

HARVARD UNIVERSITY

Project Labor Agreement

For Major Construction, Renovation and Rehabilitation

May 1, 2018-April 30, 2021

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ii. Definition of Terms

Owner:	The President and Fellows of Harvard University
Council:	The Building and Construction Trades Council of the Metropolitan District (the “Council”)
Carpenters:	The New England Regional District Council of Carpenters
Project Contractor:	An entity working in the capacity of a general contractor or construction manager for Harvard University within the Scope of this Agreement.
Contractor:	A Project Contractor or subcontractor of whatever tier engaged in on-site work within the Scope of this Agreement.
Agreement:	This Project Labor Agreement
Schedule A’s:	The local collective bargaining agreements of the respective signatory unions.
Term:	By Project, from award of the first construction contract for a Project until completion as determined by the Owner; See also Article XIV, Section 1.
Signatory Unions	The local unions and/or district councils and the Carpenters, that have executed the Agreement, together with the Council and the Department.
Covered Project (s):	Each individual construction, renovation and/or rehabilitation Project designated by the Owner and agreed to by the Union(s) to be covered by this Agreement.
Union (s):	Individual or collective noun for reference to all signatory labor unions to this Agreement.
Parties:	President and Fellows of Harvard University The Building and Construction Trades Council of the Metropolitan District The New England Regional Council of Carpenters
Base Wage Rate:	Those rates as defined in the Schedule A’s that are paid directly to the employee excluding amounts paid for benefits.

iii. Introduction

This Agreement, originally entered into the 7th day of May, 1992, and subsequently amended, is revised effective the 1st day of May, 2018, by and between the President and Fellows of Harvard University, the Building and Construction Trades Council of the Metropolitan District on behalf of its affiliated local unions, and New England Regional Council of Carpenters on behalf of its affiliated local unions, and each on their own behalf, with respect to work on Project(s) within the Scope of this Agreement. This document and the terms and conditions contained herein, together with such amendments as may be hereinafter agreed to by the Parties, shall constitute “the Agreement” between the Parties for all Projects covered by it, in lieu of all previous agreements, amendments, and or Letters of Understanding which have been applied to similar work.

Harvard University shall require all Contractors of whatever tier, as a condition of engagement on any Project covered by this Agreement, to abide by and sign this Agreement or the Letter of Assent (Attached as Exhibit 1).

No practice, understanding or agreement between a Contractor and a Union party which is not explicitly set forth in this Agreement or the Schedule A’s (which are the local Collective Bargaining Agreements) shall be binding on any other party unless endorsed in writing by the Owner, Project Contractor and the Unions.

ARTICLE I PURPOSE

The purpose of this Agreement is to provide an instrument adapted to the special needs of the Owner, the Contractors, their sub-contractors, and for the Building Tradespeople performing construction work associated with the Scope as defined herein. This Agreement has been developed to provide the timely, most efficient, cost effective, and high quality completion of the Scope that is of vital importance to Harvard University. All Project work needs to fit into tight time schedules, including shift operations and/or overtime on occasions, as major facilities are constructed on sites crowded with other educational buildings and/or as buildings are subject to major renovation or rehabilitation. This Agreement is vital to meet scheduling and financial commitments and to reduce or eliminate delays and work interruption. Therefore, the Unions agree not to engage in any picketing, strike, sympathy strike, handbilling, slowdown, interruption

or disruption of work; the Owner will not permit lockouts by its Contractors; and all parties agree that all disputes and differences among them will be resolved through the peaceful, binding processes provided by this Agreement.

ARTICLE II SCOPE OF THE AGREEMENT

Section 1. This Agreement shall apply and is limited to all new construction, major renovation and/or rehabilitation work associated with any covered Project, including site preparation and related demolition, system start-up, testing and checkout under contract with the Project Contractor.

Section 2. The Owner and Project Contractor have the absolute right to select any qualified contractor for the award of contract(s) on any covered Project, provided, however, that such Contractor is willing, ready and financially able to execute and comply with this Agreement; has or is eligible to and will sign the applicable local collective bargaining agreement(s) which form the basis for the Schedule A's; and that such Contractor executes, prior to commencement of work, this Agreement or the Letter of Assent. The Unions agree to sign such Contractors.

Section 3(a). The provisions of this Agreement, including the Schedule A's, shall apply to the Scope, notwithstanding the provisions of local, area, and/or national agreements which may conflict or differ from the terms of this Agreement, except that the work of the International Union of Elevator Constructors on this project shall be performed under the terms of its National Agreements, with the exception of Articles VI and VII of this PLA, which shall apply to such work. Where a subject covered by the provisions of this Agreement is also covered by a Schedule A, the provisions of this Agreement shall prevail. Where a subject is covered by the provisions of Schedule A and not covered by the Agreement, Schedule A provisions shall prevail.

(b). Future modifications to any Schedule A shall apply to this Agreement consistent with the effective dates of such modifications as stated in the revised Schedule A; provided, however, that any provision negotiated into a future collective bargaining agreement forming the basis for a Schedule A that applies to new construction, or rehabilitation work within the Boston/Cambridge area, will not apply to the Scope of this Agreement if such provisions are less favorable to the

Owner than those uniformly required for such work normally covered by those agreements; nor shall any provision be recognized or applied to this Agreement if it may be construed to apply exclusively or predominantly to the Scope of this Agreement.

(c) The signatory unions agree to provide the Owner with current versions of their Schedule A's and with updated versions as they are renegotiated. Schedule A's shall be sent to the Harvard Office of Labor and Employee Relations in a timely manner.

Section 4. Signatory Unions to this Agreement and their members shall not interfere in any way with other Harvard University work being performed by Harvard's employees. The term interference does not preclude the signatory Unions or their members from publicly supporting Harvard University student initiatives on campus, provided that such initiatives do not adversely impact the work performed by Harvard employees or on Project Work.

Section 5. Items specifically excluded from the Scope of this Agreement include, but are not limited to, the following:

- a. Work of non-manual employees, such as supervisors, superintendents, staff engineers, surveyors (except where expressly covered by a current Schedule A), quality control personnel, timekeepers, guards, and other professional, engineering, and administrative employees.
- b. All off-site handling of materials, equipment or machinery and all deliveries to and from any Project site, except for dedicated lay-down or storage areas and transfer between such locations and a Project site.
- c. All transportation systems between designated parking areas and a Project site.
- d. Off-site maintenance on leased equipment, and on-site warranty functions and warranty work, including supervision of such work.
- e. Exploratory geophysical testing and boring, except where expressly covered by a current Schedule A.
- f. Laboratory or specialty testing or inspections not ordinarily done by the Unions; including all asbestos testing and inspection.

