



# FOOD AND MEAT AGREEMENT

December 2, 2007- October 8, 2011

By and Between

United Food and  
Commercial Workers Union Local 5

and

PW Market



**FOOD AND MEAT AGREEMENT  
BETWEEN  
UNITED FOOD & COMMERCIAL WORKERS UNION, LOCALS 5 & 8  
AND  
PW MARKETS INC.  
DECEMBER 2, 2007 - OCTOBER 8, 2011**

THIS AGREEMENT, entered into this 13th day of February, 2008, by and between PW MARKETS INC., hereinafter called the Employer, and UNITED FOOD & COMMERCIAL WORKERS UNION, LOCAL 5, chartered by the United Food and Commercial Workers International Union, referred to hereinafter as "Union."

It is the intent and purpose of the Employer and the Union to promote and improve labor-management relations between them and to set forth herein the basic terms of agreement covering wages, hours, and conditions of employment to be observed.

In consideration of mutual promises and agreements between the parties hereto, and in consideration of their mutual desires in promoting efficient conduct in business and in providing for the orderly settlement of disputes between them, the parties to this agreement agree as follows:

**SECTION 1. RECOGNITION AND CONTRACT COVERAGE**

1.1.1        **RECOGNITION: (Food)** The Employer hereby recognizes the Union as the sole collective bargaining agency for an appropriate unit consisting of all employees working in the Employer's retail food stores within the geographical jurisdiction of the Union except supervisors within the meaning of the National Labor Relations Act, as amended.

1.1.1        **RECOGNITION: (MEAT)** The Employer recognizes the Union as the exclusive bargaining agent for all employees covered by this Agreement working in the retail markets of the Employer in the following Local Union jurisdictions:

**Local 5:**

Alameda County and El Cerrito, Richmond, San Pablo, El Sobrante and Kensington of Contra Costa County.

The Retail Markets and Frozen Food Locker Plants of the Employer in Santa Clara, San Benito, Monterey and Santa Cruz Counties.

## Local Golden State 8:

1. Sacramento County and the greater Sacramento area including Auburn, Placerville, and Woodland.
2. Lake Tahoe and vicinity.
3. The area covered by Oroville, Marysville, Yuba City, and Grass Valley.
4. Napa, Solano, and Contra Costa Counties with the exception of El Cerrito, Richmond, San Pablo, El Sobrante and Kensington of Contra Costa County.
5. Counties of San Joaquin, Stanislaus, Amador, Calaveras and Tuolumne.
6. Cities of Livermore and Pleasanton in Alameda County.
7. Counties of Shasta, Tehama, Siskiyou, Modoc, Lassen, Butte, Glenn, Plumas and Trinity.

**1.2 BARGAINING UNIT WORK:** The work covered by this Agreement shall be performed only by members of the appropriate unit as defined in Section 1 hereof and such work shall consist of all work and services connected with or incidental to the handling or selling of all merchandise offered for sale to the public in the Employer's retail food stores including the demonstration of such products, but excluding:

**1.2.1** Supervisory functions;

**1.2.2** Work of employees expressly excluded from the provisions by agreement of the parties; and

**1.2.3** Such work as is performed under Industry practice, prevailing and existing as of April 19, 2005, within the geographical jurisdiction of this Union by a driver/salesman engaged in servicing the retail food stores at the point of delivery, soft drink merchandisers, ice cream merchandisers, cookie/cracker merchandisers, chips/salty snacks merchandisers, frozen pizza merchandisers, Hispanic foods merchandisers, beer merchandisers, an outside supplier or reset crew.

No change to current language based on the parties' agreement regarding the intent of the "prevailing and existing" language as outlined by the Company during these 2007 negotiations.

1.2.4 Notwithstanding anything to the contrary, and except as modified by Section 1.13, each Employer may, at its discretion on a store-by-store basis, assign members of the bargaining unit to handle merchandise or products which are permitted by the terms of this Subsection to be handled by non-bargaining unit persons. After any such assignment to members of the bargaining unit, the Employer may, at its discretion, return to the former practice of utilizing the services of such non-bargaining unit persons.

1.2.5 The parties hereby establish the following procedure for the purpose of ensuring an orderly environment for the exercise by the Employer's employees of their right under Section 7 of the National Labor Relations Act and to avoid picketing and/or other economic action directed at the Employer in the event the Union decides to conduct an organizing campaign at any operation at which the Union does not have representation rights.

The parties mutually recognize that national labor law guarantees employees the right to form or select any labor organization to act as the employees' exclusive bargaining representative for the purpose of collective bargaining with the Employer.

The Employer will take a neutral approach to unionization of employees. The Employer will not take action nor make any statement that will directly or indirectly state or imply any opposition by the employer to the selection by such employees of a collective bargaining agent.

Within ten (10) days following receipt of written notice of intent to organize certain employees, the Employer will furnish the Union with a complete list of such employees, including job classifications and departments. Within two (2) weeks thereafter, the Employer will furnish a second list of such employees to the Union, including the addresses and phone numbers of all employees. Thereafter, the Employer will provide updated lists as requested, but no more frequently than monthly.

The Union may request recognition as the exclusive collective bargaining agent for the employees in the traditional bargaining unit represented by the Union in the food industry. A disinterested, neutral party mutually satisfactory to the Employer and the Union will be selected to conduct a

confidential review of employees' authorization cards and membership information submitted by the Union in support of its claim to represent a majority of the employees in the unit if either the Union or Employer so request. If a majority of employees within the unit has joined the Union or designated it as their exclusive collective bargaining representative, the Employer will recognize the Union as such representative of the employees and will extend to such employees this Collective Bargaining Agreement between the Union and the Employer together with any amendments agreed to by the parties. The Employer will not file a petition with the National Labor Relations Board for any election in connection with any demands for recognition provided for in this Agreement.

During the life of this Agreement, the Union will not engage in picketing or other economic activity at any operation covered by this Section, provided that if the Employer recognizes any other Union as the exclusive collective bargaining representative of employees in the unit, or any part thereof, traditionally represented by the Union, this paragraph shall terminate immediately and without notice.

The parties agree that any disputes over compliance with or the application of this Section, including claims of Union violation, shall be submitted to expedited arbitration using the expedited arbitration process set forth in this Agreement. The arbitrator shall have the authority to order the non-compliant party to comply with this Section and to order such other remedies deemed necessary to effectuate the intent of this Section. The parties hereto consent to the entry of any order of the arbitrator as the order of judgment of the United States District Court, without notice.

- 1.3 JURISDICTION: (MEAT)** It is agreed that all fresh meat shall be cut, prepared and fabricated on the premises, by a Head Meat Cutter, Journeyman Meat Cutter or Apprentice Meat Cutter, provided, however, the carcasses may be processed up to and including the maximum reductions listed and described on the attached Exhibit A and may be delivered to the premises in that form, but all further processing of these parts shall be performed on the premises.

There shall be a Journeyman Meat Cutter on duty at all times where fresh meat is offered for sale except as otherwise provided in Section 7.5.1, Section 7.5.2, Appendix B.1 and as follows:

- 1.3.1 A Journeyman Meat cutter shall not be required to be on duty between the hours of 6:00 p.m. and 6:00 a.m. In addition to those sections set forth above, Meat Departments with one hundred twenty (120) scheduled hours (excluding clean-up employees) or less per week shall not be required to have a Journeyman Meat Cutter on duty for a period of three (3) hours per day, and/or eighteen (18) hours per week. If a Meat Department qualifies and utilizes the one hundred twenty (120) hour Journeyman on duty exemption, then they are not entitled to the 6:00 p.m. to 6:00 a.m. waiver set forth above.
- 1.3.2 When fresh meat is offered for sale and a member of the bargaining unit is not on duty in the Meat Department during such hours, no one other than a member of the bargaining unit shall perform work in the Department.
- 1.3.3 No employee presently employed in the jurisdiction of Local 5 and Local 8 Golden State, employed as of November 1, 1985, will have his or her hours reduced or will be laid off as a direct result of implementing the modification of Appendix B8 Exhibit A, or modification of Journeyman on Duty, or the introduction of pre-priced products set forth in Section 1.3.4 below.
- 1.3.4 Lunch meats, pre-sliced bacon, dissected and pre-fabricated fowls, ground beef and pork sausages in visking casing, fish and/or rabbits which pursuant to current custom and practices are presently pre-fabricated and dissected, along with all cooked or pre-cooked meats, or combinations of such meat products, whether in bulk or package form, need not be cut on the premises but all the above products, along with fresh, frozen, smoked or cooked sausages shall be handled, displayed, dispensed and offered for sale by employees covered by this Agreement. Notwithstanding the above, pre-priced poultry (whole, cut-up and/or parts), fish, offal, liver, sausage, and smoked or cured meats may be merchandised.

Tortillas may be handled, stocked and displayed by vendors.

Offal may be brought into the market pre-packaged and pre-priced.

In the event of the deliberate failure of an Employer to schedule an employee to work in accordance with the provisions of the Collective Bargaining Agreement, when fresh meat is offered for sale, the Employer will be required to pay an amount equal to the wages which would have been paid to an employee, to the Health and Welfare Plan.

The parties agree to establish a Joint Committee to monitor and evaluate the status of products listed on Exhibit A during the term of this Agreement. The Joint Committee composed of members appointed by the FEC and the Local Unions shall have the authority to add to, modify and or delete from the list of cuts.

Authority set forth above shall be exercised only by mutual agreement of the members of the Committee. Where disputes arise or mutual agreement cannot be reached, said disputes shall be referred to the procedures set forth in Appendix B.5, New Methods of the Agreement for binding resolution.

Nothing contained herein or in the Agreement shall prevent the Joint Committee from implementing actions and/or modifications, nor shall this provision limit the ability of individual companies and individual unions to negotiate separate understandings.

**1.4 SUBCONTRACTING AND SUB-LEASING:** It is recognized that the Employer and the Union have a common interest in protecting work opportunities for all employees covered by this Agreement. Therefore, except for work which is exclusively inventory or janitorial work (such as washing windows, washing or waxing floors and cleaning restrooms) or work otherwise contractually excluded, no work covered by this Agreement, as defined in Section 1.2 and Section 1.3 hereof, shall be performed under any sublease, subcontract, or other agreement unless the terms of said lease, contract, or other agreement specifically provide:

1. That all such work shall be performed only by members of the appropriate unit as defined in Section 1.1, Section 1.1.1, and
2. That the Employer shall at all times hold and exercise full control of the terms and conditions of employment of all such employees pursuant to the terms of this Agreement.

**1.5** It is recognized that if the terms of the Employer's lease, contract or other agreement obligates the lessee or other party to pay the wages and observe the other terms and conditions of this Agreement, then the Union agrees that the sole and entire financial responsibility for meeting the costs of observance of this Agreement shall be upon said lessee or other party and not upon this Employer.

**1.6 STORE MANAGERS AND ASSISTANT STORE MANAGERS:** None of the

provisions of this Agreement need apply to one overall supervisory store manager, the assistant store manager, and in stores of 35,000 square feet or more, a second assistant store manager and their work in each retail food store in which an owner is not actively engaged on the premises. The store manager and assistant store managers shall not be restricted as to the amount of non-supervisory work they may perform. No assistant store manager shall be involuntarily reclassified as a direct result of this provision during the term of this agreement.

- 1.6.1 STORE MANAGER TRAINEES: (MEAT)** Employees who are in bona fide Store Management Training Programs may work in covered employment, including handling the “tools of the trade”, so long as said work is for the purpose of familiarizing the Manager Trainee to the Meat Department operations. No Meat Department employee shall have their hours reduced or be laid off as a direct result of the training program. Before any employee commences training in the Meat Department, the affected Union(s) shall be notified, in writing, of the name(s) of the trainees, the location(s), the training start date and the expected duration.
- 1.7 OWNERS:** No more than two (2) company officers or executives shall be deemed or classified as an Employer within the meaning of this Agreement. Employers as thus defined may do such work as is necessary in the conduct of the business. All other persons performing work under the jurisdiction of the Union shall be members of the Union and shall be governed by the provisions of this Agreement.
- 1.8 NEW OWNER:** This Agreement shall be binding upon the successors and assigns of the parties hereto. Except as set forth in Section 11, Vacations, during the life of this Agreement employee benefits provided for herein shall not be affected by the sale or transfer of the business for those employees who are retained by a new Employer for a period of more than sixty (60) calendar days. For employees who choose to be employed by such new owner, such sixty (60) calendar day period shall be considered a probationary period during which time employees may be terminated without recourse to the grievance procedure, unless such termination is in violation of Section 2.3 or Section 3.1 of this Agreement.
- 1.9 TRAVELING CLERKS:** It is agreed by the Employer and the Union that employees may be assigned to work in two or more different stores located in the geographical jurisdiction of two or more local unions. Each such employee shall be covered by all of the terms and conditions of the Agreement, which is in effect in the area in which he works the major

portion of his time. In the event that he does not work the major portion of his time in any one area, then the Employer shall designate the area Agreement under which he is working and shall give written notice of the area so designated to the Union.

**1.10 INDIVIDUAL AGREEMENTS:** The Employer agrees that no Employee covered by this Agreement shall be compelled or allowed to enter into any individual contract or agreement with said Employer concerning wages, hours of work and/or working conditions that provides less benefits than the terms and provisions of this Agreement, except by written agreement of the Employer, the Employee and the Union.

**1.11 ENFORCEMENT:** In the event of a violation of Section 1.2.4, the Union shall notify the Store Manager and the Company's Labor Relations Department in writing of such violation and it shall be corrected. If there are any further violations, by the same vendor/non-bargaining unit person, the Store shall be liable in damages payable to a recognized charity mutually agreed to by the parties in the amounts below for each proven violation, on a store-by-store basis:

1. At the time of the first violation, an amount equal to one (1) day's wages at the experienced Level 2 Customer Service Specialist (L2CSS) rate plus health and welfare and pension contributions.
2. At the time of the second violation, an amount equal to two (2) day's wages at the experienced Level 2 Customer Service Specialist (L2CSS) rate plus health and welfare and pension contributions.
3. An additional day's wages plus the equivalent health and welfare and pension contributions shall be added cumulatively for each subsequent violation.

**1.12 NEW STORES AND REMODELS:** During any three (3) consecutive days preceding the reopening of an old food market of the Employer, which has been closed for remodeling for a period of thirty (30) days or less, upon prior notice to the Union, persons not in the bargaining unit may perform any work in such store.

Notwithstanding any language to the contrary contained in this Agreement between the parties, it is agreed that this Agreement shall have no application whatsoever to any new food market until fifteen (15) days following the opening to the public of any such new establishment.

Neither shall this Agreement have any application whatsoever to any food market which is reopened after it has been closed for a period of more than thirty (30) days until the fifteenth (15th) day following the date of such reopening to the public.

The Employer shall staff such new or reopened food market with a combination of both current employees and new hires, in accordance with current industry practices of staffing such stores with a cadre of current employees possessing the necessary skills, ability and experience, plus sufficient new hires to meet staffing requirements. Employees, who are thus transferred, upon whom contributions are made to the various trust funds shall continue to have contributions to the several trust funds made on their behalf in the same manner and in the same amount per hour as such contributions were made prior to their transfer.

Notwithstanding anything in this Agreement to the contrary, it is agreed that when the remodeling of an existing location occurs without such store being closed, the Employer shall only be obligated to give the members of the bargaining unit employed by him in such store an opportunity to perform the product handling work required for such remodeling at the applicable contract rate except that such opportunity to perform such work shall not include any overtime hours. When members of the bargaining unit within such store are not available for such work, such work may be performed by persons not in the bargaining unit.

Notwithstanding anything to the contrary contained in this Agreement between the parties, it is agreed and understood that the probationary period for any new hires in such new or reopened stores referred to above shall not begin until the fifteenth (15th) day following such opening or reopening of such stores to the public.

- 1.13 In the event the Employer creates new jobs or job duties involving the handling or selling of merchandise not handled or sold by the Employer, such new work shall be deemed Bargaining Unit work, except that, for a temporary period of try-out and familiarization, not to exceed six (6) months in each store following the introduction of such new category of merchandise, the Employer may contract for the performance for all or part of such work by non-bargaining unit persons. The wage rates and classification for such new jobs or job duties shall be subject to mutual agreement of the parties. In the event the parties are unable to agree on the above, disputed matters shall be processed in accordance with Section 18.3 of this Agreement.

## SECTION 2. EMPLOYMENT AND UNION MEMBERSHIP

2.1 **UNION SHOP:** On and after thirty (30) days of employment, or the date of execution of this Agreement, whichever is later, each employee shall become and remains a member of the Union as a condition of employment; provided, however, that the Employer shall not be obligated to discharge any employee in violation of the National Labor Relations Act, as amended. Upon written notification from the Union that an employee has failed to make timely tender to the Union of initiation fees and/or periodic dues, the Employer agrees to terminate said employee on the eighth (8th) day from such notice unless the Union notifies the Employer in writing that the employee has complied with the provisions hereof.

If the Union discovers within thirty (30) days after the discharge of an employee that the discharge was in error, the Union shall so advise the Employer, provide the Employer with bona fide evidence that the termination demand was improper and the Employer shall then reinstate the employee with full seniority on the first weekly schedule posted by the Employer after being so notified by the Union in writing.

The Union agrees to indemnify and hold the Employer harmless in any and all claims and/or causes of action which arise out of or are in any way connected with the Employer's compliance with this provision.

2.2 **JOB REFERRAL: (MEAT)** An Employer who desires to employ a person in work covered by this Agreement shall give preference to persons who apply for such employment who have been employed within the geographical area covered by this Agreement in work covered under this Agreement within three (3) years immediately preceding the date of application for such employment.

2.2.1 **JOB REFERRAL: (FOOD)** An Employer who desires to employ persons in work covered under this Agreement shall inform the Union of the number and qualifications of persons desired, the location of the job site and the expected duration of the job at least forty-eight (48) hours (exclusive of Saturdays, Sundays, and recognized holidays) in advance of the time that such persons are required, or within a lesser period if extraordinary conditions so warrant.

2.3 **NON-DISCRIMINATION:** The Employer shall not discriminate against any person in regard to hire, tenure of employment or job status because of race, creed, religion, sexual orientation, color or national origin, nor shall

age, disability unrelated to the job duties, veteran status or sex under any circumstances be a basis for rejection or termination of an otherwise qualified employee or applicant for employment.

The Union agrees to allow new employees to enter into separate voluntary agreements providing for arbitration of statutory discrimination claims and remedies not covered by the Collective Bargaining Agreement under current case law.

When used, the term "he" refers to human beings of either sex and is used only for grammatical simplicity.

2.3.1 Disputes or disagreements arising out of this section shall be referred to the Adjustment Board and the Arbitration process as provided for in this Agreement.

2.4 **HIRING:** Whenever new employees are hired for jobs covered by this Agreement or when employees are transferred to jobs covered by this Agreement from outside the jurisdiction of this Union, the Employer shall:

2.4.1 Promptly notify the Union of such employment in writing giving the date, place and job classification of the employment and the name, social security number, and address of the new employee and

2.5 Direct the employee to report to the Union within seven (7) days from the time of employment to be advised of the terms and provisions of this Agreement, to complete necessary applications and forms for qualification under the Health and Welfare, and Pension Plans provided by this Agreement.

The Union agrees to provide the Employer with Union application forms and standard information concerning Union dues and initiation fees. When completing new employees' new hire paperwork, the Employer will provide each employee with such Union application forms and Union dues/initiation fee information for their completion and forwarding to the Union. The responsibility to complete and forward these forms to the Union shall continue to be the responsibility of the employee.

On a trial basis, the Employer will also provide each new hire with the Health and Welfare Trust benefit application forms, if supplied by the Union. The responsibility to complete and forward these forms to the Union shall continue to be the responsibility of the employee.

2.6 **NEW EMPLOYEES:** The provisions of this Agreement shall apply to the employment of any person covered by this Agreement, while such person is not a member of the Union.

### SECTION 3. DISCHARGES AND LAYOFFS

3.1 The Employer shall not discharge or discriminate against any employee for upholding Union principles, for serving on a committee of the Union or any Union activities.

**PROBATION:** There shall be a probationary period of sixty (60) calendar days for all employees. During the probationary period a probationer may be discharged without right of appeal except if such discharge is in violation of Section 2.3 or 3.1 of this Agreement.

3.2 **TERMINATION:** Except for reasons beyond the Employer's control, regular employees who work on three (3) days per week or more shall be given three (3) working days notice of layoff, or discharge, or the equivalent pay, except when such termination has been for cause, such as insubordination, disorderly or improper conduct, under circumstances requiring immediate termination. Employees who work on two (2) days per week shall be given two (2) working days notice under like conditions. In all such cases the day on which such notice is given shall not be counted unless a notice is given before the day's work begins. (A regular employee is one who has been in the continuous employ of the Employer for a period of sixty (60) days or longer).

3.2.1 **REDUCTION IN HOURS AND LAYOFF:** Reduction in part-time employees' hours, due to lack of work, shall be accomplished by seniority and by classification on a store-by-store basis.

When layoffs occur due to lack of work, the last employee hired in the classification shall be the first to be laid off.

3.3 **WORK PERFORMANCE:** The Employer shall have the right to discharge any employee for just cause. If the employee feels he has been unjustly discharged, he shall have the right of appeal, in writing, to be submitted to the Employer through action of the Union within ten (10) business days after the date of said discharge.

3.3.1 Before a regular employee is discharged, suspended, or demoted for incompetence or failure to perform work as required, he shall receive a written warning (with a copy to the Union) and be given an opportunity

to improve his work.

Notices and warnings shall become null and void after six (6) months from date of issue. Written warnings need not be processed beyond the union filing a grievance in order to preserve the union's right to challenge the warning if it is used as progressive discipline in the future.

- 3.3.1.2 (MEAT): In the event a Head Meat Cutter who has been demoted to Journeyman Meat Cutter feels that the demotion was discriminatory he or she shall have the right to appeal through the adjustment and arbitration proceedings of this Agreement.
- 3.3.2 Upon severance of employment of any employee, the Employer shall, within seven (7) calendar days thereafter, notify the Union of such resignation, layoff or discharge. If the discharge is for cause, the Employer agrees to submit the reasons for discharge, upon request from the Union, as soon as practicable but no later than three (3) days prior to a Board of Adjustment.
- 3.4 POLYGRAPHS: No Employer shall demand or require any applicant for employment or prospective employment or any employee to submit to or take a polygraph, lie detector or similar test or examination as a condition of employment or continued employment.
- 3.5 COMPANY RULES: In the event the Employer establishes rules and procedures for its employees, such rules and procedures shall be reasonable, not inconsistent with the terms of the Contract and shall be furnished to the Union upon request.

