union representative is not necessary when the collection of urine is made. Specimen containers shall be labeled with a number, and if the donor chooses, the donor's signature, and shall be closed with a tamper-proof seal initialed by the donor and collecting agent. The labeling shall be done in the Employee's presence and in the presence of a Union representative if the Employee chooses.

**02.00.00** The specimen number and identifying information on the donor shall be entered on a log and signed by the collecting technician in the presence of the Employee -- and in the presence of a Union representative if the Employee chooses -- and the Employee shall initial the proper line on the log entry.

**03.00.00** The volume of each sample shall be such that sufficient amounts of urine will exist for both initial tests, confirmation tests and independent testing.

**04.00.00** Samples shall be stored in a scientifically acceptable manner.

**05.00.00** All handlers and couriers of the sample must complete entries and identify themselves on a proper chain of custody form. All of the Substance Abuse and Mental Health Services Administration ("SAMHSA") Standards for Chain-of-Custody as set forth in 49 CFR Part 40 or Hawaii Revised Statutes 329 B-4, 5 and 6 will be complied with.

**06.00.00** Confirmation tests in accordance with the guidelines established by SAMHSA as set forth in 49 CFR Part 40 or Hawaii Revised Statutes 329 B-4, 5 and 6 must be performed. After testing and confirmation testing, the facility must retain a sufficient portion of a positive sample for independent retesting and store that portion in a scientifically acceptable, preserved manner for the period of time as set forth in the guidelines as issued from time to time by SAMHSA - unless the donor/Employee or the Union requests of the facility that it retain the sample for a longer period of time. All laboratories which perform tests shall be SAMHSA certified as set forth in 49 CFR Part 40 or be licensed in the State of Hawaii to perform substance abuse testing as per Hawaii Revised Statutes 329 B-4, 5 and 6.

**07.00.00** Results of the testing shall be communicated in writing to the Company, Union and the donor/Employee within seven (7) calendar days after the results are determined, The laboratory may only report a positive drug or alcohol test results if the appropriate test indicates that the specimen contains levels of drugs or alcohol in excess of the following levels:

**07.01.00** *For Non-DOT Employees.* Blood alcohol level in excess of the State of Hawaii Standard giving rise to a legal presumption of intoxication.

**07.02.00** For Employees covered under DOT regulation standards established and set forth in 49 CFR Part 40 and Part 382 shall apply.

**07.03.00** For controlled substances the cutoff levels established by the Department of Health and Human Services for both initial testing and confirmatory testing as noted in DOT regulation 49 CFR Part 40 Subpart F 40.87 shall be used.

**08.00.00** Information on test results and the fact that testing was done shall be kept confidential by the Company, Union, and tester, and shall be communicated only to those who must know the information in order to ensure safety at the workplace and enforce the terms and conditions set forth in the foregoing Addendum to the Master Agreement. Copies of all documents -- including but not limited to test results, computer printouts, graphs, interpretations, and chain of custody forms shall -- be delivered to the Employee from whom the samples of the bodily fluids were taken.

**09.00.00** On the day that the sample is taken when test for cause, the Contractor shall send the Employee home for the remainder of the day, and shall arrange transportation home for that Employee and not allow the Employee to drive home. The Employee shall not be allowed to return to work until his or her test results are known.

**10.00.00** As utilized herein, the terms "drugs" or "drug" mean a controlled substance as defined in the foregoing Addendum to the Master Agreement. As utilized herein, the term "alcohol" has the same meaning that is set forth in the foregoing Addendum to the Master Agreement?

**11.00.00** The selection for random alcohol and controlled substance testing shall be made in a scientifically valid method, such as a computer based random number generator that is matched with Employee identifying numbers.

**11.01.00** The guidelines set by the Department of Transportation for professional drivers regarding the number of Employees to be tested during the year shall be followed. These guidelines require that twenty-five (25%) of the workforce be tested the first year of the program and fifty percent (50%) each year thereafter.

**APPENDIX B**  
**SUBSTANCE ABUSE TESTING**

TYPE: \_\_\_\_\_

LOCATION CODE: \_\_\_\_\_

T0: \_\_\_\_\_

DATE: \_\_\_\_\_

POSITION: \_\_\_\_\_

DEPT/PROJECT: \_\_\_\_\_

1. As an Employee, you are ordered to be tested for substance abuse in accordance with Company policy and procedures, based on reasonable suspicion.
2. An appointment has been made for you to be tested at:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Date: \_\_\_\_\_ Time: \_\_\_\_\_

3. You will be escorted to the collection site by a Company official or representative. You will be provided transportation to the collection site and provided transportation to your residence upon completion of the specimen collection. Any costs-accrued for transportation will be paid by the Company.
4. You will be required to sign a form voluntarily consenting to submit to testing, to provide specimen(s) as part of testing and to release the test results to the Company and its Medical Review Officer. Failure to sign this form shall result in disciplinary action as set forth in the program and procedures for disciplinary action.
5. You are hereby placed on indefinite suspension without pay pending the results of the substance abuse test. If the results are negative, you will be returned to work immediately and reimbursed for all lost time, and no record of the testing or indefinite suspension will be placed in your personnel file.