- g. Installation of specialty items purchased by the Owner may be performed by employees employed under this Agreement with the participation of other personnel in a supervisory role, or, in limited circumstances requiring special knowledge or experience with the particular item(s), may be performed by employees of the vendor or of other companies normally retained by the vendor, to protect a guarantee or warranty offered by the vendor. The signatories to this Agreement shall be given reasonable advance notice of the inclusion of specialty items on any covered Project, the particulars of the items and the details of the warranty or guarantee. Upon timely request, representatives of the University and/or its Construction Manager will meet with representatives of the Union(s) affected by a specific utilization of this Provision to review appropriateness of such utilization and alternatives which may be available to satisfactorily meet the University's requirements and reasons for invoking this provision. Such review will not be used as a basis to delay an otherwise appropriate application of this provision. Provided it acts in good faith, the University has the exclusive and unreviewable right to determine what work is subject to this provision.
- h. All work performed in the retail/commercial portions of any Project under the direction of third party owners or leasees; they, however, will be advised of the availability of this Agreement for such work.
- i. Any work performed by or under direction of the Owner which is not within the Scope of this Agreement, and any work performed on or near, or leading to or on to, a Project site by state, county, city or similar government bodies, or their contractors, and/or public utilities or railroads, or similar organizations or their contractors, including Harvard Engineering & Utilities. Traditional lines of demarcation shall apply between work under the direction and control of a public utility or a Harvard utility and the continuation of such work on site.

Section 6. The Owner, at its sole option, may terminate, delay and/or suspend any or all portions of the Scope at any time.

Section 7. The liability of any Contractor and of the separate Unions under this Agreement shall be several and not joint. The Unions agree that this Agreement does not have the effect of creating any joint employer status between or among the Owner and any Contractor; provided, however, that this does not prevent the Unions from alleging or proving such status based on other facts.

Section 8. Projects may be added at any time during the Term of this Agreement upon the mutual consent of the Parties. Additions shall be made by means of a written addendum to this Agreement which states the specific provisions of each additional Project and which is signed by the Parties to this Agreement. All Projects added to this Agreement shall be subject to its provisions through that Project's work completion as determined by the Owner.

ARTICLE III UNION RECOGNITION AND EMPLOYMENT

Section 1. The Owner shall require all Contractors engaged in performing work within the Scope of this Agreement to comply with all provisions of this Agreement, and Contractors shall recognize the Unions as the sole and exclusive bargaining representative of all trade employees working within the Scope of this Agreement.

Section 2. Applicants for various classifications covered by this Agreement shall be referred to the Contractor by the local unions. The Contractor shall have the right to determine the competency of all employees, to determine the number of employees required, and to select employees to be laid-off (consistent with Article IV, Section 3 below). The Contractor shall also have the right to reject any applicant referred by the local unions, subject to any show-up payments required by the applicable Schedule A.

Section 3(a). For a local union now having a job referral system in its Schedule A, the Contractor agrees to use such system exclusively, in conformance with local practices, whenever the need exists to supplement its normal workforce. Such system must be operated in full compliance with all applicable Federal, State and Local laws, regulations, ordinances, and/or

Executive Orders. It is the intention of Parties to provide the maximum feasible number of job opportunities in all classifications for local residents.

(b) The Contractors and signatory unions recognize that the University and the Projects covered by this Agreement may be subject to valid, legally enforceable statutes, rules and or regulations affecting employment, including, not limited to, local hire, targeted hire, and/or other work force requirements. All parties will cooperate fully to assure that the obligations established by such statutes, rules, or regulations are met.

Section 4. In the event that any Union is unable to fill any requisition for employees within a forty-eight (48) hour period after such requisition is made by the Contractor (Saturdays, Sunday, and Holidays excepted) the Contractor may employ applicants from any other available source.

Section 5. In the event that the local union does not have a job referral system as set forth in Section 3 of this Article, the Contractor shall give the local union first preference to refer applicants, subject to the provisions of Section 4. The Contractor shall notify the Unions of employees hired by any source other than referral from the local unions, and such employees shall be bound by the applicable Schedule A union security clause.

Section 6. The selection and number of craft forepeople and/or general forepeople shall be the responsibility of the Contractor. The procedure for selection of such foreperson and/or general forepeople may be affected by specific provisions of applicable Schedule A's. Forepeople shall take orders exclusively from the appropriate Contractor representatives. Trade forepeople shall be designated as working forepeople at the request of the Contractor, except when a Schedule A prohibits a foreperson from working when the craftspeople they are leading exceed a specified number.

Section 7. Except as provided in Article IV, Section 3, individual seniority shall not be recognized or applied to employees working on the Projects.

Section 8. All employees covered by this Agreement shall be subject to the union security provisions contained in the applicable Schedule A.

ARTICLE IV
UNION REPRESENTATION

Section 1. Authorized representatives of the Unions shall have access to the Projects, provided they do not impede the work of the Owner, the Owner's employees or agents or the Contractor's employees and that they fully comply with the visitor, security, and safety rules of the Projects.

Section 2. Stewards.

a. Each signatory local union having members working on the Project, shall have the right to furnish a working journeyman as a steward, and shall notify the Contractor in writing of the identity of the designated steward prior to the assumption of their duties as steward. Such designated steward shall not exercise any supervisory functions. There will be no non-working stewards. Stewards will receive the base rate of pay of their respective crafts as defined by this Agreement.

b. The steward shall have the right to receive, but not solicit, complaints or grievances and to discuss and assist in the adjustment of the same with the employee's appropriate supervisor. The Contractor will not discriminate against the steward in the proper performance of their Union duties.

c. The steward shall not have the right to determine when overtime shall be worked or who shall work overtime, except on the basis of a Schedule A which contains a procedure for establishing equitable distribution of overtime. In the absence of such a Schedule A, the Contractor's awarding of overtime shall not be in conflict with the respective by-laws of the Unions.

Section 3. The Contractor agrees to notify the appropriate Union simultaneously with the layoff of a steward, except in the case of discipline or discharge for just cause. If a steward is protected against such layoff by the provisions of any Schedule A, such provisions shall be recognized to the extent that the steward possesses the necessary qualifications to perform the work remaining. In any case in which a steward is discharged or disciplined for just cause, the Contractor shall make reasonable efforts to notify the Union in advance of such actions and in any

event the appropriate Union shall be notified immediately by the Contractor of the steward's discharge or discipline.

ARTICLE V MANAGEMENT'S RIGHTS

Section 1. The Owner through its Contractors retains full and exclusive authority for the management of its operation. Except as expressly limited by other provisions of this Agreement, the Contractor retains the right to direct the workforce, including the hiring, promotions, transfer and lay-off, as well as discipline or discharge for just cause of its employees; the selection of forepeople; the assignment and schedule of work, the promulgation of reasonable work rules; and, the requirement of overtime work, the determination of when it shall be worked, and the number and identity of employees engaged for such work. No rules, customs, or practices which limit or restrict productivity or efficiency of the individual and/or joint working efforts of employees shall be permitted or observed. The Contractor may utilize any methods or techniques of construction consistent with the Contractor's agreement (s) with the Owner.

