

**2020**  
**Commercial Building**  
**AGREEMENT**

BETWEEN

LOCAL 32BJ  
SERVICE EMPLOYEES  
INTERNATIONAL UNION

AND

REALTY ADVISORY BOARD  
ON LABOR RELATIONS, INC.

EFFECTIVE JANUARY 1, 2020  
TO DECEMBER 31, 2023

## TABLE OF CONTENTS

<u>ARTICLE</u>	<u>PAGE</u>
I. Union Recognition and Union Security.....	1
II. Coverage of Agreement / Sub-Contracting .	11
III. Wages, Hours & Working Conditions .....	14
IV. Management Rights .....	16
V. Reduction in Force .....	18
VI. Reason for Discharge .....	24
VII. Grievance Procedure .....	25
VIII. Arbitration.....	27
IX. No Strikes or Lockouts .....	32
X. Multi-Employer Bargaining.....	35
XI. Health, Pension, Training, Legal and Supplemental Retirement and Savings Funds .....	40
XII. Disability Benefits Law and Unemployment Insurance .....	55
XIII. Sickness Benefits .....	56
XIV. Building Acquisition by Public Authority...	59
XV. Sale or Transfer of Building .....	59
XVI. Building Classifications .....	61
XVII. Wages and Hours .....	62
XVIII. Superintendents.....	71
XIX. Joint Industry Advancement Project.....	75
XX. Terms of Agreement and Renewals.....	79

<u>ARTICLE</u>	<u>PAGE</u>
XXI. General Clauses .....	81
1. Differentials .....	81
2. Pyramiding.....	82
3. Holidays .....	82
4. Voting Time .....	87
5. Personal Day .....	87
6. Schedules .....	88
7. Relief Employees .....	88
8. Method of Payment of Wages.....	88
9. Seniority and Layoff .....	90
10. Replacement, Promotions, Vacancies, Trial Periods, and Newly Hired Employees .....	91
11. Recall .....	95
12. Leave of Absence and Pregnancy Leave .....	97
13. Vacations and Vacation Relief Employees.....	100
14. Day of Rest .....	104
15. Uniforms and Other Apparel .....	104
16. First Aid Kit.....	105
17. Fire and Flood Call .....	105
18. Eye Glasses and Union Insignia .....	105
19. Bulletin Board.....	105
20. Sanitary Arrangements.....	106
21. Termination Pay.....	106

<u>ARTICLE</u>	<u>PAGE</u>
22. Tools, Permits, Fines and Legal Assistance .....	109
23. Military Service .....	109
24. No Discrimination / Protocol .....	110
25. Placement / Employment Agency Fee .....	120
26. Employees' Rooms .....	121
27. Definitions.....	121
28. Required Training Programs.....	123
29. Building Safety and Security .....	123
30. Garnishments .....	123
31. Death in Family.....	124
32. Union Visitation.....	124
33. Jury Duty.....	124
34. Identification .....	125
35. Service Center Visit .....	126
36. Automation Employment Pool .....	127
37. Death of Employee .....	128
38. Government Decrees.....	128
39. Weather Conditions .....	129
40. Common Disaster.....	129
41. Transportation Costs .....	130
42. Cuspidors .....	130
43. Security Background Checks.....	130
44. Work Authorization and Status Disputes.....	131

<u>ARTICLE</u>	<u>PAGE</u>
45. Veteran Assistance Program .....	132
46. Saving Clause.....	132
47. Complete Agreement .....	133
48. Notices .....	133
49. Wage and Hour Claims.....	133
XXII. New Development .....	136
Side Letters .....	138
Minimum Wage Rates .....	155
Index .....	163

**The REALTY ADVISORY BOARD ON LABOR RELATIONS, INCORPORATED (RAB),** an incorporated multi-employer association, duly authorized and empowered to enter into this agreement for its members which appear on the list furnished to **SERVICE EMPLOYEES INTERNATIONAL UNION, LOCAL 32BJ** (Union), and the Union, acting on behalf of its members and other building service employees to whom this Agreement applies and for whom it is the collective bargaining agency, do hereby agree as of this 1st day of January 2020, as follows:

## **ARTICLE I**

### **Union Recognition and Union Security**

1. The Union is recognized as the exclusive collective bargaining representative of all classifications of service employees at each building which is committed to this Agreement within the geographical jurisdiction of the Union and the RAB. This Agreement shall apply to all classifications of service employees employed by the Employer. Article II of this Agreement shall also apply to employees of cleaning and maintenance contractors who employ employees in any building committed to this Agreement working in any job category covered by this Agreement.

This Agreement shall include a classification for building Superintendent in buildings where the Superintendent has been covered by the RAB Commercial Building Agreement and those covered under the former Local 164/RAB Agreement.

Work performed pursuant to the terms of this collective bargaining agreement shall not be performed by persons not covered by the bargaining agreement except as provided in Article II.

2. There shall be a Union Shop throughout the term of this Agreement in every building where there was a Union Shop under the 2016 Commercial Building Agreement and in other buildings whenever it is agreed or determined that a majority of the employees in such buildings are members of or have applied for membership in the Union.

The “Union Shop” requires membership in the Union by every employee in the building as a condition of employment after the thirtieth (30th) day following employment or the execution date of this Agreement, whichever is later, or in the case of newly organized buildings, after the thirtieth (30th) day following agreement or determination that a majority of the employees in such buildings are members of or have applied for membership in the Union, and requires that the Union shall not ask or require the

Employer to discharge or otherwise discriminate against any employee except in compliance with law. The requirement of membership under this section or elsewhere in this Agreement is satisfied by the payment of financial obligations of the Union's initiation fees and periodic dues uniformly imposed.

In the event the Union security provision of this Agreement is held to be invalid, unenforceable or of no legal effect generally or with respect to any building because of interpretation or a change of federal or state statute, city ordinance or rule or decision of any government administrative body, agency or subdivision, the permissible Union security clause under such statute, decision or regulation shall be enforceable as a substitute for the Union security clause provided for herein.

3. Whenever the Union files with the RAB and the Employer a claim that a majority of the employees in a building are members of or have made application for membership in the Union, the Union Shop requirement shall be made effective within fifteen (15) days thereafter, unless the Employer or the RAB, within ten (10) days, notifies the Union that it requires a determination of that claim.

4. Upon receipt by the Employer of a letter from the Union's Secretary-Treasurer requesting any

employee's discharge because such employee has not met the requirements of this Article, unless the Employer questions the propriety of so doing, such employee shall be discharged within fifteen (15) days of said notice if prior thereto such employee does not take proper steps to meet said requirements. If the Employer questions the propriety of the discharge, it shall immediately submit the matter to grievance, and if not thus settled, to the Arbitrator for final determination. If it is finally settled or determined that the employee has not met the said requirements, the employee shall be discharged within ten (10) days after written notice of the final determination has been given to the RAB and the Employer.

The Employer shall be responsible for unpaid dues after receipt of notice provided for in this section and exhaustion of contractual remedies. The Employer's obligation shall begin fifteen (15) days after such notice or, if the Employer questions the discharge, after the final determination of the arbitrator.

5. The Union will hold the Employer harmless from any liability arising from a discharge asked by the Union pursuant to this Article provided the Employer has done nothing to cause or increase its own liability concerning removal of employees.

6. During any period in which it is not established that a majority of the employees in a building are members of, or have made application for membership in the Union, it is agreed that all employees who, upon the date this Agreement is signed for their building, are members of the Union in good standing in accordance with the Constitution and By-Laws of the Union, and all employees who thereafter become members shall, as a condition of employment, remain Union members in good standing during the life of the Agreement.

7. Upon execution of this Agreement, each Employer shall furnish the Union and the RAB with a complete list of the names, Social Security numbers, home addresses and job locations of all employees covered by this Agreement and shall notify the Union and the RAB of the names, Social Security numbers, home addresses and job location of each new employee thereafter employed.

The Employer shall notify the Union and the RAB in writing, as soon as a cancellation of an account becomes effective where Union members are employed and the Employer shall notify the Union when it acquires a new building service job.

8. The Union shall have the right to inspect the Employer's Social Security reports and all

payroll records (except the salary of the nonunion Supervisors) in order to determine if this Agreement is being complied with. The Union shall have the right to expedited arbitration in the event an Employer fails to comply with this right of inspection. Inspections may also be made by the Union or the Arbitrator at the request of the RAB. The RAB may join the Union at all times, when such examination is made. All Benefit Trust Funds established under this Agreement shall have the same right to inspect as the Union but shall also have the right to inspect Supervisors' payroll records where Supervisors are covered by such Funds.

9. Each Employer agrees to deduct the Union's monthly dues, initiation fees, and all legal assessments from the pay of each employee from whom it receives written authorization and will continue to make such deductions while the authorization remains in effect. The Employer hereby agrees to deduct voluntary political contributions based upon authorizations signed by the employees in accordance with applicable law.

The parties acknowledge and agree that the term "written authorization" as provided in this Agreement includes authorizations or revocations created and maintained by use of electronic records and electronic signatures consistent with state and federal law. The

Union, therefore, may use electronic records to verify Union membership, authorization for voluntary deduction of Union dues and fees, as well as voluntary contributions to the Union's American Dream Fund, from wages or payments for remittance to the Union, and authorization for voluntary deductions from wages or payments for remittance to the American Dream Fund. The Employer shall accept such electronic records from the Union as valid written authorizations for, or revocations of, deduction and remittance.

Employers who are currently accepting such electronic records as valid written authorizations or revocations for deduction and remittance shall continue to do so. The parties recognize that Employers who are not currently accepting electronic records as valid written authorizations or revocations may need time and/or training to be able to do so. The Union shall provide any necessary training opportunity to the Employer to facilitate acceptance of electronic records as valid written authorizations or revocations for deduction and remittance. Those Employers who are not currently accepting electronic records as valid written authorizations or revocations shall commence acceptance no later than nine (9) months from the date an Employer first becomes signatory to this Agreement (the "Transition Period"), provided that any reasonably requested training has been provided

by the Union. It is understood that the transition to electronic records and electronic signatures may cause some delays. During the Transition Period, Employers who deduct appropriately, but whose transmissions are delayed, shall not be subject to interest or penalties owing to such delays.

Such deductions will be made from the pay for the first full pay period worked by each employee following the receipt of the authorization, and thereafter will be made the first payday each month, and forwarded to the Union not later than the twentieth day in each and every current month. Such deductions shall constitute trust funds while in the possession of the Employer.

If the Employer fails to remit to the Union the dues or other monies deducted in accordance with this section by the twentieth day, the Employer shall pay interest on such dues or other monies at the rate of one percent per month beginning on the twenty-first day, unless the Employer can demonstrate the delay was for good cause due to circumstances beyond its control. The interest shall not be assessed for an Employer's initial failure to deduct voluntary political contributions until thirty (30) days after the Employer has received written notice from the Union of its failure to deduct.

The Employer shall provide employee information in connection with the transmission of dues, initiation fees, all legal assessments and other deductions required to be transmitted to the Union (collectively, "Deductions"). Deductions from employees' paychecks shall be transmitted to the Union electronically via ACH or wire transfer utilizing the 32BJ self-service portal, unless the Union directs, in writing, that Deductions be remitted by means other than electronic transmittals. The Union shall specify reasonable information to be recorded and/or transmitted by the Employer, as necessary and consistent with this Agreement.

Employers who are currently transmitting Deductions by ACH shall continue to do so. The parties recognize that Employers who are not currently transmitting Deductions by ACH may need time and/or training to be able to do so. The Union shall provide any necessary training opportunity to the Employer to facilitate electronic transmissions. Those Employers who are not currently transmitting Deductions by ACH shall commence transmission by ACH no later than nine (9) months from the date an Employer first becomes signatory to this Agreement (the "Transition Period"), provided that any reasonably requested training has been provided by the Union. It is understood that the transition to ACH payment may cause some delays in effecting transmission. During the Transition Period,

Employers who deduct appropriately, but whose transmissions are delayed, shall not be subject to interest or penalties owing to such delays.

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

The Union agrees to indemnify and save such Employer and the RAB harmless from any liability incurred by reason of such deductions.

In keeping with the extension of Article I, Section 1 to include all areas within the geographical jurisdiction of the Union and the RAB, the RAB and the Union will establish a joint industry committee comprised of at least six (6) representatives from all sectors of the commercial and residential industry to meet on an ongoing basis, but not less than quarterly. The committee shall review and analyze prevailing market conditions, including wage and rental rates, and develop procedures for resolving Union organizational and representation disputes to minimize disruption and conflict and to promote stable and efficient labor relations and labor conditions.

**ARTICLE II**  
**Coverage of Agreement**  
**Sub-Contracting**

1. The Employer shall not make any agreement or arrangement for the performance of work and/or for the categories of work heretofore performed by employees covered by this Agreement except within the provisions and limitations set forth below.

2. The Employer shall give advance written notice to the RAB and the Union at least three (3) weeks prior to the effective date of its contracting for such services, or changing contractors, indicating the name and address of the contractor.

3. The Employer shall require the contractor to retain all bargaining unit employees working at the location at the time the contract was awarded and to maintain the existing wage and benefit structure.

The Employer agrees that employees then engaged in the work which is contracted out shall become employees of the initial contractor or any successor contractor, and agrees to employ or re-employ the employees working for the contractor when the contract is terminated or cancelled. This provision shall not be construed to prevent termination of any employee's employment under

other provisions of this agreement relating to illness, retirement, resignation, discharge for cause, or layoff by reason of reduction of force; however, a contractor may not reduce force or change the work schedule without first obtaining written consent from the union, which shall not be unreasonably withheld.

If the Union does not respond in writing to a contractor's request to reduce the work force or change the work schedules within four (4) weeks after written notification, or if the Union denies in whole or in part the contractor's request, the contractor must, if it wishes to pursue the reduction in force or change in work schedule, invoke and conclude expedited arbitration as provided in Article VIII before implementing any such reduction or change.

If the contractor fails to comply with any agreement with the Union covering the work which was contracted out, the Employer shall be liable severally and jointly with the contractor for any and all damages sustained by the employees or the RAB as the result thereof, or for any unpaid Health, Pension, Training, Legal, and Supplemental Retirement and Savings contributions. The Employer's liability shall commence the date it receives written notice from the Union or the RAB of the contractor's failure to so comply.

4. Any cleaning contractor who performs services for an owner and/or managing agent who is signatory to this agreement shall be entitled to the following provisions of this Agreement at the signatory buildings: Seniority, Hours, Flexibility, Work of Absentees, and the right to the procedure of an expedited hearing with respect to the reduction in force procedures as provided in Section 3 of this Article. Any other provisions concerning reduction in force shall be those as set forth in the cleaning contractors' agreement with the Union.

5. Whenever and wherever a contractor has the right to employ employees at wages, hours, terms and conditions different than those required by this contract (including without limitations, employees covered by Article XIII, paragraph 2, of the 2020 Contractors Agreement with Local 32BJ and employees covered by Article XIII Paragraph 2 of the Independent Contractors Agreement) then the Owner and/or Agent performing such work may employ employees at the same wages, hours, terms and conditions as would be applicable to the contractor's employees.

6. This Article is intended to apply to all employees employed in any building committed to this Agreement and to categories of employees to the extent that such categories of employees are "fairly

claimable” by the Union, within existing National Labor Relations Board case law. In the event that the application of this Article, or any part thereof, is held to be in violation of law, then this Article, or any part thereof, shall remain applicable to the extent permitted by law.

### **ARTICLE III**

#### **Wages, Hours & Working Conditions**

1. Except as otherwise provided herein, the wages set forth in Article XVII shall be effective as of January 1, 2020, and all other terms and conditions shall become effective on the payroll date nearest to January 1, 2020. As to all buildings later adopting this agreement, it shall take effect in accordance with Article X.

2. No provision of this Agreement shall be construed so as to lower any employee’s wage. If employees in any building had in effect on January 1, 2016, a practice of terms or conditions better than those provided for herein, applicable generally to them for wages, hours, sick pay, vacations, holidays, premium pay for Saturday and/or Sunday work, relief periods, jury duty or group life insurance, such better terms or conditions shall be continued only for employees employed by the Employer on January 1, 2016. Any employee who acquired a better term or condition after

January 1, 2016, shall continue to receive same. The Arbitrator may relieve the obligations in the preceding sentences if enforcement would work an undue hardship, injustice or inequity upon the Employer.

A change of schedules or duties except as provided in paragraph 3 of this Article, so long as required relief and luncheon periods are reasonably spaced, shall not violate this Section, provided the employee, the Union and the RAB are given at least three (3) weeks advance written notice and such change is reasonable. However, every employee presently working a regular Monday through Friday workweek (and if such employee leaves employment for any reason whatever the person who fills such employee's position) shall receive premium pay at time and one-half the regular straight-time hourly rate for any work performed by an employee on a Saturday or Sunday.

Employers shall provide temporary schedule changes in accordance with the coverage and requirements of New York City Admin. Code § 20-1261 et seq., and the grievance and arbitration procedure shall be the sole and exclusive forum for any such claims and remedies. The ability to pursue remedies in any other forum is hereby waived.

3. All new employees may be offered and assigned to any cleaning duty in the building, provided

that it does not exceed a reasonable day's work. Present office cleaning employees may be assigned to any cleaning duty on office floors provided (1) that the Employer give the Union three (3) weeks written notice of any new assignments except for temporary assignments, and (2) that the Employer shall not assign employees to workloads or work duties requiring unusual physical exertion, strength or dexterity. This provision shall not be applied by the Employer to substantially increase present workloads or to substantially alter duties so as to require the employee to perform more than a reasonable day's work.

If the Union grieves and/or arbitrates a dispute pursuant to this provision, the Employer in such arbitration shall have the burden of showing that only a reasonable day's work as provided above is required of the employee.

#### **ARTICLE IV**

#### **Management Rights**

1. The Union recognizes management's rights to direct and control its policies subject to the obligations of this Agreement.

2. Employees will cooperate with management within the obligations of this Agreement to facilitate efficient building operation.

3. If any employee is unjustly discharged, such employee shall be reinstated to the employee's former position without loss of seniority or rank and without salary reduction. The Joint Industry Grievance Committee or the Arbitrator may determine whether, and to what extent, the employee shall be compensated by the Employer for time lost.

4. If an employee is removed from a location at the good faith demand of a customer, the Employer may remove the employee from further employment at that location, provided there is a good faith reason to justify such removal, apart from the demand itself. Upon the Union's request, the Employer will advise the Union of information it has relating to the customer's complaint and make reasonable efforts to secure from the customer a written confirmation of the customer's request. Unless the Employer has cause to discharge the employee, the Employer will place the employee in a similar job at another facility within the same county covered by this Agreement (unless the Union and the Employer shall agree to place the employee in a similar job in a different county covered by this Agreement), without loss of entitlement seniority or reduction in pay or benefits and pay Displacement Pay to such employee equivalent to the Termination Pay Schedule set forth in Article XXI, Sec. 21(a), but not less than two (2) weeks pay.

In the event an employee is transferred to another building and is not filling a vacant position, the Employer shall seek volunteers on the basis of seniority within the job title. If there are no volunteers, the junior employees shall be selected for transfer and receive the same Displacement Pay and protection afforded to the transferred employee. In the event an employee is discharged pursuant to this section, the Employer must raise the issue of transfer in such discharge arbitration.

