AGREEMENT

between

PALEN KIMBALL, LLC

and

INTERNATIONAL UNION OF OPERATING ENGINEERS,
LOCAL NO. 70

SOUTHDALE MALL

January 1, 2017 through December 31, 2019
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WITNESSETH

WHEREAS, the employees of the Company have selected to bargain collectively with the Employer, and for said purpose a majority of same have affiliated themselves as members of the Union and have chosen the Union to bargain collectively with the Employer in their behalf for wages, hours, and working conditions, now, therefore, for the purpose of carrying out the intentions of the parties, it is mutually agreed as follows:

No Discrimination and Equal Employment

The parties agree that there shall be no discrimination against any employee or applicant for employment because of race, sex, creed, color, age national origin, handicap status, Vietnam era, or disabled Veteran status, or any other basis prohibited by law. The parties further agree to comply with and cooperate affirmatively in the implementation of state and federal law and lawful regulations thereunder intended to prevent any such discrimination.

ARTICLE 1 – RECOGNITION

Section 1. The Employer recognizes the Union as the exclusive collective bargaining agency for all employees, as classified herein, who are employed at the Southdale Mall.

Section 2. The Employer shall not enter into any agreement with the employees coming under the jurisdiction of this agreement, either individually or collectively, which in any way conflicts with the provisions and terms of this agreement.

Section 3. The term “Engineer” shall include all persons operating or assisting in operating and maintaining steam boilers, engines, pumps, turbines, pressure vessels, dynamos, compressors, refrigeration, air conditioning and heating machinery and equipment, and all other appurtenances and auxiliaries, connected with and used on the employer's premises, as covered by this Union’s jurisdiction.

Section 4. The Union shall have the sole and unequivocal right to set the level of dues, assessments, and initiation fees.
Subd. 1. All persons now employees or hereinafter employed by Palen Kimball, LLC, and coming under the Union's jurisdiction shall become and remain members in good standing of the International Union of Operating Engineers, Local No. 70, AFL-CIO, or alternately shall pay the initiation fees, assessments, and dues uniformly required for membership in the Union, beginning not later than thirty-one (31) days following:

1. The date of their employment; or
2. The date of execution of this agreement, whichever occurs later.

Subd. 2. Collection of dues, assessments, and initiation fees shall be the Union's sole responsibility, and the parties agree that said collection shall be accomplished during non-working hours and in such a fashion as not to disrupt or interrupt the work of any employee.

Section 5. The Union shall indemnify and save the Company harmless against any and all claims, demands, suits or other forms of liability that shall arise out of, or by reason of, action taken or not taken by the Company in reliance on any list, notice or assignment furnished by the Union under provisions of this section.

ARTICLE 2 – GRIEVANCE AND ARBITRATION

Section 1. Any controversy arising over the interpretation or adherence of the terms and provisions of this agreement shall be settled promptly by negotiations between the Union and the Employer. If the controversy cannot be so settled within ten (10) days after it has been presented to the other party, it shall be referred to arbitration. Should the Union and the Employer be unable to agree on an arbitrator within five (5) days after the expiration date of the above ten (10) day period, the grieving party shall request a list of five (5) qualified arbitrators from the Minneapolis Area of Federal Mediation and Conciliation Services. The arbitrator shall be selected by the alternate scratching of names. The grieving party shall scratch the first name. The last name remaining shall be the arbitrator. The decision of the arbitrator shall be final and binding on all parties concerned. Each party shall bear the expense involving their own people, and shall share the expense of the arbitrator.
Section 2. All grievances arising under this agreement must be filed in writing with the other party within twenty (20) days after their original occurrence in order to be eligible for arbitration as provided herein. If they are not filed in writing within the above time limit, they shall automatically become null and void.

Section 3. The Union agrees there will be no strike or picketing of the Employer's business unless the Employer has refused to arbitrate or refused to abide by an arbitration decision under this Article II.

Section 4. The Employer agrees that they will not lock out their employees unless the Union has refused to arbitrate or refused to abide by an arbitration decision under this Article II.

Section 5. The Union recognizes that the Employer shall exercise its function of management under which it will have the right to hire new employees and to direct the work force, to promote, demote, suspend, discipline or discharge for just cause, transfer or lay off employees because of lack of work and to require employees to observe reasonable Employer rules and regulations not inconsistent with the provisions of this agreement. It is agreed that these enumerations of management rights shall not be held to limit or restrict the Employer from exercising other rights not herein enumerated, provided that such rights do not conflict with the expressed intent or terms of this agreement.