Section 2. Except as otherwise expressly stated in this Agreement and in the Project Contractor's agreement with the Owner, there shall be no limitation or restriction upon the Contractor's choice of materials or design, nor, regardless of source or location, upon the full use and installation of equipment, machinery, package units, pre-cast, pre-fabricated, pre-finished, or pre-assembled materials, tools, or other labor-saving devices. The Contractor may without restriction install or otherwise use materials, supplies or equipment regardless of their source. The on-site installation or application of such items shall be performed by the craft having jurisdiction over such work; provided, however, it is recognized that other personnel having special talents or qualifications may participate in the installation, check-off or testing of specialized or unusual equipment or facilities.

Section 3. It is recognized that the use of new technology, equipment, machinery, tools and/or labor-saving devices and methods of performing work will be initiated by the Contractor from time to time during the Projects. The Unions agree that they will not in any way restrict the implementation of such new devices or work methods. If there is any disagreement between the

Contractor and the Unions concerning the manner or implementation of such device or method of work, the implementation shall proceed as directed by the Contractor, and the Unions shall have the right to grieve and/or arbitrate the dispute as set forth in Article VII of this Agreement.

Section 4. The parties recognize that the University is committed to utilizing all relevant advancements in construction technology, architectural design, building engineering, and machinery, systems and or building component efficiencies. In limited circumstances, this may require the utilization of specialty contractors or personnel outside of the scope this Agreement. Where such is directed by the University, the Unions will be advised of the involved Contractor's plans prior to its commencement of the work. Upon timely request, representatives of the University and/or its Construction Manager will meet with representatives of the Union(s) affected by a specific utilization of this Provision to review appropriateness of such utilization and alternatives which may be available to satisfactorily meet the University's requirements and reasons for invoking this provision. Such review will not be used as a basis to delay an otherwise appropriate application of this provision. Provided it acts in good faith, the University has the exclusive and unreviewable right to determine what work is subject to this provision.

ARTICLE VI WORK STOPPAGES AND LOCKOUTS

Section 1. There shall be no strikes, sympathy strikes, handbilling, picketing, work stoppages, slowdowns or other concerted disruptive activity affecting any students, employees, agents, guests or invitees of the Owner on work covered by this Agreement for any reason, including disputes relating to the negotiation or renegotiation of the local collective bargaining agreements serving as the Schedule A's, by the Unions or employees against any Contractor or the Owner, and there shall be no lockout by the Contractors. Failure of any Union or employee to cross any picket line established by any Union, signatory or non-signatory to this Agreement, or by any group or any other organization, at or in proximity to a Project site is a violation of this Article.

Section 2. The Contractor may discharge any employee violating Section 1, above, and any such employee will not be eligible for re-referral to the Project.

Section 3. If a Contractor contends that any Union has violated this Article, it will notify the Secretary- Treasurer of the Department, the General Agent of the Council, and the Business Manager (s) and/or President (s) of the local Union (s) and/or Council(s) involved, in writing by facsimile or electronically, advising them of the violation. The Secretary-Treasurer of the Council or their designated representative and the officials of the local Union (s) or Council (s) involved will immediately instruct, order and use the best efforts of their offices to bring the violation to an end.

Section 4. Any party, including the Project Contractor, may institute the following procedure, in lieu of or in addition to any other action at law or equity, when a breach of Section 1, above, is alleged:

- a. A party invoking this procedure shall notify Lawrence Holden (or his alternate, Roger Abrams, if Mr. Holden is unavailable) who the parties agree shall be the permanent arbitrators under this procedure. In the event that both permanent arbitrators are unavailable at any time, they shall appoint an alternate. Notice to the arbitrator shall be by the most expeditious means available, with notices by phone, electronic mail, and/or facsimile to the parties alleged to be in violation and to the Council if it is a Union alleged to be in violation.
- b. Upon receipt of said notice, the arbitrator named above, or alternate, shall sit and hold a hearing within twenty-four (24) hours if it is contended that the violation still exists, but not before twenty-four (24) hours after the dispatch of the notice required by Section 3, above.
- c. The arbitrator shall notify the parties by phone, facsimile and/or e-mail of the place and time they have chosen for this hearing. Said hearing shall be completed in one session, which, with appropriate recesses at the arbitrator's discretion, shall not exceed twenty-four (24) hours unless otherwise agreed upon by all parties. A failure of any party or parties to attend said hearings shall not delay the hearing of evidence or the issuance of any award by the arbitrator.
- d. The sole issue at the hearing shall be whether or not a violation of Section 1, above, has in fact occurred, and the arbitrator shall have no authority to consider any matter

in justification, explanation or mitigation of such violation or to award damages, which issue is reserved for court proceedings, if any. The award shall be issued in writing within three (3) hours after the close of the hearing, and may be issued without an opinion. If any party desires an opinion, one shall be issued within fifteen (15) days, but its issuance shall not delay compliance with, or enforcement of, the award. The arbitrator may order cessation of the violation of this Article and other appropriate relief, and such award shall be served on all parties by hand or registered mail upon issuance.

- e. Such award may be enforced by any court of competent jurisdiction upon the filing of this Agreement and all other relevant documents referred to hereinabove in the following manner: Written and/or electronic notice of the filing of such enforcement proceedings shall be given to the other Parties to this Agreement. In the proceeding to obtain a temporary order enforcing the arbitrator's Award as issued under Section 4 (d) of this Article, all parties waive the right to a hearing and agree that such proceedings may be ex parte. Such agreement does not waive any party's right to participate in a hearing for a final order of enforcement. The court's order or orders enforcing the arbitrator's award shall be served on all parties by hand or by delivery to their last known address or by registered mail.
- f. Any rights created by statute or law governing arbitration proceedings inconsistent with the above procedure or which interfere with compliance hereto are hereby waived by the parties to whom they accrue.
- g. The fees and expenses of the arbitrator shall be equally divided between the moving party or parties and the respondent party or parties.

Section 5. Procedures contained in Article VII shall not be applicable to any alleged violation of this Article, with the single exception that any employee discharged for violation of Section 1, above, may resort to the procedures in Article VII to determine only if they were, in fact, engaged in that violation.

Section 6. The Owner and Project Contractor are parties in interest in all proceedings arising under this Article and Article VII, and shall be sent copies of all notifications required

under these Articles, and, at their option, may participate as a full party in any proceeding initiated under these Articles. Copies of all notifications shall promptly be sent to the Owner at the Harvard Office of Labor and Employee Relations.

ARTICLE VII
GRIEVANCES AND JURISDICTIONAL DISPUTES

Section 1. The Project Contractor, signatory Unions and the Council shall each assign a representative to the Project for the purpose of working together with the Contractor(s) and Unions to maintain labor management harmony and to peacefully resolve any disputes among the parties.

