## GUIDELINES FOR GRIEVANCE/ ARBITRATION UNDER THE NEW YORK PLAN

The following guidelines are intended to assist you in the filing and processing of grievances under the New York Plan. Article V of the New York Plan discusses the Plan's grievance and arbitration procedure. **It is important to review the New York Plan Procedure for compliance.** Please consult with your Local Union's attorneys before filing the respective forms.

**STEP 1 -File immediately:**

• Immediately upon the occurrence or knowledge of a dispute over the assignment of work, the challenging trade shall notify the trade-in-possession and request a meeting to resolve the dispute.

• The Step 1 grievance form is designed to both notify the trade-in-possession of the issue and request said meeting. A copy of the Step 1 grievance form is attached hereto as Exhibit "A".

• The Step 1 grievance meeting between the two trades must be conducted either in person or via phone call within two days of the request.

• A copy of the Step **1** form should be forwarded to the NSBCTC. All information requested on the form should be filled in.

**STEP 2- Must be requested within 10 business days of underlying dispute:**

• In the event that a grievance is not resolved at Step 1, a Step 2 hearing must be requested. Step 2 hearings can be requested by utilizing the Step 2 request form attached as Exhibit "B".

• A Step 2 hearing must be requested within 10 business days of the underlying dispute.

• Make sure to fill in all the required information on the Step 2 form.

• The Step 2 form should be sent to the trade-in-possession and the NSBCTC.

• Generally, mediation shall be conducted within 7 days of the Step 2 request Requirements to receive an extension of this timeline are set forth **in** Article V of the New York Plan.

• The NSBCTC will schedule a Step 2 meeting.

NOTE: If the grievance is not settled at Step 2, the challenging trade and the trade-in­ possession will select an arbitrator, by lottery, from the list of arbitrators approved by the New York Plan. Each party has the right to strike any two of the eleven arbitrators approved by the Plan. The arbitrator will be randomly drawn from the list of remaining arbitrators. If a Party fails to attend mediation, all arbitrators approved by the Plan will be deemed acceptable to that Party and the selection process will proceed in that Party's absence. The absent Party waives any objections it may have to the arbitrator randomly selected to hear that particular dispute.

• The Parties present at the mediation will acknowledge that the above procedure for selecting an arbitrator was followed and will acknowledge the selection of the arbitrator specifically designated to hear their dispute by executing the form attached hereto as Exhibit "C".

STEP 3 -To be filed within 7 business days of mediation:

• In the event that the dispute is not resolved at Step 2, you must demand arbitration within 7 business days of the Step 2 meeting to proceed with processing the dispute.

• The Notice of Demand for Arbitration is attached hereto as Exhibit "D". This must be sent to the arbitrator, the trade-in-possession, and the NSBCTC.

• The Demand for Arbitration must be filled out and sent to the arbitrator with copies to the trade-in-possession and the NSBCTC. A Copy of the Demand form is attached as Exhibit "E".

• The arbitrator will notify you of the date of the arbitration hearing. Exhibit "F".

• The hearing date will be confirmed. Exhibit "G".

REMINDERS-

1) At each stage of the process, review the New York Plan to make sure you is in compliance with the Plan's filing deadlines.

Exhibit ''A''

**STEP 1 GRIEVANCE FORM**

**NOTICE OF DISPUTE UNDER NEW YORK PLAN**

(Insert trade, Local number) hereby requests a meeting with (Insert trade-in-possession) regarding a dispute over the following assignment of work at the jobsite referenced below in accordance with Article V, Step 1 of the New York Plan:

Project Location: Work in Dispute:

Date of Alleged Violation: Applicable

Green Book Decisions:

(Both NY and National)

Other Agreements of Record:

Employer: Address:

Phone Number:

Trade- in- Possession: Address:

Phone Number:

Challenging Trade: Address:

Phone Number:

Submitted by: Signature: Dated:

NOTE: MUST SEND COPY TO NSBCTC

Exhibit ''B''

**STEP 2: REQUEST FOR MEDIATION FORM**

DATE

**VIA FACSIMILE/OVERNIGHT MAIL**

Nassau/ Suffolk Building & Construction Trades Council

300 Motor Parkway, Suite 200

Hauppauge, New York 11788

Attention: Richard O’Kane, President

Re: Request for Mediation Pursuant to NY Plan for Jurisdictional Disputes

Dear Sir:

The [**INSERT TRADE NAME]** Local [**INSERT LOCAL** #) hereby requests mediation, pursuant to Article V of the New York Plan for Jurisdictional Disputes. This dispute arises from the assignment of **[INSERT DESCRIPTION OF WORK IN DISPUTE]** by **[INSERT EMPLOYER], at [INSERT PROJECT NAME AND LOCATION].** The two Parties were unable to resolve the underlying dispute at the Step 1 grievance conference. A copy of the Step 1 meeting request is enclosed herein.

Please schedule the mediation regarding the above referenced dispute.

Very truly yours,

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**[IDENTIFY CHALLENGING TRADE]**

Enclosure

cc: Trade-in-Possession

Exhibit ''C''

**ACKNOWLEDGEMENTOFCOMPLIANCE WITH PROCEDURE**

**AND SELECTION OF THE ARBITRATOR**

(To be completed immediately following Step 2, if the underlying dispute is not resolved at Step 2)

The undersigned Parties hereby acknowledge and agree that a Step 2 hearing was held in accordance with Step 2 of the New York Plan on **[DATE OF STEP 2 HEARING].** At the Step

2 hearing, the Parties were unable to resolve the underlying dispute and proceeded to select an arbitrator in accordance with the procedures set forth in the New York Plan.

