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EFF.	94	04
TERM.	97	03
No. OF EMPLOYEES	6	
NOMBRE D'EMPLOYÉS	3 d.	

## COLLECTIVE AGREEMENT

**BETWEEN :**

**FITZENNIS CEMENT CARRIERS LIMITED**

(hereinafter called "the Company")

**AND:**

**THE CANADIAN MERCHANT SERVICE GUILD**

(hereinafter called "the Guild")

Whereas **the Company** owns/operates the M.V. Portland Carrier, in inland and home trade voyages as defined by the Canada Shipping Act;

And whereas the Parties are desirous of promoting Collective Bargaining and stability of industrial relations in the manner and upon the terms hereinafter set out.

### GENERAL PURPOSE OF THIS AGREEMENT

The general purpose of this Agreement is to ensure for the Company, the Guild, and the ship's officers, the full benefits of orderly and legal Collective Bargaining, and to ensure to the utmost extent possible the safety and physical welfare of said officers, economy of operations, standard of service and protection of property. It is recognized by this Agreement to be the duty of the Company, the Guild, and said officers to cooperate fully, individually, and collectively for the advancement of said conditions.

### ARTICLE 1 - RECOGNITION

The Company recognizes the Guild as the sole Collective Bargaining Agent for the Mates, Engineers, and the Electrician(s) employed by the Company on the M.V. Portland Carrier in home trade waters. All licensed personnel are hereinafter referred to as "officers".

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## **ARTICLE 2 - CLAUSE PARAMOUNT**

The Parties to this Agreement will not establish rules or enforce regulations which will in any way be contrary to or interfere with the effective implementation of all clauses in the Agreement.

## **ARTICLE 3 - STATUTORY REQUIREMENTS**

Nothing in this Agreement shall be so construed as to effect the obligations of the Parties under the Canada Shipping Act (as amended) or other government legislation or to impair whatsoever the lawful authority of the Master.

## **ARTICLE 4 MANAGEMENT RIGHTS**

The Guild recognizes that the Company shall have, at all times, complete freedom of action on all matters of corporate economy including the hiring, appointment and promotion of employees, dismissal for just cause, and lay-off of employees due to shortage of work.

The Guild further recognizes the right of the Company to operate and manage its business in all respects to maintain order and efficiency on its vessel and to determine the location of its vessel at all times, the types of charters and other business to be entered into, the scheduling of the vessel and its method of scheduling.

The Guild further acknowledges that the Company has the right to make and alter from time to time rules and regulations to be observed by employees which rules and regulations shall no be inconsistent with the provisions of this agreement.

## **ARTICLE 5 - MAINTENANCE OF** \_\_\_\_\_

(a) All officers covered by this Agreement shall be or become members of the Guild in good standing. Any officer entering the employ of the Company who is not a member in good standing shall, within thirty (30) days of employment make application for such membership. If the Guild refuses to accept any employee, a satisfactory written statement of reasons must be supplied by the Guild to the Company.

Being a member in good standing is defined **as** paying the **regular** dues, assessments and initiation fees uniformly required to be **paid** by **all** members of the Guild.

(b) The Guild **agrees** that **(a) above** will not be invoked to **cause** inconvenience to or penalize the Company. The Company will not be required to remove an officer for not complying with **(a) above** until a suitable replacement is made available.

(c) The Company **agrees to** deduct monthly Guild dues and/or assessments in the amount **a3** established by the Guild and remit **same for all officers covered by this Agreement..** It is further **agreed** that all initiation fees will be deducted, where required, and remitted to the Guild. The Guild dues/assessments/initiation fees will be remitted to the Secretary Treasurer of the Guild no later than the **15<sup>th</sup>** of the following month.

(d) The Guild shall indemnify the Company its vessels, **officers**, servants, and agents, and hold it or any of them harmless against any and **all** suits, claims, demands and liabilities that arise out of or by reason of any action **taken** by it, them, or **any** combination, for the **purpose** of supplying the foregoing provisions of this section.

(e) The Guild **agrees** that their hiring facilities will be made available to the Company, including night telephone numbers for Guild representatives.