5. WORKERS' COMPENSATION – In accordance with Article 10-A of the New York Workers' Compensation Law, §350 et seq., the Employer shall be permitted to contract with a preferred provider organization (PPO) to deliver all medical services mandated by the Workers' Compensation Law. The Employer and employees may exercise all rights granted to them under Article 10-A.

## **ARTICLE V**

### **Reduction in Force**

1. The Employer shall have the right to reduce its work force in the following circumstances, provided that it can establish that the changes listed below eliminate an amount of work similar to the proposed reduction in worker hours:

- (a) A change in work specifications or work assignment which results in a reduction of work
- (b) Elimination of all or part of specified work
- (c) Vacancies in building
- (d) Reconstruction of all or part of building
- (e) The tenant performing the work itself
- (f) Introduction of technological advances
- (g) Change in the nature or type of occupancy

2. If the Employer desires to reduce its work force, it is required, in addition to their accrued vacation credits and termination pay, if any, to give employees employed for one (1) year or more one (1) week notice of layoff or discharge, or in lieu thereof, an additional week pay. The Employer shall give four (4) weeks written notification to the Union and the RAB. The Employer shall include in such notification the following:

(a) Reason for reduction, specifying whether the reduction is being made pursuant to one or more of the reasons set forth in this Article.

(b) If reduction is office cleaning work, notification should include work schedules showing hours, cleaning area footage and frequency of cleaning existing prior to the reduction and after the reduction.

(c) If other work, notification should include the precise work to be eliminated, setting forth the hours spent on each task to be eliminated and the change in schedules and duties of remaining employees resulting from the reduction in force.

(d) If the reduction is due to technological advances, the notice shall describe the technological advance, how it will reduce work, the number of worker-hours of reduced work and the change in schedules and duties of remaining employees resulting from the reduction in force.

3. In the event that a reduction in the work force is effected and the reason for the reduction in the work force ceases to exist, then the Employer shall reinstate the work force that existed prior to the reduction in force.

4. If the Union grieves or arbitrates a dispute pursuant to this provision, the following shall apply:

(a) The arbitration shall be expedited and in no event shall be scheduled and heard later than seven (7) calendar days after the Union's request for arbitration.

(b) The Employer shall affirmatively demonstrate that it has eliminated an amount of work similar to the reduction in worker hours.

(c) The arbitrator shall issue an award within seven (7) calendar days after the close of the hearing.

(d) There shall be no adjournments granted without mutual consent.

5. (a) The Employer shall have the right to reduce the work force among employees working in its building pursuant to Article II of the Collective Bargaining Agreement provided that it can establish that the changes listed below eliminate an amount of work similar to the proposed reduction in worker hours:

- (i) vacancies in building;
- (ii) reconstruction of all or part of building;
- (iii) the tenant performing the work itself.

The Employer shall give four (4) weeks written notification to the Union and the RAB of any reduction in force. The notice should include the specific reason for the reduction and the number of worker hours being reduced.

Upon request of the Union, additional information with respect to changes in work assignments occasioned by the reduction shall be provided.

In the event that the four weeks notice provided for herein is not given and the Employer lays off employees pursuant to this provision, the Employer shall pay an amount equal to the laid-off employees' wages and fringe benefits (including, but not limited to Pension, Health, Training, Legal and Supplemental

Retirement and Savings Fund Contributions, Holidays, Vacation, Sick Pay and Premium Pay) for the period beginning with the layoff until four (4) weeks after the Employer notifies the Union or the issuance of a final arbitration award, whichever is sooner, but in no event less than four (4) weeks, even if the layoff is upheld by the Arbitrator.

In the event that a reduction in work force is implemented and the reason for the reduction ceases to exist, the work force that existed prior to the reduction shall be restored.

(b) In the event that the Employer desires to implement a reduction in work force among employees working in its building pursuant to Article II of this Agreement for any reason set forth in Article V, subsection 1, that is not provided for elsewhere, it may do so provided that it can demonstrate to a special committee consisting of the President of the Union and the President of the RAB, or their designees, that such reduction is justified. In making its determination, the Committee shall consider whether the requested reduction is accompanied by a corresponding reduction in work, existing productivity levels in the building and any other factors which the Committee may deem relevant. No reduction may be implemented without the unanimous agreement of the Committee. The decision of the Committee shall

be final and binding and not reviewable under the arbitration provisions of this Agreement.

The Committee shall be convened upon the written request of the Employer. The written request must be made to the President of the Union and the President of the RAB by registered or certified mail (return receipt requested). The Committee must be convened within sixty (60) days of the receipt of such written request. In the event that the Committee is not convened in the sixtieth (60th) day and the Employer is still requesting a reduction in force, it shall serve another written notice on the Committee members by registered or certified mail (return receipt requested) that it intends to implement the reduction within ten (10) days. If the Committee does not convene within ten (10) days after such notice (except for adjournments requested by the Employer) the reduction in force may be implemented in such manner as provided herein, whether the requested reduction is accompanied by a corresponding reduction in work, existing productivity levels in the building and any other factors which the Committee may deem relevant. No reduction may be implemented without the unanimous agreement of the Committee. The decision of the Committee shall be final and binding and not reviewable under the arbitration provisions of this Agreement.

This provision shall apply to all employees employed pursuant to Article II of this Agreement notwithstanding any provisions of any other collective bargaining agreement.

6. In the event that the four weeks notice provided for herein is not given and the Employer lays off employees pursuant to this provision, the Employer shall pay an amount equal to the laid-off employees' wages and fringe benefits (including, but not limited to Pension, Health, Training, Legal and Supplemental Retirement and Savings Fund Contributions, Holidays, Vacation, Sick Pay and Premium Pay) for the period beginning with the layoff until four (4) weeks after the Employer notifies the Union or the issuance of a final arbitration award, whichever is sooner, but in no event less than four (4) weeks, even if the layoff is upheld by the arbitrator. The fact that payment of employees' wages and fringe benefits are provided for herein shall in no way be construed as a limitation of the Arbitrator's power and authority under other provisions of this Agreement.

## **ARTICLE VI**

### **Reason for Discharge**

Any employee who is discharged shall be furnished a written statement of reason(s) for such discharge no later than five (5) working days after the date of discharge.

In appropriate circumstances, the Employer may supplement and/or amend its written statement of the reason(s) for discharge within a reasonable time. Such amended statement shall be substituted for the initial statement without prejudice to the Employer, including in an arbitration.

## **ARTICLE VII**

### **Grievance Procedure**

It is agreed that harmonious relations between the parties require the efficient disposition of grievances.

There shall be a Joint Industry Grievance Committee and a grievance procedure:

1. To try to decide all issues not covered by, and not inconsistent with, any provision of this Agreement and which are not required to be arbitrated under its terms.
2. To try to decide without arbitration any issues between the parties which under this Agreement they must submit to the Arbitrator.
3. The grievance may first be taken up between the representative of Management and a representative of the Union. If it is not settled, it may be filed for arbitration.

4. All Union claims are brought by the Union alone and no individual shall have the right to compromise or settle any claim without the written permission of the Union.

5. The grievance shall be simultaneously submitted to the Joint Industry Grievance Committee when the grievance is filed.

6. The Committee shall be composed of representatives of the Union and the RAB, who may be present at any meeting. If the Committee meeting is not held before the arbitration date, the meeting will be cancelled. It shall be the function of the Committee to seek and encourage settlement of all disputes brought before it.

Except in extraordinary circumstances, the parties will participate in a Joint Industry Grievance Committee meeting before a grievance proceeds to arbitration and the scheduling of a Joint Industry Grievance Committee meeting shall not delay arbitration.

7. Any grievance, except as otherwise provided herein and except a grievance involving basic wage violations and Pension, Health, Legal, Training, and Supplemental Retirement and Savings Fund contributions, shall be presented to the RAB in

writing within one hundred twenty (120) days of its occurrence, except for grievances involving suspension without pay or discharge which shall be presented within forty-five (45) days, unless the Employer agrees to an extension. The Arbitrator shall have the authority to extend the above time limitations for good cause shown.

8. Where a failure to compensate overtime work can be unequivocally demonstrated through employer payroll records, the Union may grieve the failure to compensate overtime for the three (3) year period prior to the filing of the grievance.

## **ARTICLE VIII**

### **Arbitration**

1. A Contract Arbitrator shall have the power to decide all differences arising between the parties as to interpretation, application or performance of any part of this Agreement, and such other issues as are expressly required to be arbitrated, including such issues as may be initiated by the Trustees of the Funds. Nothing in this Agreement shall preclude deferral where the National Labor Relations Act (“NLRA”) provides for deferral.

2. A hearing shall be initially scheduled within two (2) to fifteen (15) working days after either the

Union or the RAB has served written notice upon the Office of the Contract Arbitrator, with copy to the other party, of any issue to be submitted. The Arbitrator's oath-taking, and the period, and the requirements for service of notice in the form prescribed by statute are hereby waived. Upon the joint request of all parties, the Arbitrator shall issue a "bench decision," with written award to follow within the required time period. A written award shall be made by the Arbitrator within thirty (30) days after the hearing closes. If an award is not timely rendered, either the Union or the RAB may demand in writing of the Arbitrator that the award must be made within ten (10) more days. If no decision is rendered within that time, either the Union or the RAB may notify the Arbitrator of the termination of the Arbitrator's office as to all issues submitted to the Arbitrator in that proceeding. By mutual consent of the Union and the RAB, the time of both the hearing and decision may be extended in a particular case. If a party, after due written notice, defaults in appearing before the Arbitrator, an award may be rendered upon the testimony of the other party.

No more than one adjournment per party shall be granted by the Arbitrator without consent of the opposing party.

There shall be an expedited arbitration procedure where the contract so provides which shall require the Arbitrator to hear and determine the matter within four (4) weeks after the demand for arbitration is filed.

Due written notice means mailing, faxing or hand delivery to the address of the Employer furnished to the Union by the RAB.

In the event that the Union appears at an arbitration without the grievant, the Arbitrator shall conduct the hearing, provided it is not adjourned. The Arbitrator shall decide the case based upon the evidence adduced at the hearing.

3. The procedure herein with respect to matters over which a Contract Arbitrator has jurisdiction shall be the sole and exclusive method for the determination of all such issues, and the Arbitrator shall have the power to award appropriate remedies, the award being final and binding upon the parties and the employee(s) or Employer(s) involved. Nothing herein shall be construed to forbid either party from resorting to court for relief from, or to enforce rights under, any award. In any proceeding to confirm an award of the Arbitrator, service may be made by registered or certified mail, within or without the State of New York, as the case may be.

4. Should either party fail to abide by an arbitration award within two (2) weeks after such award is sent by registered or certified mail to the parties, either party may, in its sole and absolute discretion, take any action necessary to secure such award including but not limited to suits at law. Should either party bring such suit, it shall be entitled, if it succeeds, to receive from the other party all expenses for counsel fees and court costs.

5. Grievants attending grievances and arbitrations shall be paid for their regularly scheduled hours during such attendance.

6. If the Union requires an employee of the building to be a witness at the hearing and the Employer adjourns the hearing, the employee witness shall be paid by the Employer for such employee's regularly scheduled hours during attendance at such hearing. This provision shall be limited to one employee witness.

7. The RAB shall be deemed a party to any proceeding under this Article.

8. The parties have agreed to an Office of the Contract Arbitrator-Building Service Industry. The Union and the RAB have appointed the following Panel of Arbitrators:

John Anner  
Stuart Bauchner  
Melissa Biren  
Dean Burrell  
Howard C. Edelman  
Deborah Gaines  
Gary Kendellen  
Randi Lowitt  
Earl Pfeffer  
David Reilly  
Haydee Rosario  
William Schecter  
Julie Torrey

All cases involving a Superintendent shall be assigned to Arbitrators John Anner or David Reilly.

Upon thirty (30) days written notice to each other, either the Union or the RAB may terminate the services of any Arbitrator on the panel. Successor or additional Arbitrators shall be appointed by mutual agreement of the Union and the RAB. In the event of the removal, death or resignation of all of the Arbitrators, the successors or temporary substitute shall be chosen by the Union and the RAB. If the parties are unable to agree on a successor, then the Chairperson of the New York State Employment Relations Board shall appoint a successor after consultation with the parties.

The cost of the Office of the Contract Arbitrator shall be shared in a manner determined by the Union and the RAB.

## **ARTICLE IX**

### **No Strikes or Lockouts**

1. There shall be no work stoppage, strike, lockout or picketing except as provided in Sections 2, 3, and 4 of this Article. If this provision is violated, the matter may be submitted immediately to the Arbitrator.

In the event of an alleged violation of this Article, the RAB or the Union may, by hand delivery or by facsimile, request an immediate arbitration. The Office of the Contract Arbitrator shall schedule a hearing on the alleged violation within 24 hours after receipt of said notice. The Arbitrator shall issue an award determining whether or not said alleged strike or lockout is in violation of the collective bargaining agreement and award appropriate remedy. This is a procedural provision intended only to bring the arbitration on more quickly.

2. If a judgment or Arbitrator's award against the Employer for Health, Pension, Training, Legal and Supplemental Retirement and Savings Fund payment or wages or an award or judgment against a

contractor for these or other payments is not complied with within three (3) weeks after such award is sent by registered or certified mail to the Employer or contractor at its last known address, the Union may order a stoppage of work, strike or picketing in the building involved to enforce the award or judgment, and it may also thereby compel payment of lost wages to any employee engaged in such activity. Upon compliance with the award and/or judgment and payment of lost wages, such activity shall cease.

3. Except as otherwise provided in this Article, should either party fail to abide by an arbitration award within three (3) weeks after such award is sent by registered or certified mail to the parties, either party may, in its sole and absolute discretion, bring an action at law to enforce such award. Should either party commence such suit, it shall be entitled, if it succeeds, to receive from the other party all reasonable expenses for counsel fees and court costs. Should either party fail to abide by an arbitration award and fail to commence an action in court to vacate such award within three (3) weeks after such award is served as provided above, the aggrieved party shall have the right to strike and compel payment of lost wages to any employee engaged in strike activity or lockout without affecting the other terms and conditions of the Agreement.

4. The Union may order a work stoppage, strike or picketing in a building where the Employer has violated Article II, provided that seventy-two (72) hours written notice is given either by hand delivery or by facsimile to the Employer and the RAB of the Union's intention to do so.

5. The Union shall not be held liable for any violation of this Article where it appears that it has taken all reasonable steps to avoid and end the violation.

6. Labor Peace Committee - In the interest of labor peace, and in recognition of the relationship between the New York City Real Estate Industry and the Union, the Union President and the RAB President, or their designees, and such other persons as they may mutually designate (including representatives of any interested employers) shall convene on a quarterly basis, or at the request of either President, to discuss any labor disputes, of which they are aware, with Employers. Both parties shall use their best efforts to notify the other party of such disputes in advance in order to provide an adequate opportunity to seek to resolve such disputes.

## **ARTICLE X**

### **Multi-Employer Bargaining**

1. Employers on the Master List submitted by the RAB to the Union at the commencement of the negotiations shall be bound by the terms of this Agreement. All buildings listed by the RAB must pay scale wages and other terms and conditions of employment in accordance with the RAB Agreement prior to the expiration of this Agreement except that in Nassau and Suffolk Counties wage rates and benefit fund contributions shall be negotiated separately.

2. If there is a bona fide sale or other transfer of title of any member building, or a change of control through a lease, or in the case of non-corporate ownership, if any person or persons completely divest themselves of ownership or control by any arrangement, the successors in ownership or control may, unless they have otherwise indicated their intention not to be bound by this agreement, join the RAB and adopt the contract within forty-five (45) days after such acquisition, provided:

(a) The building is not already bound by another agreement.

(b) Written notice is given to the Union within five (5) days after joining the RAB. Notice shall be given by hand delivery or postmarked not later than the fifth business day.

(c) If the building was covered by an agreement, (1) during such period there is no layoff or change in wages, hours, terms or conditions of employment therein; (2) the new owner or transferee recognizes employee seniority and vacation status; (3) all obligations to employees, and those pursuant to the Health, Pension, Training, Legal and/or Supplemental Retirement and Savings Funds, are fully paid up to the transfer date; and (4) provision is made to pay retroactively any wage underpayments resulting from the building's improper classification under Article XVI. Any adoption by the Employer shall be deemed to be effective on the date of sale.

(d) A building being converted to cooperative or condominium ownership shall be treated as a newly acquired building upon the effective date of the declaration of the cooperative or condominium plan or transfer of title, or upon the transfer of shares to the first cooperative owners or the sale of first condominium unit, whichever is later.

(e) Any Employer signatory to an agreement with the Union other than this Agreement shall remain bound to the terms of that Agreement until its expiration date. If such Employer joins the RAB, it may adopt the RAB contract and be fully covered by the terms of the RAB Agreement after expiration of its other agreement and before execution of a new contract provided:

(1) Notice in writing is given to the Union of such adoption prior to the expiration of the other contract,

(2) Such Employer is not in default under the other contract, and

(3) The RAB approves such membership.

3. With respect to newly organized, newly constructed buildings, or remodeled buildings that are tenant occupied, the Employer shall have forty-five (45) days to file a commitment to this Agreement after the Union serves a representation notice on the Employer with a showing of majority status of the existing employees, with a copy to the RAB.

Where the time limits provided for in this Article are not complied with, this Agreement shall not be applicable to such building unless the Union agrees to same in writing.

4. This Article notwithstanding, the Union may refuse to accept any building:

(a) until it represents a majority of the building service employees;

(b) where contributions for Pension, Health, Training, Legal and/or Supplemental Retirement and Savings Funds are in default for three (3) months or more from the date payment was due;

(c) where an award of the Arbitrator has not been complied with;

(d) the Union may not refuse to accept a building where during the term of this or the preceding Collective Bargaining Agreement, the Employer has taken a building whose employees are represented by the Union and in which building it has instituted a reduction in force or changed existing conditions of employment, provided that the Employer has done so in a manner consistent with the terms of this Agreement. This provision shall not be construed as relieving the Employer from any other obligations under this Agreement. The right of refusal shall not be exercised in order to require the building to become a party to any other agreement. Before so refusing any building or taking any further action, the Union shall notify the RAB in writing.

5. In the event that the Union enters into a contract, or contracts, or enters into renewals or modifications of a contract, or contracts with any Employer(s) covering commercial buildings which contain new or revised economic terms or other conditions which are effective on or after January 1, 2020, which economic terms or conditions are more favorable to such Employer(s) than the terms contained in this Agreement, the RAB and all its member buildings shall be entitled to and may have the full benefit of any and all of such more favorable

terms, upon notification to the Union. This provision may be waived in writing for good cause shown by the President of the RAB and the President of the Union, or their designees.

Upon request of the President of the RAB, the Union shall provide copies of any agreements outside of Brooklyn, Manhattan, Staten Island or Queens that are more favorable to the Employer than the terms of this Agreement.

In buildings where wage rates under the category of “others” prior to January 1, 2020, were lower than those provided for in the 2016 Commercial Building Agreement, wage increases agreed to by the Union and the Employers covering said buildings on or after January 1, 2020, shall not be construed as “more favorable” within the meaning of this Article unless the percentage increase in wages of the “others” category is lower than that provided for in this Agreement. This provision shall not apply to:

- (a) Newly organized buildings during their first contract period;
- (b) Buildings in bankruptcy;
- (c) Buildings in receivership;
- (d) Employees who are solely and exclusively security guards;
- (e) One-person buildings;

(f) Hardship buildings granted relief in accordance with the terms of this Agreement; and

(g) Buildings located outside Manhattan, Brooklyn, Queens, and Staten Island.