Section 2. Contractual Grievances. Any questions arising out of and during the term of this Agreement involving its interpretation and application (excluding trade jurisdictional disputes and alleged violations of Article VI, Section 1) shall be considered a grievance and be subject to resolution under the following procedures:

Step 1

(a). When any employee feels they are aggrieved by a violation of this Agreement, they shall, through their representative or job steward, within five (5) working days after the occurrence of the violation, give verbal notice to the work site representative of the involved Contractor, stating the provision(s) alleged to have been violated and the basis for the violation. The business representative or job steward and the work site representative shall confer within three (3) working days after timely notice has been given in an attempt to resolve the matter.

(b) Should a signatory local Union(s) or the Project Contractor or any other Contractor have a dispute with another party, they shall give verbal notice to that other party(ies) within five (5) working days after the occurrence of the violation, stating the provision(s) alleged to have been violated. Their representatives shall confer in an attempt to resolve the dispute within three (3) working days after timely notice has been given.

Grievances and disputes settled at Step 1 shall be nonprecedential except as to the parties directly involved, unless they request the Project Contractor to approve the settlement and the Project Contractor endorses the settlement in writing within 5 working days.

If the parties fail to resolve the matter within the time periods outlined herein, or if the Step 1 meeting has not been held or scheduled by the parties, the grieving Union, may, within two (2) working days thereafter (Saturday, Sundays, and holidays excluded), pursue Step 2 of this grievance procedure by providing the involved Contractor, and the Project Contractor, a written grievance, setting forth relevant information, including a short description of the violation, the date on which the violation occurred, and the provision(s) of the Agreement alleged to have been violated.

Step 2

The business manager of the involved Union(s) or their designee, the site representative of the involved Contractor(s) and the labor relations representative of the Project Contractor (or their designees) shall meet within seven (7) working days of the submission of the written grievance to arrive at the satisfactory settlement thereof. If the parties fail to reach Agreement after such meeting or if the Step 2 meeting has not been held or scheduled by the parties, the dispute may be submitted to arbitration in accordance with Step 3.

Step 3

If the grievance shall have been submitted, but not adjusted, under Step 2, either party may request in writing, within 14 calendar days after the initial Step 2 meeting, or if that meeting has not been held, within fourteen (14) days after the Step 2 meeting would have been held, that the grievance be submitted to arbitration. A copy of the demand for arbitration shall be provided to the Project Contractor and the involved Contractor. The case shall be assigned to a permanent arbitrator (Roberta Golick, James Cooper, or Roger Abrams), individually, on a rotating basis for hearing and decision. If the designated arbitrator is not available for a hearing in a reasonable period of time, the parties will submit the grievance to the next arbitrator on the rotation list. The voluntary labor rules of the American Arbitration Association shall govern the conduct of the hearing. The Arbitrator shall have the authority to make a decision only on issues presented to them and shall

not have the authority to change, amend, add to or detract from any provision(s) of this Agreement. The decision of the arbitrator shall be final and binding on all parties. No adjustment or decision may provide retroactivity exceeding 60 days prior to the date of the filing of a written grievance. The fees and expenses of such arbitration shall be borne equally by the involved Contractor(s) and the involved Union(s).

Section 3. Jurisdictional Disputes

(a) The Contractor with responsibility for the performance and installation of the work shall make the specific assignment of the work which is included in its contract, (the "Responsible Contractor"). All work assignments shall be disclosed by the Responsible Contractor (or the Project Contractor, or the responsible Contractor's General Contractor) at a pre-job conference held in accordance with industry practice. Responsible Contractors shall notify the Project Contractor and the affected Unions of the assignment before starting work to be performed under this Agreement. The Plan for the Settlement of Jurisdictional Disputes in the Construction Industry ("the Plan") currently in effect, or its successor, shall serve as a guide for establishing jurisdiction at such meetings. Such assignment shall not be changed absent the written agreement of all parties to any dispute arising over such assignment, (including the Responsible Contractor), or pursuant to a decision issued by a permanent arbitrator appointed under this Agreement to hear and decide jurisdictional disputes. Should there be any formal jurisdictional dispute raised, the Project Contractor shall be promptly notified.

(b) Should a signatory Union(s) wish to raise a jurisdictional claim after a formal assignment has been made, they shall provide a written claim notice to the Responsible Contractor and the Union(s) assigned the work in question within five (5) working days of the notification of the formal assignment, (with a copy to the Project Contractor), briefly describing the basis for the claim.

Step 1. Within three (3) working days after the raising of a jurisdictional claim, the involved Unions, and the Responsible Contractor, at their option, shall meet and confer in an attempt to resolve the claim. Should the claim not be resolved at such meeting, the parties shall have three (3) additional working days to request and receive the assistance of the International

Representatives of the involved Unions in a further attempt to resolve the dispute. Should the dispute not be resolved within six (6) days from filing the formal written jurisdictional claim, the claiming Union(s) may submit the jurisdictional claim to the Permanent Jurisdictional Disputes Arbitrator, Ken Paradis, for hearing and decision. The submission to the Arbitrator must be filed, in writing, within eight (8) working days from filing the initial written claim, unless such time limit is extended by mutual agreement of all affected Unions and contractor parties or by order of the Arbitrator.

Step 2. The permanent arbitrator shall schedule and commence a hearing on any jurisdictional disputes properly submitted to them within 14 days of receipt of the written submission to arbitration. Extensions of this time will only be allowed upon written approval of the permanent arbitrator. The voluntary labor rules of the American Arbitration Association shall govern the conduct of the hearing. The hearing shall be completed within five (5) consecutive calendar days inclusive of recesses (not to exceed one day each at the sole discretion of the arbitrator). The Arbitrator's decision shall be issued within forty-eight (48) hours of the close of the hearing, with a written opinion issued within fourteen (14) days thereafter. The award shall apply only to the remaining work on the initial assignment by the Responsible Contractor.

(c) In a jurisdictional dispute arbitration involving the New England Regional Council of Carpenters, which has not agreed to be bound by the provisions of the Plan, the Arbitrator's decision shall be based on the Arbitrator's findings of the relevant area practice regarding the assignment of work in dispute. In all events, the assignments of the Contractor(s) shall be followed until the dispute is resolved. Any award or resolution involving a jurisdictional dispute shall be final and binding on the disputing Unions and involved Contractor(s) on the specific Project only, and may be enforced in any court of competent jurisdiction. Such award or resolution shall not establish precedent for other construction work not covered by this Agreement. The fees and expenses of such arbitration shall be born equally by the involved Responsible Contractor and Unions.

(d) In making any jurisdictional determination herein, there shall be no authority to award back pay or other retroactive compensation, or to assign work to a double crew, that is, to more

employees than the minimum required to perform the work involved; or to assign the work to employees who are not experienced and qualified to perform the work involved. This does not prohibit the establishment, at the arbitrator's direction, or with the agreement of the involved contractor, of composite crews where more than one (1) employee is needed for the job. The aforesaid determination shall decide only to whom the disputed work belongs. The work subject to a jurisdictional dispute shall proceed as assigned by the Responsible Contractor until finally resolved under the applicable procedure of this Article. There shall be no strike, work stoppage, slowdown, interruption or other disruptive activity while any jurisdictional dispute is being resolved or in protest of any award or resolution.