When Company rules are changed or modified, a copy of such changes shall be supplied to the Union within ten (10) days following the implementation of any changes or modifications. For the purpose of this Section, the changed or modified rules, which are to be provided to the Union, are those rules contained in the Employee handbook, which is typically distributed to newly hired employees. These rules include, but are not limited to, dress code, attendance, and conduct at work, employee purchases, insubordination, tobacco and alcohol sales, harassment and other similar rules as set forth in the employer's handbook.

Rules or policies promulgated by the Employer shall not be construed or enforced to unlawfully prohibit or restrict employee rights under Section 7 of the National Labor Relations Act, as they relate to this bargaining

unit during the term of this Agreement.

**3.6 EXTRA MEAT EMPLOYEES: (MEAT)** Extra Employees, discharged for cause, shall be paid for time worked.

Extra Meat Employees who report late for work need not be put to work; provided, that if put to work at all, they shall be paid only for the time worked.

**Except for Local 8 Golden State:** When an Extra Meat Employee is sent out by the Union to a position at the request of the Employer, or when an individual is requested to report for work by the Employer, and in either case, arriving there on time is not permitted to work, such individual shall be paid a day's pay; provided, applicants for vacation relief or steady employment may be referred to a scheduled interview by the Employer and no pay shall be required for such period of interview, unless he or she is put to work on such day of interview, in which event he or she shall be paid a full day's pay.

**For Local 5 and 8:** In the event the Union dispatches an Extra Meat Employee who was previously discharged for cause by the Employer, the Employee shall not be entitled to any minimum guarantees of work or pay.

**SECTION 4. SENIORITY**

**4.1 DEFINITION:** Seniority shall mean continuous service with the Employer and no employee shall suffer loss of seniority by reason of approved leave.

Seniority shall be determined by date of hire without regard to the level of training the employee has received.

The Employer and the Union will meet to realign the Local Union's seniority area as needed.

**4.2 CLASSIFICATION:** Seniority shall be by classification in the Grocery department listed as follows in Section 9:

1. Managing Clerks
2. Senior Head Clerks and Senior Produce Clerks

3. Level 3 Customer Service Specialists
4. Customer Service Specialists (L2CSS and L1CSS)
5. Courtesy Clerks- Subject to the restrictions of Section 9.1.4.4 hereof; Seniority of Courtesy Clerks shall be on a store-by-store basis, except that Courtesy Clerks transferred to another location will carry Courtesy Clerk seniority with them to the new location.

In the event that a L1CSS, who had previously served as a Courtesy Clerk, is going to be laid off before the completion of the first three (3) months of the L1CSS progression, he/she may step back temporarily into the Courtesy Clerk classification at the store in which they are currently working until recalled.

**4.2.1 Seniority shall be by classification in the Meat department listed as follows in Appendix B.:**

1. Head Meat Cutter (over 5)
2. Head Meat Cutter
3. Journeyman Meat Cutter and Apprentice Meat Cutter
4. Meat Clerk, Cashiers, Delicatessen Workers (conventional and self-service)
5. Clean Up

**NOTE:** Journeymen replacing Head Meat Cutters on their days off shall receive Head Meat Cutter's rate of pay. This language is also stated in Appendix B.

Except in markets operated by an Owner, only Journeymen shall operate a market as a "Head Meat Cutter."

**4.3 APPLICATION:** With respect to layoff, recall, and promotion, seniority shall be based upon the length of service with the Employer in the area covered by this Agreement; provided, where an employee is transferred by the Employer to such area from another area, the transferred employee shall retain all seniority rights with the Employer but shall not be entitled to exercise such rights, with respect to layoff, recall or promotion, until the expiration of six (6) months after the date of

transfer, at which time his seniority shall be based upon the first day of employment by the Employer, regardless of area. However, during such period of six (6) months the transferred employee shall accrue seniority rights in the new area from the date of transfer and shall retain all seniority rights with respect to layoff, recall and promotion in the area from which he was transferred.

Reduction in part-time hours due to lack of work and weekly business fluctuations causing decreases in hours are to be handled among part-time employees by seniority and by classification on a store-by-store basis as is presently done, pursuant to Section 3.2.1.

In case of layoffs Section 4.3.2 and 3.2.1 shall apply.

It is recognized that an Employer's business conditions may from time-to-time require the temporary reduction of the hours of full-time employees. No full-time employee in the store affected by the lack of work shall be reduced to fewer hours than those scheduled and/or worked by any part-time employee in the store. In order to effectuate the above, the Employer may make necessary operational transfers consistent with the provisions of Section 4.8 and Section 4.8.1.

A full-time employee subject to reduction in hours as set forth in Paragraph 4 shall be given a choice of replacing the least senior full-time employee in the geographical seniority area or accepting the temporary reduction in hours in his store. If the employee elects to accept the reduction in hours, he shall have first preference for all available additional hours in that store up to and including a full-time, forty (40) hour job opening. While such an employee is temporarily working less than forty (40) hours he shall retain his full-time designation for a period of six (6) months following the initial reduction.

It is recognized that employees must possess the necessary qualifications to perform the work when asserting their seniority either into or out of the Employer's produce department or for work assignments requiring special skills and background.

**GROCERY DEPARTMENT: A regular full-time employee is:**

1. One who is hired or designated by the Employer to a regular forty (40) hour job opening, excluding relief for vacation, illness, authorized absences, or weekly business fluctuations.

2. An employee who becomes full-time from the bid list.

**MEAT DEPARTMENT: Definitions:**

1. **Regular full-time employee:** An employee who has completed the sixty (60) day probationary period and is hired to work at least forty (40) straight-time hours per week in five (5), eight (8) hour days.
2. **Regular part-time employee:** An employee who has completed the sixty (60) day probationary period and who is hired to work less than forty (40) hours per week. He/she is guaranteed a minimum of four (4) hours per day when the employee works as scheduled or required. Part-time employees may be scheduled five (5) days per week to fill in for temporary vacancies (vacations, etc.) without changing their part-time status.

- 4.4 **Extra Employees (MEAT):** An extra Meat Worker is hired on a daily and/or weekly basis and is not subject to the probationary period, except as set forth below:

An Extra Worker may qualify to become a regular employee if he has completed sixty (60) days of employment, with the hiring Employer.

After completion of sixty (60) days of employment, the Employer will, upon request, provide an Extra Worker with an application for employment; and when hired, no further probationary period will be required.

Upon receipt of the application by the Employer, the Employer shall have thirty (30) days to answer the Extra Worker, in writing, as to the availability of employment. Said application shall remain on file for a period of one (1) year.

When an Extra Worker is hired, his seniority date as a regular employee for all purposes under this Agreement shall commence from his date of hire.

Extra Workers shall be entitled only to those benefits and contract rights reserved for Extra Workers within this Contract.

Extra Employees do not have to serve a probationary period if they have completed sixty (60) days of employment with the hiring

Employer. Extra Employees shall receive the extra rate of pay for all hours worked.

- 4.3.1 **PROMOTION: (Food)** Determination of which employee is to be promoted will be based upon seniority and reasonable qualifications. Qualifications shall include such factors as experience, job performance, aptitude, attendance, etc. Where merit and ability are approximately equal, seniority shall control. No trial period shall be required. Where an employee who has been promoted is unable to perform the duties of the higher classification, or is being laid off from a classification above Experienced L2CSS, he shall have the right to be demoted to his former or equivalent position without loss of seniority, and his right to such employment shall not be jeopardized by reason of such demotion.

An employee selected for a promotion will serve a thirty (30) calendar day probationary period. During this thirty (30) calendar day probationary period, the Employer may disqualify the employee from the position if the employee fails to adequately perform the duties of the position; or the employee may decide to reject the position for any reason. If there is a dispute over a disqualification, the dispute may be submitted to the grievance/arbitration procedure. If the employee is disqualified or rejects the position, they may return to their former classification and former rate of pay with no loss of seniority. Furthermore, any discipline for failure to perform work as required that was received during the probationary period would be rescinded. Following disqualification or rejection, the employee may not bid for a period of six (6) months following the date of disqualification or rejection.

- 4.3.1.1 **PROMOTION: (MEAT)** In the Meat department where merit and ability are approximately equal, seniority shall be recognized and Journeymen promoted, provided they meet qualifications fitting them for such positions. The Employer hereby agrees that when promotions are in order or higher rated jobs come open, those already employed by said Employer shall be given preference and fair trial period shall be given without jeopardizing the Employee's former rating.

All permanent job vacancies except Courtesy Clerks and Meat Clean-up shall be posted, at each store of the Employer within the appropriate local union's seniority area for a period of five (5) days. The job posting shall specify the job classification and location of the store where the permanent job vacancy exists. Any employee interested in

the permanent job vacancy must complete a job bid form and return it to the Store Manager on or before the expiration of the posting period. In the event the Employer decides to promote an existing employee to fill the permanent job vacancy, the selection of the employee to be promoted shall be in accordance with this Agreement.

Any successful bidder who thereafter declines the promotion or is unable to perform the duties of the job shall be ineligible for any subsequent promotional bid for a period of six (6) months.

The Employer agrees to provide the Union with a list of employees, bimonthly, who have been promoted to positions above Level 2 Customer Service Specialist and above Journeyman Meat Cutter.

**4.3.2 TEMPORARY LAYOFF:** In the reduction of the number of employees due to lack of work, the last employee hired in the classification shall be the first to be laid off and, in recall, the last employee laid off in the classification shall be the first recalled until the list of employees previously laid off has been exhausted.

For the purpose of layoff and recall, L1CSS and L2CSS classifications shall be considered the same classification.

For the purposes of layoff and recall, Journeyman Meat Cutter and Apprentice Meat Cutter shall be considered as one (1) classification.

**4.3.3 RECALL:** Employees who are laid off due to lack of work shall have seniority rights in recall for jobs subsequently available with the Employer prior to the hiring of new employees. Such employee shall be notified by certified mail, a copy of which shall be sent to the Union, and shall have three (3) days to report after receipt of said copy.

**4.3.4** It is further understood that the employee will not be able to claim wages under the provisions of sub-section 4.3.2 except for hours lost commencing with the weekly schedule immediately following the Union's notification to the Employer of the claim, and thereafter until resolved.

**4.4 LOSS OF SENIORITY:** No employee shall suffer loss of seniority unless he:

1. Is discharged for just cause;
2. Resigns or voluntarily quits;

3. Is absent from work for six (6) consecutive months due to layoff;
4. Is absent from work for more than thirty (30) days due to death in the immediate family;
5. Fails to return to work upon completion of a leave of absence as defined in Section 5.14;
6. Fails to report for work when recalled as provided in Section 4.3.3 of this Agreement.

4.5 **SCHEDULE SELECTION:** The word "schedule" is interpreted to mean the weekly work schedule, including work on premium days, early and late work schedules.

4.5.1 It is recognized that management has the right to establish such weekly work schedules to meet the requirements of the business; provided, however, such right shall not be utilized in an arbitrary or capricious manner to deprive an employee of his ability to exercise his seniority right to select such work schedule.

**(MEAT)** Shift assignments shall be determined by the Employer, with due consideration being given to hardship cases and cases of merit.

4.5.2 **(FOOD)** Employees may select such schedules according to seniority by classification, applied on a store basis, provided they possess the necessary qualifications for the schedules selected. Qualifications shall include such factors as experience, job performance, aptitude, attendance, etc.

4.5.3 It is understood part-time employees may not bid for the schedule of other employees.

4.5.4 The Employer shall not recognize the schedule selection request of any employee if the granting of the request would place the Employer in a position of violating the contract or having to pay a penalty for improper scheduling of shift intervals, or consecutive workdays.

4.5.5 Part-time employees shall have the right for scheduling preference on a store basis by twice yearly completing a "Preference Sheet" form stating their preference for early or late shifts. Preference forms will be made available as soon as practical after ratification of this agreement and shall

remain in effect until changed by the employee (one (1) request per calendar year). Part-time shifts shall be scheduled in accordance with preference of the most senior part-time employees in their respective job classification depending upon the scheduling needs of the Employer. Claiming schedules (if necessary) shall follow the current procedures and practices as well as those situations covered under Section 4.5.2.

- 4.6 **LISTS:** The employer agrees to provide a seniority list of employees semiannually. Such list shall be by seniority, listing the employee's date of hire, name, social security number, work location, classification, current rate of pay, and indicate if the employee is part-time or fulltime.

Upon request by the Union, the Employer will provide a legend of Company job titles and what classification they fall within the contract.

- 4.7 **TEMPORARY ASSIGNMENTS:** The Union will cooperate with the Employer in the scheduling of employees for temporary part-time or relief work outside the geographical jurisdiction of this Agreement. However, no employee shall be discriminated against for refusal to accept such assignment.

- 4.8 **TRANSFERS: (FOOD)** No employee shall be required to accept a permanent transfer outside the jurisdiction of this Local Union unless approved by the Union. Requests for transfers, within the union's territorial jurisdiction, so an employee may work nearer his home will be given proper consideration, and will not be refused arbitrarily. Similarly, an employee will not be arbitrarily or capriciously transferred. Management will give proper consideration to transfer requests.

- 4.8.1 **TRANSFERS: (MEAT)** An Employee who wishes to be transferred to store locations nearer his or her home shall so notify the company, in writing, indicating the particular area and stores in question. When permanent vacancies arise in that store for which the Employee is qualified, the Employer will give full consideration to transferring him or her before filling the vacancy. If his or her transfer takes him or her across Local Union jurisdictional lines, his or her seniority rights shall be as set forth in Section 4.3. Once a person has affected a transfer pursuant to this paragraph, future requests will not be honored for a two (2) year period.

- 4.9 **PART-TIME EMPLOYEES:**

**4.9.1 REQUEST FOR FULL-TIME WORK:** Part-time Experienced L1CSS and any L2CSS may bid for full-time forty (40) hour job openings or part-time job openings with more hours excluding relief for vacations, illnesses, or other authorized absences within the employee's assigned store, based upon said employee's seniority, provided that he makes his desire for such work known, in writing, concurrently to the Union and to the store manager. Once an employee has declared interest in full-time positions, their request shall remain valid unless the employee declines to accept a full-time position in which case the employee must wait six (6) months to once again declare their interest for full-time work.

A full-time bid list shall be available for all employees at the Experienced L2CSS rate or an employee that has reached a level of training and has declared to go no further.

No less than forty (40%) percent of the employees covered by this agreement (excluding Courtesy Clerks) shall be classified as full-time with a minimum of twenty-five (25) percent being at the experienced rate.

In the event the Employer's store falls below the required twenty-five (25%) percent at the Experienced L2CSS rate, the Employer and the Union shall review the situation and define actions necessary to facilitate a twenty-five (25%) percent level of Experienced L2CSS Clerks. A joint meeting and solution shall occur within thirty (30) days of notification unless both parties agree to additional time.

All current and future employees eligible to be classified as full-time must have completed the entire progression of L1CSS training.

No employee shall lose full-time classification by the virtue of signing this Agreement.

Employees hired prior April 19<sup>th</sup>, 2005 that are or become full-time shall maintain their full-time schedule including all weeks during which hours are scheduled for training.

The Store Manager will compile and maintain the store's bid list. At the conclusion of each bid request period, the Store Manager and the Union Representative will confer and agree on the full list, including correct seniority dates and order. The Union Representative will receive a copy of the final list. Any disputes regarding the store's bid list will be handled between the Union and the Labor Relations Department Representative in accordance with this agreement. An employee will remain on the store bid

list until offered a full-time opening or removed in accordance with Section 4.9.3 or by written notification of their desire to be removed from the list.

Provided the Experienced L2CSS possesses the necessary qualifications and has complied with the requirement above, he shall be offered any job opening, except as restricted by the above, which might occur within the employee's assigned store before any employee is hired into said store.

No employee will be transferred into or out of a store to circumvent the application of this Section. In the event a full-time forty (40) hour job becomes available in a store in which no employee is on the bid list, the most senior employee on the bid list, with the necessary qualifications, within the geographical jurisdiction of the Union shall be offered the job before any employee is hired into said store.

**4.9.2 REQUEST FOR ADDITIONAL HOURS:** Part-time employees may request additional available hours on a store-by-store basis provided they have the previously mentioned qualifications, are available for the hours, and have notified their store manager, in writing, of their desire for more hours and they shall be afforded such hours by seniority.

**4.9.2.1 TRAINING HOURS:** Training hours cannot be claimed by part-timers as additional hours.

**4.9.3 REMOVAL FROM LIST:** Employees refusing an offer of full-time work, requesting part-time work after having been selected for full-time work, indicating their unavailability for continued full-time work, or refusing a job opening with more hours, shall not be entitled to exercise rights set forth above for six (6) months from the time of refusal.

**4.9.4 WEEKLY GUARANTEE:** Effective sixty (60) days following ratification, each part-time employee (excluding Courtesy Clerks) shall be scheduled for at least twenty-four (24) hours work in each week.

Each Courtesy Clerk shall be scheduled for at least sixteen (16) hours work in each week.

The aforementioned weekly guarantee shall not apply if one or more of the following conditions exist:

1. The store is normally open for business six (6) days or less in the workweek;

2. A week in which one of the holidays named in this Agreement falls;
3. Employees scheduled to work are absent without proper notice;
4. Work is not available due to Acts of God;
5. The part-time employee, the Employer and the Union agree that the employee may work less than twenty-four (24) hours per week or less than sixteen (16) hours per week if the employee is a Courtesy Clerk;
6. An unanticipated, significant business fluctuation;
7. During the week an employee is recalled from layoff or returns from leave of absence.

## SECTION 5. GENERAL PROVISIONS

- 5.1 **SAFETY RULES:** Safety rules pertaining to the conduct of employees shall be conspicuously posted by the Employer in his place of business, and the Employer shall maintain in his store, or place of business, a fully equipped first aid kit.
- 5.2 **MILITARY SERVICE:** The Employer agrees to comply with the terms of the Universal Military Training and Service Act, with reference to all provisions providing for the re-employment of persons entering Military Service. These provisions shall be deemed a contractual obligation under the terms of this Agreement.
- 5.3 **BONDING:** Whenever the Employer requires the bonding of any employee or the carrying of any insurance for the indemnification of the Employer, premiums for the same shall be paid for by the Employer. No cash deposits, cash or real property bond, shall be required of any employee.
- 5.4 **FLOOR COVERING:** Suitable floor-covering shall be provided for on all concrete floors behind check stands.
- 5.5 **UNIFORMS: (Food)** Where the Employer desires the wearing of a uniform and/or head covering, the Employer shall furnish the same without cost to the employee. The Employer shall also provide for the maintenance of such wearing apparel.

Shirts and/or ties will be supplied only if the Employer specifies both the color and the specific style. Specific style shall be defined as collar style, sleeve length and fabric content. Once implemented, there shall be no change in color unless by mutual agreement.

- 5.5.1 **UNIFORMS: (MEAT)** Where the Employer requires the Employees to wear dress or uniform of any character, the Employer shall furnish such dress or uniform and provide for the laundry and upkeep thereof. Shirts and/or ties will be supplied only if the Employer specifies both the color and the specific style. Specific style shall be defined as collar style, sleeve length, and fabric content. Once implemented, there shall be no change in color unless by mutual agreement.

**SPECIAL WEAR:** It is also understood if an employee is required by the Employer to purchase or rent a special costume or unusual clothing not part of his existing wardrobe, the Employer shall reimburse the employee for any reasonable and necessary cost involved; or furnish the required costume or unusual clothing to the employee without cost for the period of time the requirement is in effect.

Employees required to work in Refrigerated Rooms shall be permitted to wear slacks, sweaters, or other suitable clothing to adequately protect them from cold and dampness while working in such rooms.

The Employer shall provide rain jackets.

- 5.5.2 **(MEAT)** Employees who are required by the Employer to use clothing or boots other than those provided for in this Section of this agreement shall have such clothing or boots supplied by the Employer.

Employees required to work in and out of cutting rooms or coolers shall be permitted to wear slacks, sweaters, or other suitable clothing to adequately protect them from cold and dampness.

In each market which utilizes the "sage" sanitation system, protective wearing apparel will be provided by the Employer with the understanding that Employees using said protective apparel shall be responsible for returning it to its proper place.

- 5.6 **TOOLS AND EQUIPMENT:** The Employer shall furnish all the required equipment and tools necessary for their employment, without cost to the employee.

(MEAT) All grinding of tools and sharpening of saws shall be at Employer's expense.

- 5.7 **PAY DAY AND DEDUCTIONS:** Employees shall be paid at least once each week, within five (5) days after the termination of the week's work, and before his shift terminates on pay day except in extenuating circumstances and any holiday week when the above period shall be increased to six (6) days. The Employer shall furnish each employee with a weekly wage statement showing his name, hours of work, overtime if any, total wages paid and list of deductions made.
- 5.8 **BULLETIN BOARD:** The Employer agrees to provide sufficient space on the store bulletin board for the posting of official union notices. Such notices shall contain only matters of official union business and shall not be used for propaganda purposes.
- 5.9 **UNION BUSINESS:** The Employer recognizes the right of the Union to appoint store representatives. The Employer agrees to schedule up to three store representatives, based on store size and volume, designated by the Union, a day off, at the employees' daily straight-time rate based on the average daily hours worked in the pay period preceding, not to exceed eight (8) hours, to attend an annual education meeting. The parties agree that such time shall not be considered time worked for purposes of overtime, benefit contributions or other incidents of "time worked." In all such instances the Employer shall be notified not less than two (2) weeks in advance of such absence and the number of employees requesting such absences shall be so limited by the Union that it will not interfere unreasonably with the Employer's business.

The Employer agrees to schedule any employee who is an officer, or a representative of the Union, in any capacity of the Union, hours of work that will permit him to attend the meetings of the Union, provided that it does not exceed one (1) employee per store or two (2) meetings per year. The Employer further agrees that these representatives will not suffer any loss in their normal scheduled hours in the week that they attend said Union meetings. It being understood that in doing so, the Employer shall not be placed in a position of violating the contract or having to pay any penalty for improper scheduling. The Union agrees that it will give the Employer seven (7) days advance notice of the date and time of the meeting referred to above. This provision shall also apply to new members who are required to attend meetings for the purpose of completing their obligations as members of the Union.

Should an employee be notified, by a representative of management, that he will be subject to an investigative interview, by the Company, the employee shall be given an opportunity to speak briefly with the Store Representative, if the Store Representative is on duty. The Store Representative shall be given the opportunity of a brief, private meeting, with the employee to be interviewed, so that he may be informed of his right to request a Union Representative to be present during the interview.

- 5.10 **UNION EMBLEM:** The Union agrees to issue Union Store Cards or window decals to the Employer under the rules governing Union Store Cards set forth by the U.F.C.W. Such Union Store Cards and decals are, and shall remain the property of said U.F.C.W. and the Employer agrees to surrender said Union Store Cards or decals to an authorized representative of the Union on demand in the event of failure by the Employer to observe the terms of this Agreement or the conditions under which said Union Store Cards or decals are issued.

