AGREEMENT

between

KEMPS, LLC

and

INTERNATIONAL UNION OF OPERATING ENGINEERS
LOCAL UNION NO. 70

December 1, 2018 through November 30, 2021
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This Agreement and contents thereof is made and entered into by and between: Kemps, LLC for its Farmington Plant located in the City of Farmington, Minnesota, hereinafter called the Company and the International Union of Operating Engineers, Local No. 70, AFL-CIO, hereinafter called the Union, office at 2722 County Rd D E, White Bear Lake, Minnesota.

ARTICLE 1 – JURISDICTION

Section 1. Union Security Clause. All persons now employed or hereinafter employed by the Employer, thirty-one (31) days from the date of their employment and coming under the jurisdiction of this Agreement shall become and remain members in good standing of the International Union of Operating Engineers, Local No. 70, or alternately shall pay the portion of the initiation fees, dues, and assessments applied to all members covered by this Agreement, that relate to the Union’s representation function.

Section 2. The Company recognizes the International Union of Operating Engineers, Local No. 70, as the exclusive bargaining agent for the Engineers at the Farmington Plant of Kemps, LLC, for the purpose of collective bargaining for such employees but for no other purpose. It is mutually agreed that new employees shall be considered as probationary employees until the completion of ninety (90) calendar days, and as such may be discharged for any cause during this period without appeal or objection by the Union. It is understood, however, that the Union may represent new employees on all other matters relating to the Agreement during the probationary period.

Section 3. To cover Chief Engineers and first-class Operating Engineers in the service of the Company.

Section 4. An Operating Engineer shall be on duty while there is in operation any high pressure steam boiler or engine.

Section 5. No Engineer shall be compelled to perform duties outside of his/her trade but will continue to work with the company on past duties.
Section 6. Insofar as it lies within their power to do so the Engineers shall maintain the equipment in their care in a good, clean and serviceable condition.

Section 7. A copy of this Agreement shall be available to each employee affected by same.

Section 8. This Agreement shall be the sole and exclusive Agreement between the Company and the employees affected by the Agreement and expressly covered thereby and the Employer shall make no other contract with any of said employees which is inconsistent with the terms of this contract.

Section 9. Upon individual authorization from members, monthly union dues shall be deducted from each member's earnings payable to him/her on the third Friday of each month. In the event a member has no earnings payable to him/her on the third Friday of the month, or the net earnings due him/her are insufficient to cover the full amount of the dues deduction, the Union will assume full responsibility for the collection of the dues for that particular month. Such sums deducted shall be paid by the Company monthly to the Financial Secretary of the Union as soon as possible after the pay period. A list of the individual members for whom deductions were made, and the amounts of each individual deduction shall accompany the monthly check.

Section 10. Engineers shall continue to perform the same normal maintenance work as they have been in the past except as outlined in Section 12 below.

Section 11. The licensed Chief Engineer shall have jurisdiction over all maintenance work on all boiler room and engine room machinery, steam lines, water lines and related equipment.

Section 12. Maintenance work may be scheduled such that it does not conflict with compliance to Minnesota State Regulations for the operations of the on-site boilers.
ARTICLE 2 – EQUAL OPPORTUNITY

The Company and the Union agree that the Company is an equal opportunity employer and that employment, work assignments, upgrading, transfers, layoffs, reinstatements and all other matters affecting the employment relationship shall be made without regard to race, creed, color, national origin, sex or age, including Vietnam Era veterans and handicapped persons in compliance with National and/or State Laws.

ARTICLE 3 – UNION SHOP

All employees coming within the classifications contained in this Agreement and not acting in a supervisory capacity shall, after thirty (30) days of employment, become and remain members of the Union in good standing as a condition of continued employment.

ARTICLE 4 – UNION VISITATION

The Company recognizes the right of the Union to designate one employee as a shop steward to handle such Union business as may be delegated from time to time such shop steward by the Executive Board of the Union. The name of the shop steward as designated shall be forwarded by the Union to the Company promptly upon confirmation of this contract and neither such shop steward nor any other employee shall solicit membership in the Union or engage in any other Union business discussions of activities during working hours. Should authorized representatives of the Union desire to visit the Company’s plant he/she shall secure permission from the Plant Manager for such a visit.