Section 4. Time Limits. Failure of the grieving party to adhere to the time limits set forth in this Article shall render the grievance null and void. The time limits may be extended only by written consent of the parties involved at the particular Step where the extension is agreed upon.

ARTICLE VIII WAGES AND BENEFITS

Section 1.a. All employees covered by this Agreement shall be classified in accordance with work performed and paid one hundred percent (100%) of the basic hourly wage rates for those classifications as specified in the Schedule A's.

b. The average billing rate for apprentices shall not exceed 60% of the respective journeyman wage rates as stated in Schedule A, except for those trades specifically listed below in (c) whose average apprentice billing ratio shall be 70%.

c. The average ratio of journeyman to apprentices, on a building by building basis, shall be no less than 2:1 except for carpenters, electricians, painters, tile workers and iron workers, whose ratios shall not be below 1:1. Ratios for each trade will be established prior to bidding on a job by job basis, by the Project Contractor in concert with the Owner and subtier Contractors and in consultation with the Council and Carpenters. A listing by trade by job, which complies with the above ratios, will be forwarded to the Parties to this Agreement prior to bidding.

d. For installation of voice and data systems covered by this Agreement, the Telecommunication Rate shall apply.

Section 2. The Owner and Contractor agree to timely pay contributions to the established employee benefit funds in the amounts designated in the appropriate Schedule A. The Project Contractor, upon timely notice from the Unions or the trustees of a recognized fund shall withhold, in an appropriate amount, any funds due and owing to a subtier Contractor who is delinquent in their payments required under this section; and shall not release such withholding until notified by the appropriate trustees or administrator of the joint benefit fund. The Owner, in the case of the Project Contractor withholding, and the Project Contractor and Owner, in the case of subtier Contractors withholding, shall be held harmless by the Unions for any such withholding.

ARTICLE IX
HOURS OF WORK, OVERTIME, SHIFTS AND HOLIDAYS

Section 1. Work week and work day. The standard work week shall consist of 40 hours, Monday through Friday. Shifts shall be for a minimum period of five days. The Projects' standard work day shall consist of 8 hours of work. However, the Owner and Project Contractor shall not guarantee 8 hours per day or 40 hours per week. The Owner shall be entitled to change the standard work day hours for first, second and third shifts without incurring a premium if, in the Owner's opinion, altered shifts would benefit the overall coordination between labor forces and building occupants, or if an altered shift would minimize inconvenience to the primary operations of the University. Make-up days shall be performed in accordance with attached Schedule A's. Starting and quitting time shall occur at the employees' change area.

a. Due to the unique aspects of scheduling and performing asbestos containing material (ACM) removal, Contractors shall be permitted to establish Project-specific hours for ACM removal that may not comply with Section 1 if altered hours of operation are deemed prudent or necessary to adhere to work production schedules and/or building occupancy concerns.

Section 2. Overtime. Overtime rates shall be paid in accordance with the applicable Schedule A's. The Unions agree to perform overtime work as requested and further agree there shall be no pyramiding of premium pay under any circumstances.

Section 3. A Contractor may, when it considers it necessary, suspend all or a portion of the job to protect the life and safety of an employee. In such cases, employees will be compensated

only for the actual time worked; provided, however, that where the Contractor requests employees to remain at the site and available for work, the employees will be compensated for the standby time at the rates of pay established by this Agreement.

Section 4. Shifts. Shift differentials shall be paid on the Project in accordance with the applicable Schedule A's.

Section 5. Holidays and other non-work time. Recognized non-paid Federal/State holidays on these Projects shall be: 1. New Year's Day; 2. Martin Luther King, Jr. Day; 3. Presidents Day; 4. Patriot's Day; 5. Memorial Day; 6. Independence Day; 7. Labor Day; 8. Indigenous Peoples'/Columbus Day; 9. Veterans Day; 10. Thanksgiving; 11. Christmas Day. Union tradespersons who work on Project sites that open on Martin Luther King, Jr. Day shall be paid at a holiday premium rate. With advance notice to the Unions, the Owner reserves the right to designate certain days as non-work days, based on operational needs or special events or occurrences and will give the Unions advance notice of such designation. This includes, but is not limited to, the work schedule for commencement week, which shall be determined by the Owner. The Owner shall not incur costs for days not worked.

ARTICLE X SAFETY, PROTECTION OF PERSON AND PROPERTY

Section 1. In accordance with the requirements of the Occupational Safety and Health Act, it shall be the exclusive responsibility of each Contractor on the Project site to ensure safe working conditions for its employees and their compliance with any safety rules contained herein or established by any Contractor or Project Contractor. It is understood that the employees have an obligation to use diligent care to perform their work in a safe manner and to protect themselves and the property of the Contractor and the Owner. Employees shall be responsible to report any and all injuries to the Contractor and Project Contractor regardless of the severity of the injury or the need for medical treatment. Employees shall be bound by the safety, security and visitor rules established by the Contractor and/or the Project Contractor in accordance with the rules, policies and procedures set forth in the Harvard University Construction Environmental Health and Safety Standard and the Harvard University Construction Mitigation Specification and applicable state

and federal safety and health statutes and regulations. These rules will be published and posted in conspicuous places throughout the Project.

Section 2. The inspection of incoming shipments of equipment, machinery and construction materials of every kind shall be performed at the discretion of the Contractor by individuals of its choice. All employees shall comply with the security procedures established by the Owner, Project Contractor, and/or Contractor.

Section 3. At the direction of the Owner, the Harvard University Construction Substance Abuse Program (Exhibit 2) shall apply to all Project sites.

Section 4. Security of each Project Site is important for the safety of the personnel properly on the site, the protection of equipment and materials, and the overall safety of the University community and its neighbors. As a result, at the University's direction, the Project Contractor may limit access to the site to those employed on the site or otherwise with appropriate business for access to the site. This may include a requirement that employees utilize a "brassing" (or similar identification system) to check in and out, and/or for site access. Each employee must check themselves in and out and the Contractor will provide adequate facilities for checking in and out in an expeditious manner. Further all visitors may be required to report to a specific security facility and appropriately identify themselves before entering on the site. Because of crowded conditions on the site and in the University area generally, and for the safety of all involved, employee and visitor access by automobile may be limited to certain roads and/or parking areas. All rules and regulations relating to site safety and access shall be prominently posted for all employees and visitors, and those affected by such rules and regulations shall comply or be subject to discipline or other appropriate penalty.

ARTICLE XI
NO DISCRIMINATION

The Contractors and Unions agree that they will not discriminate against any employee or applicant for employment on any unlawful basis, including, but not limited to race, color, religion, sex, sexual orientation, disability, national origin or age in any manner prohibited by law or regulation. Any complaints regarding the application of this provision should be brought to the immediate attention of the involved Contractor. The Unions shall cooperate with all Contractors in complying with the Owner's Equal Employment Opportunity guidelines, including the Harvard Institutional Construction EEO Plan (HICEEOP) and where applicable, the Boston Residents Jobs policy (BRJP).