The Union shall furnish the RAB a list of present agreements which are more favorable to the Employer than this Agreement.

Any Employer claiming financial hardship in operating a building may request a hearing before a Special Committee consisting of the President of the Union and the President of the RAB, or their designees. At such hearing, the Employer shall present proof of financial hardship, including, without limitation, financial statements. The Committee may grant or deny in whole or in part relief from the provisions of this contract. This provision shall not be subject to grievance and arbitration.

## **ARTICLE XI**

### **Health, Pension, Training, Legal and Supplemental Retirement and Savings Funds**

#### **A. HEALTH FUND**

1. The Employer shall make contributions to a health trust fund, known as the "Building Service 32BJ Health Fund," to cover employees covered by

this Agreement who work more than two (2) days per week, with such health benefits as may be determined by the Trustees of the Fund. The Employer may, unless rejected by the Trustees, upon execution of a participation agreement in the form acceptable to the Trustees, cover such other of its employees as it may elect, provided such coverage is in compliance with law and the Trust Agreement.

Employees who are on workers' compensation or who are receiving statutory short term disability benefits, Building Service 32BJ long term disability benefits, or a Building Service 32BJ disability pension, shall be covered by the Health Fund without employer contributions until they may be covered by Medicare or thirty (30) months from the date of disability, whichever is earlier.

In no event shall any employee who was previously covered for health benefits lose such coverage as a result of a change or elimination of the Health Fund provision extending coverage for disability. In the event the provision extending coverage for disability is discontinued for any reason, the Employer shall be obligated to make contributions for the duration of the period that would have otherwise been available.

2. Effective January 1, 2020, the rate of contribution to the Health Fund shall be \$20,496.00 per year for each covered employee, payable when and how the Trustees determine.

3. Effective January 1, 2021, the rate of contribution to the Fund shall be \$21,240.00 per year for each covered employee.

4. Effective January 1, 2022, the rate of contribution to the Fund shall be \$22,188.00 per year for each covered employee.

5. Effective January 1, 2023, the rate of contribution to the Fund shall be \$23,196.00 per year for each covered employee.

6. The parties agree that if there is governmental health care reform mandating payment, in full or part, by a contributing Employer for some or all of the benefits already provided for in the Health Fund to participants, the parties shall meet to discuss what ameliorative steps, if any, might be appropriate to minimize any adverse impact on the Funds, its participants and Employers.

The parties agree that if the recently passed healthcare reform legislation or any future governmental healthcare reform requires (i) any

payment by contributing Employers for some or all of the benefits already provided for in the Health Fund to participants or (ii) requires any contributing Employers to pay any excise or other tax, penalty (including assessable payments), fee or other amount relating to or resulting from the eligibility requirements of or the level of benefits provided by the Fund, the parties shall recommend that the Trustees revise the plan of benefits under the Fund so that such excise or other tax, penalty (including assessable payments), fee or other amount are not payable. In the event the Trustees do not revise the plan of benefits under the Fund so that such excise or other tax, penalty (including assessable payments), fee or other amount are not payable, the affected Employers' contributions to the Fund, or contributions to the other Benefit Funds shall be reduced by the amount of such excise or other tax, penalty (including assessable payments), fee or other amount. With respect to any future governmental healthcare reform that requires any payments described in (i) and/or (ii) in this paragraph, the bargaining parties will bargain over what to recommend to the Trustees consistent with the goals of maintaining quality benefits and containing costs.

7. Except as qualified by Article III, Section 2, of this Agreement with respect to group life insurance, any Employer who becomes party to this Agreement

and who has a plan in effect immediately prior thereto, which provides health benefits, the equivalent or better than, the benefits provided for herein, and the cost of which to the Employer is at least as great, may upon agreement of the Union and RAB, cover its employees under its existing plan in lieu of this Fund.

If any future applicable legislation is enacted, there shall be no duplication or cumulation of coverage and the parties will negotiate such changes as may be required by law.

## 8. Health Fund Study Committee

The RAB and the Union reaffirm their strong commitment to continue the work of the Health Fund Study Committee to evaluate the Building Service 32BJ Health Fund benefits and operations, with the goal being to recommend to the Trustees ways for the Health Fund to continuously save money on medical, administrative and other costs associated with the Health Fund while maintaining high quality of care for Health Fund participants. The bargaining parties have already accepted the previous recommendations of the Health Fund Study Committee to save the Health Fund at least \$70 million per year in costs commencing no later than January 1, 2012 and recommended to the Health Fund Trustees, who acted upon the recommendations, to take all legal action

necessary so that (i) such recommended savings measures are implemented by the Health Fund; (ii) the Health Fund reserves do not fall below an amount equivalent to no less than six (6) full months of benefit costs and operating expenses; (iii) such measures shall not thereafter be modified absent unanimous agreement of the Trustees; and (iv) such measures are made with the intent of being permanent and within the purposes of the aforementioned cost savings. The provisions of subsections (ii) through (iv) of the prior sentence shall continue to apply to any new recommended savings measures that are implemented by the Health Fund pursuant to this Section. The Health Fund Study Committee shall meet regularly, and on an ongoing basis, to continue to monitor and review Health Fund expenditures and trends, to evaluate and consider best practices and developments in cost-effective methods of providing quality benefits for the purposes of continuing to ensure that substantial savings are being realized and to recommend any and all appropriate measures to modify or modulate cost-trends, and to make recommendations to the collective bargaining parties and/or Fund Trustees regarding potential actions including, without limitation, for further savings. The Health Fund Study Committee shall be comprised of the President of the RAB and the President of the Union, or their designees, and the RAB and Union shall be represented in equal numbers.

Notwithstanding the foregoing, the Health Fund Study Committee will meet regularly once a quarter to review a report from the Health Fund staff of material items of Fund revenues and expenses for the prior six-month period and anything else deemed appropriate by Fund staff. In addition, the Health Fund staff will also notify the Health Fund Study Committee as soon as possible upon the occurrence of any extraordinary event(s) or other information that is reasonably likely to have a material adverse effect on the revenues and/or expenses of the Fund in the future (“Extraordinary Event”), and the Health Fund Study Committee will hold a special meeting shortly after such notification. In advance of any such special meeting (or at any regular quarterly meeting in which an Extraordinary Event is to be reported), the Health Fund Study Committee shall require the Health Fund Benefit Consultant and Fund staff to provide the Committee with such information and projections (including options for measures to be taken to save money on medical and hospital costs and/or changes that can adopted to the Fund’s plan of benefits) as is deemed necessary by the Health Fund Study Committee for such meeting. At such meeting the Health Fund Study Committee shall negotiate as to the appropriate actions, if any, they agree to jointly recommend to the Trustees for adoption to address the circumstances raised by such Extraordinary Event.

9. If during the term of this Agreement, the Trustees find the payment provided herein is insufficient to maintain benefits and adequate reserves for such benefits, they shall require the parties to increase the amounts needed to maintain such benefits and reserves. In the event the Trustees are unable to reach agreement on the amount required to maintain benefits and reserves, the matter shall be referred to arbitration pursuant to the deadlock provisions of the Fund's Agreement and Declaration of Trust. The preceding maintenance of benefits provision shall be suspended for the life of this Agreement.

## **B. PENSION FUND**

1. The Employer shall make contributions to a pension trust fund known as the "Building Service 32BJ Pension Fund" to cover bargaining unit employees who are regularly employed twenty (20) or more hours per week, including paid time off. The Employer shall also make contributions on behalf of other bargaining unit employees to the extent that such employees work a sufficient number of hours to require benefit accrual pursuant to Section 204 of ERISA.

Employees unable to work and who are on statutory short term disability benefits or workers' compensation shall continue to accrue pension credits

without employer contributions during the periods of disability up to six (6) months or the period of the disability, whichever is earlier.

2. Effective January 1, 2020, the rate of contribution to the Fund shall be \$118.75 per week for each covered employee, payable when and how the Trustees determine.

Effective January 1, 2021, the rate of contribution to the Fund shall be \$122.75 per week for each covered employee.

Effective January 1, 2022, the rate of contribution to the Fund shall be \$126.75 per week for each covered employee.

Effective January 1, 2023, the rate of contribution to the Fund shall be \$130.75 per week for each covered employee.

The bargaining parties agree that the foregoing contribution requirements for the Pension Fund are consistent with the contribution rate schedules required by the Pension Fund's rehabilitation plan under Section 432 of the Internal Revenue Code.

3. Any Employer who becomes party to this Agreement and who immediately prior thereto has

a pension plan in effect which provides benefits equivalent to or better than the benefits provided herein, may, upon agreement of the Union and RAB, cover its employees under its existing plan in lieu of this Fund and be relieved of the obligation to make contributions to the Fund for the period of such other coverage.

4. If the Employer has an existing plan as referred to above, it shall not discontinue or reduce benefits without prior Union consent and the existing plan shall remain obligated to the employee(s) for whatever benefits they may be entitled.

5. In no event shall the Trustees or any of them, the Union or the RAB, directly or indirectly, by reason of this Agreement, be understood to consent to the extinguishment, change or diminution of any legal rights, vested or otherwise, that anyone may have in the continuation in existing form of any such Employer pension plan, and the Trustees or any of them, the Union and the RAB shall be held harmless by an Employer against any action brought by anyone covered under such Employer's plan asserting a claim based upon anything done pursuant to Section 4. Notice of the pendency of any such action shall be given to the Employer who may defend the action on behalf of the indemnitee.

6. The parties agree that if there are new governmental regulations issued that implement the excise tax provisions of the Pension Protection Act (PPA), or there is further governmental reform relating to the funding of pension funds, the parties shall meet to discuss what steps, if any, might be appropriate to ameliorate any adverse impact on the Funds, its participants and employers.

To the extent that any employer covered by this Agreement, with respect to employees covered by this Agreement, becomes subject to an automatic employer surcharge or any excise tax, penalty, fee, increased contribution rate or other amount relating to the funding of the Pension Fund (but not including interest, liquidated damages, or other amounts owed as a consequence of failing to make timely remittance of contributions to the Pension Fund) under Sections 412 or 432 of the Internal Revenue Code, then the parties agree that the required contributions to the Health Fund, Training Fund and/or Legal Services Fund for each employer covered under this Agreement shall be reduced dollar for dollar by the aggregate amount of any additional contribution and/or surcharge amounts, excise taxes, penalties, fees or other amounts that such employer is required to pay, as provided in this subsection. Unless a different allocation among the Funds is agreed upon in advance of any applicable due date for such contributions by the Presidents

of the RAB and Local 32BJ, such amount shall be allocated solely from the Health Fund.

### **C. TRAINING, SCHOLARSHIP AND SAFETY FUND**

The Employer shall make contributions to a training and scholarship trust fund known as the “Thomas Shortman Training, Scholarship and Safety Fund” to cover employees covered by this Agreement who work more than two (2) days per week, with such benefits as may be determined by the Trustees.

Effective January 1, 2020, the rate of contributions to the Thomas Shortman Fund shall be \$169.60 per year for each covered employee, payable when and how the Trustees determine.

### **D. GROUP PREPAID LEGAL FUND**

The Employer shall make contributions to a prepaid legal services trust fund known as the “Building Service 32BJ Legal Services Fund” to cover employees covered by this Agreement who work more than two (2) days per week with such benefits as may be determined by the Trustees.

Effective January 1, 2020, the rate of contribution to the Legal Fund shall be \$199.60 per year for

each covered employee, payable when and how the Trustees determine.

Effective January 1, 2023, the rate of contribution to the Legal Fund shall be \$36.32 per year for each covered employee, payable when and how the Trustees determine.

## **E. SUPPLEMENTAL RETIREMENT AND SAVINGS FUND (SRSF)**

The Employer shall make contributions to a trust fund known as the “Building Service 32BJ Supplemental Retirement and Savings Fund” to cover bargaining unit employees who are regularly employed twenty (20) or more hours per week, including paid time off, with employer contributions as hereinafter provided and tax exempt employee wage deferrals as provided by the Plan and/or Plan rules. Employer contributions for other bargaining unit employees shall also be required for each week in which they work twenty (20) or more hours, including paid time off.

Effective January 1, 2020, the Employer shall contribute \$13.00 per week per covered employee into the SRSF, payable when and how the Trustees determine.

## **F. PROVISIONS APPLICABLE TO ALL FUNDS**

1. If the Employer fails to make required reports or payments to the Funds, the Trustees may in their sole and absolute discretion take any action necessary, including but not limited to immediate arbitration and suits at law, to enforce such reports and payments, together with interest and liquidated damages as provided in the Funds' Trust Agreements, and any and all expenses of collection, including but not limited to counsel fees, arbitration costs and fees and court costs.

Any Employer regularly or consistently delinquent in Health, Pension, Legal, Training or Supplemental Retirement and Savings Fund payments may be required, at the option of the Trustees of the Funds, to provide the appropriate Trust Fund with security guaranteeing prompt payment of such payments.

2. By agreeing to make the required payments into the Funds, the Employer hereby adopts and shall be bound by the Agreement and Declaration of Trust as it may be amended and the rules and regulations adopted or hereafter adopted by the Trustees of each Fund in connection with the provision and administration of benefits and the collection of contributions. The Trustees of the Funds shall make

such amendments to the Trust Agreements, and shall adopt such regulations as may be required to conform to applicable law, and which shall in any case provide that employees whose work comes within the jurisdiction of the Union (which shall not be considered to include anyone in an important managerial position) may only be covered for benefits if the building in which they are employed has a collective bargaining agreement with the Union. Any dispute about the Union's jurisdiction shall be settled by the President of the Union and the RAB's President.

3. There shall be no Employer contributions to the Funds on behalf of employees during their first ninety (90) days of employment, except as provided in Article XXI, Section 10(b) below, with respect to the Building Service Pension and Supplemental Retirement Savings Funds.

4. The parties agree that the Presidents of the RAB and Local 32BJ may determine, in their discretion and upon mutual consent, prior to the beginning of any calendar year to allocate any portion of the scheduled contributions in any of the Funds to any other Funds.

**ARTICLE XII**  
**Disability Benefits Law and**  
**Unemployment Insurance**

1. The Employer shall cover its employees so that they shall receive maximum weekly cash benefits provided under the New York State Disability Benefits Law on a non-contributory basis, and also under the New York State Unemployment Insurance Law, whether or not such coverages are mandatory.

2. Failure to so cover employees makes the Employer liable to an employee for all loss of benefits and insurance.

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

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

5. Any employees required to attend their Workers' Compensation hearing shall be paid for their regularly scheduled hours during such attendance.

6. Any cost incurred by the Union to enforce the provisions of this Article shall be borne by the Employer.

7. The Parties agree to establish a committee under the auspices of the Building Service 32BJ Health Fund to investigate and report on the feasibility of self-insuring disability and unemployment benefits.

### **ARTICLE XIII**

#### **Sickness Benefits**

1. Any regular employee with at least one (1) year of service (as defined in Section 4 below) in the building or with the same Employer, shall receive in a calendar year from the Employer ten (10) paid sick days for bona fide illness.

Any employee entitled to sickness benefits shall be allowed five (5) single days of paid sick leave per year taken in single days. The remaining five (5) days of paid sick leave may be paid either for illnesses of more than one (1) day's duration or may be counted as unused sick leave days.

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

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

3. Employees who have continued employment to the end of the calendar year and have not used all sickness benefits shall be paid in the succeeding January, one full day's pay for each unused sick day.

Any employee who has a perfect attendance record for the calendar year shall receive an attendance bonus of \$125.00 in addition to payment of the unused sick days.

For the purpose of this provision, perfect attendance shall mean that the employee has not used any sick days (except Union-paid, Union-sponsored leave for collective bargaining and Union governance functions).

If an Employer fails to pay an employee before the end of February, then such Employer shall pay one additional day's pay unless the Employer challenges the entitlement or amount due.

4. For the purpose of this Article, one (1) year's employment shall be reached on the anniversary date of employment. Employees who complete one (1) year of service after January 1 shall receive a pro rata share of sickness benefits for the balance of the calendar year.

A "regular" employee shall be defined as one who is a full- or part-time employee employed on a regular schedule. Those employed less than forty (40) hours a week on a regular basis shall receive a pro rata portion of sickness benefits provided herein computed on a forty (40) hour workweek.

5. All payments set forth in this Article are voluntarily assumed by the Employer, in consideration of concessions made by the Union with respect to various other provisions of this agreement, and any such payment shall be deemed to be a voluntary contribution or aid within the meaning of any applicable statutory provisions.

6. The parties agree that on an annual basis the paid leave benefits provided regular employees under this Agreement are comparable to or better

than those provided under the New York City Earned Safe and Sick Time Act, N.Y.C. Admin. Code § 20-911 et seq. Therefore, the provisions of that Act are hereby waived.

#### **ARTICLE XIV**

##### **Building Acquisition by Public Authority**

Where a building is acquired by a public authority of any nature through condemnation, purchase or otherwise, the last owner shall guarantee the payment of termination pay and of accrued vacations due to the employees up to the date of transfer of title. The Union will, however, seek to have such authority assume the obligations for payments. If unsuccessful and the last owner becomes liable for such payments, the amounts thereof shall be liens upon any condemnation award or on any amount received by such last owner.

#### **ARTICLE XV**

##### **Sale or Transfer of Building**

In the event an Employer intends to terminate its employer-employee relationship under this Agreement, then the Employer shall give the Union and the RAB reasonable written notice prior to the effective date thereof, and upon the request of the Union the Employer shall meet with the Union to negotiate the impact of such termination upon the

employees involved. The obligation to negotiate shall be subject to arbitration but failure to agree on the impact shall not be subject to arbitration.

In the event of a change of Employers in a building, the RAB shall use its best efforts to have the succeeding Employer join the RAB and become bound by the terms of this Agreement.

In the event an Employer terminates an employee or employees because of a change in ownership, operation or control of a building or buildings, and such employee(s) are not offered employment or are not employed by the succeeding Employer in the building or buildings at the then existing wages, hours and working conditions, the terminated employee(s) shall receive severance pay in the amount of six (6) months' pay, in addition to any other accrued payments due under this Agreement.

Nothing herein contained shall be deemed to limit or diminish in any way the Union's right to enforce this agreement against any transferee pursuant to applicable law concerning rules of successorship or otherwise; nor limit or diminish in any way the Union's or any employee's right to institute proceedings pursuant to the provisions of State or Federal labor relations laws, or any statutes, rules or regulations which may be applicable.

## **ARTICLE XVI**

### **Building Classifications**

1. Buildings are classified as A, B, or C buildings according to the following definitions:

(a) Class A building—Gross area of more than 280,000 square feet.

(b) Class B building—Gross area of more than 120,000 and not over 280,000 square feet.

(c) Class C building—Gross area of less than 120,000 square feet.

2. Gross area of a LOFT building is the sum total of areas existing on the various floors of a loft building, including the basement space, but excluding that portion of the penthouse used for the machinery and appurtenances of the building and that portion of the basement used for the public utilities and general operation of the property.

Gross area of an entire floor shall be computed by measuring from the inside plaster surfaces of all exterior walls of space encompassed in a tenant's premises, including columns, corridors, toilets, slop sinks, elevator shafts, etc., except that space reserved for the fire tower court.