ARTICLE 3 – SENIORITY

In promotion, demotion and retention in case of reduction of force, where qualifications are equal, plant-wide seniority shall govern. If there is no rotation of shifts, and where qualifications are equal, plant-wide seniority shall also govern choice of shifts. New employees shall serve a probationary period of ninety (90) days worked. During this period, they may be dismissed by the Employer for any reason and shall have no recourse. If retained after completion of the probationary period, they shall be placed in the seniority list and their seniority shall date from their first day of latest hire.

In cases of promotion, assignment to a position will be based on qualifications.
Seniority shall be lost and the employment relationship terminated when the employee:

A. Voluntary quits.
B. Retires.
C. Discharged for just cause.
D. Fails to report for his/her regular shift for three (3) consecutive work days without notification to the Employer.
E. Fails to notify the Employer of his/her intent to return from layoff within five (5) days after receipt of official recall notification. Official recall notification shall be by telegram or certified mail.
F. Fails to report to work (off the payroll) for the Employer for six (6) months, if under one (1) year seniority and for one (1) year if more than one (1) year of seniority.

ARTICLE 4 – HOLIDAYS

Section 1. All employees required to work on any of the following ten (10) holidays: New Year’s Day, Martin Luther King’s Birthday, President’s Day, Easter, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran’s Day, Thanksgiving Day, Christmas Day and two (2) personal holidays. If not scheduled to work on a holiday, employees shall receive eight (8) hours of holiday pay or be granted another day off in lieu of the holiday at a time mutually agreeable to the Employer and employee.

Employees who work on a holiday shall receive holiday pay plus time and one-half for working on the holiday. For the purpose of this agreement, a holiday shall be construed to be a twenty-four (24) hour period.

Section 2. Employees required to work on the following holidays will be compensated holiday pay, plus one and one-half times (1-1/2x) his/her hourly rate of pay. These holidays are: New Year’s Day, Labor Day, Memorial Day and Independence Day (July 4th).
ARTICLE 5 – VACATION

Section 1. Employees shall be entitled to their full vacation accrual effective January 1st each year. All employees shall accrue vacation on a monthly basis and will not be allowed to use more vacation than accrued, unless approved by Palen Kimball, LLC management.

Employees shall receive vacation in accordance with the following schedule:

1. 1st through 4th year – 11 days
2. 5th through 14th year – 16 days
3. Start of 15th year – 21 days

The current Chief Engineer shall be granted four (4) additional days of vacation above the rate listed above.

Section 2. Any employee who gives the Employer a minimum of two (2) weeks' notice of separation shall be compensated for all accrued and unused vacation.

Section 3. As of July 1, 2003, recognition of past years of service with Palen Kimball, LLC shall be credited to current employees.

ARTICLE 6 – CLASSIFICATIONS

Chief Maintenance/Operating Engineer whose duties shall be the direction of the Maintenance Engineers and to take charge of the duties required.

Maintenance/Operating Engineer

Maintenance Technician
ARTICLE 7 – HOURS, OVERTIME, WAGES

Section 1. Eight (8) hours shall constitute a regular work day. Forty (40) hours shall constitute a regular work week. The hours worked per day and the days per week shall be consecutive.

Subd. 1. A shift shall consist of eight (8) consecutive hours including paid breaks and paid lunch.

Section 2. The overtime rate of time and one-half (1-½) the basic hourly rate shall be paid for all time worked in excess of eight (8) hours per day or forty (40) hours per week.

Section 3. Bargaining unit employees shall not be required to suspend work during regular working hours to absorb overtime.

Section 4. All paid leaves of absence (holidays, vacation, and paid sick time) shall be considered hours worked for the purpose of calculating overtime.

Section 5. Bargaining unit employees called back to work after regular working hours shall be paid one and one-half (1-1/2) times their regular hourly basic rate, but in no case shall an Engineer receive less than the equivalent of four (4) hours pay at the regular hourly basic rate. Example: Employee is called back to work and works fifteen (15) minutes to correct the problem and then leaves. He/she shall be compensated at one (1) hour at one and one-half (1-1/2) times the hourly rate and three (3) hours at his/her straight time rate of pay. Second call back within the same calendar day shall be compensated at a minimum of one (1) hour at one and one-half (1-1/2) times their hourly rate or actual hours worked at one and one-half (1-1/2) times, whichever is greater.