(f) The Guild **agrees** to cooperate fully with the ship's **officers and** management of the Company in obtaining properly qualified, reliable employees to fill vacancies as they occur. **When** employees **are** requested, the Guild agrees **that the Company's** requirements will be filled **as quickly as possible.**

(g) **Officers joining the Company as** new employees shall submit to a medical examination by the Company's medical Officer prior to employment, if required by the Company. The Company's medical **shall** be the **sols judge** in cases of Officers joining the Company as new employees,

(h) It is agreed and understood that the Company may request an annual medical for any officer **covered** by **this** Agreement. This medical shall be at Company expense **and** the Officer's time. In **any** case where a Company medical officer **deems** a ship's officer medically unfit, such officer shall be discharged or sent on sick leave. The Ship's Officer will have **the** right to a second opinion **from** a doctor of **his** choice provided that **this** medical Officer is approved by **the** Company, at the officer's expense. In **the** case of a dispute between the opinions, an impartial medical officer will investigate, and his findings shall **be** binding on **both** Parties, and **his** costs split between the Company and the **officer**.

(i) The Company agrees that an officer who is fired or suspended **from** his **job** will **have** the right to file a grievance with the Company through the Guild within **four (4)** days after such incident, in accordance with the grievance procedure.

(j) Management reserves the option of requesting any employee to obtain a letter of reference from the last employer.

#### **ARTICLE 6 DISCHARGE**

(a) During Probation Period:

It is understood that an Officer's services may be discontinued without **recourse** to Article 7, during the probation period (**the first 90** working days) of that **Officer**.

(b) For just cause:

Officers shall **have** their employment terminated (**subject** to grievance procedure) and their seniority forfeited for just cause, which specifically includes breaches of discipline and safe **practices** as listed in the "Safety/Loss Control Employees Handbook" including, **but** not limited to **the** following infractions:

1) Reporting for work or being onboard the vessel under **the** influence of drugs or alcohol.

2) Being in possession of drugs or alcohol while on board the vessel.

3) Theft from the **Company** or **from fellow** workers.

4) Failure to carry out assigned duties or the lawful order **of a superior.**

(c) **For shortage of work:**

It is understood that the Company may discharge/lay off an Officer by giving **48** hours notice in **cases** of shortages of work. Lay-offs due to shortage of work shall have no bearing on **an** Officers status on seniority.

(d) Resignation:

It is understood that any Officer may resign his position by giving **48** hours notice, With his resignation **the** Officer waives his rights on seniority.

#### **ARTICLE 7 - GRIEVANCE PROCEDURE**

(a) A grievance shall be defined as an alleged violation in the interpretation and application **of** the Collective Agreement.

(b) **Any** officer who feels he has a grievance shall present it to the Captain or **Chief** Engineer as the case may be in the manner set out as follows:

1. **The** officer shall **present** the grievance in writing to the Captain or **Chief** within **seven** days of **becoming aware** of the action causing the grievance. The officer and the Captain or Chief will **make** every attempt to resolve the problem on board ship. The Captain or Chief will acknowledge **the grievance** by giving the officer a dated receipt. **The Captain** or **Chief** will respond to the grievance within four **(4)** days of receiving it,

2. If the grievance is unable to be resolved, the officer shall present it to his Guild representative within seven **(7)** days of his reply from the Captain or Chief. The Guild shall then, within fifteen (15) days, submit the grievance to the Company.

3. The Guild shall also have the right to submit a grievance on behalf of all the officers, or category of officers, by submitting within fifteen (15) **days** of the date on which the Guild first became **aware** of the circumstance causing the grievance.

4. Upon submission of a grievance in any of 1, 2, or 3, the Guild and the Company will meet within fourteen (14) days to discuss and investigate the grievance. If a settlement is not reached within ten **(10)** days either Party **may** refer the matter to arbitration within the next ten (10) **days**.

5. Both parties agree that any grievances should be settled **as quickly** as possible. However, the time limits set out in **this** Article may be extended by Agreement between the Parties.