3. Gross area of an OFFICE building is the sum total of areas existing on the various floors of the building, including the basement space, but excluding that portion of the penthouse used for the machinery and appurtenances of the building and that portion of the basement used for the public utilities and general operation of the property.

Gross area of an entire floor shall be computed by measuring from the inside plaster surface of all exterior walls of space used by the tenant on the floor, including columns and corridors, but excluding toilets, porters closets, slop sinks, elevator shafts, stairs, fire towers, vents, pipe shafts, meter closets, flues and stacks, and any vertical shafts and their enclosing walls. No deductions shall be made for columns, pilasters, or projections necessary to the building.

## **ARTICLE XVII**

### **Wages and Hours**

1. (a) Effective January 1, 2020, each employee covered hereunder shall receive a wage increase of \$0.65 for each regular straight time hour worked.

(b) Effective January 1, 2021, each employee covered hereunder shall receive a wage increase of \$0.70 for each regular straight time hour worked.

(c) Effective January 1, 2022, each employee covered hereunder shall receive a wage increase of

\$0.70 for each regular straight time hour worked.

(d) Effective January 1, 2023, each employee covered hereunder shall receive a wage increase of \$0.825 for each regular straight time hour worked.

(e) Additionally, the minimum hourly rate differential for handypersons, forepersons and starters, which shall include all employees doing similar or comparable work by whatever title known, shall be increased by \$0.05 effective on each of the dates set forth in sub-paragraphs (a) through (d).

Minimum wage rates shall be those set forth in the tables on pages 155-162 hereof, increased accordingly to reflect the above increases in each category of work.

Effective January 1, 2021, in the event that the percentage increase in the cost of living [Consumer Price Index for the City of New York-Metropolitan Area (New York-New Jersey) Urban Wage Earners and Clerical Workers] from November 2019 to November 2020 exceeds 6.5%, then, in that event, an increase of \$.10 per hour for each full 1% increase in the cost of living in excess of 6.5% shall be granted effective for the first full work week commencing after January 1, 2021. In no event shall said increase pursuant to this provision exceed \$.20 per hour. In computing increases in the cost of living above 6.5% less than .5 % shall be ignored and increases of .5% or

more shall be considered a full point. Any increases hereunder shall be added to the minimum.

Effective January 1, 2022, in the event that the percentage increase in the cost of living [Consumer Price Index for the City of New York-Metropolitan Area (New York-New Jersey) Urban Wage Earners and Clerical Workers] from November 2020 to November 2021 exceeds 6%, then, in that event, an increase of \$.10 per hour for each full 1% increase in the cost of living in excess of 6% shall be granted effective for the first full work week commencing after January 1, 2022. In no event shall said increase pursuant to this provision exceed \$.20 per hour. In computing increases in the cost of living above 6%, less than .5% shall be ignored and increases of .5% or more shall be considered a full point. Any increases hereunder shall be added to the minimum.

Effective January 1, 2023, in the event that the percentage increase in the cost of living [Consumer Price Index for the City of New York-Metropolitan Area (New York-New Jersey) Urban Wage Earners and Clerical Workers] from November 2021 to November 2022 exceeds 6%, then, in that event, an increase of \$.10 per hour for each full 1% increase in the cost of living in excess of 6% shall be granted effective for the first full work week commencing after January 1, 2023. In no event shall said increase

pursuant to this provision exceed \$.20 per hour. In computing increases in the cost of living above 6%, less than .5% shall be ignored and increases of .5% or more shall be considered a full point. Any increases hereunder shall be added to the minimum.

2. (a) The standard workweek shall consist of five (5) consecutive days Monday through Sunday and shall not exceed eight (8) hours in any one day.

Overtime at the rate of time and one-half the regular straight-time hourly rate shall be paid for all hours worked in excess of eight (8) hours per day or forty (40) hours per week, whichever is greater. A paid holiday shall be considered as a day worked for the purpose of computing overtime pay. There shall be no split shifts.

(b) Employees on the payroll on or before January 1, 1978, shall not have their scheduled hours reduced. Employees on the payroll on or before January 1, 1978 shall not have their scheduled hours increased by more than one (1) hour a day without written consent of the Union. Where feasible the additional hour shall be applied to the first part of the work schedule. The Employer shall give the Union three (3) weeks written notice of any change of scheduled hours except in case of temporary changes. This provision shall not prevent the Employer from working employees overtime.

Employees employed after January 1, 1978, shall work such hours as may be assigned by the Employer provided they are not less than five (5) hours a day and five (5) consecutive days a week except for guards as defined in this agreement.

(c) The weekly working hours for elevator operators and starters shall include two twenty (20) minute relief periods each day, but shall exclude luncheon recess of not less than forty-five (45) minutes or more than one (1) hour each day.

Employees, other than those referred to in the paragraph above, the majority of whose hours fall between 7 P.M. and 6 A.M., shall receive a fifteen (15) minute relief/lunch period. At the option of the Employer, the employees who work seven (7) hours or more per day shall, in addition to their regular pay for scheduled hours, receive either additional straight-time pay for one-half (1/2) hour or be relieved one-half (1/2) hour earlier. For those employees working six (6) hours per day, they shall receive an additional twenty-five (25) minutes straight-time pay or be relieved twenty-five (25) minutes earlier. For those employees working five (5) hours per day, they shall receive an additional fifteen (15) minutes straight-time pay or be relieved fifteen (15) minutes earlier. This change shall in no way affect the overtime provisions of the contract, nor affect the Employer's right to reschedule hours to provide necessary continuity of coverage.

(d) Where through absenteeism there are insufficient employees to service the building the Employer may (1) request employees to work additional time over and above their work schedule on a voluntary basis or (2) employ additional or extra employees to perform the work. Additional time over and above the normal work schedules shall not be mandatory unless the Employer cannot satisfactorily fill the work requirements on a voluntary basis. In such event, work over and above the regular work schedule shall be assigned in reverse order of seniority.

This paragraph (d) shall not apply to employees in newly constructed buildings.

(e) Every employee shall be entitled to two (2) consecutive days off in any seven (7) days, and any work performed on such days shall be considered overtime and paid for at the rate of time and one-half.

(f) No employees shall have their working hours reduced in order to effect corresponding reductions in pay. This provision shall not apply to relief employees.

3. The Employers in the industry shall meet and confer with the Union to attempt to reschedule employees' quitting time to enable groups of night workers, when practicable, to leave work during times so that they can arrive home safely. Upon

failure to agree, the matter may be referred to RAB and the Union collective bargaining committees for further discussion.

4. Saturday and Sunday are premium days for all employees (excluding guards hired on or after January 1, 1978) and work performed on such days shall be paid for at the rate of time and one-half the regular straight-time hourly rate of pay.

In determining whether an employee's work shift is to be considered as falling on Saturday or Sunday, for the purpose of premium pay, it is understood that the meaning of Saturday or Sunday work shall be the same as now applies or, where there is no such practice, shall be based upon the holiday premium pay practice.

The parties agree that where an Employer's normal business includes weekend operations, the rationale for weekend premium pay may not be present. Upon the RAB's request, the Union will consider whether operations at particular locations warrant relief from the weekend premium pay obligation, and if the Union agrees that the circumstances warrant the relief, the Union and the RAB may agree that weekend premium pay will not be required.

In newly constructed buildings, employees whose regular shifts include work on Saturday and Sunday shall not receive weekend premium pay for work on those days. This shall not affect eligibility for other premium pay for which the employees might otherwise qualify, including not but limited to overtime pay.

5. Any employees called in to work by the Employer for any time not consecutive with their regular schedules shall be paid for at least four (4) hours of overtime.

6. Employees required to work overtime shall be paid at least one hour at the overtime rate, except for employees working overtime due to absenteeism or lateness.

7. Any employee who has worked eight (8) hours a day and is required to work at least four (4) hours of overtime in that day shall be given a \$15.00 meal allowance.

8. Any employee classified as “other” who substitutes for an absent “foreperson” for more than four (4) hours shall receive the “foreperson” wage rate for the entire shift.

Any employee who spends one full week or more performing work in a higher paying category shall receive the higher rate of pay for such service.

9. No overtime shall be given for disciplinary purposes. An Employer shall not require an employee to work an excessive amount of overtime.

10. The Employer agrees to use its best efforts to provide a minimum of sixteen hours off between shifts for its employees.

11. Each regularly assigned EAP Coordinator, Fire Safety Director and Assistant and/or Deputy Fire Safety Director, appointed by the Employer and certified by the Fire Department, shall be paid one lump-sum bonus of \$500.00 per year on December 1 of each calendar year. This shall not include a relief person or temporary replacement.

The Employer shall have the right to designate the EAP Coordinator, Fire Safety Director and Assistant and/or Deputy Fire Safety Director.

## **ARTICLE XVIII**

### **Superintendents**

#### **A. COVERAGE**

This Article shall apply only to Commercial Building Superintendents who were previously covered by a collective bargaining agreement between Local 164, Service Employees International Union, and their Employer(s).

#### **B. WAGES AND HOURS**

Effective January 1, 2020, Superintendents covered by the Agreement shall receive a \$30.00 weekly wage increase.

Effective January 1, 2021, Superintendents covered by the Agreement shall receive a \$32.00 weekly wage increase.

Effective January 1, 2022, Superintendents covered by the Agreement shall receive a \$32.00 weekly wage increase.

Effective January 1, 2023, Superintendents covered by the Agreement shall receive a \$37.00 weekly wage increase.

Minimum wage rates shall be increased accordingly to reflect the above increases.

Cost of living increases, if any, granted to employees under Article XVII of this Agreement shall be granted to the Superintendents in the same amounts and on the same effective date.

The Superintendent shall be entitled to two (2) days off in each workweek, one of which shall be Sunday, and any work performed on either of these days shall be paid for at the rate of time and one-half the regular straight-time rate for all hours worked.

Saturday shall continue to be a premium day and any work performed on this day shall be paid for at the rate of time and one-half the regular straight-time hourly rate of pay.

## **C. WORKING CONDITIONS**

1. Any replacement Superintendent shall receive the contract wage, except where it includes extra pay attributable to years of service, special competence or special consideration beyond job requirements.

2. The Superintendent shall not be required to:

(a) renew cables on elevators or build block or hollow tile walls,

(b) run elevators except during relief period, lunch period, and emergencies and except that in any building employing three or less employees during the daytime, exclusive of the Superintendent, the Superintendent in such buildings shall do all the duties which the Superintendent has heretofore been accustomed to do,

(c) do any porter work except in a building employing three employees or less during the daytime, exclusive of the Superintendent, in which case the Superintendent should continue to do work the Superintendent has heretofore performed,

(d) perform work on a scaffold that is not directly over a roof, setback, or within the building,

(e) perform work on the inside of any fuel oil, pressure or hermetically sealed tank,

(f) build cutting tables, machine stands or dress racks, or

(g) do any work that conflicts with State, Federal or Municipal laws.

3. The Superintendent shall not be penalized or discriminated against for attending arbitrations, hearings or meetings, but this privilege shall not be construed so as to interfere with the orderly operation of the building.

4. There may be added to the duties of the Superintendent more or less miscellaneous and relief work for which the Superintendent's additional compensation distinguishes such employee from other classes of workers on the premises, subject to the grievance and arbitration procedures provided herein.

5. The Arbitrator may consider exceptional cases in which the Union claims that excessive work or the utilization of unique skills or painting is required of the Superintendent and may relieve the Superintendent of, or require additional compensation for, such excessive work.

6. No Superintendents leaving their positions of their own accord shall be entitled to accrued vacation allowance unless they have given the Employer at least thirty (30) days written termination notice.

7. The Union may question the propriety of the termination of the Superintendent's services and demand such employee's reinstatement or severance pay, if any, as the case may be, by filing a grievance under Article VII of this Agreement. The Arbitrator shall give due consideration to the Superintendent's management responsibilities and to the need for cooperation between the Superintendent and the Employer.

8. No provision of this Agreement shall be so construed as to reduce the wages or lower the rate of pay of the Superintendent or to lower or worsen the terms or conditions of the Superintendent's employment. This provision shall not be construed as to in any way prevent the exercise by the Employer of its normal management prerogatives to make changes in equipment, schedules, shifts, number of employees and duties necessary and incident to the operation, maintenance and servicing of the building not inconsistent with the letter or the spirit of any other specific provision of this Agreement.

9. Wherever a conflict may exist between the 2016 Commercial Building Agreement and terms of this article, the terms of this article shall prevail.

## **ARTICLE XIX**

### **Joint Industry Advancement Project**

The Union and the RAB recognize that they have a common interest in pursuing efforts that will promote development and growth in the real estate industry, as growth and development (1) create a favorable business environment for real estate industry employers and provide enhanced job opportunities; (2) strengthen communities and New York City's economy; and (3) provide a path for a viable future for New York City. The Union and the RAB agree to establish this Joint

Industry Advancement Project to further their common interest, upon the following terms:

1. The Project will be directed by ten (10) directors, five (5) appointed by the Union and five (5) appointed by the RAB. The board of directors shall have two (2) co-chairs, one appointed by the Union and one appointed by the RAB. The Directors may be replaced at will by the respective appointing parties. Each party may appoint alternate Directors.

2. The Board of Directors of the Project shall meet at least quarterly, or more frequently if the co-chairs so direct. No action may be taken by the Project except upon unanimous consent. Voting shall be by blocks, the five Union-appointed Directors collectively shall cast one vote, and the five (5) RAB-appointed Directors collectively shall cast one vote.

3. The Project may hire employees and contract for services, including accounting and legal services, provided that no financial, contractual or other obligation may be incurred by the Project except upon a vote of the Directors, as provided in paragraph 2.

4. The Union and the RAB may contribute funds and/or provide assistance to the Project upon such terms as are agreed to jointly by the RAB and the Union.

5. The actions which the Project may undertake shall include, without limitation, monitoring of and/or involvement with issues of mutual interest to the industry and Union in legislative, governmental or regulatory forums, at the local, state or national level (“Mutual Issues”) as well as education, research, advertising, and/or publicity for the purpose of enhancing development and growth of the real estate industry. What is included in Mutual Issues shall be discussed and defined by the parties. The parties may add to or delete from the list of Mutual Issues from time to time as they mutually agree.

6. Either in discussions among Directors of the Project, or otherwise, the Union and the RAB commit to disclosing in good faith their respective views and positions on issues of importance to the real estate industry or the Union.

7. The Union and the RAB agree that they shall refrain, insofar as practicable and except as warranted by a change of circumstances, from taking positions on issues contrary to the positions taken by the Project.

8. To facilitate good faith coordination, accountability and transparency on Mutual Issues, the RAB directors and the Union directors, shall on an annual basis, on or before January 31 of each year, report in writing to each other as to the Mutual Issues

they have worked on during the past year, whether independently or together (the “JTAP Report”). The parties shall exchange the parties’ respective JTAP Reports prior to the first quarterly meeting of the year, and shall review them together at that meeting, with the goals being to identify better ways of working together and transparently communicating with each other, particularly where there are divergent viewpoints. The JTAP Reports also shall be utilized to set the Committee’s agenda for the coming year.

9. Neither party shall propose any legislation or regulation (including without limitation any amendment or revision to existing legislation or regulation) on Mutual Issues to any governmental body of any kind without having given written notice to the other party of the concepts on which such legislation or regulation is based (“Legislative Concepts”). Such written notice shall disclose the material details of the Legislative Concepts. The Union’s notice shall be sent to the President of the RAB, The RAB’s notice shall be sent to the President of the Union. The parties shall discuss the Legislative Concepts at the parties’ next scheduled quarterly meeting or at a special meeting which shall be requested at least thirty (30) days before the legislation is transmitted, orally or in writing, to any governmental body. Notwithstanding the foregoing, the parties intend that they will discuss prospective Legislative Concepts before they decide to transmit it to any governmental body in order that

they may solicit and endeavor to accommodate the views of the other party.

10. This Project may be terminated by either the RAB or the Union on thirty (30) days notice to the other party. Any assets or liabilities of the Project at the time of termination shall be allocated equally to the RAB and the Union.

## **ARTICLE XX**

### **Terms of Agreement and Renewals**

This Agreement shall be effective January 1, 2020 and shall continue in full force and effect up to and including December 31, 2023.

With respect to Guards, this Agreement shall be extended to April 30, 2024, but, except where otherwise indicated, all economic terms negotiated between the RAB and the Union in the successor agreement to this contract shall be retroactive to January 1, 2024, if the contract shall so provide, or whatever date provided in the contract for all other employees.

With respect to engineers and superintendents, this agreement shall continue until February 1, 2024, provided that in the event of a strike by the Union upon the expiration of either the RAB Commercial

Building Agreement or RAB Contractors Agreement and prior to February 1, 2024, engineers shall not assume or perform the duties of non-engineering employees.

Upon the expiration date of this Agreement, the same shall continue in full force and effect for an extended period until a successor agreement has been executed. During the extended period, all terms and conditions shall be in effect and the parties shall negotiate for a successor agreement retroactive to the expiration date. All provisions and improvements in such successor agreements shall be retroactive unless such agreements shall otherwise provide.

In the event the parties are unable to agree upon the terms of a successor Agreement, either party upon three (3) days written notice to the other party may cancel this agreement. Such cancellation shall not apply to Article XV, for a period of six (6) months after the expiration date of the contract.

Sixty (60) days before said expiration date, the parties shall enter into direct negotiations looking towards a renewal agreement.

If fifteen (15) days before this Agreement expires the parties shall not have been able to agree upon the terms of a new agreement, both parties will thereupon

confer with the New York State Employment Relations Board for the purpose of conciliating their differences.

## **ARTICLE XXI**

### **General Clauses**

#### **1. Differentials**

Existing wage differentials among classes of workers within a building shall be maintained. It is recognized that wage differentials other than those required herein may exist or arise because of wages above the minima required by this Agreement. No change in such differentials shall be considered a violation of this Agreement unless it appears that it results from an attempt to break down the wage structure for the building.

Where employees possess considerable mechanical or technical skill and devote more than 75% of their working time in the building to work involving such skill, the wage rate shall be determined by mutual agreement between the Employer and the Union. Such employees shall receive a wage of not less than ten (\$10) dollars per week above the contract minimum rate for a handyperson.

If the Employer and the Union cannot agree upon the rate of pay of such employees, or in cases where an

obvious inequity exists by reason of such employees' regular application of specialized abilities in their work, the amount or correctness of the differential may be determined by grievance and/or arbitration.

Notwithstanding the above, it is understood that licensed engineers covered under this Agreement shall constitute a separate bargaining unit and receive the same wages and benefits as paid to engineers under the Realty Advisory Board (RAB) Agreement covering licensed engineers in New York City except that Pension, Health, Legal and Training Fund contributions shall continue to be paid under the terms of this Agreement.

## **2. Pyramiding**

There shall be no pyramiding of overtime pay, sick pay, holiday pay or any other premium pay. If more than one of the aforesaid are applicable, compensation shall be computed on the basis giving the greatest amount.