The Employer shall display such Union Store Cards or decals in conspicuous areas accessible to the public, in each establishment covered by this Agreement.

- 5.11 **JOB INJURY:** When an employee is injured on the job and reports for medical care and it is certified that he is unable to continue work, he shall be paid the basic straight-time rate of pay for the hours not worked on the day of injury.

- 5.12 **PAYROLL DATA:** In the event the Union has information that the Employer has violated provisions of this Agreement relating to rates of pay or the payment of health and welfare, pension and sick leave contributions, the Employer agrees to supply the Union with the necessary payroll data.

- 5.13 **JURY DUTY or COURT APPEARANCES:** Employees required to perform jury duty or to appear in Court or the Police Department on behalf of their Employer, shall receive their regular straight-time pay during such jury duty or such appearances, less jury pay or witness fees received.

It is understood that time spent in awaiting impaneling for jury service is to be considered covered time under this provision.

- 5.13.1 **(FOOD) Employees regularly scheduled for night work shall be**

rescheduled to a day shift for the period of jury duty service.

Employees shall immediately report for work after being excused from jury duty service, provided there is sufficient time remaining on the daily work schedule to work at least half of the daily shift. Failure to so report shall render null and void any claim for jury service for that day.

- 5.13.2 (MEAT) In the event an Employee is released from jury duty at any time prior to 12:00 noon, he or she shall return to work and shall be allowed a reasonable time to eat lunch and to return to the market; provided, however, a combination of the total hours spent on jury duty and working shall not exceed nine (9) hours, including time to return to the market and lunch period.

(MEAT) Notwithstanding the scheduling provisions contained in this Agreement, the scheduled days off of an Employee called for jury duty may be changed so the Employee reports on his or her day off.

- 5.13.3 The rescheduled work shift, when combined with time spent for jury service or court appearances, is not to exceed a total of eight (8) hours when in reasonable control of the Employer. Otherwise the overtime rate of time and one-half (1 1/2) shall apply for all time in excess of the combined total of eight (8) hours. The employee shall supply the Employer with verification of time spent and fees paid for jury duty services.

If an employee appears in Court or the Police Department on behalf of the Employer on his days off, he shall receive his basic straight-time rate of pay for the time spent in making such appearance; but such time shall not be considered as part of the workweek under the terms of this Agreement.

- 5.14 LEAVES OF ABSENCE: Leaves of absence shall be granted as follows:

- 5.14.1 SICKNESS AND NON-INDUSTRIAL INJURIES: Up to twelve (12) months after one year's employment.

- 5.14.2 INDUSTRIAL INJURIES: Up to twelve (12) months for any employee incurring an industrial injury after his first sixty (60) days of employment and who has less than three (3) years seniority at the time said leave of absence commences.

Up to eighteen (18) months, for any employee who has three (3) or more year's seniority at the time said leave of absence commences.

5.14.3 **PERSONAL LEAVES:** Leaves up to thirty (30) days after one (1) year of employment for compelling personal reasons to be agreed upon by the parties, such leaves shall be requested and granted in writing.

5.14.4 At the end of any period of such leave of absence for illness or injury, an employee shall be restored to employment with the company with full seniority to a position comparable to the one he held immediately prior to such leave of absence.

5.14.5 The parties agree to comply with the Family Medical Leave Act (FMLA), and the Americans with Disabilities Act (ADA), and the equivalent State Acts and regulations.

5.15 **FUNERAL LEAVES:**

5.15.1 **PART-TIME FUNERAL LEAVE: (FOOD)** Part-time employees shall be entitled to funeral leave pay for the actual day of the funeral if scheduled to work on said day.

5.15.2 **FULL-TIME FUNERAL LEAVE: (FOOD)** When a regular full-time employee on the active payroll is absent from work for the purpose of arranging for or attending the funeral of a member of his immediate family as defined below, the Employer shall pay him for eight (8) hours at his regular rate of pay for each day of such absence up to a maximum of three (3) days, provided;

1. The employee notified the Employer of the purpose of his absence on the first day of such absence;
2. The day of absence is one of the three days commencing with the day of such death or the day immediately following the day of such death;
3. The absence occurs on the day during which the employee would have worked but for the absence;
4. The day of absence is not later than the day of such funeral except where substantial travel time is required;
5. The employee, when requested, furnishes proof satisfactory to the Employer of the death, his relationship to the deceased, the date of the funeral, and the Employee's actual attendance at

such funeral.

For the purpose of subsection 5.15.1 and 5.15.2, a member of the immediate family means the Employee's spouse, child, mother, father, sister, brother, mother-in-law, father-in-law, grandparents, grandchildren, stepmother, stepfather and stepchildren.

**5.15.3 FUNERAL LEAVE: (MEAT)** When a Regular Employee on the active payroll is absent from work for the purpose of arranging for or attending the funeral of a member of his or her immediate family, as defined below, the Employer shall pay him for eight (8) hours at his or her regular rate of pay for each day of such absence up to a maximum of three (3) days, provided:

1. The Employee notified the Employer of the purpose of his or her absence on the first (1st) day of such absence;
2. The absence occurs on the day during which the Employee would have worked but for the absence;
3. The day of absence is not later than the day of such funeral except where substantial travel time is required;
4. The Employee, when requested, furnishes proof satisfactory to the Employer of the death, his or her relationship to the deceased, the date of the funeral, and the Employee's actual attendance at such funeral.

For the purposes of Section 5.15.3, a member of the immediate family means the Employee's spouse, child, mother, father, sister, brother, step-mother, step-father, step-children, mother-in-law, father-in-law, grandparents and grandchildren.

A thirty (30) day leave of absence without pay shall be allowed where necessary in order to care for necessary details resulting from the death of a member of his or her immediate family as herein above defined; provided, further, that all leaves of absence granted in this Agreement shall be considered as part of the continuous service with the Employer.

**5.16 RETURNED CHECKS:** Where the Employer has a posted or published check-cashing policy, the employees shall conduct themselves accordingly, and when an employee follows such policy, he shall not be

held financially responsible for returned checks, other than his own personal check, nor shall he be expected or required to locate the check-cashing customer.

**5.17 DUES CHECKOFF:**

1. The Employer agrees to deduct uniform monthly dues, initiation fees, and assessments as determined by the Local Union on a regular basis, from the wages of employees in the bargaining unit who provide the Employer with a voluntary written authorization for such deductions. Such deductions, when authorized, will be transmitted to the office of the Local Union no later than the 15th day of the month following the month in which deductions are made. No deduction will be made from the wages of any employee until the Employer has received a signed copy of voluntary written authorization for such deductions.
2. Authorizations for deductions are to be entirely voluntary upon the part of each such individual employee. Authorizations shall be irrevocable for a period of one (1) year or until the termination of this Agreement, whichever occurs sooner. The authorization shall be automatically renewed or be irrevocable for successive periods of one (1) year each or for the period of each succeeding applicable Bargaining Agreement, whichever shall be shorter, unless written notice is given by the employee to the Employer and the Local Union not more than twenty (20) days and not less than ten (10) days prior to the expiration of each period of one (1) year or of each applicable Collective Bargaining Agreement.
3. The Union shall indemnify and hold the Employer harmless from any and all actions resulting from the implementation of this provision. However, mistakes by the Employer shall be immediately corrected by the Employer upon notification from the Union.

**5.18 POLITICAL CHECKOFF**

1. The Employer agrees to deduct political contributions monthly as determined by the Employer on a regular basis, from the wages of employees in the bargaining unit who provide the Employer with a voluntary written authorization for such deductions. Such deductions, when authorized, will be transmitted to the office of

the Local Union no later than the 15th day of the month following the month in which deductions are made. No deduction will be made from the wages of any employee until the Employer has received a signed copy of voluntary written authorization for such deductions.

2. Authorizations for deductions are to be entirely voluntary upon the part of each such individual employee, unless written notice is given by the employee to the Employer and the Local Union not more than twenty (20) days and not less than ten (10) days prior to the expiration of the Collective Bargaining Agreement.
3. The Union shall indemnify and hold the Employer harmless from any and all actions resulting from the implementation of this provision. However, mistakes by the Employer shall be immediately corrected by the Employer upon notification from the Union.

## **SECTION 6. HOURS, OVERTIME AND SUNDAY PREMIUM PAY**

**PREAMBLE:** In the event the application of Federal Wage and Hour Law as applied to retailing conflicts with the intent of this Agreement, the Parties shall meet immediately to re-negotiate this Agreement in order to preserve intended workweek and the rates.

The industry recognizes the five (5) day, forty (40) hour week provisions except for layoffs and individual cutbacks due to lack of work, acts of God or circumstances beyond the control of the Employer. This section, however, does not impede the right of the Employer to use part-time help as needed.

- 6.1 BASIC WORK DAY AND WEEK:** Forty (40) hours, consisting of five (5) days of eight (8) hours each in a calendar week, Sunday through Saturday, shall constitute a week's work as provided in this entire section. Employees, other than those scheduled to work six (6) days in a week, shall receive two (2) days off, not necessarily consecutive, in each calendar week. A day's work shall consist of eight (8) hours within nine (9) consecutive hours with one (1) full-uninterrupted hour off for a meal. A one-half (1/2) hour lunch period for a crew, a shift of employees or an individual employee may be implemented by mutual Agreement of the Employer and the employee(s).

- 6.1.1 (MEAT) Within nine (9) consecutive hours, regular employees shall be**

guaranteed payment for eight (8) hours for each day and for forty (40) hours for each week subject to the addition of all premium and overtime provisions unless, at the time they are told to report to work, they are advised that they are being hired or brought to work on a predetermined, short workweek of less than five (5) days, or unless such work ceases to be available by reason of an Act of God or other reason beyond the control of the Employer.

A workweek consisting of four (4) ten (10) hour days may be implemented by mutual agreement of the parties.

**(MEAT)** Paid absences from work, such as vacations, Holidays and sick leave, shall be considered as time worked for the purpose of this Agreement, but shall not be deemed as time worked for purposes of computing overtime, unless otherwise provided in this Agreement.

**HOLIDAY WORK WEEK:** For all full-time employees, thirty-two (32) hours, consisting of four (4), eight (8) hour days, exclusive of the holiday shall constitute a week's work in any week in which a holiday falls. Even if scheduled to work thirty-two (32) hours during the week of a holiday, part-time employee's holiday pay shall be prorated in accordance with Section 10.1.6.

Work shall not be performed without pay prior to the beginning of the scheduled working day. It is understood that the checking of produce or shelf prices shall be considered as time worked. Work may be performed at the end of the working day in completing service to a customer, which commenced prior to the end of the working day.

**6.2 OVERTIME AND PREMIUM WAGE RATES:** The overtime and premium wage rates of pay shall be as follows:

**TIME AND ONE-THIRD**

Work performed on Sunday shall be paid at a rate of one and one-third (1.33x) times the straight time hourly rate. Courtesy clerks hired after April 19, 2005 are not entitled to Sunday premium.

**TIME-AND-ONE-HALF THE STRAIGHT-TIME HOURLY RATE:**

1. Work in excess of eight (8) hours per day.
2. Work in excess of forty (40) hours per week.

3. Work on the sixth (6th) day worked in a calendar week.
4. Work on the fifth (5th) and sixth (6th) day worked in a week containing one of the holidays named in this agreement not including the holiday worked.
5. Work performed after the fifth (5th) consecutive day worked without reference to the calendar week by a normal five-day employee until consecutive days are broken by a day off except when the schedule of an employee who has had or who is to have two (2) consecutive days off is changed in accordance with this agreement.
6. Work performed after the sixth (6th) consecutive day worked without reference to the calendar week by a normal six-day employee until consecutive days are broken by a day off, except when the schedule is being changed in accordance with this agreement.
7. Work performed by a full-time employee called in to work on a scheduled day off and given shorter notice than required by the agreement, but if such an employee works six (6) days during that calendar week, work performed on the scheduled day off shall be paid for at the employee's straight-time rate for that day and that on the sixth (6th) day worked shall be paid for at the overtime rate.

**NOTE: (MEAT)** A meat department employee shall not be given a substitute day off unless he or she requests another day off in lieu of the day off which he or she worked.

8. Work performed within ten (10) hours from the time the last shift ended.
9. Work performed where a meal period is not afforded in conformity with Section 7.5.

**DOUBLE THE STRAIGHT-TIME HOURLY RATE:**

1. Work in excess of eight (8) hours on the sixth (6th) day worked in a calendar week.

2. Work performed on Sunday, which is a day in excess of five (5) consecutive days by a scheduled five-day employee except when the schedule of said employee who has had or is to have two (2) consecutive days off is changed in accordance with this agreement.
3. Work performed on the seventh (7th) day in a calendar week.
4. Work performed on a holiday in this Agreement (in addition to holiday pay if entitled) regardless of which day of the week the holiday falls, for employees hired prior to or on April 19, 2005. For employees hired after April 19, 2005, work performed on the holiday (in addition to holiday pay if entitled) will be paid at their straight-time hourly rate and an additional one (\$1) per hour premium.
5. Work performed after five (5) hours on a Sunday until a meal period is taken.
6. Work performed on a Sunday until ten (10) hours between shifts has elapsed.

**DOUBLE TIME AND ONE-QUARTER THE STRAIGHT-TIME HOURLY RATE:**

1. Work in excess of eight (8) hours on a Sunday.

**DOUBLE TIME AND ONE-HALF THE STRAIGHT-TIME HOURLY RATE:**

1. Work performed by a full-time employee on Sunday when Sunday was a scheduled day off and the employee was given shorter notice than that required by the agreement but if such an employee works six (6) days during that calendar week, work performed on that Sunday shall be paid at the rate of time-and-one third (1 1/3) the straight-time hourly rate and that on the sixth (6th) day worked, shall be paid for at the applicable overtime rate.
2. Work performed on Sunday, which is in excess of six (6) consecutive days by a six-day employee.
3. Work performed after five (5) hours until a meal period is taken on a holiday.

4. Work performed on a holiday until ten (10) hours between shifts has elapsed.
5. (MEAT) Work performed by Meat Employees on a Sunday in excess of eight (8) hours.
6. (MEAT) Work performed by Meat Employees on a holiday in excess of eight (8) hours.

**TRIPLE THE STRAIGHT-TIME HOURLY RATE:**

1. Work in excess of eight (8) hours on a holiday named in this Agreement.

**6.3 CONSECUTIVE DAYS:** It is understood that consecutive days worked are interrupted by a holiday or a scheduled day off; and shall be considered to be interrupted when an employee is required to work on a holiday or when by reason of a bona fide emergency, an employee is required to work on his scheduled day off for which he has received the required premium pay for such work.

**6.4 SCHEDULED WORK:** Whenever an employee's schedule is not changed in accordance with the provisions of this agreement and he is worked outside such schedule, then the hours so worked shall be paid for in accordance with the overtime provisions of this Agreement.

**6.5 NO COMPOUNDING OR PYRAMIDING:** There shall be no pyramiding of overtime and/or premiums and only the highest applicable rate shall apply.

**SECTION 7. WORK SCHEDULES AND PREMIUM RATES**

**7.1 POSTING OF WORK SCHEDULES:** The Employer agrees to post a weekly schedule, in ink, of working hours; specifying the starting and finishing times, meal periods and days off, and this schedule shall continue in effect until a new one is posted. The schedule shall contain the employee's full name. A twenty-four (24) hour notice of any change in such schedule, other than meal period, shall be given by the Employer, except that in the case of a change in a day off, at least five (5) days advance notice shall be posted except in case of a bona fide emergency.

**POSTING NOTICE:** Work schedules must be posted by 3 p.m. on Thursday of the week preceding the week in which such schedules are to

be effective. If assignment of employees to schedules is inconsistent with the terms of Section 4.5, employees will have until 6 p.m. on Thursday (or three (3) hours after the schedule is posted) to bring such inconsistency to the store manager's attention and seek assignment in accordance with Section 4.5. When a senior grocery employee obtains such a different schedule, then the displaced junior employee shall be assigned the senior employee's previously assigned schedule for the following week. If the schedule is not posted timely due to circumstances beyond the control of the person responsible for posting it, the untimely posting shall not be the basis of any monetary claims.

**7.2 SHIFT INTERVAL:** Except in bona fide emergencies, the minimum time off between shifts shall be ten (10) hours and employees called to work sooner than ten (10) hours from the end of their last work period shall be paid time and one-half (1 1/2) the employee's straight time rate for all work performed up to the time said ten (10) hour period between shifts shall have elapsed.

**7.3 SCHEDULED TO WORK A HOLIDAY:** Any employee, normally scheduled to work five (5) days, who is temporarily re-scheduled to work on a holiday shall be permitted to work his normal number of working days that week.

**7.4 HOLIDAY EVE:** No employee shall be required to work after 7:00 p.m. on Christmas Eve except those employees necessary to service the customers in the store at 7:00 p.m. and to properly close and secure the store. This shall not apply to employees in the Liquor Department where the Liquor Department may be isolated from the Grocery Department.

On New Year's Eve, the store shall be staffed with volunteers between 7:00 p.m. and 12 midnight. If insufficient employees volunteer, assignment shall be by inverse seniority. The employer will post a sign-up sheet for volunteers, in a conspicuous location at least two weeks in advance of New Years Eve or Christmas Eve.

**7.4.1 (MEAT)** No Meat employee shall be required to work after 7:00 p.m. on Christmas Eve and New Year's Eve.

**7.5 MEAL PERIOD:** Each employee shall be released from work for his meal period within five (5) hours, but no sooner than three (3) hours of the time of his reporting to work. Any employee who is given a meal period prior to three (3) hours into his shift or works in excess of five (5) hours without a meal period shall receive time and one-half (1 1/2) for hours worked

between the meal period and the completion of the third (3rd) hour or time and one-half (1 1/2) for hours worked in excess of five (5) hours until a meal period is given.

- 7.5.1 (MEAT) During one (1) lunch hour in any workday in a market employing one (1) or more Meat Cutters in work covered by this Agreement, Monday through Saturday, there must be one (1) such Employee covered by this Agreement in attendance at all times during which fresh meat is being sold. In such markets where the Meat Cutter is alone, the Employer may also close the market (fresh meat section), or operate for one unattended lunch hour in a day, or require the Meat cutter to work through the lunch hour, in which event the Meat Cutter shall be paid at the applicable overtime rate for the lunch hour and shall be permitted to eat his or her lunch on the job.

In the event a Meat Cutter shall work his or her lunch hour as provided and completes the workday, he or she shall be paid his or her regular straight-time rate of pay for the ninth (9th) hour.

- 7.5.2 In accordance with state law, the Employer may schedule up to a six (6) hour shift without a meal period. If said scheduled shift is greater than five (5) hours, the overtime rate shall not apply and shall include two unscheduled ten minute breaks. **This Section applies to part-time Meat Sales Clerks and Meat Clean-up as well as to the Grocery Departments.**

- 7.6 **BREAKS:** No employee shall be denied the right to necessary or required relief. All employees shall be allowed an unscheduled ten (10) minute break in the first half of their shift prior to the meal period, and an unscheduled ten (10) minute break in the last half of their scheduled shift prior to quitting time.

- 7.7 **DAILY GUARANTEE:** Any full time employee (one who is normally scheduled to work forty (40) hours or more per week) who is ordered to report for work shall be guaranteed not less than eight (8) hours' work. Any part-time employees except students and courtesy clerks who are ordered to report for work shall be guaranteed not less than four (4) hours' work. All Customer Service Specialists hired or promoted after May 2, 1983, when so reporting shall receive no less than four (4) hours work for that day. Bona fide students, who, by reason of attending scheduled classes, may not work four (4) hours, may be individually exempted from this provision by written agreement of the Employer, the Union and the employee involved.

7.8 **NIGHT PREMIUM: (FOOD)** All employees, except Courtesy Clerks, shall receive extra compensation in addition to the regular scale set forth of sixty-five cents (\$.65) per hour for all work performed between the hours of 10 p.m. and 6 a.m.

7.8.1 **NIGHT PREMIUM: (MEAT)** Any Meat Cutter or Apprentice who may be required to work any part of his or her workday prior to 8:00 a.m. or after 6:00 p.m. shall be paid Two Dollars (\$2.00) in addition to his or her regular rate of pay. In Local 5, the hours are 9:00 a.m. to 6:00 p.m.

Meat Clerks shall receive a premium of fifty cents (50¢) per hour to a maximum of Two Dollars (\$2.00) per shift for each hour in which any work is performed before 9:00 a.m. and after 6:00 p.m.

7.9 **PREMIUM DAY:** Employees working any hours on a Sunday or a holiday shall be paid the premium pay as provided for in this Agreement for the hours worked between 12:01 a.m. and 12:00 Midnight on that day.

7.10 **SEPARATE EMPLOYERS:** Any employee who works for another Employer in the retail food or liquor industry, on his day or days off shall be paid therefore at straight-time, overtime, or premium rates calculated as though he had worked that week for a single Employer. It is understood that if the employee is properly shown on the schedule, the overtime rates shall not be in effect until after the Union notifies the Employer that the employee in question is an employee of another Employer in the industry.

7.11 **EMPLOYEES ON LAST SHIFT:** Employees on duty at the recognized hour of closing may be required to wait on all customers and perform other duties necessary to closing. Such employees shall be scheduled so that their shift ends at least fifteen (15) minutes after the recognized hour of closing.

## SECTION 8. WAGES

8.1 Appendix A and B set forth the minimum rates of pay, effective dates and other provisions and are incorporated herein as if set forth in full.

## SECTION 9. CLASSIFICATIONS OF EMPLOYEES

**NOTE:** The Meat department classifications are found in Appendix B.

9.1 For the purpose of this Agreement, the classification of employees is hereby defined as follows:

9.1.1 **MANAGING CLERKS:** Every store shall have a managing clerk unless the Employer, or a Supervisor within the meaning of the National Labor Relations Act, as amended, is actively engaged on the premises performing the work of the managing clerk. A managing clerk is an employee who has charge of and general supervision over not more than one store.

In the event the Employer or Supervisor is absent from the store for one or more eight (8) hour days in a week a clerk shall receive the wage scale of a managing clerk for said work.

9.1.2 **SENIOR HEAD CLERK, SENIOR PRODUCE CLERK AND HEAD CLERK(S):** These are non-supervisory employees who in addition to their duties of Clerk in the course and scope of their employment, perform one or more of the following duties:

9.1.2.1 **SENIOR HEAD CLERK:** This classification shall apply only to the Senior Head Clerk who acts as Assistant to the Managing Clerk or Owner and is commonly known as the "second man" in the store.