ARTICLE 5 – MANAGEMENT RIGHTS

Section 1. By way of example only and not in limitation thereof the Union recognizes that the Company has the exclusive responsibility for the management, operation and maintenance of its facilities, the right to select and hire, direct the work force, schedule work, determine what work is to be
done, what is produced and by what methods and means, to determine the size of the work force, to relocate or remove any portion of the facilities, to abandon any operations, to transfer work from one location of the Company to another; and such shall not be subject to grievance and arbitration.

Section 2. In exercising its other management responsibilities the Company shall be subject to the express provisions of this agreement, including the grievance and arbitration procedures. By way of example only and not in limitation thereof these responsibilities include the right to promote, demote, layoff, recall, discipline or discharge employees for just cause and the right to establish and enforce reasonable rules of work, conduct, safety and health to assure efficient operation.

ARTICLE 6 – WAGES

Section 1. The minimum hourly rates of pay for the Engineers will be:

<table>
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<th>Classification</th>
<th>12/1/2018</th>
<th>12/1/2019</th>
<th>12/1/2020</th>
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<tr>
<td>*Chief Engineer</td>
<td>$29.96</td>
<td>$30.61</td>
<td>$31.26</td>
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<tr>
<td>First Class Operating Engineer</td>
<td>$28.16</td>
<td>$28.81</td>
<td>$29.46</td>
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*The Chief Engineer shall receive $1.80 per hour over the First Class Operating Engineer.

Wage increases will come as follows: December 1, 2018, the first year of the contract, second year of the contract will be the first full pay period starting in December 2019, third year of the contract will be the first full pay period starting in December 2020.

Section 2. The rates now paid individual employees covered by this Agreement which are in excess of the minimum herein established shall not be reduced.

Section 3. All employees covered by this contract when called back for overtime work shall be guaranteed a minimum of four (4) hours’ straight time pay. If an employee is required to report to work within a two (2) hour period
prior to his/her normal shift, he/she shall not be guaranteed the four (4) hours' pay but will be compensated at the rate of time and one-half for such time worked.

Section 4. Add double time pay on the seventh (7th) day and second (2nd) unscheduled day. Night premium pay of twenty cents ($ .20) per hour shall be paid for all work performed between the hours of 6:00 p.m. and 6:00 a.m. in addition to the above rates.

Section 5. Employees not participating in the Company shoe program will receive an annual $140.00 allowance for footwear on the condition that the employees wear adequate work boots and wear rubbers over the boots in areas where wet conditions prevail. Each employee will be required to furnish a receipt evidencing the purchase of the boots in order to receive the allowance. The footwear worn by the employees must have steel toes or safety toes which provide equivalent protection, and the employees will not be allowed to wear the footwear to and from work.

Section 6. Effective at ratification and thereafter, each bargaining unit employee who renews his/her license shall provide to the Employer a legible copy of his/her highest current stationary engineer license along with evidence that the license was properly renewed. The Employer shall promptly reimburse the employees for the fees paid to the State of Minnesota to renew the license. Should an employee have their employment terminated for any reason other than a layoff within six (6) months of the date of the reimbursement, the employee will be required to pay back such reimbursement to the employer.

ARTICLE 7 – HOURS

Section 1. Twelve (12) hours shall constitute workday, alternating weekly hours of thirty-six (36) regular/forty-four (44) regular.

Section 2. Sunday shall be the first day of the week for payroll purposes.
Section 3. Overtime will be paid at one and one half (1-1/2) times the hourly rate after twelve (12) hours and double time paid after sixteen (16) hours in a shift.

Section 4. Part-Time. Present part-time operators allowed to work more than eighty (80) hours per month.

This position shall receive only the following benefits:

1. Night Premium Pay of twenty cents ($0.20) per hour for hours worked between 6:00 p.m. and 6:00 a.m., per Article 6, Section 4;

2. One and one-half (1-1/2) times the hourly rate of pay for all hours worked over twelve (12) hours; and two (2) times the hourly rate of pay for all hours worked over sixteen (16) hours, per Article 7, Sections 1, 2 and 3;

3. Holiday pay at one and one-half (1-1/2) times the hourly rate of pay, for all hours worked on designated holidays, per Article 9;

4. Pension contributions to be paid, per Article 13, Section 2;

5. Grievance procedure, per Article 14;

6. Regardless of seniority, full-time employees will have seniority rights over the part-time employee. In the event of reduction of work force, the part-time employee will be laid off before any full-time employee.