## **3. Holidays**

The following are the recognized contract holidays:

**CONTRACT  
HOLIDAYS**

	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>
New Year	Jan. 1 Wed.	Jan. 1 Friday	Dec. 31 Friday	Jan. 2 Monday
Presidents Day	Feb. 17 Monday	Feb. 15 Monday	Feb. 21 Monday	Feb. 20 Monday
Good Friday	April 10 Friday	April 2 Friday	April 15 Friday	April 7 Friday
Memorial Day	May 25 Monday	May 31 Monday	May 30 Monday	May 29 Monday
Independence Day	July 3 Friday	July 5 Monday	July 4 Monday	July 4 Tuesday
Labor Day	Sept. 7 Monday	Sept. 6 Monday	Sept. 5 Monday	Sept. 4 Monday
Columbus Day	Oct. 12 Monday	Oct. 11 Monday	Oct. 10 Monday	Oct. 9 Monday
Thanksgiving Day	Nov. 26 Thurs.	Nov. 25 Thurs.	Nov. 24 Thurs.	Nov. 23 Thurs.
Day after Thanksgiving	Nov. 27 Friday	Nov. 26 Friday	Nov. 25 Friday	Nov. 24 Friday
Christmas Day	Dec. 25 Friday	Dec. 24 Friday	Dec. 26 Monday	Dec. 25 Monday

**ELECTIVE  
HOLIDAYS**

	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>
Martin Luther King, Jr. Day	Jan. 20 Monday	Jan. 18 Monday	Jan. 17 Monday	Jan. 16 Monday
Eid al-Fitr	May 24 Sunday	May 13 Thurs.	May 3 Tues.	April 22 Sat.
Yom Kippur	Sept. 28 Monday	Sept. 16 Thurs.	Oct. 5 Wed.	Sept. 25 Monday
September 11	Sept. 11 Friday	Sept. 11 Sat.	Sept. 11 Sunday	Sept. 11 Monday
Veterans Day	Nov. 11 Wed.	Nov. 11 Thurs.	Nov. 11 Friday	Nov. 11 Sat.

There shall be one additional holiday in each contract year, which shall be Martin Luther King Day, Eid al-Fitr, Yom Kippur, September 11 (Day of Remembrance), or Veterans Day, or a personal day at the option of the employee. Effective for holidays in calendar year 2021 and following, an Employer may treat Martin Luther King Day as a contract holiday and instead designate Columbus Day as an elective holiday. The Employer may choose to designate Martin Luther King Day as a contract holiday by providing written notice to the Union by December 31 for the following calendar year. The personal day shall be scheduled in accordance with paragraphs (3) and (4) below.

In buildings where the major occupants are operating on Good Friday and/or the day after Thanksgiving, Lincoln's Birthday and/or Veterans Day may be substituted for such days provided notice is given to the Union and the RAB on or before March 1 of each year.

The Employer shall post a holiday schedule on the bulletin board and it shall remain posted throughout the year.

Presidents Day, Good Friday, Columbus Day and the day after Thanksgiving may be treated as personal days rather than fixed holidays under the following conditions:

(1) Prior to February 1 each year, each building may designate one or more such days as a personal day upon written notice to the Union and the employees. Failure to so designate shall be deemed agreement to leave such days as fixed holidays.

(2) Each building designating such days as personal days may upon thirty (30) days written notice to the Union and the employees, change such designation and make the day a fixed holiday. Employees who have received a personal day for such holiday shall be employed on such holiday at time and one-half.

(3) Employees entitled to personal days may select such day or days off on five (5) days notice to the Employer provided such selection does not result in a reduction of employees in the building below 75% of the normal work staff. Such selection shall be made in accordance with seniority.

(4) Employees entitled to personal days who do not use such day or days in a calendar year must use such day or days off during the first six months of the following year provided, however, that the Employer informs in writing both the employee and the Union by January 31 of such succeeding year that such days are available and will be lost if not used prior to July 1 of that year.

Employees shall receive their regular straight-time hourly rates for the normal eight (8) hour working day not worked, and if required to work on a holiday, shall receive in addition to the pay above mentioned, premium pay at the rate of time and one-half their regular straight-time hourly rate of pay for each hour worked, with a minimum of four (4) hours premium pay. Any employee who is required to work on a holiday beyond eight (8) hours shall continue to receive the compensation above provided for holiday work, namely pay at the regular straight-time rate plus premium pay at time and one-half the regular straight-time rate. Any regular full-time employee ill in any

payroll week in which a holiday falls is entitled to holiday pay or corresponding time off (meaning one day) if such employee worked at least one day during the said payroll week.

Any regular full-time employee whose regular day off, or one of whose regular days off falls on a holiday, shall receive an additional day's pay therefore, or, at the option of the Employer, an extra workday off within ten (10) days immediately preceding or succeeding the holiday. If the employee receives the extra day off before the holiday and such employee's employment is terminated for any reason whatever, such employee shall not be required to compensate the Employer for that day.

#### **4. Voting Time**

Any employee who is required to work on Election Day and gives legal notice shall be allowed two (2) hours off, such hours to be designated by the Employer, while the polls are open.

#### **5. Personal Day**

All employees shall receive a personal day in each contract year. This personal day is in addition to the holidays listed in paragraph 3 above. The personal day shall be scheduled in accordance with the following provision:

Employees may select such day off on five (5) days notice to the Employer provided such selection does not result in a reduction of employees in the building below 75% of the normal work staff. Such selection shall be made in accordance with seniority.

## **6. Schedules**

Overtime and premium work shall be evenly distributed so far as is compatible with the efficient operation of the building, except where Saturday or Sunday is a regular part of the workweek. Preference for premium work shall be given to the regular full-time employees of the building.

## **7. Relief Employees**

Relief or part-time employees shall be paid the same hourly rate as full-time employees in the same occupational classification.

## **8. Method of Payment of Wages**

All wages, including overtime, shall be paid weekly in cash or by check, with an itemized statement of payroll deductions.

If a regular payday falls on a holiday, employees shall be paid on the day before.

Employees paid by check who work during regular banking hours shall be given reasonable time to cash their checks exclusive of their break and lunch period. The Employer shall make suitable arrangements at a convenient bank for such check cashing.

In the event an Employer's check to an employee for wages is returned due to insufficient funds on a bona fide basis twice within a year's period, the Employer shall be required to pay all employees by cash or certified check.

The Employer may require, at no cost to the employee, that an employee's check be electronically deposited at the employee's designated bank or a paycheck card may be utilized. The Union shall be notified by the Employer of this arrangement.

The Union recognizes that certain employees and Employers desire to utilize a bi-weekly payroll schedule. Employers recognize that bi-weekly pay may create hardships for certain employees. The parties have previously agreed to create an industry-wide committee to study the bi-weekly pay issue. The industry-wide committee is now authorized to conduct pilot programs instituting bi-weekly pay at any selected site(s) where the Union and the Employer agree to institute bi-weekly pay.

## 9. Seniority and Layoff

For purposes of layoff and recall, all employees covered by this Agreement shall be placed on building seniority lists based upon their date of employment in the building and department or job classification.

In the event of layoff due to reduction of force, the inverse order of departmental or job classification seniority shall be followed, except as provided in Termination Pay, General Clause 21, with due consideration for efficiency and special needs of a department.

In the event that an employee is assigned to another job classification and there is a reduction in force in that department or job classification, the employee shall have the right to exercise total building seniority to return to such employee's former department or job classification.

Nothing contained in this section shall be construed in such a manner as to permit an employee to bump a less senior employee working for another Employer in the same building.

For all other purposes, seniority of an employee shall be based upon total length of service with the Employer or in the building, whichever is greater. The seniority date for all positions under the agreement

shall be the date the employee commenced working in the building for the agent and/or owner regardless of whether there is a collective bargaining agreement and regardless of the type of work performed by the employee.

## **10. Replacement, Promotions, Vacancies, Trial Periods, and Newly Hired Employees**

(a) In filling vacancies or newly created positions in the bargaining unit, preference shall be given to those employees already employed in the building, based upon the employee's seniority, but training, ability and appearance, where required, shall also be considered.

All vacancies and newly created positions shall be subject to a posting in the respective building for a period of seven (7) calendar days so that bargaining unit employees can express an interest in filling the position. In buildings where the Employer employs fifteen (15) or more employees, if the filling of the initially posted vacancy or newly created position causes another vacancy, that vacancy shall be subject to a posting in the respective building. Any subsequent vacancy caused by the filling of a posted position shall not be required to be posted before being filled.

Nothing contained in this section shall be construed in such a manner as to entitle an employee to fill a vacancy or newly created position with another Employer in the same building.

Anyone employed as a vacation replacement, extra or contingent with substantial regularity for a period of four (4) months or more shall receive preference for steady employment. If a present employee cannot fill the job vacancy, the Employer must fill the vacancy in accordance with the other terms of this collective bargaining agreement.

In the event that a new classification is created in a building, the Employer shall negotiate with the Union a wage rate for that classification.

There shall be a trial period for all newly hired employees for sixty (60) calendar days.

(b) A New Hire employed in the “Guard” or “Other” category shall be paid seventy-five percent (75%) of the applicable minimum regular hourly wage rate for the first twenty-one (21) months of employment. Such employees shall be paid eighty-five percent (85%) of the applicable minimum regular hourly wage rate for the twenty-second (22nd) through forty-second (42nd) months of employment. Upon completion of forty-two (42) months of employment,

such employees shall be paid the full minimum wage rate. For purposes of this provision, twenty-one (21) months of employment and forty-two (42) months of employment shall include each month (counting portions of a month in excess of fifteen (15) days as a full month but excluding employment as a vacation relief unless such vacation relief work immediately precedes permanent hire as noted in Section 13(b) below) that a New Hire worked in the Industry during the twenty-four (24) months immediately preceding the date of hire by the current employer.

Any employee who was employed in the Industry as of February 3, 1996 shall be considered an "Experienced Employee." An Experienced Employee shall receive the full minimum rate of pay from the date of hire.

There shall be no Employer contributions to the Building Service Pension Fund on behalf of any New Hire employed in the category of "Guard" or "Other" during the first year of employment. Employer contributions for employees described above shall be required commencing on the first day of the month following the employee's completion of twelve (12) calendar months of employment with the Employer, less the number of calendar months (counting portions of a month in excess of fifteen (15) days as a full month) worked in the Industry during the

preceding two (2) years (excluding employment as a vacation relief unless such vacation relief work immediately precedes permanent hire as noted in Section 13(b) below).

There shall be no Employer contributions to the Supplemental Retirement and Savings Fund on behalf of any New Hire employed in the category of “Guard” or “Other” during the first two (2) years of employment. Employer contributions for employees described above shall be required commencing on the first day of the month following the employee’s completion of twenty-four (24) calendar months of employment with the Employer, less the number of calendar months (counting portions of a month in excess of fifteen (15) days as a full month) worked in the Industry during the preceding two (2) years (excluding employment as a vacation relief unless such vacation relief work immediately precedes permanent hire as noted in Section 13(b) below).

Contributions to the Building Service Pension Fund and Supplemental Retirement and Savings Fund shall commence after three (3) months of employment for employees hired in job categories other than “Guard” and “Other” and Experienced Employees (those employed in the Industry as of February 3, 1996).

No experienced employee may be terminated or denied employment for the purpose of discrimination on the basis of such employee's compensation and/or benefits. The Union may grieve such discrimination in accordance with the grievance and arbitration provisions of the Agreement (Article VII and Article VIII).

If the arbitrator determines an experienced employee has been terminated or denied employment because of such discrimination, the arbitrator shall:

(1) In case of termination—reinstate the experienced employee with full back pay and all benefits retroactive to date of experienced employee's discharge.

(2) In case of failure to hire—if the arbitrator determines that an experienced employee was not given preference for employment absent good cause, the arbitrator shall direct the employer to hire the experienced employee with full back pay and benefits retroactive to date of denial of hire.

## **11. Recall**

Any employee who has been employed for one (1) year or more in the same building and who is laid off, shall have the right of recall, provided that the period of layoff of such employee does not exceed

six (6) months. Recall rights apply to all vacant, permanent positions and temporary positions if it is expected that the temporary position will last for a period of at least sixty (60) days. Recall shall be in the reverse order of laid-off employees' departmental seniority. The Employer shall notify the last qualified laid-off employee of any job vacancy by certified mail, return receipt requested, at such employee's last known address, of any job vacancy. A copy of this notice shall be sent to the Union. The employee shall then be given seven (7) days from the date of mailing of the letter in which to express in person or by registered or certified mail a desire to accept the available job. In the event any employee does not accept recall, successive notice shall be sent to qualified employees until the list of qualified employees is exhausted. Upon reemployment, full seniority status, less period of layoff, shall be credited to the employee. Any employee who received termination pay and is subsequently rehired shall retain said termination pay and for purpose of future termination pay shall receive the difference between what the employee has received and what the employee is entitled to if terminated at a future date. Any vacation monies paid shall be credited to the Employer against the current vacation entitlement. Further, in the event an Employer or agent has a job vacancy in a building where there are no qualified employees on layoff status, the Employer or agent

shall use its best efforts to fill the job vacancy from qualified employees of the Employer or agent who are on layoff status from other buildings.

## **12. Leave of Absence and Pregnancy Leave**

(a) Once during the term of this Agreement, upon written application to the Employer and the Union, a regular employee who works five (5) days per week and at least five (5) hours per day and has been employed in the building for five (5) years or more shall be granted a leave of absence for illness or injury not to exceed six (6) months.

The leave of absence outlined above is subject to an extension not exceeding six (6) months in the case of bona fide inability to work whether or not covered by the New York State Workers' Compensation Law or New York State Disability Benefits Law. When such employee is physically and mentally able to resume work, that employee shall on one (1) week prior written notice to the Employer be then re-employed with no seniority loss.

In cases involving on-the-job injuries, employees who are on medical leave for more than one year may be entitled to return to their jobs if there is good cause shown.

(b) Once during the term of this Agreement, upon written application to the Employer and the Union, a regular employee who works five (5) days per week and at least five (5) hours per day and has been employed in the building for two (2) years but less than five (5) years shall be granted a leave of absence for illness or injury not to exceed one hundred twenty (120) days. When such employee is physically and mentally able to resume work, that employee shall on one (1) week prior written notice to the Employer be then re-employed with no seniority loss.

(c) Any employee on leave due to workers' compensation or disability shall continue to be covered for health benefits without the necessity of payment by the Employer in accordance with Article XI Paragraph A, Sub-paragraph 1.

(d) In cases of pregnancy, it shall be treated as any other disability suffered by an employee in accordance with applicable law.

(e) In buildings where there are more than three (3) employees, an employee shall be entitled to a four-week leave of absence without pay for paternity/maternity leave. The leave must be taken immediately following the birth or adoption of the child.

(f) Once every five (5) years upon six (6) weeks written application to the Employer, a regular employee who works five (5) days per week and at least five (5) hours per day and has been employed at the building for five (5) years or more shall be granted a leave of absence for personal reasons not to exceed four (4) months. Upon returning to work, the employee shall be re-employed with no loss of seniority.

Any employee requesting a personal leave of absence shall be covered for health benefits during the period of the leave provided the employee requests health coverage while on leave of absence and pays the Employer in advance for the cost of same.

Any time limitation with regard to the six (6) weeks written application shall be waived in cases where an emergency leave of absence is required.

(g) Employers shall provide family leave in accordance with the coverage and requirements of the NYS Paid Family Leave (“NYSPFL”) Law. Any Employer who is required by law to comply with the provisions of the Family and Medical Leave Act (FMLA) shall comply with the requirements of said act. All leaves of absence under paragraphs (a), (b), (d) and (e) of this Section will run concurrently with applicable FMLA leave, applicable NYSPFL leave and/or applicable State or City law leave requirements.

(h) The RAB will encourage its members to cooperate in granting leaves of absence for Union business.

### 13. Vacations and Vacation Relief Employees

(a) Every employee with substantial continuity in any building or by the same Employer shall receive each year a vacation with pay, as follows:

Employees who have worked:

6 Months .....	3 working days
1 Year .....	2 weeks
5 Years .....	3 weeks
15 Years .....	4 weeks
21 Years .....	21 working days
22 Years .....	22 working days
23 Years .....	23 working days
24 Years .....	24 working days
25 Years .....	5 weeks

Length of employment for vacation shall be based upon the amount of vacation an employee would be entitled to on September 15th of the year in which the vacation is given, subject to grievance and arbitration where the result is unreasonable.

Regularly employed part-time employees shall receive proportionate vacation allowances based on the average number of hours per week they are employed.

Firepersons who have worked substantially one (1) firing season in the same building or for the same Employer, when laid off, shall be paid at least three (3) days' wages in lieu of vacation.

Firepersons who have been employed more than one (1) full firing season in the same building or by the same Employer shall be considered full-time employees in computing vacation.

Regular days off and contract holidays falling during the vacation period shall not be counted. If a contract holiday falls during the employee's vacation period, the employee shall receive an additional day's pay therefore, or, at the Employer's option, an extra day off within ten (10) days immediately preceding or succeeding the vacation.

Vacation wages shall be paid prior to the vacation period unless otherwise requested by the employee, who is entitled to actual vacation and who cannot instead be required to accept money.

Any Employer who fails to pay vacation pay in accordance with this provision where the vacation has been regularly scheduled shall pay an additional two (2) days pay for each vacation week due at that time.

When compatible with the proper operation of the building, choice of vacation periods shall be according to building seniority and confined to the period beginning April 1st and ending September 15th of each year. These dates may be changed and the third vacation week may be taken at a separate time by mutual agreement of the Employer and employee.

The fourth and fifth week of vacation may, at the Employer's option, be scheduled, upon two (2) weeks notice to the employee, for a week or two weeks other than the period when such employee takes the rest of the employee's vacation.

Any employee leaving employment for any reason, shall be entitled to vacation accrual allowance computed on such employee's length of service as provided in the vacation schedule based on the elapsed period from the previous September 16th (or from the date of employment if later employed) to the date of such employee's leaving. Any employee who has received a vacation during the previous vacation period (April 1st through September 15th) and who leaves employment during the next vacation period under circumstances which entitle such employee to vacation accrual rights, shall be entitled to full vacation accrual allowances instead of on the basis of the elapsed period from the previous September 16th. Any employee who has received no vacation

and has worked at least six (6) months before leaving employment shall be entitled to vacation allowance equal to the vacation allowance provided above.

No employee leaving a position voluntarily shall be entitled to accrued vacation unless such employee gives five (5) working days termination notice.

Any Employer assuming this Agreement shall be responsible for payment of vacation pay and granting of vacations required under this Agreement which may have accrued prior to the Employer taking over the building less any amounts paid or given for that vacation year. In the event that the Employer terminates its Employer-employee relationship under this agreement and the successor Employer does not have an agreement with the Union providing for at least the same vacation benefits, the Employer shall be responsible for all accrued vacation benefits.

(b) A person hired solely for the purpose of relieving employees for vacation shall be paid 60% of the minimum applicable regular hourly wage rate. Should a vacation relief employee continue to be employed beyond five (5) months, such employee shall be paid the wage rate of a new hire or experienced person as the case may be. If a vacation replacement is hired for a permanent position immediately after working as a vacation replacement, such employee

shall be credited with time worked as a vacation replacement toward completion of the forty-two (42) month period required to achieve the full rate of pay under the “New Hires” provision.

In the event that the arbitrator finds that an Employer is using this rate as a subterfuge, such arbitrator may, among other remedies, award full pay from the date of employment at the applicable hiring rate.

No contribution to any Benefit Funds shall be made for a vacation relief person. Vacation relief persons are not eligible for 32BJ Benefit Fund coverage.

#### **14. Day of Rest**

Each employee shall receive at least one (1) full day of rest in every seven (7) days.

#### **15. Uniforms and Other Apparel**

Uniforms and work clothes where they have been required by the Employer or where necessary for the job shall be supplied and maintained by the Employer. All uniforms shall be appropriate for the season.