9.1.2.2 **SENIOR PRODUCE CLERK:** This classification shall apply to an employee who goes to the wholesale produce market to buy produce, or who is in charge of the produce section or department.

9.1.2.3 **LEVEL 3 CUSTOMER SERVICE SPECIALISTS (L3CSS)**

9.1.2.3.1 A L3CSS is engaged the major part of his time in the receiving department of the Employer's establishment, and is in charge of and responsible for the receiving of merchandise.

9.1.2.3.2 Has the authority and responsibility of buying or selecting merchandise for a department, section or area, or directs other employees in the performance of their duties in such department, section or area.

9.1.2.3.3 **NIGHT STOCKING:** In night stocking crews, a L2CSS shall be designated and paid as a L3CSS to direct the work of the crew.

9.1.2.3.4 In every store having three or more full-time employees, where one or more of the employees perform the duties of a L3CSS, as a regular part of their employment, the Employer shall designate at least one of said

employees to act as a L3CSS; provided, however, that the Employer may combine and rearrange the duties performed by his employees in order to minimize the number of L3CSS required.

**9.1.2.3.5 ADDITIONAL DUTIES:** In the event that the Employer desires to assign additional non-supervisory duties and responsibilities to one of his employees over and above the normal duties and responsibilities of L3CSS, then in such event the additional compensation to be paid such an employee shall be agreed upon between the Employer and the Union.

**9.1.2.3.6** When an employee qualifies for or is held responsible for Senior Head Clerk or L3CSS's duties, he shall receive the Senior Head Clerk or L3CSS's pay for the entire shift.

**9.1.2.3.7** It is understood that the mere occasional or incidental performance of any of the L3CSS's duties shall not be considered as the basis for classifying any employee as L3CSS.

**9.1.3 EXPERIENCED LEVEL 1 CUSTOMER SERVICE SPECIALIST:** An Experienced Level 1 Customer Service Specialist is an employee who has worked two (2) years and six (6) months under this classification.

**EXPERIENCED LEVEL 2 CUSTOMER SERVICE SPECIALIST:** An Experienced Level 2 Customer Service Specialist is an employee who has been fully trained in all departments of this agreement.

**PREVIOUS EXPERIENCE:** If an Experienced food clerk has been out of the industry between five (5) and ten (10) years, he will be allowed to start at the 4<sup>th</sup> step rate of pay in the Level 1 Customer Service Specialist classification.

If an Experienced food clerk has been out of the industry ten (10) or more years, he will be allowed to start at the 2<sup>nd</sup> step rate of pay in the Level 1 Customer Service Specialist classification.

**9.1.3.1 PRIOR EXPERIENCE:** An employee who fails to accurately list, on an employment application, his approximate number of prior hours of experience in the Retail Food Industry and, as a result, is improperly classified by the Employer shall not be entitled to a retroactive wage adjustment if it is subsequently determined that a classification adjustment is warranted.

Notwithstanding the above, no such retroactive wage claim shall exceed

ninety-one (91) days.

#### 9.1.4 COURTESY CLERKS:

9.1.4.1 DUTIES: A Courtesy Clerk is an employee who may perform only the following duties:

1. Bag or box the merchandise after it has been checked out and take it to the customer's vehicle.
2. Clean the check stands and the area around the non-selling foyer or vestibule area between the front of the check stands and the entrances and general cleaning throughout the sales floor area of the store, the dock, the break room and the restrooms.
3. Maintain the upkeep of the parking lot and areas around the perimeter of the store including landscaping. Collect and line up push carts and return them to the store from the parking lot.
4. Check prices; clean up spills; put away "go-backs"; collection, removal and disposal of cardboard throughout the store and obtain product from the selling area when requested by customers being checked out.
5. Replenish bags from the back room for the check stands.
6. Post and remove display signs and decorations and put up shelf talkers. No more than one (1) Courtesy Clerk will be scheduled at any one time to place display signs on the sales floor area of the store, except that more than one (1) Courtesy Clerk may post and remove decorations.
7. The Employer agrees to specifically instruct each Courtesy Clerk upon his employment, in writing, that under no circumstances shall he be allowed to work more than one (1) hour after the closing of the store to the public or one (1) hour before the opening of the store or to receive, stock, display, check, mark, or perform any duties except those set forth above.
8. A courtesy clerk may remove and return product from the shelf to the same location in order to clean shelving. The parties agree that they will meet and discuss any additional proposed courtesy clerk duties. In the event the parties are unable to agree that

these duties are appropriate for courtesy clerks, the issue will be subject to resolution under Section 18 of this agreement.

- 9.1.4.2 Courtesy Clerks shall be subject to all the provisions of this Agreement except that instead of the minimum work guarantee set forth in this Agreement, when scheduled or called in to work they shall be provided with at least two (2) hours' work on week days and four (4) hours' on Saturdays, Sundays or on Holidays as set forth in this Agreement.
- 9.1.4.3 **GUARANTEE:** Each Courtesy Clerk shall be offered at least sixteen (16) hours work in each week. In the event said Courtesy Clerk cannot be scheduled to work or cannot work sixteen (16) hours in the week, he shall not work at all during that particular week.
- 9.1.4.4 The employment or continuation of employment of a Courtesy Clerk shall not cause the replacement of an existing regular full-time or part-time L2CSS, or L1CSS, nor shall it cause a reduction in the number of hours of work of such Customer Service Specialists.
- 9.1.4.5 **BADGES:** Courtesy Clerks shall wear badges on their person designating them as a Courtesy Clerk at all times during working hours, and their failure to wear such badge while working shall be considered a violation of these provisions. The Union will submit to the Employer and the employee involved a written warning and in the event of a second violation with the same Employer by the same employee, the Employer agrees to suspend said employee for six (6) calendar months following written notice from the Union to the employee and the Employer involved. If the Employer does not furnish the badges, the Union may furnish them.
- 9.1.4.6 **VIOLATIONS:** The Employer agrees that Courtesy Clerks shall not perform duties other than those listed in the Collective Bargaining Agreement. In the event of a violation of this section, the Union shall notify the Employer in writing of such violation and it shall be corrected.

In the event any of the same persons are involved in a second violation within one (1) year from the first infraction, the person performing the work, unless directed to do so by a person in charge, shall be suspended for one (1) week and the person who directed that the work be performed shall also be suspended for one (1) week or the sum of \$500 shall be paid into the Retail Clerks and Food Employers Pension Fund.

In the event of a third violation within one (1) year from the first

infraction by any of the same persons, the person performing the work, unless directed to do so by a person in charge and the person directing that the work be performed will be suspended for one (1) month or the sum of \$1,500 will be paid into the Retail Clerks and Food Employers Pension Fund.

**9.2 TWO CLASSIFICATIONS:** Unless otherwise provided the Employer may require any employee to do work within the duties of any classification, in which event such employee shall be classified and paid for the entire shift under that classification which pays the highest wage. Except that where any employee of a higher classification is relieved for a meal period, or the mere occasional or incidental performance of the duties of a higher classification shall not be construed as entitling the employee to the pay of the higher classification.

**9.3 STEP UP RULES:** The following rules are applicable at stores where Managing Clerks, Senior Head Clerks, Senior Produce Clerks, Head Clerks are employed.

**9.3.1 MANAGING CLERKS, SENIOR HEAD CLERKS AND L3CSS**

**9.3.1.1** When the Managing Clerk is absent for one shift (8 within 9 hours) or more and the store is open beyond the hours during which the Senior Head Clerk (acting as Managing Clerk) is present, another regular employee on duty during such hours shall be paid at the Senior Head Clerk's rate for his entire shift, except that where there is a regularly employed L3CSS (40 hours per week) in the store during such hours, he may continue to be paid at his regular L3CSS's rate.

**9.3.1.2** On the Senior Head Clerk's day or days off, another regular employee on duty during said days shall receive the Senior Head Clerk's rate for each such shift worked, except that where there is a regularly employed L3CSS (40 hours per week) on duty in the store during said days he may continue to be paid at his regular L3CSS's rate.

**9.3.1.3** On any day when the store is open beyond the regular shifts (8 within 9 hours) of both the Managing Clerk and the Senior Head Clerk, another regular employee on duty during such hours shall receive the Senior Head Clerk's rate for his entire shift, except that where there is a regularly employed L3CSS (40 hours per week) in the store during such hours he may continue to be paid at his regular L3CSS's rate.

**9.3.1.4** When the Senior Head Clerk is absent for any period because of illness,

vacation or other reasons, another regular employee or a L3CSS, as the case may be, shall be paid at the Senior Head Clerk's rate for all such time worked during the said absence of the Senior Head Clerk.

### 9.3.2 SENIOR PRODUCE CLERKS (L3CSS)

9.3.2.1 On the Senior Produce Clerk's day or days off, another regular employee shall be paid at the Senior Produce Clerk's rate for all hours worked in the absence of the Senior Produce Clerk, except that if the Senior Produce Clerk has Sunday as a day off, no other employee on duty on Sunday need be paid at the Senior Produce Clerk's rate unless he performs the Senior Produce Clerk's duties on said day.

9.3.2.2 When the Senior Produce Clerk is absent for any period because of illness, vacation or other reasons, another regular employee shall be paid at the Senior Produce Clerk's rate for all such time worked during the said absence of the Senior Produce Clerk.

9.3.2.3 It is understood by the parties that "small stores" should be exempt from the application of these rules. It should be noted that we have been unsuccessful in an effort to define a "small store." However, through agreement with various Local Unions or otherwise, certain Employers in this category have not been following the step-up rules and they shall continue to be exempt. Certain other Employers in this category have been following the step-up rules and they shall continue to adhere to the rules. In the event that the Union protests failure to adhere to these rules by companies who have not been following them, there should be a joint committee established to determine whether or not the Employer falls in the "small store" category. Likewise, for any Employer who has been following the rules, he may protest the application of those rules to his operation and this same joint committee shall endeavor to determine whether his operation falls in the "small store" category. In the event a company who has not been following the rules is determined to be ineligible for the "small store" exemption, application of the rules shall be prospective only.

9.3.2.4 **STEP-UP RULES:** From time to time during the course of business, it may be necessary to schedule a L1CSS to perform a L2CSS job duty. Example: a L1CSS is schedule to work on the stock crew actually stocking a grocery load verses restocking of a grocery item to fill a customer need. In the event a step-up provision shall be allowed as follows:

1. The step-up rate shall be the amount of that category rate if

fully completed in the L2CSS Training plus an additional ten cents (0.10¢) per hour. Example: per category increase is one dollar and twenty-five (\$1.25) plus an additional ten cents (0.10¢) per hour for a total step-up rate of one dollar and thirty-five (\$1.35).

2. Current Journeyman Food Clerks (L2CSS) are exempt from this provision.

Step-up Rules shall apply to shifts that need to be staffed after the posting of the current week's schedule due to illness or other circumstance. The Employer agrees to make every effort to staff Step-up shifts using the most available senior clerks first.

**9.4 DEMONSTRATORS:** All work connected with or incidental to the demonstration of merchandise offered for sale in the Employer's retail store (except merchandise referred to in Section 1.2 hereof as being excluded from this Agreement) shall be covered by this Agreement, and all such work shall be performed only by members of the appropriate unit as defined in Section 1.1 hereof. It is understood that the handling of coupons is not demonstrators work. No Demonstrator may perform such work in the Employer's retail store unless said Demonstrator is on the payroll of the Employer, and unless the Employer at all times holds and exercises full control of the terms and conditions of employment of any such Demonstrators while such work is being performed in the Employer's retail store. Demonstrators shall be covered by all the terms of this Agreement. However, the Employer is not required to make contributions to the Health-and-Welfare Trust Fund on behalf of Demonstrators. Demonstrators shall receive the same increases over the life of Agreement as applies to L1CSS.

**9.5 TRAVEL ALLOWANCE:** An employee who is hired to work on a full-time basis in one store who is temporarily assigned to relief work in another store shall be entitled to reimbursement for the following travel expenses:

1. Mileage for the extra travel resulting from such assignment (or established bus or taxi fare if so designated by the Employer) according to the amount provided for under the Internal Revenue Service Regulations (currently 28 cents). Increase in the amount provided for under Internal Revenue Service Regulations shall be effective the date such increase is to be effective under the Internal Revenue Service Regulations or the week following

notification to the Employer by the Union whichever is later.

2. Reasonable allowance for board and lodging when required to stay away from home overnight; and
3. Necessary out-of-pocket expenses such as bridge tolls and parking fees.

The above provisions shall not apply to an employee who is hired for or regularly assigned to relief work or to work in different stores on different days of the week.

**9.6 TRANSPORTATION:** Any employee, who is required by the Employer to perform his or her regular duties in more than one store in any day, shall be reimbursed for necessary out-of-pocket and mileage expenses, as provided for above. No such transfer shall be made in a manner to interfere with the lunch hour of the employee so transferred, and all time consumed in travel from one store to another shall constitute a part of the regular day's work of the employee.

**9.7 TRANSFER OR REMOVAL OF WORK:** No work now being performed by employees in the unit covered by the collective bargaining agreement shall be transferred or removed from the unit without consultation and negotiation with the Union and unless the transfer or removal of such work is required for the purpose of promoting improved operating techniques, technological changes, automation or other factors connected with more efficient operations, as distinguished from reasons connected with securing the performance of such work at lower rates of pay or under less favorable employment conditions.

**9.7.1** Where as a result of such consultation and negotiations it is determined that the transfer or removal of any work is justified upon the considerations set forth above, the parties shall seek to determine the extent of the work transferred or removed and the number of jobs or hours of work to be lost by the Union members affected. Based upon such findings the following remedies shall be applied:

**9.7.1.1** Any employee losing hours of employment by reason of such transfer or removal of work shall either be compensated at his regular rate of pay for such hours, or he shall be given other comparable employment by the Employer in the area covered by this Agreement at compensation equal to that received by him prior to the work transfer. If the comparable employment is within the bargaining unit then he shall retain his seniority

and other benefits under the contract.

- 9.7.1.2 The Employer shall attempt to provide any employee losing his job as a result of any such transfer or removal of work with other comparable employment in the area covered by this Agreement without loss of pay, status, seniority, or other benefits. Any employee not receiving such other employment shall receive one (1) week's severance pay for each year of service with the Employer, provided that if an employee receives such comparable employment outside the bargaining unit and does not remain in such employment for at least thirty (30) days he shall receive the full severance pay provided for herein.
- 9.7.2 Any employees who lose work or employment as a result of the failure of the Employer to observe the requirement provided for herein for consultation and negotiation concerning transfers or removals shall be entitled to full pay at their regular rate of pay for all such loss of work or employment.
- 9.8 Notwithstanding the above, it is agreed that should the Employer intend to institute electronic check-out systems which would have direct, material impact on employment covered by this Agreement, the Employer shall give the affected Union or Unions at least sixty (60) days' written, advance notice by certified or registered mail setting forth the nature of such intended changes and/or methods of operations.
- 9.8.1 Upon written request by the Union, negotiations shall commence with respect to the following subjects: rates of pay for new jobs which might be created; transfer to comparable work, within or outside the bargaining unit or the disposition of displaced employees resulting from the institution of such new methods.
- 9.8.2 In the event the parties do not reach agreement within such period, then all unresolved issues as set forth above, shall be submitted to final and binding arbitration. It is not the intent of the parties that such negotiations or arbitrations will in any way jeopardize the efficiencies and increased productivity to be gained by the installation of such systems. The arbitrator shall be selected in accordance with the provisions of Section 18.
- 9.8.3 The parties further agree that the arbitrator's decision shall be final and binding, and that there will be no strikes, work stoppages, lockout, or economic action of any sort or form employed by either party in connection with or arising out of any dispute concerning or related in any

way to the operation of this Section.

- 9.8.4 It is agreed and expected that the parties will exert every effort to accomplish the foregoing within the sixty (60) day allotted period, but failing to do so, shall not prohibit or in any way impede the Employer from installing or effectuating any such new methods, systems, or equipment upon the expiration of the allotted sixty (60) day time period, unless such period is extended by mutual written agreement. The decision of the arbitrator or the parties shall be effective on or retroactive to the date such new methods are installed. The cost of the impartial arbitrator shall be borne equally by the parties.

## SECTION 10. HOLIDAYS

- 10.1 The following days shall be recognized as paid holidays: Employee's Birthday, New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, Christmas Day, employee's anniversary date of employment and a floating holiday. The anniversary date of employment holiday and the floating holiday shall be enjoyed by regular employees in accordance with the observance procedures governing the Employee's birthday holiday. Upon entitlement the floating holiday shall be taken by mutual agreement of the Employer and the employee.

For employees hired prior to April 19, 2005: Entitlement to the birthday holiday shall commence with the employee's first birthday following completion of six (6) months of employment with the Company. The employee shall not be entitled to the floating holiday until after the completion of six (6) months of employment.

Employees hired on or after April 19, 2005 shall be entitled to the birthday holiday after one (1) year of employment, and a floating holiday and anniversary holiday after the completion of three (3) years of employment. All earned personal holidays (i.e. birthday, anniversary, and floating holidays) not taken within a calendar year will be paid at termination or at the end of each calendar year, whichever occurs first.

It is understood that the day of observance for Memorial Day shall be the date established by federal statute.

- 10.1.1 **NO REQUIRED WORK:** No employee shall be required to work on Christmas Day.

**VIOLATIONS:** In the event any Employer violates this provision by requiring anyone to work in the store on Christmas Day that has not volunteered, the Union will be allowed to place pickets at that store as soon as possible and allow them to continue their activities for a maximum of three (3) days following each violation.

**10.1.2 WORK:** In the event that employees shall be obligated to work on any of the open holidays, they shall be paid at the rate of double their straight- time rate of pay in addition to the normal holiday pay.

Employees hired after April 19<sup>th</sup>, 2005 (in addition to holiday pay if entitled) will be paid at their straight-time hourly rate and an additional one (\$1) per hour premium.

If the Employer elects to open on New Year's Day, Labor Day, or Thanksgiving Day, the store shall be staffed first with volunteers. If an insufficient number of employees volunteer, assignment shall be by inverse seniority.

**10.1.3 (MEAT)** Extra Meat Employees shall receive extra pay for all work. Extra workers who work a holiday week and are paid for a holiday not worked shall not receive the extra pay for that day only.

In the event the Employer elects to be open on any of the holidays mentioned in this agreement, the meat departments shall be staffed with the appropriate bargaining unit employee.

When the grocery departments of the retail store is contractually required to be closed on any of the above mentioned holidays, the meat department shall be closed.

**EMPLOYEE'S BIRTHDAY, ANNIVERSARY DATE AND FLOATING HOLIDAY:** Employees shall receive pay for said holiday as if worked. Each employee shall give his Employer notice of his birthday at least two (2) weeks prior to the week in which the birthday occurs.

Such birthday holiday shall be enjoyed by the employee on the actual day of his birthday or on another day mutually agreeable to the employee and the Employer.

If an employee's birthday falls on a day which is otherwise considered as a holiday, he shall receive an additional day off for the birthday in

addition to the holiday on which it falls.

**10.1.4 PROBATIONARY EMPLOYEES:** Probationary employees are not entitled to any paid holidays.

**10.1.5 SUNDAY:** Whenever any of the holidays mentioned in this Agreement fall on Sunday, they shall be observed on the following Monday, except that any Christmas or New Year's Day or July 4<sup>th</sup>, that falls on a Sunday will be observed on the Sunday.

**10.1.6 PART-TIME EMPLOYEES:** Holiday pay for employees who work less than forty (40) hours shall be based on twenty percent (20%) of the employee's average hours worked per week in the six (6) weeks immediately preceding the holiday or the number of weeks worked if less than six (6), except that in computing pay for the New Year's holiday the same period of time used in computing pay for the Christmas holiday shall be used.

**10.2 HOLIDAY WEEK:** Any employee who has reported for work on his scheduled working day immediately preceding and his scheduled working day immediately following a recognized holiday, except when permission to be absent has been granted by the Employer or when the absence is due to a bona fide illness of the employee, shall receive holiday pay at his regular rate of pay. It is understood that in order to qualify for holiday pay an employee must work at least one (1) workday during the week in which the holiday falls.

**(MEAT)** In the Meat Department, Extra Employees working the four (4) days in the week of a holiday shall be paid for the holiday. The extra rate of pay shall only be paid for the four (4) days worked.

**10.3 OTHER HOLIDAY OBSERVANCE:** Where the Employer closes his store to the public on any day of special religious significance, or on any legal holiday other than those listed above, it is understood that he shall reschedule his regular full-time employees to work their normal number of working hours that week.

**10.4 GOOD FRIDAY:** Employees desiring time off on Good Friday to attend bona fide religious services shall request such time off at least two (2) weeks in advance. All such requests for time off shall be granted, provided that a sufficient number of qualified employees are still available to properly staff the store as determined by the Employer. If

due to an excessive number of requests for time off it becomes necessary to require employees to work on Good Friday, such assignments shall be made by inverse seniority from among those employees requesting the time off who possess the qualifications necessary to perform the required work. An employee taking such time off will receive straight-time pay for scheduled working time during this period and shall not be required or permitted to make up such time off.

- 10.5 Employees with at least 25 years of continuous service with the Employer will receive two (2) additional holidays. The one holiday will be earned June 1 and the second will be earned on October 1 of each year.

Employees who receive four or more weeks of vacation shall have the option to schedule up to five vacation days in single day increments subject to the employer's scheduling needs. Employees desiring to schedule a single day vacation must give the Employer two (2) weeks advance notice.

PW encourages and guarantees that employees will get at least four (4) "three days off in a row" subject to scheduling needs of the Employer, for those employees who wish to use floating holidays or single day vacation increments in combination with regular days off.

## SECTION 11. VACATIONS

- 11.1 All employees who work four (4) hours or more per week who have been in the service of the Employer for one (1) year, twelve (12) consecutive months, shall be granted a minimum of two (2) weeks' vacation annually with pay. Such employees who have been in the service of the Employer for five (5) years or more shall receive three (3) weeks' vacation annually with pay. Such employees who have been in the service of the Employer for fifteen (15) years or more shall receive four (4) weeks' vacation annually with pay. Such employees who have been in the service of the Employer for twenty (20) years or more shall receive five (5) weeks' vacation annually with pay.

- 11.1.1 New employees hired after April 19, 2005 will receive one (1) week after one (1) year of employment; and two (2) weeks after 3 years of employment. Such employees who have been in the service of the Employer for five (5) years or more shall receive three (3) weeks' vacation annually with pay. Such employees who have been in the service of the Employer for fifteen (15) years or more shall receive four (4) weeks'

vacation annually with pay. Such employees who have been in the service of the Employer for twenty (20) years or more shall receive five (5) weeks' vacation annually with pay.