ARTICLE XII
WORKING CONDITIONS

Section 1. Anti-Gouge Clause. Harvard University reserves the right to analyze any trade's sub-bid that seems unreasonable. A review committee comprised of Harvard University, the Project Contractor and a representative of the appropriate Union party to this Agreement, shall be convened to review the trade's bids in question. If this committee is unable to resolve the issue to the Parties' mutual satisfaction, then that trade may be rebid by the Project Contractor to other subcontractors as long as they comply with the terms of this Agreement.

Section 2. The Owner and/or the Project Contractor may establish reasonable project rules. These rules will be posted at the project site or otherwise communicated to employees by the Contractor and may be amended thereafter as necessary. Failure to observe these rules and regulations by an employee shall be grounds for discipline, including discharge.

Section 3. Prior to the commencement of work on the Project, there shall be a pre job conference with representatives of the Building and Construction Trades Council of the Metropolitan District and the N.E. Regional Council of Carpenters, the Owner, and the Project Contractor to discuss the scope of work, project rules and regulations, jurisdictional assignments, scheduling, any issues concerning the scope of work not covered by the PLA, and other matters pertinent to the Project work.

ARTICLE XIII
SAVINGS AND SEPARABILITY

Section 1. It is not the intention of the Owner, the Contractors, or the Unions to violate any laws governing the subject matter of this Agreement. The parties hereto agree that in the event any provisions of the Agreement are finally held or determined to be illegal or void as being in contravention of any applicable law, the remainder of the Agreement shall remain in full force and effect unless the part or parts so found to be void are wholly inseparable from the remaining portions of this Agreement. Further, the Contractors and Unions agree that if and when any and all provisions of this Agreement are finally held or determined to be illegal or void by a court of competent jurisdiction, the parties will promptly enter into negotiations concerning the substance affected by such decision for the purpose of achieving conformity with the requirements of an applicable law and the intent of the parties hereto.

Section 2. This Article shall not be construed to waive the prohibitions of Article VI, and if the Parties are unable to resolve their differences, the matter shall be referred to an Arbitrator from the panel under Article VII for resolution.

ARTICLE XIV
DURATION OF THE AGREEMENT

Section 1. This Agreement shall remain in full force and effect until the 30th day of April 2021, and thereafter from year to year unless the Union parties to the Agreement, or the University, notifies the other in writing of the desire to terminate the Agreement as of the next following April 30th. Such written notice shall be provided to the non-moving party on or before March 1, 2021, or March 1 of a succeeding year.

Section 2. Notwithstanding Section 1, above, any Project where construction has begun, shall continue to be subject to the provisions of this Agreement until completion is achieved as determined by the Owner.

Section 3. The Schedule A's referenced in this Agreement shall continue in full force and effect until the Union parties to the Collective Bargaining Agreements which are the basis for such Schedule A's notify Harvard University of the mutually agreed upon changes in those provisions of such Agreements which are applicable to this Agreement, and their effective date(s), which shall become the effective date(s) under this Agreement.

Section 4. Adjustments. The specifics of this Agreement may be adjusted by the Parties during its Term through a mutually acceptable basis and in writing.

Section 5. Training. This Agreement is intended to enhance the training of the Unions' members in all aspects of construction, rehabilitation, and renovation and preservation procedures and technology. The joint labor management committees will endeavor to target training resources generated as a result of this Agreement to such training, including utilization of the signatory Unions' apprenticeship programs.

Section 6. Favorite Nations Clause. If, within the Boston and Cambridge areas, a more attractive project labor agreement is struck with any other entity, Harvard University shall have the right to avail itself of such agreement.

Section 7. Non-Signatory Trades. Harvard University reserves the right to obtain competitive pricing, by whatever means available for work performed by trade unions that are not signatory to this Agreement.


Signed effective May 1, 2018 by the Parties:

President and Fellows of
Harvard University




Zachary See, Associate Director
Office of Labor & Employee Relations

The Building and Construction Trades
Council of the Metropolitan District
and its members:



Mark Fortune, President

William D. McLaughlin, Vice President



Brian Doherty, Secretary/Treasurer/General Agent

N.E. Regional Council of Carpenters



Thomas Flynn, Executive Secretary-Treasurer

EXHIBIT 1

LETTER OF ASSENT

Every contractor of whatever tier working on a Project covered by the terms and conditions of the Harvard University Project Labor Agreement for Major Construction, Renovation & Rehabilitation shall execute the following Letter of Assent prior to commencing work on the Project and send it to the Project Contractor:

[Contractor or subcontractor's Letterhead]

[Name]
[Project Contractor]
[Street Address]
[City, State]

Re: Harvard University Project Labor Agreement for Major
Construction, Renovation & Rehabilitation
[Name of] Project

The undersigned contractor hereby agrees that it will be bound by and comply with all terms and conditions of the Harvard University Project Labor Agreement for Major Construction, Renovation & Rehabilitation ("the Agreement"), for the life of the work it performs on the above referenced Project. Further, the undersigned contractor commits that each of its subcontractors of whatever tier engaged to work on the Project will execute this Letter of Assent prior to commencing work.

The undersigned contractor recognizes that, pursuant to Article II, Section 2 of the Agreement, every contractor working on the Project must be signatory to and bound by the Agreement prior to commencing work on the Project. The undersigned contractor further recognizes that this letter is necessary and does provide the legal basis for the contributions to be made to the benefit funds maintained pursuant to the Agreement.

This Letter of Assent will remain in effect for the duration of the Project, after which the understanding and commitments herein will automatically terminate.

Sincerely,

[Name of Contractor]

By: _____

Title: _____

cc: Building & Construction Trades Council of the Metropolitan District
New England Regional Council of Carpenters

EXHIBIT 2

THE HARVARD UNIVERSITY CONSTRUCTION SUBSTANCE ABUSE PROGRAM

Harvard University and the signatory unions (the “Parties”) to the Harvard University Project Labor Agreement for Major Construction, Renovation and Rehabilitation (the “Agreement”) have agreed on a Drug-Free Workplace Policy, (the “Policy”) which states that the use of illegal drugs or the abuse of alcohol, prescription or controlled substances on or off duty by persons employed, or seeking employment, on Harvard Projects, is inconsistent with a safe, healthy and productive work environment on the Harvard University-sponsored construction projects (the “Projects”).

This Substance Abuse Program (“the Program”) is established by Harvard University in response to the parties’ Policy directive as recited above and supersedes any pre-existing programs. Harvard project managers on the Projects covered by the Agreement will require that this Program be applied to all Contractor-employed personnel working on Project sites and to all applicants for such positions.