#### **ARTICLE 8 - ARBITRATION**

**Any** grievance involving the interpretation or alleged violation of any provision of this Agreement, which has been properly carried through all steps of the grievance procedure **as** outlined in Article 7 (Grievance Procedure) above, and which has not been settled, may be submitted to arbitration. Matters involving any request for modification of this Agreement or which are not covered by **this** Agreement shall not be subject to Arbitration.

Grievances referred to Arbitration shall be processed as follows:

1. **An** Arbitrator, selected from the list as **agreed** in the Letter of Understanding appended to this agreement, shall be appointed to **hear** the dispute. This selection shall be made within ten (10) **days** after the request for arbitration has been **made** by either party to this agreement.

2. If the arbitrator cannot complete the **process** by reason of ill-health, incapacity, or any other reason, a new arbitrator shall be appointed as per 1.

3. A statement of the dispute to be arbitrated **shall** be submitted by both parties, either together or separately, within seven (7) days of the arbitrator's appointment. The arbitrator shall then arrange a meeting of the Parties within ten (10) days unless otherwise agreed. **The** decision of the arbitrator will be issued within fourteen (14) days of this meeting.

4. The decision of the arbitrator will be limited to the matter presented in the **statements** of the Parties. The decision of the arbitrator will not change or disregard any provision of the contract. The decision of **the** arbitrator **shall** be binding on all parties concerned.

5. The expenses, **fees**, and cost of the arbitrator shall be paid by the party to this Agreement found to be in default upon the Arbitrator's resolution of the grievance or, if **the** Arbitrator resolves the grievance in such a way that neither side shall be found wholly in the right, then the Arbitrator shall also establish the **proper** split of the expenses, fees, and costs between the **two** parties in the proportion appropriate to the share of responsibility that each side had in the production of **the** grievance.

#### **ARTICLE 9 - GUILD OFFICERS BOARDING VESSELS**

The Company agrees that Guild representatives shall have access to officers on the vessel. **Such** access **shall require** that the representative contact the Captain or officer in charge when going **on board the vessel**. A representative shall have the **right** to discuss or negotiate with the Captain in respect of any grievance or dispute, but shall not have the right **to interfere** in any way with the operations of **the** vessel.

#### **ARTICLE 10 - SENIORITY**

(1) A seniority list of officers shall be **prepared** showing classification, date of appointment, certificate held, date of **issue**, and date first hired by the Company. A **copy** will be supplied to each officer and **the** Guild.

(2) Officers hired for the first time by the Company after the signing of this contract shall be considered on probation for ninety (90) working days. If found unsatisfactory during that time, the officer may be terminated **as** per Article 6(a). In all **other ways** new employees shall be covered by the Collective Agreement unless otherwise specified. Seniority and medical benefits shall only apply after the Officer has completed the probation period.

(3) Seniority lists shall be revised annually, on the anniversary date of the signing of **the** Collective Agreement. **Any** errors shall be corrected within ninety (90) days upon proof of error being submitted by any affected officer.

(4) If seniority **has** been established for ninety (90) days without **protest**, it shall not be changed thereafter unless by mutual consent of all Parties.

(5) Unless otherwise stipulated, the seniority of any officer hired or promoted starts from the date of employment. Seniority shall be maintained and accumulated if an officer is absent from **work** because of:

- a) lay-off
- b) **sickness**
- c) authorized leave of absence
- d) Company business
- e) Guild business

(6) An officer shall lose seniority for the following reasons:

- a) resigning from the Company
- b) dismissal with cause
- c) failure to join the ship when required without just cause
- d) requesting a lay-off **slip** when **work is** available
- e) absence due to illness for a continuous period of more than twelve (12) months
- f) lay-off due to shortage of **work** for a continuous period of more than twelve **(12)** months



(7) In the case of lay-off or recall from lay-off, seniority shall **apply**. The officers with seniority shall be recalled before any new officers are hired.

(8) **An officer who** establishes seniority in the bargaining unit will maintain it as long as that officer continues to be a part of the bargaining unit.