Section 6. Laptop Computer Duty. Any employee required to carry the laptop will be compensated at four (4) hours pay for carrying the laptop and four (4) hours call-in pay.
Section 7. The minimum rate of pay for the following classifications shall be as follows:

<table>
<thead>
<tr>
<th>Classification</th>
<th>1/1/2017</th>
<th>1/1/2018</th>
<th>1/1/2019</th>
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<tbody>
<tr>
<td>Chief Maintenance/ Operating Engineer</td>
<td>$30.17</td>
<td>$30.57</td>
<td>$30.97</td>
</tr>
<tr>
<td>Maintenance/ Operating Engineer</td>
<td>$22.83</td>
<td>$22.83</td>
<td>$22.83</td>
</tr>
<tr>
<td>Maintenance Technician</td>
<td>$17.77</td>
<td>$17.77</td>
<td>$17.77</td>
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Section 8. If duties change for the Chief Maintenance/Operating Engineer we will renegotiate the wage scale.

ARTICLE 8 – GENERAL CONDITIONS

Section 1. Authorized representatives of the Union shall have access to the work where employees covered by this agreement are employed; however, in order to preserve employer-customer relations, the union representative shall not interfere with the employer’s employees, the customer’s employees, or cause such employee to neglect their work; and further, such union representative shall comply with customer rules.

Section 2. All employees necessarily absent from work, for a period not exceeding twelve (12) weeks, or in accordance with FMLA, on account of injury, or sickness, shall retain full employment rights over their former position and be reinstated by the Employer upon the employee’s request. The Employer may require certification by a physician as to the employee’s ability to resume his/her former duties. An employee may take one such leave within a twelve (12) month period.

ARTICLE 9 – INSURANCE

Section 1. The Employer hereby agrees to provide and pay for Medical/Health and Dental insurance. The Employer will be responsible for eighty percent (80%) of the premium costs. Effective 7/1/2012, the employees premium cost shall not increase.
Section 2. Life Insurance. The Employer shall provide a group term life insurance benefit and an accidental death and dismemberment insurance benefit of two (2) times salary plus bonus, to a maximum of $50,000.00 for all bargaining unit employees.

Section 3. Long Term Disability Insurance. The Employer shall provide and pay the premiums for a long term disability income insurance benefit to full-time hourly and salaried employees. The benefit for full-time employees will be sixty percent (60%) of monthly salary, to a maximum monthly benefit of $5,000 per month, following a ninety (90) day elimination period.

ARTICLE 10 – RETIREMENT PLAN

The Employer shall pay monthly into the Central Pension Fund of the International Union of Operating Engineers and Participating Employers, the following amount for each hour paid in the preceding month for all employees covered by this Agreement:

<table>
<thead>
<tr>
<th>Employees Hired Before 1/1/2003</th>
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<tbody>
<tr>
<td>Effective January 1, 2017</td>
<td>$5.60 per hour</td>
</tr>
<tr>
<td>Effective January 1, 2018</td>
<td>$6.35 per hour</td>
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<tr>
<td>Effective January 1, 2019</td>
<td>$7.10 per hour</td>
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<table>
<thead>
<tr>
<th>Employees Hired After 1/1/2003</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Effective January 1, 2017</td>
<td>$4.85 per hour</td>
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</tbody>
</table>

The Employer agrees to be bound by the Agreement and Declaration of Trust entered into as of September 7, 1960, establishing the Central Pension Fund of the International Union of Operating Engineers and Participating Employers and by any amendments to said Trust Agreement communicated to it.

The Employer designates as his employer representatives of said fund trustees as they are now named in said Agreement and Declaration of Trust, together with their successors selected in the manner provided in said Trust Agreement as the document now exists or may be amended from time to time.
ARTICLE 11 – BEREAUMENT LEAVE

Employees may take time due to the death of an immediate family member or in-law and will be granted up to three (3) days with pay per occurrence. Employee may take time due to the death of a close friend and will be granted one (1) day with pay per occurrence. All time off must be approved by the employee’s supervisor.

ARTICLE 12 – SICK LEAVE

Section 1. All employees shall accrue sick leave on a monthly basis and will not be allowed to use more sick leave than accrued, unless approved by Palen Kimball, LLC management.