11.1.2 Employees hired after February 13, 2008 with over ten (10) years of industrial time will receive three (3) weeks of vacation after twelve (12) months of employment, four (4) weeks after five (5) years of employment with the Employer and five (5) weeks after ten (10) years with the Employer.

11.2 **ACCUMULATION:** Vacations may not be waived, nor may extra pay be received by any employee for work performed for the Employer during the employee's vacation period. Vacations may not be cumulative from year to year.

11.3 **CONTINUITY:** All loss from employment because of reasonable absence from work through sickness or other emergencies, or temporary layoff, not exceeding thirty (30) calendar days, shall be considered as time worked for the purpose of determining the length of employment.

11.4 **PAY AND SPECIAL PROVISIONS:** For the purpose of computing or prorating vacation earnings, two percent (2%) of the employee's earnings for the previous year equals one (1) week's vacation pay; four percent (4%) of the employee's earnings for the previous year equal two (2) weeks' vacation pay; six percent (6%) of the employee's earnings for the previous year equal three (3) weeks' vacation pay; eight percent (8%) of the employee's earnings for the previous year equal four (4) weeks' vacation pay and ten percent (10%) of the employee's earnings for the previous year equal five (5) weeks' vacation pay.

**NOTE:** Vacation pay shall be computed on the employee's W-2 form earnings for the prior calendar year, except the first year of employment it shall be computed on total earnings during the first anniversary year of employment and, when an employee terminates, it shall be computed on his earnings from the employee's anniversary date of employment to his termination date.

11.4.1 **(MEAT)** All regular part-time Employees who have worked at least six (6) months within any twelve (12) month period shall be credited with Industry Service credit and shall be entitled to a prorate of the 1-2-3-4 or 5 weeks' vacation in accordance with the terms and provisions as follows:

Employees will accumulate a full year of Industry Service if during their anniversary year they work for their Employer a minimum of one hundred eighty (180) days (1440 straight-time hours). Less than a full year of service may be earned as follows:

<u>Straight-Time Hours</u>	<u>Credited Service</u>
0-119	0
120-239	1/12
240-359	2/12
360-479	3/12
480-599	4/12
600-719	5/12
720-839	6/12
840-959	7/12
960-1079	8/12
1080-1199	9/12
1200-1319	10/12
1320-1439	11/12
1440-year	12/12

11.4.2 Where an Employee is entitled to three (3) or more weeks of vacation, the Employee and Employer may, if they mutually agree, provide that two (2) weeks may be taken at one time and the balance taken at one other time during the year, or, that two (2) weeks may be taken at one time together with payment in lieu of the balance thereof. The Employer shall be required to pay the Employee his or her vacation pay prior to the Employee taking his or her vacation and no Employee may be required or allowed to take vacations other than within the year in which they are due except that early vacations may be taken if mutual agreement as to the time and date of said early vacation is reached between the Employer and the Employee. All earned and unused vacation shall be paid out on the anniversary date of employment the year it is earned.

11.4.3 Whenever a holiday falls during a vacation period of an Employee, he or she shall have the option to be paid his or her holiday pay without an extra day off or to take an extra day off at another time agreeable to him or her and his or her Employer.

11.4.4 The Employer shall post or make available a schedule of available vacation dates by January 1 and the employees shall indicate their preference of dates, if any, by February 1. The principles of seniority shall be observed in the selection of vacation periods except that the employee may not, after February 1, exercise the right of greater seniority to change the vacation selection of an employee having lower seniority. The Employer shall reserve the right to designate the number of employees that may be on vacation at any time, but in no event less than one employee in any one week except as set forth herein. Notwithstanding the foregoing, the Employer may block out five (5) weeks each year with no more than one (1) week blocked out in any month. The employer will post a copy of the final approved vacation dates.

11.4.5 Employees will be credited vacation service for time lost as a result of "on-the-job injuries", not to exceed 6/12 (720 hours) of a year's vacation credit.

Employees absent due to bona fide illness, other than industrial, may be credited with vacation service for time lost, not to exceed a maximum of 1/12 (120 hours) of a year's vacation.

11.4.6 Vacation pay shall be allocable to the periods of time in which such vacation was earned.

Extra Meat Employees are not entitled to vacation accumulation or credit for any purpose.

The selection of vacation shall be on a market basis except:

1. The vacation of an Employee shall not be changed if it was scheduled prior to his or her transfer from one market to another.
2. If an Employee does not have a scheduled vacation at the time of such transfer, the scheduling of his or her vacation shall be based solely upon his or her seniority status in the market to which he or she is transferred.

11.4.7 The Employers are agreeable to work with the trust fund in developing a system for reporting hours regarding accumulated sick leave and accumulated vacation for terminated employees.

## 11.5 MISCELLANEOUS PROVISIONS

**VACATION PAY:** Parties agree that they will take the appropriate steps to wind down and terminate the Vacation Fund and that the Employers will continue to recognize and pay all industry-earned vacation benefits directly to employees as previously provided for in the Vacation Trust Fund after benefits from the Vacation Fund have been exhausted.

The parties agree that vacation pay shall be paid as the vacation is taken. Furthermore, all earned and unused vacation shall be paid out on the anniversary date of employment following the year it is earned.

All employees taking scheduled vacation shall receive their vacation pay allowance on the pay check immediately preceding the employee's scheduled vacation. This change will take place when administratively feasible by the Company.

11.6 **NEW EMPLOYER:** Vacation seniority, defined as the length of an employee's service, which determines the length of vacation to which he is entitled, and shall not be affected by the sale or transfer of the store in which he works. Employees who continue in employment with a new Employer acquiring a store shall have their service prior to the time of acquisition credited by the new Employer.

The new Employer shall be obligated to make vacation payments after the acquisition in accordance with the employee's service with the new Employer.

The former Employer shall pay each of his employees earned vacation time prorated to the time of the sale or transfer of the business.

11.7 **SCHEDULE:** The Employer agrees to post the available vacation dates for each classification by January 1st of each year. If an employee fails to exercise his vacation selection right by February 1st, or has lost his prior selection by reason of less seniority, the employee may select from the remaining available periods. The selection of vacation periods must be completed by March 1st of each year. If an employee fails to select his or her vacation by March 1st, that employee's vacation period will be assigned by the Employer. The Employer will post a copy of the final approved vacation dates.

11.8 **SELECTION:** The selection of vacations shall be on a store basis by

seniority except:

1. The vacation of an employee shall not be changed if it was scheduled prior to his transfer from one store to another;
2. If an employee does not have a scheduled vacation at the time of such transfer, the scheduling of his vacation shall be based solely upon his seniority status in the store to which he is transferred.

**11.9 PERIOD:** Vacation periods shall be granted between March 1 and November 1 of each year, or at other times if mutually agreeable to the Employer and employees affected, but in all cases at least ten (10) days notice of the date of vacation shall be given each employee. When a holiday falls during an employee's paid vacation, such employee shall receive an additional day's vacation with full pay.

If the employee is scheduled to take his time off prior to his anniversary date, then in that event a pro rata payment shall be made at that time and the additional amount will be paid at the time of his anniversary date.

**11.10 PRO RATA:** Any employee, who is discharged, laid off or who resigns after one (1) year or more of employment shall receive vacation wages prorated on the basis for the period worked at the time of said interruption or termination of employment.

**11.11 CONTINUOUS:** All vacations shall be taken in one continuous period. All employees entitled to a vacation shall receive their vacation pay allowance in advance immediately preceding the employee's vacation. Employees, at their option, shall be entitled to an additional week's vacation without pay; in all such cases, however, the employee shall give the Employer at least ten (10) days' notice prior to leaving for the vacation.

**11.12 VARIATION:** Notwithstanding the above provisions employees entitled to three (3), four (4) or five (5) week vacations shall be allowed to take them in one or two periods such as: two two-week periods; two-week and one-week periods; three-week and one-week periods; three-week and two-week periods; four-week and one-week periods; provided such vacation schedule shall be approved by the Employer, the employee involved and the Union.

## SECTION 12. HEALTH, WELFARE, AND SICK LEAVE

**12.1 EMPLOYER ACCEPTANCE:** The Employer agrees to accept and be bound fully by the terms of that certain Declaration of Trust dated April 17, 1974, as amended, providing for the Northern California Food Employers and Retail Clerks Unions Benefit Fund as the same may be applicable to the Welfare Plan therein provided for, and any amendments thereto. The Employer hereby acknowledges receipt of a copy of said Declaration of Trust.

The trustees are directed to merge the UFCW Northern California Health and Welfare Trust Fund and the UFCW Bay Area Health and Welfare Trust Fund. The merged fund shall be called the UFCW Benefits Trust Fund ("Fund"). The Employer and the Union agree that the merger shall occur by January 1, 2008, or as soon thereafter as is practicable in the exercise of due speed and diligence. As part of the merged plan, the Employer and the Union agree to equalize benefits as described in Schedule 2, hereto attached.

**12.2 EMPLOYER CONTRIBUTIONS:** The contribution rate is five dollars and fifty-two cents (\$5.52) for Northern California and five dollars and forty-two cents (\$5.42) for the Bay Area for all classifications effective through hours worked in November 2007 and payable in December 2007. Effective with hours worked in December 2007, and payable in January 2008, the Employer agrees to contribute five dollars and twenty-five cents (\$5.25) for all classifications through hours worked in November 2008, and payable in December 2008. Effective with hours worked in December 2008, and payable in January 2009, the Employer agrees to contribute five dollars and ninety cents (\$5.90) for all classifications through hours worked in November 2009, and payable in December 2009. Effective with hours worked in December 2009, and payable in January 2010, the Employer agrees to contribute six dollars and fifteen cents (\$6.15) for all classifications through hours worked in November 2010. Effective with hours worked in December 2010 and payable in January 2011, the Employer agrees to contribute six dollars and twenty cents (\$6.20) until the expiration of this Agreement. Notwithstanding the foregoing, the Employer will not be required to make any contributions for Fuel Station employees during the first twelve (12) months from their date of hire.

Such contributions shall be made on all straight-time hours worked, including Sundays, and/or hours compensated, such as vacations and

holidays. Contributions shall be made on or before the 20<sup>th</sup> of the month for covered hours worked during the previous month. It is understood that the contributions required on behalf of any employee shall not exceed forty (40) straight-time hours per week or two thousand eight (2,080) straight-time hours in any calendar year.

- 12.3 PROMPT PAYMENT:** The parties recognize and acknowledge that the regular and prompt payment of Employer contributions to the Fund is essential to the maintenance of the Health & Welfare Plan, and inasmuch as beneficiaries under the Plan are entitled to benefits for the period of time that they may have worked while covered by the plan even though contribution have not been paid on their behalf by their Employer, that it would be extremely difficult, if not impractical to fix the actual expense and damage to the Fund and to the Plan which would result from the failure of an individual Employer to pay such monthly contributions in full within the time provided; therefore, the amount of damage to the Fund and Health and Welfare Plan resulting from any such failure shall be presumed to be the sum of Twenty Dollars (\$20.00) per delinquency, or 10% of the amount of the contribution or contributions due, whichever is the greater, not to exceed the sum of One Hundred Dollars (\$100.00) per delinquency, which amount shall become due and payable to the Fund as liquidated damages and not as a penalty, upon the day immediately following the date upon which the contributions become delinquent, and shall be in addition to said delinquent contribution or contributions.

Notwithstanding the above, interest on unpaid contributions will accrue at the rate of 10% per annum, commencing with the first day of the month following the month in which the contribution is due. In addition, if legal action is pursued to collect delinquent contributions, the statutory provisions in ERISA will apply and liquidated damages shall be assessed in an amount equal to the greater of 20% of the unpaid contributions at the time the legal action is commenced or interest at the above rate on the unpaid contributions from the due date through the date the contributions are paid. The Trustees shall have the authority to adopt and to amend from time to time written Delinquency Collection Procedures which shall specify the interest, liquidated damages and other amounts to be assessed on any delinquency, and the procedures for collecting same and such Procedures shall be binding on the employer.

- 12.4 HEALTH PLAN BENEFITS:** The Trustees are authorized and directed to modify benefits, for both active employees and retirees, in the manner set forth in the Letter of Understanding and otherwise consistent with this

Agreement. The Trustees shall implement and maintain over time a schedule of benefits and plan design, including a prudent operating reserve that can be supported by the applicable hourly contribution rate. These changes shall be made by the Trustees to be effective January 1, 2008, or soon thereafter as may be adopted and implemented by the UFCW Benefit Trust Fund.

Effective for all employees hired after April 19, 2005, the Trustees shall establish a new Plan C. Plan C shall include the following attributes: The initial eligibility rule will be modified to require four (4) months of qualifying hours, of which the first two months must be met consecutively. Coverage will begin the first day of the second month following the fourth (4th) month of qualifying hours.

Employees and any eligible dependent will graduate from Plan C to Plan B effective the month following the twenty-fifth (25<sup>th</sup>) month from the date of hire, regardless of hours worked in those months, as long as the employee does not have a break in eligibility of six (6) months or more. Courtesy Clerks hired after February 13, 2008, are eligible for employee only coverage and are not eligible to graduate to Plans A or B. If a Courtesy Clerk is promoted, previous work under the Fund as a Courtesy Clerk will count towards months needed to graduate into higher plan levels and obtain coverage for dependents.

There shall be no HMO medical plan option under Plan C and B, unless the trustees agree to an acceptable plan design.

Effective for all employees who are not participants in Plan A as of February 13, 2008, the period of required participation in Plan B (before becoming eligible for Plan A coverage) shall be increased. An employee and any eligible dependents will graduate from Plan B to Plan A effective the month following the seventy-second (72<sup>nd</sup>) month from date of hire, regardless of hours worked in those months, as long as the employee does not have a break in eligibility of six (6) months or more.

The Plan's current monthly straight-time work hours requirements for each classification of employment, as they relate to eligibility, shall continue to apply.

Any employer that desires to cover all of its employees under plan A shall pay an employer contribution rate for those additional employees sufficient to cover the projected cost of that plan as determined by the co-consultants during the term of this Agreement.

**12.4.1 HEALTH AND CARE MANAGEMENT PROGRAMS:** Within the funding of the plan, the Trustees will implement Integrated Health and Care Management Programs with the goal of both improving participant health and decreasing health-care costs and cost trends over time. The cost of the Health and Care Management Programs will be no more than the projected savings over a reasonable period of time. The programs shall be designed to progress over the term of the Agreement to “best-in-class” levels with respect to the key characteristics listed below:

- Quality education campaign for all participants
- Superior participant communications, including robust web tools
- Superior participant information tools
- Analytic measuring participation, compliance, and results
- Very strong comprehensiveness of programs
- High levels of integration
- Strong physician behavior-change mechanisms
- Significant levels of medical and drug trend reduction

It is understood that the Plan’s consultants will continue to evaluate the effectiveness of including these scheduled drug categories on Plan costs and based on their recommendations the Trustees may remove drugs from this list and/or add other categories of drugs consistent with the objective of increasing compliance with prescribed drug therapies which will lower plan costs and trend.

**12.5 INDUSTRY JOINT COMMITTEE:** A committee consisting of Union Representatives and Employer Representatives shall be formed to recommend methods to provide benefits more efficiently and economically to the Plan participants and to discuss matters of mutual concern affecting the parties' contract and the retail food industry.

**12.6 LEGISLATION:** In the event of legislation providing health and welfare or sick leave benefits which are also provided for under this Agreement, Trustees are directed to amend the plan document immediately, deleting duplicated benefits. If by reason of the elimination of duplicated benefits there is a savings to the Employer and the Fund, after the cost thereof is set off against the cost required of the Employer to finance said benefits, the Trustees shall meet no later than thirty (30) days from the effective date of the legislation to determine how said savings shall be used by the Fund. If the Trustees fail to reach an agreement they shall proceed, under the Trust Agreement, to decide such deadlock within seventy-five

(75) days of the effective date of the legislation. Any cost reductions to the Employer and the Fund attributable to a cost required of the employee under the legislation will be passed on to the employee through other health and welfare changes. In the event Medicare becomes secondary in the application of the retiree benefit plan the Trustees will take immediate and remedial action to protect the financial integrity of the Plan.

**12.7 COST CONTAINMENT:** The Trustees are authorized and directed to study and expand cost containment programs where appropriate, for both the active and retiree plans.

**12.8 RETIREE BENEFITS:** The Collective Bargaining parties recognize that Retiree Health and Welfare Benefits are not vested benefits. Pursuant to this Agreement, a contributing Employer's sole and only obligation is to contribute, during the term of this Agreement, the specific contributions required under this Agreement. Despite the adoption of a Plan of Benefits that may currently be available to Plan participants, the Employer's liability for any and all health and welfare benefits, including Retiree Health and Welfare Benefits, shall be limited to the contribution specified in this Section, and for the period of this Agreement. The parties authorize and direct the Trustees of the Health and Welfare Plan to take the necessary action to assure compliance with the terms of this paragraph.

The Trustees are authorized and directed to require that retirees contribute \$70 per month per retiree toward the cost of retiree health care benefits. This provision shall not impact the retirees' cost for the self-pay retiree plan. Any retiree who does not make the required monthly premium shall lose coverage under the Plan in accordance with such rules and regulations adopted by the Trustees.

The retiree eligibility will be modified to require that a participant is eligible for retiree health and welfare if they meet the following:

1. 15 years of credited service in the Bay Fund, or
2. A combined 15 years of service with either the Bay Fund or Valley Fund, provided a majority of service (i.e. more than 7.5 years) was in the Bay Fund.

The Trustees will establish a Retirement Health and Welfare Committee to

be effective January 2008 in accordance with the Retirement Health and Welfare Committee Side Letter to this Agreement.

**12.9 BUSINESS EXPENSE:** It is understood that the provision for a Health and Welfare, Dental, Vision Care, Drug and Sick Leave Plan(s) is being entered into and continued upon the condition that all payments shall be deductible in the year in which the contribution is made as a business expense under the Internal Revenue Code as it presently exists or as it may be amended subsequent to the date of this Agreement and under any similar state revenue or tax laws.

**12.10 EXTENDED COVERAGE:** The eligibility rules shall provide that if an employee's employment is terminated, eligibility shall cease at the end of the month following the month in which the employee's employment is terminated and no self payment shall be allowed thereafter. The eligibility and self-pay rules shall not apply (and current rules shall apply) in the following cases:

1. The employee is on disability or Workers' Compensation leave of absence or establishes a disability or Workers' Compensation claim with an effective date prior to the expiration of the one (1) month eligibility extension.
2. The employee is re-employed or reinstated by a contribution employer prior to the one (1) month eligibility extension.
3. The employee is laid off.

**12.11 ACTIVE DENTAL PLAN:** The Trustees are authorized and directed to modify the dental plan, in addition to those changes set forth in the attached Benefit Summary for Plans A, B and C as follows:

1. Replace Delta Dental with the "UFCW Dental Plan" model that includes the retention of dental consultants to manage and review dental claims, or
2. Implement a dental PPO program (Delta Dental or any other qualified provider).

This change will become effective by July 1, 2005, or as soon as possible thereafter. The purpose of this program is to achieve administrative cost efficiencies beyond the plan design changes outlined in the Benefit

Summary.

- 12.12 TRANSFER OF PARTICIPANTS:** Effective March 1, 2005, all participants in the UFCW Northern California and Employers Health and Welfare Trust Fund (herein "Valley Fund") who are members of UFCW Local Unions 101 and 839 shall become participants of the UFCW Bay Area Health and Welfare Trust Fund (herein "Bay Fund"). These participants shall participate in the Bay Fund on the same basis as other participants, and Employers shall contribute to the Bay Fund on their behalf as provided herein. The Trustees of the Bay Fund and Valley Fund are authorized and directed to effectuate this transfer in a manner consistent with the terms of this Agreement.

The Trustees of both the Bay Fund and the Valley Fund are instructed to develop a plan and strategy to accomplish this transfer in a manner that is both fair and equitable to both plans and to the participants including if determined appropriate a transfer of assets and liabilities attributable to the transferred participants.

The transition of eligibility shall be handled in a manner that is seamless such that all transferred participants from the Valley Fund shall be eligible to participate in the Bay Fund in the same manner as though no transfer had occurred. No transferred participant shall lose eligibility they would have otherwise been entitled to receive in the absence of this transfer. Likewise, no participant will gain eligibility that they would not have otherwise if no transfer had occurred.

- 12.13 SECTION 125 FLEXIBLE SPENDING ACCOUNTS:** The Trustees are authorized and directed to establish a study committee to review the legality, feasibility and desirability (including the administrative difficulties, expense and level of expected Employer participation) of setting up and maintaining an employee funded Section 125 Flexible Spending Accounts ("FSA"). If an FSA is determined to be legal, feasible and desirable in this context, the trustees are further authorized and directed to establish such an arrangement and offer it to Employees covered by this Agreement; provided that the FSA shall not be offered to Employees of any Employer who is unwilling or unable to permit Employee participation in the FSA.

**MODIFICATIONS TO LOCAL 101'S NORTH COAST FOOD STORE CONTRACT AND LOCAL 839'S FOOD AGREEMENTS:** Section 12 of Local 101's North Coast Food Store Contract and Local 839's Food Agreements shall be

amended to provide for contributions being made to the UFCW Bay Area Health and Welfare Trust Fund, effective with March 2005 contributions based on February 2005 hours worked.

12.15 **MODIFICATION TO THE TRUST AGREEMENT:**  
**Indemnification; Limitation on Liability.**

1. Neither the Trustees collectively nor any individual Trustee shall be liable personally to anyone for any action taken or omitted by any one or more of them, or by their agents or other representatives, in connection with the administration of the Trust Fund; provided, however, that nothing herein shall exempt the Trustees from liability arising out of their individual or collective acts done or suffered in violation of the duties and responsibilities imposed on Trustees by Title I, Part 4 of the Employee Retirement Income Security Act of 1974 ("ERISA").
2. The Trust Fund shall to the maximum extent permitted by law exonerate, reimburse, indemnify and hold harmless the Trustees, individually and collectively, against all claims, actions, suits, costs, damages, expenses, losses and liabilities arising from their acts or omissions as Trustees.
3. The Trustees shall have the power to and may in their discretion pay legal fees and other expenses of litigation incurred by any Trustee or Trustees in defending a civil or criminal action, suit or proceeding against him or them in advance of the final disposition of such action, suit or proceeding, and as such fees and expenses are incurred, on approval by the Trustees in each specific case if the Trustees determine that such Trustee or Trustees acted in good faith within what he or she reasonably believed to be the scope of his or her duties or authority, and upon receipt of an undertaking by or on behalf of the Trustee, to repay all amounts so advanced, unless it shall ultimately be determined that he or she is entitled to be indemnified by the Trust Fund as authorized in this Section 15.
4. If any of the foregoing provisions should be held by a court of competent jurisdiction to go beyond what is legally permissible, the provision at issue shall be enforced and applied to the maximum extent legally permissible, and the remaining provisions shall be given full effect insofar as the law permits, it being the

intention of the Trustees that any invalid provisions be severable from the others.