The intention of this Program is to establish Projects as drug and alcohol free workplaces with due regard for the personal privacy interests of Project employees. It is not the intention of Harvard project managers that any Contractor intrude on off-duty activities of Project employees away from the Project sites, unless those activities have a job-related impact. The circumstances permitting alcohol and drug testing on the Projects have been carefully defined. The Harvard project managers will retain oversight over all Contractor programs and will monitor test procedures for consistency and policy compliance.

The Parties acknowledge and agree on the importance of appropriate education, assistance, and treatment for all employees to combat the potential or actual influence of illegal/controlled drugs and alcohol. The Parties therefore encourage the utilization of the educational, assistance

and treatment programs which have been established by signatory Unions and/or Contractors as an important component of the overall Substance Abuse Program on Project sites.

The Harvard University Construction Substance Abuse Program establishes minimum standards of testing on a consistent, standardized basis for the safety, productivity and economy of all parties and personnel working on covered Projects. The Program will apply to all bargaining unit and non-bargaining unit employees and applicants for employment on any covered Project site and to all Project Contractors at all tiers. The Owner will regularly review with the Unions, Contractors, and Project Contractors, the effective implementation and enforcement of the Program, and will require appropriate action by any and all Parties who are not fully committed to and involved in the application of the Program on all Project sites.

This Program shall be subordinate to the Department of Transportation Regulations or any other federal or state drug testing mandates which shall prevail and apply only to those classes of employees and applicants subject to the mandatory drug test regulations currently in effect, as amended or established in the future by the Federal Highway Administration, the U.S. Coast Guard, the Research and Special Programs Administrative of the Department of Transportation or any other federal or state agency with appropriate jurisdiction.

THE POLICY

I. JOB APPLICANTS

1. All job applicants for positions on a Project will be required to satisfactorily complete a drug test, unless such applicant provides acceptable documentation that they have tested drug free within the preceding six months by a NIDA/SAMSHA certified laboratory. Specimens will be collected during in-processing on the Project site or at a designated off-site location and tests will be conducted in accordance with Section III, herein and the Project Substance Abuse Prevention Program Implementation Procedure. Applicants who report to the in-processing site who display reasonable cause to suspect they may be impaired by alcohol may be subject to alcohol testing as set forth in Section III.

2. If the point of collection (POC) test results are inconclusive, the applicant will not be permitted access to the Project site, until test results have been verified in accordance with Section III-2. If the POC test results are proven negative, the employee will be paid for orientation time as described below and will be paid straight time hours by their employer (the Project Contractor or subcontractor) for the missed work on the Harvard Project, provided the employee is not referred to or is not engaged on an alternate work assignment while test results are pending. If the applicant tests positive, they will be barred from all Harvard construction, renovation and/or rehabilitation Projects, whether covered by a PLA or not. However, such applicant shall be paid two hours of straight time for participating in the orientation program. If participation in the orientation program requires more than two hours of the applicant's time, such applicant shall be paid a maximum of four hours of straight time. There shall be no pyramiding of orientation time and missed work payments under this section.

3. Any applicant or conditional employee barred from Projects under Section I- 2 may be considered for reemployment on Harvard Projects provided the employee satisfactorily completes a drug test conducted by a NIDA/SAMSHA certified laboratory or an approved drug rehabilitation program at the employee's expense not less than sixty days following the initial disqualification. Upon the successful completion of such a subsequent test or program, the applicant will be eligible for Project employment providing, as a condition of continuing employment, the employee voluntarily agrees in writing to submit to substance testing at the Harvard project manager's or Contractor's request for a period of six months.

4. Refusal on the part of any applicant to comply with the testing procedure will disqualify the applicant from consideration for employment on Harvard Projects until such time as the applicant certifies, in writing, a willingness to comply with this Program.

II. ACTIVE EMPLOYEES

1. Disciplinary Rules:¹ All Contractors on a Project recognize that employees have a right to privacy and that any adverse action taken against an employee for off-duty conduct shall take into account the employee's right to privacy and the impact of the employee's conduct on their job performance and job site safety. The Contractor's disciplinary rules for drug related conduct will be as follows:

- a) Possession of illegal drugs on the job or in a job status – Permanent bar from the Project site and a one year bar from all other Harvard construction, renovation and/or rehabilitation Projects, whether covered by a PLA or not. A second offense will lead to a three year bar from all other Harvard construction, renovation and/or rehabilitation Projects, whether covered by a PLA or not.
- b) Use of illegal drugs on the job or in a job status – Permanent bar from the Project Site and a one year bar from all other Harvard construction, renovation and/or rehabilitation Projects, whether covered by a PLA or not. A second offense will lead to a three year bar from all other Harvard construction, renovation and/or rehabilitation Projects, whether covered by a PLA or not. .
- c) Selling, aiding and abetting the sale or conspiring to sell illegal drugs or prescription drugs on the job or in a job status or conviction for such activity off the job – Permanent bar from the Project Site and a three year bar from all other Harvard construction, renovation and/or rehabilitation Projects, whether covered by a PLA or not. A second offense will lead to a permanent bar from all other Harvard construction, renovation and/or rehabilitation Projects, whether covered by a PLA or not.

¹ In some instances, site work rules already in effect are repeated for the purpose of having a compilation of all substance-related rules in one document.

- d) System presence of illegal drugs or alcohol at a limit specified herein on the job or in a job status – Immediate bar from the Project and all Harvard construction, renovation and/or rehabilitation Projects, whether covered by a PLA or not. The employee may be considered for reemployment on Harvard projects after the later of sixty days and certification as drug or alcohol-free as confirmed by a NIDA/SAMSHA licensed laboratory or an approved drug rehabilitation program, provided that as a condition for reemployment on the project, the employee agrees to be subject to testing at the request of the Harvard project manager or Contractor for a period of up to six months. Any second offense involving an on-the-job system presence of illegal drugs or alcohol will result in a permanent bar from employment on the Project.
- e) Possession, use or system presence of prescription drugs without a valid prescription or alcohol on the job or in a job status may result in a temporary or permanent project bar. The severity of the sanction will be determined on a case-by-case basis following investigation concerning the use of the drug. Employees are reminded of the project safety rule which requires all persons taking medication to advise their supervisor of such drug use in advance of the workday. It is the Contractor's intent that recreational use or abuse of prescription drugs will be treated the same as use of illegal drugs.
- f) These disciplinary rules supplement and do not supersede other rules and regulations duly promulgated by any contractor. In no event shall the application of these rules or the use of illegal drugs or alcohol be construed as a defense to other employment related discipline.