It is understood that where the Employer does not require uniforms, the employees shall be free to wear suitable clothing of their choice. Employees doing outside work shall be furnished adequate wearing apparel for the purpose.

In buildings of 500,000 square feet or more, the Employer shall be required to furnish uniforms and work clothes.

### **16. First Aid Kit**

An adequate and complete first aid kit shall be supplied and maintained by the Employer in a place readily available to all employees.

### **17. Fire and Flood Call**

Employees on fire and/or flood call shall be reimbursed for all loss of personal effects incurred in the line of duty.

### **18. Eye Glasses and Union Insignia**

Employees may wear eye glasses and the Union insignia while on duty.

### **19. Bulletin Board**

A bulletin board shall be furnished by the Employer exclusively for Union announcements and notices of meetings.

## 20. Sanitary Arrangements

Adequate sanitary arrangements shall be maintained in every building, and individual locker and key thereto and rest room key where rest room is provided, and soap, towels and washing facilities, shall be furnished by the Employer for all employees. The rest room and locker room shall be for use of employees servicing and maintaining the building.

## 21. Termination Pay

(a) In case of termination of employment because of the employee's physical or mental inability to perform the employee's duties, or from reduction in force occurring for reasons other than conversion of elevators to automatic operations, such employee shall receive, in addition to accrued vacation, termination pay according to years of service in the building or with the same owner, whichever is greater, as follows:

Employees with	Pay:
5 but less than 10 years .....	1 week wages
10 but less than 12 years .....	2 weeks wages
12 but less than 15 years .....	3 weeks wages
15 but less than 17 years .....	6 weeks wages
17 but less than 20 years .....	7 weeks wages
20 but less than 25 years .....	8 weeks wages
25 or more .....	10 weeks wages

An employee physically or mentally unable to perform the employee's duties may resign and

receive the above termination pay if the employee submits a valid certification from the Social Security Administration relating back to the date such employee ceases working because of the certified disability.

(b) In case of termination of employment because of conversion of elevators to automatic operation, the employee shall receive, in addition to accrued vacation, termination pay according to years of service in the building or with the same Employer, whichever is greater, as follows:

Employees with	Pay:
5 but less than 10 years .....	2 weeks wages
10 but less than 12 years .....	4 weeks wages
12 but less than 15 years .....	5 weeks wages
15 but less than 17 years.....	7 weeks wages
17 but less than 20 years .....	8 weeks wages
20 but less than 22 years .....	9 weeks wages
22 but less than 25 years .....	10 weeks wages
25 or more .....	11 weeks wages

(c) The right to accept termination pay and resign where there has been a reduction in force shall be determined by seniority, i.e., termination pay shall be offered to the most senior employee, then to the next most senior employee, and so on until accepted. If no employee accepts the offer, the least senior employee or employees shall be terminated and shall receive any applicable termination pay.

(d) “Week’s pay” in the above paragraphs means the regular straight-time weekly pay at the time of termination. If the Employer offers part-time employment to the employee entitled to termination pay for the period of such employee’s full-time employment, and if the employee accepts such part-time employment, such employee shall be considered a new employee for seniority purposes. Where an employee was placed on a part-time basis or suffered a pay reduction because of a change in such employee’s work category prior to February 1, 1966, and did not receive termination pay based upon such employee’s former pay, “week’s pay” shall be determined by agreement, or through grievance and arbitration.

(e) Any employee accepting termination pay who is rehired in the same building or with the same Employer shall be considered a new employee for all purposes except as provided in the Recall clause.

For the purposes of this section, sale or transfer of a building shall not be considered a termination of employment so long as the employee or employees are hired by the purchaser or transferee, in which case they shall retain their building seniority for all purposes.

## **22. Tools, Permits, Fines and Legal Assistance**

All tools, of which the Superintendent shall keep an accurate inventory, shall be supplied by the Employer. The Employer shall continue to maintain and replace any special tools or tools damaged during ordinary performance of work but shall not be obligated to replace “regular” tools if lost or stolen.

The Employer shall bear the expense of securing or renewing permits, licenses or certificates for specific equipment located on the Employer’s premises, and will pay fines and employees’ applicable wages for required time spent for the violation of any codes, ordinances, administrative regulations or statutes, except any resulting from the employees’ gross negligence or willful disobedience.

The Employer shall supply legal assistance where required to employees who are served with summons regarding building violations.

## **23. Military Service**

All statutes and valid regulations about reinstatement and employment of veterans shall be observed.

The Employers and the Union will cooperate in effort to achieve the objectives of this provision. They shall also consider the institution of plans to provide training of employees to improve their skills and to enter into employment in the industry.

## **24. No Discrimination**

(A) There shall be no discrimination against any present or future employee by reason of race, creed, color, age, disability, national origin, sex, union membership, sexual orientation, or any characteristic protected by law, including, but not limited to, claims made pursuant to Title VII of the Civil Rights Act, the Americans with Disabilities Act, the Age Discrimination in Employment Act, the New York State Human Rights Law, the New York City Human Rights Code, 42 U.S.C. § 1981, the Family and Medical Leave Act, or any other similar laws, rules or regulations. All such claims shall be subject to the grievance and arbitration procedure (Articles VII and VIII) as the sole and exclusive remedy for violations. Arbitrators shall apply appropriate law in rendering decisions based upon claims of discrimination.

## (B) No-Discrimination Protocol

### (1) Protocol<sup>1</sup>

The parties to this Agreement, the Union and RAB, believe that it is in the best interests of all involved – employees, members of the Union, employers, the Union, the RAB and the public interest – to promptly, fairly, and efficiently resolve claims of workplace discrimination, harassment and retaliation as covered in the No Discrimination Clause of the relevant collective bargaining agreement (collectively, “Covered Claims”).

Such Covered Claims are very often intertwined with other contractual disputes under this Agreement. The RAB, on behalf of its members, maintains that it is committed to refrain from unlawful discrimination, harassment and retaliation. The Union maintains it will pursue its policy of evaluating such Covered Claims and bringing those Covered Claims to arbitration where appropriate. To this end, the parties establish the following system of mediation and arbitration applicable to all such Covered Claims, whenever they arise. The Union and RAB want those covered by this Agreement and any individual attorneys representing them to be aware of this Protocol.

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<sup>1</sup> The parties intend this provision to apply to all collective bargaining agreements between them superseding the Protocol language first incorporated in the 2012 Commercial Building CBA and subsequently updated CBAs.

## (2) Mediation

(a) Whenever a Covered Claim is brought alleging that an employer has violated the No Discrimination Clause (including, without limitation, claims based on a statute relating to workplace equal opportunities), whether such a Covered Claim is made by the Union or by an individual employee, notice shall be provided by the party seeking to utilize this Protocol of such a Covered Claim (“Notice of Claim”) to the other Parties (for purposes of this section, “Parties” shall be defined as the Union, the RAB, the Employer, and the affected employee(s)), and the matter shall be submitted to mediation, absent prior resolution through informal means. A Notice of Claim shall be filed within the applicable statutory statute of limitations, provided that if an employee has timely filed such Covered Claim in a forum provided for by statute, it will not be considered time-barred. The Notice of Claim must be filed with the administrator of the Office of the Contract Arbitrator (“OCA”), which currently has an address of 370 Seventh Avenue, Suite 301, New York, NY 10001.

(b) Promptly following receipt of the Notice of Claim, the administrator of OCA shall appoint a Mediator from the Mediation Panel described below. All mediators on the panel shall be attorneys with appropriate training and experience in the conduct of

mediations and significant knowledge of employment discrimination statutes. The Mediation Panel shall be a distinct panel from the Contract Arbitrator Panel (see 2018 Apartment Building CBA, Article VI, Paragraph 8). A person listed on the Mediation Panel will be removed when either the Union or the RAB gives notice to the other party that such person's name shall be removed. A person may be added to the Mediation Panel list upon mutual agreement of the Union and the RAB. The Union and RAB mutually commit to appointing mediators with appropriate skill and experience, as they view mediation as the important step through which many Covered Claims will be resolved.

(c) OCA shall appoint a Mediator from the Mediation Panel. Such appointments shall be made by a random selection (e.g. "spinning the wheel") of available panel members.

(d) Within 30 days of being appointed, the Mediator shall notify the Parties of the appointment and schedule a pre-mediation conference (for the purposes of this Paragraph and the remainder of this section, "Parties" refers to the bargaining unit member or Union asserting the Covered Claim, and the respondent/defendant employer and the RAB). At the conference, the Parties shall discuss such matters as they deem relevant to the mediation

process, including discovery. The Mediator shall have the authority, after consulting with the Parties, to (1) schedule dates for the exchange of information and position statements prior to a mediation, and (2) schedule a date for mediation. Any disputes relating to the issues to be mediated, the exchange of information and position statements, and the date, place, and time of the mediation and any in-person, telephonic, or other meetings relating to the mediation shall be decided by the Mediator. In the event the Mediator concludes that there has not been good faith compliance with a directive, including directives as to the holding of conferences and the conduct of discovery, the Mediator may, after notice and an opportunity to be heard, order appropriate remedies, including monetary and other sanctions. Such remedies and sanctions may be considered by the arbitrator in a subsequent proceeding in the arbitrator's discretion.

(e) The entire mediation process, including any settlement terms proposed by the Mediator, is a compromise negotiation for the purposes of the Federal Rules of Evidence and the New York rules of evidence.

(f) At the mediation, each Party shall be entitled to present witnesses and/or documentary evidence. The Mediator shall be entitled to meet separately with

each Party for the purpose of exploring settlement.

(g) At the conclusion of the mediation, the Mediator shall recommend settlement terms to the Parties on request of any Party. Neither Party shall be required to accept such a proposal.

(h) Mediation shall be completed before the Covered Claim is arbitrated on the merits. However, if the Union alleges the Covered Claim of a violation of the No Discrimination Clause, the Union may proceed directly to arbitration without Mediation if it so chooses.

(i) The fees of the Mediator shall be split equally between the Union and the RAB. The Union and RAB shall provide language interpreters at their jointly shared cost.

### (3) Arbitration

(a) The undertakings described here with respect to arbitration apply to those circumstances in which the Union has declined to arbitrate an employee's individual employment discrimination claim under the No Discrimination Clause of the CBA, including statutory claims (i.e., a Covered Claim), to arbitration. The arbitration forum described here will be available to employers and employees, both those who are

represented by counsel and those who are not represented by counsel.

(b) The Union and the RAB have received and vetted from the American Arbitration Association (“AAA”) a list of arbitrators who (1) are attorneys, and (2) are designated by the AAA to decide employment discrimination cases. In the event that arbitration of a Covered Claim based on statutory discrimination in the circumstances described in paragraph A is sought by these parties, the list of arbitrators provided by the AAA shall be made available to the individual employee and the RAB member employer by the administrator of OCA. The manner by which selection is made by the RAB member employer and the individual employee and the extent to which each shall bear responsibility for the costs of the arbitrator shall be decided between them. A person may be added to or removed from the Statutory Arbitration Panel list upon mutual agreement of the Union and the RAB. Any such arbitration shall be conducted pursuant to the AAA National Rules for Employment Disputes and any disputes about the manner of proceeding or the interpretation of this Protocol or the AAA Rules shall be decided by the arbitrator selected.

(c) The hearings in any such arbitration may be held at the OCA offices without charge to the parties; however, it is understood that OCA shall not

be a forum for the determination of the dispute as provided for in the collective bargaining agreement, but, instead, will provide only the services set out in section (3) of this Protocol.

(d) Neither the Union nor the RAB will be a party to the arbitration described in this section (3) and the arbitrator shall not have authority to award relief that would require amendment of the CBA or other agreement(s) between the Union and the RAB or conflict with any provision of any CBAs or such other agreement(s). Any mediation and/or arbitration outcome shall have no precedential value with respect to the interpretation of the CBAs or other agreement(s) between the Union and the RAB.

#### (4) Mandatory Written Notification Before Union Members Attempt to Bring Any Covered Claim in Court, and Remedies for Failure to Provide Notice

(a) The RAB and the Union have established the foregoing Protocol to provide interested parties a means to rapidly resolve or hear on the merits Covered Claims fairly. To make this system most effective, it is a mandatory prerequisite before any bargaining unit member attempts to file a Covered Claim in any court that the bargaining unit member (personally or through bargaining unit member's attorney) notify in

writing the RAB and the Employer that the Employee is attempting to bypass the Protocol process. The notice required by this section (the “Bypass Notice”) shall specify the Covered Claim(s) alleged with sufficient detail, the court where the action is to be filed, and the reason(s) for attempting to bypass the Protocol process.

(b) A copy of the Bypass Notice must be sent to:  
(a) the Employer and (b) the Realty Advisory Board on Labor Relations, Inc., One Penn Plaza, Suite 2110, New York, NY 10119.

(c) Absent compelling good cause, the Bypass Notice must be mailed by first-class certified mail, return receipt requested at least 60 days before the bargaining unit member plans to commence a lawsuit in any court.

(d) Providing the Bypass Notice is a condition precedent prior to bringing a Covered Claim in any forum.

(e) Nothing contained in this Protocol will limit an employer or the RAB’s remedies in the event of a breach of the Protocol or the CBA by an individual asserting a Covered Claim.

(C) (1) The parties hereby reaffirm the parties' longstanding mutual commitment to prevent harassment and discrimination in the workplace, including discrimination based on sex, gender, race, age, ethnicity, disability, sexual orientation, gender identity, and any other legally protected categories. To that end, and in effort to implement the parties' commitment, the parties mandate that the Diversity and Respect Committee (the "Committee") meet to discuss the prevention of discrimination and harassment in the commercial building workplace, including through training of employees to prevent sexual and other forms of harassment, discrimination and retaliation in the workplace, and the elimination of adverse treatment that is the product of bias, whether conscious or unconscious. The parties intend that the training shall be no less extensive than that required by law (see, e.g., the New York State law on training and other anti-sexual harassment measures). The parties recommend to the Trustees of the Thomas Shortman Training, Scholarship and Safety Fund (the "Fund") that Fund staff and the Fund's Curriculum Committee develop and provide anti-harassment, anti-discrimination, anti-bias and anti-retaliation training, including training related to third-party conduct. Such training may be coordinated with the Fund's existing course offerings. The parties recognize that other entities – in addition to the Fund – will be engaged to provide this training. The parties intend that the

curriculum and materials developed by the Fund be made available to such other entities.

(2) The parties will continue the Committee's work: (i) to study recruitment and retention issues for all under-represented groups, and (ii) to seek the continued prevention of sexual harassment in the commercial industry.

## **25. Placement/Employment Agency Fee**

No employee shall be employed through a fee-charging agency unless the Employer pays the full fee.

In the event the Union shall establish a Hiring Hall, upon sixty (60) days written notice to the RAB, the foregoing paragraph shall be replaced with the following paragraph:

The Employer agrees that in the event it shall require employees in the classifications of employment covered by the Agreement, it shall hire such employees from a Hiring Hall operated by the Union. The Hiring Hall shall refer only qualified applicants on the basis of their total industry wide seniority. In the event the Hiring Hall is unable to supply satisfactory applicants to the Employer within three (3) working days following the request, the Employer shall be free to hire in the open market. The facilities of the Hiring Hall operated by the

Union shall be made available to both members and non-members of the Union. The Union warrants that in the operation of said Hiring Hall and in referrals to the Employer, it will not discriminate against any individual applicant for employment.

## **26. Employees' Rooms**

Any employee occupying a room or apartment on the Employer's property may be charged a reasonable rental therefore, unless such occupancy is a condition of employment, in which case no rent shall be charged.

If the Employer terminates the services of an employee occupying living space in the building, the Employer shall give the employee thirty (30) days written notice to vacate, except where there is a discharge for a serious breach of the employment contract.

## **27. Definitions**

*Elevator Starter* — chief responsibility is to direct elevator operations and traffic in the building and does not normally operate an elevator.

*Handyperson* — possesses a certain amount of mechanical or technical skill and devotes more than fifty (50) percent of working time in a building to work involving such skill.

*Foreperson* — differs from a porter or cleaning person in that the main responsibility is to direct cleaning operations.

*Guard* — an employee whose function is to enforce rules to protect the property of the Employer or to protect the safety of persons on the Employer's premises and whose duties shall not include the work performed under any other job classification covered in this agreement.

*Others* include elevator operators, porters, porter/watchpersons, cleaning persons, restroom attendants, security porters, fire safety directors, exterminators, and all other service employees employed in the building under the jurisdiction of the Union except those other classifications specified above.

A "regular full-time employee," unless otherwise specified, shall be defined as one who is regularly scheduled to work at least five days per week and at least five hours per day.

All reference to the male or female gender shall be deemed gender-neutral.

## **28. Required Training Programs**

The Employer shall compensate any employee now employed in a building for any time required for the employee to attend any instruction or training program in connection with the securing of any license, permit or certificate required by the Employer for the performance of duties in the building. Time spent shall be considered as time worked for the purpose of computing overtime pay.

## **29. Building Safety and Security**

The Employer shall continue to provide safe and healthy working conditions. The RAB and the Union will create a Committee to study environmentally conscious best work practices.

The RAB and Union shall establish a joint labor-management committee on building safety and security. The Committee shall meet at least quarterly to discuss security and safety procedures, training for building staff, contracting protocols, integration with fire, police, emergency professionals and other steps designed to maximize tenant and employee safety.

## **30. Garnishments**

No employee shall be discharged or laid off because of the service of an income execution, unless in accordance with applicable law.

### **31. Death in Family**

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

With respect to grandparents, the Employer shall grant a paid day off on the day of the funeral if such day is a regularly scheduled workday.

### **32. Union Visitation**

Any business agent or other duly authorized representative of the Union shall have access to the buildings or sites where union members are employed to determine whether the terms of this agreement are being complied with. Access shall be granted only if there is prior notice to the Employer and such access does not interfere with the work being performed at the building.

### **33. Jury Duty**

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

serving on said jury with a maximum of three (3) weeks in any calendar year.

Pending receipt of the jury duty pay, the Employer shall pay the employee's regular pay on such employee's scheduled payday. As soon as the employee receives the jury duty pay, the employee shall reimburse the Employer by signing the jury pay check over to the Employer.

Employees who serve on a jury shall not be required to work any shift during such day. If an employee is a weekend employee and assigned to jury duty, such employee shall not be required to work the weekend.

In order to receive jury duty pay, the employee must notify the Employer at least two (2) weeks before the employee is scheduled to serve.

If less notice is given by the employee, the notice provision regarding change in shift shall not apply.

### **34. Identification**

Employees may be required to carry with them and exhibit proof of employment on the premises.

### **35. Service Center Visit**

Every full-time employee who has been employed in the building for one (1) year or more shall be entitled, upon one (1) week notice to the Employer, to take one (1) day off in each calendar year at straight time pay to visit the office of any one of the 32BJ Benefit Funds for the purpose of conducting business at the Benefit Funds office or to visit an employee's personal physician.

Such employee shall receive an additional one (1) day off with pay to visit the Benefit Funds office or to visit the employee's personal physician's office if such office requires such a visit. If the additional day is to visit a personal physician, the Employer can request, and the employee must provide, a HIPAA compliant release (to be developed by the Health Fund) sufficient to provide proof that the employee visited the personal physician at the physician's request for this additional one (1) day.