**12.16**

**SICK LEAVE BENEFITS:** All employees who have been employed for a contributing employer and at a minimum are participating in the Plan B Welfare program shall be entitled to sick leave with pay. Sick leave for a full-time employee shall accrue at the rate of six hours per month, thereafter not to exceed a maximum of three hundred and sixty (360) hours. Part-time employees will accumulate sick leave credits on a pro rata basis. Plan C participants are entitled to accrue sick leave hours only. These hours may not be used until an employee is eligible for Plan B welfare coverage.

**SICK LEAVE HOUR ACCRUAL:**

1. Employees in Plan A and B accrue sick leave monthly as follows:

Hours Worked	Hours Credited To Sick Leave Bank
Less than 64 hours	0
64 but less than 120 hours	3
120 hours or more	6

Effective January 1, 2008, Plan C participants shall be able to utilize hours accumulated in their Sick Leave banks:

Employees in Plan C accrue sick leave monthly as follows:

Hours Worked	Hours Credited To Sick Leave Bank
Less than 64 hours	0
64 but less than 120 hours	2
120 hours or more	4

2. New employees will be eligible to use sick leave once they are eligible for health & welfare benefits.

#### **SICK LEAVE PAYOUT:**

1. **Eligibility:** In order to be eligible for a sick leave payout, an employee must have the maximum of three hundred and sixty (360) hours accumulated sick leave as of December 31.
2. **Amount of Pay-Out:** Each employee who is eligible for a sick leave pay-out in accordance with paragraph (1) shall receive Four Hundred Dollars (\$400) less Ten Dollars (\$10) for each hour of sick leave used during that calendar year.

Payments shall be made as soon after the end of the calendar year as administratively feasible.

**12.17 MEAT EMPLOYEES SICK LEAVE TRANSITION:** Effective January 1, 2008 Employer-paid sick leave banks will be frozen at their current levels. Meat Department employees will begin accumulating sick leave benefits through the UFCW Benefits Trust Fund as described in 12.9 above.

During the transition, the employee will continue to draw from his or her sick leave bank through the Employer, as necessary, until the bank with the Employer is exhausted, at which time the Fund will be notified that the employee no longer has any sick leave time remaining.

The Employer agrees to payout, beginning January 1, 2008 and each January thereafter, to each Meat Department employee up to eight (8) days per year, minus any sick leave day(s) taken, from the sick leave bank at the rate of ½ of the sick leave in cash, until the entire sick leave bank has been exhausted.

A meat department employee who retires during the sick leave transition shall be eligible for the remaining banked sick leave at a half (1/2) cash pay out through the employer.

While Meat employees transition into Trust Funded sick leave, the following section shall remain in effect:

An Employee who is collecting unemployment compensation disability

benefits or worker's compensation temporary disability benefits, or both, shall not receive sick and accident benefits as provided herein; provided, however, if such unemployment compensation disability benefits or worker's compensation temporary disability benefits or both, are less than the amount of the sick and accident benefits provided herein for such period, such Employee shall receive sick and accident benefits in addition to such unemployment compensation disability benefits or worker's compensation temporary disability benefits, or both, in an amount sufficient to equal the amount of sick and accident benefits he or she would have otherwise received as provided herein.

If an employee is sick beyond the period of time for which he or she is entitled to sick leave benefits under this Agreement, then the Employer shall continue to pay him or her the amounts of sick leave benefits heretofore withheld because of such State or private carrier or self-insured plan payments.

All sickness and accident benefit payments due under this Agreement of this section above in excess of five (5) days shall accrue and be payable when the employee returns to work, is released by the doctor or when such State or private carrier or self-insured plan payments cease.

A day's sick and accident benefit shall mean a day's pay at the rate in effect at the time the employee qualified to receive the sick and accident benefit, and may actually be spread over more than one (1) day to integrate with other payments contemplated in this section of this Agreement.

The Employer shall reserve the right to request the employee to produce a medical doctor's certificate verifying the fact of such illness.

The sick and accident benefits shall be due and payable only as above provided and shall not be converted to cash when not used.

An employee who is injured on the job and does not complete that day's work and is not permitted to return to work by a licensed medical doctor shall receive pay for the entire workday and such pay shall not be charged against sick and accident leave.

The Sick Leave Fund heretofore created is continued, however, the

Trustees are directed to modify it so that only "mobility" or Industry Service will be funded. Effective July 1, 1980, the burden for making sick leave payments to the Employees shall be the responsibility of the Employers.

The Employer will pay all sick leave directly to the employee to the extent that he has accumulation. If he exhausts all sick leave with his current Employer, yet has some additional days in the Fund as a result of Industry Service, the Employer will issue same and be reimbursed by the Fund upon submission.

Effective November 1, 1980, upon retirement from the UFCW Northern California Employers Joint Pension Trust Fund, the Employer will make a one-half (½) cash pay-out of all unused sick leave to the employee as severance pay. Only sick leave accumulated with Employer at retirement shall be eligible for the one-half (½) cash pay-off.

Sick leave would be payable only following the first (1st) scheduled full day's absence from work and otherwise in accordance with the Collective Bargaining Agreement. If an employee is hospital confined or off due to an on-the-job injury, on the first (1st) full scheduled day away from work, then sick leave will be payable with the first (1st) scheduled day.

## **SECTION 13. PENSION**

**13.1 EMPLOYER ACCEPTANCE:** The Employer agrees to accept and be bound fully by the terms of that certain Declaration of Trust dated April 1, 1957, providing for the UFCW - Northern California Employers Joint Pension Trust Fund as the same may be applicable to the Pension Plan therein provided for, and any amendments thereto. Employer hereby acknowledges receipt of a copy of said Declaration of Trust.

**13.2 EMPLOYER CONTRIBUTIONS:** Effective with hours worked January 2008, the Employer agrees to contribute to the Trust Fund for the term of the Agreement the following composite rate of one dollar and seventy-two cents (\$1.72) per straight-time hour on all employees.

There shall be no contributions to Fuel Station employees

The seven (7) month deferral of contributions for accounting and actuarial purposes, first implemented for the Trust Fund's 1999 fiscal

year, continues to be in effect.

Such contributions shall be made on all straight-time hours worked by all employees covered by the Collective Bargaining Agreement, including Sundays, and/or all hours compensated, such as vacations and holidays. Contributions shall be made on or before the 20<sup>th</sup> of the month for covered hours worked during the preceding calendar month. It is understood that the contributions required on behalf of any employee shall not exceed forty (40) straight-time hours per week or two thousand and eighty (2,080) straight-time hours in any calendar year.

An employee shall receive both vesting and benefit accrual credit for all hours compensated (including those for which no contribution is due to the Trust) to a maximum of forty (40) hours per week and two thousand and eighty (2,080) hours per year. For employees who are hired on or after February 13, 2008 of this agreement their benefit accrual credits will not begin until they have met the eligibility requirements described below.

In the event that the contributing Employers are required to make any additional contributions above the negotiated contribution rates in order to avoid funding deficiencies, the contributing Employers will receive a dollar for dollar credit for additional contributions in any subsequent plan year where there is sufficient excess funding exceeding the minimum funding level required to offset the additional contribution provided this offset does not create a minimum funding deficiency the following plan year. In other words the employer payments in excess of the negotiated contributions will create future contribution suspensions that will be taken as soon as possible as long as the minimum funding concerns outlined above are met.

**13.3**        **TERMINAL VACATION PAY:** Upon retirement, no Trust Fund contributions will be required of the Employer on terminal vacation pay made to an employee at retirement. The employee's retirement benefits will not be delayed and he will receive credit for hours even though contributions are not required.

**13.4**        **PROMPT PAYMENT:** The parties recognize and acknowledge that the regular and prompt payment of Employer contributions to the Fund is essential to the maintenance of the Pension Plan, and inasmuch as beneficiaries under the Plan are entitled to pension benefits for the period of time that they may have worked while covered by the Plan even

though contributions have not been paid on their behalf by their Employer, that it would be extremely difficult, if not impractical to fix the actual expense and damage to the Fund and to the Pension Plan which would result from the failure of an individual Employer to pay such monthly contributions in full within the time above provided; therefore, the amount of damage to the Fund and Pension Plan resulting from any such failure shall be presumed to be the sum of Twenty Dollars (\$20.00) per delinquency, or ten percent (10%) of the amount of the contribution or contributions due, whichever is the greater, not to exceed the sum of One Hundred Dollars (\$100.00) per delinquency, which amount shall become due and payable to the Fund as liquidated damages and not as a penalty, upon the day immediately following the date upon which the contributions become delinquent, and shall be in addition to said delinquent contribution or contributions.

**13.5 BENEFITS:** The Trustees are authorized and directed to modify benefits accordance with the following provisions, and otherwise in accordance with the provisions of this Agreement:

Effective June 1, 2005, future benefit accrual rates will be:

1. For the first ten years of benefit credit the benefit accrual rate will be thirty-three dollars and sixty-eight cents (\$33.68)
2. For all years of benefit credit after the first ten years the benefit accrual rate will be forty-four dollars and ninety cents (\$44.90)

Other benefit accrual rates for lower contribution rates will be adjusted in a similar manner by the Trust Fund's Co-Consultants

The Trustees shall implement and maintain over time a pension plan design that can be supported by the contribution rates called for in this Agreement. The Trustees are further authorized and directed to make necessary amendments to avoid any funding deficiencies and otherwise in accordance with the provisions of any long term funding policy for the plan, that may be adopted by the Trustees.

The Trust Fund shall prepare and distribute an ERISA Section 204(h) notice, and any other required notices and filings, to Trust Fund participants in order to implement the above referenced changes by June 1, 2005.

The following additional changes will be implemented for those employees who are hired on or after April 19, 2005 (referred to as "New Hires"):

1. New Hires must be at least age 21 and have one year of service to meet the eligibility requirements for participation.
2. For New Hires, one year of service for eligibility purposes is defined to be at least 750 hours of service.
3. New Hires will be 100% vested after five years of service.
4. New Hires will not be eligible for the Rule of 85 retirement benefit.
5. New Hires normal retirement age will be age 65.
6. New Hires early retirement eligibility will be age 55 with 5 years of service.
7. New Hires who retire early (prior to age 65) will have their accrued benefits reduced on an actuarial equivalence basis.

In the event that (a) there has been a green zone certification in each year during the term of this Agreement and (b) the Plan co-actuaries determine in conjunction with the 2011 certification that green zone status can be achieved while also providing a pension benefit accrual increase retroactive to January 1, 2007, then the benefit accrual rate under the Plan shall be increased only in accordance with the following:

The maximum pension accrual increase that will be provided is 15.38% and will apply for accruals earned during the plan years beginning during the term of this Agreement (i.e. 2007, 2008, 2009, and 2010). In order to determine the level of a possible pension accrual increase, a two-stage process will be implemented.

First, a maximum of a 7.69% accrual increase will be provided if and when the co-actuaries certify that the plan is able to obtain a PPA green zone certification in 2011. The actual rate of accrual increase in this first step shall be set at a level, not to exceed 7.69%, that will ensure that the Plan's green zone status is maintained. Second, a maximum additional 7.69% pension accrual increase will be provided if, at the time of the 2011

certification, the co-actuaries project that the Funding Standard Account Credit Balance will remain positive through December 31, 2019. The actual rate of accrual rate increase in this second step shall be set at a level, not to exceed 7.69% that will ensure that the projected Credit Balance will remain positive through December 31, 2019. The Trustees are directed to adopt these possible accrual changes in 2011.

- 13.6 **APPLICATION FOR EXTENDED AMORTIZATION EXTENSIONS UNDER INTERNAL REVENUE CODE SECTION 412(e)** The Trustees shall cause the Trust Fund to apply for an amortization extension under Internal Revenue Code § 412(e). In the event that the application under Internal Revenue Code § 412(e) is approved by the reviewing Government agency, the Trustees will adopt the following long term funding policy. In addition, the Trust Fund shall follow the recent guidance on how to submit an application for amortization extensions under Internal Revenue Code § 412(e) including future changes that the Board of Trustees will have to consider (specifically future contribution increases as negotiated from time to time, future benefit reductions or some combination of the two).

UFCW - Northern California Employers Joint Pension Trust Fund  
Long Term Funding Policy

The co-consultants will produce with the annual actuarial valuations a seven-year actuarial projection with the goal of identifying future funding deficiencies (defined as where the negotiated contributions are not enough to satisfy the minimum required contributions under Internal Revenue Code Section 412). These annual projections will be based on the following:

1. Projections will take into account only negotiated contributions.
2. Using the assumptions and actuarial methods in the then current annual actuarial valuation as jointly agreed to by the Fund's co-consultants.
3. No unanticipated actuarial gains or losses during the projection time period.
4. If the annual projection indicates any future funding deficiencies during the seven-year projection, the Board of Trustees is authorized and directed to amend future benefit accruals (or any other non-protected benefits), effective immediately, in order to

eliminate the projected future funding deficiencies.

In the event that the contributing Employers are required to make any additional contributions above the negotiated contribution rates in order to avoid funding deficiencies, the contributing Employers will receive a dollar for dollar credit for additional contributions. When the Board of Trustees reduces benefits to eliminate the future funding deficiencies it shall take into account that these contribution credits will be taken as reductions in the negotiated contributions in the next plan year. In other words the employer payments in excess of the negotiated contributions will create future contribution suspensions that will be taken as soon as possible and the Co-Consultants will reflect this with the annual seven-year projections.

In the event that the application under Internal Revenue Code 412(e) is denied by the reviewing government agency, the Trustees shall not be required to adopt the above long term funding.

Any deadlocked Trustee motion relating to a reduction in benefits required under the long term funding policy shall be arbitrated on an expedited basis with the arbitration to take place no later than sixty (60) days following the Trust meeting in which the deadlock occurs.

- 13.7 **OTHER PLANS:** The Employer retains the exclusive right to alter, amend, cancel, or terminate any presently existing Company sponsored Pension Plan or Employee Retirement Plan which existed prior to the establishment of the negotiated Pension Fund, provided that the effective date of such alteration, amendment, cancellation, or termination shall not occur prior to the acceptance of this Plan.
- 13.8 **REGULATIONS:** The Trust and the benefits to be provided from the Pension Trust Fund referred to here and all acts pursuant to this Agreement and pursuant to such Trust Agreement and Pension Plan shall conform in all respects to the requirements of the Treasury Department, Internal Revenue Service, and to any other applicable state or federal laws and regulations.
- 13.9 **BUSINESS EXPENSE:** It is understood that this provision for a Pension Plan is being entered into upon the condition that all payments made by the Employer hereunder shall be deductible in the year in which the contribution is made as business expenses under the Internal Revenue Code as it presently exists or as it may be amended subsequent to the

date of this Agreement and under any similar applicable state revenue or tax laws.

**13.10**      **LIMITATION:** The Employer's sole and only obligation shall be limited to the contribution requirements outlined in Section 13.2.

**13.11**      **LEGISLATION:** In the event of legislation requiring the restructuring of any of the essential elements of the Pension Plan including, but not limited to, the benefit formula, amortization period, actuarial assumptions, vesting, or administration of the benefits, the Trustees are instructed to immediately comply with such legislation in adjusting the elements on a sound actuarial basis with no change in the existing Employer contribution rate.

**13.12**      **DEFINED CONTRIBUTION PENSION PLAN:** The Trustees have established a Defined Contribution Pension Plan and Trust effective March 1, 1987, in addition to and supplemental to the Pension plan described in this Section. The Employer shall not have any obligation to contribute effective for June, 2005 hours (or, if later, the contribution effective date as described in Section 13.2).

**13.13**      **USE OF CONTRIBUTIONS:** The Employer contribution shall be for the sole purpose of providing the pension benefits and for the administration of said program. The Trustees are not authorized to use any of the contributions or Plan assets for benefit improvements or any other purpose except as specifically provided in this Section.

**OPERATIONAL PLAN RULES:** The Trustees are instructed to follow these operational plan rules, and the Plan shall be amended as necessary to implement such rules:

1.      Where an employer is contributing at a rate that is less than the maximum allowed contribution level and later increases their contribution rate (but only up to the maximum contribution rate accepted by the pension fund), such increase will only increase future benefit accrual rates. Benefits accrued prior to the date that employer increases their pension contribution rate will not be affected, and will remain at the level based on the earlier employer contribution level.
2.      The Board of Trustees will instruct the co-consultants to look at situations such as, but not limited to if an Employer attempts to

decrease their contribution rate after a period of contribution suspension. Such review and approval shall include a consideration of whether the contribution rate is sufficient to support the benefits promised, as well as any subsidy or equity issues, all as may be identified by the Co-Consultants to the Fund.

- 13.15 RE-EMPLOYMENT RULE:** The bargaining parties agree to direct the Trustees to amend the Pension Plan rules for re-employment and the suspension of benefits to be consistent with the rules in effect during the 1997 collective bargaining agreement (i.e., 63 hour rule).

The Pension sections in the Memorandum of Agreement between Albertson's, Inc. and Safeway Inc. and UFCW Locals 101, 120, 373R, 428, 648, 839, 870, and 1179, dated September 25, 2001 will be deleted in their entirety with the exception of the Gemco language. The associated side letter of agreement is also deleted in its entirety with the sole exception of item number 5 (Gemco).

The Employers agree to vote to approve the currently deadlocked motion with respect to reciprocity with the UFCW National Meat Plan.

#### **SECTION 14. FIELD ADMINISTRATION - TRUST FUNDS**

- 14.1** The unions have determined that they are no longer willing to provide administrative functions, as distinguished from the usual and normal union services, at union expense to persons covered by the terms of the various benefit plans provided for by the Collective Bargaining Agreement. It is agreed that the portion of these functions determined to be Trust Fund functions, are properly chargeable to the Trust Funds under which said plans are established and maintained.

All expenses of the sub-administrative offices shall be paid for by the respective funds according to the formula established by the parties pursuant to the 1974 Joint Study.

#### **SECTION 15. STORE MEETINGS AND CHARITABLE DRIVES**

- 15.1** Time spent in store meetings or in meetings called by the Employer before the commencement of the day's work or after the day's work shall be considered as time worked and shall be paid for in accordance with the provisions of this Agreement.

15.2 All employee contributions to charity shall be voluntary.

## SECTION 16. CONTRACT ENFORCEMENT AND STORE VISITS

16.1 **VISITS:** It is agreed by both parties hereto that the business representative of the Union shall have the right and shall be allowed by the Employer to visit any and all stores and shall have free access to the employees during such visits for the purpose of making inquiries from the employees relative to information concerning working conditions, complaints of members of the Union, and other matters pertaining to the enforcement of this Agreement, provided said investigation may be accomplished without interfering with the duties of the employees.

16.2 **RECORDING TIME:** The parties agree to observe the following procedures in enforcing the terms of this Agreement with respect to authorized work and reporting of working time:

16.2.1 The Employer shall post the following notice in all stores:

The law and the Union Agreement require that all time worked shall be recorded daily including starting and stopping time. All employees shall comply strictly with these requirements, and any employee failing to so comply shall be subject to discipline on the same basis as is followed with respect to any other violation of store rules or procedure.

16.2.2 The Union shall promptly report in writing to the Employer any observed violation by an employee of this reporting time provision or the working of unauthorized time and the Employer will take the necessary steps with the employee to correct such violation.

16.2.3 Upon notification by the Union of a second such violation by the same employee, the Employer shall pay to the Welfare Fund provided for herein an amount equal to the overtime pay due and payable to the employee. In such case the employee involved shall be subject to discharge, however, retaining his right to appeal any such discharge under the terms of this Agreement.

16.3 **FREE TIME:** When an employee willfully violates the provisions of this Agreement by working free time without the knowledge of the Employer, after a second written notice by the Union of this employee's repeated contract violation, the Employer agrees to discharge said employee within seven (7) days after receiving written notice of such violation.

## SECTION 17. STRIKE OR LOCKOUT

- 17.1 During the life of the Agreement, the Union agrees not to engage in any stoppage of work. Furthermore, the Union and its representatives, including store representatives, agree not to boycott, handbill, publicly disparage or engage in any adverse economic action against the Employer's stores covered by this Agreement. This provision does not apply in any of the Employer's stores where the Union has not been recognized by the Employer as the employees' bargaining representative.
- 17.2 During the life of this Agreement the Employer agrees not to engage in any lockout.
- 17.3 Refusal of any employee covered by the terms of this Agreement to pass through any lawful primary picket line, which has been sanctioned by the Central Labor Council of proper jurisdiction and/or the United Food and Commercial Workers International Union, shall not constitute a violation of this Agreement.

## SECTION 18. ADJUSTMENT AND ARBITRATION OF DISPUTES

- 18.1 For the purpose of this Agreement, a grievance is a dispute, difference of opinion, between the parties, and grievances of employees involving or arising out of the meaning, interpretation, application or alleged violation of this Agreement, including the arbitrability of all such matters. All grievances as defined are to be processed in accordance with the terms of the section.
- The parties will share all factual details regarding a grievance (or pre-grievance issue) as early as possible in the dispute resolution process. All disputes that are resolved at store level shall be considered settled on a non-precedent setting basis, unless otherwise expressly stated in writing.
- 18.2 **DISCIPLINARY GRIEVANCES:** Pursuant to Section 3 of this Agreement, any employee who feels he has been unjustly discharged or suspended shall file a grievance with the Union and thereafter within ten (10) business days of notice of the disciplinary action, the Union, if it desires to proceed with the grievance, shall notify the Employer or its Representative that an Adjustment Board shall be convened to hear the grievance. Within twenty (20) business days (Monday - Friday, holidays excluded) thereafter, the Union and the Employer shall meet as a Board of Adjustment, consisting of

two (2) representatives of the Employer and two (2) representatives of the Union in an effort to settle the matter. The convening of the Adjustment Board may be waived or this time limit may be extended by mutual agreement of the parties. If the Employer fails to meet with the Union within the time limits herein specified, the grievance will be deemed substantiated and the employee shall be made whole. If the Union fails to comply with the time limits herein specified, such failure shall be deemed to be a conclusive waiver of the grievance. The request of either party to extend the time limit for the convening of the Board of Adjustment due to extenuating circumstances will not be unreasonably denied.

If the grievance is not adjusted and is impasse, the Union, if it so elects, within twenty (20) business days following the meeting of the Board of Adjustment or denial thereof, shall proceed to arbitration. The Union's intention to proceed to arbitration shall be communicated in writing to the Employer or its representative within the twenty (20) business day time limit specified above. For disciplinary cases only, the parties may, by mutual agreement, proceed to FMCS to mediate unresolved disputes prior to arbitration. The hearing shall take place within thirty (30) business days following the receipt of a written request from either party. Either party may request a reasonable extension of time. The mediator will render a non-binding oral opinion at the conclusion of the hearing. The moving party reserves the right to submit the matter to arbitration after receiving the mediator's opinion.