2. **Testing:** Employees will be subject to drug and alcohol testing only under the following circumstances:

- a. **Reasonable Cause:** A substance test may be required where there is reasonable cause to suspect that an employee has an in-system presence of intoxicants or drugs on the job or in a job status (such as on contractor or owner-provided transportation). An employee will not be tested under this paragraph unless employee conduct or other related circumstances provide a reasonable basis to believe that the employee may have ingested an intoxicating substance and/or is suffering from impairment of some sort while on the job site. Such observation must be confirmed by a second member of Contractor supervision, or by a Harvard project manager's representative, wherever possible. For Contractors signatory to the Agreement, observation shall also be discussed with the Union steward, provided a steward is readily available. Finally, before an employee is referred for reasonable cause testing, the action must be approved by a senior member of Contractor management (above foreman/supervisor) or by a Harvard project manager's safety representative. All management representatives responsible for making such observations and/or referrals shall be required to attend a Department of Transportation (DOT) approved training program in order to be authorized to make such observations or referrals. Employees working under this agreement and participating in the CAP program shall be subject to the reasonable cause procedures of that program; all others will be subject to the reasonable cause procedures consistent with the Harvard Substance Abuse Program.
- b. **Post-Accident:** Any employee who is directly involved in an accident on the job site or in the course of job duties which involves use of vehicular equipment, heavy equipment, power tools or other dangerous instrumentality or working conditions and which results in a need for off-site medical care or substantial property damage (generally in excess of \$1000) shall be referred for a substance test. A substance test will not be required if the Contractor or the Harvard project manager's safety

representative determines that the employee did not contribute to the cause of the accident or could not have avoided it. The test must be conducted by a NIDA/SAMSHA certified laboratory as soon as practical following the accident. Such test shall be undertaken prior to and as a condition of returning to work. Post-accident testing will be a 9-panel drug test regimen.

- c. Employees removed from duty for reasonable cause or post-accident testing will remain off duty until test results are received. If the employee tests negatively, the employee will receive full backpay for the time missed. If the employee tests positively, the employee will be barred from the Project effective the date and time of the specimen collection. Any employee so barred will be eligible for reemployment on the Project after a period of not less than sixty days. Before being rehired, any such employee must pass a drug test conducted by a NIDA/SAMSHA certified laboratory at the employee's expense and must agree, as a condition of reemployment, to submit to substance use testing at the Harvard project manager's or Contractor's request, for a period of six months.

- d. For those Contractors signatory to the Agreement, any employee directed for testing shall be entitled to request the presence of a Union steward in pre-test meetings with Contractor management. Provided a Union representative has been requested and is readily available, no specimen will be collected until the steward can meet with Contractor representatives. The procedures described in this paragraph shall not operate to impede timely collection of test specimens.

III. DRUGS TO BE TESTED AND TEST PROCEDURES

1. **Test Standards:** Drugs to be tested, specimen collection, chain of custody and threshold and confirmation test levels shall comport with the Mandatory Guidelines for Federal Workplace Testing Programs established by the U.S. Department of Health and Human Services. Drug tests shall be conducted as described in Part III, 2 below. Any alcohol testing will be conducted by devices and under procedures approved by Massachusetts law.

2. **Test Procedures:** Drug testing will be conducted in three phases by urine testing.

a. Phase 1 – Point of Collection (POC) Immunoassay Screen using the RapidTox test, or its equivalent. If the POC test is “inconclusive,” the specimen shall be split and will be sent by overnight courier to a NIDA/SAMSHA laboratory for Phase 2 and Phase 3 testing if necessary.

b. Phase 2 – Immunoassay screening and specimen integrity testing by EMIT or equivalent. If the specimen is unacceptable, the employee or applicant will be requested to provide a fresh specimen. If the Phase 2 screen reads positive, it will be forwarded for Phase 3 confirmation testing.

c. Phase 3 – Confirmation testing by Gas Chromatography/Mass Spectrometry (GC/MS). Positive test results will be forwarded to the Medical Review Officer (MRO) to be reviewed with the specimen provider and reported to the Contractor and, if authorized, to the applicable unions EAP program.

d. All laboratory testing shall be conducted only by laboratories licensed and certified by the U.S. Department of Health and Human Services and shall be conducted in accordance with the Mandatory Guidelines for Federal Workplace Testing Programs, as amended.

e. Drugs To Be Tested And Threshold Levels.

Pre-employment and reasonable suspicion tests will test for the following drugs. The threshold level for a positive test for each drug is as indicated:

Drug Class:	Initial Test Cutoff Level	Confirmatory Test Cutoff Level
6-ACETYLMORPHINE	10 ng/mL	10 ng/mL
AMPHETAMINE/METHAMPHETAMINE	500 ng/mL	250 ng/mL
COCAINE	150 ng/mL	100 ng/mL
ECSTASY (MDMA/MDA)	500 ng/mL	250 ng/mL
MARIJUANA	50 ng/mL	15 ng/mL
OPIOIDS		
- CODEINE/MORPHINE	2,000 ng/mL	2,000 ng/mL
SYNTHETIC OPIATES		
- HYDROCODONE/HYDROMORPHONE	300 ng/mL	100 ng/mL
- OXYCODONE/OXYMORPHONE	100 ng/mL	100 ng/mL
PHENCYCLIDINE (PCP)	25 ng/mL	25 ng/mL
FENTANYL	2 ng/mL	0.5 ng/mL

Alcohol – An employee shall be presumed to be under the influence of alcohol with a blood alcohol level equal to or greater than .08 percent alcohol.

In the event that the Department of Health and Human Services changes the screen or confirmation threshold cut offs or adds new drugs or procedures to the list of drugs to be tested and the prescribed test procedures, or the Commonwealth of Massachusetts amends the presumption levels for alcohol impairment, this policy shall be automatically amended to accommodate such change, addition or amendment.

Post-accident tests will use a 9 panel test, which will include the drugs listed above.

3. **Retests:** In the event of a positive result, there is an automatic confirmation test (GC/MS) performed by the drug testing laboratory at no cost to the employee or Contractor. In addition, the drug test laboratory shall preserve a sufficient aliquot specimen as to permit independent confirmatory testing and follow-up retesting at the request of the employee or the

Union at their expense, or by the Contractor at its expense. The laboratory shall endeavor to notify the employee/applicant and the Contractor of positive test results within three working days after receipt of the specimen. The Union, employee, or Contractor, may request a re-test within three working days from notice of a positive test result. Costs of re-tests will be paid in advance by the requesting party. In the event the initial test is proven to be a false positive, costs for any retests shall be reimbursed.

4. The drug test laboratory and the specimen collection facility must establish and maintain a forensically acceptable chain of custody. It will be the burden of the Contractor to establish, in any case arising from a positive test result, that the appropriate chain of custody has been maintained.

5. Employees must execute any documentation necessary to release report of test results to the Contractor. Failure to execute the appropriate release forms or to comply with testing procedures, (including adulteration of test specimens) will result in a permanent bar from the Project.

IV. APPEAL PROCEDURE

Contractors not signatory to a labor agreement must establish an internal review procedure culminating in a qualified neutral resolution of any disputes over application of this policy. Disputes involving employees of signatory Contractors shall be referred to the Dispute and Grievance Procedure established by Article VII of the Agreement. Such disputes may be initiated at Step 2.

V. REVISIONS OR AMENDMENTS

This Substance Abuse Program may be amended, from time-to-time, in writing, signed by Harvard University and any affected Union party to the Agreement.