All substance abuse testing required by the Company will be in accordance with any applicable local, federal and state laws or regulations.

Unless you are advised otherwise by the Company, substance abuse testing for cause shall be for the presence of alcohol in the system or for the following controlled substances: marijuana, cocaine, amphetamines, opiates and phencyclidine.

You are advised that over-the-counter medications or prescribed drugs may result in a positive test result. For this reason, the Company's Medical Review Officer may need your assistance in identifying which medications or drugs you may be taking at the present time and may have taken within the past thirty (30) days to ensure accuracy of testing results.

Please take a picture ID with you for identification at the time of testing.

If you have any questions, please contact the undersigned. Failure to undergo substance abuse testing as required by the Company may result in disciplinary action.

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**Director of Environmental Safety and Health,  
Personnel Manager, or designee**



**APPENDIX D**  
**COLLECTION STATIONS FOR DRUG TESTING**

<u>Location</u>	<u>Contact Person</u>
Straub Clinic and Hospital 888 S. King Street Honolulu, HI 96813	Linda Spadaro Corporate Account Executive Ph. 522-4049
Straub Occupational Health Services 848 S. Beretania Street Honolulu, Hawaii 96814	Barbara Lewis Dr. Brian Mihara (MRO) Ph. 522-4552
Straub Clinic – Westridge 150 Kaonohi Street Aiea, Hawaii 96701	Doris Noguchi and Dr. Debra Agles Sandy (to schedule) Ph. 488-8431
Kaneohe Family Health Center Windward Mall (2nd Level) 46-046 Kamehameha Highway Kaneohe, Hawaii 96744	Ann Topolinshi Annette DaSilva Ph. 235-0099
Reliable Drug Testing Services, Inc. 1524 Ala Puumalu Street Honolulu, Hawaii 96818-1547	Kalfreda Mae Wataoka Ph. 833-5973
Airport Urgent Care - Occupational Medical Centers 545 Ohohia Street Honolulu, Hawaii 96819	Janey Naganuma Dr. Ronald Kienitz (DO) Ph. 831-3000
Clinical Labs of Hawaii 33 Lanihuli Street Hilo, Hawaii 96720	Adrian Mangiboyat Ph. 961-4708 Fax 935-2518
Kona Hospital Laboratory P. O. Box 69 Kealahakua, Hawaii 96750 (Basement Level)	Arlene Rosehill (after hours) and Nina Garcia Ph. 322-9366 <b>KONA</b>
Maui Memorial Hospital 221 Mahalani Street Wailuku, Hawaii 96793	Wade Hiraga (after hours) Ph. 242-2064 <b>MAUI</b>
Clinical Labs of Hawaii 1831 Wili Pa Loop Wailuku, Hawaii 96793	Alison Horie Ph. 244-5567 <b>MAUI</b>
Wilcox Memorial Hospital Laboratory 3420 Kuhio Highway Lihue, Hawaii 96766	Rolinda Deyro Ph. 245-1088 Charlene Oshiro Ph. 245-1087 <b>KAUAI</b>

Any facility that adheres to the Standard of Substance Abuse Testing established by the Department of Health and Human Services (DHHS) and Substance Abuse and Mental Health Services Administration ("SAMHSA") as set forth in 49 CFR Part 40 or Hawaii Revised Statutes 329 B-4, 5 and 6 may be used as a collection station for Substance Abuse Testing.

## APPENDIX E

### WRITTEN CONSENT FOR DISCLOSURE OF INFORMATION CONTAINED IN THE COMPANY'S RECORDS CONCERNING PARTICIPATION IN EMPLOYEE ASSISTANCE PROGRAM FOR ALCOHOL OR DRUG ABUSE

I, \_\_\_\_\_ request/authorize \_\_\_\_\_  
Name of Employee-Patient Name of Company

to disclose to \_\_\_\_\_ the following information: \_\_\_\_\_  
Name of party to receive information

for the limited purpose of \_\_\_\_\_  
I understand that this consent is subject to revocation at any time to the extent that the Employer has already disclosed such information in reliance upon this consent form. If not previously revoked, this consent will terminate upon \_\_\_\_\_  
Specific date, event or condition

\_\_\_\_\_  
Signature of Employee

\_\_\_\_\_  
Date Signed

**APPENDIX F  
MEMORANDUM**

TO: \_\_\_\_\_

FROM: \_\_\_\_\_  
Name of Company

DATE: \_\_\_\_\_

RE: CONFIDENTIALITY OF ALCOHOL AND DRUG ABUSE PATIENT RECORDS.

The records maintained by \_\_\_\_\_ ("the Company") in  
Name of Company

relation to its Employee assistance program for alcohol or drug abuse are protected by federal law and regulations.

The Company cannot disclose information identifying you as a patient or participant in such program except in the following limited circumstances:

1. You (the participant) have consented in writing;
2. The disclosure is required by a court order;
3. The information is necessary to meet a medical emergency involving you;
4. The information is required by qualified personnel or research, audit or program evaluation.