- 18.3**        **INTERPRETATION OR APPLICATION DISPUTES:** Disputes as to the interpretation or application of the agreement shall be taken up by the party asserting it with the other party within twenty (20) business days of the date the asserting party has knowledge thereof. Said grievance shall be in writing, specifying in detail the basis for the dispute, including the applicable section(s) of the Agreement involved, to the best knowledge of the asserting party.
- 18.4**        Each party shall in good faith divulge to the other party all available material facts at the time said party acquires knowledge thereof concerning the matter in dispute. Nothing contained herein shall require either party to supply documents which are irrelevant.
- 18.5**        The award of the arbitrator or the Adjustment Board shall be final and binding on the Employer, the Union and the Employee(s). The losing party shall pay the cost of the arbitrator. The parties agree that the arbitrator

has the authority to determine appropriate proration of the cost in the event of a split decision and award. The arbitrator should be made aware of the requirements of this provision at the conclusion of the arbitration hearing.

**18.6** The arbitrator shall not have the right to alter, amend, delete or add to any of the terms of this Agreement.

**18.7** Interest at seven percent (7%) shall be payable on all money claims awarded by the Adjustment Board or by an Arbitrator, and such interest shall commence as of the date the complaint is first submitted to the Adjustment Board or when the parties meet to amicably adjust the dispute, whichever is applicable.

**18.8** **CLAIMS:** In the case of a direct wage claim or a claim for contributions to employee benefit plans which does not involve an interpretation of any of the provisions of this Agreement, either party may submit such claim for settlement to either the grievance procedure provided for herein or to any other tribunal or agency which is authorized and empowered to effect such a settlement.

The Employer is not required to pay any wage claim or portion thereof retroactively for a period of more than ninety-one (91) days immediately prior to the date of the Employer's receipt, or written notice from the Union, of such claim.

The parties agree that Local 839 and Local 101 North Coast shall adopt the Bay Section 18 language in its entirety.

**18.9** **RIGHTS OF IMMIGRANT WORKERS**

1. Should the INS or any other government agency contact the Employer regarding the work authorization status of any bargaining unit employee, the Employer shall notify the Union by the next business day.
2. The Employer shall not reveal confidential information concerning employees to the INS or its agents, except as required by law. Confidential information includes employee's name, address, Social Security Numbers, or immigration status.
3. The Employer shall grant up to seven (7) days absence without pay

with a minimum of seven (7) days notice where possible and proper INS notification, for INS proceedings.

4. The Employer shall comply with requests of workers to change their names and Social Security Numbers in the Employer's records with appropriate documentation, without prejudice to their seniority or other rights under this agreement.
5. The Employer shall not request information or documents from employees or applicants for employment as to their work authorization or identity, except as required by law. The Employer shall not retain in its file copies of the identity and work authorization documents presented by the employee.
6. Nothing herein shall require the Employer to violate the law, abridge its legal responsibilities, or circumvent any ordinances or laws.
7. The Employer shall not participate in any computer verification of immigration or work authorization status, except as required by law.
8. If the Employer receives notice from any government agency other than the INS regarding employee work authorization or identification, the Employer may inform the affected employee(s) so that they may take action on an individual basis.

#### **SECTION 19. SEPARABILITY:**

The provisions of this Agreement are deemed to be separable to the extent that if and when a court of last resort adjudges any provision of this Agreement in its application between the Union and the undersigned Employer to be in conflict with any law, such decision shall not affect the validity of the remaining provisions of this Agreement, but such remaining provisions shall continue in full force and effect, provided further, that in the event any provision or provisions are so declared to be in conflict with a law, both parties shall meet within thirty (30) days for the purpose of renegotiation and agreement on provision or provisions so invalidated.

#### **SECTION 20. PERIOD OF AGREEMENT**

Except as otherwise indicated herein, this Agreement shall be effective

December 1, 2007 and shall remain in full force and effect in all areas to and including October 8, 2011 and shall be considered as renewed from year to year thereafter unless either party hereto gives written notice to the other of its desire to have the same modified or terminated. Such notice shall be given at least sixty (60) days prior to such expiration date, during which period negotiations for a new Agreement shall be conducted, with all conditions agreed to by the parties to become effective on the first day of the week nearest the expiration date of this Agreement. If after opening, as provided herein, the parties fail to reach an agreement within the period so provided, then the provisions of Section 17 shall not be binding on either party.

**NOTE: Locals 8 and 101 also expires on October 8, 2011**

IN WITNESS WHEREOF, THE PARTIES have hereunto set their hands the day and year first hereinabove written.

UNITED FOOD & COMMERCIAL  
WORKERS UNION, LOCAL 5

PW Markets

240 S. Market Street  
San Jose, California 95113

2277 Alum Rock Ave.  
San Jose, CA 95116

By.....

By.....

Date.....

Date.....

**APPENDIX A  
FOOD RATES**

**A.1** Notwithstanding any schedule of minimum wages, employees now receiving a higher wage than that indicated in said schedule for the particular classification of work performed shall not have their wages reduced due to the signing and effect of this Agreement.

The schedule of minimum wages shall be maintained by the parties hereto during the period of this Agreement, and the Employer shall and hereby agrees to pay wages in compliance therewith.

The company retains the right to terminate any non-contractual benefit including but not limited to gain sharing, discounts, awards, bonuses. This provision does not apply to over-scale wage rates.

**PREMIUM EMPLOYEES:** Premium wage employees shall maintain the same hourly differential they received over and above the previous contract rate.

**A.2** The experience and length of service wage adjustments provided for under Appendix A shall be placed into effect the first (1<sup>st</sup>) workday of the first (1<sup>st</sup>) workweek immediately following the workweek in which the employee qualifies for the higher rate of pay.

**WAGE INCREASE**

NOTE: Beginning October 5<sup>th</sup>, 2008, all employees at the L1 Thereafter rate of pay (13.54) who have not started the L2 training, shall receive a fifty cent (.50¢) bonus for all hours worked during the preceding fifty-two (52) weeks. The bonus shall continue to accrue for any employee who reaches the L1 Thereafter rate of pay until training begins. Once training has started, the employee shall be notified of hours worked towards a bonus. Bonuses will be due and payable the payday immediately following 10/05/2008, 10/04/2009, 10/03/2010, and 10/08/2011. Thereafter employees who decline L2 training shall not be entitled to a bonus.

Grocery					
	<b>Current</b>	<b>12/2/2007</b>	<b>10/5/2008</b>	<b>10/4/2009</b>	<b>10/3/2010</b>
L3- Managing Clerk	20.42	21.12	21.52	21.87	22.22
L3- Sr. Head Clerk	19.88	20.58	20.98	21.33	21.68

L3- Head Clerk	19.77	20.46	20.86	21.21	21.56
L2- Thereafter	19.34	20.04	20.44	20.79	21.14
L2- Stock Crew - 520 hours	0.58	0.65	0.69	0.72	0.75
L2- Non-Foods - 160 hours	0.19	0.21	0.23	0.25	0.27
L2- Bakery - 520 hrs	0.58	0.65	0.69	0.72	0.75
L2- deli - 1120 hrs	1.25	1.40	1.48	1.55	1.62
L2- Meat - 1120 hrs	1.25	1.40	1.48	1.55	1.62
L2- Produce 1440 hours	1.59	1.79	1.90	2.00	2.10
L2- Perishables - 320 hours	0.36	0.40	0.43	0.46	0.49
Level 1 Thereafter	13.54	13.54	13.54	13.54	13.54
L1 - 6 Months	12.80	13.00	13.00	13.25	13.25
L1 - 6 Months	12.10	12.30	12.30	12.50	12.50
L1 - 6 Months	11.40	11.60	11.60	11.80	11.80
L1 - 6 Months	10.70	10.90	10.90	11.10	11.10
L1 - 6 Months	10.00	10.20	10.20	10.40	10.40
Courtesy Clerk Thereafter	8.55	8.75	9.00	9.15	9.30
Courtesy Clerk 1st year	8.55	8.65	8.75	8.85	9.00

**APPENDIX B  
RETAIL MEAT EMPLOYEES**

**B.1**       **APRENTICES:** Two (2) Apprentices shall be allowed for every one (1) Journeyman. A journeyman shall continue to be defined as an apprentice who has completed 4160 hours, with the understanding that this definition will have no application to the new hire/promoted wage progression.

An Apprentice can work without Journeyman supervision for no more than three (3) hours during his or her first six (6) months apprenticeship period or for more than four (4) hours during his or her second six (6) months apprenticeship period, exclusive of meal periods.

An Employer may establish its own apprenticeship program, which can be implemented by mutual agreement of the Company and the Union.

On-the-job training of Apprentices shall be in accordance with the California Apprenticeship Law (Shelly-Maloney Act) as set forth in the California Labor Code. Both the Union and the Employer will assist in developing sound and uniform Retail Industry-wide Apprenticeship Training Programs.

Tests to judge the competency of an Apprentice shall be set up by the Industry Joint Labor-Management Apprenticeship Committee and by majority vote its decision shall be final. Said tests shall be conducted jointly by one (1) representative of the Industry and one (1) representative of the Union.

A Joint Advisory Committee consisting of a representative of the State of California, Division of Apprenticeship Standards and an equal number of representatives appointed by each Union as follows: 101, 5 and 8 to represent all segments of the retail meat industry in Northern California, shall be charged with the responsibility of preparing a uniform Northern California-wide program prior to February 1, 1974, to develop procedures, guidelines, and standards to train apprentices in compliance with the California Apprenticeship law (Shelly-Maloney Act), Title VII of the Civil Rights Act, and any other applicable Federal Statutes.

The procedures, guidelines and standards as developed by the Joint Advisory Committee shall be used by Joint Apprenticeship Committees to train Apprentice Meat Cutters working under contracts with Union Locals 101, 5 and 8. If the Joint Advisory Committee is unable to reach mutual agreement, matters in dispute shall be referred to the Regional Director, Region 9, Apprenticeship and Training Division, United States Department of Labor, for settlement.

**B.2 MEAT CLERKS:** Meat Clerks may wrap, weigh, price, stock, display, and dispense meat, poultry, fish as well as cold and smoked meats. Meat Clerks may take bell calls (contact the customer, serve the customer, relay the orders to the butcher, wrap the merchandise and give it to the customer), and may also keep the meat cases tidy, and clean the glass and empty cases and empty trays.

The Meat Clerk duties also include all types of cleaning, including heavy cleaning, and breaking down meat loads. (Only meat cutters shall disassemble and assemble equipment); fill the counter and replace trays of meat including boating; wait on the trade; collect money; give change; cut a steak or roast which has already been processed by a Meat Cutter to size in order to serve a customer; modify any prepared cut to suit a customer; use slicing machine, cube steak machines, and grinder to serve the customers.

Any Employees that are currently performing these described duties at whatever rate of pay they are currently receiving will not be reduced by virtue of this expansion of duties. Meat cutters will not have their hours reduced or be laid off as a direct result of the expansion of Meat Clerk duties.

Meat Clerks desirous of entering the Meat Cutter Apprenticeship Program shall make their desires known to the company, in writing, and such employees shall receive consideration for such training and, if selected, attend the apprenticeship training program. Said Meat Clerks entering apprenticeship training shall be given a thirty (30) day trial period. To the extent permitted by law, and in compliance with the terms of this Agreement, it is the intent of the parties to see that all minorities are given an opportunity to move into all classifications of work covered by this Agreement. Consistent with this objective, qualified Meat Clerks will be given preference by seniority over other applicants for such work.

There shall be no reduction in pay to a Meat Clerk covered under this Agreement as a result of entering the apprenticeship program, but the Meat Clerk rate shall apply until such time as the apprentice rate exceeds the Meat Clerk rate, at which time the apprentice rate shall apply. After completing the thirty (30) day trial period, all acquired company seniority shall be applied to the Employee's new classification.

**B.3 PART-TIME MEAT SALES CLERKS:** Part-time Meat Sales Clerks may be hired after January 1, 1986 to work less than eight (8) hours per day, but must be scheduled for at least four (4) hours per shift and a minimum of twenty-four (24) hours per week.

If a person has been out of the industry less than five (5) years and had not reached "thereafter" status, in the Meat Clerk progression, they will be allowed to start at the same progression step as when they last worked in the industry.

Part-time Meat Sales Clerks may bid for full-time forty (40) hour jobs or additional part-time hours excluding relief for vacations, illness or authorized leave of absences based upon said employee's seniority providing that said employee make his or her desire for such work known, in writing, to the Employer and Union.

Part-time Meat Sales Clerk's requests for additional available hours shall be applied on a store-by-store basis. Requests for available full-time "forty (40)" hour jobs shall be applied on the basis of the Union's geographical seniority area(s).

The Employer shall immediately upon receipt of said request place the names of those employees on a list maintained by the Company. All names are to be placed on the list according to seniority. A copy of said list shall be forwarded in February and August of each year to the Union.

**B.4 WORKING CONDITIONS AND SAFETY:** Adequate "First Aid Equipment" shall be furnished and maintained in the shop, in a place readily and conveniently accessible to the Employees.

**All first aid kits shall be maintained so as to contain the following:  
NO COTTON**

1. 2 pkgs. of 2" compress bandages -- 4 per package.

2. 1 pkg. 4" compress bandage -- 1 per package.
3. 1 ammonia inhalants (10 tubes)
4. Tincture of Merthiolate 7 swabs, 10 pkgs.
5. 1 sterilized gauze 25 2 x 2 or equal.
6. 1 tube burn ointment.
7. 1 4" bandage scissors.
8. 1 - 3-1/2" tweezers.
9. 1 tourniquet.
10. 1 -- 1 oz. dropper bottle boric acid solution for eyes.
11. 1 roll adhesive tape ½" or 1".
12. First aid manual. Industrial Kit basic content, add as necessary.

Working conditions which are injurious to the health or safety of the Employees shall be directed to the attention of the Employer at which time the Employer shall immediately investigate the alleged condition, shall meet with representatives of the Union to discuss the alleged condition and shall immediately take the necessary steps and measures to correct such condition.

Employees who are assigned to continuous work in freezers will not be required to remain therein more than fifty (50) minutes out of each hour.

**B.5**

**NEW METHODS:** It is agreed that should the Employer intend to initiate a major change in method of operation which is not presently in the industry within the area of operation covered by the affected Union that would result in a substantial change in the content of any job presently covered by this Agreement, the Employer shall give notice of the nature of such suggested new method to the affected Union, following which, the matter of job classifications, wages and/or other conditions and/or the disposition of employees potentially to be displaced shall then become a matter of negotiation with said affected Union for a period of forty-five (45) days.

Pending negotiations by the parties during the above-mentioned forty-five (45) day period, no change of operations as above set forth shall be placed into effect.

In the event the parties have not arrived at agreement within the above forty-five (45) day period, the Employer may elect to place such changed method of operation, as above defined, into effect, and all unresolved issues in regard to job classifications, wages, working conditions, and/or the disposition of displaced employees shall be submitted to final and

binding arbitration in accordance with Section 18, Adjustment and Arbitration of Disputes

The remedy, if any, shall be effective with the date of the arbitrator's award.

Any Company that seeks to introduce "case ready" cuts of meat must notify the Union(s) in advance of a change in the method of operations and proceed in accordance with this Article of the Collective Bargaining Agreement.

**B.6 CASE READY ADDENDUM (MEAT):** The parties recognize that the competition has been introducing prepackaged case-ready meat products for some time. The parties further recognize the importance of being able to effectively compete with these measures while at the same time addressing the job security concerns of potentially impacted meat employees.

Although the contract recognized the right of the Employer to introduce case ready meats as provided in Appendix B.4 of the Agreement, the parties recognize that an Employer may not wish to comply with all the provisions of that section before introducing case ready meats. Accordingly, without waiving any Employer rights to introduce case ready meats and any Union rights to challenge such introduction as provided in Appendix B.4 of the Agreement, the parties agree as follows:

Notwithstanding anything contained in the Meat Agreement to the contrary, pursuant to this Addendum, the Employer shall not be restricted in, or prohibited from, obtaining and offering for sale, fresh, smoked, cured, cooked and frozen meats, poultry, fish or seafood which have been cut, prepared, processed, packaged, weighed, and/or priced off the Employer's premises and it is expressly understood and agreed that such shall not constitute a violation of this Agreement.

Should the Employer wish to utilize this Addendum, the Employer shall notify the affected Unions in writing by certified mail thirty (30) days in advance of its intention to introduce additional product and the effective date of when case ready meats will be introduced in the stores. In utilizing this Addendum, the Employer agrees that no head meat cutter, journeyman meat cutter, or apprentice meat cutter employed as of September 1, 2001, and assigned to one of the aforementioned classifications by the Employer shall be laid off, reclassified, or reduced in

hours or full-time status. The Employer still maintains the right to discipline or discharge employees consistent with Section 3 of the Agreement. The Employer shall have the right to transfer and/or schedule head meat cutter, journeyman meat cutters, or apprentice meat cutters by seniority to the extent provided for in the contract in more than one (1) store within the geographical seniority area for the local union and/or adjacent geographical seniority area(s) for the local union as may be necessary to fulfill this obligation, except that the Employer shall not schedule such employee for split shifts. The Employer shall be obligated to provide a minimum of eight (8) hours per calendar day when such head meat cutter, journeyman meat cutter, or apprentice meat cutter is scheduled to work in each store. The meat shop manning requirements, specifically Section 1.3.1, Section 6.1 and Section 6.1.1 will be suspended given these job securities in the event the Employer utilizes this Addendum.

The Employer shall continue to have the right to layoff meat employees other than head meat cutters, journeyman meat cutters, or apprentice meat cutters in accordance with the provisions of this Agreement, provided that the layoff of any meat wrapper, butcher block, lead meat clerk, meat clerk or meat clean up clerk assigned to such classification on or before

September 1, 2001, is for reasons other than the Employer's utilization of the products set forth above. The Employer agrees it will demonstrate that said layoff was for unrelated reasons. It is understood and agreed that in meeting the job guarantees contained herein, the Employer shall have the right to assign any higher classified employee to perform work in a lower classification.

In the event of a store closure, resulting in the layoff of any head meat cutter, journeyman meat cutter, apprentice meat cutter or meat clerk, such affected employee shall be permitted to exercise this seniority to displace the least senior meat cutter or meat clerk in the involved bargaining unit's seniority area as provided for herein, or, at the affected employee's discretion, the least senior meat cutter or meat clerk affected in the local union's jurisdiction. Such least senior meat cutter or meat clerk affected by the exercise of the most senior meat cutter's or meat clerk's seniority shall be laid-off. It is understood that in applying this provision meat cutters may only displace meat cutters and meat clerks may only displace meat clerks.

If the Employer decides to phase out its case ready meat programs across its Northern California stores and thereby reduces its use of case ready meat products to or below the level existing at the time this Addendum was invoked, then the meat shop manning requirements set forth in paragraph four (4) above shall be reinstated and the job security provisions contained herein shall be extinguished immediately. The level of case ready meat products at the time of invocation shall be measured based on the average gross tonnage per store of case ready meat product for the Employer's Northern California stores. On the date of invocation of this addendum, the Employer shall supply each local union with the average gross tonnage per store of case ready meat product amongst its Northern California stores. To assist the Unions in administering this provision, upon written request by the union on or about January 15th annually, the Employer's sole obligation shall be to supply each local union with the average gross tonnage per store of case ready meat amongst its Northern California stores by March 1<sup>st</sup> each year thereafter.

**B.7 WAGES**

NOTE: Extra workers pay is \$1.50 per hour, for all hours worked, above the straight time rate for the appropriate classification, effective first Sunday following ratification

NOTE: Extra Worker's pay is \$1.50 per hour, for all hours worked, above the straight-time rate for the appropriate classification.

NOTE: Clean-Up Workers are those who clean up a market for a Butcher. These workers are not to handle meat or wait on the trade, except they may remove meat to clean the cases when the Meat Department is closed to the public.

NOTE: Journeymen replacing Head Meat Cutters on their days off shall receive Head Meat Cutter's rate of pay. Also in Section 4.2.1

NOTE: Except in markets operated by an Owner, only Journeymen shall operate a market as a "Head Meat Cutter." Also in Section 4.2.1

NOTE: Meat Extra Pay. As soon as administratively feasible, the Employers shall establish with the Unions an internal procedure to make pay available for all meat extras at the end of their work assignment or shift if only retained for a single shift.

**B.7 ZONE A - WAGE RATES**

Meat	Current	12/2/2007	10/5/2008	10/4/2009	10/3/2010
Head Meat Cutter (Over 5)	21.274	21.974	22.374	22.724	23.074
Head Meat Cutter	21.024	21.974	22.374	22.724	23.074
Meat Cutter Journeyman	19.774	20.474	20.874	21.224	21.574

1040 Hours	17.000	17.500	17.500	18.000	18.000
1040 Hours	15.500	16.000	16.000	16.250	16.250
1040 Hours	14.000	14.500	14.500	14.750	14.700
1040 Hours	13.000	13.500	13.500	13.750	13.750
1040 Hours	12.250	12.750	12.750	13.000	13.250
1040 Hours	11.750	12.250	12.250	12.500	12.750
520Hours	11.500	12.000	12.000	12.250	12.500
520Hours	11.000	11.500	11.500	11.750	12.000
520Hours	9.500	10.000	10.000	10.250	10.500
			10¢w/40¢ b	50¢ bonus	
Meat Clerks (Thereafter)	14.978	15.528	15.630	15.630	16.130

**Note:** Meat Clerks at the Thereafter rate shall receive a fifty-five cent (.55¢) increase on 12/02/2007, a ten cent (.10¢) hourly wage increase plus a forty cent (.40¢) bonus for all hours worked during the preceding fifty-two (52) weeks on 10/05/2008, a fifty cent (.50¢) bonus for all hours worked during the preceding fifty-two (52) weeks on 10/04/2009, and a fifty cent (.50¢) hourly wage increase on 10/03/2010.