#### **ARTICLE 11 - OFFICERS' DUTIES**

(1) The prime responsibility of the Engineers is to operate and maintain the Engine Room Equipment and to maintain other mechanical equipment on the vessel.

(2) The prime responsibility of the Electrician is to maintain the electrical equipment of the vessel, and in conjunction with the engineers, **keep** all mechanical functions of the vessel in good working order.

(3) The prime responsibility of the **Deck Officer** is to the **safety**, pilotage, and navigation of the vessel and the supervision of **loading and discharge of cargo**.

(4) In general, all Officers will be required to perform any and all duties that the Captain or Chief Engineer may lawfully request, including cargo removal, tank and bilge cleaning, etc.

#### **ARTICLE 12 - EMERGENCY DUTIES**

(1) **Any** work necessary for the **safety** of the ship, **crew** or cargo, or for saving or rendering assistance to other **ships**, people, property or cargoes, shall be performed at any time on immediate call by all officers. The Captain shall be the judge of **what constitutes an emergency**.

(2) The Captain may, whenever he deems it advisable, require an officer to participate in life **boat** or **other** emergency drills. These will take place according to government regulations, or more frequently if the Master directs.

**ARTICLE 13 - OTHER CONVENIENCES**

(1) The following items will be supplied to the officers of the Portland **Carrier**:

- a) a suitable number of bed linens, blankets, **sheets**, pillowcases
- b) cleaning materials - towels, soaps (including laundry)
- c) an adequate supply of **dishes**

(2) The Company agrees to supply on board a colour TV, a washing machine, iron, ironing board, and if space permits, an electric clothes dryer. The Company agrees to maintain this equipment. Willful damage to any of the items in this clause or (1) above will result in the amount for repair or replacement being deducted from the officer involved.

(3) The Company will supply to an officer, upon completion of **his** probationary period, protective clothing **as** laid out in Schedule "A"

**ARTICLE 14 - MEALS**

(1) Meal periods shall not constitute a part of any work period except where an officer is required to eat during his regular watch. In all cases an officer shall be allowed at least 1/2 hour free of work for the purposes of eating a meal.

**ARTICLE 14 - TRANSPORTATION COSTS**

(1) All travel **costs** to and **from** the vessel when joining or leaving the **vessel** on the Avalon Peninsula shall be at the Officer's expense. **Officers shall be required to join the vessel at a designated time, as** specified in their joining instructions.

The Company agrees to pay for public bus transportation, **or** equivalent, for crew members residing outside the Avalon Peninsula, if recalls are for less than two **weeks**.

(2) Reasonable travel costs (including meals and accommodation where necessary) on Company business (including joining and departing the vessel outside the boundaries of the Avalon Peninsula) shall be borne by the Company. "Reasonable" in this context meaning the most economic and or **as** arranged by the Company beforehand.

#### **ARTICLE 16 - SAFETY**

The Company has a firm commitment to safety/loss control as outlined in its "Safety/Loss Control Employees Handbook". All Parties are to abide by the Policies and guidelines laid down in this document and it shall become **part** of this Agreement.

#### **ARTICLE 17 - WAGES AND HOURS OF WORK**

(a) The Officers shall be paid on the basis of the following calculation: days worked multiplied by the "Consolidated Daily Rate". The "Consolidated Daily Rate" is laid out in Schedule "A" and **covers** all payments for basic wage, overtime, statutory holidays, and vacation pay. Wages shall be paid in bi-weekly intervals, on **every** second **Friday**. All monies shall be forwarded **by bank** transfer to the Officer's bank.

(b) A regular **work** day shall consist of eight (8) hours to be worked as directed by the Master or Chief Engineer. It is understood and agreed that because overtime could be involved **in ensuring** the **efficient** and **safe** operation of the vessel, Officers shall be required to work such hours as directed **for** no **additional** payments other than those allowed for in the "Consolidated Daily Rate".

(c) If any of the current complement of **officers** is unavailable for **work** for any reason, the **wages** of that **Officer** will be divided among the remaining Officers who assume his duties (including the Master and Chief Engineer - if they actually do the **work** of the missing Officer). Wages in this instance **are** understood to be the consolidated daily rate.