7. After bidding by full-time employees, the part-time employee will have the next opportunity to bid for full-time positions, upon satisfactory evaluation by the Chief Engineer.
ARTICLE 8 – JURY DUTY

Employer will pay forty (40) hours straight time per week pay prorated to scheduled work day hours (8, 10, or 12) straight time per day, compensation earned from jury duty will not affect employee’s pay. Employees should report for work, within reason, during time they are excused by court officials.

ARTICLE 9 – HOLIDAYS

Section 1. All work performed on the following holidays will be paid for at one and one-half (1-1/2) times the employee’s regular hourly rate of pay, based on work schedule plus holiday pay: New Year’s Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, Christmas Day, and one (1) floating holiday which shall be observed on a day approved by Management. Holidays are to be observed as designated by the Federal government. If the holiday falls on the employee’s regular day off, he/she will receive holiday pay at straight time. In order to be eligible for holiday pay the employee must work their scheduled workday immediately preceding and their scheduled workday immediately after the holiday.

Section 2. An advance fifteen (15) day work scheduled shall be posted on the bulletin board. Employees required to take off on a holiday on which they are regularly scheduled to work shall be paid straight time. If an employee voluntarily requests to be off on the holiday and works another day in lieu thereof, said employee will not receive holiday pay.

ARTICLE 10 – VACATION

Section 1. All full-time employees will be eligible for vacation time. Eligible employees shall be entitled to take vacation time within the calendar year in which it is earned based on the following schedule:

A. Completion of one (1) year of service – 80 hours
B. Completion of five (5) years of service – 120 hours
C. Completion of thirteen (13) years of service – 160 hours
D. Completion of twenty (20) years of service – 200 hours
E. Completion of twenty-five (25) years of service – 240 hours

In addition, employees who are hired between January 1 and June 30 will be eligible for forty (40) hours of vacation after ninety (90) days. The vacation must be used during the remainder of that calendar year.

Section 2. Employees will bid vacation based on their seniority which is based on their date of hire at the Kemps Farmington location. The employee with the most seniority will have the option to schedule 80 hours of vacation. The next most senior employee will then have the opportunity to schedule 80 hours of vacation. This will continue until all employees have had the opportunity to schedule 80 hours of vacation. The process will repeat until all vacation has been scheduled or employees have chosen not to schedule anymore vacation. Once the vacation bidding period has concluded, all vacation will be schedule on a first come first serve basis and must be scheduled at least two weeks in advance.

Vacations will be taken between January 1 and December 31 of each year. The vacation week or weeks shall be based on the employee’s scheduled work week. Vacations shall not accumulate from one year to the next, nor shall they be taken “back to back.”

Section 3. Employees who complete one (1) full year of service will receive pay for unused and accrued vacation time at the time of termination provided the employee is not terminated for just cause, and in cases of voluntary termination, employees give seven (7) calendar working days notice in writing. Employees terminated for cause or who do not provide the proper notice will forfeit their accrued vacation. Unused and accrued vacation will be paid at regular rates.

Vacation pay shall accrue from the beginning of the calendar year at the rate of 5/12 day per month for one (1) week vacation; 10/12 day per month for two (2) weeks vacation; 15/12 or 1-1/4 days per month for three (3) weeks vacation; 20/12 or 1-2/3 days per month for four (4) weeks vacation; and 25/12 or 2-1/2 days per month for five (5) weeks vacation. The amount of unused vacation time to be paid at termination will be calculated as of the employee’s previous anniversary date. Vacation taken, but not earned at the time of termination will be deducted from the employee’s final paycheck.
ARTICLE 11 – SICK BENEFITS

Section 1. After employees have been continuously employed for twelve (12) months, if they are off work due to sickness or injury, the employer will pay their full wages, starting with the fourth (4th) full working day, for a maximum of twenty (20) working days for any one period of illness, or in any one calendar year, plus an accumulation of days not used in a calendar year, not to exceed five (5) days per year, up to a maximum of fifteen (15) days. No employee will be paid a sick benefit for any period when he/she would not otherwise be working. The three (3) day waiting period shall be waived in the even the employee is involved in a worker's compensation case or if the employee is hospitalized. In addition, sick leave will be paid from the first day in the event of medically necessary outpatient surgery provided a doctor's slip is submitted which states that the employee is unable to work due to the surgical procedure.