The undersigned, on behalf of their respective Parties, hereby acknowledge that the procedures for the selection of an arbitrator set forth in the New York Plan were complied with in full for the selection of an arbitrator to hear and resolve the underlying dispute. Each Party that was present at Step 2 was given the opportunity to strike two of the eleven arbitrators approved by the Plan. The remaining arbitrators were drawn via random selection in accordance with the New York Plan.

*As* a result of following the New York Plan's procedure for the selection of an arbitrator to hear and resolve the underlying dispute, Arbitrator **[ARBITRATOR's NAME**) has been selected to hear and resolve the underlying dispute in accordance with the New York Plan.

Agreed to and Acknowledged by and between: Signatures:

Name:

Name: \_

Title:

\_ Title: \_

Representative of Challenging Trade Representative of Trade-in-Possession

Date: \_ Date: \_

Exhibit ''D''

**STEP 3 FORM- NOTICE OF DEMAND FOR ARBITRATION**

DATE

**[INSERT CHALLENGING TRADE**

**&ADDRESS)**

**RE: [INSERT CHALLENGING TRADE**

**&ADDRESS)**

**-and-**

**[INSERT TRADE IN POSSESSION**

**&ADDRESS)**

Dear Sir:

PLEASE TAKE NOTICE, that the above named Union pursuant to the terms of the New York Plan for the Settlement of Jurisdictional Disputes ("New York PLAN") hereby submits to arbitration the jurisdictional dispute regarding the performance of **[INSERT DESCRIPTION OF WORK) at [INSERT PROJECT NAME AND LOCATION].**

PLEASE TAKE FURTHER NOTICE, that it is our intention to seek in arbitration an award which will remedy the breach cited above in a just and reasonable manner including, but limited to a directive by the arbitrator that the work in dispute must be assigned to and performed by **[INSERT CHALLENGING TRADE].**

PLEASE TAKE FURTHER NOTICE, that a copy of this demand will be submitted to the NSBCTC as well as the mutually selected arbitrator.

PLEASE TAKE FURTHER NOTICE, that pursuant to the provisions of CPLR Section

7503(c), unless you apply to stay the arbitration within twenty (20) days after service of this notice, you shall thereafter be precluded from objecting that a valid agreement was not made or has not been complied with, and from asserting in Court the bar of any limitation of time.

cc: Richard O’Kane, President NSBCTC [Insert Arbitrator]

Very truly yours,

By:

**[INSERT UNION REPRESENTATIVE CHALLENGING TRADE)**

Exhibit ''E''

STEP 3 FORM- DEMAND FOR ARBITRATION

DATE

[INSERT ARBITRATOR NAME &

ADDRESS]

Dear Mr. \_

Re: Demand for Arbitration Pursuant to New York Plan (Challenging Trade)

-against­

(Trade-in-Possession)

Please be advised that [INSERT CHALLENGING TRADE], Local [INSERT TRADE

#] is demanding arbitration against [INSERT TRADE-IN-POSSESSION] pursuant to Article V

of the New York Plan.

Pursuant to the New York Plan, the Parties have mutually agreed to your selection as the arbitrator to resolve this dispute.

The parties have further agreed that all arbitration hearings will be conducted at the office of the Nassau/Suffolk Building and Construction Trades Council located at 300 Motor Parkway, Suite 200, Hauppauge, NY, 11788. Please kindly schedule a date for hearing the

matter referenced herein at your earliest convenience. Please notify the undersigned as well as the NSBCTC and [INSERT TRADE-IN-POSSESSION] of the scheduled hearing date.

We appreciate your time and attention with this matter.

Sincerely,

BY: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[INSERT UNION REPRESENTATIVE

CHALLENGING TRADE]

cc:

Trade-in-Possession

Richard O’Kane -NSBCTC

Exhibit ''F''

DATE

**[INSERT CHALLENGING TRADE**

**&ADDRESS]**

**[INSERT TRADE-IN-POSSESSION**

**&ADDRESS]**

Re: Notice of Arbitration Hearing Date

Dear Parties:

The undersigned is in receipt of **[INSERT CHALLENGING TRADE]** request to schedule an arbitration hearing pursuant to Article V, of the New York Plan dated **[INSERT DATE].**

Please be advised that a hearing on this matter will be conducted on **[INSERT DATE],** at **[INSERT TIME]** at the offices of the Nassau – Suffolk Building and Construction Trades Council located at 300 Motor Parkway, Suite 200, Hauppauge, N.Y. 11788.

I look forward to seeing you then.

Sincerely,

Arbitrator cc: Richard O’Kane, President of NSBCTC

Exhibit ''G''

**[NSBCTC LETTERHEAD- MEMO FORMAT]**

TO: **[INSERT CHALLENGING TRADE**

**&ADDRESS]**

**[INSERT TRADE-IN-POSSESSION**

**&ADDRESS]**

FROM: Richard O’Kane, PRESIDENT

RE: CONFIRMATION OF ARBITRATION HEARING

Please be advised that the Arbitrator selected to hear the New York Plan dispute between the parties referenced above has scheduled the arbitration hearing for **[INSERT DATE] at [INSERT TIME]** at the Nassau-Suffolk Building and Construction Trades Council's office, located at 300 Motor Parkway, Suite 200, Hauppauge, New York 11788.

Please be advised, failure to appear at the hearing after due notice will not prevent the hearing from going forward and a decision may be rendered in your absence.

Enclosure