## ARTICLE 18 - LEAVE

An Officer shall **have** the option to **request** paid leave with an appropriate reduction in consolidated daily rates of pay by notifying the Payroll Office in writing one **week** in advance of the period for which paid time leave will start accumulating. **Officers** may **take accumulated** leave time **as paid time off as** is convenient and practical. **Paid** leave periods shall be limited to time accumulated for such purpose.

## ! -OUTS

(1) **There** shall be no strikes, lock-outs or stoppages of work while this contract is in effect. Failure of officers to cross a legal picket line to mean an official strike.

(2) Definition of a "legal picket line" for this section **is** a picket line established by another union in a bona fide dispute over wages and/or working conditions, and the employees **are** directly employed by the Company **or** the Company's Agents.

(3) In no case will the Company require an officer to cross a **picket** line where there is a real threat of violence.

(4) **The** Company agrees not to discriminate against any member of the Guild for activities on behalf of or for membership in the Guild.

## ARTICLE 20 - MARINE DISASTER

(1) **An** Officer covered by this Agreement, **who**, while employed by the Company suffers loss of clothing or other personal **effects** due to **marine disaster** or shipwreck **shall** be compensated **for** such loss by the Company to a maximum of **\$1000.00**.

(2) **An** Officer or **his estate** making claim under this section shall submit reasonable proof to the Company of the actual value of the loss suffered. This will take **the form** of a signed affidavit indicating items and values.

**ARTICLE 21 - HEALTH AND WELFARE PLAN**

The Company shall provide Group Benefit Insurance **as** laid down in the Benefit Booklet, **as** amended from time to time, and supplied to all employees. It is agreed that the Company shall provide the benefit for the ships Officers during the operating season.

In consideration of the difficulties in obtaining certain appointments while the vessel is in operation, the Company shall maintain medical benefits for the Officers two months from the date of seasonal layoff.

**ARTICLE 22 PENSION PLAN**

The Company shall provide a pension plan in the form of an RRSP. Beginning April 1st, 1995, both the Officer and the Company will each contribute 7.4% of that officer's basic pay to an RRSP of the Officer's choice.

On April 1st, 1996, contributions made by the Company and **the** Officer to each such RRSP shall increase by the CPI for Canada for the previous twelve month period, plus an additional 0.5%.

**ARTICLE 23 - LEAVE OF ABSENCE**

(1) **Any** officer requiring a leave of absence other than outlined in sections (3), (4), or (5) below must obtain it from the Company in writing.

(2) Before any leave of absence is granted under this Article, a replacement Officer suitable to the Company must be found.

(3) The Company will grant unpaid leave of absence to officers suffering from illness or injury, subject to a medical certificate if required by the Company.

(4) The Company will grant unpaid leave of absence to any officer appointed or elected to Guild office for a period of **up** to three (3) years. Further leave can be granted by mutual consent.



(5) The Company will grant unpaid leave of absence to officers who are elected to attend Guild meetings or conventions, or sit on negotiating committees.

(6) The Company will grant seven (7) days' unpaid leave of absence to an officer in the event of a death in the officer's immediate family. Immediate family is defined as wife (including common law spouse), husband, son, daughter, father, mother, brother, sister, parents-in-law.

**ARTICLE 24 - DURATION OF AGREEMENT**

This Agreement shall remain in effect for a term of three (3) years commencing on April 1, 1994 and ending on March 31, 1997. The contract shall thereafter be automatically renewed unless written notice of desire to revise, amend, or terminate same is forwarded by either party to the other within ninety (90) days prior to the expiration of the term.

Once that written notice is given, negotiations will commence as soon thereafter as possible, and the contract will remain in effect during the whole of that negotiating process.

Signed in CORNER BOOK on the 3RD day of OCTOBER, 1995.