## B.8 EXHIBIT A: BEEF

### BEEF CARCASS AND PRIMAL CUTS PLUS FOLLOWING BREAKDOWN:

#### FOREQUARTER

Blade Chuck  
 Full Standing Rib, Chine bone  
 off (7 inches)  
 Full Standing Rib, boneless  
 Whole Fore Shank  
 English Short ribs  
 Shoulder Clod  
 Short rib  
 Brisket, Boneless  
 Plate\*  
 Blade Chuck  
 Blade, Chuck, neck on, Boneless  
 Blade Chuck, neck off  
 Chuck Rolls  
 Skirt Steak  
 Neck (bone in or Boneless)  
 Fore Shank, Squared  
 Regular Chuck

#### HINDQUARTER

Semi-Boneless Round  
 (Aitch and Shank Bone removed)  
 Sirloin Tip, Boneless  
 Boneless Head Loin  
 Short Loin  
 Full Round (Shank off)  
 Top Round  
 Bottom Round  
 Head Loin, Bone in  
 Flank Meat  
 Flank Steaks  
 Shank, Bone in, Boneless  
 Top Sirloin  
 Filet  
 New York  
 New York Strips  
 Boneless Meat, Normal Trim  
 which would include Flank Meat,

Arm Chuck  
Shin and Shoulder  
Ground Meat  
Boneless Meat, Normal Trim,  
which would include  
Flap Meat, Bull Meat,  
Cow Meat

Rib Eyes  
Boneless Rib Eye  
Beef Back Ribs  
Boneless Chuck - unnetted or netted  
Cross Rib Roast - unnetted or netted  
Stew Beef  
Beef Chuck, Stack Pac  
Beef Ribs, Stack Pac

Heel and Trimmings  
Boneless Round  
Whole Sirloin Tips  
- unnetted or netted  
Tenderloins  
Short Loin, Stack Pac

\*Not vacuum packed

Offal: All beef, pork, lamb, and veal, edible internal organs, such as liver, heart, tongue, kidney, tripe.

Sausages: Include fresh, smoked or frozen beef, pork, veal and poultry sausages.

### VEAL, LAMB AND PORK

Carcasses, primal cuts and all standard wholesale cuts

**Letter of Understanding  
Between  
UFCW Locals 5 and 8  
PW Supermarkets, Incorporated**

This will confirm the understanding reached by the parties in negotiations, with reference to the transition of Meat Clerks into the L1CSS or L2CSS classification.

1. **SENIORITY:** All acquired company seniority shall be applied to the employees' new classification.
2. **SICK LEAVE:** Meat clerks that enter the Customer Service Specialist classification will be placed in the UFCW Bay Area Health and Welfare Trust Fund sick Leave and start accruing sick leave hours.

Employees that have sick leave hours with PW Supermarkets Inc., will keep said hours and will use these hours first, until employees that have accrued sick leave hours with PW at the time they transition to the CSS classification, will keep said hours, until they are exhausted or at such time the employee reaches the maximum accrual at the Trust Fund.

It is understood that all accumulated sick leave with PW, will be paid first before drawing on sick days held at the Trust Fund.

Employees will continue to receive the ½ cash payout of all unused sick leave in excess of the maximum thirty-two (32) days, consisting of a combination of sick leave days held in the Trust Fund and those days accumulated on the employees' anniversary date each year with PW, until reaching the maximum sick leave payout at the Trust Fund.

3. **PENSION:** Effective at the time of transition, the employer agrees to contribute the food pension rate for all employees under the Customer Service Specialist classification (effective March 1, 2007 the rate is one dollar and fifty-six cents (\$1.56) per straight time hour).

For PW Markets, Inc:

For the Union

\_\_\_\_\_

\_\_\_\_\_

	Local 5	Local 8
Date	Date	Date

**OFFICE ADDENDUM TO THE FOOD AGREEMENT**

**FOR THE PERIOD MARCH 1, 1989 TO AND INCLUDING FEBRUARY 29, 1992**

The following rates of pay, classifications and exceptions shall prevail:

1. A separate classification of Store Office Clerk exists and applies to employees whose work is not directly connected to checkstand operation or procedures.
2. The provisions of Section 2 pertaining to "job referral" and "other hiring" are inapplicable to this classification.
3. Section 4 modified to establish separate seniority for this classification.
4. Section 7.7 Daily Guarantee is modified to provide that the minimum four (4) hour daily guarantee shall apply except in those cases where it is operationally impractical. If the Employer establishes a Non-Food Department then each employee shall be offered at least twenty (20) hours work in each week. The employee may work in the Non-Food Department in order to meet the scheduling requirements.
5. It is understood that the above employees will only perform work and services in the office, which may include cashing customer checks, setting up tills, doing check runs and store reports, and handling lottery tickets. In addition to the work in the office, the above employees may also make "pulls" from the registers, delivering change to the registers and take register readings in connection with their bookkeeping duties. In the event the employer hires employees to perform additional duties, they will be paid in accordance with the Food Store Contract.
6. Employees hired by the Employer who have had previous experience will be given credit for such experience up to a maximum of twelve (12) months in determining their starting rate. To receive credit, experience must be approximately equal in skill, function and responsibility required. All part-time employees shall receive credit on their scale according to hours worked.
7. The hourly rate shall be the same pay scale as General Merchandise Clerks hired on or after May 3, 1983.

*/s/ DAVID R. COX*  
 David R. Cox  
 Food Employers Council, Inc.

*/s/ WILLIAM F. SENN*  
 William F. Senn  
 UFCW International Region 14  
 On behalf of UFCW Locals 373, 428,  
 648, 775, 870, 1119 and 1179

LETTER OF UNDERSTANDING

This will confirm the understanding reached in negotiations with reference to the proper classification of employees working "cheese islands." Specifically, it is agreed that "cheese islands" involving merchandise that has been cut, wrapped, and priced upon the premises are "Service Delicatessens" within the meaning of Section 1.3.1 of the current Collective Bargaining Agreements.

*/s/ DAVID R. COX*  
David R. Cox  
Food Employers Council, Inc.

*/s/ BILL SENN*  
Bill Senn, on Behalf of the  
Bay Area Locals

**FOOD EMPLOYERS COUNCIL, INC.**  
**Drawer 1298, 3685 Mt. Diablo Blvd.**  
**Lafayette, California 94549 (415) 284-9350**

April 30, 1989

Mr. William F. Senn  
UFCW International Region 14  
Spokesman for UFCW Locals 373, 428, 648,  
775, 870, 1119 and 1179  
One Sierragate Plaza, Suite 230-A  
Roseville, CA 95678

Re: April 30, 1989 Final Offer - Involving the Food Employers Council, Inc., On Behalf of Its Member Companies and United Food & Commercial Workers Union, Local 373, 428, 648, 775, 870, 1119 and 1179

Gentlemen:

This will confirm that the proposed modification in Section 1.3.1 of the Master Food Agreement involving "delicatessen merchandise" is not intended to and does not affect the status of traditional "peg board" sections of the store.

If you have any questions or require additional information, please contact this office.

Very truly yours,  
FOOD EMPLOYERS COUNCIL, INC.  
Northern California Division

*/s/ DAVID R. COX*  
David R. Cox  
Executive Director

WRV:bjr

**FOOD EMPLOYERS COUNCIL, INC.**  
**Drawer 1298, 3685 Mt. Diablo Blvd.**  
**Lafayette, California 94549 (415)284-9350**

April 30, 1989

Mr. William F. Senn  
UFCW International Region 14  
Spokesman for UFCW Locals 373, 428, 648,  
775, 870, 1119 and 1179  
One Sierragate Plaza, Suite 230-A  
Roseville, CA 95678

Re: Modification of Subsection 1.3.1 to Permit Non-Food and General Merchandise Clerks to Handle  
Candy, Gum and Tobacco

Gentlemen:

This will confirm that in applying the above-captioned modification to Subsection 1.3.1 of the Master Food and Liquor Agreement, a "lobby" shall be defined as the area of the store between the checkstands and the front wall of the store.

If the above accurately reflects your understanding of our agreement in this matter, please sign in the space provided below.

Very truly yours,  
FOOD EMPLOYERS COUNCIL, INC.  
Northern California Division

*/s/ DAVID R. COX*  
David R. Cox,  
Executive Director

WRV:DRC:bjr

Agreed to this 30th day of April, 1989.

*/s/ WILLIAM F. SENN*  
William F. Senn  
UFCW International Region 14  
On Behalf of UFCW Union Locals 373, 428, 648  
775, 870, 1119 and 1179

**FOOD EMPLOYERS COUNCIL, INC.**  
**2000 Crow Canyon Place, Suite 200**  
**San Ramon, California 94583 (510) 275-1750**

March 6, 1992

Mr. Joseph T. Hansen  
UFCW Regional Director  
3300 Douglas Boulevard, Suite 345  
Roseville, California 95661

Dear Mr. Hansen:

In the event that an Employer party to the Master Food Contract leases space in one of the Employer's stores to a separate party lessee; the product sold by the lessee is handled, displayed and sold within a distinct leased area separate from the Employer's merchandise; and said lessee does not sell items such as name-brand products in the same form as traditionally handled by bargaining unit employees (de minimus excepted); then the Union agrees that Sections 1.4 and 1.5 of the Master Food Agreement shall not in any way be applicable to said department.

Very truly yours,  
FOOD EMPLOYERS COUNCIL, INC.

*/s/ DAVID R. COX*  
David R. Cox  
Executive Director  
Northern California Division

DRC:jk

*/s/ JOSEPH T. HANSEN*  
Joseph T. Hansen,  
Regional Director  
On Behalf of UFCW Local Unions 115, 373, 428, 588,  
775, 839, 870, 1119, 1179, 1288 and 1532

**FOOD EMPLOYERS COUNCIL, INC.  
2000 Crow Canyon Place, Suite 200  
San Ramon, California 94583 (510) 275-1750**

March 7, 1992

Mr. Joseph T. Hansen  
UFCW Regional Director  
3300 Douglas Boulevard, Suite 345  
Roseville, California 95661

Dear Mr. Hansen:

This will confirm our agreement that shifts which begin during the last day of the work week defined in Subsection 6.1 of the Collective Bargaining Agreement and end during the first day of the next work week shall not result in the payment of any penalty or premium on the basis that the shift overlaps two separate work weeks.

Very truly yours,

FOOD EMPLOYERS COUNCIL, INC.

*/s/ DAVID R. COX*  
David R. Cox  
Executive Director  
Northern California Division

DRC:jk

*/s/ JOSEPH T. HANSEN*  
Joseph T. Hansen,  
Regional Director  
On Behalf of UFCW Local Unions 115, 373, 428, 588,  
775, 839, 870, 1119, 1179, 1288 and 1532

## LETTER OF UNDERSTANDING

Food Employers Council, Inc. on behalf of its member Employers, and UFCW Locals 373, 428, 648, 775, 870, 1119 and 1179 agree that the correct interpretation and application of Shift Selection, Section 4.5.2, is that set forth at the first full paragraph on Page 9 and the paragraph which begins on Page 11 and concludes on Page 12 of the award of arbitration by David E. Feller in Retail Clerks Union, Local 17 and Safeway Stores, issued on November 8, 1979.

A copy of said language is attached hereto.

*/s/ DAVID R. COX*  
David R. Cox  
FOOD EMPLOYERS COUNCIL, INC.

UFCW - UNION LOCAL 373

UFCW - UNION LOCAL 428

UFCW - UNION LOCAL 648

UFCW - UNION LOCAL 775

UFCW - UNION LOCAL 870

UFCW - UNION LOCAL 1119

UFCW - UNION LOCAL 1179

DATED: 3/20/86

**LETTER OF UNDERSTANDING**  
**Between**  
**UFCW LOCAL 101, 373R, 428, 648, 839, 870 and 1179 and**  
**ALBERTSONS, INC., RALPHS GROCERY CO., AND SAFEWAY, INC.**

*In the interests of developing a more effective and efficient process to avoid grievances and resolve a backlog of currently deadlocked grievances, the parties commit to the following phased approach:*

**Step One:**

*For the first twelve (12) months following February 11, 2005, the parties will continue to schedule Adjustment Boards pursuant to the Agreement. During this 12 month period, the parties will take appropriate steps, including scheduling additional meeting dates to work towards the reduction of the current backlog of pending grievances. The Federal Mediation and Conciliation Service (FMCS) may be utilized at the request of either party. For the purposes of this Letter of Understanding, the foregoing is referenced as step one. Notwithstanding the above, step one will not conclude until the disposition of all impasse grievances have been determined.*

*To facilitate settling disputes amicably, the parties agree to fully explore possible joint training assistance from FMCS.*

**Step Two:**

*Commencing at the conclusion of step one, the parties will commence meetings no less than once every three (3) months through the remainder of the Agreement. The purpose of such meetings is to further the mutual cooperation of the parties in matters related to Section 18. These meetings may be cancelled by mutual agreement of the parties. The FMCS will be requested to attend these meetings at the request of either or both parties.*

*The following individuals, or their designated representative, will attend on behalf of their respective entities: Karen Casey (Albertsons); Frank Jorgensen (Safeway); Bruce Wright (Ralphs); for the Unions, the President of each Local or their designated representative.*

\_\_\_\_\_  
*Karen Casey, Albertsons*

\_\_\_\_\_  
*Bruce Wright, Ralphs Grocery Co.*

\_\_\_\_\_  
*Frank Jorgensen, Safeway*

\_\_\_\_\_  
*Michael Sharpe, UFCW Local 648*

\_\_\_\_\_  
*Mike Borstel, UFCW Local 101*

\_\_\_\_\_  
*John Briley, UFCW Local 839*

\_\_\_\_\_  
*Rich Benson, UFCW Local 870*

\_\_\_\_\_  
*Ron Lind, UFCW Local 428*

\_\_\_\_\_  
*Linda Russell, UFCW Local 373R*

\_\_\_\_\_  
*Barbara Carpenter, UFCW Local 1179*

\_\_\_\_\_  
*Dated*

**Side Letter Between  
UFCW Locals 120, 428, 588, 870  
and PW Markets**

Section 5.8 –There is an understanding between the parties that the Unions may put up bulletin boards in the stores so long as it comports with Albertsons Letter of Understanding with Local 839 and that the materials posted on these bulletin boards are consistent with Section 5.8 of Local 428’s contract regarding official union notices. The Companies have the sole discretion to determine whether any such materials are “detrimental” to the company’s interest.

Section 5.19 - The Union may select any employee(s) to be a SPUR. By mutual agreement, the selected employee(s) may serve as a SPUR for an initial period of up to six (6) months. Such leaves shall be requested and granted in writing. In the event the employee wishes to return to work prior to the scheduled end of the leave, the employer will be provided with at least two (2) weeks prior written notice. During the service period as a SPUR, the employee(s) will be considered to be on an approved personal leave of absence. After the service period ends, the employee(s) will be returned to his or her job or a comparable position with no loss of seniority. He or she will not, however, be credited any hours with the Employer toward advancement in the wage scale. He or she will be returned to the same wage as he or she made before becoming a SPUR and will be entitled to whatever benefits may be due under the terms of the documents and rules governing the applicable health and welfare and pension trusts.

All wages, benefits and the like during the service period will be the responsibility and sole obligation of the Union. The Employer will have no obligation for wages, benefits or the like during the service period. Additionally the Union will provide workers compensation coverage for the SPUR and comply with all Federal, State and Local laws applicable to the employment of the SPUR.

The period of service of the SPUR may be renewed by mutual agreement for additional periods of three (3) months up to an aggregate service period of twelve (12) months.

\_\_\_\_\_  
For PW Markets,

\_\_\_\_\_  
Tim Hamann UFCW Local120

\_\_\_\_\_  
Ron Lind, UFCW Local 428

\_\_\_\_\_  
Jacques Loveall UFCW Local 588

\_\_\_\_\_  
Rich Benson, UFCW Local 870

**LETTER OF UNDERSTANDING – JANUARY 23, 2005**

**INITIAL BENEFIT PLAN DESIGN SUMMARIES**

The Bargaining Parties agree that the attached benefit plan designs identified as Benefit Fund Appendices A, B and C summarize the initial benefit plan designs that will become applicable to Active and Retired Employees for Plans A, B and C.

If the specified contribution is subsequently determined to be adequate to improve benefit levels (assuming the Plan will maintain prudent operating reserves), the trustees are authorized to improve benefits. Furthermore, if the specified employer contribution is subsequently determined to be insufficient to maintain the benefit levels outlined in Benefit Fund Appendices A, B and C and a prudent operating reserve, the Trustees are authorized and directed to reduce benefits to the extent necessary. Any such benefit modifications may be rescinded by the Trustees, if and when, the financial position of the Fund improves to so allow. The Plan will cover all medically necessary treatment, subject to current plan exclusions.

Except for those changes described in, required by, or necessary to implement this Article, and subject to the right of the Trustees to amend, modify or eliminate any Plan benefit or feature at any time as provided herein, the existing Plan coverages shall initially be part of the new Plan design. This provision shall not be interpreted, applied or construed to: (a) create any expressed or implied obligation to maintain or preserve any benefit or plan feature under the Plan; (b) create any vested entitlement to any benefit or feature under the Plan; or (c) limit or restrict, directly or indirectly, the right of the Trustees to make changes in those benefits or features when they deem it necessary or appropriate under the Plan and/or as a matter of fiduciary duty.

Annual deductible and out-of-pocket limits shall be reduced proportionately with the number of months remaining in the calendar year at the time the benefit changes are implemented for Plans A and B (including retirees).

The current Retiree Health and Welfare eligibility rules shall be modified as follows: any employee who has had five consecutive calendar years with no reported hours shall, in addition to other requirements, be required to accrue at least 10 years of Credited Service under the Pension Plan after such absence, in order to be eligible for Retiree Health and Welfare.

\_\_\_\_\_  
PW Markets

\_\_\_\_\_  
UFCW Local 120

\_\_\_\_\_  
UFCW Local 588

\_\_\_\_\_  
UFCW Local 428

\_\_\_\_\_  
UFCW Local 870

**Bargaining Notes**

Section 2.1: *The companies will work with the unions involving extenuating circumstances.  
Meat – Article II B (c)*

Section 4.7: *Employers agree that Unions may post in the break rooms the seniority list already provided to them on a semi-annual basis. (Meat – Article XVIII(k))*

**EXCERPT FROM  
ARBITRATION AWARD  
BY  
DAVID E. FELLER  
ISSUED NOVEMBER 8, 1979**

**(Retail Clerks Union Local 17 and Safeway Stores)**

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A journeyman clerk is, by definition, trained and qualified to perform in at least satisfactory fashion (although perhaps not in the best possible fashion) all of the duties of a journeyman clerk and there is, therefore, no reason to inquire at all into the qualifications of any other employee.

Acceptance of this position would essentially eliminate all of the factual issues in this case. I decline, however, to accept it. Although there is clearly a distinction between job assignments and shift assignments, it is nevertheless not true that there is no relationship between them. Nor can it be said, in the light of the agreement's language, that any journeyman is qualified by virtue of the fact that he is a journeyman to perform all of the work assigned to a journeyman, since the agreement clearly evinces a recognition that there are shift assignments which require particular qualifications. It does so in Section V-I-2, where the right to select a shift schedule is conditioned on the possession of "the necessary qualifications for the schedules selected." Indeed the notion that there may be a qualification for a particular shift is emphasized by the fact that the agreement goes on to specify that qualifications "shall include such factors as experience, job performance, aptitude, attendance, etc."

The problem which this case presents is that no such qualification requirement is specified with respect to the junior employee whom the agreement requires be placed on the shift of a senior employee who has exercised his seniority right to the junior employee's schedule. It is clear that the apparently mandatory requirement that the junior employee bumped off a schedule be given the schedule of the senior employee who bumped him was inserted in the agreement in order to prevent a chain reaction. If a bumped employee could exercise his seniority preference

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employees, that qualification on the senior employee's right would possibly be more onerous than the one which the parties have inserted in the agreement. The Union's argument that shift schedules and job assignments are unrelated is not correct, but there clearly is a substantial difference between them. No employee has the right to insist on doing the same work which he previously did on his shift. So long as the work is properly within the journeyman clerk classification, management's right to direct the working forces clearly encompasses the right to assign and to reassign and to change assignments so long as the employee's right to the shift which he has selected is not violated. It follows that there is no requirement in the agreement that the junior employee, bumped as a result of a senior employee's exercise of his right to shift preference, be qualified to perform the work previously assigned to the senior employee. The

only requirement is that there be a reasonably practicable method of reassigning the work to some journeyman clerks so that the business of the Company can be performed. The Company is clearly correct when it says that once the weekly schedule has been posted it would violate the agreement if it changed the schedules of other employees in order to accommodate the shift schedule change requested by a senior employee. It is not correct, however, in assuming that this is necessarily the only way in which it can secure the satisfactory performance of the work previously performed by the senior employee, since it has the right to change the functions to which other employees are assigned within their scheduled shifts.

I conclude, then, that the right of a qualified senior employee to exercise his shift preference rights can be denied if, and only if, the employer can show that it is impossible to reassign the duties of other clerks within their posted schedules so that the work which the senior

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employee has performed on his previous shift will in fact be performed satisfactorily. Given the absolute nature of the language of the agreement, the burden of so showing must be placed upon the Company, and it is not met by simply showing that the junior employee who must be transferred to the senior employee's shift is himself or herself not capable of performing the work efficiently. It must be shown that no reassignment of job duties could result in the satisfactory performance of the work involved.

I also conclude that no such showing has been made in this case. It is conceded that there were other employees capable of taking care of the end displays. It is clear that there were other employees who were capable of doing the checking which the grievant was assigned to in the hours after 1 p.m. The Company has not met the burden of showing that it would have been impossible to rearrange the job duties of the clerks employed by the store in such a way that all of the functions performed by the grievant on his previous shifts could have been performed satisfactorily. Accordingly, I conclude that the substantive issue involved must be decided in favor of the Union.

With respect to remedy, I also conclude that the grievance must be granted. The language of Section VI-K is too clear to warrant what is in effect an amendment based upon proposals made by the Union. The agreement says, as plainly as language can, that when ever an employee's schedule is not changed in accordance with the provisions of this agreement and he has worked outside "such schedule" then the hours so worked shall be paid for at overtime rates. The words "such schedule" plainly mean the schedule which the employee has requested in his request for a change. The provision cannot be read as referring only to cases in which schedules are

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**END OF EXCERPT**

**LETTER OF UNDERSTANDING**  
**between**  
**UFCW LOCAL 101, 120, 428, 648, 870 and 1288**  
**and**  
**LUCKY STORES, INC. AND SAFEWAY, INC.**

**September 7, 1997 through September 1, 2001**

The Employers agree that Section 17.1 of the Collective Bargaining Agreement does not prevent the Union from assisting the employees covered by the Agreement from filing any state or federal lawsuit which is designed to enforce any state or federal employee protection law or laws. Further, the Employers agree that the Union can be party to such lawsuits. The Employers further agree that Section 17.1 of the Agreement does not prevent the Employees covered by the Agreement from personally boycotting and/or hand billing the Employer.

FOR UFCW LOCAL 870:

FOR EMPLOYERS:

\_\_\_\_\_  
Richard L. Benson, President

\_\_\_\_\_  
Lucky Stores, Inc.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

\_\_\_\_\_  
Safeway, Inc.

\_\_\_\_\_  
Date

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