Section 2. The Employer must be furnished a written statement from a licensed physician stating that the employee was unable to work and the reason thereof before sick pay will be authorized.

Section 3. If an employee sustains an accidental injury, he/she will be eligible for sick pay, provided he/she is otherwise eligible as outlined above. If such an employee is injured on the job and is eligible to receive Worker's Compensation, the Employer will pay such employee the difference between his/her regular pay and the Worker's Compensation benefits for the period that he/she receives sick pay. If an employee is receiving Worker's Compensation payments during a period when he/she is also receiving paid sick leave benefit, sick leave days charged as used against the employee’s total accumulation will be on the basis of the difference between their normal pay and their Worker’s Compensation payments.

Section 4. No employee will be considered eligible for sick pay benefits if his/her sickness or injury is caused by or arises out of any employment other than that for the Employer, the drinking of any intoxicating beverage or liquor, the use of drugs, or from any voluntarily inflicted injury or sickness, or from any fight, or engaging in fighting.
ARTICLE 12 – FUNERAL LEAVE

An employee shall be granted funeral leave up to three (3) of his/her regular working days at his/her regular straight time rate, in order to make arrangements for and attend the funeral of a member of his/her immediate family (spouse, father, mother, son, daughter, stepchild, brother, sister, mother-in-law, father-in-law provided he/she is at the time working at his/her regular job (not laid off, on leave of absence, on vacation, or receiving holiday or sick pay). Employees shall be eligible for two (2) days funeral leave to attend the funeral of their grandchildren and one (1) day for their grandparents. Stepchildren are defined as children of the employee’s spouse who were residents in the employee’s home during the child’s minority years. If there is a request for additional time off for funeral leave, employees must use their floating holiday if it hasn’t already been used.

ARTICLE 13 – HEALTH & WELFARE & PENSION

Section 1. The employees will participate in the DFA medical, dental, vision, and life insurance benefit plans on the same terms and conditions as all other employees in these plans, including premiums and plan design changes.

The Employer agrees that further employee premium increases will be capped at eleven percent (11%) each year.

Section 2. Effective December 1, 2018, the Company agrees to contribute $3.50 per hour for each hour worked to the Central Pension Fund of the International Union of Operating Engineers.

Section 3. 401(k). Employees will be permitted to make contributions up to the maximum permitted by IRS regulations when combined with other deferred compensation plans.

ARTICLE 14 – GRIEVANCE & ARBITRATION

Section 1. All grievances or complaints shall be reduced to writing and filed with the manager of Kemps, or his/her designee, within fourteen (14)
calendar days of the occurrence causing the complaint or grievance with the exception of discharge or disciplinary suspensions. In the instance of discharges or disciplinary suspensions, the grievance must be submitted in writing to the manager of Kemps, or his/her designee, within five (5) calendar days of the occurrence. Any grievance or complaint not so filed shall be deemed to have been waived and shall not be entitled to consideration. The time limits herein may be extended by mutual agreement.

Section 2. In the event of complaints or grievances within the scope of this Agreement the employee involved and the Union representative, if the employee so desires, shall first take the matter up with his/her immediate superior. If a settlement is not reached, the grievance shall be up in writing and the employee shall discuss the matter with the manager and attempt to reach an agreement. The business representative of the Union shall have the right to accompany the employee in discussions with the employer.

Section 3. In the event of a deadlock reached on a grievance, the Union and the employer shall, within fourteen (14) calendar days after such deadlock is reached, agree upon an impartial arbitrator. In the event the parties are unable to agree on an impartial arbitrator, the charging party shall file an application to the Federal Mediation and Conciliation Service to submit a list of seven (7) prospective arbitrators. Each party shall alternately strike names from the list of seven (7) names so submitted, whereupon the remaining name will be the impartial arbitrator. The charging party shall strike the first name. The arbitrator shall reach a decision within thirty (30) calendar days from the close of the hearing and the decision when rendered shall be final and binding upon both parties. The cost of arbitration shall be borne equally by both the Employer and the Union.