Violation of the federal law and regulations by a program is a crime. Suspected violations may be reported to appropriate authorities in accordance with federal regulations.

Federal law and regulations do not protect any information about a crime committed by a patient either at the program or against any person who works for the program or about any threat to commit such a crime. .

Federal laws and regulations do not protect any information about suspected child abuse or neglect from being reported under state law to appropriate state or local authorities.

Copy to Employee's file.

**TESTING AT TIME OF DISPATCH URINALYSIS CONSENT FORM**

I understand that a Contractor may require an Employee referred from the Job Placement Center to undergo a substance abuse test at the time of dispatch as a condition of consideration of employment with the Company or prior to being approved to work at any Company facility or work area.

I consent to the urine sample collection and testing for the following controlled substances: marijuana, cocaine, opiates, amphetamines, and phencyclidine.

I understand that a positive test result for controlled substances may render me unqualified for employment with the Company.

The Medical Review Officer will maintain the results of my test. Negative and positive results will be reported to the Company and the Operating Engineers Addiction Recovery Program Office and shall be considered confidential information. If the results are positive, the controlled substance will be identified. The results will not be released to any other parties without my written authorization.

I understand the above conditions and hereby agree to comply with them.

\_\_\_\_\_  
Applicant's Name Print

\_\_\_\_/\_\_\_\_/\_\_\_\_  
Month Day Year

\_\_\_\_\_  
Applicant's Signature

## TESTING AT TIME OF DISPATCH URINALYSIS CONSENT FORM

I understand that as required by the Federal Motor Carrier Safety Regulations, Title 49 Code of Federal Regulations, Part 382, Subpart C 382.301, all driver-applicants of this Company must be tested for controlled substances as a pre-condition for employment.

I consent to the urine sample collection and testing for the following controlled substances: marijuana, cocaine, opiates, amphetamines, and phencyclidine.

I understand that a positive test result for controlled substances may render me unqualified for employment with the Company.

The Medical Review Office will maintain the results of my test. Negative and positive results will be reported to the Company and the Operating Engineers Addiction Recovery Program Office and shall be considered confidential information. If the results are positive, the controlled substance will be identified. The results will not be released to any other parties without my written authorization.

I understand the above conditions and hereby agree to comply with them

\_\_\_\_\_  
Applicant's Name Print

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
Month Day Year

\_\_\_\_\_  
Applicant's Signature

**MASTER AGREEMENT COVERING OPERATING ENGINEERS IN THE STATE OF HAWAII  
SCHEDULED WAGE AND BENEFIT INCREASES**

	<b>Present (Effective 3/04/02)</b>	<b>Eff. 9/01/02</b>	<b>Eff. 9/01/03</b>	<b>Eff. 8/30/04</b>	<b>Eff. 8/29/05</b>	<b>Eff. 9/04/06</b>
Wage Rate Group 6 Group 9A	\$29.70 \$30.47	+ .40 \$30.10 \$30.87	Subject to Distribution of \$1.00 Wage/ Fringe Option	Subject to Distribution of \$1.30 Wage/ Fringe Option	Subject to Distribution of \$1.40 Wage/ Fringe Option	Subject to Distribution of \$1.40 Wage/ Fringe Option
Health & Welfare	+ .35 5.65	+ .15 5.80				
Pensioned Health & Welfare	+ .15 1.24	+ .05 1.29				
Pension/Annuity Option*	5.29	+ .10 5.39				
Vacation/Holiday	+ .10 3.30	+ .25 3.55				
Apprenticeship & Training	+ .05 .55	+ .05 .60				
Industry Stabilization	+ .05 .59	.59				
Hawaii Building & Construction Trades Council <sup>1</sup>	.03	.03				
Wage/Fringe Option	—	—	+1.00	+1.30	+1.40	+1.40
<b>TOTAL WAGES &amp; FRINGES</b>	<b>+1.20</b>	<b>+1.00</b>	<b>+1.00</b>	<b>+1.30</b>	<b>+1.40</b>	<b>+1.40</b>
Group 6	46.35	47.35	48.35	49.65	51.05	52.45
Group 9A	47.12	48.12	49.12	50.42	51.82	53.22

Hawaii Construction Industry Improvement Program	.03	.03	.03	.03	.03	.03
Labor Association Contract GCLA	.065	.065	.065	.065	.065	.065
Negotiation/Administration Fee BILA	.05	.05	.05	.05	.05	.05
<b>TOTAL PACKAGE</b>						
Group 6 GCLA	\$46.445	\$47.445	\$48.445	\$49.745	\$51.145	\$52.545
BILA	\$46.43	\$47.43	\$48.43	\$49.73	\$51.13	\$52.53
Group 9A GCLA	\$47.215	\$48.215	\$49.215	\$50.515	\$51.925	\$53.315
BILA	\$47.20	\$48.20	\$49.20	\$50.50	\$51.90	\$53.30

\*Refer to specific language in Master Agreement for details.

<sup>1</sup>The \$.03 per hour contribution to the Hawaii Building & Construction Trades Council is to be treated the same way as the Vacation/Holiday Fund (i.e., ADDED to the employee's gross wages for tax purposes, etc.)