In the event that an employee chooses to visit any one of the benefit fund offices after having used up the entitlement pursuant to the above two (2) paragraphs, such employee may use any unused sick days for that purpose.

To receive payment for such day(s), the employee shall exhibit a signed statement from the benefit fund office.

### **36. Automation Employment Pool**

The President of the Union, or the Vice President, and the Executive Vice President of the RAB, or a designee thereof, may constitute a committee to formulate and effectuate a plan for providing employment in the industry for employees represented by the Union with long service who have lost their jobs because of conversion to automatic elevators or other mechanical devices at a time when they are approaching the age and service requirements to become eligible for pension benefits.

This committee may arrange to list such employees in a special "Automation Employment Pool," giving preference for employment to the extent practicable, in the order of their requirements for pension benefit to fill an available vacancy consistent with physical and/or mental ability and the necessary experience. The committee may, to the fullest extent possible, obtain and keep current information as to vacancies in employment and of new jobs available in RAB member buildings covered by this agreement.

The committee may also consider the institution of plans to provide training of employees to improve their skills and to enter into employment in the industry.

The Employer and the Union will cooperate with the committee in its effort to achieve the objectives of this provision.

### **37. Death of Employee**

If any employee dies after becoming entitled to, but before receiving, any wage or pay hereunder, it shall be paid to such employee's estate, or pursuant to Section 1310 of the New York Surrogate's Court Procedure Act, unless otherwise provided herein. This shall not apply to benefits under Article XI where the rules and regulations of the Health and Pension Fund shall govern.

### **38. Government Decrees**

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

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

### **39. Weather Conditions**

Where extreme cold or hot weather causes hardship to the employee in the performance of such employee's normal duties, the Union has the right to request the Employer to revise work schedules so as to give the employee such advantage of retained heat or cold as may be compatible with the efficient operation of the building.

### **40. Common Disaster**

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

## **41. Transportation Costs**

The RAB will encourage its members to adopt a qualified transportation fringe benefit program pursuant to which employees may pay for certain qualified transportation costs (e.g. transit passes, qualified parking) on a pre-tax basis, to the extent permitted by law. The RAB will make information available to its members that is necessary to assist them in adoption and implementation of the program.

## **42. Cuspidors**

Employees will not be required to clean cuspidors.

## **43. Security Background Checks**

All employees shall be subject to security background checks at any time. The Employer shall pay all costs of any security background checks, including pre-employment checks. All security background checks shall be confidential, and may be disclosed only as required by law or on a business need to know basis and/or to the Union as necessary for the administering of this Agreement.

An employee shall cooperate with an Employer as necessary for obtaining security background checks. Any employee who refuses to cooperate shall be subject to termination. Employees who fail

such security background check shall be subject to termination.

For the purpose of this provision, just cause to terminate an employee who has failed a security background check exists only if it is established that one or more of the findings of the background security check is directly related to such employee's job functions or responsibilities, or that the continuation of employment would involve an unreasonable risk to property or to the safety or welfare of specific individuals or the general public or constitute a violation of any applicable governmental rule or regulation. If the customer determines that the employee has failed a security background check, but the Employer lacks cause for termination under this provision, the terms of Article IV, Section 4 shall apply.

#### **44. Work Authorization and Status Disputes**

The parties recognize that questions involving an employee's work status or personal information may arise during the course of such employee's employment, and that errors in an employee's documentation may be due to mistake or circumstances beyond an employee's control. The parties agree to attempt to minimize the impact of such issues on both the affected employees and employers by working together to fairly resolve such issues while complying with all applicable laws.

## **45. Veteran Transition Assistance**

The parties recognize that making a successful transition from the military into the civilian workforce can be challenging. Out of respect for those serving in the military and in acknowledgment of the tremendous skills they can bring to the workforce, the parties shall create a committee tasked with assisting veterans in this transition. These efforts shall include, but not be limited to: (i) increasing the industry's advertising/recruitment efforts to encourage veterans to apply for jobs within the industry; (ii) communicating with the industry about the numerous benefits associated with hiring veterans; and (iii) providing newly hired veterans with access to training through classes to be created by the Thomas Shortman School aimed at easing the transition to the civilian workforce and teaching the requisite skills.

## **46. Saving Clause**

If any provision of this agreement shall be held illegal or of no legal effect, it shall be deemed null and void without affecting the obligations of the balance of this agreement.

Both parties agree to construe any provisions held to be contrary to law as closely to its bargained for purpose permissible by law and to agree on a revised draft of such provisions that as close as legally

possible mirrors and/or achieves the purpose of such an invalidated or unenforceable provision.

#### **47. Complete Agreement**

This Agreement constitutes the full understanding between the parties and, except as they may otherwise agree, there shall be no demand by either party for the negotiation or renegotiation of any matter covered or not covered by the provisions hereof.

#### **48. Notices**

All notices required by this Agreement to be mailed to the Union shall be mailed to the attention of the Director of the NYC Commercial Division.

#### **49. Wage and Hour Claims**

Subject to the principles set forth below, the Employee and the Union agree that in the event that an Employee (on behalf of the Employee and/or others) asserts statutory wage and hour claim(s) against the Employer(s), including claims for unpaid minimum wages and/or overtime pay, prior to the filing of any such claim(s) in court, the Employer and Employee shall engage in mandatory mediation to attempt to narrow or resolve the claim(s). The RAB and Union agree to establish a mediation process for handling such claims. The following principles shall apply:

(a) The Employee(s) must initiate mediation by written notice to the Employer, or the Employer must initiate mediation by written notice to the Employee(s) and Employee's counsel, as appropriate.

(b) Initiation of mediation shall be required only of Employees who are (or who will seek to be) plaintiffs in an individual or multi-plaintiff action or named or representative plaintiffs in a putative class and/or collective action. Employees who are not (and will not seek to be) named or representative plaintiffs (e.g., who are merely putative class or collective action members) are not required to initiate mediation in connection with this section; however, the Employees' claims will be a subject of the mediation process described in this section.

(c) Unless otherwise agreed to by the mediating parties, at any time following ninety (90) days after the initiation of the mediation process, either the Employer or the Employee(s) may terminate mediation by written notice to the other side, and, in that event, no further mediation effort shall be required by this Agreement.

(d) In the event that Employee(s) initiate litigation in a judicial forum on the Employee's wage and hour claims without first submitting to the mediation process described in this section and the Employer

seeks to enforce the requirements of this paragraph, the Employer shall not seek dismissal of the judicial action but may seek to have the action stayed pending the completion of the mediation provided for herein.

(e) The parties do not intend an Employee's substantive or recovery rights or any Employer defenses to be limited by virtue of the terms of this mediation process. Hence, during the pendency of the mediation process, any statutes of limitations and/or filing periods shall be tolled, and recovery of appropriate damages shall be permitted for all time periods during which mediation is occurring or has occurred. To the extent that the tolling described in this paragraph is deemed legally ineffective, and without conceding that any recovery is appropriate, the Employee(s) shall have the contractual right to seek recovery for any time period(s) that would have been tolled without having to exhaust the grievance and arbitration procedures set forth in this Agreement.

(f) The RAB and the Union shall provide affected Employee(s) and the Employee's Employer(s) with a list of mediators who will be available to conduct the mediation. The mediator's fees shall be paid for by the RAB and the Union in equal shares. The parties shall be free to use another mediator of the parties' own choosing but in that event shall bear the costs of mediation as they determine.

(g) The conduct of the mediation shall be confidential and the rules of evidence pertaining to privileges related to settlement discussions shall apply to communications in mediation.

(h) Any agreement reached in mediation shall not alter the collective bargaining agreement or affect the contractual rights of employees who are not parties to that agreement.

## **ARTICLE XXII**

### **New Development**

The Union and the RAB recognize (1) that real estate development strengthens communities and enhances New York's economy; (2) that the economics of developments are complex and not uniform; and (3) that successful development is important to all stakeholders, and to the people of the City of New York. Therefore, the parties shall establish a sitting New Development Committee whose members shall determine, on a project-by-project basis, wage and benefit standards that accord with the needs of the parties and are consistent with applicable law for employees in newly constructed buildings. Any such standards shall be determined only upon the mutual agreement of the Union and the RAB. Any action or inaction of the committee shall not be reviewable in any forum. The committee shall be comprised of an

equal number of persons appointed by the President of the Union and the President of the RAB.

**IN WITNESS WHEREOF**, the parties have hereunto set their hands and seals the day and year first above written.

**REALTY ADVISORY BOARD  
ON LABOR RELATIONS  
INCORPORATED**

Howard I. Rothschild  
*President*

**SERVICE EMPLOYEES  
INTERNATIONAL UNION, LOCAL 32BJ**

Kyle Bragg  
*President*

December 20, 2019

Kyle Bragg, President  
SEIU, Local 32BJ  
25 West 18th Street  
New York, NY 10011

**Re: Reserved Question on Mandatory Arbitration for Statutory  
Discrimination Claims**

Dear Kyle:

This letter will confirm our understanding on the issue of whether arbitration is mandatory for statutory discrimination claims brought under the No Discrimination Clause found in the Collective Bargaining Agreements (“CBAs”) between the RAB and the Union (the “Reserved Question”).

Following the decision of the Supreme Court in *14 Penn Plaza LLC v. Pyett*, 556 U.S. 247 (2009), the RAB and the Union have had a dispute about the Reserved Question, specifically regarding the meaning of the No Discrimination Clause and the grievance and arbitration clauses in the CBAs. The Reserved Question is as follows:

The Union contends that the CBAs do not make provision for arbitration of any claims that the Union does not choose to take to arbitration, including statutory discrimination claims, and therefore, individual employees are not barred from pursuing their discrimination claims in court where the Union has declined to pursue them in arbitration. The RAB contends that the CBAs require arbitration of all individual claims, even where the Union has declined to bring such claims to arbitration.

The parties agree that, should either the Union or the RAB deem it appropriate or necessary to do so, that party may bring to arbitration the Reserved Question. The parties intend that the Reserved Question may only be resolved in arbitration between them and not in any form of judicial or administrative proceeding. The outcome of the Reserved

Question hinges on collective bargaining language and bargaining history, which are subjects properly suited for arbitration. Such arbitration may be commenced on 30 calendar days' written notice to the other party. The arbitrator for such arbitration shall be Roberta Golick, unless she is unable or unwilling to serve, in which case the parties shall agree upon an arbitrator, and failing agreement shall submit the case to arbitration before the American Arbitration Association, in New York City.

In 2010, the parties initiated the No-Discrimination Protocol. The No Discrimination Protocol is applicable to all such claims. This Protocol was intended, and continues, to serve as an alternative to arbitrating the parties' disagreement on the Reserved Question. The parties agreed to include the No-Discrimination Protocol as part of the CBAs, as further modified in December 2015. The Union and the RAB agree that the provisions of the No-Discrimination Protocol do not resolve the Reserved Question. Neither the inclusion of the No-Discrimination Protocol in the CBAs nor the terms of the No-Discrimination Protocol shall be understood to advance either party's contention as to the meaning of the CBAs with regard to the Reserved Question, nor will either party make any representation to the contrary.

Without prejudice to either parties' position on the continued viability of any other side letter, this side letter shall continue in effect unless and until the parties agree otherwise or until the Reserved Question is decided by Arbitrator Golick.

Sincerely,

Howard Rothschild  
President, RAB

AGREED:

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Kyle Bragg  
President, SEIU, Local 32BJ

December 20, 2019

Kyle Bragg, President  
SEIU, Local 32BJ  
25 West 18th Street  
New York, NY 10011

**Re: Transition from Contractor to Direct Building Employee**

Dear Kyle:

No employee who is transferred from a contractor to the building payroll purely as a result of the owner and/or agent terminating the contractor and performing building service work directly, shall suffer a loss of benefits that are determined by an employee's accrued time (years of service) as provided in Article XIII (Sick Days) and Article XXI, Section 11 (Recall), Section 12 (Leaves of Absence), Section 13 (Vacation) and Section 21 (Termination Pay) of the Agreement.

Sincerely,

Howard Rothschild  
President, RAB

AGREED:

---

Kyle Bragg  
President, SEIU, Local 32BJ

December 20, 2019

Kyle Bragg, President  
SEIU, Local 32BJ  
25 West 18th Street  
New York, NY 10011

**Re: Consultancy Committee**

Dear Kyle:

The parties recognize that the use of consultants is a practice that has arisen in the industry. Upon the Union's request, the parties agree to create a joint committee consisting of the Union President and the RAB President, or their designees, to discuss issues affecting employees covered under this Agreement that arise out of any consultancy with respect to work covered under this Agreement or the Contractors' Agreement.

Sincerely,

Howard Rothschild  
President, RAB

AGREED:

---

Kyle Bragg  
President, SEIU, Local 32BJ

December 20, 2019

Kyle Bragg, President  
SEIU, Local 32BJ  
25 West 18th Street  
New York, NY 10011

**Re: Employer Contributions to Pension and SRSP Funds**

Dear Kyle:

This will confirm our understanding that the April 2007 side letter re: Employer Contributions to Pension and SRSP Funds applies to the new hire rate.

Sincerely,

Howard Rothschild  
President, RAB

AGREED:

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Kyle Bragg  
President, SEIU, Local 32BJ

December 20, 2019

Howard Rothschild, President  
Realty Advisory Board on Labor Relations  
292 Madison Avenue, 16th Floor  
New York, New York

**Re: Reduction in Force**

Dear Howard:

This will confirm our understanding during our recent negotiations that the Union and the RAB re-affirm their commitment to the Special Committee process set forth in Article V of the Commercial Building Agreement and in Article XIII of the Contractors Agreement.

Upon the request of the President of the RAB, the Special Committee shall meet on at least a quarterly basis or more frequently as necessary.

To keep the New York City area Real Estate Industry competitive and productive, the parties recommit that the Reduction in Force process under the Commercial and Contractors Agreements will be utilized appropriately and in good faith.

Sincerely,

Kyle Bragg  
President, SEIU, Local 32BJ

AGREED:

---

Howard Rothschild  
President, RAB

December 20, 2019

Kyle Bragg, President  
SEIU, Local 32BJ  
25 West 18th Street  
New York, NY 10011

**Re: A-B Time Side Letter**

Dear Kyle:

The parties agree that where an A-B time pay practice existed at the building prior to January 1, 2008, all employees on the payroll prior to that date, and working within the scope of the A-B time practice, shall continue to receive this benefit. Employees hired after January 1, 2008, will not be eligible for the A-B time practice. Absentee work assignments shall be rotated fairly among all employees by seniority order.

Sincerely,

Howard Rothschild  
President, RAB

AGREED:

---

Kyle Bragg  
President, SEIU, Local 32BJ

December 20, 2019

Kyle Bragg, President  
SEIU, Local 32BJ  
25 West 18th Street  
New York, NY 10011

**Re: Security Background Checks**

Dear Kyle:

This will confirm our understanding during our recent negotiations that an Employer may not invoke Article XXI (General Clauses) Section 43 (Security background checks) in connection with a Social Security “no match” letter.

Sincerely,

Howard Rothschild  
President, RAB

AGREED:

---

Kyle Bragg  
President, SEIU, Local 32BJ

December 20, 2019

Kyle Bragg, President  
SEIU, Local 32BJ  
25 West 18th Street  
New York, NY 10011

**Re: Transition of Guards to the Security Officer Agreement**

Dear Kyle:

This letter confirms our agreement regarding the transitioning of guards covered under the Commercial and/or Contractor Agreements to the RAB/Local 32BJ Security Officer Agreement.

Any Employer wishing to remove its Guards from this Agreement and, instead, have those Guards covered under the RAB Security Officers Agreement shall enter into a transition agreement with the Union facilitating such transfer consistent with established transition agreements. The Union shall not unreasonably withhold its agreement to transfer such Guards to the Security Officer Agreement.

Sincerely,

Howard Rothschild  
President, RAB

AGREED:

---

Kyle Bragg  
President, SEIU, Local 32BJ

December 20, 2019

Kyle Bragg, President  
SEIU, Local 32BJ  
25 West 18th Street  
New York, NY 10011

**Re: Work Authorization and Status Disputes**

Dear Kyle:

In light of the diversity of the workforce in the industry and the changing regulatory environment, the parties reaffirm the parties' commitment to employees who need to resolve issues related to the employees' immigration or work authorization status.

Upon the request of either party, the parties shall establish a joint committee to discuss issues related to employees' Work Authorization. The Committee shall consist of the President of Local 32BJ and the President of the RAB, or their designees.

Sincerely,

Howard Rothschild  
President, RAB  
AGREED:

---

Kyle Bragg  
President, SEIU, Local 32BJ

December 20, 2019

Kyle Bragg, President  
SEIU, Local 32BJ  
25 West 18th Street  
New York, NY 10011

**Re: Grievance and Arbitration**

Dear Kyle:

The parties agree to meet quarterly on issues related to streamlining grievance and arbitration processes, including calendaring and exchanging information of case status. The meetings shall be attended by the President of Local 32BJ and the President of the RAB, or their designees.

Sincerely,

Howard Rothschild  
President, RAB

AGREED:

---

Kyle Bragg  
President, SEIU, Local 32BJ

December 20, 2019

Kyle Bragg, President  
SEIU, Local 32BJ  
25 West 18th Street  
New York, NY 10011

**Re: Industry Seniority**

Dear Kyle:

The parties recognize that, in situations in which an employee with many years of continuous service in the industry is forced to bump into another location and then faces a change of employer at that location, the employee's seniority standing for purpose of layoff and recall may be impacted. The parties agree to meet in committee to discuss ways to address this and like circumstances. The committee shall consist of the President of the RAB and the President of the Union, or their designees.

Sincerely,

Howard Rothschild  
President, RAB

AGREED:

---

Kyle Bragg  
President, SEIU, Local 32BJ

December 20, 2019

Kyle Bragg, President  
SEIU, Local 32BJ  
25 West 18th Street  
New York, NY 10011

**Re: Conversions**

Dear Kyle:

The parties agree to meet in committee to discuss the financial impact on employees of a sale related to a change in the primary purpose of the building from a Commercial Building to a Residential Building. The committee shall consist of the President of the RAB and the President of the Union, or their designees.

Sincerely,

Howard Rothschild  
President, RAB

AGREED:

---

Kyle Bragg  
President, SEIU, Local 32BJ

December 20, 2019

Kyle Bragg, President  
SEIU, Local 32BJ  
25 West 18th Street  
New York, NY 10011

**Re: Fire Safety Directors**

Dear Kyle:

This will confirm our understanding that the revisions made to Article XVII (Wages and Hours), Section 11 in the collective bargaining agreement between the Union and the Employer covering the period from January 1, 2020 through December 31, 2023 providing for annual lump-sum payments of \$500.00 to regularly assigned EAP Coordinators, Fire Safety Directors and Assistant and/or Deputy Fire Safety Directors are not intended to, and shall not, create any obligations on the part of the Employer to increase the base on which overtime pay is calculated or otherwise alter overtime payments to such employees as a result of such lump-sum payments. Rather, such payments are intended to defray expenses incurred in seeking or maintaining certification, and are not made as compensation for hours of employment.

For the avoidance of any doubt, any disputes over the lump-sum payments made to regularly assigned EAP Coordinators, Fire Safety Directors and Assistant and/or Deputy Fire Safety Directors, including any disputes over pay arising from or relating to such payments, shall be subject to the grievance and arbitration provisions of the collective bargaining agreement.