Section 4. The Arbitrator shall have jurisdiction and authority only to interpret, apply or determine compliance with the provisions of this Agreement and such working conditions as may hereafter be in effect, insofar as shall be necessary to the determination of the grievance appealed to the arbiter. The arbiter shall not have jurisdiction or authority to add to, detract from or alter in any way the provisions of the Agreement.
ARTICLE 15 – NO STRIKE / NO LOCKOUT

Section 1. Since adequate provisions have been made in this agreement for settlement of all disputes that may arise between the parties, it is agreed that during the life of this agreement there shall be no lockout on the part of the Company and no strike or slowdown on the part of the Union or employees.

Section 2. It is further understood and agreed by both parties of this Agreement, that in case of a strike or lockout at any other plant, there shall be no sympathy strike or lockout of the employees of this Company.

ARTICLE 16 – SENIORITY

Section 1. Employees in the power plant shall have their seniority dated from the date they commence work at the Kemps Farmington Plant. No other department shall have claim to seniority rights with regard to the power plant unit.

Section 2. In the event of a vacancy or the need of additional help in the maintenance group and where such work is being done under the supervision of the Chief Engineer, the operating engineer with the greatest length of service shall be given the first opportunity to fill the position provided he/she has the proper qualifications and a properly qualified first class operating engineer can be obtained to fill the operating engineers’ job being vacated. The Company may employ maintenance helpers with the object of training them to become first class operating engineers.

Section 3. Employees who are laid off shall have recall rights up to twelve (12) months of the date of their layoff. The Employer will provide employees with three (3) day’s notice of such intended layoff or in lieu of such notice pay for three (3) full days.
ARTICLE 17 – DISCIPLINE AND DISCHARGE

Section 1. Any employee covered hereby may be demoted, suspended, or discharged without notice by the Company to such employee upon such employee being found (a) under the influence of liquor or drugs while on duty; (b) dishonest on the job; (c) have intentionally failed to comply with the Company's instructions in performing his/her duties on the job; (d) absent without notice; (e) absent without consent provided always that absence of an employee arising from conditions beyond his/her control shall not be considered either absent without notice or absent without consent if employee notified the Company as soon as possible of the reason for or cause of such absence. Except for the causes stated, if the Company desires to discharge any employee, he/she shall give such employee one (1) written warning prior to discharge. If any employee believes he/she has been unjustly demoted, suspended or discharged, he/she or the Union may protest such days of such demotion, suspension or discharge, written notice of such protest and the matter shall then be settled by the Company, the employee involved or the Union, but if not so settled promptly, such dispute shall then be arbitrated in accordance with Article 14, Section 2 hereof. If such employee be reinstated, he/she shall then be compensated at his/her regular rate of pay for all time lost less any wages earned by such employee in other employment and any unemployment compensation benefits received by such employee by reason of such suspension or discharge.

ARTICLE 18 – PICKET CLAUSE

Section 1. In case of a strike called against the Company at the Farmington Plant by another AFL-CIO Union, engineers shall keep the ice machine and such other machinery as is necessary to protect goods in storage for a period of not to exceed fifteen (15) days, but shall not be required to operate for the manufacture of goods. The Union will not honor any picket line that is not authorized by the St. Paul Trades and Labor Assembly.

Section 2. In case of a strike or lockout at any other plant or place of business of the Company, there shall be no sympathy strike by or lockout of the employees of the Farmington Plant of the Company
ARTICLE 19 – CLOTHING

The Company will furnish up to five (5) uniforms for each employee each year.

ARTICLE 20 – LENGTH OF AGREEMENT

This Agreement shall be effective from and after December 1, 2018, and shall remain and continue in full force and effect until and including November 30, 2021, and for additional periods of one (1) year thereafter unless notice in writing is served by either of the parties hereto upon the other expressing a desire to change or modify this Agreement, such notice to be given sixty (60) days prior to the expiration date of this Agreement or any ensuing annual period.
IN WITNESS WHEREOF, the parties have executed this Agreement as follows:

For: Kemps, LLC

Steve Kazmierski
Dir of Employee/Labor Relations

David Seefeldt
Operations Manager

For: International Union of Operating Engineers Local 70, AFL-CIO

David Monsour, Business Manager

Michael Dowdle, President

Linda Powers, Recording Secretary

Drew Brodeen, Business Representative

Kelly Barnes, Union Steward

2/15/2019
Date:

2/15/2019
Date:

DB/icc/opeiu#12
Contract/kemps