For the Company

For the Guild

Will Fitzpatrick

Bruce Carter

[Signature]

\_\_\_\_\_

## **SCHEDULE A**

### **M/V PORTLAND CARRIER**

#### **CONSOLIDATED DAILY RATES**

1.Mate	\$188.86
2.Mate	\$157.55
3.Mate	\$125.40
2.Engineer	\$188.86
3.Engineer	\$157.55
Electrician	\$173.05

(These rates include: Base Pay, O/T Allowance, Statutory Holidays Allowance, Leave, Dirty Pay and Vacation Pay @ 4%).

Notwithstanding the Dirty Pay Inclusion in the Consolidated daily Rate, any Officer required to go into tanks to participate in the clean down will receive a bonus of \$60 per clean down.

#### **GROUP INSURANCE**

(Including Dental)

Company pays premium during operating season. Company will also maintain benefit for Officers for two months after operating season ends.

#### **PROTECTIVE CLOTHING**

The company agrees to pay each Officer One Hundred Dollars(\$100.00) per year to help offset the costs of coveralls and workboots. Receipts for such items must be presented. This allowance will be paid on May 15, or on recall to work, whichever is the later date. This allowance does not apply to relief or probationary Officers.

\* Hard Hats, Ear Defenders, Work Gloves, etc., will be supplied on board and will be left on board as part of the vessel's equipment.





**LETTER OF UNDERSTANDING**

Notwithstanding the provisions of Article 8, Arbitration, the Company and the Guild agree that the Following single arbitrators shall be used, in instances where arbitration is required, for the duration of this Collective Agreement.

The agreed Arbitrators are:

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July 21, 1998

File: 1021701

Canadian Merchant Service Guild
1150 Morrison Dr.
Ottawa
Ont.
K2H 8S9

CANADIAN MERCHANT SERVICE GUILD

RECEIVED

JUL 27 1998

THOROLD, ONTARIO

Fitzennis Cement Carriers Limited (Licensed)
East Coast, Nfld.
Canadian Merchant Service Guild
Local
(licensed personnel)

Terminating: March 31, 1997

The Workplace Information Directorate maintains an extensive library of collective agreements in both the federal and provincial jurisdictions. With respect to your organization, the collective agreement described above is the latest we have on file.

In its Federal Plan for Gender Equality (1995), the Government of Canada committed itself to ensuring that all future legislation and policies include, where appropriate, an analysis of the potential for different impacts on women and men. In accordance, we are requesting to the extent possible, a numerical gender breakdown of your membership.

Could you please send us a copy of any subsequent agreement or amendment (preferably on diskette, including the format), including any attachments which are part of the agreement or supplementary documents (such as pension or health plans) referred to in the agreement.

Please show separately, the number of employees covered by the agreement in the space provided on the return part of this form.

Your co-operation will help the Workplace Information Directorate maintain its services in the collective bargaining field.

Yours sincerely,

J. J. Cyr

Collection of Agreements Unit
Telephone: 1-800-567-6866 or (819) 997-0252

File: 1021701

Please complete this part and forward with copy of collective agreement to:
Workplace Information Directorate
Collection of Agreements Unit
Labour Branch
Human Resources Development Canada
Hull, Quebec

Number of employees covered by the agreement.

[Empty box for number of employees]

Males [Empty box]

Females [Empty box]

RECEIVED
JUL 31 1998

Canada

Company no longer in operation



P. O. Box 307  
Corner Brook, Newfoundland A2H 6C9  
Tel: (709) 634-8251 Fax: (709) 634-1585

April 9; 1997

Mr. Michel Desjardins  
Secretary-Treasurer  
Seafarers' International Union of Canada  
1333, rue St-Jacques  
Montreal, Quebec H3C 4K2

Dear Sir:

RE: Your Letter Dated April 1, 1997

Please accept our apology in neglecting to let you know about the sale of the Portland Carrier in February of 1996. The Portland Carrier was sold to a company in Norway; consequently, FitzEnnis Cement Carriers does not have a ship nor does it have any employees. In view of the above, we consider the contract null and void as of March 31st, 1998 or earlier if acceptable by you.

Yours truly,

ATLANTIC CEMENT CARRIERS LIMITED

LLOYD BUGLAR, P.Eng.  
V.P. Operations

LB/er

✓ cc: Human Resources Development Canada

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