Sincerely,

Howard Rothschild  
President, RAB

AGREED:

---

Kyle Bragg  
President, SEIU, Local 32BJ

December 20, 2019

Kyle Bragg, President  
SEIU, Local 32BJ  
25 West 18th Street  
New York, NY 10011

**Re: Extensions of the Trial Period**

Dear Kyle:

This is to confirm our understanding as to the trial period provision of the Article XXI, Section 10(a). There are circumstances in which an Employer is not prepared to decide whether a new employee has satisfied the trial period at the conclusion of the first 60 days of employment and yet has also not concluded that the employee may not be suitable for continued employment. In those circumstances, if the Employer requests that the employee's probationary period be extended for 30 days, the trial period will be extended for 30 days if the Union consents to the extension. The request and consent shall be memorialized in writing at any time before the completion of the 60 days provided for in Article XXI, Section 10(a), provided that when the Employer makes a timely request for an extension in writing, the trial period shall be extended until the Union responds to the Employer's request (up to a maximum of 30 days beyond the initial 60-day period). Sincerely,

Howard Rothschild  
President, RAB

AGREED:

---

Kyle Bragg  
President, SEIU, Local 32BJ

December 20, 2019

Kyle Bragg, President  
SEIU, Local 32BJ  
25 West 18th Street  
New York, NY 10011

**Re: Permissive Guidelines for Building Closings for Reconstruction  
or Demolition**

Dear Kyle:

Over the last few years, there have been a number of building closings for reconstruction or demolition in our industry. Working together, the RAB, the Union, and the relevant Employers have developed a process of successfully working together that advances everyone's interests and minimizes layoffs.

This letter generally describes how that process has worked. Where the Employer knows in advance that all or a substantial portion of a building will be closing for reconstruction or demolition and likely cause the displacement and/or layoff of the Employer's employees at the building:

- the Employer shall notify the Union as soon as practicable;
- the parties shall discuss the closure plan; and
- in order to minimize displacement and layoffs, the parties may agree to a process whereby employees are offered placement in positions at other locations prior to or in conjunction with the closing of the building.

To be clear, the parties are not required to agree to such a process. In the absence of such an agreement, there shall be no abridgement of employees' rights under the Commercial Building Agreement, including the employees' right to recall, consideration for vacation positions, or termination pay. Nor shall there be any abridgement of the Employer's rights.

This side letter is entered into on a non-precedential basis and shall not be subject to the grievance and arbitration procedure of the relevant collective bargaining agreement.

Sincerely,

Howard Rothschild  
President, RAB  
AGREED:

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Kyle Bragg  
President, SEIU, Local 32BJ

**MINIMUM WAGE RATES  
JANUARY 1, 2020 – DECEMBER 31, 2020**

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**OFFICE BUILDINGS**

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	<b>Regular Hr. Rate</b>	<b>Overtime Hr. Rate</b>	<b>8 Hour Rate</b>	<b>40 Hour Rate</b>
<b>Class A</b>				
Handypersons	29.773	44.6595	238.184	1,190.92
Forepersons	29.6605	44.49075	237.284	1,186.42
Starters	29.6605	44.49075	237.284	1,186.42
Others	27.248	40.872	217.984	1,089.92
Guards*	25.791	38.6865	206.328	1,031.64
 <b>Class B</b>				
Handypersons	29.742	44.613	237.936	1,189.68
Forepersons	29.6295	44.44425	237.036	1,185.18
Starters	29.6295	44.44425	237.036	1,185.18
Others	27.217	40.8255	217.736	1,088.68
Guards*	25.791	38.6865	206.328	1,031.64
 <b>Class C</b>				
Handypersons	29.698	44.547	237.584	1,187.92
Forepersons	29.5855	44.37825	236.684	1,183.42
Starters	29.5855	44.37825	236.684	1,183.42
Others	27.173	40.7595	217.384	1,086.92
Guards*	25.791	38.6865	206.328	1,031.64

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**LOFT BUILDINGS**

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	<b>Regular Hr. Rate</b>	<b>Overtime Hr. Rate</b>	<b>8 Hour Rate</b>	<b>40 Hour Rate</b>
<b>Class A</b>				
Handypersons	29.723	44.5845	237.784	1,188.92
Forepersons	29.6295	44.44425	237.036	1,185.18
Starters	29.6295	44.44425	237.036	1,185.18
Others	27.217	40.8255	217.736	1,088.68
Guards*	25.791	38.6865	206.328	1,031.64
<b>Class B</b>				
Handypersons	29.65	44.475	237.20	1,186.00
Forepersons	29.5805	44.37075	236.644	1,183.22
Starters	29.5805	44.37075	236.644	1,183.22
Others	27.168	40.752	217.344	1,086.72
Guards*	25.791	38.6865	206.328	1,031.64
<b>Class C</b>				
Handypersons	29.527	44.2905	236.216	1,181.08
Forepersons	29.4395	44.15925	235.516	1,177.58
Starters	29.4395	44.15925	235.516	1,177.58
Others	27.127	40.6905	217.016	1,085.08
Guards*	25.791	38.6865	206.328	1,031.64

\*Guards hired prior to January 1, 1978 shall receive the rate of "others."

**MINIMUM WAGE RATES**  
**JANUARY 1, 2021 – DECEMBER 31, 2021**

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**OFFICE BUILDINGS**

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	<b>Regular Hr. Rate</b>	<b>Overtime Hr. Rate</b>	<b>8 Hour Rate</b>	<b>40 Hour Rate</b>
<b>Class A</b>				
Handypersons	30.523	45.7845	244.184	1,220.92
Forepersons	30.4105	45.61575	243.284	1,216.42
Starters	30.4105	45.61575	243.284	1,216.42
Others	27.948	41.922	223.584	1,117.92
Guards*	26.491	39.7365	211.928	1,059.64
<b>Class B</b>				
Handypersons	30.492	45.738	243.936	1,219.68
Forepersons	30.3795	45.56925	243.036	1,215.18
Starters	30.3795	45.56925	243.036	1,215.18
Others	27.917	41.8755	223.336	1,116.68
Guards*	26.491	39.7365	211.928	1,059.64
<b>Class C</b>				
Handypersons	30.448	45.672	243.584	1,217.92
Forepersons	30.3355	45.50325	242.684	1,213.42
Starters	30.3355	45.50325	242.684	1,213.42
Others	27.873	41.8095	222.984	1,114.92
Guards*	26.491	39.7365	211.928	1,059.64

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**LOFT BUILDINGS**

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	<b>Regular Hr. Rate</b>	<b>Overtime Hr. Rate</b>	<b>8 Hour Rate</b>	<b>40 Hour Rate</b>
<b>Class A</b>				
Handypersons	30.473	45.7095	243.784	1,218.92
Forepersons	30.3795	45.56925	243.036	1,215.18
Starters	30.3795	45.56925	243.036	1,215.18
Others	27.917	41.8755	223.336	1,116.68
Guards*	26.491	39.7365	211.928	1,059.64

**Class B**

Handypersons	30.40	45.60	243.20	1,216.00
Forepersons	30.3305	45.49575	242.644	1,213.22
Starters	30.3305	45.49575	242.644	1,213.22
Others	27.868	41.802	222.944	1,114.72
Guards*	26.491	39.7365	211.928	1,059.64

**Class C**

Handypersons	30.277	45.4155	242.216	1,211.08
Forepersons	30.1895	45.28425	241.516	1,207.58
Starters	30.1895	45.28425	241.516	1,207.58
Others	27.827	41.7405	222.616	1,113.08
Guards*	26.491	39.7365	211.928	1,059.64

\*Guards hired prior to January 1, 1978 shall receive the rate of "others."

**MINIMUM WAGE RATES**  
**JANUARY 1, 2022– DECEMBER 31, 2022**

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**OFFICE BUILDINGS**

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	<b>Regular Hr. Rate</b>	<b>Overtime Hr. Rate</b>	<b>8 Hour Rate</b>	<b>40 Hour Rate</b>
<b>Class A</b>				
Handypersons	31.273	46.9095	250.184	1,250.92
Forepersons	31.1605	46.74075	249.284	1,246.42
Starters	31.1605	46.74075	249.284	1,246.42
Others	28.648	42.972	229.184	1,145.92
Guards*	27.191	40.7865	217.528	1,087.64
 <b>Class B</b>				
Handypersons	31.242	46.863	249.936	1,249.68
Forepersons	31.1295	46.69425	249.036	1,245.18
Starters	31.1295	46.69425	249.036	1,245.18
Others	28.617	42.9255	228.936	1,144.68
Guards*	27.191	40.7865	217.528	1,087.64
 <b>Class C</b>				
Handypersons	31.198	46.797	249.584	1,247.92
Forepersons	31.0855	46.62825	248.684	1,243.42
Starters	31.0855	46.62825	248.684	1,243.42
Others	28.573	42.8595	228.584	1,142.92
Guards*	27.191	40.7865	217.528	1,087.64

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**LOFT BUILDINGS**

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	<b>Regular Hr. Rate</b>	<b>Overtime Hr. Rate</b>	<b>8 Hour Rate</b>	<b>40 Hour Rate</b>
<b>Class A</b>				
Handypersons	31.223	46.8345	249.784	1,248.92
Forepersons	31.1295	46.69425	249.036	1,245.18
Starters	31.1295	46.69425	249.036	1,245.18
Others	28.617	42.9255	228.936	1,144.68
Guards*	27.191	40.7865	217.528	1,087.64

**Class B**

Handypersons	31.15	46.725	249.20	1,246.00
Forepersons	31.0805	46.62075	248.644	1,243.22
Starters	31.0805	46.62075	248.644	1,243.22
Others	28.568	42.852	228.544	1,142.72
Guards*	27.191	40.7865	217.528	1,087.64

**Class C**

Handypersons	31.027	46.5405	248.216	1,241.08
Forepersons	30.9395	46.40925	247.516	1,237.58
Starters	30.9395	46.40925	247.516	1,237.58
Others	28.527	42.7905	228.216	1,141.08
Guards*	27.191	40.7865	217.528	1,087.64

\*Guards hired prior to January 1, 1978 shall receive the rate of "others."

**MINIMUM WAGE RATES  
JANUARY 1, 2023 – DECEMBER 31, 2023**

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**OFFICE BUILDINGS**

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	<b>Regular Hr. Rate</b>	<b>Overtime Hr. Rate</b>	<b>8 Hour Rate</b>	<b>40 Hour Rate</b>
<b>Class A</b>				
Handypersons	32.148	48.222	257.184	1,285.92
Forepersons	32.0355	48.05325	256.284	1,281.42
Starters	32.0355	48.05325	256.284	1,281.42
Others	29.473	44.2095	235.784	1,178.92
Guards*	28.016	42.024	224.128	1,120.64
 <b>Class B</b>				
Handypersons	32.117	48.1755	256.936	1,284.68
Forepersons	32.0045	48.00675	256.036	1,280.18
Starters	32.0045	48.00675	256.036	1,280.18
Others	29.442	44.163	235.536	1,177.68
Guards*	28.016	42.024	224.128	1,120.64
 <b>Class C</b>				
Handypersons	32.073	48.1095	256.584	1,282.92
Forepersons	31.9605	47.94075	255.684	1,278.42
Starters	31.9605	47.94075	255.684	1,278.42
Others	29.398	44.097	235.184	1,175.92
Guards*	28.016	42.024	224.128	1,120.64

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**LOFT BUILDINGS**

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	<b>Regular Hr. Rate</b>	<b>Overtime Hr. Rate</b>	<b>8 Hour Rate</b>	<b>40 Hour Rate</b>
<b>Class A</b>				
Handypersons	32.098	48.147	256.784	1,283.92
Forepersons	32.0045	48.00675	256.036	1,280.18
Starters	32.0045	48.00675	256.036	1,280.18
Others	29.442	44.163	235.536	1,177.68
Guards*	28.016	42.024	224.128	1,120.64

<b>Class B</b>				
Handypersons	32.025	48.0375	256.20	1,281.00
Forepersons	31.9555	47.93325	255.644	1,278.22
Starters	31.9555	47.93325	255.644	1,278.22
Others	29.393	44.0895	235.144	1,175.72
Guards*	28.016	42.024	224.128	1,120.64

<b>Class C</b>				
Handypersons	31.902	47.853	255.216	1,276.08
Forepersons	31.8145	47.72175	254.516	1,272.58
Starters	31.8145	47.72175	254.516	1,272.58
Others	29.352	44.028	234.816	1,174.08
Guards*	28.016	42.024	224.128	1,120.64

\*Guards hired prior to January 1, 1978 shall receive the rate of "others."

## INDEX

<u>SUBJECT</u>	<u>PAGE</u>
Absentee Workers Hours (AB Time) .....	13, 67, 144
Adoption of Agreement .....	35-38
Arbitration.....	16, 18, 20-21, 24, 25, .....27-32, 95, 104, 128
Attendance Bonus .....	57
Automation Employment Pool .....	127-128
Benefit Funds.....	6, 12, 24, 26, 32, 40-54, 104, 126
Better Terms and Conditions .....	14-15, 43-44, 48-49
Building Safety .....	123
Bulletin Board.....	85, 105
Call-in Pay .....	69
Check-off (Dues) .....	6-10
Classification of Buildings.....	61-62
Clinic Day (Service Center Visit).....	126
Common Disaster.....	129
Complete Agreement .....	133
Condemnation .....	59
Consultants.....	141
Contracting of Work .....	2, 11-14, 24, 34
Contractor Employee Transition.....	140
Cost of Living .....	63-65
Coverage of Agreement .....	1-2, 11-14, 71
Cuspidors .....	130
Day of Rest .....	104
Days Off .....	67, 72, 87, 101
Death (in family, of employee).....	124, 128

<u>SUBJECT</u>	<u>PAGE</u>
Differentials .....	81-82
Disability Benefits Law .....	41, 47-48, 55-56, 57, 97
Discharge .....	3-4, 17, 24-25, 74, 106, .....121, 123, 130-131
Discrimination.....	95, 110, 119-120, 138-139
Discrimination - Protocol.....	111-118
Discrimination - Protocol Mediation .....	112-115
Discrimination - Protocol Arbitration.....	115-118
Displacement or Transfer.....	17-18
EAP Coordinator.....	70, 151
Election Day.....	87
Elevator Conversion.....	107, 127-128
Elevator Starter .....	63, 66, 121
Employee Identification.....	125
Employees' Rooms .....	121
Employment Agency Fee .....	120-121
Engineers.....	82
Experienced Employee .....	93
Eye Glasses .....	105
Family and Medical Leave Act.....	52, 93
Fines.....	109
Fire and Flood Call .....	105
Fire Safety Director .....	70, 122, 151
Firemen .....	101
First Aid Kit.....	105
Flexibility.....	13
Foreperson.....	63, 69, 122
Garnishments .....	123

<u>SUBJECT</u> .....	<u>PAGE</u>
Governmental Decrees.....	128
Grievance Procedure .....	25-27
Guards .....	66, 68, 79, 92-94, 122, 146
Handyperson .....	63, 121
Hardship Buildings .....	40
Health Fund.....	40-47, 99
Health Fund Study Committee.....	44-46
Hiring Hall .....	120-121
Holidays .....	14, 57, 65, 82-87, 101
Hours.....	12, 14-16, 65-70
Identification .....	125
Injuries .....	55, 97-99
Inspection of Employer Records.....	5-6
Job Definitions .....	121-122
Joint Industry Advancement Project.....	75-79
Jury Duty.....	124-125
Labor Peace Committee .....	34
Layoff.....	90, 95-97, 123
Leave of Absence .....	97-100
Legal Assistance (building violations).....	109
Legal Fund .....	51-52
Licenses.....	109, 123
Life Insurance .....	14, 43-44
Locker .....	106
Lockout .....	32-34
Lunch Period.....	66
Management Rights .....	16-18
Meal Allowance .....	69

<u>SUBJECT</u> .....	<u>PAGE</u>
Medical Leave.....	97-99
Method of Payment of Wages.....	88-89
Military Service .....	109
Most Favored Nations Clause.....	38-40
Multi-Employer Bargaining.....	35-40
New Development .....	136-137
New Hire Rate and Contributions.....	92-95
New York City Earned Safe and Sick Time Act ....	59
New York State Paid Family Leave Law .....	99
Newly Constructed Buildings.....	37, 67, 69
Night Work .....	66, 67-68
Notice of Discharge/Termination .....	3-4, 19, 21
Others.....	69, 92-94, 122
Overtime .....	65, 69, 70, 82, 88, 123, 151
Part-time Employee .....	58, 88, 100, 108
Paternity/Maternity Leave .....	98
Pension Fund.....	47-51, 93-94, 128, 142
Permits .....	109, 123
Personal Day .....	85-86, 87
Picketing .....	32-34
Political Contributions .....	6-8
Postings of Vacancies .....	91
Pregnancy Leave.....	98
Premium Pay.....	14, 68-69, 72, 82, 88
Probationary Period (Trial Period).....	92
Promotion.....	91-92
Pyramiding.....	82
Reason for Discharge.....	24-25

<u>SUBJECT</u> .....	<u>PAGE</u>
Recall .....	90, 95-97
Reduction in Force .....	12, 18-24, 90, 107, 143
Relief Employees .....	67, 88, 92, 103-104
Relief Periods.....	14, 66
Remodeled Buildings.....	37
Re-openings .....	54, 128, 133
Replacements .....	91-92
Resignation .....	74, 103, 106-107
Rest Room.....	106
Safety .....	123
Sale of Building .....	35-36, 59-60, 108
Sanitary Arrangements.....	106
Saving Clause .....	3, 13-14, 132-133
Schedules .....	15, 88, 129
Security Background Checks .....	130-131, 145
Seniority .....	13, 90-91, 97-99
Service Center Visit .....	126
Sick Days .....	56-59, 82, 126
Strike .....	32-34
Subcontracting .....	2, 11-14, 22-24, 34
Superintendents.....	2, 71-75, 79, 109
Supplemental Retirement & Savings Fund.....	52, 94, 142
Temporary Schedule Changes .....	15
Term of Agreement.....	79-80
Termination Pay .....	90, 96, 106-108
Tools .....	109
Training Fund.....	51

<u>SUBJECT</u> .....	<u>PAGE</u>
Training Program.....	123
Transfer of Title.....	35-37, 59-60
Transportation Costs.....	130
Trial Period.....	92
Unemployment Insurance Law.....	55-56
Uniforms.....	104-105
Union Insignia.....	105
Union Leave of Absence.....	57, 100
Union Recognition.....	1-5
Union Security.....	1-5
Union Visitation.....	5-6, 124
Vacancies.....	91-92
Vacation Replacement.....	92, 103-104
Vacations, Vacation Pay.....	14, 74, 96, 100-104
Veteran Transition Assistance.....	132
Voting Time.....	87
Wages.....	14, 62-65, 71-72, 155-162
Wage and Hour Claims.....	133-136
Wage Differentials.....	74, 81-82
Weather Conditions.....	129
Work Authorization and Status Disputes.....	131
Work Clothes.....	104-105
Work Stoppage.....	32-34
Working Conditions (Superintendent).....	72-75
Workers' Compensation.....	18, 41, 47-48, 55-56
.....	57, 97-98
Workloads.....	15-16
Workweek.....	65-67





## NOTES

## NOTES

# **2020 Commercial Building AGREEMENT**

MINIMUM WAGE RATES  
2020-2023  
(See Pages 155-162)

**LOCAL 32BJ  
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