Section 2. Bargaining unit employees shall be granted eight (8) days of paid sick leave each calendar year. Any employee who starts after January 1 shall receive sick leave on a prorated basis starting with the first full month of employment for the remainder of that calendar year. Employees will be allowed to accumulate sick leave to a maximum of thirty (30) days.

Section 3. Employees will receive their sick days on January 1st of each year.

Section 4. Any unused sick days, at the time of separation, will not be paid out to the employee.

ARTICLE 13 – SAVINGS CLAUSE

Should any part of this agreement or any provision herein contained be rendered invalid by reason of any existing or subsequently enacted legislation, or act of any authorized agency of government or by any decree of a court of competent jurisdiction, such invalidation of such part or portion of this agreement shall not invalidate the remaining portions hereof, and they shall remain in full force and effect.
ARTICLE 14 – TUITION REMIBURSEMENT

The Education and Training Policy provides full-time employees that are working at least thirty (30) hours per week and have been employed with Palen Kimball, LLC for at least three months, the opportunity to continue their education and training. The Policy is restricted to job related courses that have been approved by your supervisor and the President.

If the procedures outlined below are followed, Palen Kimball, LLC will reimburse the employee for fifty percent (50%) of the cost of tuition and books only, up to a maximum amount of $1,000 per employee per calendar year. If the employee receives other reimbursements (i.e., scholarship, G.I. benefits, other organizational funds), Palen Kimball, LLC will reimburse the employee for fifty percent (50%) of the difference between the costs and the other reimbursements.

If the employee’s supervisor suggests a seminar of course designed specifically for a job related task, Palen Kimball, LLC may, at its discretion, reimburse the employee for one hundred percent (100%) of the related costs.

Procedure. In order to qualify for reimbursement, the following steps must be completed:

1. Prior to the course, approval of the course must be obtained by the supervisor and the President.

2. A certificate showing successful completion of the course must be presented along with a receipt for the cost of the tuition and books.

ARTICLE 15 – STATE AND FEDERAL LAWS

It is the intent and purpose of the parties to this agreement to abide by and comply with all laws, both state and federal, and the decisions and rulings of all courts, tribunals and boards, both state and federal, that may legally affect this agreement. It is the belief of the parties hereto that this agreement does comply with all such laws, decisions and rulings. If, however, this agreement and the employer-employee relationship set forth herein is not in compliance with any such present law, decision or ruling, or is not, or will not be in
compliance with any such law, decision or ruling which may be enacted or promulgated in the future, the parties hereto agree to accept and comply with any such federal or state law, any such federal or state court decision or the ruling of any such state or federal board or tribunal.

**ARTICLE 16 – DURATION OF AGREEMENT**

The terms and conditions of this agreement shall supersede and replace all previous agreements between the parties hereto, and shall take effect on January 1, 2017 and extend to December 31, 2019, and shall continue from the latter date, and year to year thereafter unless terminated as follows: Either party may terminate this agreement or request amendments thereto on December 31, 2019, or on December 31st, of any year thereafter by giving to the other party sixty (60) days written notice prior December 31, 2019 or December 31st of any year thereafter in which termination or amendments are requested.
The Employer and the Union have agreed to the herein stated terms.

For: Palen Kimball, LLC

Michael Mingo, General Manager

For: International Union of Operating Engineers, Local No. 70

David Monsour, Business Manager

Michael Dowdle, President

Linda Powers, Recording Secretary

Drew Brodeen, Business Representative

Michael Rupert, Union Steward

4/25/2017
Date:

3/30/2017
Date:

DB/jcb/opeiu#12
Contracts/Palen Southdale
LETTER OF AGREEMENT

Palen Kimball, LLC, hereinafter referred to as the Employer, and the International Union of Operating Engineers, Local 70, AFL-CIO, hereinafter referred to as the Union, agree to the following:

Michael Rupert, the Chief Maintenance/Operating Engineer, employed at the Southdale Mall shall be granted five (5) additional days of vacation above the listed rate in the contract for each year of the Agreement.

This action is taken as a result of the negotiation process.

For: Palen Kimball, LLC

Michael Mingo, General Manager

For: International Union of Operating Engineers, Local No. 70

David Monsour, Business Manager

Drew Brodeen, Business Representative

Michael Rupert, Union Steward

4/25/2017

Date:

3/30/2017

Date:

DB/jcb/opeiu#12